

THE AFRICAN PARLIAMENTARY INDEX (API) 2012



SUMMARY COUNTRY REPORT
NATIONAL ASSEMBLY OF ZAMBIA

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Acronyms and Abbreviations

| | |
|-------|---|
| AG | Attorney General |
| API | African Parliamentary Index |
| APNAC | African Parliamentarians Network Against Corruption |
| APSP | Africa Parliamentary Strengthening Programme |
| CDF | Constituency Development Fund |
| CIDA | Canadian International Development Agency |
| CSO | Civil Society Organization |
| ICA | Independent Country Assessor |
| SOs | Standing Orders |
| MPSAs | Ministries, Provinces & Spending Agencies |
| MoF | Ministry of Finance |
| MP | Members of Parliament |
| MTEF | Medium Term Expenditure Framework |
| NA | Not Applicable |
| NAZ | National Assembly of Zambia |
| NGO | Non-Governmental Organization |
| PAC | Public Accounts Committee |
| PRP | Parliamentary Reform Programme |
| PC | Parliamentary Centre |
| SOE | State Owned Enterprises |

Executive Summary

The Africa Parliamentary Strengthening Program (APSP) for Budget Oversight is a five year capacity strengthening programme funded by the Canadian International Development Agency, CIDA, and implemented by the Africa Programme of the Parliamentary Centre (PC). The APSP works with partner parliaments to develop and implement strategies that strengthen parliaments' effectiveness and accountability in the budget process. The core program objective is to improve poverty reduction in select African countries of Benin, Ghana, Kenya, Senegal, Tanzania, Uganda and Zambia by focusing on the role of parliament in the budget process.

The Parliamentary Centre has designed and developed the African Parliamentary Index (API), a standard and simplified system for assessing the performance of selected Parliaments on budget oversight in the respective countries. The API process is a self-assessment exercise for Parliaments that is facilitated by Independent Country Assessors (ICAs) and delivered in a participatory workshop format to derive a series of variables and combined into an index to measure cross-country variation in legislative budgeting. The tool covers six core areas; Representation; Legislation; Oversight functions; Financial Scrutiny; Institutional Capacity and Institutional Integrity.

The Zambian Parliament is one of the oldest continuously functioning legislatures in the Southern African Sub-region. This Parliament's responsibilities include making laws, approving proposals for taxation and public expenditure, and keeping the work of the Government under scrutiny and review.

The institution has undergone significant reforms since 2002 under the Parliamentary Reform Programme complemented by other programmes including the APSP which have worked to enhance the performance of Parliament and the effectiveness of its oversight function through strategic capacity building activities like the API. The API Country self-assessment was done through a workshop composed of ten Members of Parliament, ten Parliamentary staff and in attendance were four PC staff (Appendix 1). An independent Country Assessor facilitated the process by guiding and summing the scores and analysing the findings (Appendix 2) for the country report. Furthermore, a validation workshop was held with civil society organisations to review and evaluate the self-assessment made by the Parliamentary group. The self-assessment process shows that Parliament has varying capacities in the different areas with

financial being the highest and transparency and integrity being the least. The overall Country API score is 64.82 percent which is indicative that this is an evolving institution that still needs significant capacity building in the assessed areas of performance.

Further analysis of the eleven sub elements shows the variations with the area of Budget Act and Budget Office having the highest computed weight at 388 while the Public Accounts Committee area weighed the least at 116 indicating that the former needs more attention especially that there is no such Act or office in place while the later in view of the existence of the PAC means that less attention is needed in that area except for enhancing its capacity. Parliament was assessed as having good capacity in the areas of the work of the PAC, the provisioning of financial and material resources, the levels of transparency and providing budgetary oversight. It was assessed as moderate in the areas of the audit function, human resources capacity and accessibility of the institution. The areas of legal mandate and budget review and hearing were scored as low moderates requiring significant attention.

Several recommendations were made by the participants at the workshop bordering on legal as well as administrative reforms. These are summarized to include the de-politicization of constituency offices; increased public awareness on the role of MPs and the budget process through strategic activities such as exhibitions and media coverage of debates; And reformation of the legal framework to provide for a Budget Act and establishment of a budget office. The process and procedures for the budget need to be revised to enhance the role of Parliament especially in its interaction with the Executive and public. It was further recommended that the Auditor General be made an officer of Parliament and be sufficiently resourced to enhance the audit function. It is also recommended that certain practices such as the Chairmanship of the PAC and CDF utilization must be legislated to avoid abuse. Parliament was cited to be in need of human resources and enhanced capacity in budget analysis skills. The MPs must have a peer mechanism on their conduct and also establish measures for curbing corrupt practices and upholding the integrity of the body.

