III TRADE POLICIES AND PRACTICES BY MEASURE

(1) Overview

1. Since late 1991, Zambia has implemented a fundamental change in policy direction, away from import substitution to outward orientation. The trade régime has been considerably liberalized and simplified. This has been accompanied by decentralization and deregulation in other spheres of economic activity: domestic prices have been de-controlled and government intervention in marketing steadily reduced; and para-Statal reform and privatization is significantly reducing government involvement in business activity. In all of this there are no special cases; for example, the national airline has been liquidated, the Government's holding company for manufacturing enterprises has been closed and the copper company, Zambia Consolidated Copper Mines (ZCCM), which generates over 80 per cent of export earnings, is to be privatized.

2. Tariffs are now the main instrument of trade policy in Zambia. The tariff structure has been simplified; it now comprises four bands, with rates ranging up to 25 per cent. Like other members of the WTO, Zambia bound all its tariff lines in agriculture at the end of the Uruguay Round. A few lines in non-agricultural sectors are also bound. An import declaration fee of 5 per cent was introduced in 1995. Quantitative restrictions have been eliminated; import controls are maintained only for health, sanitary, phytosanitary and security reasons.

3. Zambia has virtually no export restrictions; scrap metal is subject to an export limitation and some prohibitions are maintained for environmental reasons. In April 1996, Zambia lifted a temporary export ban on maize. Zambia has no export subsidies and all specific incentives provided to exporters of goods have been abolished. In addition, Zambia provides no special assistance to industry. It has recently introduced competition law and is in the process of aligning its legislation on emergency actions and the protection of intellectual property rights with the provisions of the WTO Agreements.

(2) Measures Directly Affecting Imports

(i) Registration and documentation

4. All operators in domestic or international trade in Zambia must be registered with, and licensed by the Ministry of Commerce, Trade and Industry (MCTI). Trading activities are open to Zambians and foreigners. Registration and licensing fees amount to some K 20,000 for Zambians; foreigners pay a fee of US$100.

5. Import consignments for commercial purposes have to be declared on an Import Declaration Form (IDFO) if they are worth more than US$500. The form must be submitted in four copies to a commercial bank upon confirmation of the import order together with the pro-forma invoice or other relevant documents. A purpose of the IDFO, besides data collection, is to determine whether a 5 per cent Import Declaration Fee (IDF) is to be paid (section (iii)(d)). The IDFO, which is required for completion of preshipment inspection and customs procedures, was introduced in October 1995, and replaced the Export Retention Scheme form, which was an application for foreign exchange.

(ii) Customs procedures

(a) Customs clearance

6. To clear merchandise through customs an importer must present the usual commercial documents, the IDFO and evidence of having paid, if applicable, the associated fee, and a clean bill of finding from a clearing agent for preshipment inspection. For goods to be cleared at the border, the agent completes a "Customs Form 21", which is then presented to the Custom Office for final clearance. In general, given that all documents are in order, customs clearance is effected within two days. To improve the process, the computerization of customs procedures with a single administrative document and a self-declaration process is under preparation

7. For goods to be cleared through an inland port, a Removal In Bond (RIB) is prepared on Customs Form 29 and presented, for stamping, to Customs at the point of entry. The goods are moved to a Transit Shed Clearing Agent; the importer is given a period of 10 days to clear the merchandise, with the usual documentation. If the goods are not cleared within this period, then the importer incurs accumulative interest on the total amount of the duties and value-added tax (VAT) payable; the interest rate is equivalent to the market, commercial bank rate plus two percentage points. The RIB Form is to be acquitted at the entry point within 42 days of initial stamping.

8. An importer who is not satisfied with a customs decision can appeal to the Commissioner of Customs and Excise, whose ruling is final.

(b) Customs valuation

9. Customs valuation in Zambia is based on the Brussels Definition of Value (BDV). In accordance with the requirements of the WTO Agreement on Implementation of Article VII of the GATT 1994, which provides for special and differential treatment for developing countries, Zambia has until 1 January 2000 to adapt its legislation, and its customs valuation procedures to a "transactions value" basis, as required under the WTO provisions. The authorities plan to make the required adjustment before the date fixed under the Agreement.

10. Imports into Zambia of an f.o.b. value of US$2,000 or more are subject to compulsory preshipment inspection (PSI) of quality, quantity and price, carried out by a specialized foreign company appointed by the Government, the Société Générale de Surveillance (SGS), S.A.[1] On the basis of information contained in the IDFO and the pro forma invoice, the inspecting SGS office sends a Request for Information (RFI) to the seller mentioned in the documents, to arrange for the physical inspection in the country of supply before the goods are shipped. Once inspection is arranged, clearance of the merchandise by SGS is normally within two days.

11. After completion of the inspection and on the basis of the final invoice and relevant bills submitted by the seller, SGS issues a Clean Report of Findings (CRF). The report contains details of the transaction and SGS' opinion as to the most appropriate tariff line (under the Harmonized System (HS)) for the goods, and their dutiable value for customs purposes. In the case of suspected undervaluation of the goods, the importer is asked to produce certified invoices, which are verified against catalogues or similar units or quantities.

[1]Until December 1994, imports valued at less than US$5,000 were not subject to PSI. PSI currently covers about 90 per cent of total imports to Zambia.

12. If for some reason goods subject to PSI are shipped without inspection, the importer is required to apply to Customs Headquarters for a destination inspection. For this, a penalty of 5 per cent of the c.i.f. value of the goods concerned, payable to the Zambia Revenue Authority, has been levied since September 1995. An importer is allowed at most two lapses of the PSI requirement; subsequent shipments by that importer that have not appropriately undergone PSI in the country of supply are either to be re-exported or seized by Customs.

13. PSI fees are paid to the SGS by the Minister of Finance; such fees are equivalent, according to the authorities, to 0.9 per cent of the c.i.f. value of the merchandise. According to the authorities, Zambia is considering a system of selective PSI based on a "risk to revenue" profile; at least 25 per cent of exports to Zambia during each calendar quarter will be examined.

14. Currently exempt from PSI are:

(a) goods destined for approved duty-free zones;
(b) goods destined for enterprises in approved export-promotion zones;
(c) goods destined for approved manufacturing bond (manufactured under bond);
(d) accompanied or unaccompanied personal luggage;
(e) ammunition, weapons and implements of war imported by the Government;
(f) household goods and personal motor vehicles, provided they qualify for exempt entry as new residents' effects or the returning residents' entitlement;
(g) current newspapers and periodicals;
(h) parcel post and gifts by foreign Governments or international organizations for foundations, charities and recognized humanitarian organizations;
(i) personal gifts sent by foreign residents to their relations in Zambia for their personal use;
(j) gifts and supplies to Diplomatic and Consular Missions and to United Nations' Organizations, imported for their own needs; and
(k) goods imported under duty exemption in accordance with the terms of a technical assistance agreement with the Government.

(iii) Tariffs and other levies and charges

(a) General features

15. Goods imported to Zambia are generally subject to four types of charges: tariffs and the IDF, both of which only apply to imports; and excise duty and VAT, which apply equally to imports and to domestic products.

(b) Tariff structure

16. Zambia has considerably simplified its tariff in recent years. Since 1991, the maximum tariff has been lowered from 100 per cent to 25 per cent; tariff categories have been reduced from 12 to four; and virtually all suspensions and exemptions have been eliminated. Under the 1996 Budget, the maximum tariff was lowered by 15 percentage points, from 40 to 25 per cent; the tariff structure was rationalized, particularly by reducing the number of bands from five to four; and many exemptions were eliminated. Thus, the transparency of the tariff has been considerably improved, and rates substantially lowered. According to the authorities, future tariff simplification will depend on the tariff-rate elasticity of government revenue under the 1996 changes, which are considered as a test; budgetary

constraints and preferential treatment under the Common Market for Eastern and Southern African States treaty are the main constraints to the future reduction of tariff rates.

