REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON ECONOMIC AFFAIRS, ENERGY AND LABOUR

FOR THE

FIRST SESSION OF THE TWELFTH NATIONAL ASSEMBLY

APPOINTED ON 5TH OCTOBER, 2016

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REPORT OF THE COMMITTEE ON ECONOMIC AFFAIRS, ENERGY AND LABOUR FOR THE FIRST SESSION OF THE TWELFTH NATIONAL ASSEMBLY APPOINTED ON WEDNESDAY, 5TH OCTOBER, 2016

Consisting of:

Dr S Musokotwane, MP (Chairperson); Ms M Miti, MP; Mr G G Nkombo, MP; Mr E M Mwila, MP; Mr C Chali, MP; Mr D Chisopa, MP; Mr S Kopulande, MP; and Mr D Livune, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir

Your Committee has the honour to present its Report for the First Session of the Twelfth National Assembly.

Functions of the Committee

2.0 The functions of your Committee are to:

a) study, report and make recommendations to the Government through the House on the mandate, management and operations of Government ministries, departments and/or agencies under its portfolio;

b) carry out detailed scrutiny of certain activities being undertaken by Government ministries, departments and/or agencies under its portfolio and make appropriate recommendations to the House for ultimate consideration by the Government;

c) make, if considered necessary, recommendations to the Government on the need to review certain policies and/or certain existing legislation;

d) examine annual reports of Government ministries and departments under its portfolio in the context of the autonomy and efficiency of Government ministries and departments and determine whether the affairs of the said bodies are being managed according to relevant Acts of Parliament, established regulations, rules and general orders; and

e) consider any Bills that may be referred to it by the House.

Programme of Work

3.0 The Programme of Work of your Committee for the First Session of the Twelfth National Assembly is outlined below.

3.1 Consideration of the Action Taken Report on the Committee's Report for the Fifth Session of the Eleventh National Assembly

Your Committee considered the Action-Taken Report on your Committee's Report for the Fifth Session of the Eleventh National Assembly.

3.2 Consideration of the Action Taken Report on the Report of the Committee on Economic Affairs, Energy and Labour on the Report of the Auditor General on Occupational Health and Safety for the Fifth Session of the Eleventh National Assembly

Your Committee considered the Action-Taken Report on the Report of your Committee on Economic Affairs, Energy and Labour on the Report of the Auditor General on Occupational Health and Safety for the Fifth Session of the Eleventh National Assembly.

3.3 Consideration of Topical Issue on the Implementation of Public Private Partnership Framework in Zambia

Your Committee considered a Topical Issue on the Implementation of the Public Private Partnership (PPP) framework in Zambia.

The specific objectives of the study were to:

i. analyse the effectiveness of Government's PPP policy, legal and institutional framework;
ii. appreciate the role of the Government and the private sector in the implementation of the PPPs;
iii. establish whether there is a Strategic Development Plan for strengthening PPPs in Zambia and critically analyse the strategic objectives contained therein;
iv. assess the challenges faced in the implementation of the PPP Policy in Zambia;
v. establish the fiscal implications for implementing the PPPs; and
vi. make appropriate recommendations to the Executive.

Meetings of the Committee

4.0 Your Committee held a total of fifteen meetings to consider submissions on its study and the two Action-Taken-Reports.

Procedure adopted by the Committee

5.0 Your Committee received both written and oral submissions from stakeholders on the topical issue. The list of stakeholders that your Committee interacted with is at Appendix I of this Report.

Report of the Committee

6.0 Your Committee's report is in three parts. Part I is on the consideration of the topical issue, while Part II and Part III present the reviews of the two Action-Taken-Reports on your Committee's Reports for the Fifth Session of the Eleventh National Assembly.

PART I

IMPLEMENTATION OF THE PUBLIC PRIVATE PARTNERSHIP FRAMEWORK IN ZAMBIA

7.0 The views of various stakeholders who interacted with your Committee are summarised below.

Background

7.1 Government had for long time faced challenges in infrastructure development and public service delivery which had constrained economic growth and development in Zambia. Limited public resources implied that the country's huge deficit in infrastructure could not be met by the public sector alone. Government recognised this limitation and thus viewed Public Private Partnerships as an important instrument to bridge the resource gap in infrastructure development and promote efficient service delivery. The demand for new infrastructure and services, rehabilitation and maintenance of existing infrastructure had continued to grow due to the increase in the population over the last few decades.

The foregoing challenges had compelled the Government to formulate a PPP framework in its continued desire to improve the quality, cost-effectiveness and timely provision of public infrastructure and services in Zambia. Therefore, Government's policy aims to promote PPPs as a means of leveraging private sector resources to close the public infrastructure gap and deliver efficient services to it's citizens. PPPs would provide the Government with an alternative means of providing new infrastructure as well as rehabilitation of existing infrastructure, through the involvement of the private sector, which would provide the requisite finance and expertise for such investments.

The issue of PPPs has become a topical issue across the globe, as most countries do not have adequate resources and lack the necessary expertise to develop public infrastructure and provide services to their people. Although being a relatively new concept, most countries had recognised that PPPs could be used as an alternative avenue for infrastructure development in the face of limited public resources for infrastructure development programmes.

However, PPPs must not be viewed as the only remedy for all public infrastructure investment needs but must be taken as complementary to and not as a substitute for infrastructure and public service delivery by the Government. PPPs ought to be considered in situations where they could deliver and provide greater value for money than the traditional public service options. It was further envisaged that PPPs could help to develop and strengthen the local capital markets, which would stimulate additional local and foreign investment.

Understanding Public Private Partnerships

7.2 In their submissions, stakeholders defined a PPP broadly as an agreement, which would typically be medium to long term, between the government and the private sector, under which the private sector partner delivered a service in such a manner that the service delivery objectives of government were aligned with the profit objectives of the private sector partner, and where the effectiveness of the alignment depended on the sufficient transfer of risk to the private sector partner. It was submitted that PPPs could be new assets, often called "Greenfield projects", or those where the responsibility for upgrading and/or managing existing assets was transferred to a private company, known as "Brownfield projects". The assets or services provided were specified in terms of outputs rather than inputs.

In the Zambian context and pursuant to the *Public Private Partnerships Act, No. 14 of 2009,* PPPs were defined as a contractual agreement between a public and a private entity, whereby the private entity performed part of the Government's organisation service delivery functions, and assumed the associated risks for a significant period of time. In return, the private entity would receive a benefit/financial remuneration according to pre-defined performance criteria.

In executing PPPs, the public sector was assumed to retain a significant role in the partnership arrangement, which was that of creating and enabling environment.
Key to these definitions was the transfer of sufficient risk from Government to the private sector partner. The PPP framework, therefore, needed to have the risk identified, priced, either retained by the public sector or transferred to the private sector partner or shared equally by both parties involved, through an appropriate payment mechanism and on specific contract terms.

Analysis of the Effectiveness of Government's Public Private Partnership Policy, Legal and Institutional framework

7.3 The stakeholders submitted that to understand the effectiveness of the PPP framework, there was need to establish if Zambia's infrastructure development strategies were effective. Further, effective PPPs would be those that balanced the interests of society, the State, the industry and the market. The general approach for assessing the effectiveness of the PPP framework was thus underpinned by the principles set out below:

(a) Acquisition of Additional Sources of Funding and Financing

This principle underscored that the Government's resources were limited to invest in infrastructure and that revenue collections such as taxes and levies were evidently not sufficient to support the Government's spending on infrastructure development, in order to meet the demand and the financing gap for infrastructure. The country's infrastructure deficit had kept widening due to increased demand for public infrastructure facilities and services. Additionally, budget support received from cooperating partners had reduced over the years, forcing the Government to consider alternative sources of funding to sustain the budget. Further, the sustained increase in both external and domestic debt to support the budget programmes has also resulted in the decline of the fiscal space to borrow.

In light of the prevailing situation in the country, there was need to allow the private sector to invest their own resources and expertise in the development of public infrastructure facilities through PPPs.

(b) Private Sector Analysis and Innovation of Projects

Adopting private sector principles in the delivery of public infrastructure meant that projects could be delivered more effectively. Further, subjecting PPP projects to competitive procurement processes ensured that the projects implemented were cost effective in order to attract financing. Analysis or scrutiny of projects was also important to ensure affordability, value for money and optimal risk sharing/transfer to the private sector.

(c) Improving Project and Service delivery

It was underscored that oftentimes, construction projects managed by the Government would run well over planned costs and behind schedule. And any changes in the project cost structure arising from implementation overruns would be at the expense of the Government. It was further argued that service delivery by Government entities was often poor due to capacity challenges, bureaucracy and weak management incentives.

The engagement of the private sector in the delivery of public infrastructure and services would enable the Government to harness private sector innovation, technology and management expertise. This would consequently result in lowered project costs and increased efficiency in the provision of public infrastructure and services.

(d) Improving Maintenance of Public Infrastructure

Public infrastructure was often poorly maintained due to limited or no funding. The lack of maintenance of public infrastructure resulted in poor service delivery and sometimes affected Government efficiency. And in the case of rehabilitation works, this would be undertaken at very huge cost. PPPs could, therefore, help improve maintenance of infrastructure assets. It was argued that PPPs exposed private sector capital to performance risk, hence the private sector would be more incentivised to design and build infrastructure assets which took into account the costs of long-term maintenance and renewal, thereby leading to greater accountability in service delivery.

Applying the above principles to the Zambian context, the stakeholders were of the view that the above principles had not been fulfilled as the country still had a huge infrastructure deficit ranging from roads, health centres, education facilities, markets, railway lines, and power generation, among others. While the country's population was increasing exponentially, delivery of public goods and services were deteriorating, even in the midst of advanced technology and innovation. It was evident from the current situation that the country had not utilised PPPs to yield their potential benefits in the delivery of goods and services. This was despite the widening fiscal deficit which meant that the public sector was not able to champion the provision and delivery of goods and services unless it partnered with the private sector.

This opinion was also informed by the performance of some of the PPP projects implemented by the Government before and after the *PPP Act*. The stakeholders gave the following analysis on the performance of PPP projects in the country, prior and after the enactment of the *PPP Act*.

(i) Performance of PPPs Prior to Enactment of the Act

It was submitted that prior to the enactment of the *PPP Act* in 2009, only the following four PPP projects had been undertaken.

(a) the Zambia Railways Concession which was cancelled by Government in 2012 due to performance related issues;
(b) the Kasumbalesa One-Stop-Border Post PPP Contract which was reversed by Government in 2012 and renegotiated in 2015;
(c) the Mpulungu Harbour Corporation Concession which was cancelled by Government in 2010 for failure to perform; and
(d) the Lusaka City Council/China Heinan contract for the Luburma Market under the finance, operate and transfer arrangement. The project was still operating under this PPP arrangement.

The stakeholders attributed the failure of the above PPP projects to lack of a policy and legal framework, including capacity challenges within the public sector to monitor performance and identify risks on time.

(ii) Performance of PPPs Post the Enactment of the Act

The stakeholders alluded to the following successful PPP projects since the enactment of the *PPP Act:*

1) Development of East Park Mall by the University of Zambia (UNZA);
2) 120MW Itezhi-Tezhi Hydro Power Corporation (ITPC);
3) Concessioning of Kasumbalesa Border Post under the Build-Operate and Transfer (BOT) arrangement, renegotiated by Government in 2015; and
4) Government Complex Service contracts.

THE PPP FRAMEWORK IN ZAMBIA

7.4 The stakeholders outlined a typical PPP framework as one consisting established procedures, rules and institutional responsibilities that determined how the Government selected, implemented and managed PPP projects. In the context of Zambia, it was stated that the PPP framework was defined by the PPP policy and the *PPP Act*, which also explicitly outlined the institutional set-up and regulations. The stakeholders, therefore, submitted that the PPP framework in Zambia generally followed international best practice. The framework was robust enough to ensure effective implementation of PPP projects in the country. An overview of each of the components comprising the PPP frameworks was submitted as outlined below.

(i) The PPP Policy Framework

The PPP policy was formulated in order to provide the guiding principles for establishing partnerships between the public and the private sector, given that the parties were expected to enter into partnerships with different expectations. The policy framework was aimed at safeguarding the interests of the Government, the private sector and the citizens. The policy was, therefore, structured to encourage the provision of a wide variety of quality and timely public infrastructure and services. This could be achieved through faster project implementation, maximum leveraging of private sector funds, enhancing accountability and possible shifting of a whole project life cycle cost/risk of a PPP project to the private sector, including infrastructure management.

The key objectives of the policy were to:

a) leverage public assets and funds and private sector resources from local and international markets to accelerate investment in infrastructure and services;
b) encourage and facilitate investment by the private sector through creating an enabling environment for PPPs, where value for money for Government could be clearly demonstrated;
c) increase the availability of public infrastructure and services and improve quality of service and efficiency of projects;
d) ensure attainment of required and acceptable local and international social and environmental standards;
e) protect the interests of all stakeholders, including end users, affected people, the Government and the private sector;
f) set up efficient and transparent institutional arrangements for the identification, structuring and competitive tendering for PPP projects;
g) provide a framework for developing efficient risk sharing mechanisms; and
h) encourage and promote indigenous private sector participation in the delivery of public infrastructure and services.

The three PPP policy's guiding principles are discussed below.

Affordability

The end user's ability to pay shall be a key consideration for all PPPs projects. The PPP option must demonstrate long-term affordability to the public and allow for potential returns on the private sector investment, given other priorities and commitments by the Government.

Value for Money

PPPs should give greater value for money than the best realistic public sector project aimed at achieving similar service outputs. Achieving value for money was a key requirement of Government at all stages of project development. Therefore, the service outcome to be delivered by the private sector, the degree of risk transferred and the financial implications for the Government, must be clearly outlined in the PPP contract.

Appropriate Risk Allocation

An efficient risk allocation would be vital in determining whether value for money could be achieved in PPP projects. Government's principle with regard to risk allocation should be to optimise the benefits rather than maximising the transfer of project risks to the private party or investor. In this regard, risks would, therefore, be allocated to the party that had the best capability to control and manage them and in such a manner that the value for money would be maximised. Understanding this principle helped in determining the appropriate method of private sector involvement and allocation of responsibilities, which would also take into account the protection of public interest.

Local Content and Technology Transfer

PPP projects would be structured in such a way that they were able to encourage the maximum use of local content initiatives and technology transfer from the foreign investors to Zambians. In this context, PPP arrangements would facilitate the following:

(a) institutional set up;
(b) regulation;
(c) stakeholder consultation;
(d) capacity building;
(e) monitoring and evaluation; and
(f) resource mobilisation.

(ii) The PPP Legal Framework

The *PPP Act* set out the necessary legal and administrative framework for efficient and transparent implementation of PPPs. It also provided an opportunity for establishing a set of general principles and rules for PPP procurement, thereby ensuring consistency across sectors and for all projects. The legal framework further defined the respective roles and responsibilities of each stakeholder in the entire PPP process. Specifically, the *PPP Act* provided for:

a) promotion and facilitation of the implementation of privately financed infrastructure projects and effective delivery of social services by enhancing transparency, fairness, long-term sustainability, removal of undesirable restrictions on private sector participation in the provision of public services, including development and operation of public infrastructure;
b) establishment of a PPP Unit and its functions;
c) establishment of the PPP Council and its functions;
d) facilitating PPPs for construction and operation of new infrastructure facilities and systems and the maintenance, rehabilitation, modernisation, expansion and operation of existing infrastructure facilities/systems and the provision of public services;
e) general principles of transparency, cost effectiveness and fairness in the award of contracts by the contracting authorities through the establishment of the specific procedures for the award of infrastructure projects and provision of public services and the rules governing public private procurement, and contract management of PPPs; and
f) implementation of PPP agreements between contracting authorities and the private partner; and matters connected with or incidental to the foregoing.

(iii) The Institutional Framework

On the institutional framework, the stakeholders submitted that the structure of the PPP Unit comprised the Council as the apex body, the Technical Committee and the PPP Unit consisting of technical staff and having linkages with the contracting authorities. The figure below gives the institutional framework and its composition.

The institutional framework as shown in the above organogram was well articulated with the following key structures and their functions:

i) The PPP Council was the supreme or apex policy making body and the final authority to award PPP projects to private sector applicants;
ii) The PPP Technical Committee comprised technocrats of diverse specialisations and expertise who were supposed to provide technical input and recommendations to both the PPP Council and PPP Unit; and
iii) The PPP Unit was mandated to conceptualise, identify, coordinate with contracting authorities, promote participation of the private sector in PPP projects and ensure the proper implementation, management, enforcement and monitoring of agreements. The current organisation structure of the PPP Unit which was drawn up in 2015 provided for a Director who was assisted by four Assistant Directors in charge of the four directorates which comprised (i) Project Development and Promotion; (ii) Legal and Contracts; (iii) Finance; and (iv) Monitoring and Evaluation. These were assisted by key positions including Business Development, Project Appraisal, and Planning.

(a) Appointment of the PPP Council and the PPP Technical Committee

The stakeholders submitted that in line with the *PPP Act*, the President appointed the PPP Council in December 2015, which comprised the following membership:

i) The Minister of Finance, as Chairperson;
ii) The Minister of Works and Supply, as Vice Chairperson (which had since been replaced by Minister of Housing and Infrastructure Development);
iii) The Minister of Commerce, Trade and Industry;
iv) The Minister of Local Government and Housing (which is now called the Ministry of Local Government);
v) The Minister of Energy and Water Development; and
vi) Three private sector individuals.