CHAPTER 1: INTRODUCTION

1.0 Overview of the Programme

The Africa Parliamentary Strengthening Program (APSP) for Budget Oversight is a five-year capacity strengthening programme funded by the Canadian International Development Agency, CIDA, and implemented by the Africa Programmes of the Parliamentary Centre (PC). The APSP works with partner parliaments to develop and implement strategies that strengthen parliaments' effectiveness and accountability in the budget process. The core program objective is to improve poverty reduction in select African countries of Benin, Ghana, Kenya, Senegal, Tanzania, Uganda and Zambia by focusing on the role of parliament in the budget process.

The Parliamentary Centre has designed and developed the African Parliamentary Index (API), a tool kit to show the level of engagement of select African Parliaments in the budget process in their respective countries. The API uses indicators that are derived from a series of variables and combined into an index to measure cross-country variation in legislative budgeting.

1.1 The Legislature

The Zambian Parliament is one of the oldest continuously functioning legislatures in the Southern African Sub-region. The current Parliament is the twenty third session of sitting since independence in 1964. The last presidential and general elections that ushered in this parliament were held in September 2011 with four political parties and two independents members being voted to the assembly.

According to Article 62 of the Constitution of Zambia, "Parliament" is a composite body consisting of the President and the National Assembly. The Republican President, through the powers conferred by the Constitution, calls Parliament to meet, orders elections to take place and gives final approval to laws (the Presidential Assent) but does not otherwise play an active role in parliamentary work. It is the National Assembly, which consists of elected and nominated Members of Parliament that carries out a wide range of important public responsibilities. These responsibilities include making laws (Acts of Parliament), approving

proposals for taxation and public expenditure, and keeping the work of the Government under scrutiny and review.

Members of Parliament are elected for a five-year term on the basis of elections at which every adult person aged eighteen (18) years and above and permanently resident in Zambia is entitled to vote.

There are one hundred and fifty parliamentary constituencies where those aspiring to be Members of Parliament stand for elections every five years. The Republican President nominates eight Members. The total number of Members of Parliament is, therefore, one hundred and fifty-eight (158). But since the Speaker of the National Assembly and the Republican President are also Members of Parliament, this brings the total to one hundred and sixty (160).

1.2 Function

Under a parliamentary democracy, Parliament oversees Government administration and subjects its activities to detailed scrutiny on behalf of the electorate. To carry out this important function, Parliament has established parliamentary committees that conduct surveillance on defined areas of Government administration. A parliamentary committee system ensures that the Executive is accountable to Parliament. It enables Parliament to probe into any maladministration and make recommendations for improvement. Parliamentary committees have been in existence in Zambia as far back as the pre-independence era. The committees have undergone growth and procedural changes over the years due to a number of factors such as increased governmental responsibilities and activities. This system brings the legislature face to face with bureaucrats, thus increasing the information available to Parliament on governmental problems.

1.3 Committees

Standing Orders make provision for sessional committees, which are reconstituted at the beginning of each session, to submit reports to the House. Parliamentary sessional

committees are classified into three distinct categories as follows: Housekeeping, General Purpose and Portfolio Committees.

1.3.1 Housekeeping Committees

There are three housekeeping committees at Parliament which deal with matters pertaining to the internal affairs of the institution. The first is the Standing Orders Committee which consists of the Speaker as Chairperson and seven members appointed by the Speaker. The duty of the Committee is to consider all proposals for the amendments of Standing Orders and any petition or recommendations received regarding benefits for the members.

The second housekeeping Committee is that of Privileges, Absences and Support Services consisting of eight members. Its duties include examining and enforcing the code of conduct that guides the behaviour and actions of MPs and also considers all matters connected with the comfort and convenience of members around and within the precincts of Parliament.

Finally, there is the Parliamentary Reforms and Modernisation Committee consisting of ten members, constituted to examine and propose reforms to the powers, procedures, practices, organisation, and facilities of the National Assembly.

1.3.2 General Purpose Committees

The General Purposes Committees are committees that oversee the national government estimates, fiscal oversight, delegated legislation and government assurances. The Public Accounts Committee is the primary one which consists of nine members appointed by the National Assembly at the commencement of every session. The Committee examines the accounts showing the appropriation of sums granted by the National Assembly to meet the public expenditure, the Report of the Auditor-General on these accounts and such other accounts. The Committee also exercises the powers conferred on it under Article 117(5) of the Constitution of the Republic of Zambia.

The Committee on Government Assurances consists of eight members and it scrutinises the assurances, promises and undertakings and other matters related to the foregoing given by Ministers from time to time on the floor of the House.

The Committee on Delegated Legislation consists of eight members. It scrutinises and reports to the House, through the Speaker, whether the powers to make orders, regulations, rules, sub-rules, and by-laws delegated by Parliament are being properly exercised by any person or authority within such delegation.