17. Zambia accords at least m.f.n. tariff treatment to all countries. Since 1988, Zambia's tariff has been based on the Harmonized System (HS); the 1996 tariff has 6,006 lines at the eight-digit level. Virtually all tariffs are applied on an ad valorem basis. Zambia had abolished specific duties in 1991, but in 1996 it reintroduced them on used and reconditioned tyres (K 500 per kg.); a minimum specific alternative customs duty of K 500,000 has also been applied since January 1996 on used imported motor vehicles worth less than US$2,000.

18. In the Uruguay Round, Zambia bound 186 tariff lines on non-agricultural products, equal to 3.6 per cent of the total number of lines in the sectors concerned: 23 lines are bound at ceiling rates of 60 per cent, including air-conditioning machines, refrigerators, freezers, dry-cleaning machines and some categories of drying machines; 22 lines have ceiling bindings of 45 per cent, including dish-washing machines of the household type, machinery for cleaning or drying bottles or other containers, packing or wrapping machinery and certain categories of mower; 107 lines at 40 per cent, including chemical products, rubber and articles thereof, printed matter, jute, tools, cutlery, spoons and forks of base metal, certain categories of machinery and of tractors, among others; 30 lines at 35 per cent, including mineral and chemical fertilizers and machinery for the manufacture of confectionery, cocoa or chocolate; and four lines at 30 per cent, for photographic items. The simple average bound rate on these goods is 42 per cent.

19. Like other Uruguay Round participants, Zambia bound all its agricultural items; except for 21 tariff lines, ceiling bindings apply to all products in this sector. The simple average bound rate is 123 per cent in agriculture: the maximum bound rate is set at 125 per cent and applies to about 97 per cent of the tariff lines in the sector. The tariff rate was bound at 45 per cent on wheat and "meslin", rye, barley and oats; 50 per cent on cocoa beans, cocoa paste, cocoa butter, fat and oil, and chocolate and other food preparations containing cocoa; and 60 per cent on cocoa powder , not containing added sugar or other sweetening matter.

20. Zambia did not list any "other duties and charges" in its Uruguay Round tariff Schedule. Zambia is in the process of renegotiating its GATT Schedule LXXVIII that contains the tariff concessions of the defunct Federation of Rhodesia and Nyasaland; the related bindings mostly concern industrial goods, including tractors, motorcycles, television receivers, pumps and paints.

21. Zambia applies tariffs to the c.i.f. value of imports. Such tariffs and other charges are normally calculated on the basis of the dutiable value shown on the CRF issued by the SGS. Border charges are collected by an independent institution, the Zambia Revenue Authority (ZRA), set up by a Parliamentary Act in 1994 to improve revenue performance. They account for more than 50 per cent of budget revenue (excluding capital and grants) (Table III.1). The decline in the ratio of border charges to imports, from almost 40 per cent in 1991 to 20 per cent in 1994, is indicative of the substantial simplification of the tariff, and lowering of rates, undertaken by Zambia. However, according to the authorities, tariff evasion, through misclassification of items, smuggling, under-invoicing or false declaration of origin for purposes of preferential treatment, remains a problem; efforts are under way to improve the effectiveness in the collection of border charges. Success in this area could contribute to a further lowering of the Zambian tariff

Table III.1
Border charges, 1991-94

	1991	1992	1993	1994
	(million kwacha)			
Border charges[a]	24,571	62,299	148,820	145,830
Total budget revenue[b]	41,602	113,628	212,093	237,206
Imports c.i.f	61,537	144,109	434,650	727,708
Shares of import duties[c]	59.1	54.8	70.2	61.5
"Collection" ratio[d]	39.9	43.2	34.2	20.0

a Border charges include tariffs, import declaration fee, excise duties and sales tax (through 1994) applied to imports.
b Total revenue excludes capital and grants.
c Share of border charges in total revenue
d The ratio of revenue from border charges to the c.i.f. value of imports.

Source: Data provided by the Zambian Revenue Authority.

22. Zambia's simple average m.f.n. import tariff in 1996 is 13.6 per cent, with a standard deviation of 9.3 per cent (Table III.2). The average tariff is highest in agriculture, where it is 18.2 per cent[2]; averages in mining and industry are 7.5 and 13.5 per cent, respectively. Relative tariff dispersion is highest in mining, followed closely by industry.

Table III.2
Main features of Zambia's m.f.n. tariff, 1996

	Simple average m.f.n. tariff	Tariff dispersion		
		Range	Standard deviation[a]	Coefficient of variation[a]
All tariff lines	13.6	0-25	9.3	68.6
By sector[b]:				
Agriculture and fisheries	18.2	0-25	8.5	46.7
Mining	7.5	0-25	5.9	79.1
Industry	13.5	0-25	9.3	69.3
By degree of processing				
Primary products	14.4	0-25	9.2	63.8
Semi-processed products	9.5	0-25	8.8	92.4
Finished goods	16.5	0-25	8.6	52.3

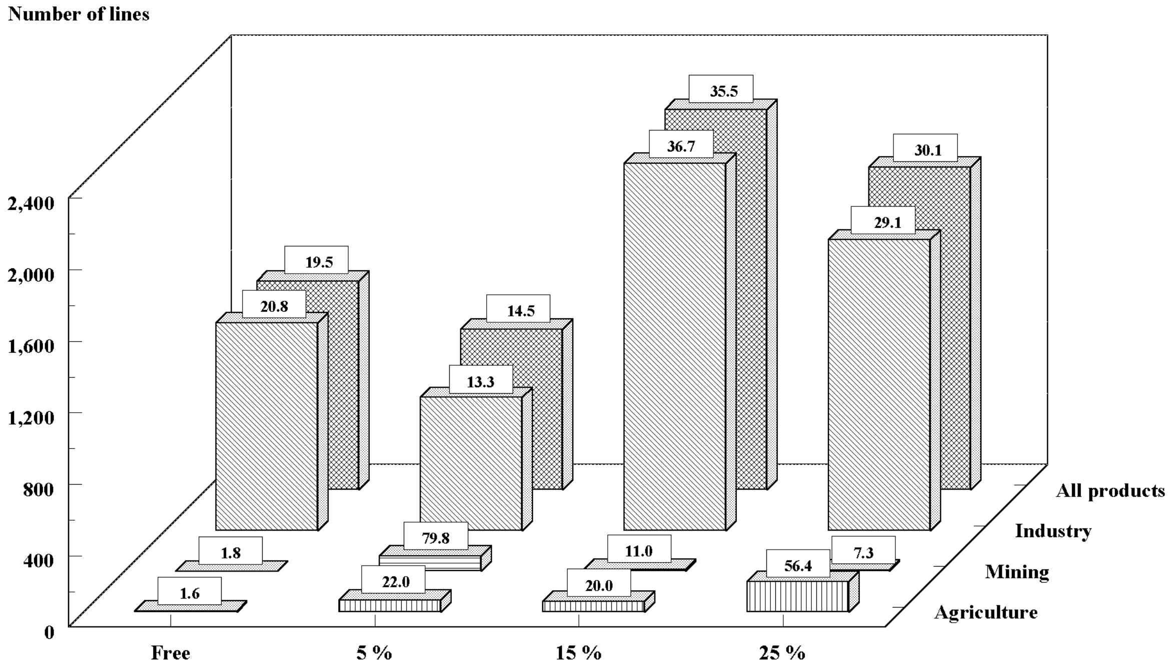
a The standard deviation measures the absolute dispersion of a distribution; the coefficient of variation is a measure of relative dispersion, defined as the standard deviation divided by the average.
b Based on ISIC classification.

Source: Data provided by the Zambian authorities; and calculations by the WTO Secretariat.

[2] Agricultural products comprise raw and first-stage processed goods from the sector, including fishery and forestry products.