The Permanent Secretary in the Ministry of Finance was to perform the functions of Council Secretary. Based on the appointment of the PPP Council by the President, the

Chairperson of the Council then appointed members of the PPP Technical Committee, comprising thirteen members. The members of the PPP Technical Committee were the following:

i) The Secretary to Treasury, Ministry of Finance (Chairperson);
ii) The Permanent Secretary, State House;
iii) A representative of the Attorney General;
iv) The Permanent Secretary, Ministry of Works and Supply (currently Housing and Infrastructure Development)';
v) The Permanent Secretary, Ministry of Commerce, Trade and Industry;
vi) The Permanent Secretary, Ministry of Local Government;
vii) The Permanent Secretary, Ministry of Lands;
viii) A representative of Engineering Institution of Zambia;
ix) A representative of Economics Association of Zambia;
x) A Representative of National Council for Construction;
xi) A Representative of Zambia Environmental Management Agency;
xii) A Representative of Zambia Public Procurement Authority; and
xiii) An additional member from Ministry of Finance.

The PPP Director was an ex-officio member of the Technical Committee.

(b) Appointment of Staff at the PPP Unit

Staff at the PPP Unit were recruited through the Public Service Commission. In the case of the current staffing structure, the recruitment exercise was done in January, 2016. The recruitment exercise targeted mainly staff in the civil service, except for two senior staff who were recruited outside the mainstream civil service. The Unit had a staff establishment of thirty three.

(c) **Rationale for the Establishment of the PPP Unit under State House**

Your Committee was informed that the decision to move the PPP Unit to be domiciled under State House by the President on 18th September, 2015 was aimed at removing bureaucracy in the system and further commences the process of creating the Unit as an autonomous body with professional staff to handle PPPs. It was, therefore, envisaged that this move would help enhance the PPP implementation process in order for the country to start reaping the benefits. The President further directed that State House, in liaison with Cabinet Office and relevant stakeholders, should spearhead the formation of this body. Arising from the presidential directive, the relevant sector ministries were also required to harmonise the legal and institutional framework in line with the President's pronouncement.

(d) Directive to Establish the PPP Unit as a Statutory Body

On the establishment of the PPP Unit as a statutory body, the stakeholders informed your Committee that in May 2016, Cabinet approved a Bill to amend the *PPP Act* so as to establish the PPP Unit as a Statutory Body in line with the recommendation by the President. In this regard, your Committee was informed that the Bill would be presented to Parliament for consideration in 2017.

THE ROLES OF THE GOVERNMENT AND THE PRIVATE SECTOR IN THE IMPLEMENTATION OF THE PUBLIC PRIVATE PARTNERSHIPS

7.5 Both the Government and the private sector had very important roles to play in making PPP projects successful. The following consolidated submission by the stakeholders highlights the roles of the Government and the private sector, respectively.

a) The Role of the Government in the Implementation of PPP

The primary objective of the Government was to create opportunities for the private sector to provide quality and affordable public goods and services to the general public. The role of the Government did not end with the transfer of the responsibilities for the financing, designing, construction and operation of the project to the private sector, but included the pre-construction phase of a project, supervision and monitoring. In this regard, it was the Government's responsibility to approve the type of the PPP model to be applied and identify sectors in which the private sector would be involved. The Government should also decide on the procurement process, manage the procurement process and define the criteria for selection.

Besides playing the role of a facilitator, it was important for Government to develop proactive policies that could stimulate private sector interest to participate in infrastructure projects. Your Committee was informed that Government had made efforts to provide an enabling environment through the provision of: (i) a legal framework (*PPP Act*) to facilitate development of infrastructure projects and public service delivery through PPPs; and (ii) an administrative framework (PPP Unit) to expedite implementation of PPP projects.

b) The Role of the Private Sector in the Implementation of PPPs

Your Committee was informed that the role of the private sector was to assist Government in the delivery of public goods and/or services through:

i) the provision of additional financial resources to bridge the financing gap usually encountered by the Government;
ii) provision of expertise and innovation;
iii) delivery of quality and affordable goods and/or services;
iv) management of the risk associated with PPP projects; and

v) efficient delivery of the goods and/or services.

The role of Government and the private sector in PPPs did fluctuate depending on the PPP variant used. The Table below specifies the roles in respect to the type of the PPP model adopted.

Table 1: The Roles of Government and the Private Sector in PPPs

PPP Type	Service contract	Management contract	Lease	Build-Lease-Transfer	Build –Operate – Transfer	BOO/Divestiture
Objective	Cost reduction & operational efficiency	Improve management & operational efficiency	Operating efficiency & limited private investment	Mobilize private capital & pay investment cost over time	Operating efficiency & Mobilize private capital	Operating efficiency & Mobilize private capital & total risk transfer to the private sector
Public sector role	Development, financing, O&M, Pays for services	Design, finance & build facility, pays for management	Design, finance & build facility	Operate and maintain facility and pay private sector lease fees	Government regulates the provision of the service	Government regulates the provision of the service
Private sector role	Supplies operational services to government	Management and operation of the facility	Limited financing, management and operation	Design, finance & Build facility, Lease to Govt & transfer ownership to Govt at end of period	Design, finance, build, operate, manage & transfer after a specified period	Design, finance, build, operate, manage and own facility

Zambian Development Agency as a Potential Platform for PPPs

The Zambia Development Agency (ZDA) was established by an Act of Parliament in 2006 and the Agency became operational in 2007. The creation of the Agency was underpinned by the Government's increasing efforts to privatise state enterprises, attract private investment, and promote economic diversification which called for a statutory agency that could undertake related activities. The main goal of the ZDA was, therefore, to foster economic growth and development by promoting trade and investment through an efficient, effective and coordinated private sector-led economic development strategy.

The functions of ZDA as an investment promotion agency include: (i) promotion and facilitation of investment, export trade and competitive entrepreneurship of businesses in Zambia; (ii) privatisation; (iii) SME development; and (iv) regulation of processing zones. In addition, the Agency was mandated to formulate investment promotion strategies and monitor the progress of the privatisation programme in Zambia. ZDA's core tasks were, therefore, related to marketing and promotion of PPP projects within and outside the country.

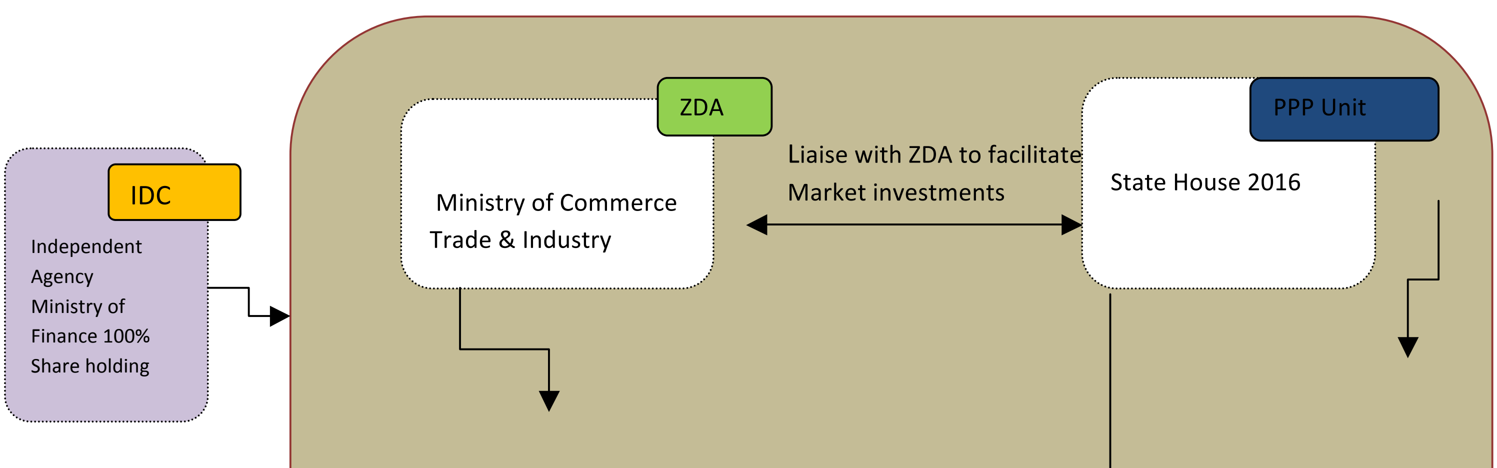
Industrial Development Corporation (IDC) as a Potential Platform PPPs

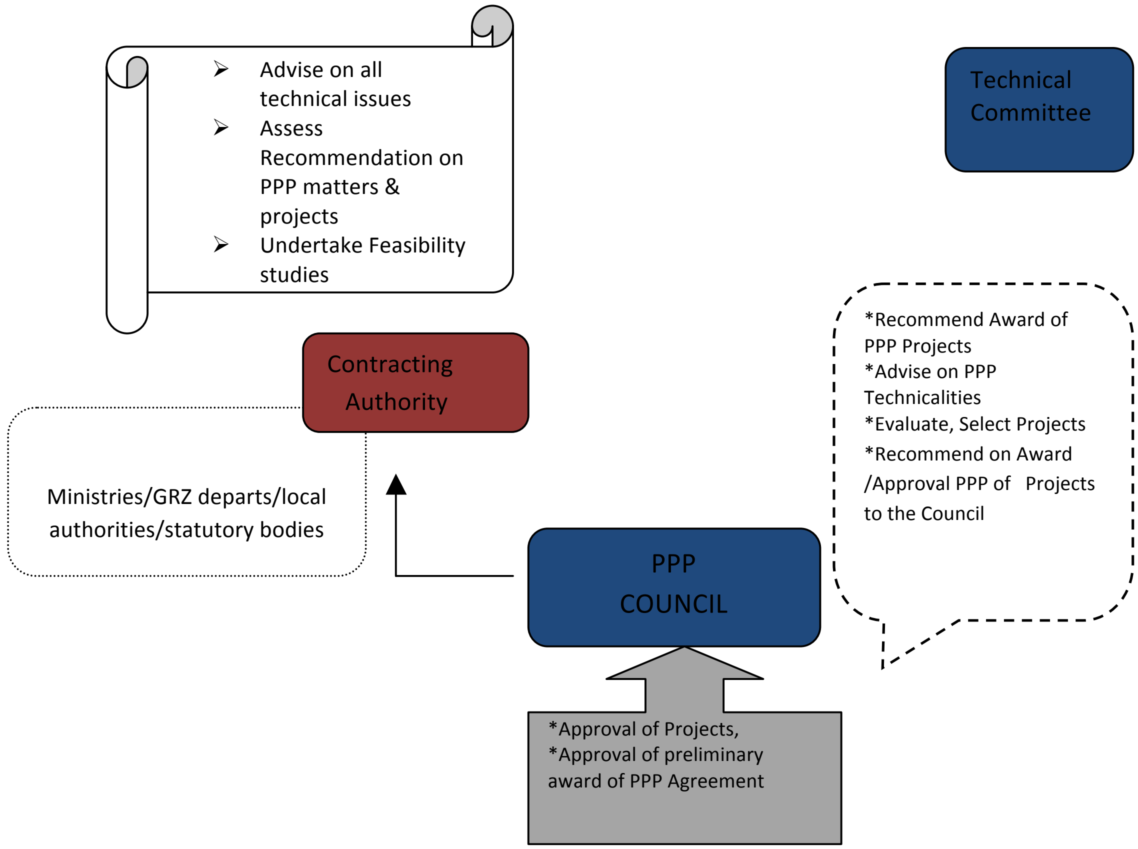
The Industrial Development Corporation (IDC) of Zambia was established in 2014. It was an investment company wholly owned by the Goverment. Your Committee was informed that its establishment was underpinned by Cabinet approval in December 2013 to transfer Government shares in all State-owned Enterprises (SoEs) incorporated under the *Companies Act* and the *Banking and Financial Services Act* to the IDC. In this regard, IDC would own and manage the investments on a commercial basis, thus allowing the Ministry of Finance, the Ministry of Commerce, Trade and Industry and all other line ministries to focus on policy making. IDC's mandate was to contribute to and support Zambia's industrialisation capacity, job creation and domestic wealth formation across key economic sectors. Your Committee was further informed the IDC was not a Government agency but more of a commercial investment holding company with the MOF as its sole shareholder, having own Board of Directors and a professional management team. The President of the Republic of Zambia was the Chairperson of IDC, holding the power to appoint, terminate, or renew membership of the Board.

In light of the above, it was submitted by the stakeholders that IDC had a wide portfolio of companies whose performance could be strengthend by partnership with the private sector through PPP arrangements and therefore it had a mandate to develop new infrastructure investments, where the Government could retain shares in the operating company. It was, therefore, opined by the stakeholders that IDC was well positioned to play a key role in identifying amd promoting projects for the PPP market in Zambia.

The diagram below shows the coordination and linkages in the implemetation of the PPP projects in the country.

PPP INSTITUTIONAL FRAMEWORK





THE PPP STRATEGIC DEVELOPMENT PLAN IN ZAMBIA

7.6 The PPP strategic plan was critical for providing direction to the private sector on what Government intended to achieve in the medium to long term. It also specified the strategic focus for the Government in terms of the priority sectors for PPPs. The document was necessary to inform potential partners on areas of collaboration and highlighted the Government's commitment to achieve its goals in the implementation of PPPs.

The key objectives of the PPP strategic plan would ideally follow those of the National Development Plan. In Zambia, the national development planning processes were anchored on the long and medium term planning instruments of the Vision 2030 and the National Development Plan (NDP). In this regard, all the PPP projects would be in line with and contribute to the goals and objectives of the country's vision and NDP.

It was, however, submitted by stakeholders that currently, the Government had not put in place a holistic strategic plan for PPPs. The stakeholders informed your Committee that the Government was in the process of coming up with a strategic plan for PPPs with assistance from the World Bank. Once in place, the PPP strategic plan would define pipeline projects for PPPs, prioritised into the immediate, medium and long term, with clearly defined performance benchmarks or targets.

DIFFERENT PPP MODELS THAT COULD BE APPLICABLE TO THE ZAMBIAN SITUATION

7.7 It was submitted by the stakeholders that the *PPP Act* in sub-sections 3 and 4 provided for various PPP models that were applicable to the Zambian scenario. The stakeholders further submitted that these models were not exclusive and that variations could be made in the process of implementation as may be deemed necessary or expedient for any specific project. The PPP models as provided for in the Act included these listed below:

i) Build and Transfer (BT)
ii) Build Lease and Transfer (BLT)
iii) Build Operate and Transfer (BOT)
iv) Build Own and Operate Transfer (BOOT)
v) Build Transfer and Operate (BTO)
vi) Contract Add and Operate (CAO)
vii) Develop Operate and Transfer (DOT)
viii) Rehabilitate Operate and Transfer (ROT)
ix) Rehabilitate Own and Operate (ROO)
x) Lease Management Contract (LMC)
xi) Management Contract (MC)
xii) Service Contract (SC)
xiii) Supply Operate and Transfer (SOT)

In addition to the above PPP models prescribed in the Act, the following two models were increasingly being recognised and had been applied in Zambia:

1) Joint Venture

This was a contractual arrangement involving the common sharing of risks, responsibility and returns for the provision of public services by both the private sector and the Government.

2) Special Purpose Vehicle

This was a contractual arrangement where the Government or contracting authority and the private entity undertook to establish a company as equity partners to operate as a Special Purpose Vehicle (SPV). The SPV would then undertake the responsibility to finance, construct, maintain and operate a project for a specified period of time.

The SPV also took the responsibility for managing the risks and benefits, including borrowing on behalf of the equity partners and meeting the obligations of the debt. Government or the contracting authority would be specified in the said agreement as the off-taker of the project after a specified period of time.