The last of the three is the Committee on Estimates which consists of nine members and is mandated to examine the estimates, the Excess Expenditure Appropriation Bill and the accounts showing the appropriation of the sums granted by the National Assembly to Government ministries and departments: to report on the economies, improvement in organisations, efficiency or administrative reform consistent with the policy underlying the estimates, and examine whether the money is well laid out within the limits of the policy implied in the estimates, to suggest alternative policies in order to bring about efficiency and economy in administration; and to make recommendations in a report to the House for consideration and implementation in future budgets.

1.3.3 Portfolio Committees

Portfolio Committees relate as far as possible to the structure of Government and scrutinise the respective sector portfolios. There are eleven such committees, each consisting of eight members and constituted as follows;

- (i) Committee on Agriculture and Lands
- (ii) Committee on Economic Affairs and Labour
- (iii) Committee on Communications, Transport Works and Supply
- (iv) Committee on Energy Environment and Tourism
- (v) Committee on Health, Community Development and Social Welfare
- (vi) Committee on Information and Broadcasting Services
- (vii) Committee on National Security and Foreign Affairs
- (viii) Committee on Education, Science and Technology
- (ix) Committee on Local Governance, Housing and Chiefs' Affairs
- (x) Committee on Legal Affairs, Governance, Human Rights and Gender Matters
- (xi) Committee on Sport, Youth and Child Affairs

According to the provisions of Standing Order No.131, the Standing Orders Committee in selecting members of committees, must ensure political party/group and gender

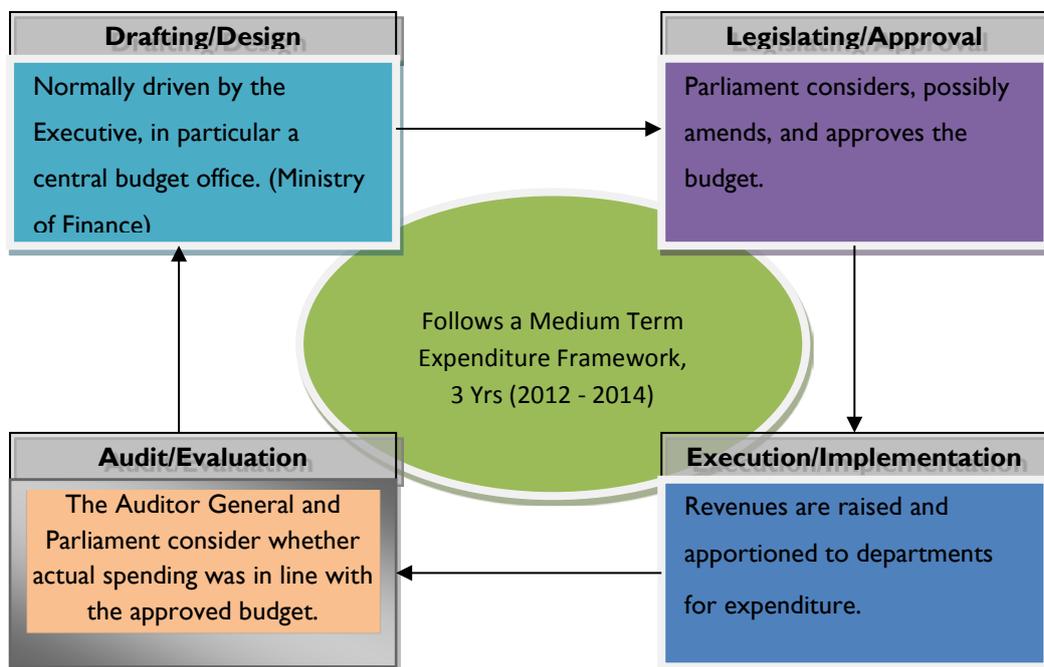
representation and also take into consideration the experience and qualifications of individual members.

Portfolio Committees are guided by procedure of operations in their functions. The procedure involves having a programme of work, summoning of witnesses, ensuring public participation, generating committee and action-taken reports and finally consideration of bills.

1.4 The Budget Process

The budget process is a system of designing, legislating and execution of a fiscal plan that encompasses the realisation of revenues and providing for expenditure over a given period in an approved format. The Zambian budget process has four main stages involving drafting, legislating, execution, and auditing. A graphical illustration of the stages and sequence is depicted in Figure 1 below.

Figure 1: The main stages in the Zambian Budget Process



Stage 1: Drafting

This is the first phase in the budget process. Couched in the Medium Term Expenditure Framework (MTEF), Parliament unlike civil society does not get an opportunity to make comments on the government framework for budget expenditure. In the MTEF arrangement,

the government is required to engage in a lot of consultation with various stakeholders' especially civil society hence the drafting process is now relatively more participatory and inclusive than before.

Stage 2: Legislative

Budgets are allocated taking into account the relevant acts in the constitution. Budgetary allocations are enshrined in article 117 (1) of the Constitution of Zambia. At this stage, the final result still lies heavily with the legislature.

Stage 3: Implementation

At this stage, Parliament concerns itself with the effectiveness and efficiency with which funds are utilised; MPs look out for issues of service delivery, overspending, misuse and misapplication – to areas other than those authorised or planned for.