23. Zambia's 1996 tariff has four tiers, of rates zero, 5, 15 and 25 per cent. About two thirds of all tariff lines bear rates of 15 or 25 per cent, while some 20 per cent of lines have zero rates (Chart III.1). In general, the zero per cent rate applies to imports of some categories of raw materials, including natural rubber, sulphur of all kinds, gypsum, anhydrite and balata; items of productive machinery, such as agricultural, horticultural/forest machinery for soil preparation/cultivation, lawn-rollers, milking machines, dairy and bee-keeping machinery, poultry incubators, machines for cleaning/sorting seeds and grain and machinery for sorting mineral products and binding books; and certain "merit" goods, including books, fertilizers and surgical instrument. Other raw materials and industrial machinery are subject to an import tariff of 5 per cent. The 15 per cent tariff tier is generally used for intermediate goods, such as natural cork (debacked/roughly squared or in rectangular blocks), articles of natural cork, agglomerated cork, residual lyes from the manufacture of wood pulp, some categories of paper and paperboard, cocoa and cocoa preparations, tobacco and wool.[3] The authorities intend to reduce the tariff on imports of intermediate goods to 10 per cent in 1997. Most imports of final products are presently subject to the 25 per cent rate; the authorities plan to lower the rate on consumer goods to 20 per cent in 1998.

Chart III.1
M.f.n. tariff distribution by sector, 1996

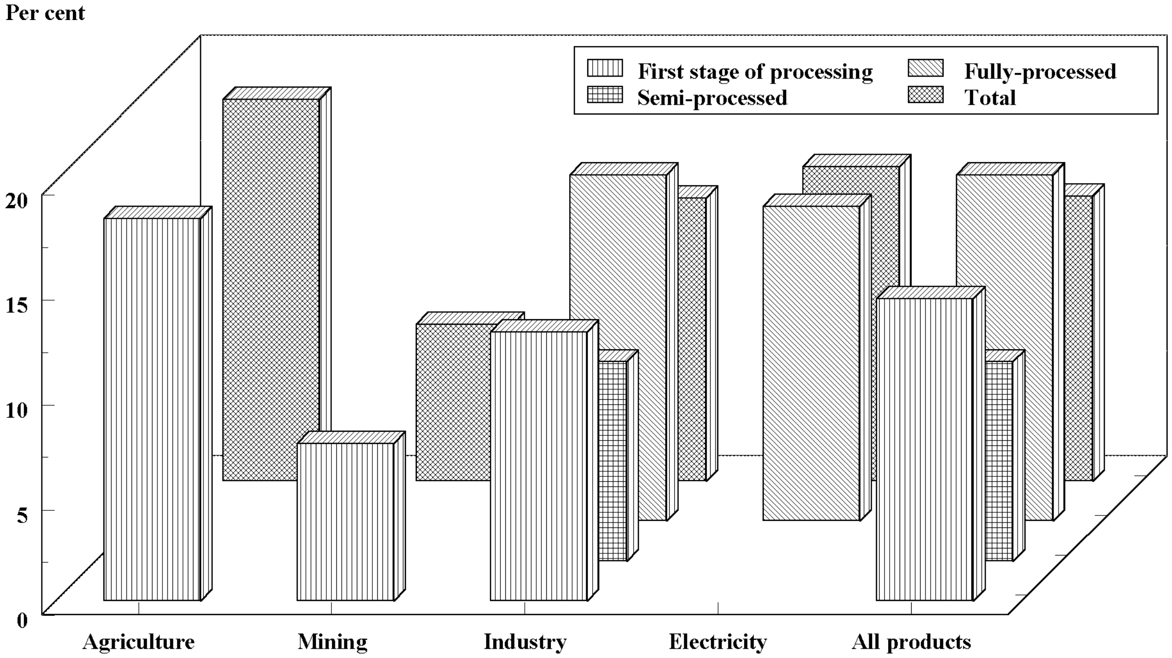


Source: Information provided by the Zambian authorities; and WTO Secretariat calculations.

[3]However, the classification "intermediate" is sometimes misleading: higher tariff rates apply to raw materials which are, or can be, locally produced; the rate is 15 per cent on copper, aluminium, raw hides and skins and leather; and 25 per cent on logging, and some fruit and animal, products.

24. In aggregate, Zambia's tariff displays negative escalation from primary to semi-processed products, with average rates in the categories declining from 14.4 to 9.5 per cent; however, rates escalate to 16.5 per cent for finished goods (Table III.2 and Chart III.2). Escalation is moderate in food products and in fact negative in food manufacturing from semi- to fully-processed items, e.g. the tariff rate on meat is 25 per cent whereas 5 per cent applies to some animal fats and their cleavage products and to some preparations of meat (Table AIII.1). Escalation is most pronounced in paper products, with rates rising from 5 per cent on average for raw materials to an average of 23.5 per cent for finished goods; other sectors with substantial escalation are textiles, leather products, industrial chemicals, petroleum products and rubber and non-ferrous metal items.

Chart III.2
Average tariff by degree of processing, 1996



Source: Information provided by the Zambian authorities; and WTO Secretariat estimates.

(c) Tariff preferences

25. Zambia accords tariff preferences to its imports from other members of the Common Market for Eastern and Southern African States (COMESA). Under the 1996 Budget, the rate on Zambia's COMESA imports is 40 per cent of the applicable m.f.n. rate. The rules of origin applied by Zambia for COMESA trade are detailed in section (vii), below.

26. Under COMESA treaty, which replaced the Preferential Trade Area for Eastern and Southern African States (PTA) in late 1994, member countries agreed to liberalize trade and to establish a common

external tariff by the year 2004.[4] Negotiations are under way for free movement of capital and labour between member countries.

(d) Other levies and charges

27. Most imports are subject to the IDF. The fee was introduced, for fiscal reasons, in October 1995. It is levied at a rate of 5 per cent on the c.i.f. value of commercial goods worth at least US$500[5]; the list of items exempt from the IDF is identical to those exempt from preshipment inspection (section (ii)(b)). According to the authorities, the fee is to be withdrawn by end-1996.

28. The IDF is collected by commercial banks upon receipt of the Import Declaration Form submitted by importers; the fee is remitted to the Bank of Zambia. Customs requires evidence of its payment for the release of the imports to which the IDF applies. Where an importer fails to provide such evidence, customs officials compute the fee payable from the available data and provisionally release the goods upon payment by the importer of a cash surety of not less than twice the amount of the fee. Goods imported in contravention of the provisions of the legislation covering the IDF are subject to a penalty equal to the amount of the fee.

29. Zambia levies excise duties on certain products at rates ranging from 10 to 125 per cent. The duty is collected on cane and beet sugar and some of their derivatives, beverages, tobacco and some derivatives and substitutes, petroleum products, tyres and tubes, and on motor cars until February 1996 (Table III.3). The rates are the same whether the goods are domestically produced or imported. On imports, excise duty is applied to the c.i.f. value plus customs duty.[6] On locally produced goods, it is charged on the "sales"price (production costs plus mark-up). The 1996 Budget introduced a rate of 3 per cent on all electricity bills, with the proceeds going to a special fund for rural electrification. The 1996 Budget also raised the specific excise duty on fuel from K 30 to K 40 per litre. Zambia levies a surtax of 15 per cent on locally produced opaque beer.

30. In July 1995, Zambia replaced a sales tax (of 23 per cent) with a value-added tax (VAT). The VAT is collected at a standard rate of 20 per cent on both goods and services; on imports, VAT is levied on their c.i.f. value plus tariffs, and on domestic goods the base is the "sales" price. According to the authorities, VAT has been introduced to enhance Zambia's export competitiveness by eliminating the cost of input sales tax for exporters and by removing the distortions created by the cascading of the sales tax and some of the "nuisance taxes", including the insurance levy and the tax on airline tickets, which inhibit enterprises.

31. For social reasons, VAT does not apply to health, education, bus fares, domestic kerosene (paraffin), funeral services and house rents. In addition, insurance and financial services, gaming and betting supplies, the supply of gold in bullion form, supplies to privileged persons, purchases and sales of shares in companies listed on the Lusaka Stock Exchange, aircraft licensed to carry 14 or more

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[4]Intra-PTA tariffs were to be phased out by the year 2000: the tariffs were to have been reduced to 40 per cent of the base m.f.n. rates by 1993, and in 10 per cent instalments every two years from 1994 (GATT(1995), and WTO(1995).

[5]If the c.i.f. value is not available, the IDF is applied to 122 per cent of the f.o.b. value of imports.

[6]The value basis for purposes of calculating the excise duty was amended by the 1996 Budget to include the import tariff.

passengers, and airline tickets are not subject to VAT. A refund of VAT is available on goods with a value of more than US$100 if they are exported by tourists.

