

ACP Business Friendly Program | Results Story

ZAMBIA

World Bank led Macro-Level Intervention

Thanks to support provided by the World Bank Group through the ACP Business Friendly Program, **Zambia reformed its investment legal framework**, updating outdated provisions. The reforms help improve transparency, strengthen investor protections, and streamline investor incentives.

The ACP Business-Friendly (BF) Program is an intra-ACP action funded by the European Union and the Organisation of African, Caribbean and Pacific States. The program aims to support business-friendly and inclusive national and regional policies and strengthen productive capacities and value chains.

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Training on International Investment Agreements for ZDA and MCTI staff (September 2023)

THE CHALLENGE

The Zambia Development Agency (ZDA) Act of 2006, which served as the primary legal framework governing investments, exhibited outdated provisions and discretionary measures concerning investment entry, protection and incentives. The investment legal framework lacked clarity on investment entry rules and included excessive discretion on sectors that could be prohibited to investment. Protection guarantees were also limited in scope and not available to all investors. At the international level, Zambia was party to several, older-generation international investment agreements which were unaligned with emerging good practices such as the Investment Protocol of the AfCFTA. These agreements left Zambia without balanced investor protection rights and failed to safeguard the domestic policy space and provide adequate dispute resolution and prevention mechanisms.

THE SOLUTION

To support Zambia in reforming its investment legal framework, the World Bank (WB) team conducted a comprehensive diagnostic to identify constraints within the private sector that impede broader investor participation in Zambia. The findings were shared with the Zambia Development Agency (ZDA) and the Ministry of Commerce, Trade and Industry (MCTI), active participants in the ongoing reform initiatives. Following receipt of the diagnostic results, Zambia pursued the reform of its legal framework in three key areas. Firstly, it bolstered transparency within the investment policy and framework, enhancing clarity for prospective investors. This included the preparation and publishing a negative list of sectors and activities restricted for FDI, thereby reducing discretionary inclusion of new restrictions. The nation augmented investor protections making core guarantees available to all investors. Lastly, Zambia rationalized its incentive structure by providing explicit guidelines aimed at reducing incentives.

With regard to the international landscape, Zambia finalized its model bilateral investment treaty, which strengthens guarantees available to investors, alongside ensuring sufficient policy space for the government. The model also includes provisions on establishing a dispute prevention mechanism and updated dispute settlement provisions.

The reform initiative yielded several reform lessons. A key takeaway is the imperative of engaging with senior officials who actively advocate for reform within their respective agencies and among other stakeholders. Identifying high-level champions within the MCTI and the ZDA facilitated effective engagement during periods of governmental receptivity. Similarly, maintaining flexibility was crucial, particularly in navigating disruptions caused by the COVID-19 pandemic and changes in leadership within partner organizations.

EARLY RESULTS

While it is still early to measure the impact of the reform on investment legal framework in terms of new investment and reinvestment, the changes furnished Zambia with crucial insights to proactively modernize its legal framework. In particular, the new generation model bilateral investment treaty aims to establish a more equitable balance between the interests of investors and governmental entities. Moreover, Zambia is better prepared to implement further reforms, especially those related to commitments under the World Trade Organization's (WTO) investment facilitation initiatives and the AfCFTA Investment Protocol.

FUTURE OUTLOOK

To sustain reform momentum and ensure effective implementation of the new law, ongoing capacity-building efforts are imperative, particularly in light of staff turnovers within government agencies. Moreover, continued support to ensure alignment of Zambia's investment framework with the AfCFTA regional investment protocol will be prioritized.

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