



REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON NATIONAL ECONOMY, TRADE AND LABOUR MATTERS

ON THE

ZAMBIA DEVELOPMENT AGENCY (AMENDMENT) BILL, N.A.B. NO. 46 OF 2021

FOR THE

FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

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TABLE OF CONTENTS

1.0	MEMBERSHIP OF THE COMMITTEE.....	1
2.0	FUNCTIONS OF THE COMMITTEE	1
3.0	MEETINGS OF THE COMMITTEE.....	1
4.0	PROCEDURE ADOPTED BY THE COMMITTEE	1
5.0	BACKGROUND OF THE BILL.....	1
6.0	OBJECT OF THE BILL	2
7.0	SALIENT PROVISIONS OF THE BILL.....	2
8.0	SUMMARY OF SUBMISSIONS FROM STAKEHOLDERS.....	2
9.0	COMMITTEE’S OBSERVATIONS AND RECOMMENDATIONS	3
10.0	CONCLUSION.....	4
	APPENDIX I - LIST OF NATIONAL ASSEMBLY OFFICIALS	6
	APPENDIX II - LIST OF WITNESSES	7

REPORT OF THE COMMITTEE ON NATIONAL ECONOMY, TRADE AND LABOUR MATTERS ON THE ZAMBIA DEVELOPMENT AGENCY (AMENDMENT) BILL, N.A.B. NO. 46 OF 2021 FOR THE FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

1.0 MEMBERSHIP OF THE COMMITTEE

Mr B Mpundu, MP (Chairperson); Ms S K Sefulo, MP (Vice Chairperson); Mr E Kamondo, MP; Mr D Chisopa, MP; Mr M Mubika MP; Mr R K Chitotela, MP; Mr D Mabumba, MP; Mr G S Sialubalo, MP; and Mr N Simutowe, MP

The Honourable Madam Speaker
National Assembly
Parliament Buildings
LUSAKA

Madam,

The Committee has the honour to present its Report on the consideration of the Zambia Development Agency (Amendment) Bill, N.A.B. No. 46 of 2021.

2.0 FUNCTIONS OF THE COMMITTEE

The functions of the Committee are as set out under Standing Order No. 198 (j) of the National Assembly Standing Orders, 2021, pursuant to which the Committee is mandated to study and review Bills that may be referred to it by the House.

3.0 MEETINGS OF THE COMMITTEE

The Committee held five (5) meetings to consider the Zambia Development Agency (Amendment) Bill, N.A.B. No. 46 of 2021.

4.0 PROCEDURE ADOPTED BY THE COMMITTEE

The Committee requested written submissions from various stakeholders. Stakeholders appeared before the Committee either virtually or physically to orally brief it on the contents of their written memoranda and to clarify issues that arose from the presentations. The institutions that appeared before the Committee are listed at Appendix II of this Report.

5.0 BACKGROUND OF THE BILL

The 2022 Budget Address that was delivered by the Honourable Minister of Finance and National Planning outlined the aspirations of the Government for the 2022 fiscal year in terms of the measures to be taken to grow the economy and raise revenue for expenditure by the Government.

In order to transform the economy, the Budget Address outlined incentives to support higher output and production of a wider range of products that would create employment opportunities and in turn improve the livelihoods of Zambians. Further, in order to attract investment and help to concretise value addition, the Honourable Minister indicated the need to revamp the Multi-Facility Economic Zones (MFEZs) and industrial parks by providing tax incentives that would

attract private sector investment in the zones and parks which were introduced to drive the industrialisation agenda.

In view of the foregoing, the Government introduced the Zambia Development Agency (Amendment) Bill, N.A.B. No. 46 of 2021.

6.0 OBJECT OF THE BILL

The object of the Bill was to amend the *Zambia Development Agency Act, No. 11 of 2006*, so as to introduce an investment threshold of US\$50,000 or its equivalent for a local investor to qualify for incentives in accordance with the Act.