Table III.3
Excise taxes, 1996

HS category	Description of goods	Duty rate (per cent)
17.01	Cane or beet sugar and chemically pure sucrose, in solid form	10
Ex. 22.01	Waters, including natural or artifical waters, aerated, not containing added sugar or other sweetening matter nor flavoured	25
Ex. 22.02	Waters, including mineral waters, aerated, containing added sugar or other sweetening matter or flavoured, and other aerated non-alcoholic beverages	25
	Beer made from malt:	
22.03.00.10	Opaque beer	35
22.03.00.90	Other, including ale, lager and stout	125
22.04	Wine of fresh grapes, including fortified wines, grape must other than that of Heading No. 20.09	125
22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances	125
22.06.00.00	Other fermented beverages (for example, cider, perry, mead)	125
22.07.10.00	Undernatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher	125
Ex. 22.08	Undernatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages	125
24.02	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	125
24.03	Other manufactured tobacco and manufactured tobacco substitutes; "homogenized" or "reconstituted" tobacco; tobacco extracts and essences	125
	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70 per cent or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations:	
27.10.00.19	Petroleum spirit (motor spirit)	45
27.10.00.30	White spirit	15
27.10.00.39	Other light oils	15
	Kerosene (paraffin)	
Ex. 27.10.00.40	for domestic use	15
Ex. 27.10.00.40	for industrial use	45
Ex. 27.10.00.50	Low-sulphur gas-oils	45
27.10.00.60	Automotive gas-oils (diesel)	45
27.10.00.70	Other fuel oils	45
Ex. 27.11	Petroleum gasses and other gaseous hydro-carbons	45
	Tyres and tubes:	
40.11	Pneumatic tyres of rubber	10
Ex 40.12	Retreaded pneumatic tyres of rubber; solid or cushion tyres, interchangeable tyre treads and tyre flaps, of rubber	10

Table III.3 (cont'd)

HS category		Description of goods	Duty rate (per cent)
	40.13	Inner tubes of rubber	10
		Motor cars and other motor vehicles principally designed for the transport of persons (other than those of Heading No. 87.02 and other than ambulances, prison vans and hearses), including station wagons and racing cars:[a]	
Ex Ex.	87.03.10.00 87.03.21.90 87.03.22.90 87.03.31.90 87.03.90.90	Of a cylinder capacity not exceeding 1,500 c.c.	10
Ex. Ex.	87.03.10.00 87.03.23.90 87.03.24.90 87.03.32.90 87.03.33.90 87.03.90.90	Of a cylinder capacity exceeding 1,500 c.c.	20
-		Goods for the exclusive use of the Government of Zambia or any other country or an international organization with a diplomatic mission in Zambia; subject to the condition that a certificate under the hand of an officer authorized in that behalf by the Government or the diplomatic mission, as the case may be, is furnished to the proper officer, certifying that the goods are for the exclusive use of the Government or the diplomatic mission	Free

a The excise tax on motor cars was eliminated in February 1996.

Source: Information provided by the Zambian authorities.

32. Goods not subject to the standard VAT rate are classified under two categories: zero-rated goods, to which the provisions of the VAT Act apply, although tax is not payable (i.e. the VAT rate on the goods is zero); and exempt goods, which are not subject to the tax. This differentiation has been introduced for drawback purposes: zero-rated items qualify for VAT refunds while exempt goods do not. Products of the Zambia Consolidated Copper Mines (ZCCM) were switched with effect from 1 April 1996 from the exempt to the zero-rated category. The list of zero-rated supplies comprises:

(a) export of goods from Zambia by or on behalf of a taxable supplier;
(b) basic agricultural products and foodstuffs, including sugar;
(c) the supply of services, including transport and ancillary services that are directly linked to the export of goods under item (a).
(d) the supply of aviation kerosene;
(e) the supply of goods by a duty-free shop, approved under the Customs and Excise Act, for export by passengers on flights to destinations outside Zambia;
(f) the supply of goods, including meals, beverages, duty-free goods, for use as aircraft stores on flights to destinations outside Zambia;
(g) the supply of services that are physically rendered outside Zambia;
(h) the supply of goods or services to a donor in Zambia for official purposes;
(i) goods or services supplied under a technical aid programme or project that are:
  - paid through donor funding; and
  - provided by the donor, or by a contractor of the donor under a written agreement with the Republic of Zambia;
(j) export sales of copper and cobalt; and

(k) tour packages (under specified conditions).[7]

(e) Duty and tax exemptions and refunds

33. Zambia used to have numerous duty and tax exemptions and rebates. They were generally granted à la carte.[8] Under the 1993 Investment Act, farmers, non-traditional exporters, import-competing firms and small-scale and village enterprises qualified for some incentives, such as exemption from tariff and sales taxes on all machinery and equipment (other than motor vehicles) required for their establishment, rehabilitation or expansion. The list of products exempt from import duties (tariffs and import taxes) included:

(a) some capital goods imported by investors holding an investment license;
(b) government imports;
(c) medicaments;
(d) goods imported in the context of foreign aid programmes;
(e) goods imported by foreign missions (diplomats);
(f) goods donated to charitable organizations;
(g) goods imported by churches;
(h) goods imported by hospitals and schools;
(i) returning residents' and new residents' effects;
(j) relief granted to individuals by the Ministry of Finance through Statutory Instruments;
(k) goods imported by the President; and
(l) raw materials as stipulated in the 1995 Budget (organic and inorganic chemicals, iron and steel, rubber and plastic).

34. Following the reduction in customs duties and in order to compensate for the revenue loss arising from exemptions, the 1995 and 1996 Budgets removed most of the rebate, remission and suspension provisions, leaving in place essentially only those on selected goods and those agreed under international conventions or agreements (e.g. diplomatic imports). The Government of Zambia, schools, hospitals and new investors no longer receive duty exemptions. Goods imported by the mining industry, motor vehicles imported by new residents, donated goods and petroleum oil feedstock imported through the pipeline are now subject to border charges. A 1994 suspension of sales tax and import duties on a certain category of buses, extended during 1995 on all buses, has also been lifted.

[7]Products under item (b) were exempt until 30 June 1996, although agricultural products were zero-rated when exported. Goods under item (i) became zero-rated on 1 April 1996.

[8]In 1995, remissions of payable duties on some specified imported spare parts and equipment were granted to companies such as Burrow Binnie Zambia Limited, Zambia Railways Limited, Pep Stores Limited, Africa Supermarkets Limited/African Retail Properties, and Multichoice Kaleidoscope Zambia.

35. Selective suspensions of duty on manufacturing inputs can still be granted by the Minister of Finance upon request from manufacturers producing in Zambia. Under the provisions of the Statutory Instrument 23 of 1994[9], the applicant must submit written evidence that:

(a) the rate of import duty on the inputs for the good to be manufactured is higher than the rate applicable to like imported finished goods;
(b) the inputs must be solely used for manufacturing purposes and constitute at least 25 per cent of the factory cost of the goods to be manufactured; and
(c) the cost of production based on normal customs duty rates on the manufacturing inputs would render the output uncompetitive against similar imported goods.[10]

36. Statutory Instruments 12 of 1996 suspended the customs duty on maize (HS heading No. 1005.90.00), the action was taken because Zambia's recent drought; customs and excise duties on vehicles imported in completely knocked down (CKD) form have been suspended since 1993 (Statutory Instrument 16 of 1993). In "compensation" for the removal of rebates and suspensions, the 1996 Budget reduced the rate of customs duty on productive machinery for agriculture and mining, and some "merit" goods such as books, fertilizers and surgical instruments from 20 to zero per cent; and raw materials that were duty free continue to enjoy this status.