ASSESSING THE CHALLENGES FACED IN THE IMPLEMENTATION OF PUBLIC PRIVATE PARTNERSHIPS IN ZAMBIA

7.8 Stakeholders submitted that despite the legal and institutional framework being in place, the implementation of PPPs in Zambia had failed to record success. Prior to and even after enactment of the *PPP Act,* attempts were made by the Government to partner with the private sector to deliver PPP infrastructure projects. Despite these efforts, the country had only been able to record four successful PPP projects namely, the Kasumbalesa One-Stop-Boarder post; Itezhi-Tezhi Hydro Power Corporation (ITPC); Luburma Market and the East Park Mall, while most of the earmarked projects under PPP had either failed to take off or the decisions were reversed. Several contraints had been identified as affecting the implementation of PPPs in Zambia. The major ones among these are discussed below:

a) **Lack of Financial Resources Dedicated to PPP projects:** The absence of full feasibility studies diminished the attractiveness of the PPP projects to private investors. In addition, without a feasibility study, the Government could not predict its total financial liability under various scenarios. Further, the Government's position during the contract negotiation would be weak, with a high likelihood of achieving a weak concession agreement. The major factors leading to lack of feasibility studies was the lack of resources by contracting authorities.

b) **Lack of Clear Guidelines and Regulations:** Since the enactment of the *PPP Act*, there were no clear guidelines to contracting authorities and the private sector on the implementation of the PPP framework. The lack of sector specific guidelines and regulations had added to the challenges being faced by contracting authorities in moving projects through the PPP cycle.

c) **Lack of Cost Reflective Tariff**: The tariffs in the electricity sub-sector were below the cost reflective value and could, therefore, not attract private sector participation in PPPs. The lower tariffs had financial implications and thus negatively impacted on efforts by investors to mobilise financing. Generally, the mandate of the Government was to protect the consumers, but this was usually in conflict with the private sector operators' needs, as private operations would not to have prices fluctuating in accordance with market forces.

d) **Lack of Government Guarantees**: Potential financiers had been requesting the Government to provide Government guarantees on projects, especially in the power sector and it was often not possible for the Government to provide such guarantees, especially given its fiscal position.

e) **Poor Procurement Planning and Coordination:** Good procurement planning and coordination was needed to ensure that the best projects, those that represented value for money, enabled integrated development at regional level, and/or provided customers with the services they desired, were consistently selected. Without sound procurement plans, it was difficult to sequence and implement the projects according to their benefits and in terms of their value for money.

f) **Politics or Personal Gain Interfering with the Project Selection Process:** This potentially increased costs, or diverted funds to less beneficial projects. An IMF analysis of corruption in public infrastructure investment found that corruption tended to create a bias towards traditional capital spending projects. This was also done by making the project size huge and increasing its complexity. In reality, the productivity of that investment would be reduced due to hidden costs.

g) **Policy Bias towards Traditional Public Procurement:** In Zambia, traditional public procurement of infrastructure services was the default choice. Procuring entities must therefore first consider a PPP for a given project and then conduct an objective analysis of whether traditional Government procurement or PPPs would provide better value for money. Further, the Government should give policy direction, clearly defining circumstances under which PPPs must be considered.

h) **Project Structuring:** Project development activities such as detailed feasibility studies, risk allocation and concession agreements were often not given adequate importance by contracting authorities in Zambia. Risks were also not fairly allocated between the sponsoring agency and the developer, making it difficult to attract developers. The absence of adequate project development and structuring led to reduced interest by the private sector, mispricing and delays at the time of execution.

i) **Financing Constraints:** The private sector depended on commercial banks and equity markets to raise financing for PPP projects. These projects were capital intensive in nature and had long gestation periods. Worthy of note was also the fact that the equity market in Zambia was not yet well developed and global equity markets were not favorable for financing projects because of uncertainties in the global economy that may limit exit options. Further, the interest rates in the country were quite high, and inhibitive to the private sector.

j) **Limited Capacity in Government to Effectively Implement PPP Projects:** The PPP Unit and the contracting authorities still had gaps in requisite skills and expertise needed in implementing these complex projects. Efficient PPP project implementation required skills in complex financial modeling and analysis, legal, contract negotiation, sector expertise, monitoring and evaluation.

k) **Transaction Costs:** This was mainly attributed to lengthy procurement procedures. The lead time for contract closure and procurement added to the transaction costs and thus delayed the completion of projects.

l) **Need for Transaction Advisors:** PPP arrangements were complex and required the involvement of various experts with skills in financial, legal, sectoral expertise, transaction advisory. In light of this, the PPP process could be lengthy due to tendering for various experts and works for the projects, complexities associated with the negotiation process. Hence there was need for transaction advisors to provide support in all these areas.

m) **Publicity Campaigns and Advocacy:** PPPs required adequate sensitisation to ensure a buy-in by the public in their early stages and to avoid project rejection. Once conceptualised, the PPP project would have to be marketed through mechanisms such as investment promotion and media coverage. In addition, there would always be need to manage stakeholder expectations in the delivery of PPP transactions.

n) **Lack of Information on PPPs in the Public Domain:** Stakeholders bemoaned the lack of public sensitisation and awareness concerning PPPs in Zambia. For instance, most investors did not seem to know the Government's sector focus on PPPs, sector specific incentives on PPPs and there was a lack of easily accessible information centres and online website portals on PPPs.

o) **Over Centralisation of PPP Process at National Level:** Prospective investors, particularly those wishing to undertake PPP projects at district level, bemoaned the lack of decentralisation of the PPP process, which made it difficult for its uptake at lower levels such as local government, district councils and municipalities.

SUGGESTIONS TO SCALE UP PPP PROJECTS IN ZAMBIA

7.9 Your Committee was informed that Government ought to go beyond the adhoc development of PPPs and instead use PPPs as part of their infrastructure development process. To achieve this, there was need to identify and plan a PPP programme. This would include developing the tools and systems to monitor implementation, ensure good governance and fiscal management of liabilities. The principles for developing a PPP Strategic Plan and managing a PPP programme including the parameters for assessing performance were outlined as set out below.

7.9.1 Pipeline Project Identification

Your Committee was informed that pipeline project identification and, therefore, developing a PPP Strategic programme was underpinned by three primary steps. The three steps were proposed as outlined below.

a) ***Identifying PPPs through Public Investment Planning***

This stage included developing sector or infrastructure strategies; assessing project options to meet objectives; conducting detailed feasibility studies (or cost-benefit analyses); project selection and prioritisation in an overall public investment plan or fiscal envelope. This was aimed at ensuring that the PPP project addressed sector specific objectives. The responsibility for project identification would then be left to the relevant sector ministry or agency.

b) ***Ensuring PPP projects are good public investments***

PPPs had to be aligned with public investment management processes to ensure that they were subjected to the same scrutiny as regular public investment projects. The process therefore, should emphasise the importance of subjecting the projects to the same process of project feasibility and viability analysis as any other public investments in order to determine their implementation options, including assessment of expected outcomes and fiscal affordability.

c) ***Building PPP Pipeline Projects***

This step involves coming up with a list of PPP pipeline projects which could form a bankable document. The following factors ought to be taken into account when building a list of PPP pipeline projects:

i) *Conceptual Stage*: this was the project identification and preparation stage;

ii) *Responsiveness to the sector's needs*: the project identified should be central to the development of the sector, as peripheral projects may turn out to have marginal benefits and may merely distract from the sector strategic priorities;

iii) *Success of implementability*: there was need to prioritise PPP projects with a high likelihood of success, and ones which were most likely to attract private sector interest, and for which there was a precedent in the local or regional market; and

iv) *Affordability*: a clear understanding of the likely sources of project revenues, and, in principle, the ability to fund the Government obligations once the project was completed.

The stakeholders submitted that taking the above into consideration, there seemed to be no clear PPP strategic plan or programme in Zambia. They further observed that the PPP Unit, which was responsible for promoting and recommending the award of PPP projects to the Council, seemed to be taking on projects that were at the early stage, without going through the three principles enumerated above. This showed a disjoint with what was envisaged in the Vision 2030 by the Government. In order to address this challenge, your Committee was informed that the Government needed to align the strategy in line with the Vision 2030 and, as the line ministries were preparing their sector investment plans, it would be an opportunity to integrate PPP projects into the overall planning processes. Only when the identified PPP projects had gone through the three preparation stages could they be included in the National Development Plans as part of the public investment needs.

7.9.2 Possible Sources of Financing for PPPs

On the aspect of financing, the stakeholders submitted that there were a number of sources of financing for PPPs, though the common ones available in Zambia were those outlined below, including their implications.

a) Equity Contributions

Equity contribution was more of a sponsor funding, done through capital and other shareholders' funds. It was further submitted that equity held the lowest priority of funding contributions in a PPP project as lenders would have the right to project assets and revenues before the equity contributors could obtain any return on termination, insolvency, or any repayment. Additionally, equity contributors would bear the highest risk and, therefore, potentially demand high returns.

b) Debt Contributions

Debt could be obtained from many sources, including commercial lenders, institutional investors, export credit agencies, bilateral or multilateral organisations, bondholders and sometimes the host Government. Unlike equity contributions, debt contributions had the highest priority amongst the invested funds for PPP projects. Commercial banks were desirable as long-term debt providers, given their flexibility in re-negotiating loans and reacting to new unforeseen conditions. This flexibility would however, not be available, for example, from bondholders.

c) Syndication

In syndicated lending, each amount advanced by one of the syndicated banks constituted a separate loan with its own terms, the bank's obligations and rights being severed from others. The banks would not underwrite each other's obligations, and each bank would want to sue separately and make its own set of arrangements.

d) Bank Guarantees/ Letters of Credit/ Performance Guarantees

Bank guarantees formed an important part of project financing, allowing counter-parties immediate access to payment, without the cost of locking up cash. Bank guarantees could be 'on demand' or only payable once the default had been proven in court, adjudication or arbitration.

e) Bond/ Capital Market Financing

Bond financing allowed the borrower to access debt directly from individuals and institutions, rather than using commercial lenders and intermediaries. The implication of bond financing was the absorption capacity as the funds would be accessed through a bullet disbursement. If a bond disbursement was in tranches, then each tranche would have its own terms, making it difficult for the private sector to manage the risk.

PAYMENT MECHANISM TO THE PRIVATE PARTNER IN A PPP ARRANGEMENT

7.10 The private entity participating in a PPP would either be paid by collecting fees from service users, by transfers from government, or by a combination of the two with the common defining characteristic that payments should be contingent with performance. The options for a payment mechanism would depend on the functions of the private party. The different payment mechanisms are set out below.

(i) *Entirely user pays PPP:* this is a payment mechanism where a private party provides a service to users and generates revenue by charging users for that service. Typical examples are toll roads and parking for public motor vehicle;

(ii) *Government pays PPP:* this is a payment mechanism where Government would be the sole source of revenue for the private party. Government payments would depend on the asset or service being made available at a contractually defined time; and

(iii) *Combination user-government pays PPP:* this is a payment mechanism where user tolls are not sufficient to cover the full financing cost of the project, and the fees (or tariffs, or tolls) are supplemented by subsidies paid by Government, which could be performance-based. Payment would either be made conditional to availability of the service at a particular time or output-based.

FISCAL IMPLICATIONS FOR IMPLEMENTING THE PPP'S

7.11 PPPs could be a very contentious fiscal subject for Government and could be analysed both from the positive or negative sides. On the positive side, PPPs could allow the Government to take advantage of possible private sector efficiencies and thus get public services more cheaply than otherwise. On the other hand, the use of PPPs often seemed to hide the Government's debt, at the risk of increasing the Government's costs in the long run. Following the submissions by stakeholders, the implications of PPPs on the fiscus are discussed in more detail hereunder.

a) Positive Implication of Public Private Partnerships on the Fiscus

i) *Improved Capacity of Ministry of Finance in PPPs:* Countries with significant PPP experience had increasingly reinforced the role of the Ministry of Finance in PPP processes, which included better understanding of risks and how to manage them.

ii) *Improved Fiscal Reporting and Transparency:* International standards agencies (such as International Public Sector Accounting Standards) had published public accounting standards classifying PPPs as contingent liabilities on the government's balance sheet. This was to ensure proper accountability of government's fiscal liabilities and risk in the national budgets.

iii) *Better Integration of PPPs in the Public Investment Management (PIM) Framework*: integrating PPPs in the Private Investment Management framework was now recognised as critical for assessing alternatives in public infrastructure investment and allowing for optimal project structuring.

iv) *Deferment of Public Expenditure*: PPPs helped to defer public (capital) expenditure, thus freeing up much needed funds for spending in other social sectors.

v) *Build-up of Foreign Reserves*: Private sector investment in public infrastructure could bring in an inflow of foreign exchange, thereby building up the country's reserves.

vi) *Increase of Total Government Revenue*: PPP projects, especially in the energy sector, and those that related to service or management contracts, could effectively increase total government revenue.

vii) *Provides Short to Medium Term Investment Relief to Government:* since in the short to medium term, the government would be relieved of any investment related expenditure on projects, PPPs would allow the Government to plan for the eventual takeover of the facility and provide additional liquidity in the short term. This was essential in meeting annual budget obligations and most importantly helping in attaining a balanced budget or reducing the fiscal deficit;

viii) *Building Capacity of Locals:* PPPs could help build the capacity of local industries through joint ventures.

ix) *Enhanced efficiency and Cost Effectiveness in delivery of Infrastructure and Public Service:* a competitive bidding process for PPPs could facilitate enhanced efficiency and cost effectiveness in the delivery of public infrastructure and services. This was because PPP projects were subjected to a competitive process and due diligence to attract private financing. The PPP process ensured that only those projects that provided value for money, were affordable, and transferred optimal risks to the private sector, were developed.

x) *Harnessing of Private Sector Expertise:* PPPs allowed the Government to harness private sector technology and innovation, capital and management expertise in the direct provision infrastructure and services. In this regard, PPPs could help improve infrastructure and service delivery by reducing construction time and cost overruns which would otherwise fall on the Government's balance sheet;

xi) *PPPs Creation of Employment Opportunities*: given the constraint on public financing, PPPs offered a viable solution for the creation of employment in infrastructure and related services.

xii) *PPP's are a Catalyst for Economic Growth and Diversification:* PPPs could help create diversification in the economy by making the country more competitive by facilitating infrastructure, boosting business opportunities with industries and creating market demand.

xiii) *Risk Transfer:* PPPs could help the Government extract long-term value for money through appropriate risk transfer to the private sector over the life of the PPP project, from design and construction to operations and maintenance because of private sector efficiencies.

b) Negative Implications of the Public Private Partnership on the Fiscus

i) *Administrative Costs*: these costs were associated with PPP project development, procurement and contract management. In the case of Zambia, it was also a legal requirement for Government or a contracting authority to undertake feasibility studies, hence the need to allocate financial resources for undertaking such studies.

ii) *Direct Liabilities*: these constituted fiscal requirements, where the need for payment was known, such as up-front capital payments or regular payments made by Government over the life of the project.

iii) *Contingent Liabilities*: contingent liabilities were costs to government that only materialised if some uncertain future event or circumstance occurred. Contingent liabilities could also arise from debt and revenue guarantees, termination, payment commitments and *force majeure* compensation.

iv) *Non-Performing PPP's could lead to Government Revenue Loss*: the Government may offer guarantees to PPP concessionaires which could result in revenue loss should the project not perform as expected. Therefore, PPP projects, particularly those that had government guarantees, needed to undergo rigorous feasibility studies and appraisals, including constant monitoring to avert failure. Additionally, in the event that a PPP or concession project failed, government could be forced to take over the facility in order to ensure continued service delivery, protection of jobs and the national interest.

v) *Loss of Government Revenue through Ceding of Ownership Rights:* the Government could forego revenue streams as they ceded their right to collect revenues such as user or toll fees in the short to medium term. Further, PPP arrangements such as rehabilitate-operate-own could also be undertaken with certain concessionaire's conditions such as tax exemption for a specific period of time, thus, leading to loss of government revenue.

8.0 COMMITTEE'S FOREIGN TOUR

8.1 Background

Your Committee undertook a tour to Mozambique from 26th March to 1st April, 2017, pursuant to its Programme of Work for the First Session of the Twelfth National Assembly. The purpose of the tour was to learn from the counterpart Committee in the Parliament of Mozambique and other relevant institutions in the host country on how that country has been implementing projects under the Public Private Partnership concept.

8.2 Justification of the Study Visit to Mozambique

The Zambian Government in its budget policy statement made on the floor of the House indicated that, to avert further pressure on the Treasury, it would leverage on the PPP's to deliver infrastructure projects to support economic development in the country. The statement was made in light of the declining fiscal space which inhibited Government's ability to borrow to finance critical infrastructure projects in the country. However, most countries within the SADC region had very little understanding of the PPP arrangements and their implications on the fiscus. The tour to Mozambique provided an opportunity for the two Parliaments to exchange views on how best the PPP arrangements could be harnessed in the broader context of development, given the resource challenges being faced by most governments. The visit was insightful for the members of your Committee as they were exposed to various PPPs which had been successfully implemented by the Mozambican Government.

8.3 Schedule of Meetings

Your Committee held meetings with the Ministry of Industry and Commerce; Ministry of Mineral Resources and Energy; Ministry of Labour, Employment and Social Security; Alliance of the Civil Society Organisation's Platforms (WWF); the National Company of Hydrocarbonates (ENH); Ministry of Economy and Finance; Maputo Port Development Company (MPDC), and Maputo-Sul Company. Your Committee also interacted with Trans African Concession (TRAC) Company, a private entity managing the Toll-Plaza on the N4 road in Maputo shared between Mozambique and South Africa.

Your Committee also held a joint meeting with the Committee of Agriculture, Committee of Economy Environment and Social Affairs, Committee of Gender and the Committee of Technology and Social Communication of the Parliament of Mozambique.

8.4 Committee's Findings and Observations

The focus of your Committee's tour was underpinned by the objectives of the study. The findings and observations of your Committee during its foreign tour have been summarised below under respective thematic topics.

i. PPP Regulatory and Institutional Framework in Mozambique

Your Committee learnt that Mozambique had in place a legal framework governing PPP projects. The law on PPPs in Mozambique was passed in 2011. The law was aimed at bringing contractual uniformity between the traditional implementation of public infrastructure projects with the concept of PPPs. Your Committee further learnt that the implementation of the *PPP Act of 2011* was being done side by side with two other pieces of legislation namely, (i) the Law on Large Scale Projects (LSP) and (ii) the Law on Company Concessions (CC), which were also passed in 2011. These three pieces of legislation established the guidelines for the award process, implementation and monitoring of PPP projects and further sought to attract investment in infrastructure.

On the institutional framework, the *PPP Act* provided for the establishment of the PPP Unit under the Ministry of Finance. The Unit was responsible for the evaluation and approval of PPP projects and the concessioning of a public asset. The Unit, together with the regulatory authority, provided oversight and supervised PPP projects. It was submitted that even though the Unit was domiciled at the Ministry of Finance, the Ministry had a limited role in the facilitation of PPP projects.

Further, your Committee learnt that the Government of Mozambique undertook affirmative action to support implementation of PPPs in the country. In particular, the Government had been promoting participation by the locals in PPP through imposing a specific percentage for joint ventures between the indigenous private companies and foreign companies wishing to participate in PPPs.