Stage 4: Auditing

The budgeting system in Zambia is audited by the office of the Auditor General who verifies whether funds have been spent on the authorised items; also verifies any under or over spending, misappropriation, theft; and whether resources have been utilised efficiently or not. Experience has shown that this stage takes a long time and reports from the Auditor General only come out at least a year after the budget period under review.

In the current budget process, there is no periodic monitoring and reporting while the budget is operative; hence taking corrective action during the currency of the budget is not possible. Post-budget period audits are the responsibility of the Public Accounts Committee (PAC). PAC examines historical records for disbursements and budget performance. A substantial part of the supplementary expenditure is often incurred on items and areas other than those which were originally envisaged.

During this period of approximately two weeks all the government ministries led by their Ministers, come to Parliament for mid-year public submission of reports on progress being made in their current budget utilisation and their likely requirements for the following year. Each ministry comes with its top team including the Permanent Secretary and Directors for two or so hours to make presentations and are subject to further scrutiny from the media and the general public.

1.5 Budget Cycle

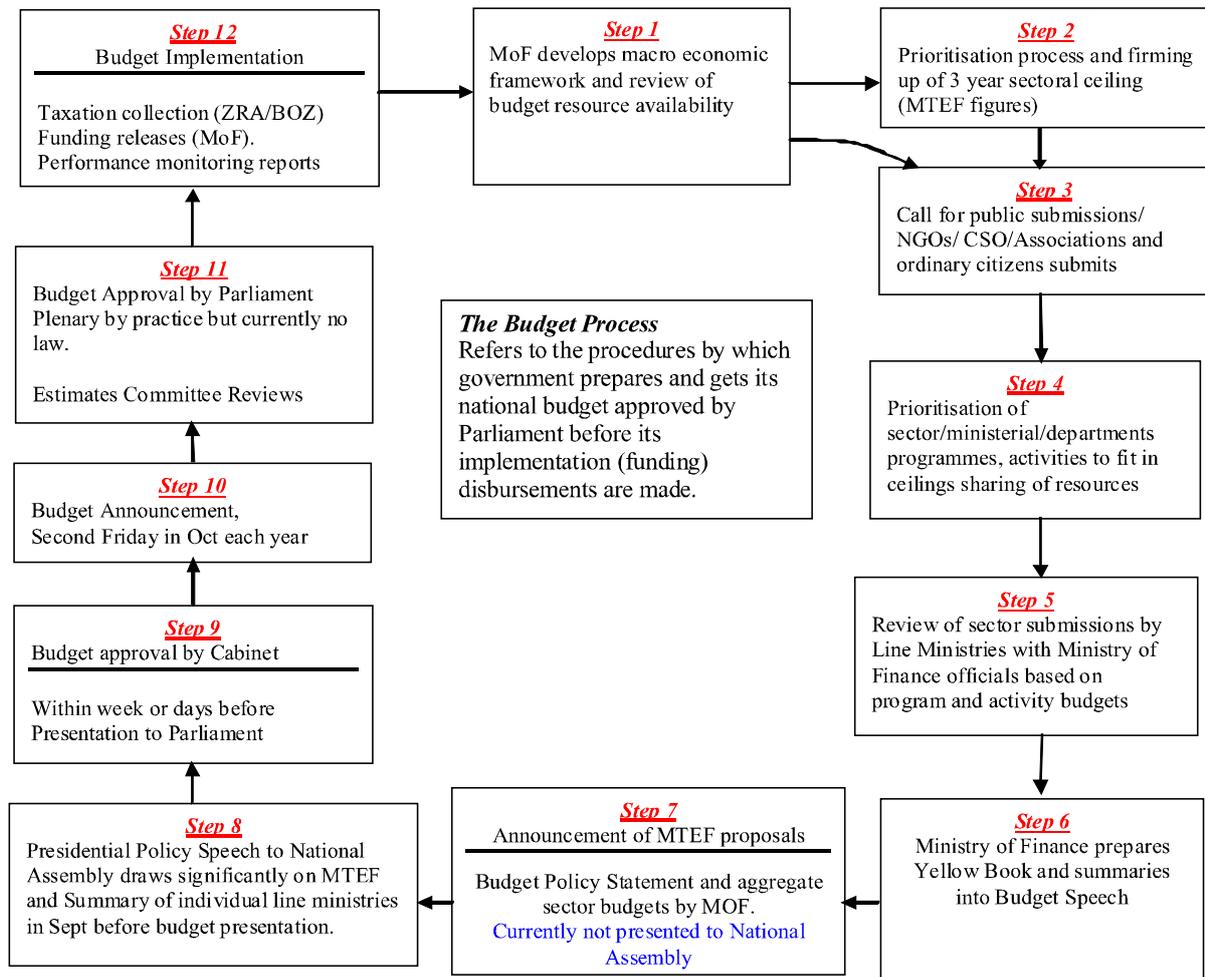
The budget cycle refers to and includes all the processes, procedures and activities by which government builds and prepares the national budget, gets it approved by the Cabinet and finally Parliament, before it is implemented, through collection of revenues and allocation of such revenues to meet expenditures.