37. Under the provisions of the Statutory Instrument 16 of 1996, the following rebates, refunds and remission remain in effect:

(i) refund or remission of excise duty or surtax on goods destroyed or returned to licensed premises;
(ii) remission or full/partial refund of duty on:
  - goods destroyed by accident or lost by accident while under customs control;
  - goods for approved technical assitance or experts;
(iii) partial or full refund of duty on:
  - defective goods surrendered after having been released from customs control;
  - goods re-imported into Zambia after having been exported from Zambia;
  - petty consignments;
  - goods imported by tourists;
  - commercial travellers' samples, and new residents' effects (except motor vehicles);
  - travellers' effects;
  - materials to be used in occupational therapy or for the occupational training of the blind;
  - goods imported or purchased by the Zambia/Tanzania Railway Authority (Tazara) for its own use;
  - goods imported or taken out of bond for an approved pipeline project;

[9]A Statutory Instrument is the legal mechanism for Ministers to give effect to a decision: it is used to enact or implement some laws adopted by Parliament (Chapter II(2)).

[10]Four such suspensions have been granted; one for imports of hammermill components and the others for imports of inputs for pharmaceutical products.

- aircraft stores and equipment for aircraft engaged in international air navigation, search or rescue;

(iv) partial or full refund of customs duty on goods temporarily imported into Zambia and on fuel, lubricants and consumable technical supplies for certain aircraft, including any public transport aircraft;
(v) remission of duty on deficiencies in wet goods in bulk consigned to Zambia; and
(vi) remission, or partial or full refund of duty for scientific, relief or other programmes or schemes or business enterprises.

38. Refunds and remissions are also granted under provisions of international conventions, including the Convention of International Civil Aviation and the Vienna Convention on Diplomatic Relations.

(iv) Import prohibitions and licensing

39. Zambia completed the dismantling of import licensing in 1995. The Import Declaration Form submitted to commercial banks serves data and tax collection purposes (section (i)). The dismantling of the licensing system started in 1992 with the introduction of an Export Retention Scheme (ERS). Under this scheme, foreign exchange purchased from exporters (mainly ZCCM) or provided by donors was sold by the Bank of Zambia (BOZ) for imports under an Open General Licence (OGL) system. Foreign exchange allocated by the BOZ for payments of OGL imports was disbursed only against irrevocable documentary letters of credit.

40. The OGL scheme operated on the basis of a negative list which, at the end of 1994, included gold, silver, platinum, jewellery, weapons and ammunition, alcoholic beverages, tobacco, televisions, radios, videocassette recorders and camcorders, and passenger automobiles. A licence was not required for imports covered by the scheme and for personal and household effects, trade samples, diplomatic shipments, and vehicles temporarily imported to Zambia: the ERS form was used as an application for foreign exchange, an import licence and preshipment inspection. In general, evidence was required that the most competitive international price was obtained for imports (mainly imports worth more than US$500,000).[11] The OGL scheme ended after the suspension of the Exchange Control Act in 1994 (Chapter I(Annex I.1)). Since then Zambia has not exercised licensing requirements on imports.

41. According to the authorities, Zambia now only maintains import prohibitions and controls for environmental, health and security reasons, and under international conventions. The list of goods banned from importation comprises:

(a) base or counterfeit coins;
(b) any goods that are indecent, obscene or objectionable;
(c) any goods that might corrupt the morals of the inhabitants of Zambia;
(d) prison-made and penitentiary-made goods;
(e) quilika (a drug);
(f) spirit-based beverages that contain preparations, extracts, essences or chemical products that are noxious or injurious;
(g) left-hand driven vehicles;
(h) firearms and ammunition;

[11] International Monetary Fund (1995).

(i) radio-active minerals; and
(j) endangered species.

42. The importation into Zambia of stills and all apparatuses, or their parts, capable of being used for the production or refining of alcohol is prohibited except with the written permission of the Controller of Customs and Excise.

(v) Trade sanctions

43. According to the authorities, Zambia currently applies no trade sanctions, either nationally or internationally, except in conformity with United Nations' Resolutions.

(vi) Emergency actions

(a) Safeguard measures

44. Zambia has no legal instrument that incorporates the safeguard provisions of GATT Article XIX, although the authorities are considering the introduction of such legislation. There is a safeguard clause in the COMESA Treaty.[12]

(b) Anti-dumping and countervailing measures

45. Sections 74 and 74-A of Zambia's Customs and Excise Act (Chapter 662 of the Laws of Zambia) provide the legal basis for anti-dumping and countervailing measures, respectively. In consequence of its ratification of the WTO Agreements in these areas, Zambia plans to update its anti-dumping and countervailing legislation, in order to bring them into compliance with Zambia's WTO obligations. There are provisions under the COMESA Treaty for anti-dumping and countervailing measures.[13]

46. A complainant in Zambia who considers that a countervailing or an anti-dumping duty ought to be imposed on imported goods must provide necessary information in support of his request to the Controller of Customs and Excise, who is responsible for the administration of the Customs and Excise Act, including its anti-dumping and countervailing provisions. On receipt of a complaint, the Controller undertakes an investigation into the imports concerned and reports the results to the Minister of Finance who makes the final decision (in consultation with the Minister responsible for trade). The legislation does not apply to goods imported to Zambia under rebate of the ordinary duty.

47. The level of an anti-dumping duty to be levied must be equivalent to:

(i) an amount by which the domestic value (in the country of export) exceeds the export price (if any) of the concerned goods; or

[12]WTO (1995).

[13]WTO (1995).

(ii) an amount to be determined by the Controller (of Customs and Excise) if there is no export price or domestic value.[14]

48. An anti-dumping duty of 15 per cent has been in effect since the early 1970s on windows and doors, and window and door frames, of iron or steel (HS heading 73.08.30.00). It applies to the c.i.f. value of these goods, irrespective of the country of export.

49. Statutory Instrument 54 of 1994 laid down the investigations required for imposing countervailing duties on "subsidized imports" to Zambia. It requires that procedures and conditions be in conformity with those stipulated in any international trade agreements to which Zambia is a signatory. The amount of countervailing duty payable must be equal to the amount of any export compensation, incentive, subsidy or other payment paid or payable to an exporter, manufacturer or supplier in respect of the export of the goods concerned.[15] According to the authorities, Statutory Instrument 54 has not been effectively enforced.

(vii) Rules of origin

50. Section 73 of the Customs and Excise Act (Chapter 662 of the Laws of Zambia) defines the origin of any manufactured good as the country in which the last process of manufacture has been performed. For purposes of labelling, Statutory Instrument 133 of 1978 attributes the origin of a processed food to the country in which it changes its nature, i.e. which the authorities define as a change in tariff classification.

51. Under the Treaty of the Common Market for Eastern and Southern Africa (COMESA), preferential treatment (lower tariff rates) is granted to imported goods that are:

(i) wholly produced in a member State (i.e. no materials from outside the COMESA have been used); or
(ii) produced in the member States and the c.i.f. value of any non-COMESA materials used does not exceed 60 per cent of the total cost of all materials used in the production; or
(iii) produced in member States in such manner that the value-added resulting from the process of production accounts for at least 45 per cent of the ex-factory cost of the goods; or
(iv) of particular importance to the economic development of the member States and contain at least 25 per cent value-added notwithstanding the provision in (iii).

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[14] "Domestic value" means the market price at which, at the time of exportation to Zambia, a good or a similar item is freely offered for sale, for consumption in the exporting country, to any purchaser trading at the same or substantially the same level of trade as that of the importer in Zambia. It shall not include any drawback of duty allowed or other taxation remitted by the Government of the exporting country. "Export price" of a good means the f.o.b. price at which it is sold to the importer in Zambia.

[15] Under Statutory Investment 54, "subsidized imports" means goods in respect of which any export compensation, incentive, subsidy or other payment is or will be granted to an exporter, manufacturer or supplier of the goods.

(viii) Local-content schemes

52. The 1996 Budget Speech revoked the local-content requirements that had been in force under the 1993 Investment Act.[16] Under the Act, an investor qualified for special incentives by using a significant proportion of local raw materials (40 per cent in practice); this was expected to result in net foreign exchange savings. These incentives consisted of exemption from customs duties and sales tax on all machinery and equipment (other than motor vehicles) required for the establishment, rehabilitation or expansion of the industry. They were granted in addition to other general incentives (section(2)(iii)(e)). According to the authorities, Zambia currently has no laws or regulations prescribing local content.