7.0 SALIENT PROVISIONS OF THE BILL

The salient of the Bill were as set out below.

Clause 1- Short title and commencement

Clause 1 provided for the short title of the Act. It also referred to the fact that the amendment Act would be read as one with the principal Act. Further, the clause provided that the Act would come into operation on 1st January, 2022.

Clause 2 – Amendment of section 56

Section 56 of the principal Act provided for qualification for incentives. It provided that an investor investing not less than US\$ 500,000 or the equivalent in convertible currency, in a priority sector or product would be entitled to incentives as specified by or under the *Income Tax Act, Chapter 323 of the Laws of Zambia* or the *Customs and Excise Act, Chapter 322 of the Laws of Zambia*.

Clause 2 of the Bill amended the principal Act by providing for a lower threshold of US\$50,000 for local investors while maintaining the US\$500,000 threshold for foreign investors.

8.0 SUMMARY OF SUBMISSIONS FROM STAKEHOLDERS

Below is a summary of submissions from stakeholders on the Zambia Development Agency (Amendment) Bill.

- i. Stakeholders pointed out that the Bill was motivated by the need to increase the participation of Zambian companies in the economy by enhancing their access to fiscal incentives. There had been a gradual increase in the number of Zambian investors. The Committee was informed that Local Direct Investment (LDI), relative to total investment had increased from US\$ 1.28 billion (26.2 per cent) in 2019 to US\$ 2.68 billion (45 per cent) in 2020¹.
- ii. The Committee was informed that the proposed amendment was progressive as it provided a more targeted incentive that would ensure that Zambians participated to a larger extent in the growth of the economy.

¹ Zambia Development Agency

- iii. The Committee was further informed that while the Bill made a distinction in applicable qualifications between local and foreign investors, reliance on the *Zambia Development Agency Act* for the definitions of terms ‘foreign investor’ and ‘local investor’ was not ideal. This was because as defined by the Act, a local investor included any company that was incorporated in Zambia, including those of foreign origin. According to Section 3 of the *Zambia Development Agency Act*, a local investor meant a person who made direct investment in the country and who in the case of a natural person was a citizen or permanent resident and in the case of a company was incorporated in Zambia. Therefore, any company owned by locals or foreigners that was registered with Patents and Companies Registration Agency, was deemed to be a local investor and would be eligible to benefit from the reduced threshold of US\$50,000.
- iv. Stakeholders submitted that it was apparent that the incentive that was provided by the Bill was meant to benefit *Zambian citizens*. Therefore, it would have been more ideal to use the term ‘citizen’, as defined in the *Citizen Economic Empowerment Act No 9 of 2006*, instead of ‘local investor’, to provide the incentive.
- v. The Committee was further informed that what was required, therefore, before providing the incentive in the Bill, was to amend the *Zambia Development Agency Act* so as to redefine the term ‘local investor’. Further, there was need for a holistic review of all the laws that provided for reservations for citizens.

9.0 COMMITTEE’S OBSERVATIONS AND RECOMMENDATIONS

Following the interaction with stakeholders, the Committee notes the well-intentioned incentive provided by the *Zambia Development Agency (Amendment) Bill, N.A.B. No. 46 of 2021*. Therefore, the focus on promoting local investment is commendable especially that it contributes to attainment of the strategic objective to increase actualised investments in priority sectors by effectively mobilising domestic and foreign investments as stipulated in *Zambia’s National Investment Promotion Strategy 2018 to 2022*.

The Committee, however, makes the observations outlined hereunder.

- i. The Committee notes with concern that the proposed amendment does not take care of a very vital aspect as regards who should qualify for the incentive provided. As the law currently stands, a local investor does not only include *Zambian citizens* but also includes companies owned by foreigners, so long as these companies are incorporated in Zambia by the Patents and Companies Registration Agency. The Committee is of the view that the definition disadvantages *Zambian citizens* who will still have to compete with foreign nationals under the US\$50,000 incentive.
- ii. The Committee notes that most of the foreign nationals will be greatly advantaged as they have access to other incentives in their countries of origin such as cheaper financing which is not available to local *Zambians*.
- iii. The Committee observes that for a long time now, there has been a move to carry out a comprehensive review and amendment of the *Zambia Development Agency Act*. The

Committee is cognisant of the fact that comprehensive review of legislation in Zambia can be a lengthy process.