Zambia has a “top-down” budgeting approach, where all instructions and authority to allocate is held by the Executive and within Parliament; such instructions are given from the Executive through the Minister of Finance. Although Parliament is supposed to approve, in effect they can hardly influence the determination of the amount of resource which will be allocated either in total or to sectors, ministries or projects. This is constrained by the current legal framework i.e. (Constitution, Standing Orders and Practice).

The role of Parliament in the budget process in Zambia has been seen as ineffectual. The submissions from witnesses especially those representing NGOs, CSOs and professional associations, to Parliament’s Expanded Estimates Committee, have born no positive results after submissions have been presented to Parliament’s plenary. This is due to the absence of any real authority on the part of Parliamentary oversight committees to scrutinise and approve the budget figures.

The current budget cycle in Zambia has some twelve (12) identifiable major steps in its top down approach as illustration in Figure 2. The twelve steps when grouped form the four main stages of the process as illustrated earlier in Figure 1.

Figure 2: Current Budget Cycle - Top-Down Approach



1.6 Legal Framework

The preparation as well as content of the National Budget is normally governed by a legal framework in form of the Constitution, a subsidiary law, usually called the “Budget Act” or some kind of “Fiscal Management Act” and the Standing Orders, which are operative within parliament serve as rules of engagement for members of parliament, when debating the budget.

In the case of Zambia, the issues of public finances are covered in Part X of the current Constitution, Articles 114 - 122 and the economic issues generally are covered in Part IX under the Directive Principles, of the Constitution.

The Public Finances are more specifically guided by the Public Finance Act, 2004 with seven (7) Parts and supported by the Financial Regulations of 2006 issued under the authority of

Section 52 of the Public Finance Act. The Act provides for the following; Management of Public Finances; Control of Public Finances; Surcharges; Control of Statutory Corporations; Audit; and General Provisions.

While it is acknowledged that the current legal framework is somewhat deficient in that it lacks a Budget Act to guide issues of planning generally and annual budgeting in particular, there are otherwise some provisions in the current public finance law, which would address a substantial number of the challenges and problems encountered in the public accounting and finance areas. The real problem seems to be the failure to fully implement the provisions of the law.

As part of reforms, on August 28, 2009, the President assented to Act No. 20 of 2009 being an Act to amend the Constitution of Zambia passed by Parliament. This changed the budget cycle, to the extent that from then onwards the budget would be announced within ninety (90) days prior to the commencement to the budget in the following year. Hence in 2009 which was the first year for effecting the change, the budget was presented on 9th October, 2009.

Since the initiation of the APSP programme in Zambia and as a result of the findings of the first round of the API, there has been a significant push for the enactment of the Budget bill and the strengthening of Parliament in some areas that were highlighted in the first API country report. These include financial and material support, human resource capacity building, openness to the public and the levels of transparency. The other areas where Parliament has been applauded have been in the areas of openness in the debates which are broadcast on Parliament radio and the ease of access to the house by the media which report extensively on the debates through the print media. This has made Parliament more transparent and subject to more public scrutiny which enhances accountability. This progressive move has been acknowledged by the media through various articles and also by other stakeholders in the evaluation of Parliament as cited in reports by Caritas Zambia, Civil Society for Poverty Reduction, Economics Association of Zambia, Transparency International Zambia and the United Nations Development Programmes among the many others. Although much still remains to be done, the work done so far is indicative of the resolve to expedite the reform process of the institution and make it more effective and efficient in its operations.

CHAPTER 2: OVERVIEW OF THE PURPOSE OF THE AFRICAN PARLIAMENTARY INDEX

2.0 Objectives of the African Parliamentary Index

The main objectives of the API are to assess partner Parliaments against international best practices for budget oversight, present a standard and simplified system for assessing the performance of selected Parliaments on budget oversight, identify priorities and entry points for strengthening partner Parliaments, and stimulate Parliamentary progress towards achieving the goals of the APSP programme.

2.1 Approach and Methodology

The API process is a self-assessment exercise for Parliaments that is facilitated by Independent Country Assessors (ICAs) and delivered in a participatory workshop format. The API self-assessment tool covers six core areas; Representation; Legislation; Oversight functions; Financial scrutiny; Institutional capacity and Institutional integrity. These six core areas encompass some eleven specific elements which are critical in the assessment of the performance of parliament. These eleven are; Accessibility and Outreach, Legal Mandate, The Budget Review and Hearing; Budget Act and Budget Office, Periodic Review of the Budget, Oversight Committee(s), Public Account Committee, Audit Process, Financial and Material Resources, Human Resources; and Transparency and Integrity.