Your Committee also learnt that the Government of Mozambique had deliberate policy to disseminate information on PPPs on the website and through the public media. Your Committee further learnt that the Government of Mozambique was also using the platform and the voice of the civil society organisations (CSO) to provide advocacy, training and facilitation of PPP activities. In particular, the Government was working closely with the World Wide Fund (WWF), which is an alliance for the CSOs working on the extractive industry (oil and gas), representing the ten provinces of the country. Your Committee learnt that the CSO Alliance was involved with undertaking analysis on environmental issues, policy formulation and research on the extractive industry to support private participation. The analysis and research was also aimed at helping the Government in negotiating PPP projects in the extractive industry.

ii. Key Financing Options for Carrying out the PPP Projects

Your Committee was informed that so far, the main financiers of PPP projects or those who had expressed interest to finance PPPs in the country were international financial institutions. The Government was also receiving a lot of support through loans from the Government of the People's Republic of China. The Chinese Government provided financing to Chinese firms who were undertaking PPP projects in the country. An example of this was in housing infrastructure development sector, where Mozambique had received substantial financial support. In particular, your Committee was informed that the Government of Mozambique, through the Housing Development Fund of Mozambique (FFH), a state owned company, had signed an agreement with a Chinese firm to build 50,000 low cost social housing units in the Mozambican provinces of Cabo Delgado, Nampula, Tete and Maputo. The project was being financed by the Development Bank of China and the estimated cost of the project was US$5.5 billion. The project was being undertaken through a PPP arrangement where the Government had leased the land to the Chinese private company. The private investor would recover its investment from the sale of the houses to citizens.

iii. Contract Negotiation of PPPs and Risk Management

Your Committee was informed that management of risks in PPPs was provided for in the Act, which was the principal framework for managing PPPs in the country. One way of managing the risk, especially avoiding project failure, was to lengthen the maturity period. The law also required that Government had to take up 50 percent of the shares in order to have mutual benefit and share the risks in the management of public projects. Government would off-load the shares afterwards to the public, as a way to empower the nationals. Further, the Government of Mozambique would partner with the private entity through a joint venture in the PPP project as a way of sharing the risk with the private partner.

Your Committee further learnt that it was required by law that a clause should be embedded in each PPP contract which allowed for flexibility with a view to changing the shareholding structure. Your Committee was also informed that the law on PPP provided for a maximum concession period at twenty five years. Further, clauses on confidence level and business continuity were included in the PPP contracts as a risk management mechanism. It was mandatory that for every PPP contract entered into, risks had to be identified and well tabulated, including the mitigation measures. In most cases, the management of risk would be shared equally between the Government and the private partner to make the project attractive. Your Committee was informed that some of the common risks faced by the country in implementing the PPP projects included the following:

a) Institutional conflict which may arise between the concessionaire and the parastatal;
b) rent risk arising due to fluctuation of asset prices;
c) contingent liabilities arising due to government issuance of a guarantee for certain strategic projects;
d) co-financing arrangements which may require government to absorb the interest and exchange rate risk when servicing its portion of debt financing to the PPP project;
e) project overruns;
f) economic risks;
g) poor implementation and management of a PPP contract; and
h) wars and civil strikes.

iv. Various PPPs that have been Implemented in Mozambique

Your Committee was informed that even though the PPP concept was relatively new, the country had implemented a number of PPPs in the energy, labour, road infrastructure, water transport and housing sectors, while some of the projects were still being conceptualised. It was mentioned that the most common PPP models applied were the management and service contracts. These types of models had mainly been applied in the management of the toll roads, the railway project and Maputo Port. The country had also identified a number of projects to be implemented through the PPP arrangement and evaluations were currently being undertaken to ascertain their viability to be implemented by way of PPP. Specifically, your Committee leant that the following were some of the projects that had been implemented under PPP arrangement:

a) the Maputo Port operated as a Joint Venture between Grindrod, DP and Mozambique Ports and Railways (CFM), a state owned firm with financial closure reached between 2002 and 2003;
b) the Ressano Garcia line (78km) connecting Maputo with South Africa implemented and operated under an international consortium between Spoornet of South Africa and CFM;
c) the coal terminal in Beira operated by ESSAR;
d) the N4 road in Maputo shared between Mozambique and South Africa which reached financial closure in 1997; and
e) Mozambique-South Africa Natural gas which reached financial closure in 2003.

Further, your Committee was informed that some of the projects currently being implemented under PPP arrangement included the following:

a) Ressano-Garcia Gas fired electricity plant with financial closure reached in 2014;
b) Kavuninga Energia Power Plant Electricity with financial closure reached in 2013; and
c) the 50, 000 Social Housing Project in Mozambique provinces of Cabo Delgado Nampula, Tete and Maputo.

Your Committee also learnt that the country had taken advantage of the PPP concept by extending it to local training centres with a view to developing different skills in agriculture and extractive industries as a way of enhancing effective service delivery. The PPP's in training centres were mostly under the municipalities. Your Committee was informed that the country, through the private sector, was also carrying out some exploration of natural gas. Your Committee further learnt that the Government had made it a policy not to spend on exploration and this was left to the private sector. In the event that the exploration became successful, the initial investment in exploration by the private sector would form part of its initial capital. The Government, on the other hand, retained ownership of the land and mineral resource in the gas sector.

v. PPP Strategic Development Plan and Coordination Mechanism for PPPs

Your Committee observed that the Ministry of Economy and Finance coordinated most of the PPP activities, including taking the lead in negotiation of PPP contracts. Sector ministries were, however, responsible for identifying projects under the PPP arrangement and monitoring the implementation process. The WWF was also highlighted as a key player in coordinating the interaction of the public sector with the private sector. In recognition of the role played by the CSO in facilitating PPPs in the country, a Memorandum of Understanding was signed between WWF and the Government.

The Government had also come up with a deliberate policy to encourage local participation through facilitating financing from the National Bank of Mozambique with longer maturity periods. As a way of incentivising the private sector, the Government also lowered taxes and in the case of strategic projects, the Government would borrow on behalf of the local company or issue a guarantee. The local companies were required to pay back the loans.

Your Committee learnt that Government had set up a company called Maputo-Sul, specifically to manage infrastructure projects in the country. In particular, the company was mandated to manage the road projects, bridges, which also included PPP projects. In this case, the company had been setup as a political champion for carrying out infrastructure projects, including PPPs, on behalf of Government. The company was wholly owned by the Government and had outlined some PPP pipeline projects which included a toll plaza, Maputo Forest Reserves, development of satellite cities and the beach.

As part of the strategic plan for PPPs in the toll roads project, the Government provided incentives to the private partner through tax rebates on capital and machinery. In the case of strategic PPP projects like the Maputo Port, the Government had retained some shares as an equity partner through the parastatal company. As an equity partner, the Government also took responsibility for the management of the project. This was considered a strategic decision as a way of building capacity so that the business continuity was assured after the concession period and in the event that the contract was not renewed.

vi. On-site Visit of PPP Projects

To appreciate the operations of Maputo-Sul as a strategic public entity in infrastructure development, your Committee met with the management team and also had the opportunity to visit the road and bridge under construction by the company. The works were being undertaken by a Chinese firm with a loan from China. The financing of the Maputo-Katembe Bridge project, including the link roads, at an estimated amount of US$785.0 million, which was sourced under a combination of both commercial and preferential terms, and had a moratorium of twenty years.

The road infrastructure and the bridge would open up the country with a direct link to South Africa via Cape Town and Durban. Your Committee was informed that once complete, the project would have some PPP projects which included the Maputo Forest Research, the Katembe Satellite City and Beach including some toll plazas. In terms of the workforce, it was stated by management at Maputo-Sul that the project had a workforce share of 80 percent local and 20 percent foreign.

vii. Challenges faced in implementing PPP projects

Your Committee was informed that the PPP concept was quite new and therefore, the country had faced challenges in implementing PPPs. Some of the challenges faced are set below.

a) *Lack of Capacity by Private Firms*: many local private companies faced capacity challenges in terms of expertise and raising capital to finance PPP projects.

b) *Low Tariff Structure:* the low electricity tariff which was reported to be currently at US$0.7 cents/kwh negatively affected the mobilisation of funds by the potential PPP investor. The issue of the tariff structure did not only affect the power sector but also the management of toll roads. It was highlighted that the Government had challenges having a tariff structure that would meet the needs of the private partner without over burdening the road users. Any increase in the toll fees was passed on to the road users through increasing the charges of the public local transport. This was a concern to the Government because if not well handled, the issue of tariffs could result in strikes and demonstrations. The issue of tariffs also had implications on the political standing of the party in power.

c) *Political Wars and Civil Strife:* the civil strife and political risk which was heightened given the political clashes between the ruling party and the major opposition party was also a challenge. In order to protect the interests of the private partner and allow the project to continue and on the other hand serve the interests of the citizens, the country had up to 120 days to manage the risk and calm the situation.

d) *Deteriorating Economic Performance:* It was underscored that one of the key drivers of PPPs was the performance of the economy. However, in the last decade, economic trends in Mozambique had been deteriorating and this had affected the negotiating strength of the Government for PPPs given the private sector's motivation for undertaking PPPs, which was to yield high returns on their investment. It was indicated that this was at variance with the objective of the Government, which was the efficient provision of public goods at an affordable price.

e) *Failed PPP Projects:* the country had cases of PPP contracts which were cancelled due to non-adherence to the contractual provisions by the private partner. This resulted in the project risk and costs being assumed by the Government.

f) *High Cost of Maintenance of the Toll Roads:* this mostly affected the private partners managing the toll roads. The management of the private company managing the toll roads in Mozambique, mentioned to your Committee that given the high cost of maintenance of the highway roads, it was more preferable to manage toll roads in the rural areas, because of the low traffic, which contributed less damage to the road infrastructure.

Additionally, in the event of a reduction in the volume of traffic due to the poor performance of the economy or non-maintenance of the road infrastructure, the expected return from the PPP project would be negatively affected. This was a risk that the concessionaire had to bear. To avoid excessive damage to the road infrastructure by overloading, the private partner also took up the responsibility of putting up weigh bridges.

g) *Failure by Government to adjust the Toll Fees annually:* your Committee was informed that the road toll rates were adjusted by the Consumer Price Index (CPI) and inflation, and the adjustment would be done annually, with approval by the Government. It was, however, submitted that, even though the road toll rates were supposed to be adjusted annually, it was sometimes difficult to adjust the rate due to competing objectives by the private sector and the Government. On the concessioning period, it was stated that the toll road had a financial model which was underlined by the population growth rate.

viii. Benefits Accrued from the PPP Projects

The country had realised some benefits from the number of PPP projects implemented, including those projects which were on going. Some of the benefits included increased revenue to the treasury, through taxes and other fees collected, job creation, transfer of skills, technology and knowledge. An example of such benefits was the case of Maputo-Katembe Bridge project.

ix. Opportunities Existing for Mutual Benefit for the two Countries

Your Committee was informed that there were some areas for mutual benefits between Mozambique and Zambia. Specifically, it was highlighted that the on-going gas exploration along the coastal area and a power line along the Nacala corridor currently under discussion presented opportunities for the two countries to mutually benefit from their collaboration.

The tour to Mozambique was insightful to your Committee. Arising from the interaction and observations made, your Committee was able to appreciate the country's effort in embracing PPPs as an alternative solution the traditional way of public procurement, which could help the Government to quickly develop infrastructure and provide services to the citizens efficiently. Your Committee's observations and lessons learnt from the tour have been incorporated in the recommendations hereunder.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

9.0 Arising from the interaction with the witnesses and the foreign tour, your Committee's observations and recommendations on the topic under discussion are set out below:

Creation of the PPP Unit as a Statutory Body

a) Your Committee observes that the decision to establish the PPP Unit as a semi autonomous statutory body is not only counterproductive but also a duplication of efforts. Your Committee note that the country has enough institutions operating as statutory bodies, which are performing the functions of investment promotion, including PPP projects. Your Committee has in mind institutions such as the Zambia Development Agency, Industrial Development Corporation, and the Citizens Economic Empowerment Commission, which are also mandated to promote private sector investment in the country.

   Therefore, given the current fiscal challenges faced by the country, it is your Committee's strong recommendation that the PPP Unit operates as a department under a ministry, specifically, the Ministry of Finance, as prescribed in the *PPP Act*, and in line with international best practice. The Ministry of Finance provides a better option for housing the PPP Unit, given the fiscal implications that might arise from guarantees, debt and equity as options for financing PPPs which would require the expertise of the Ministry to manage.

The Coordination Mechanism for PPPs in the Country

b) On the coordination mechanism between the PPP Unit, contracting authorities and other key stakeholders such as the private sector and commercial banks, your Committee observed that the linkages are too weak to advance the PPP agenda. Your Committee further observes that, even though the ZDA, CEEC and IDC are also better placed to market and promote PPPs in the country, their linkages with the PPP Unit are weak.

   Your Committee strongly recommends that the Government must come up with measures to enhance the coordination mechanisms between all the relevant stakeholders around PPPs. In this regard, the roles of all stakeholders must be clearly defined to avoid duplication of functions and perpetuating the bureaucracy in the PPP process.

Stability of the PPP Unit

c) Your Committee observes that there is no stability in the domicility of the PPP Unit as the Unit has kept shifting from one institution to the other. For instance,

the Unit moved from ZDA to Ministry of Finance and is currently at State House. Your Committee further observes that such movements are not in conformity with the existing *PPP Act* which established the PPP Unit under the Ministry of Finance.
Your Committee therefore, recommends that the Government harmonise the domicility of the PPP Unit with the *PPP Act*, as this is critical in instilling confidence in the private sector as regards the Government's commitment to its policy pronouncements. If however, Government decides to permanently shift the domicility of the PPP Unit, your Committee recommends that this should not be under the Controlling Officer at State House in order to allow for easy access and interaction by relevant stakeholders.

Creation of an Enabling Environment for PPPs

d) Your Committee observes that the Government has reversed or cancelled some PPP projects implemented before and after the enactment of the *PPP Act*. Your Committee is therefore concerned that such decisions by the Government affected the pace at which PPP projects are implemented in the country. Further, the lack of policy consistency and commitment on the part of the Government, including perceived political interference tends to weaken the Government's negotiating power, especially in PPP investments. By implication, the perceived political risk would result in a high risk premium on the projects, which would then be embedded in the PPP contract as a cost, thereby negating the benefits of PPPs to the nation.

   Your Committee therefore, strongly recommends that the Government creates an enabling environment for private sector participation by committing to its policy pronouncements on PPPs. In case of any policy changes, there is need for the Government to clearly state the reasons for the changes and the implications the changes may have on the stakeholders. This will cushion the impacts of such policy shifts and enable the private sector to easily accept the shifts.

Private Sector Participation in the implementation of PPPs in Zambia

e) Your Committee observes that there is very little interest by the local private sector in the implementation of PPPs in the country. Through interaction with the stakeholders, your Committee observes that the financial environment, which is characterised by high interest rates, is inhibiting for the private sector to mobilise resources to finance PPP projects. Further, the local banks are not in the habit of syndicating finances due to competing interests among themselves. The situation is further worsened by the lack of feasibility studies on PPP projects which can be presented as bankable documents in soliciting financial resources. Your Committee therefore recommends the following:

i) Government is urged to come up with policies aimed at helping the local private sector to access finances and encouraging the local private sector to participate in PPP projects;
ii) Government is urged to come up with policies aimed at incentivising local participation such as tax incentives, guarantees and/or equity contributions;
iii) Government should consider adopting a more targeted approach as a strategy to encourage local participation, whereby certain PPP projects which do not require huge outlays of capital such as the service or management contracts are awarded to the local private sector; and
iv) Government should put in place a deliberate policy to have interactions with the local private sector, in order to understand their capacities. This would then help the Government to formulate PPP policies that would be more targeted towards the local private sector.

Private Sector Representation in the PPP Structure

f) Your Committee observes that the representation of the private sector in the PPP structure at the level of Technical Committee is insignificant. For instance, the Council has three private sector representatives, while the Technical Committee has no representative from the private sector. To leverage on the knowledge of the private sector and understand the capacities they posses in undertaking PPP projects, there is need to also have private sector representation at Technical Committee level.

Your Committee therefore recommends that organisations or associations representing the private sector must be part of the Technical Committee as a way of encouraging buy-in by the private sector in the PPP agenda.

PPP Strategic Development Plan for strengthening PPPs in Zambia

g) Your Committee observes that the Government has not put in place a holistic PPP strategic plan and framework with a clear definition of the role of the private sector and the public sector on one hand, including the Government's strategic focus in the medium to long term. The strategic plan should also clearly define targets and benchmarks for monitoring performance. Your Committee, therefore, strongly recommends the following:

i) the Government should urgently put in place a holistic strategic plan which should outline Government's priority focus in the immediate, medium and long term, including defining clear roles for the key players in the PPP framework; and

ii) the PPP Strategic Plan should also clearly spell out the list of pipeline projects which form a bankable document for the private sector to use for mobilising resources to finance the projects under the PPP arrangement.

Challenges faced in the Implementation of the PPP Framework in Zambia

h) Feasibility studies are a key component in the PPP Framework as they provide information on the viability of the project to be listed as a pipeline PPP project or to be implemented through the traditional public procurement method. However, your Committee observes that most of the contracting authorities do not have any pipeline PPP projects in place. The lack of pipeline PPP projects has, therefore, affected the rate at which PPP projects have been implemented in the country. This has mainly been attributed to capacity challenges as most of the contracting authorities did not have necessary skills for project identification, appraisal, contract negotiations, monitoring and management of PPP projects. It was further observed that contracting authorities also lacked resources to undertake feasibility studies.

It is your Committee's strong recommendation that the Government must provide resources in the budget for undertaking feasibility studies, must also outline the estimated cost of the project and potential risks involved, so that such the costs and risks are properly catered for in the PPP contracts.

i) Your Committee observes that the energy sector has potential for PPP projects, which can relieve the Government from the pressure of borrowing to finance projects in the sector, especially electricity. However, the sector is beset by a number of challenges and has failed to attract PPP investment.

Arising from the interactions that your Committee had with various stakeholders, it is observed that the lack of efficiency in ZESCO operations is negatively affecting the institution in attracting more PPP investment. As a result the institution has been unable to curb power deficits. It is further observed that ZESCO does not have the capacity for up-take of solar power, even when there are a number of interested private investors in solar power generation. Your Committee emphasises that the issue of lower tariffs has continued to be a thorny one and potential investors in the electricity sub-sector are willing to participate in generation projects if only the Government is willing to provide guarantees to avert the risk.

