



**REPUBLIC OF ZAMBIA**

**REPORT**

**OF THE**

**COMMITTEE ON TRANSPORT, WORKS AND SUPPLY**

**ON THE**

**KAZUNGULA BRIDGE AUTHORITY BILL, N.A.B. NO. 12 OF 2024**

**FOR THE**

**THIRD SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY**

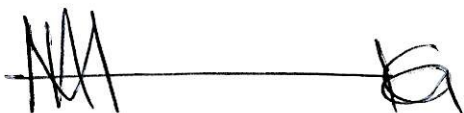
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## **FOREWORD**

Honourable Madam Speaker, the Committee on Transport, Works and Supply, has the honour to present its Report on the Kazungula Bridge Authority Bill, N.A.B 12 of 2024, for the Third Session of the Thirteenth National Assembly. The functions of the Committee are as set out under Standing Orders 206 (n) and 207 of the National Assembly of Zambia Standing Orders, 2024.

The Committee held four meetings to consider submissions on the Kazungula Bridge Authority Bill, N.A.B 12 of 2024. In order to acquaint itself with the ramifications of the Bill, the Committee sought both written and oral submissions from various stakeholders, the list of which is at Appendix II.

The Committee wishes to pay tribute to all stakeholders who appeared before it and tendered both oral and written submissions. It further wishes to thank you, Madam Speaker, for according it an opportunity to interrogate the Bill. The Committee also appreciates the services rendered by the Office of the Clerk of the National Assembly during its deliberations.

A handwritten signature in black ink, consisting of stylized initials 'MM' followed by a horizontal line and a circular flourish.

Mr Mubika Mubika, MP  
**CHAIRPERSON**

July, 2024  
**LUSAKA**

## TABLE OF CONTENTS

FOREWORD .....	i
ACRONYMS.....	iii
1.0 MEMBERSHIP OF THE COMMITTEE .....	1
2.0 BACKGROUND.....	1
2.1 OBJECTS OF THE BILL .....	1
2.2 SALIENT PROVISIONS OF THE BILL.....	1
2.2 STAKEHOLDERS CONCERNS .....	3
3.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS .....	4
4.0 CONCLUSION .....	5
APPENDIX I - List Of National Assembly Officials .....	6
APPENDIX II - List Of Witnesses .....	7

## **ACRONYMS**

**OSBP** - One Stop Border Post

**SADC** – Southern African Development Community

**UNCITRA** - United Nations Commission on International Trade Law

## **1.0 MEMBERSHIP OF THE COMMITTEE**

The Committee consisted of Mr Mubika Mubika, MP (Chairperson); Mr Joel Chibuye, MP; (Vice Chairperson), Ms Tasila E Lungu, MP; Mr Emmanuel M Musonda, MP; Mr Sunday C Chanda, MP; Mr Charles A Mulenga, MP; Mr Mutotwe L Kafwaya, MP; Mr Francis Kapyanga, MP; Mr Bernard Kanengo, MP; and Mr Lloyd Lubozha, MP.

## **PART I**

### **2.0 BACKGROUND**

The Government of the Republic of Zambia and Government of the Republic of Botswana entered into a Sponsor's Agreement for the financing of the construction of the Kazungula Bridge and One Stop Border Post (OSBP) on 30<sup>th</sup> March 2012.

The works on the Bridge infrastructure and the OSBP were completed in 2020 and commissioned on 10<sup>th</sup> May, 2021. To operationalise the Bridge and border infrastructure upon its completion and subsequent commissioning, the two countries further entered into a Bilateral Agreement on 26<sup>th</sup> March, 2024. The Bilateral Agreement provided for the establishment and operations of the Kazungula Bridge Authority to manage and maintain the Bridge and OSBP infrastructure on behalf of the two Governments.

Therefore, the Bill sought to give effect to the Agreement relating to the establishment of the Kazungula Bridge Authority made between the Government of the Republic of Zambia and the Government of the Republic of Botswana. Once enacted, the Bill would result in the effective administration and utilisation of the Kazungula Bridge.

### **2.1 OBJECTS OF THE BILL**

The objects of the Bill were to:

- a. give effect to the Agreement relating to the establishment of the Kazungula Bridge Authority made between the Government of the Republic of Zambia and the Government of the Republic of Botswana; and
- b. provide for matters connected with, or incidental to, the foregoing.

### **2.2 SALIENT PROVISIONS OF THE BILL**

The salient provisions of the Bill were set out hereunder.

#### **Clause 1 – Short title**

This clause provided for the short title of the Act, once enacted.