The areas assessed relate to the Parliamentary budget oversight and other core functional areas that directly affect Parliaments' financial oversight roles. The questions are largely qualitative with an overall intention of giving greater clarity in response. The questions require respondents to make their judgments and score each variable or indicator on a six point scale where: 6 - 5 denotes a high level of Parliament's capacity in place; 4 shows a moderate level of capacity; 3 indicates the existence of a basic level of capacity; and 2 - 1 signals a clear need for increasing capacity.

The Zambian assessment was conducted over two days and the exercise was organised in a way that targeted experienced Parliamentarians and staff who are knowledgeable in the operations of Parliamentary business. The self-assessment by Parliament consisted of participants drawn from the main oversight committees of Parliament. The composition of

the self-assessment group included ten (10) MPs from the opposition and governing political parties and ten (10) clerking staff of Parliament. In attendance also were four (4) Parliamentary Centre staff to provide technical backstopping and logistical support (Appendix 1). One female Member of Parliament from Uganda was in attendance as an observer. Gender consideration was taken into account in the selection of participants for both the Legislators and the staff. However, none of the invited female MPs were in attendance due to the fact that Parliament was on recess and many MPs were in their constituencies while the staff had four female participants.

The ICA made presentations on the concept and scope of the API and assisted participants to find a common understanding of the purpose of the exercise and the roles each group member was expected to play in the process.

The primary tool kit along with the questionnaire providing capacity level options and its components were introduced and explained to ensure that participants fully understood the process. Participants discussed the possible score for each indicator before a score was finally assigned. The group discussions also generated evidence by consensus to support the rating and subsequently made recommendations for capacity enhancement of their Parliament.

During the assessment, every indicator under review was clearly described in terms of Parliament's standing as shown in the self-assessment scoring sheet in appendix II. This was done with the express aim of providing a guide to members while assessing and scoring. In areas where the status of issues in Parliament was the same, a relevant score was assigned.

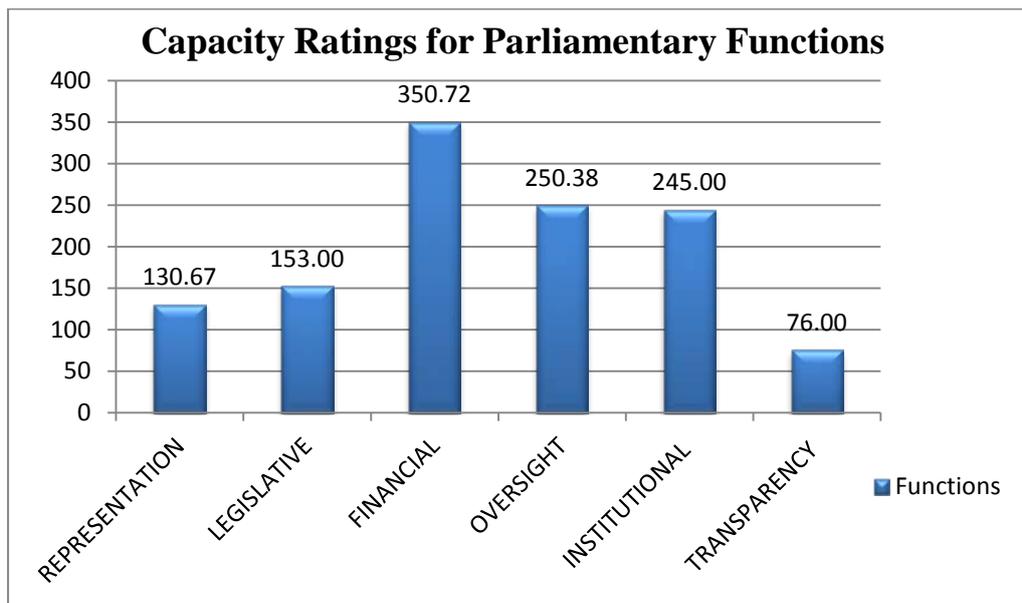
As a validation measure, the API also sought the views of relevant non-governmental organizations and civil society groups about the capacities of Parliament to perform its mandate. Like the self-assessment by Parliament group, they also evaluated indicators and assigned scores. The CSO validation workshop was held after the MPs session and this was composed of 9 representatives of civil society organizations which have a well-established working relationship and understanding of Parliament. The validation exercise was facilitated by the ICA and in attendance were 4 members of Parliament, 4 Clerking staff and 4 Parliamentary Centre staff sitting in as observers. The CSO validation exercise was done for the purpose of generating complementary insights and provides credible feedback on Parliament's capacity for effective budget oversight from informed representatives of key civil society groups. It is anticipated that this component of the API will be a critical basis for CSO advocacy and lobbying for Parliamentary reforms.