- iv. The Committee observes the continued use of foreign currency in Zambian legislation in spite of the fact that Zambia is a sovereign state with her own legal currency.

Arising out of the above observations, the Committee makes the recommendations outlined below.

- i. The Committee recommends that the definition of the term ‘local investor’ in the *Zambia Development Agency Act* should be amended to restrict it to Zambian citizens. The definition should be akin to the definition of citizen as provided in the *Citizen Economic Empowerment Act*.
- ii. The Committee recommends that a holistic review of all the laws that provide for reservations for citizens should be carried out in order to ensure that benefits targeted at Zambian citizens should truly accrue to Zambian citizens.
- iii. The Committee recommends that the Government should go a step further by prescribing the threshold for local investors in Kwacha. This will partially protect local investors from exchange rate risk arising from the volatility and depreciation of the Kwacha.
- iv. The Committee recommends that the process of reviewing *Zambia Development Agency Act*, should be expedited as a matter of urgency.

In view of the foregoing, the Committee reluctantly supports the enactment of the Zambia Development Agency (Amendment) Bill, N.A.B. No. 46 of 2021 owing to the fact the current definition of local investor does not only apply to Zambian citizens. However, in supporting the Bill, the Committee strongly urges the Government to ensure that the relevant amendment of the *Zambia Development Agency Act* to redefine ‘local investor’ is made during the legislative Meeting of the Thirteenth National Assembly in February 2022, as a matter of extreme urgency. The decision to make the incentives more targeted is not justified without redefining what a local investor is.

10.0 CONCLUSION

The Committee expresses gratitude to all the stakeholders for their oral and written submissions on the Bill. The Committee also thanks the Office of Speaker and Clerk of the National Assembly for the guidance and services rendered to it during the consideration of the Bill.

We have the Honour to be, Madam, the Committee on National Economy, Trade and Labour Matters mandated to consider the Zambia Development Agency (Amendment) Bill, N.A.B. No. 46 of 2021 for the First Session of the Thirteenth National Assembly.

Mr B Mpundu, MP
(Chairperson)

Ms S K Sefulo, MP
(Vice Chairperson)

Mr E Kamondo, MP
(Member)

Mr D Chisopa, MP
(Member)

Mr M Mubika MP
(Member)

Mr R K Chitotela, MP
(Member)

Mr D Mabumba, MP
(Member)

Mr G S Sialubalo, MP
(Member)

Mr N Simutowe, MP
(Member)

Mr B Mpundu, MP
(Chairperson)

December, 2021
LUSAKA

APPENDIX I - List of National Assembly Officials

Mr Humphrey Mulenga, Deputy Principal Clerk of Committees (FC)

Mr Francis Nabulyato, Deputy Principal Clerk of Committees (SC)

Mrs Chitalu K Mumba, Senior Committee Clerk (FC)

Mrs Angela M Banda, Senior Committee Clerk (SC)

Mrs Doreen N C Mukwanka, Committee Clerk

Mrs M H Mweele, Committee Clerk

Mrs Grace Chikwenya, Typist

Mrs Vainess B Tembo, Typist

Mr Daniel Lupiya, Committee Assistant

Mr Muyembi Kantumoya, Parliamentary Messenger

APPENDIX II - List of Witnesses

Ministry of Justice – Permanent Witness
Ministry of Finance and National Planning
Ministry of Commerce, Trade and Industry
Zambia Development Agency
Zambia Revenue Authority
Zambia Institute for Policy Analysis and Research
Centre for Trade Policy and Development