The issue of tariffs has been on the table for some time now and your Committee is concerned with the pace at which Government is moving to resolve this issue.

Your Committee strongly urges the Government to speed up the process of moving to cost reflective tariffs in the electricity sub-sector, as a way of attracting investment, which will not only reduce the power outages, but also bring more revenue to the Treasury through export earnings, in the event of excess supply of power. Your Committee further recommends that the Cost of Service Study be finalised as soon as possible so that the parameters to be used to move to cost reflective tariffs can be known and the implications for the economy must clearly be highlighted.

j) Your Committee further observes that despite the Government having put in place a legal and institutional framework for PPPs, the country still does not have guidelines and standards to guide the PPP process.

k)

Your Committee, therefore, recommends that, as a matter of urgency, the Government should put in place sector specific guidelines and standards, including manuals to move forward the implementation of the PPP framework. Such guidelines need to be continuously updated and publicised.

l) Your Committee observes that given the complexity of PPP projects, the country needs the expertise of Transaction Advisors. Your Committee however, observes that the country does not have enough experienced local Transaction Advisors (TAs) and usually depends on foreign expertise. The contracting of foreign TAs tends to add to the cost of PPP projects, thus resulting in unusually long concessioning periods, which then erode the benefits of PPPs to the Government and the public as a whole.

Your Committee therefore recommends that Government must embark on a programme to build capacity of local TAs and ensure that they participate in PPPs for them to gain experience in the execution of PPP projects.

m) Your Committee observes that most of the contracting authorities, including the PPP Unit, do not have adequately trained personnel with skills in project identification and appraisal, contract negotiation, financial modelling, monitoring and evaluation, and PPP project management. Such skills are critical to PPPs and without them, the country cannot achieve much benefit from these projects.

Your Committee therefore recommends that the Government should consider coming up with a training programme on PPPs to capacitate the Ministries, Parastatals and Spending Agencies (MPSA's) in the PPP process. Such a training programme must also be extended to include training of local TAs and the local private sector to enable them embrace the PPP concept and participate in PPPs fully. Your Committee notes that the World Bank and African Development Bank submitted that they have facilities aimed at building capacity in PPPs and offered to help Zambia to develop its capacity on PPPs. Your Committee therefore recommends that the Government makes use of cooperating partners such as the World Bank and the African Development Bank to provide technical assistance to build capacity on PPPs in the country.

n) Your Committee observes that the procurement procedures for PPP are too long to attract more investors in PPPs.

Your Committee recommends that the Government, through the ZPPA, takes measures to simplify the procurement procedures as well as come up with standards and guidelines including building capacity of contracting authorities in tendering procedures to ensure that the procurement process of PPPs is efficient. Further, your Committee recommends that the procurement process of PPPs must be streamlined by project type and by sector in order to guide the private sector and enhance transparency, including providing for the lead time of procuring such projects under a PPP arrangement.

Use of other Sources of Finance in the Country such as Pension Funds

o) Your Committee observes that pension funds provide a good platform for cooperation in PPPs. In particular, the Government can use excess funds held by the pension funds to finance some of the PPP projects in the country. However, there is need for Government and other stakeholders to submit monthly contributions so as to create a pool of funds which can be accessed for investment. Your Committee, therefore, strongly encourages the Government to remit its monthly contributions to the pension funds timely in order to contribute to the pool of excess funds for investment in some of the PPP projects. Your Committee, further, recommends that such investments by the pension funds must be fully indemnified by institutions that are competent to handle and manage risks in order to protect the interests of the pensioners.

Sharing of Information on the Performance of PPPs, Campaigns and Advocacy

p) Your Committee further observes that the country has a number of PPP projects that have failed to take off due to a number of reasons. Your Committee thus recommends the following:

    i) The Government should document the key lessons and benefits of PPP projects implemented so far, including failed PPP projects, as a way of providing information to the private sector for them to make informed investment decisions.
    ii) The Government should put in place a policy to sensitise the public and create awareness on the performance of PPPs in the country, including the sector focus for Government in the medium to long term and incentives available for attracting private investors. It is your Committee's view that the use of Information Centres or online web-portals can help address this challenge.

iii) In terms of advocacy, the Government should take advantage of the Civil Society Organisations in the country to create awareness and encourage citizen buy-in by participation and acceptance, especially at early stages of the PPP projects to avoid rejection.

Promote implementation of PPPs in Multi-facility Economic Zones

q) Your Committee observes that the country has not taken advantage of Economic Zones to promote implementation PPPs in the country.

r)

Your Committee therefore strongly recommends that the Government should take advantage of the Multi-facility Economic Zones to promote investments in PPP projects, which would also serve the needs of the firms operating within the zone.

10.0 COMMITTEE'S LOCAL TOUR

10.1 Introduction

Your Committee undertook its local tour from 18th to 27th April, 2017, as part of its Programme of Work. The purpose of the local tour was to visit some of the PPP projects implemented in the country, in order to understand how they were being implemented appreciate operational challenges faced during the pre and post implementation phases. The local tour also provided an opportunity for your Committee to interact with some large scale mining companies to clarify some of the issues arising from the Action-Taken-Report.

10.2 Schedule of Meetings

During its local tours, your Committee interacted with the management of the University of Zambia, East Park Mall, Zambia Airports Corporation Limited, Itezhi-Tezhi Hydro-Power Corporation, Copperbelt University and Kasumbalesa One Stop-Border Post. Your Committee also visited some of the PPP projects being implemented by some of these institutions.

Your Committee further held meetings with the management of Lumwana and Kalumbila Mines to get updates on outstanding matters from the Action Taken Report on the Report of your previous Committee for the Fifth Session of the Eleventh National Assembly and undertook the tour of the two mines.

10.3. Meeting with the Management of University of Zambia and East Park Mall

During the meeting with the management at University of Zambia, your Committee was informed that the East Park Mall was one of the successful projects implemented by the institution under a PPP arrangement. The project had resulted in a number of benefits accruing to the institution in terms of revenue from the lease of the land and also the 5% income received on rental income per month by the University in accordance with the PPP contract. The management also informed your Committee that it was paid a total of US $3.0 million by East Park Mall as lease fee arising from extension of the lease agreement to fifty years from the initial agreed period of twenty five years. According to management at UNZA, the payment of US $3.0 million was to be used to finance some rehabilitation works at UNZA. In particular, the funds were supposed to be used for the rehabilitation of the UNZA Clinic, some hostels and office blocks. It was, however, reported that the management of UNZA had since drawn down on these funds to meet salaries and repay the loan owed to ZANACO.

Your Committee was further informed that the management at the East Park Mall had included the construction of a hotel under Phase II of the Project. However, due to increase in the number of hotels being constructed within the area, there had been reservations by the Project to proceed with the plans. When clarification was sought by your Committee from the Project Management, it was mentioned that plans to build a hotel had not been shelved and this activity would commence as soon as the extension of the Mall was completed.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

a) Your Committee observes with concern that the concession period was extended to fifty years from the initial period of twenty five years and that the rationale for this extension is unclear.

   Your Committee recommends that Government should clearly explain the rationale for the extension for the concession from twenty five years to fifty years.

b) Your Committee observes that initially, the Project included construction of student hostels. However, this aspect of the project has not been taken up by the developer. It was stated that the expected low return on the investment in student hostels has inhibited investors from taking up the aspect of student hostels. Since the plans to construct the hostels have been cancelled, your Committee note that the University is not achieving the intended benefits from the project especially that, the concession period had even been extended by twenty five more years.

   Your Committee recommends that the Government should provide a clear cost benefit analysis of the project, which should include the project cashflow and the expected payback period of the project.

c) On finding other investors to develop the student hostels, the management at UNZA informed your Committee that expected rental charges per unit would have to be low in order to enable students afford the rentals. This had affected the number of investors showing interest in construction of student hostels. With the coming of the East Park Mall, the University had received some proposals from the private sector to construct hostels. The challenge faced, however, was the requirement by the *PPP Act* for an external investor to undertake a feasibility study. In the case of student accommodation, the cost of doing the feasibility study by an external investor would have to be passed on to the students through rental charges. By implication, the rentals would become unaffordable for students.

Your Committee recommends that Government considers reviewing the *PPP Act* to allow for variations to enable public learning institutions that have the capacity to undertake feasibility studies to do so with a requirement that such studies are underwritten or qualified by an external party. Such a provision would make it easier for public institutions to implement PPP projects.

d) Your Committee also observes that due to the poor balance sheet and a debt of K2.5 billion sitting on the books of UNZA, the institution is not able to attract investment for new projects without riding on the Government's balance sheet.

Your Committee recommends that the Government should come up with strategies of helping public institutions, including UNZA, to become self sufficient so that they can improve their financial standing and be able to attract new investment, including PPP projects.

e) The management of UNZA expressed concern over the unclear procedures and guidelines by the PPP Unit, which affected the rate at which projects were implemented under the PPP arrangement. It was also mentioned that it was not very clear which institution was mandated to carry out procurement under a PPP project, whether ZPPA or the PPP Unit.

Your Committee recommends that the Government urgently develops sector-specific guidelines and procedures to help institutions in identifying projects for implementation under PPP.

f) Your Committee observes that the institution had challenges accessing the PPP Unit due to its domicility at State House. This impacted negatively on the institution's access to technical advice on the management of PPPs.

Your Committee strongly recommends that the Government should move the PPP Unit, including its Controlling Officer, to a more accessible location so that interested institutions can interact easily with the Unit in the PPP process.

g) Your Committee observes that the University is using funds generated from the project to pay salaries, which funds can be used to improve the capacity of the institution through investing in the construction of student hostels and rehabilitating the University infrastructure.

In light of the submission by UNZA, your Committee strongly urges the Government to release funds to the institution as appropriated in the national budget to meet salaries and other administrative costs, so that funds received from the Project can be expended on construction of hostels and carrying out rehabilitation works in order to improve the capacity of the institution.

10.4. Meeting with Management of the Kenneth Kaunda International Airport (KKIA)

Your Committee was informed that the Zambia Airports Corporation Limited (ZACL) was currently in charge of four airports, which had been designated as international airports, while the other airports in the country classified as domestic airports, would be managed by the councils. The four international airports include the Harry Mwaanga Nkumbula in Livingstone; Kenneth Kaunda International Airport (KKIA) in Lusaka; Simon Mwansa Kapwepwe in Ndola; and Mfuwe International Airport in Malambo. Your Committee was further informed that the initial plan for the upgrade and construction of the KKIA was a PPP arrangement. The decision was, however, rescinded and the Government instead contracted a loan from the Government of China to finance the construction of the KKIA. Thus the current upgrade of the KKIA was, by design, not a PPP.

The management at KKIA was, however, concerned with the lack of a national flag carrier, as such a measure would help to increase the flow of traffic and consequently, result in improved revenues once the airport was operational.

The management also informed your Committee that the ZACL was in the process of upgrading Simon Mwansa Kapwepwe and Mfuwe International Airport in Ndola and Malambo respectively. The Harry Mwaanga Nkumbula International Airport in Livingstone had already been upgraded to international standards. The ZACL would, therefore, need a total of US$998.9 million to upgrade the three remaining airports. While the loan for the KKIA had already been sourced from Export and Import Bank of China and works had since commenced, negotiations for the financing of the remaining two airports were still ongoing.

It was submitted that the facilities of the new airport, once complete, would be managed through a PPP arrangement, under a service or management contract. In particular, the airport malls, hotel facilities and car park had been earmarked for PPP and the management was in the process of engaging a Transaction Advisor to help determine the best model to be adopted.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

a) Your Committee observes that the lack of a national flag carrier negatively affects the successful management of the airport. In this regard, your Committee recommends that the Government should strongly consider coming up with a national flag carrier, where the private partner shall take the lead in the management of the airline. This will help the Government to tap into the expertise of the private partner and bring in the necessary efficiencies, which will result in increased revenues for the airport and guarantee the repayment of the debt acquired to upgrade the KKIA, without falling back on the Treasury.
b) Your Committee observes that the existence of a few airline industries in the Country has contributed to high prices for the air tickets. Consequently, this has continued to affect the number of clients using air transport. According to management at ZACL, this was a major concern as the success of the airport was dependent on the amount of traffic using the airport. Your Committee further observes that quotations for ticketing by airlines operating in Zambia are done in foreign currency. This has a negative effect on the country's foreign reserves, hence the need to urgently consider establishing a national airline.

   Your Committee recommends that the Government should seriously consider establishing a national airline as a way of making the industry competitive, thereby reducing the prices for air tickets and attract more clients.

c) Your Committee observes that initially the construction of the KKIA was to be done through a PPP arrangement. However, to date, the Government has not provided any information to the public on why the decision was reversed.

   Your Committee urges Government to explain its decision to reverse or cancel projects, especially those under the PPP arrangement, to the public, as this is important to instil confidence in the private sector.

10.5 Meeting with Management of Itezhi-Tezhi Hydro Power Corporation

Your Committee was informed that the Itezhi-Tezhi Hydro-Power Corporation project was being implemented as a PPP through a Special Purpose Vehicle (SPV) created by the Government through ZESCO and the Tata Power Corporation of India. The equity shareholding of the project was on a 50:50 basis, and a loan of US$140.0 million had been contracted by the SPV, designated as senior debt to finance the project from the Development Bank of South Africa, African Development Bank, FMO and PRO-PACO, while a total loan of US $25.0 million was obtained from Export and Import Bank of India as subordinated debt. The equity contribution by the Government was the dam infrastructure which was being leased to the SPV and each shareholder contributed a total of US$32.0 million towards the equity share.

The power was being evacuated using the new 300 km 330kV transmission line via Mumbwa sub-station onto the existing Lusaka west substation. The transmission line was being operated by ZESCO. Total estimated project cost of the transmission line was USD 146.5 million, which was raised by ZESCO from concessional debt sources separate from the ITPC power station.

The management of ITPC informed your Committee that apart from the project generating a total of 120MW of power onto the ZESCO main-grid, the project was also implementing some projects to benefit the local community as part of its corporate social responsibility. The project therefore, provided 0.05 percent of its annual profits to the community to finance projects though the District Council.

Your Committee learnt that the project had contributed to job creation and that an exit strategy was in place to allow for smooth takeover of the project by ZESCO, which had been identified as the off-taker under the project, given the number of locals employed at management level.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

a) Your Committee commends the Government and the private partner for establishing the SPV. This helped in the management of the risk and allocating benefits to the parties as provided in the PPP agreement.

   Your Committee recommends that the Government should consider replicating the arrangement of creating SPVs to help manage the risk and allocate the benefits to the parties involved in a PPP arrangement. This averts the possibility of the risk on the Government's balance sheet.

b) Your Committee expressed concern over the reported failure by the community of Itezhi-Tezhi to identify projects to be implemented under the corporate social responsibility by ITPC.

   Your Committee recommends that the Government, through the relevant Ministry, should engage the District Council in Itezhi-tezhi and the management at ITPC in order to discuss how the community can be assisted to build capacity in project identification.

10.6 Meeting with Management of the Copperbelt University

Your Committee further held meetings with management at the Copperbelt University (CBU) to discuss the prospects of the institution undertaking PPP Projects. Your Committee was informed that the institution had identified pipeline projects for implementation under the PPP arrangement. One of the projects currently being implemented was the construction of student hostels. It was brought to the attention of your Committee that CBU had signed a contract with a private contractor to put up hostels and the contractor had since mobilised on site. The biggest challenge faced by the contractor was failure to secure financing for the project and this had resulted in the project stalling.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

a) Your Committee observes that the lack of clear guidelines and procedures to guide the process for undertaking PPP projects affects project take-off. Your Committee also observes that the project has not reached financial closure and further that lack of clear procurement procedures had contributed to stalling of works on the project.

   Your Committee recommends that the Government speeds up the process of coming up with sector-specific guidelines, including tender procedures to guide contracting authorities if the PPP agenda has to move forward.

10.7 Meeting with Management of the Kasumbalesa Border One-Stop Border Post

The Kasumbalesa Border Post links the Democratic Republic of Congo (DRC) with the Republic of Zambia and onward, through regional ports, to the whole world. The border post had been identified by SADC, COMESA and the North South Corridor Forum as one of the main regional obstacles to the flow of regional trade. It was thus underscored that adequate border crossing facilities were a critical element to the efficient flow of traffic across this border.

In light of the above, the Kasumbalesa One-Stop Border Post was conceptualised with a view to build modern facilities to enhance efficiency in the movement of traffic at the border between DRC and Zambia. The project was undertaken under a PPP arrangement as a One-Stop Border Post and was being operated as a DBOT with an investment of US$25.0 million. Your Committee was informed that the contract with the private partner for a concession period of twenty five years was initially cancelled in 2012 and reinstated for a seven year period in 2015.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

a) Your Committee observes that the US $25.0 million appears to be exaggerated, as the infrastructure at the Kasumbalesa One Stop Border Post is pre-fabricated, except for the concrete slab. Further, your Committee questions the rationale behind the reduction of the concession period to seven years from twenty five years, in light of the alleged cost of the border facility.

   Your Committee recommends that the Government shares the feasibility study with stakeholders and explains the rationale for the reduction of the concession period from twenty five years to seven years.

b) Your Committee observes that Government has not provided reasons for the cancellation and reinstatement of the concession.

It is your Committee's strong recommendation that this information be availed to stakeholders in order to provide lessons to any potential private partners in PPPs and to also instil confidence in the partnerships between the Government and the private sector in the country.

c) Your Committee observes the serious challenges being faced at Kasumbalesa One-Stop Border Post relating to.

i. the poor road infrastructure and other facilities such as the market and toilet facilities;
ii. the dispute between management of the project and a group dubbed *"Mingomba Community'* over the land issue which has led to the stalling of a number of corporate social responsibility activity thereby denying the community the full benefits of the project; and
iii. the lack of security at the area demarcating the border between Zambia and DRC, which could pose a threat to national security.