#### **Clause 2 - Interpretation**

The clause provided for the definitions of key words and phrases used in the Bill in order to make the law easier to be understood by citizens and those mandated to implement the law.

#### **Clause 3- Kazungula Bridge Authority**

This clause provided for the establishment of the Kazungula Bridge Authority as a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name. The clause further specified the location of the Authority, as well as the composition, functions, administration, financial procedures, privileges and immunities of the Authority.

#### **Clause 4 – Council of Ministers**

The clause provided for the Council of Ministers which was mandated to provide a supervisory role over the Authority. The clause further provided for the composition, additional functions and proceedings of the Council.

**Clause 5 – Agreement Binding on Republic** clause 5 provided for the binding effect of the Agreement on the Republic of Zambia.

#### **SCHEDULE**

The Schedule set out the Agreement between the Republic of Zambia and the Republic of Botswana on the establishment of the Kazungula Bridge Authority. The salient provisions of the Schedule were as set out below.

#### **ARTICLE 2 – SCOPE AND PURPOSE**

This Article set out the objectives of the Authority which were to exercise the rights to the Bridge Infrastructure on behalf of Contracting States. Further, the Article mandated the Authority to maintain the infrastructure of the Bridge and also promote its use.

#### **ARTICLE 3 – ESTABLISHMENT**

The Article provided for the establishment of the Kazungula Bridge Authority as an international organisation with the same powers as a company.

#### **ARTICLE 4 – FUNCTIONS OF THE AUTHORITY**

This Article set out the functions of the Authority which included managing and maintaining the Bridge Infrastructure on behalf of Contracting Parties, ensuring the safety and traffic on the Bridge, and charging toll fees.

#### **ARTICLE 5 – THE COUNCIL**

The Article established the Council of Ministers which would be the supervisory body over the Authority, as provided for under clause 4. It further set out the composition of the Council and the powers that the Council would have.

#### **ARTICLE 6 – BOARD OF DIRECTORS**

This Article established the Board of Directors and set out its composition. Four members of the Board would be those with training or experience in the fields of transport, engineering, finance and trade which would also include private sector players.

#### **ARTICLE 7 - APPOINTMENT AND FUNCTIONS OF THE EXECUTIVE DIRECTOR**

The Article provided for the appointment of an Executive Director, who would be a Zambian national and would further be responsible for the day-to-day running of the Authority. This was consistent with the practice for co-owned infrastructure between two countries as the Authority would be domiciled in Botswana.

#### **ARTICLE 12 – TAX STATUS**

The Article empowered Contracting Parties to determine which tax exemptions would apply to the Authority as it was deemed to be performing Government functions.

#### **ARTICLE 13 – DISPUTE SETTLEMENT**

The Article outlines dispute resolution mechanisms under the Agreement, with a hierarchy requirement for amicable resolution. Unresolved disputes would be referred to Heads of States, followed by the SADC Panel of Elders, with the final determination being through

arbitration which would be guided by the United Nations Commission on International Trade Law (UNCITRA).

## **ARTICLE 25 – TERMINATION**

The Article provided that the Agreement may be terminated where one Party gave written notice of 180 days. However, where there were outstanding matters after the termination of the Agreement, the Parties would settle those matters amicably, and where that failed, it would be referred to arbitration. Both Zambia and Botswana would equally share the assets and liabilities in the event that the Authority was dissolved.

### **2.2 STAKEHOLDERS CONCERNS**

The stakeholders who appeared before the Committee supported the Bill and in doing so, they raised concerns as outlined below.

- i. Stakeholders noted that, while Article 9 under the Schedule of the Agreement provided for Contracting Parties to make up for any shortfall in the Authority's finances through equal contributions to the Authority as and when required, it did not specify how the money that would be declared as excess revenue to Contracting Parties would be apportioned.

Stakeholders contended that the Bill should provide for the sharing mechanism for the excess revenue between Contracting Parties after the Authority had returned a portion of excess revenue. They in that respect, proposed that Contracting Parties should receive equal payments to mirror the provision on the Contracting Parties' contribution towards the shortfall of the finances of the Authority, when required to do so.

- ii. Stakeholders noted that clause 4(e) provided for toll rates and their periodic adjustments. However, they expressed concern as the Bill did not expressly state that periodic adjustments of toll rates would require an adjustment through a Statutory Instrument in order to have the necessary legal backing.

In view of this, stakeholders recommended that the Bill should include a provision that would allow for toll rates adjustments through a Statutory Instrument, which would be necessary for the better carrying out of the provisions of the law once the Bill was enacted into law.