CHAPTER 3: ANALYSIS AND PRESENTATION OF RESULTS

3.0 Analysis and Presentation of Results

The self-assessment workshop was held to discuss, evaluate and deduce evidence on the performance of the National Assembly of Zambia (NAZ). The resultant findings are the outcomes derived by consensus from the participants and are presented herein as submitted in Appendix 3. These were analysed to get detailed understanding of this Parliament and create the basis for future interventions. Figure 3 below shows the capacity rating for the six function areas assessed. The Chart shows that Parliament has varying capacities in the different areas with financial being the highest and transparency and integrity being the least. The overall Country API score is 64.82 percent which is indicative that this is an evolving institution that still needs significant capacity building in the assessed areas of performance.

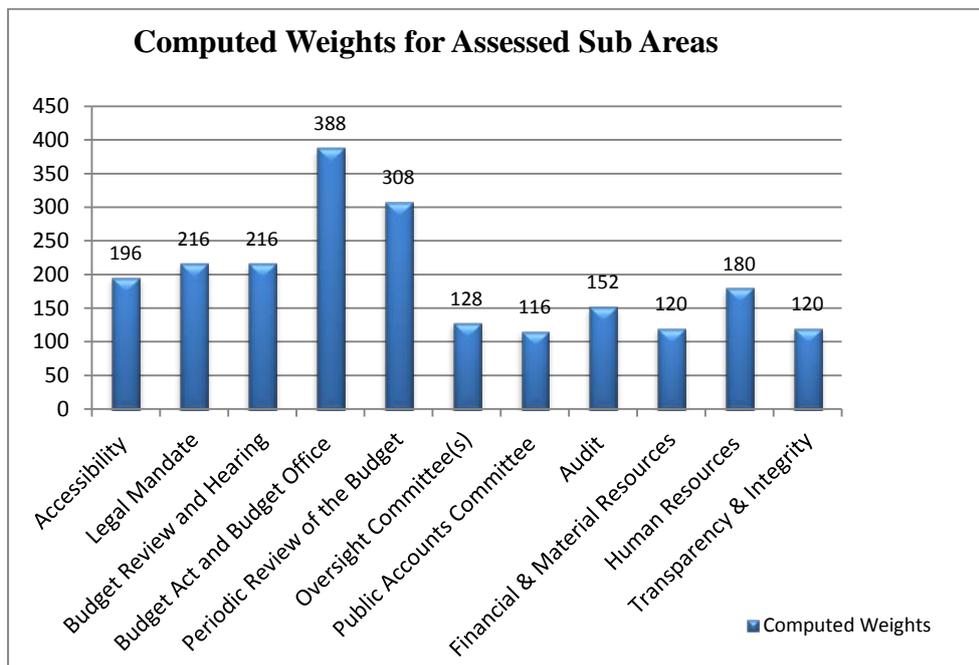
Figure 3: Capacity Ratings for Parliamentary Functions



The six function areas are further analysed in detail by assessing the eleven elements or sub functions to ascertain the performance of Parliament in respect of each sub area. The scored results are reflected in Figure 4, which clearly shows the variations with area of Budget Act and Budget Office having the highest computed weight at 388 while the Public Accounts Committee area weighed the least at 116 indicating that the former needs more attention especially that there is no such Act or office in place while the latter in view of the existence of the PAC means that less attention is needed in that area unless only for enhancing its capacity. Based on the scores, the Parliament was assessed as having good capacity in the

areas of the work of the PAC, the provisioning of financial and material resources, the levels of transparency and providing budgetary oversight. It was assessed as moderate in the areas of the audit function, human resources capacity and accessibility of the institution. The areas of legal mandate and budget review and hearing were scored as low moderates therefore showing lower capacity and hence requiring significant attention. As for the other areas of Budget Act and Budget Office, and Periodic review of the budget, there is a clear need for attention as these are not in place within the current legal framework.

Figure 4: Computed Weights for Assessed Sub Areas



3.1 Representation

Representation is the embodiment of a democratic participatory system as it refers to the characteristics of a democratic parliament which ensures that it is socially and politically representative of the diversity of the people and ensures equal opportunity and protection for all its members. The API critical elements of representation are accessibility and outreach.

3.1.1 Accessibility and Outreach

Accessibility in this process refers to the involvement of the public, including associations and movements of civil society in the work of parliament. In addressing the Representation function with focus on accessibility and outreach, the workshop consensus was that

Parliament has become more open to the public in its operations. This is evidenced by the opening of the media centre to the public, relaxed dress code and the public broadcast of Parliamentary business which is accessible by all political parties. The outreach has also been greatly enhanced through the public research and international relations unit and the invitation of civil society organisations to make submissions to different committees. The use of dissemination mechanisms including the constituency offices, availing of members' handbooks, reports, time table of committee engagements and the Parliamentary website have all been cited as supportive of the representation function.