(ix) Standards and other technical requirements

(a) Standardization, testing and certification

53. In Zambia, the Standards Act No. 20 of 1994, a revision of the Standards Act No. 22 of 1982, provides for the development of standards and for schemes for their implementation, including product certification. Under the Act, three standards can be established in Zambia: voluntary standards published by the Zambia Bureau of Standards (ZABS); compulsory standards for the promotion of public safety or in the public interest; and export standards for the promotion or development of exports.[17] The last two are published by the Minister of Trade and they become mandatory once declared, which none have been to date. Local exporters are allowed to produce goods that comply with the requirements set by foreign importers even if such standards are different from those in force in Zambia. Under the Act, a supplier of dangerous or defective products is to be prosecuted, but in practice such prosecutions are rare.

54. Zambian standards are mainly based on those of the International Standards Organization (ISO), the Codex Alimentarius, and other suitable foreign sources. To date ZABS has approved 230 standards, mainly in the areas of construction and food.[18] For products that meet Zambian standards, a ZABS mark is available. The mark is used by 12 Zambian-based companies; it is also available to foreign companies.

55. The Zambia Bureau of Standards (ZABS) implements the Standards Act, but has currently no testing laboratories of its own.[19] It operates an accreditation scheme using laboratories that meet a set of criteria for competence. ZABS has plans to build its own testing facilities. ZABS has no formal mutual recognition agreements with foreign standards agencies. However, a draft agreement on co-operation between ZABS and the Malawi Bureau of Standards provides for mutual recognition of standards, testing régimes and product certification. Further, a gentlemen's agreement exists in

[16]The revocation was effected through an amendment to the 1993 Investment Act.

[17]All standards are initially voluntary.

[18]There is no national building Code. In practice, builders generally use their own standards.

[19]ZABS is governed by the Standards Council of Zambia; the Council is subject to the control and direction of the Minister of Trade.

the Southern Africa Development Community (SADC) under which member States are expected to recognize each others' schemes. Zambia unilaterally recognizes foreign certifications.

56. The authorities are considering plans to levy on traders a standard development levy, not exceeding 2 per cent of a firm's total annual turnover, to partially finance ZABS.

(b) Health, sanitary and phytosanitary regulations

57. Zambia's health, sanitary and phytosanitary measures are administered, as appropriate, by the Ministries of Agriculture and Health. All imports of live animals, plants and seeds into Zambia are subject to quarantine regulations, irrespective of their country or region of origin. Both imports and exports of food must satisfy the provisions of the Food and Drugs Act of September 1978. The Act specifies packaging and labelling requirements for food, and standards for maize samp, rice and bread. Unlabelled food and babies' food containing a food additive is generally not allowed to be sold.[20] Under the Act and for purposes of labelling, the country of origin of a processed food is the country in which the product undergoes processing and changes its nature.

58. In accordance with the provisions of the Plan, Pests and Diseases Act (Chapter 346 of the Laws of Zambia), agricultural imports, but mainly those exceeding K 50 in value, are subject to a permit costing K 1,000, to check for disease. In the case of live animals, a sanitary certificate from the exporting country is required as a prerequisite to the issuance of the veterinary permit. Health certificate fees paid both for imports and exports amount to K 1,500 per ten large ruminants, such as cattle, K 600 per ten small ruminants, such as goats, and K 1,000 per small animal, such as dogs; lower fees are paid for birds. A phytosanitary certificate is required when importing grains.

59. Except in suspicious cases, products are not generally tested at the borders. Inspectors collect samples from local shops for analysis. The results of phytosanitary inspections are reported to the Minister of Agriculture and those of sanitary inspections are sent to the Minister of Health. Unlawfully imported goods can be destroyed without compensation. Zambia maintains plant quarantine requirements based on the Weed Act. Quarantine can be instituted on mammals.

(x) <u>State trading</u>

60. According to the authorities, no State-owned or other company currently holds a monopoly or has exclusive privileges, for the importation of any goods into Zambia. However, the Zambia National Oil Company (ZNOC) is, <u>de facto</u>, the sole importer of petroleum feedstock (Chapter IV(5)(i)). In line with Zambia's ongoing liberalization programme, such privileges have been eliminated and concerned companies were either privatized or earmarked for privatization (section (4)(iii)(c)).

(xi) <u>Government procurement</u>

61. Zambia is not a member of, nor an observer to, the Plurilateral Agreement on Government Procurement signed in Marrakesh in April 1994. Nor was Zambia a signatory to the Tokyo Round Agreement on Government Procurement.

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[20] Babies' food containing a food additive can be sold under permission of the Minister of Health.

62. Under the provisions of the Statutory Instrument 151 of 1995, all procurement of goods and services over K 25 million by the Government and parastatal bodies must be examined and authorized by a Central Tender Committee. Ministry Tender Committees are empowered to act for their Ministries on purchases up to K 25 million. There are also Local Government and Parastatal Tender Committees that perform functions similar to those of the Ministry Tender Committees. Procurement of the same type of goods or services within the above thresholds is not to be undertaken more than once every three months in order to avoid a subdivision or an underestimation bringing the total value within these limits.

63. Formal tenders are required for purchases to be authorized by the Central Tender Committee as well as for procurement worth between K 5 million and K 25 million to be authorized by a Ministry or Provincial Tender Committee. Such tenders are advertised in the Government Gazette, unless they are "special" (selective). The latter tenders are to nominated firms and are permitted in cases of emergency (e.g. purchases of maize during drought or of drugs in periods of epidemic) and for purchases from well-known markets/suppliers e.g. purchases of vehicles. Government purchases of up to an estimated value of K 5 million are made through informal tenders; the latter are invited from at least three suppliers.[21] Depending on the nature of the purchases (perishable or fragile goods), single tendering may be permitted. All tenders are opened in public at the offices of the Central Tender Committee or the applicable Ministry, Local Government or Parastatal Committee. There are no <u>de jure</u> preferences for local suppliers but, according to the authorities, in practice, for limited orders and manufacturing supplies, and for services from agents, tender committees have limited discretion to favour local sources. In 1995 about 29 per cent of tenders above K 25 million were subject to competitive tendering, 33 per cent to selective tendering, 13 per cent to joint tendering, and 22 per cent to single tendering.

64. Non-refundable tender document charges are levied, in the amount of K 2,000 for procurement estimated at up to K 10 million; K 2,000 for each additional K 10 million or part thereof; and K 200,000 for all tenders above K 1 billion.

(xii) <u>Measures implemented in exporting countries</u>

65. According to the authorities, Zambia has no agreements with foreign governments or enterprises designed to influence the quantity or value of goods and services exported to Zambia; further, there are no such agreements between companies operating in Zambia and foreign enterprises.

(xiii) <u>Other measures</u>

66. Zambia does not maintain any surveillance measures on imports, according to the authorities. In addition, Zambia has no official countertrade arrangements. However, domestic legislation does not prevent private firms from being involved in countertrade arrangements. Import, and export, cartels are prohibited in Zambia under the 1994 Competition and Fair Trading Act.

[21] Formal tenders are advertised in the <u>Gazette</u> and in other publications, while informal tenders are not. Special formal tenders are not advertised but generally subject to the same requirements as formal tenders. Special formal tenders are invited from nominated forms.

(3) Measures Directly Affecting Exports

(i) Registration and documentation

67. Exporters must complete an export declaration form, mainly for statistical purposes, and submit it to a bank for approval. The forms are freely provided by banks to their clients; a fee, which varies from one bank to another, is charged for non-clients. Once approved, the form is presented, together with the consignment, at the point of exit. Registration and clearance of goods for export normally takes about two days.

(ii) Export taxes, charges and levies

68. According to the authorities, Zambia has no export taxes, charges and levies. A tax collected on exports of gemstones was abolished in 1993.

(iii) Export prohibitions, controls and licensing

69. Zambia prohibits exports of sawn timber, logs, charcoal, game trophies, rhino horn and elephant tusks. Some of these products are prohibited from export for environmental reasons or under international conventions to which Zambia is a signatory (e.g. the Convention on International Trade in Endangered Species of Fauna and Flora (CITES). Scrap copper from Zambia Consolidated Copper Mines (ZCCM) is exportable only by ZCCM, although any company may export scrap, including of copper, from sources other than ZCCM. Prior to export, scrap metal must be inspected and valued, in order, according to the authorities, to prevent theft of copper and its products. Depending on the level of national food reserves, exports of maize, which is the staple food in Zambia, are banned from time to time for food-security reasons; this was the case from August 1995 to April 1996.