- iii. Stakeholders noted that the Authority in Article 12 under the Schedule of the Agreement would be regarded as performing essential governmental functions and to that extent, the Contracting Parties would determine the tax exemptions to be accorded to the Authority.

However, some stakeholders submitted that the tax status and tax relief for the Authority would be better defined under a legal framework, ideally in a Statutory Instrument. They in that regard, recommended that any privileges and immunities that would be granted to the Authority or the Authority's employees, should be legally enforceable and that could be facilitated through the issuance of an appropriate Statutory Instrument.

- iv. Stakeholders noted that Article 13 under the Schedule of the Agreement provided for timelines for dispute resolutions. However, they were of the view that disputes

involving two State Parties could be complex which could arise from sovereignty, jurisdiction and coordination.

In that regard, stakeholders recommended that Contracting Parties should consider reviewing the timelines upwards for dispute settlement stipulated under Article 13 as the indicated timelines were not realistic for some disputes.

## **PART II**

### **3.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS**

In supporting the Bill, the Committee makes the observations and recommendations set out hereunder.

#### *i. Utilisation and Apportionment of Excess Money*

The Committee notes that, while Article 9 under the Schedule of the Agreement provides for Contracting Parties to make up for any shortfall in the Authority's finances through equal contributions to the Authority as and when required, it does not specify how the money declared as excess revenue for the Authority will be apportioned between the Contracting Parties.

In view of this, the Committee strongly recommends that the excess revenue declaration model between Contracting Parties after the Authority has returned a portion for its contingency should be explicitly stated in the Bill. This will ensure that when the total excess revenue is declared, amounts so declared to the Contracting Parties will be known in advance based on the total excess revenue. Therefore, the Committee further recommends that excess revenue should be shared equally between the Contracting Parties.

#### *ii. Periodic Adjustments of Toll Rates*

The Committee notes with concern that although Clause 4(e) provides for toll rates and their periodic adjustments, the Bill does not expressly state how the adjustments will be put into effect.

In this regard, the Committee strongly recommends that the Bill be amended to include a provision that will allow for toll rates adjustments through a Statutory Instrument, which is necessary for good order and better carrying out of the provisions of the law once it is enacted into law.

#### *iii. Timelines for Dispute Resolutions*

The Committee while noting that Article 13 under the Schedule of the Agreement provides for timelines for dispute resolutions it is concerned that disputes involving two State Parties may be complex due to issues regarding jurisdiction, coordination, and sovereignty which can take longer to resolve beyond the timelines provide in the Bill.

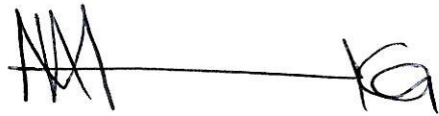
In this regard, the Committee recommends that Contracting Parties should consider reviewing the timelines by extending the timelines for dispute resolution to accommodate complex disputes that may arise. Further, the Bill should provide for flexible timelines that can be extended by mutual agreement between the Contracting Parties. This should also include provisions for interim measures or temporary arrangements to be put in place while disputes are being resolved.



#### 4.0 CONCLUSION

The enactment of the Kazungula Bridge Authority Bill will lead to improved efficiencies in the operations and management of the border infrastructure which will have a positive impact on trade as well as the movement of goods and people. The improved service delivery at the Border Post will help Zambia actualise its aspiration of transforming into a transport and logistics hub for the region. Further, the Committee supports the Bill because passing it affirms Zambia's commitment to regional cooperation, and infrastructure development.

We have the honour to be, Madam Speaker, the Committee on Transport, Works and Supply mandated to consider the Kazungula Bridge Authority Bill, N.A.B No. 12 of 2024.

Handwritten signature of Mr Mubika Mubika, MP, consisting of stylized initials 'MM' followed by a horizontal line and the letters 'KA'.

Mr Mubika Mubika, MP  
CHAIRPERSON

July 2024  
LUSAKA

## **APPENDIX I - List of National Assembly Officials**

Mr Stephen Chiwota, Director (Financial Committees)  
Mrs Angela M Banda, Deputy Director (Financial Committees)  
Mr Darius Kunda, Acting Senior Committee Clerk (SC1)  
Mr Kelezo Lushako, Acting Committee Clerk  
Mrs Vivian M Banda, Administrative Assistant  
Mr Daniel Lupiya, Acting Senior Committee Assistant  
Ms Natasha Karama, Intern

## **APPENDIX II - List of Witnesses**

Ministry of Justice  
Road Development Agency  
Ministry of Finance and National planning  
Zambia Revenue Authority  
Ministry of Infrastructure and Urban Development  
Ministry of Transport and Logistics  
Ministry of Commerce, Trade and Industry