In light of the above challenges, your Committee strongly recommends the following:

i. The Government should consider urgently working on the road infrastructure to improve the flow of traffic at the border.
ii. The Government should urgently construct proper sanitation facilities and market infrastructure for the traders in the border area and relocate the traders selling along the road side. This would help avert the health risks in the area and improve the flow of traffic.
iii. The Government should as a matter of urgency, resolve the land issue involving the *Mingomba Community* so that corporate social responsibility activities can be implemented by the project for the benefit of the community.
iv. The Government should take urgent measures to secure the border area so as to ensure the safety of the people using the facility as well as the Project.

d) Your Committee further observes that Kasumbalesa has become a slum due to lack of planning of land use in the area. The deplorable state of Kasumbalesa area hinges on national security, considering that Kasumbalesa is a border area. It also poses a health risk to the community.

Your Committee recommends that the Government should intervene by coming up with a proper infrastructure development plan. The plan should incorporate sanitation facilities so as to improve the outlook of the border area at Kasumbalesa and also prevent outbreak of diseases.

e) Your Committee also observes that the area demarcating the border between Zambia and DRC is not secured. This not only undermines the security of the country but also results in huge revenue losses for the country, thereby negating the very reason why the one-stop border facility was created.

   Your Committee recommends that the Government urgently considers enhancing security at the border, especially the area demarcating the border in order to prevent illegal immigrants and traders from utilising the unsecured area, which denies or robes Government huge revenues.

f) Your Committee observes that the system installed to monitor the flow of traffic at Kasumbalesa Border Post is operating as a standalone system even when it could actually be integrated with the system at Zambia Revenue Authority (ZRA) for easy monitoring by ZRA.

   As a way of enhancing revenue collection, it is strongly recommended by your Committee that the system supporting the operations of the border facilities at Kasumbalesa be interfaced with the ZRA ICT system.

10.8 Meeting with Management at Lumwana and Kalumbila Mining Company

Your Committee held meetings with the management of Lumwana and Kalumbila Mines to discuss outstanding issues in the Action Taken Report on the Report of your previous Committee for the Fifth Session of the Eleventh National Assembly. The key issues discussed covered the value addition by the mines; the taxation system in the mining sector, the move towards cost reflective electricity tariffs; and labour issues. Included in these discussions was the need by the mines to facilitate the construction of the Multi Facility Economic Zone (M-FEZ) to ensure sustainability of the development of the communities around the mining operations beyond the life of both mines. Your Committee was also accorded an opportunity to tour the two mines in order to appreciate their operations.

COMMITTEES' OBSERVATIONS AND RECOMMENDATIONS

a) Your Committee observes that Kalumbila Mine has already started receiving expressions of interest from investors to develop the M-FEZ and the mining company has also commenced developing the Kalumbila town, with more than 1,000 housing units already built, including a school, hospital, hotel, shopping mall and filling station. The road network within the town has also been constructed to non-bituminous standard. This is aimed at attracting more investment into the area.

In the case of Lumwana Mine, your Committee observes that the mine has faced challenges developing the M-FEZ, as most developers are not willing to invest on land which was on title.

Your Committee strongly recommends that Government should engage the management at Lumwana to consider getting alternative land to be used for the development of the M-FEZ in order to develop the area.

b) Your Committee was informed by management at Kalumbila that ZESCO was importing power at a very high price hence the high electricity tariffs being charged to mining operations such as Kalumbila. The management was also concerned with the lack of a level playing field within the mining industry when it came to electricity tariffs, which meant that Kalumbila was subsidising other mining operations. It was the view of the management at Kalumbila that ZESCO must endeavour to harmonise the tariff structure within the mining sector and only thereafter would Kalumbila be prepared to negotiate with the Government as regards moving towards cost reflective tariffs.

Your Committee recommends that the Government speeds up the process of finalising the Cost of Service Study to guide in the determination of cost reflective tariffs to be applied uniformly, especially in the mining sector.

c) Your Committee further observes that Lumwana Mine has put a security check point at the entrance to its entire property, which property also houses employees of the Mines. This poses a challenge in the sense that all the visitors entering the property, even those on purely private visits to the residential areas, are required to obtain passes before entering the premises. The passes allow visitors to be on the property for a limited period and have to be renewed once they expire. Your Committee therefore, considers this arrangement at Lumwana Mine amounts to an infringement of the rights of the employees who are resident on the Mine property.

Your Committee recommends that the Government engages the management at Lumwana to discuss the possibility of moving the security check point to the entrance to the mining operations area so that the residential area is not affected by these security restrictions.

PART II

CONSIDERATION OF THE ACTION-TAKEN ON THE REPORT OF THE COMMITTEE FOR THE FIFTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY

11.0 Your Committee considered matters arising from the Action-Taken Report to determine whether or not the Government had implemented your previous

Committee's recommendations satisfactorily. The observations and recommendations of your Committee are set out hereunder.

1. CONSIDERATION OF THE ACTION-TAKEN ON THE REPORT OF THE COMMITTEE ON ECONOMIC AFFAIRS, ENERGY AND LABOUR FOR THE FIFTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY

CONSIDERATION OF TOPICAL ISSUES

A. HIGH POVERTY LEVELS IN THE FACE OF SUSTAINED ECONOMIC GROWTH IN ZAMBIA

Mining Sector

Page 12 Para 4 to Page 13

Your previous Committee observed that the country lacked capacity and skills to negotiate effectively with international mining companies in order for the mining sector to contribute to poverty reduction in a manner appropriate to its significant position in the economy. Further, your previous Committee noted the lack of capacity and skills to effectively administer the complex tax regimes that were associated with the sector. Your previous Committee therefore, recommended that the Government must come up with urgent steps to build capacity of the tax administration authority to administer mining sector taxation in order to maximise earnings from the sector.

Executive's Response

In the Action-Taken-Report, the Executive responded that a Mining Taxation Unit (MTU) had been established under the Zambia Revenue Authority, through cooperation with the Norwegian Tax Administration (NTA) and the International Monetary Fund (IMF). This measure was aimed at helping the ZRA to enhance its revenue administration mandate in the mining sector as demanded in the audits of extractive industry. The outlined outcomes would contribute to increased total mining tax collected relative to Gross Domestic Product (GDP) and improved taxpayer compliance, especially in the mining sector.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the response given by the Government, but is concerned over how efficient the Unit is in addressing the capacity and skills challenges faced in the administration of taxes in the mining sector. Your Committee therefore resolves not to close the matter until the Government gives a convincing response supported with evidence, showing that the MTU as an intervention measure is functioning well and that there are improvements in the tax administration of the mining sector.

Page 15 Para 4 to Page 17

Your previous Committee raised concern on the continued exportation of raw copper by the country instead of embarking on value addition which could result in the emergence of various processing industries in the sector as well as create more jobs. Your previous Committee noted that the country had not only missed an opportunity to reduce poverty through job creation but also to realise additional revenues through corporate and individual income taxes.

Your previous Committee therefore urged the Government to come up with strategies aimed at encouraging value addition in the sector so as to promote the emergence of copper processing industries and the creation of sustainable quality jobs in the sector and enhance revenues for the Government.

Executives' Response

In the Action-Taken Report the Executive noted the concerns raised by your previous Committee and further agreed with the recommendations of coming up with strategies to encourage value addition in the sector in order to promote the emergence of copper processing industries and creation of sustainable, quality jobs and enhanced government revenues. To this effect, the Government, through the Commercial Trade and Industry Policy (CTI), was working towards stimulating and encouraging value-addition activities of primary products as a means of export promotion, increasing export earnings and creation of employment in all sectors, including the mining.

The strategy paper on industrialisation and job creation on mineral products focused on manufacturing of non-metallic mineral products and copper fabrication as a means to encourage value addition and job creation. Among the strategies employed included the following:

i. creation of an economic zone in Chambishi which currently housed thirty eight enterprises that processed copper concentrates to produce copper blisters and had since created over 8,000 jobs;
ii. introduction of a 10% export levy on copper ores to encourage value addition on minerals; and
iii. issuance of investment licences by the Zambia Development Agency to facilitate settling up of mineral processing plants which had resulted in increased Foreign Direct Investments inflows.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the Executive's response but raises concern that the economic zone established at Chambishi, although aimed at enhancing value addition in the mining sectors, is currently serving only small scale mines, including illegal miners, who are now selling copper to the processing plant. Further, the strategies being implemented by the Government do not cover value addition by large scale mines, whose contribution to the Treasury could be higher compared to that of small enterprises. The Executive's response does not also indicate who monitors these large scale mines and the strategies put in place by the Government do not show the deliverables and how they would be measured. Further, as regards capacity building, the Executive has not indicated the quantum of resources in place to pursue this strategy and how effective the strategy is.

In light of the inadequacy of the response by the Executive, your Committee resolves not to close the matter and requests for an update on how the above strategies are working.

Page 18 Para 7 to Page 20

Your previous Committee was concerned with the way small-scale mining in Zambia had been neglected despite its potential to contribute to poverty reduction if managed effectively. Your previous Committee therefore, urged the Government to implement measures which would support small-scale mining in Zambia and enhance its contribution to poverty reduction.

Executives' Response

In the Action-Taken-Report, the Executive noted the observations and recommendation made by your previous Committee. To this effect, the Executive indicated that it was facilitating the growth of the small scale mining with a focus on value addition through implementation of the following measures:

i. Establishing value chains for existing and upcoming mining projects such as the Kalumbila project;
ii. Supporting the development of the infrastructure to areas with raw materials and market;
iii. Facilitating access to finance to support small-scale mines such as the economic empowerment initiatives and other Government financial interventions, among others;
iv. Promoting partnerships between small-scale mines and relevant businesses;
v. Strengthening linkages between the manufacturing sector and other key growth sectors in the country;
vi. Promoting sub-contracting to local small-scale mines for all public contracts awarded to large local and foreign companies; and
vii. building capacity of small-scale mines through institutions such as TEVETA and other cooperating partners.

The Executive further submitted that the Ministry through the Department of Co-operatives had since registered ten co-operatives that would support small-scale mining. The Executive further indicated that qualifying cooperatives were to be registered with the Road Development Agency to supply raw materials such as stones and sand for road construction, and that they would be given preferential procurements for works below K10.0 million. The cooperatives would also be offered capacity building training to improve their skills. Financing to support small scale miners involved in value addition and non-traditional exports could also be accessed from the Zambia Export Development Fund (ZEDEF), an initiative under the Zambia Development Agency funded by the European Union.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee appreciates the efforts being made by the Executive to support small scale mining companies as a way of contributing to poverty reduction. Your Committee, however, resolves not to close this issue and awaits a progress report supported with necessary facts and figures to show how the interventions are working and how many small-scale mines have benefited.

Page 21 Para 4 to Page 22

Your previous Committee strongly urged the Government to take urgent measures to ensure that the sub-contracting of works in the mining sector was not used as a conduit for exploiting workers.

Executive's Response

In response, the Executive indicated that there were a number of measures that the Government had put in place to address the issue of exploitation of workers in the mining sector. Such measures included the *Industrial and Labour Relations Act, Chapter 269 of the Laws of Zambia* which required every employer of twenty five or more employees, or such lesser number as may be prescribed by the Minister to register themselves with the Commissioner. The Act further obliged such a registered employer to enter into a recognition agreement with a trade union, to which the employees would belong. The trade union in this regard would negotiate conditions of service for its members.

The Government had also enacted the *Employment (Amendment) Act No. 15 of 2015* which banned casualisation and prescribed that employees engaged must have contracts of employment. The Act further prescribed that employees with comparable tasks assigned to third party employers, should enjoy similar wages and conditions of employment with the contracting company.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the various statutes in place to protect workers from being exploited, but wonders if the Government does undertake spot checks to monitor if employers in the mining sector are complying with the requirements of the labour laws.

Your Committee therefore recommends that the Government undertakes spot checks on the mines to ensure that they are complying with the requirements of the labour laws.

Agriculture Sector

Page 22 Para 3 to Page 23

Your previous Committee observed that agriculture held the highest potential for the reduction of poverty in the country because 70 percent of the population was engaged in this sector for their livelihood. Your previous Committee, however, expressed deep concern that despite its potential, the contribution of agriculture to GDP had remained small. For example, agriculture, forestry and fisheries accounted for only 11 percent of GDP as of 2014, mainly due to low productivity in the sector. Your previous Committee noted that low productivity could partly be explained by the lack of access to key productive assets and market opportunities across the population.

Your previous Committee had observed that a large proportion of the budgetary allocation to the agriculture sector went to subsidies in the form of the Farmer Input Support Programme (FISP) and the Food Reserve Agency. Your previous Committee was therefore, concerned that this had resulted in other important functions of the sector such as extension and research services, irrigation, livestock production and disease control, being neglected to the detriment of the overall performance of the sector.

Your previous Committee, therefore, urged the Government to urgently review its budget priorities in the agriculture sector with a view to diversifying from the two programmes and focus on other programmes such as extension services and research and development.

Executive's Response

In response, the Government submitted that it had taken note of your previous Committee's important recommendation and had commenced the process of restructuring the FISP through the introduction of the e-voucher system which was considered to be relatively cheaper to implement than the traditional way of input distribution. This measure would ensure that there was an increase in the Ministry's budgetary allocation to research and extension services in the next budget. The Ministry would experience a reduction in administrative costs associated with running the FISP. This would also result in the reduction of costs associated with the procurement and transportation of farming inputs by the agro-dealers. The role of the Ministry in input distribution in the near future would be restricted to regulating the agro-dealers in providing the right standards and quality of farming inputs for crops, agriculture and livestock production.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the responses provided by the Executive. However, it resolves to keep the matter open and await a progress report on the performance of the e-voucher system in order to ascertain if the measure will contribute to cost reduction. Your Committee also awaits a report on how the resources saved through this initiative will contribute to research and extension services in the sector.

Page 23 Para 2 to Page 23

Your previous Committee was concerned that the performance of extension services has been prior despite being among of the key factors in enhancing productivity in the agriculture, livestock and fisheries sectors. Your previous Committee noted that due to poor funding, most extension officers were not adequately capacitated to perform their duties. As a result, new technologies, knowledge and good practices had not been imparted to the farmers for them to improve their productivity.

In addressing this issue, your previous Committee strongly urged the Government to urgently revamp and promote extension and research services in the country by increasing funding to these functions.

Executive's Response

The Executive responded that it would leverage on resources freed through the implementation of the e-voucher system to revamp and promote extension and research services in the medium term. As part of its strategy, the Government had planned to increase the number of districts from the thirteen which were piloted successfully in the four provinces during the 2016/2017 agricultural season under the e-voucher system to thirty-nine districts, covering the ten provinces in the next season. The planned gradual increase in the number of participating Districts under the e-voucher system would free more resources which would then be channelled to revamping and promoting extension and research services in the country.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee resolves not to close the matter and requests for an update on the performance of the extension and research services in light of the resources which will be freed arising from implementation of the e-voucher system.

Page 23 Para 4 to Page 24

Your previous Committee observed that although the livestock sector held significant potential for poverty reduction, the gains from the sector had continued to be eroded due to livestock diseases in some parts of the country. Your previous Committee was concerned that animal diseases had continued to jeopardise the livestock assets of farmers, limit market access opportunities for animals and animal products and constrain opportunities for income generation.

Your previous Committee strongly recommended that the Government should invest in building the technical, scientific and operational capacities of the national control systems in order to contain animal diseases in the country.

Executive's Response

The Government agreed that the country needed disease diagnosis, disease surveillance, disease extension and regulatory systems to control animal diseases countrywide. To this end, the Government had so far put up a regional diagnostic laboratory in Chipata and works to complete the Solwezi regional diagnostic laboratory by connecting water and electricity connection were underway. The Choma regional diagnostic laboratory was almost complete, except for work benches, water reticulation and electricity connection. The Government further indicated that it had decentralised extension services to local authorities, with a view to get closer to the farmers. Government was yet to decentralise disease surveillance and the regulatory functions to prevent disease occurrence and spread.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee appreciates the efforts being made by the Government in controlling animal diseases through the provision of the relevant infrastructure at regional level. However, such efforts must be backed by adequate resource allocations. Your Committee therefore, recommends that a full decentralisation process as proposed by the Government must be implemented.

Page 24 Para 2 to Page 24 Para 5

Your previous Committee observed that although land was a key factor of production in the agriculture sector, the majority of small scale farmers, especially women, still lacked access to land which impacted negatively on their productive capacity.

Your previous Committee, therefore, urged the Government to put in place policy measures aimed at helping small scale farmers, especially women, to access land for their farming activities.

Executive's Response

The Government submitted that, through the Ministry of Lands, Natural Resources and Environmental Protection, it was promoting gender equity and equality in the allocation of land in the country. As one of its strategies, Government submitted that it had given a directive to all local authorities across the country to ensure that at least 50 percent of available land for allocation was reserved for women. The Government would, therefore, continue to hold meetings and sensitise traditional leaders through the Ministry of Chiefs and Traditional Affairs, to ensure that women and other vulnerable groups were not discriminated against in the allocation of land. In addition, the Government had undertaken sensitisation meetings with staff in the office of the Vice President Resettlement Department and the Ministry of Agriculture to ensure that the plight of women and other vulnerable groups was taken into account during the allocation of land meant for resettlement.

Further, the Government was in the process of coming up with the Customary Land Administration Bill aimed at strengthening security of tenure within the customary system to promote access to loans from financial and other lending institutions. The Government was also revising the Land Policy of 2006 to ensure increased access to land by women. The Policy would also ensure that there was equal representation in bodies involved in land allocation to ensure gender parity.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee resolves to keep the issue open and await an update on the Customary Land Administration Bill and the revision of the Land Policy of 2006.