70. No licenses are required to export goods from Zambia.

(iv) Export quotas and voluntary restraints

71. Except for prohibited goods, the authorities are not aware of any retention requirements or restrictive practices operating on exports from Zambia.

(v) Export subsidies

72. According to the authorities, Zambia does not subsidize any of its exports of goods or services.

(vi) Duty and tax concessions

73. Exporters are entitled to a duty drawback on inputs used for export production. Goods stored in bonded warehouses or manufactured under bond are normally exempt from customs duties and taxes if they are to be exported. In addition, under the 1993 Investment Act, a concessional income tax of 15 per cent, compared to the standard rate of 35 per cent, is granted to non-traditional exporters

who hold an investment licence.[22] These exporters are also exempted from customs duty and VAT on imports of machinery and equipment. Non-traditional exports and copper and cobalt sold by ZCCM are zero-rated for purposes of VAT refunds, and exporters of zero-rated products qualify for VAT drawback for all imported inputs incorporated in their exports (section 2(iii)(d)).[23]

74. Tariff refunds take about three months to be processed and paid; claims are generally approved within a month (provided documentation is available) by the Ministry of Finance and on the recommendation of the ZRA. Since 1995, the drawback system has been under review to correct delays related to refunds. In consequence, a group of Customs and Excise officers has been trained to deal with the system. The drawback scheme has been extended to third-party exporters in cases where the inputs are not directly imported by the producers/exporters; claims can be made by either importers of the inputs or exporters.

75. A change was also introduced in 1995 to allow the conversion of drawbacks to credits (deposits) against future import tax liabilities; the purpose of the inputs must be indicated on the import declaration form. Also, exporters are no longer required to obtain proof of export receipt from the country of destination; official proof from Zambia (e.g. customs documentation) is deemed to be sufficient.

(vii) Export finance, promotion and assistance

76. The Export Board of Zambia (EBZ) is a statutory government agency established in 1985 to promote, develop and encourage the export of non-traditional goods from Zambia.[24] The EBZ is mostly financed by the Government; its members pay an annual membership fee amounting to US$50 and contribute to costs of promotional activities, including trade fairs. The Board also executes projects financed by foreign funds relating to its activities.

77. Since 1993, under a Lomé IV Convention programme, the European Union has financed an Export Development Programme intended to address Zambian production and export market constraints for "non-traditional goods", such as horticultural and floricultural products, tobacco, coffee, textile and cotton. The programme is financed through the Export Development Fund (EDF) and consists of export finance facilities (ECU 5 million) and technical assistance (ECU 5 million) over a period of five years. Its main objective is to double export revenues from the above products.

78. Eligibility for the EDF is based on export performance (proven export records) rather than on production. The EDF operates as an export revolving fund. Credits are granted in convertible currencies and are used to finance pre- and post-shipment, air freight costs, seasonal and production inputs and minor capital items. An interest rate equal to the LIBOR plus half a percentage point is

[22]"Non-traditional exporters" means exporters of goods other than raw copper, lead, zinc or cobalt. Investment licences are granted by the Investment Centre for all activities, excluding banking, insurance, mining and quarrying. Mining and quarrying licences are granted by the Ministry of Mines; insurance and banking licences are granted by the Ministry of Finance.

[23]Before April 1996, ZCCM copper and cobalt sales were exempt from VAT. Therefore, their sales did not qualify for refunds of VAT on goods and services supplied to the company.

[24]For its day-to-day operations, EMZ comes under the authority of the Ministry of Commerce, Trade and Industry.

charged. Repayments, in convertible currencies, are due after a period not exceeding 12 months. According to the authorities, the level of loan recovery has generally been good.

79. In 1994, the World Bank provided Zambia with short-term credit facilities for pre-export preparation and handling of gemstones; human resource development to facilitate export of processed timber and boost the sector's contribution to foreign exchange earnings and employment creation; promotion of Zambia's products in regional markets; and the publication of the Zambia Export Directory.

(viii) Free and industrial zones

80. Zambia does not have any export-processing or industrial zones. However, the terms of reference for their establishment have been drawn up under the EU/World Bank funded Cross-Border Initiative (CBI). A working committee chaired by the Export Board of Zambia has been formed and a feasibility study is under way.

(ix) Other provisions

81. Exporters are free to contract insurance and export credit guarantees with foreign companies. There are no price controls or regulations on exports. Reflecting the completion of the abolition of exchange controls in 1994, all exporters have a 100 per cent foreign-exchange retention right. ZCCM, which contributes nearly 90 per cent of Zambia's foreign exchange earnings, was limited to a retention rate of 55 per cent of its receipts until April 1996, at which time its retention right became 100 per cent, in accord with all other exporters (Chapter I(Annex I.1)).

82. Export boards which had monopolies in the export of a number of products, including cotton, coffees, tobacco and metals, have had their special trading privileges eliminated since 1992 (section (4)(iii)(c)). At present ZCCM is the only enterprise that retains an export monopoly in the area of goods, for scrap metal; Zambia Electricity Supply Corporation and Zambia Telecommunications retain certain monopoly rights in the area of services (Chapter IV (5)). The authorities are not aware of any cartels or other restrictive practices operating on exports from Zambia.

(4) Measures Affecting Production and Trade

(i) Subsidies and other concessions

83. All direct product and consumer subsidies were eliminated in 1991. In addition, the 1996 Budget removed the special incentives, including exemption from tariffs and taxes, provided under the 1993 Investment Act to non-traditional exports, agriculture, import-substitution industries with a significant utilization of local raw materials and to investment in rural areas. However, some incentives are still provided under the Investment and the Mines and Minerals Acts; e.g. income received from farming and export of non-traditional products is taxed at a rate of 15 per cent instead of the standard rate of 35 per cent (section (3)(vi)).

84. Under the Investment Act, capital expenditure allowances, deductible in ascertaining profits, are permitted, inter alia, for farm improvement; growing tea, coffee, banana plants, citrus fruit trees or other similar plants or trees; and farm works. In addition, there are deductible allowance for "wear and tear" of buildings and equipment in the farming, manufacturing and tourism sectors. Dividends

from farming are exempt from income tax for the first five years of operation. Under the Mines and Minerals Act, any investment, including prospecting, by a holder of a mining right can be deducted from income tax, and imports of productive mining equipment are exempt from import duties. The 1996 Finance Act reduced the rate of company tax from 35 to 30 per cent for companies listed on the Lusaka Stock Exchange, and abolished the super tax on profits made by large-scale mining enterprises. The 1995 Budget allowed all producers to reclaim the sales tax and VAT paid on electricity.

85. Under the Emergency Seed Distribution Programme, the Government has assisted farm families adversely affected by drought for the last four seasons. The Programme's budget, estimated at US$4.5 million, is largely financed by foreign donors. Launched in 1995, the Agricultural Sector Investment Programme (ASIP), financed by the World Band (US$350 million), is to provide loans to farmers (Chapter IV(2)(ii)). The Government also has plans to improve farmers' financial position in general, and small farmers' access to credit and other financial services (Chapter IV(5)).

(ii) Assistance to adjustment, research and development

86. Zambia has sought to improve the provision of credit to small-scale industries through the creation of specialized banks, which nevertheless charge market rates. The Small Scale Industry Development Organization (SIDO) created in 1981 has been strengthened to provide technical and management training, counselling, marketing services, consultancy and credit on a "single window" basis. Preferential treatment is given to small-scale enterprises in government and parastatal procurement (section (2)(xi)).

87. Zambia has a Technology Development Advisory Unit (TDAU) based at the University of Zambia, which the Government has undertaken to strengthen. The Unit provides training information and guidance, and acts as a bridge to research and development centres. The TDAU also provides design and testing services, and advice to small-scale industries in selecting and procuring plant, equipment and spare parts. Research activities have been undertaken, inter alia, in livestock and pest control, tree improvement, water resources, building industry and food technology.