OTHER POVERTY REDUCTION PROGRAMMES

Page 25 Para 1 to Page 25 Para 3

Your previous Committee considered the performance of selected poverty reduction programmes, including the Constituency Development Fund (CDF), the Youth Development Fund (YDF), and the Citizens Economic Empowerment Fund (CEEF). In considering these programmes, your previous Committee made the following observations and recommendations below.

Your previous Committee observed that the CDF was used as a tool to speed up development at community level by providing the much needed infrastructure such as roads, markets, schools and clinics. However, the criteria for allocation of the CDF was uniform across the country and did not take into account the unique circumstances and poverty levels faced in each of the different parts of the country. The criteria used undermined the potential impact of the CDF in more needy areas. Your previous Committee, therefore, recommended that the Government should consider coming up with an allocation formula that would be reflective of the poverty levels in each constituency. Your previous Committee also recommended that the disbursement of the funds must be predictable in order for the communities to draw maximum benefits from the Fund.

Executive's Response

In the Action Taken Report, the Government submitted that it had commenced the review of the CDF guidelines to address the weaknesses identified. In addition, the Government was also engaging various stakeholders to obtain submissions on a suitable CDF sharing model in view of the inequalities which existed among the constituencies. Further, the need for predictability of the disbursement of the CDF was incontestable as it was currently provided for under Article 162 (1) and (2) of the Constitution following the 2016 Constitutional amendments.

COMMITTEE'S OBSERVATION AND RECOMMENDATION

Your Committee resolves to keep the matter open and await an update on the new CDF guidelines and sharing model.

Page 26 Para 1 to Page 26 Para 3

Your previous Committee observed that the Government had established the Youth Development Fund as a response to youth unemployment in the quest to reduce poverty. Your Committee was, however, concerned with the various implementation challenges which had affected the attainment of the very objective the Fund was established for. In particular, while the YDF was established as a revolving fund, this has not been the case due to poor loan repayment which had made the Fund unsustainable.

Your previous Committee, therefore, urged the Government to put in place measures to enhance the management of the YDF so that it could achieve its intended goal.

Executive's Response

The Government responded that the Ministry of Youth and Child Development had commissioned the review of the YDF in consultation with stakeholders, with the aim of addressing challenges and enhancing the effectiveness of the programme.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee resolves not to close the issue and requests an update on the review of the YDF guidelines.

CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE FOR THE FOURTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY

12.0 Your Committee considered matters arising from the Action-Taken Report to determine whether or not the Government had implemented your previous Committee's recommendations satisfactorily. The observations and recommendations of your Committee are set out hereunder.

CONSIDERATION OF TOPICAL ISSUES

A. ELECTRICITY SECTOR REFORMS: A CASE FOR UNBUNDLING ZESCO

Page 28 Para 3 to Page 29 Para 5

Your previous Committee expressed concern that the Government rejected the recommendation for unbundling of ZESCO Limited and did not provide a way forward on how the efficiency of the Company was going to be improved. Your previous Committee, therefore, resolved not to close the matter until Government gave a clear roadmap on how the efficiency of the Company would be enhanced. Your previous Committee therefore resolved to await a progress report on the matter.

Executive's Response

The Executive responded that in order to ensure that ZESCO Limited was efficient, the Government on 24th August, 2015 transferred its shareholding in ZESCO Limited from the Ministry of Finance to the Industrial Development Corporation (IDC) as a way of enhancing corporate governance.

COMMITTEE'S OBSERVATION AND RECOMMENDATIONS

Your Committee resolves not to close the matter and to continue monitoring the progress of ZESCO operations. In this regard, your committee requests an update on the improvements in the operational efficiency of the company following the transfer of the shareholding to IDC, if any.

Page 28 Para 3 to Page 29 Para 5

Your previous Committee had strongly recommended that as a matter of utmost urgency, a practical strategy must be found for the dismantling of the debt that was owed to ZESCO Limited by the Government.

Executive's Response

In the Action-Taken Report, the Executive responded that the process of dismantling the debt owed by Government had commenced through deducting 40 percent of every purchase of electricity units and channelling it towards debt repayment.

Your Committee noted that this issue had been outstanding for a long time and as a way of finalising the matter, your Committee resolved to engage the stakeholders. Your Committee, therefore, interacted with the Ministry of Energy and management of ZESCO. During this interaction, it was reported that the Government, through the Ministry of Finance, had agreed to effect a cheque swap that would assist in clearing Government's debt to ZESCO and consequently ZESCO's debt to the Zambia Revenue Authority (ZRA) for the total sum of ZMW553.5 million as at 31st December, 2016. As part of the process, the Ministry of Energy had since certified all outstanding invoices and what remained was funding from the Treasury. The cheque swap would consequently reduce the indebtedness of the parties involved, namely GRZ, ZESCO and ZRA.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Based on the new submission by ZESCO on this matter, your Committee resolves not to close the matter but to seek a progress report from the Executive on the dismantling of the debt.

Page 31 Para 1 to Page 31 Para 4

Your previous Committee had recommended that the recommendations by the Energy Regulation Board (ERB) on the Cost of Service Study in relation to cost reflective tariffs should be implemented.

Executive's Response

In response, the Executive explained that the Government had taken note of the recommendation and that the ERB had commenced the process of undertaking a Cost of Service Study. The Cost of Service study was initially to be financed by the Swedish Government. This support was, however, withdrawn by the Swedish Government before the tender process for engaging a consultant to carry out the study was concluded. The financing of the Cost of Service Study was thereafter taken up by the African Development Bank (AfDB). In December, 2015, ERB revised the Terms of Reference under the guidance of AfDB and requested the firms that were earlier shortlisted at Expression of Interest stage under Swedish support, to resubmit their proposals. However, none of the firms had resubmitted their proposals, resulting in a failed tender. As a result, the Cost of Service Study could not be undertaken by end of 2015 as earlier envisaged. The ERB in collaboration with the

AfDB re-launched the procurement of the Consultant to undertake the study with revised Terms of Reference. The Expression of Interest was issued in the second week of April, 2016 and it was expected that a contract would be signed with a preferred bidder by October, 2016, and thereafter that the consultant would be able to hand over the report by the fourth quarter of 2017.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee considers this an important matter as it affects the country's ability to attract new investment in the energy sector. Therefore, your Committee urges the Government to ensure the finalisation of the Cost of Service Study and its full implementation without undue delay. Your Committee awaits a progress report on the matter.

Page 34 Para 5 to Page 36 Para 1

The Bulk Power Supply Agreements contained indexation clauses that adjusted the price annually for inflation. The agreements did not provide for any other tariff negotiations during their term. This situation had led to difficulties in adjusting the tariffs under the Agreements in tandem with the changes in the cost of producing electricity which did not always follow inflationary trends.

Executive's Response

In 2015, the Government took the decision to increase the tariffs of the mining companies to 10.35 US$ cents/KWh. This decision was done in order to ensure that the mining firms paid tariffs that were cost reflective and that there was a level playing field in as far as the price of electricity was concerned by all mining companies. However, the mining customers whose tariffs were enshrined in BSA's and PSA's sought legal remedy to what they perceived as a breach of the agreements. This led to the commencement of various litigation and arbitration processes that were currently on going between ZESCO and various mining companies.

The legal proceedings were all expected to draw to a close within the year 2016 and ZESCO would thus abide by the court rulings. It was further submitted by the Executive that, in order to create a level playing field for all ZESCO's customers, the BSA and PSA issues should be handled holistically and not on individual customer basis. The following actions were thus being taken:

i. The Energy Regulation Board was expected to complete a comprehensive Cost of Service Study in 2017. Once completed, the Study is expected to have the buy in of all stakeholders in the electricity industry and it would be the basis for price determination for all customer categories including those under BSAs and PSAs; and

ii. Amendments to the *Energy Regulation Act, No 4 of 2006* that spelt out the ERBs authority to regulate and determine pricing for all customer categories have been drafted. This legislation, if enacted, would enable the quick and transparent adjustment of tariffs in the existing BSAs and PSAs that only provided for inflationary adjustments.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the measures being undertaken by the Government to resolve the issue of implementing cost reflective tariffs. Your Committee, therefore, resolves not to close the matter in light of the measures being implemented by Government and awaits an update on the Cost of Service Study and the proposed Bill to amend the *Energy Regulation Act*.

B) UPDATE ON THE OPERATIONS OF THE NATIONAL PENSION SCHEME AUTHORITY

Page 36 Para 2 to Page 37 Para 2

Your previous Committee had recommended that, as a matter of urgency, strategies should be put in place to pay the outstanding debt and arrears owed to NAPSA. Your Committee had further urged the Government to ensure that sufficient budgetary provisions were made to settle the debt.

Executive's Response

In the Action-Taken Report, the Executive responded that the National Pension Scheme Authority (NAPSA) had recommended that the Government should consider a non-cash transfer or trade-off with NAPSA through a debt swap with Government equity holdings in state owned enterprises or by allocating strategic land banks in various districts as a way of paying for the part of the debt, should such an opportunity arise in the near future.

The Government submitted that there was still an outstanding amount of K38.0 million relating to the debt swap agreement that was signed between NAPSA and GRZ in 2012. The outstanding amount was in the budget for 2015 and unfortunately could not be released due to financial difficulties towards the end of 2015.

Your Committee was, therefore, concerned that this matter had stalled and no timeframe had been set for the debt to be cleared. As a way forward, your Committee resolved to interact with the NAPSA and the Ministry of Labour & Social Security to discuss the issue further.

During the interaction with the stakeholders, it was reported that the Government had since paid a total of K20.0 million towards the outstanding amount of K38.0

million as at January, 2016 in relation to the debt swap agreement signed between GRZ and NAPSA in 2012. It was also submitted that the Government had, however, incurred an additional debt of K231.0 million in penalties during the period 2013 to 2016. The debt incurred was due to late remittance of contributions. This, therefore, brought the total debt owing by GRZ to K249.0 million.

NAPSA had also engaged the Government over the public sector debt that stood at K2.16 billion as at December, 2016. The breakdown of the debt was given as follows:

S/N	SECTOR	PRINCIPAL	PENALTY	TOTAL
1	Government Aided Institution	38,445,754.91	592,171,299.69	**630,617,054.50**
2	Local Authorities	37,640,301,.22	304,224,837,.97	**341,865,175.20**
3	Parastatals	175,191,941.57	304,224,837.97	**1,190,921,933.80**
4	**TOTAL**	**251,277,997.70**	**1,912,126,225.91**	**2,163,404,223.61**

NAPSA was currently engaging various councils in a bid to enter into debt swap arrangements against land rates, and strategic land banks as a way of paying part of the debt. So far NAPSA had executed debt swaps with Solwezi Municipal Council and Kalulushi District Council and was considering another one with Petauke District.

COMMITTEE'S OBSERVATION AND RECOMMENDATIONS

In light of the new submission, your Committee resolves not to close the matter and awaits a progress report on the dismantling of the debt to NAPSA and the timeframe for concluding the exercise.

Page 38 Para 3 to Page 39 Para 1

Your previous Committee had urged the Government to report progress on the social security reforms being undertaken by NAPSA and the Ministry.

Executive's Response

In the Action-Taken Report, the Executive submitted that the Technical Report had been finalised and the Government was developing the Social Protection Bill which would be submitted to Cabinet for approval before being tabled in Parliament.

During interactions with stakeholders on this matter, your Committee was informed that the social security reforms had since been finalised and that some of the recommendations would be included in the Social Protection Bill which was yet to be presented to Parliament.

COMMITTEE'S OBSERVATION AND RECOMMENDATIONS

Your Committee seeks a progress report on when the Social Protection Bill will be presented to Parliament.

Page 38 Para 7 to Page 39 Para 3

Your previous Committee had recommended that the issue of the excessive NAPSA penalty rates should be urgently addressed through the amendment of Section 15 (2) of the *National Pension Scheme Act, Chapter 256 of 2015* of the Laws of Zambia.

Executive's Response

In the Action-Taken Report, the Executive responded that the issues of the NAPSA penalty rate would be addressed in the proposed amendment Bill to the *National Pension Scheme Act, Chapter 256 of the Laws of Zambia.* The Bill would be submitted to Parliament after Cabinet approval. The proposal was to align the penalty rate to the Bank of Zambia policy rate and give the Director General discretion to waive penalties where there were compelling reasons to do so. Cabinet has since approved the amendment Bill to be presented to Parliament in 2017 to effect the said change.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee seeks a progress report on the presentation of the Bill amending the *National Pension Scheme Act* to Parliament.

Page 39 Para 3 to Page 39 Para 4

Your previous Committee had recommended the adoption of the recommendations in the NAPSA 2012 Actuarial Report regarding the adjustment of the benefits structure.

In the Action-Taken Report, the Executive responded that the recommendations had been adopted by the Board. Further, it was submitted that the proposed amendments to the *National Pension Scheme Act, Chapter 256 of the Laws of Zambia* would address the benefits structure so that the indexation of the benefits would be linked to price inflation as opposed to wage inflation.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee awaits the submission of the Bill to amend the *National Pension Scheme Act* which also incorporates the adjustment of the benefits structure.

TOUR TO THE COPPERBELT ENERGY CORPORATION-KAPOMBO HYDRO ELECTRIC POWER PROJECT

Page 39 Para 8 to Page 40 Para 3

Your previous Committee had recommended that the Government should address the challenges faced by Copperbelt Energy Corporation (CEC) in implementing the Kabompo Gorge Hydroelectric Power Project by ensuring that title deeds for the Project land were processed as soon as possible.

Executive's Response

In the Action-Taken Report, the Executive responded that the Ministry of Lands, Natural Resources and Environmental Protection had not yet processed the certificate of title for CEC for the land meant for the development of the Kabompo River Hydropower Plant. Further, the land in question sat across two Chiefdoms and as such, Government had to consult with the respective Chiefs, which had since been done. The issue had been cleared by the traditional leaders. It was further submitted that CEC was applying for the certificate of title on piece of land in excess of 11,000 hectares which, being in excess of 1,000 hectares required Presidential Authority, in line with Government policy on land alienation.

In this regard, the Government, through all the relevant institutions, had been working with Copperbelt Energy Corporation (CEC) to come up with an agreement that would ensure that the heritage site was not disturbed while at the same time allowing for the development of the Kabompo Hydropower Plant. The Ministry of Lands, Natural Resources and Environmental Protection would only commence the process of issuance of the certificate of title once CEC and NHCC agreed on the outstanding issues pertaining to the joint management of the gorge. It was stated that the Government was determined to find a lasting solution to enable the CEC proceed with the project.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee resolves to keep the matter active and seek a progress report on the issuance of the certificate of title.

CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE FOR THE THIRD SESSION OF THE ELEVENTH NATIONAL ASSEMBLY

Monitoring Job Creation in Zambia

Implementation of the National Strategy for the Development of Statistics

Page 42 Para 1 to Page 42 Para 4

Your previous Committee had requested for more information on when the planned new statistics law would be presented to Parliament.

Executive's Response

In the Action-Taken Report, the Government responded that it had some concerns on the Central Statistical Office (CSO) becoming a semi-autonomous institution. Therefore, the Cabinet Memorandum and draft Statistics Bill could not be circulated to stakeholders until the concerns of the Government were addressed.

In this vein, your previous Committee's concern was receiving active attention by the Minister of National Development Planning. The Minister would soon provide a response and guide on the next course of action on the Cabinet Memorandum and the Bill.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee resolves to seek an update on the Cabinet Memorandum and the proposed Bill.

Standardised Employment Data Format from the Labour Force Survey and the Living Conditions Monitoring Survey

Page 42 Para 4 to Page 43 Para 2

Your previous Committee noted the efforts being made by the Government to standardise data formats used in various surveys and observed that a lot still needed to be done and urged the Government to work towards full harmonisation and standardisation of the data collection instruments.

Executive's Response

In response, the Executive submitted that it had taken note of your Committee's observations. It further indicated that the process of harmonising and standardising the data collection instruments was still on-going.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the efforts being made by the Government to address the issue of data but requests for an indication of the timeframe in which the Government will complete the exercise. Your Committee further resolves to monitor progress on this issue and, therefore, seeks an update on matter.

Electricity Generation and Accessibility in Zambia

Development of a Feed-in Tariff Policy

Page 43 Para 4 to Page 43 Para 6

Your Committee requested for an update on the introduction of the Renewable Energy Feed-in-Tariff (REFIT) policy for Zambia.

Executive's Response

In the Action-Taken Report, the Executive responded that the Ministry of Energy and Water Development, with the assistance of the Southern African Trade Hub (SATH) and USAID had concluded the development of the Renewable Energy Feed-in Tariff (REFIT), which was later submitted to the Policy Analysis and Coordination Division of Cabinet Office for clearance. The Policy Analysis and Coordination Division advised that the REFIT be adopted as a strategy and not a policy, which would now be called the Renewable Energy Feed-in Tariff (REFIT) Strategy. The Ministry had since resubmitted the REFIT Strategy to the Policy Analysis and Coordination Division for clearance.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee resolves to await a progress report on the approval of the REFIT Strategy.

Lunsemfwa River Catchment

Page 44 Para 4 to Page 45 Para 6

Your previous Committee had recommended that the Government should streamline the granting of water rights to ensure that competing needs for water were resolved such as the one facing Lunsemfwa Hydro Power Company (LHPC) on the Mita Hills Dam.

In the Action Taken Report, the Executive had submitted that the Water Resources Management Authority (WARMA) held a stakeholders' meeting in Mkushi on 29th April, 2014 to discuss the concerns of the water resources availability in the catchment. The Lunsemfwa River Catchment was in the area where LHPC was operating. The Executive further submitted that the Authority had since taken a precautionary approach to water resources management and did undertake field investigations and stakeholder consultations to guide decisions on any water allocation. Your previous Committee had called upon the Government to expedite the resolution of this matter and submit an update to it.

Executive's Response

In response, the Executive submitted that the Government was resolving the challenge of water availability in the catchment area. In doing so, the Government through WARMA was pursuing the following measures:

1) Formation of the Water User Association (WUA's) which was involved in the monitoring, management and allocation of the water resources to ensure a harmonised equitable sharing of the available resources;

2) WARMA to recommend to the Ministry of Energy and Water Development to declare the catchment a water stressed area pursuant to Section 51 of the *Water Resources Management Act No. 21 of 2011*;

3) Installation of Sub-Catchment Councils to assist in the formulation of Catchment and Sub-Catchment Management Plans to safeguard the interest of all the stakeholders; and

4) Promotion of the catchment conservation projects within the area to enhance the availability of water.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the Government's efforts in resolving the water resource issue in the catchment area but resolves not to close the matter. Your Committee will await a progress report on the measures being undertaken by the Government.

CONSIDERATION OF OUTSTANDING ISSUES IN THE ACTION-TAKEN REPORT FOR THE FIRST SESSION OF THE ELEVENTH NATIONAL ASSEMBLY

Comprehensive Debt Strategy and Policy

Page 45 Para 4 to Page 47

Your previous Committee had requested for a progress report on the draft Debt Policy.

Executive's Response

In the Action-Taken Report, the Executive responded that in 2009, Cabinet directed the Ministry of Finance to resubmit the draft public debt policy for its approval after exhausting relevant consultative processes. Subsequently, the Ministry of Finance had undertaken necessary activities that would form a basis on which the debt policy would be resubmitted to Cabinet. The activities were being undertaken in line with the road map agreed upon between the Ministry of Finance and the World Bank. The Ministry of Finance had so far conducted the debt sustainability analysis, medium-term debt management strategy and debt database validation exercise.

With the above actions as building blocks, the Ministry of Finance had planned to implement the process of developing a public debt policy in 2016. The draft policy was to be resubmitted to cabinet for approval in 2016. However, your previous Committee expressed concern that government was taking too long to finalise the debt policy and urged the Government to expedite the process.

Your Committee observed that this matter had stalled and resolved to interact with the Ministry of Finance in order to have the issue finalised and subsequently closed. During the interaction with the Ministry, the Secretary to the Treasury submitted that the Government was discussing a new programme with the IMF as part of the Economic Recovery Programme. This programme would, among other things, guide the formulation of the Public Debt Policy in the short to medium term. A pre-condition for the envisaged Public Debt Policy was for the Government to update the Debt Sustainability Analysis and undertake the Medium Term Debt Strategy, covering the period 2017-2019, which the Ministry was now working on with the help of the Macroeconomic and Financial Management Institute (MEFMI) of Eastern and Southern Africa.

The Ministry further submitted that the Public Debt Policy was to harmonise with the provisions of the *Constitution of Zambia Amendment, Act No 2 of 2016*, which required approval of all loans and guarantees by the National Assembly. The Secretary to the Treasury submitted that the Ministry was working on the Bill to amend the *Loans and Guarantees (Authorisation) Act, Chapter 366 of the Laws of Zambia*.

COMMITTEE'S OBSERVATION AND RECOMMENDATION

Your Committee resolves not to close the matter but would await a progress report on the new Public Debt Policy and the Bill to amend the Loans and Guarantee (Authorisation) Act for consideration by Parliament.

PART III

2. CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE ON ECONOMIC AFFAIRS, ENERGY AND LABOUR ON

THE REPORT OF THE AUDITOR GENERAL ON THE MANAGEMENT OF OCCUPATIONAL SAFETY AND HEALTH FOR THE FIFTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY

Introduction

13.0 The Executive submitted the Action-Taken Report on the Report of your Committee on Economic Affairs, Energy and Labour on the Report of the Auditor-General on the Management of Occupational Safety and Health for the Fifth Session of the Eleventh National Assembly appointed on Tuesday, 23rd September, 2015 and adopted on 29th April, 2016. The report provides responses on the undertaking by the Executive following the observations and recommendations of the Committee.

Page 4 Para 1 to Page 4 Para 3

Your previous Committee found the lack of a National Policy on OSH in the country not only unfortunate, but also highly unacceptable. Your previous Committee observed that the lack of such a policy had led to fragmentation of services and duplication of functions which had made the task of ensuring a safe workplace in Zambia unattainable.

Your previous Committee, had therefore, strongly urged the government to urgently formulate a comprehensive National Policy on (OSH) and review the laws in order to streamline the overlaps and duplications on the management of OSH.

Executive's Response

The Executive submitted that Zambia had ratified the International Labour Organisation's Conventions 155 on Occupational Safety and Health and 187 on promotional Framework on Occupational Safety and Health. It was highlighted that both Conventions required Zambia to formulate a Comprehensive National Policy on Occupational Safety and Health (OSH) and review the related laws to be in conformity with the ratified Conventions as outlined in Articles 4 to 7 of the ILO conventions No. 155 and Article 3 of Convention 187. Consequently, this development remained a priority for Government.

The Executive further submitted that the Government was in the process of holding a stakeholder consultative workshop to finalise the drafting of the Policy. The Policy on OSH would cover all economic sectors to reflect and address the requirements, functions and roles of stakeholders (Government, employers, works, research institution, among others.) in order to promote productivity and decent work. Furthermore, the policy would also mainstream OSH in all sectors and reinforce the ratified Conventions.

COMMITTEE'S OBSERVATION AND RECOMMENDATION

Your Committee observes that the Government has not finalised the Comprehensive National Policy on OSH. Your Committee, therefore, resolves to await an update on the finalisation of the National Policy on OSH.

Page 4 Para 5 to Page 4 Para 8

Your previous Committee further recommended that the process of coming up with a new policy be co-ordinated by Cabinet Office to ensure proper co-ordination and success.

Executive's Response

In the Action-Taken-Report, it was stated that the Government supports this recommendation and indicated that the Ministry of Labour and Social Security had already engaged Cabinet Office to be part of the stakeholders at the consultative workshop. The Ministry indicated its commitment to work with Cabinet Office until the National Policy on OSH was in place.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the response given by the Executive. However, your Committee resolves not to close the matter but await an update on the finalisation of the National Policy on OHS.

Page 4 Para 7 to Page 4 Para 8

Your previous Committee had urged the Government to ensure that all the relevant pieces of legislation on OSH were urgently reviewed to bring them in line with ILO Standards.

Executive's Response

In the Action-Taken-Report, it was submitted that the Government's priority was to review all pieces of legislation related to Occupational Safety and Health in order to harmonise them with ILO Standards. The review of all OSH pieces of legislation would take into account the provisions of the Comprehensive National Policy on OSH which was yet to be developed.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee resolves to request for an update on the review of the Policy on OHS and subsequently harmonisation of the pieces of legislation related to OSH with ILO standards.

Page 5 Para 3 to Page 5 Para 5

Your previous Committee observed that a strategic plan was key to any organisation's success because it provided direction and outlined measurable goals. Your previous Committee noted that strategic planning was a useful tool which should guide day-to-day decisions, be used for evaluating progress and changing approaches whenever necessary. Your previous Committee, therefore, expressed concern that the Auditor-General revealed that the institutions that were subjected to the audit either had no up-to-date strategic plans or their plans lacked direct strategies on how to address occupational safety and health issues.

Your previous Committee, therefore, urged all institutions that were found wanting by the Auditor-General to urgently take appropriate measures to update their respective strategic plans in order to bring them to the required standards as recommended by the Auditor-General. Specifically, your previous Committee urged the affected institutions to develop and incorporate goals and strategic plans on how to address OSH issues.

Executive's Response

The Government responded that it had taken note of the recommendation and all the affected institutions would be informed accordingly.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee considers this as an anomaly and further observes that the Government has not provided an adequate answer as to when the strategic plans for the affected institutions will be finalised. Your Committee therefore, awaits an update on the timelines for the finalisation of the strategic plans to guide OSH issues in these institutions.

INCOMPATIBILITY OF CURRENT LAWS WITH ILO STANDARDS

Page 6 Para 6 to Page 7 Para 1

Your previous Committee observed that ILO standards on OSH provided a comprehensive guide to all members that had ratified the respective conventions. Your Committee was, however, concerned that Zambia, despite having signed the relevant Conventions on OSH, had not domesticated the standards. In this regard, your Committee noted that the *Mines and Mineral Development Act, No. 7 of 2008,* *Explosives Act*, *Chapter 115 of the laws of Zambia, No. 10 of 1974*, *Occupational Safety and Health Act of 2010* and the Workers' *Compensation Act of 1994*, do not meet ILO standards in many aspects.

Your previous Committee, therefore, had urged the Government to ensure that all the relevant pieces of legislation on OHS were urgently reviewed to bring them in harmony with ILO standards.

Executive's Response

In response, it was submitted that the Government had made it a priority to review the *Factories Act, Chapter 441 of the Laws of Zambia* to bring it in conformity with the ILO Conventions. The Government also submitted that national stakeholders' consultations were held in 2008 and a draft document was developed. The government still needed to hold further consultations with respect to pieces of legislation on OSH issues to ensure that current challenges are addressed.

It was further submitted that the review of all OSH legislation would also take into consideration the contents or provisions of the comprehensive national policy on OSH which was yet to be developed. As part of progress, the Government had reviewed and drafted subsidiary legislation to deal with specific challenges on the labour market. These include:

a) The Construction (Safety and Health) Regulations;
b) The Noise (Safety and Health) Regulations; and
c) The Safe use of Hazardous Regulations.

COMMITTEE'S OBSERVATION AND RECOMMENDATION

Your Committee appreciates the progress made so far in reviewing the relevant pieces of legislation on OHS in order to harmonise them with ILO Standards. However, your Committee is concerned at the slow pace at which the Government is moving towards finalising the assignment. Your Committee awaits an update on when the Government shall finalise the review.

Page 7 Para 4 to Page 7 Para 5

Your previous Committee recommended that the Government should consider establishing a single regulatory authority to serve as a one stop shop for all matters relating to OSH. Your previous Committee further recommended that such an authority must be well funded in order to enable it attract and retain competent personnel and procure necessary equipment. Your previous Committee was of the view that this would be the surest way that most challenges highlighted by the Auditor-General could be addressed.

Executive's Response

It was submitted that the Government supported the recommendation by your previous Committee and would consider the proposal during the stakeholder consultative workshop.

COMMITTEE'S OBSERVATION AND RECOMMENDATION

Your Committee awaits an update on the establishment of the single regulatory authority to serve as a one stop shop for all matters relating to OSH, and provide the authority with adequate finding once established.

EFFECTS OF UNDERFUNDING ON THE INSPECTION OF WORK PLACES

Page 8 Para 4 to Page 8 Para 5

Your previous Committee observed that most of the accidents of fatalities that took place in workplaces were generally preventable through the implementation of sound prevention, reporting and inspection practices. Your previous Committee was, however, concerned that the country could not implement sound prevention and inspection practices mainly because of poor funding to the implementing department and agencies.

Your previous Committee, therefore, strongly urged the Government to prioritise and increase the funding to institutions responsible for OSH in Zambia in order to enhance their operations.

Executive's Response

In response, the Government indicated that it had taken note of your previous Committee's recommendation and would consider other innovative means to raise resources such as the introduction of a national fund for OSH.

COMMITTEE'S OBSERVATION AND RECOMMENDATION

Your Committee notes the response and calls for improved funding allocations to OSH institutions. In this regard, your Committee recommends that updates on the levels of funding to these institutions be submitted to it on annual basis to facilitate monitoring by your Committee.

LACK OF COORDINATION AMONG OCCUPATIONAL HEALTH AND SAFETY INSTITUTIONS

Page 9 Para 4 to Page 10 Para 3

Your previous Committee observed that one of the major problems identified by the Auditor-General was the lack of coordination of health and safety activities in the country as each concerned institution operated independently. Your previous Committee noted that as a result of this, many services were duplicated and the health and safety system was fragmented. The fragmentation was further compounded by lack of centralised data repositories. Your previous Committee considered this situation to be highly anomalous.

Your previous Committee, therefore, recommended that the Government should consider establishing a single regulatory authority to serve as a one stop shop for all matters relating to occupational safety and health. Your previous Committee further recommended that such an authority should be well funded in order to enable it to attract and retain competent personnel and procure necessary equipment. Your previous Committee was of the view that this was the surest way most of the challenges highlighted by the Auditor-General could be addressed.

Executive's Response

In the Action-Taken-Report, the Government responded that it supported the recommendations by your previous Committee as they were in conformity with the provisions of the ILO Conventions. It was submitted that the recommendations had also been proposed for inclusion in the draft National Policy. It was further stated that OSH services were multi-disciplinary in nature and cross-cutting in all sectors of the economy; therefore, co-ordination among all stakeholder institutions should be fostered as an inherent element of the Policy. The established national authority or body will manage and co-ordinate all OSH issues. The body would also carry out awareness creation and publicity on OSH issues. The creation of a national authority or body would also facilitate resource mobilisation and implementation of a national occupational safety and health programme and its activities, with effective monitoring and evaluation structures put in place.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the proposal by Government to establish a national authority body and awaits an update on its establishment.

FRAGMENTATION OF INFORMATION AND STATISTICS ON OCCUPATIONAL SAFETY AND HEALTH

Page 11 Para 3 to Page 12 Para 1

Your previous Committee observed that there were many players involved in OSH and that there was lack of co-ordination among them, as well as lack of a comprehensive policy on occupational safety and health.

Your previous Committee, therefore, reiterated its recommendation that the Government considers establishing a single regulatory authority to serve as a one stop shop for all matters relating to OSH, including having one consolidated data bank.

Executive's Response

The Government responded that it was awaiting the consultative process to be concluded to enable it move forward.

COMMITTEE'S OBSERVATION AND RECOMMENDATIONS

Your Committee notes the response provided by the Government and resolves to await a progress report on the issue.

INADEQUATE EQUIPMENT FOR CARRYING OUT INSPECTIONS

Page 11 Para 8 to Page 12 Para 1

Your previous Committee expressed concern that funding from the Government towards OSH had been constantly low, which resulted in the implementing units facing massive operational challenges, including lack of equipment and personnel to conduct inspections.

Your previous Committee, therefore, strongly urged the Government to take urgent steps to redress the situation by providing adequate funding for the effective functioning of institutions responsible for OSH.

Executives' Response

The Government responded that it had taken note of the recommendation and would also consider other innovative ways to raise resources such as the introduction of the National Fund for Occupational Safety and Health.

COMMITTEE'S OBSERVATION AND RECOMMENDATION

Your Committee takes note of the response given by the Executive and awaits a progress report on the matter.

INADEQUATE PERSONNEL TO CARRY OUT MEANINGFUL SAFETY AND HEALTH INSPECTIONS `

Page 14 Para 1 to Page 14 Para 3

Your previous Committee expressed concern that the Government had over the years not prioritised occupational health and safety in terms of ensuring adequate personnel was recruited for the concerned institutions. The Committee observed that this had greatly contributed to the unsafe workplace environment in Zambia.

Your previous Committee, therefore, reiterated its recommendation that the Government should consider setting up an authority that would be responsible for administration, reporting, enforcement and monitoring all matters pertaining to OSH. Such an institution should be well funded to be able to attract and retain qualified staff. Adequate funding should also be provided for that institution to procure modern inspection equipment.

Executive's Response

The Government submitted that it had, through the relevant Ministries and Departments involved in issues of OSH, engaged in consultations regarding this matter and once these consultative meetings were concluded, it would then be prudent to consider your previous Committee's recommendation.

COMMITTEE'S OBSERVATION AND RECOMMENDATION

Your Committee notes the response provided by Government and resolves to wait for a progress report on this issue.

CONCLUSION

14.0 Your Committee wishes to thank you, Mr Speaker, and the Clerk of the National Assembly, for the advice and services rendered to your Committee during the Session. Your Committee also expresses its appreciation to the Permanent Secretaries and Chief Executive Officers of institutions and companies and other stakeholders for their cooperation and input into the deliberations.

Dr S Musokotwane, MP	June, 2017
CHAIRPERSON	**LUSAKA**

APPENDIX I

Members of the Committee

Dr S Musokotwane, MP (Chairperson)
Mr G G Nkombo, MP
Ms M Miti, MP
Mr E M Mwila, MP
Mr D Livune, MP
Mr C Chali, MP
Mr S C Kopulande, MP
Mr D Chisopa, MP

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Ms M K Sampa, Deputy Principal Clerk of Committees
Ms C Musonda, Senior Committee Clerk (FC)
Mrs B C Chanda, Committee Clerk
Ms L Chilala, Typist
Mr E Chilimboyi, Intern
Mr C Bulaya, Committee Assistant
Mr M Chikome, Parliamentary Messenger

APPENDIX II

List of Witnesses

i. Ministry of Commerce, Trade and Industry
ii. Ministry of Finance
iii. Ministry of National Development Planning
iv. Ministry of Housing and Infrastructure Development
v. Ministry of Transport and Communication
vi. Ministry of Works and Supply
vii. Ministry of Energy
viii. Public Private Partnership Unit
ix. Zambia Public Procurement Authority
x. Private Sector Development Association
xi. Zambia Development Agency
xii. The University of Zambia – Vice Chancellor's Office
xiii. National Council for Construction
xiv. Zambia Institute for Policy Analysis and Research
xv. Zambia Association of Chambers of Commerce and Industry
xvi. National Economic Advisory Council
xvii. Economics Association of Zambia
xviii. Bankers Association of Zambia
xix. Development Bank of Zambia
xx. Public Service Pension Fund
xxi. National Pension Scheme Authority
xxii. ZESCO
xxiii. African Development Bank
xxiv. World Bank
xxv. Members of the Public