88. Zambia also places emphasis on rural development; under the Investment Act, a rural enterprise is allowed an income tax reduction of one seventh for the first five years of its activity.

(iii) Competition policy

(a) Legislation

89. The Competition and Fair Trading Act was enacted in 1994 and came into force in February 1995. The Act is aimed at promoting economic growth by ensuring the best use of resources and by safeguarding consumer welfare. It introduced a code of conduct for all business entities and prohibits anti-competitive trade practices, including the formation of cartels and collusive tendering.[25] In consequence, a cartel that held a monopoly in trading oil was dismantled.

90. The Act provides for an implementing agency, the Zambia Competition Commission, which will be established before the end of 1996. The Commission will monitor restrictive business practices

[25]Under the Act, anti-competitive practices means agreements, decisions and concerted practices to prevent, restrict or distort competition to an appreciable extent.

by private firms and act as an advocate for competition policy in the elaboration of other government policies such as privatization. Under the Act, the Commission will also keep the structure of production of goods and services in Zambia under review and determine where a concentration of economic power exists whose detrimental impact on the economy outweighs the efficiency advantages, if any. The Commission will consist of:

(a) a representative from each of the Ministries responsible for finance, and commerce and industry;
(b) a representative of the Zambia Bureau of Standards;
(c) two representatives from the Zambia Council of Commerce and Industry, each representing different sections of that body;
(d) a representative of the Law Association of Zambia;
(e) a representative of the Zambia Federation of Employers;
(f) a representative of the Zambia Congress of Trade Unions;
(g) two persons representing consumer interests and appointed by the Minister;
(h) a representative of the Engineering Institution of Zambia;
(i) a representative of the accounting profession; and
(j) the Economics Association of Zambia.

91. All members will be nominated by their respective institutions and appointed by the Minster of Trade. A Chairman and a Vice-chairman will be elected from among the members of the Commission, excluding those appointed under items (a) and (b). An Executive Director (a Chief Executive Officer) will be appointed by the Commission and will be responsible for its administration. The Commission will also appoint a Secretary and such other staff as it considers necessary for the performance of its functions.

92. The Commission may regulate its procedures. The Executive Director or any officer may seek a court warrant granting authority to enter any premises or access to, or production of, any documents or accounts if he has reasonable cause to believe that an offence has been, or is being, committed under the Competition and Fair Trading Act. Infringers are liable to a fine not exceeding K 10 million or imprisonment for a term not exceeding five years, or both.

(b) Price regulation and controls

93. Zambia maintains administered prices for petroleum products, electricity and transportation services. In 1992, price regulations and controls were abolished for all other goods and services, including staple foods, pharmaceuticals, telecommunications, and basic building supplies, such as cement.

(c) Privatization

94. Reflecting Zambia's ongoing liberalization efforts, State participation in productive and trade activities has declined. Marketing boards for agricultural products and branches of activities (including imports and exports) over which State enterprises had exercised monopoly power have been eliminated. However, according to the authorities, the Zambia Consolidated Copper Mines (ZCCM), the Zambia Electricity Supply Corporation (ZESCO), the Zambia National Oil Company, and the Zambia Telecommunications Ltd. (ZAMTEL) still hold monopolies or exercise rights in their respective fields of activities. The authorities are in the process of examining modalities for the privatization of ZCCM (Chapter IV(3)).

95. Zambia has plans to privatize almost all State-owned enterprises through the Zambia Privatization Agency (ZPA) (Tables AIII.2, 3 and 4).[26] Once targeted for privatization, enterprises are valued by private (foreign or Zambia) agents. Shares can be sold to Zambians and to foreigners; Zambians are allowed to defer payment.[27] The Finance Minister may, on the advice of the National Assembly, retain a part of a privatized enterprise and convert it into a "golden share"; such a share awards the Government special rights to intervene, in the national interest, in the operation of a firm. A certain percentage of shares is reserved for employees upon consultation.

96. Provided that the enterprise is sold for its market value, the ZPA may employ the following modes of privatization:

(a) public offering of shares;
(b) private sales through negotiated or competitive bids;
(c) offer of additional shares to reduce Government share holding;
(d) sale of the assets and business;
(e) reorganization of the enterprise before its partial or whole sale;
(f) management or employee buyouts;
(g) lease and management contracts; or
(h) other methods deemed appropriate.

97. According to the authorities, tendering has been the most frequently used privatization procedure. By the end of February 1996, the total working portfolio of the ZPA consisted of 208 enterprises. The privatization of 113 of these enterprises has been completed; about 67 per cent of privatized enterprises have been sold to Zambians. Under the Privatization Act, proceeds from sales of shares and assets are paid into a Privatization Revenue Account held at the Bank of Zambia. The proceeds, which amounted to K 29 billion by end-February 1996, are used, inter alia, to improve the efficiency and performance of public enterprises earmarked for privatization.

98. According to the authorities, and in line with privatization, the Government will refrain from making new investments in productive activities. Rather, it will invest in infrastructure, which has received about 75 per cent of the Government's capital expenditure since 1990; extension services in agriculture; and in the social sector.

(iv) Protection of intellectual property rights

99. The intellectual property legislation of Zambia comprises:

(a) the 1957 Patent Act which covers all fields of technology and provides for a patent term of 16 years with the possibility of a five-year extension;

[26] Established under the 1992 Privatization Act, the ZPA plans, manages, implements and controls the privatization of State-owned enterprises. The Agency may liquidate State-owned enterprises in accordance with the Companies Act. The ZPA also oversees new public investment.

[27] Foreigners who acquire shares may be entitled to incentives under the Investment Act.

(b) the 1958 Registered Designs Act which provides a five-year term of protection, renewable for two consecutive periods of five years, but is without an opposition procedure;

(c) the 1958 Trade and Merchandise Marks Act (excluding services) which provide for a registration system, the publication of applications, an opposition procedure and a term of protection of seven years, indefinitely renewable for periods of 14 years; and

(d) the 1994 Copyrights and Performance Rights Act which covers literary, music, sound recordings, audio-visual and artistic works, broadcasts, cable and computer programmes.

100. These Acts provide for national treatment for foreigners. However, non-residents must appoint an agent in Zambia to lodge the application on their behalf. Marks may be removed after an uninterrupted period of non-use of five years. There are no specific provisions on well-known marks. Geographical indications, undisclosed information, plant varieties, are not protected. The Government intends to align its legislation with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) before the end of 1996.

101. Upon request of the owner of a right, parallel imports to Zambia can be prevented or banned from commercial distribution. Under the Copyrights and Performance Rights Act, all works deemed to infringe copyrights can be seized by the Controller of Customs at the borders, upon written notification by the owner of the right.[28] Infringements of copyright are actionable in courts at the suit of the owner. Both the Patent and Trade Marks Acts provide for a tribunal (the Patent Tribunal) to hear appeals against decisions of the registrar; appeals against the tribunal's decisions can be made to the High Court.

102. The Zambia Industrial Property Office was established in September 1968, principally to grant and protect industrial property rights and to act against related unfair trading practices. Fees associated with the grant or protection of property rights are payable to the Registrar, with the amount dependent on the case in hand. Payments by local firms, corporations and individuals are set in kwacha; foreigners pay higher fees, denominated in U.S. dollars. Trademarks are the most frequently registered/granted property right (Table III.4). Patents are mostly related to mining and owned by foreigners (mainly from South Africa).

[28]Some goods have recently been seized for infringement, including pirated cassettes.

Table III.4
Industrial property rights in Zambia, 1993-95

	1993	1994	1995
Patents			
Lodged	64	38	43
Renewed	271	265	242
Registered	34	25	43
Lapsed	26	20	56
In force	925	1,195	1,324
Trademarks			
Lodged	460	567	801
Renewed	845	846	666
Registered	193	71	36
Lapsed	673	524	526
In force	20,908	21,324	21,500
Registered designs			
Lodged	11	4	7
Renewed	2	8	5
Registered	2	3	10
Lapsed	0	2	0
In force	40	48	63
ARIPO applications[a]	104	77	56

a ARIPO - African Regional Industrial Property Organization.

Source: Information provided by the Zambian authorities.