Despite all the achievements, the downside has been is the limited involvement of Parliament in the budget process especially the formulation stages. The only time that the public hears of MPs involvement in the budget process is during the post-presentation stage when the budget is being passed and later when the Auditor General's report is table for consideration. This is reflective in the low capacity score for this aspect of representation as shown in Appendix II in the questions and respective scores that were discussed during the workshops.

3.2 The Legislative Function

The core function of parliament is to make new laws and change or improve old ones. This emanates from its legal mandates as the legislative arm of the democratic governance system. Zambia is no exception and has since independence upheld this legislative responsibility.

3.2.1 Legal Mandate

The legal mandate refers to enabling instruments from which parliament derives its powers. In assessing the legislative function, the evidence shows that the current laws (Constitution) adequately provides for the budget process. The Legislature has powers to amend the budget and there are opportunities for the public to be involved in the legislative processes. The law as well as Parliamentary provisions have some mechanisms for tracking legislation. The above average score for this function shows that there is sufficient capacity for Parliament to engage meaningfully on the budget process. The legal mandate is a subject of debate in the national constitution review process that is currently being undertaken to ensure a people driven constitution for the future. The submissions so far are calling for enhanced parliamentary legal mandate and redefine its role especially in budget oversight.

3.3 Financial Function

The legislature has a financial function which gives it the responsibility to control the financial resources of the State as well as disburse such resources i.e. the power to approve taxes and determine how these taxes are expended. In assessing this function, the API focuses on the aspects of the Budget Review and Hearing, Budget Act and Budget Office; and Periodic Review of the Budget.

3.3.1 The Budget Review and Hearing

The process of budget review and hearing refers to the legislative scrutiny of the Government's budget proposals in committees and through debates on the floor of the House to the passage of the Appropriations Act. In the current budget process, Parliament is given three months to consider the Budget; that is to receive submissions and present their report to the House. However, the system has established under the Standing Orders the Estimates Committee charged with the responsibility of reviewing the Budget after its presentation. The public and the Executive make presentations before this committee where evidence on the budget is gathered to help with budget review. Though this is the practice, there is no documented process for citizen participation in the Budget process. With all the public evidence and input received by Parliament, the legislature can amend the Budget through variations but they cannot increase the Budget lines. They can however reject and refer the budget back to the Executive for revision. Evidence shows that some binding amendments have been passed regarding the spending and revenue proposals. However, the Appropriation Act is seen to be too summarized to ensure clarity and detail of the provisions. This needs to be revised to make the work of the MPs much more effective in this area.

3.3.2 Budget Act and Budget Office

The Budget Act refers to the existence of a Law or set of Laws that define the roles of all actors in the budget process, defines precisely the budget calendar and in addition prescribes an office in parliament charged with the responsibility of providing parliament with informed analysis of budget proposals.

The Zambia Constitution does not have a Budget Act that clearly defines a role for the Legislature in the budget process. This means that there is no Budget Office established to assist Parliament to undertake a thorough review of the draft or approved budget. There is

general consideration of the budget through committees including the budget estimates for Defence and Intelligence Services which is given full disclosure on the budget estimates. This area is one that needs critical review and attention to enhance budget oversight.

3.3.3 Periodic Review of the Budget

The periodic review of the budget is an evaluation process that involves the analytic reviews undertaken by government during the course of the financial year which are reported to parliament in most countries. However, in Zambia, the Executive undertakes its own periodic budget reviews but these are not submitted to Parliament for consideration or approval. Parliament does not undertake its own independent budget reviews. The lack of periodic reviews has made it difficult for Parliament to timely track the execution of the budget and hence the high incidence of supplementary requests that are tabled long after the expenditure has been made. This renders the budget oversight role of parliament questionable.

3.4 The Oversight Function

The oversight function is most important as it refers to parliamentary review, monitoring and supervision of government and public agencies including the implementation of policy and legislation to ensure public policy reflects and meets citizens' needs and also that agreed policies are properly implemented and delivered to target citizens. In assessing this function, the API focuses on oversight Committees especially the Public Accounts and also the assessment of the audit responsibility.

3.4.1 Oversight Committee(s)

The oversight function refers to a parliamentary committee that is tasked to scrutinize implementation of the budget across government departments. Often these are permanent committees like the budget or finance committee which corresponds to the Ministry of Finance, which both authorizes the budget bill and scrutinizes reports on its implementation on the one hand and public accounts committee that scrutinizes the budget ex-post. The Zambian budget oversight committees are Committee on Estimates, Public Accounts Committee and Expanded Committee on Estimates. These provide oversight over all sectors only to a given extent. A Committee cannot ordinarily delve into investigating budgetary issues due to practical challenges such as the requirement of an audit report before any

investigations can be instituted. This is so because the Office of the Auditor General is independent from Parliament. However, the Executive provides information when requested through the Parliamentary Business under the office of the Vice President which ensures that various Government Ministries and Departments promptly attend to Parliamentary requests. Standing Orders make provision for presentation of Action taken reports to be provided within 60 days from the day they are adopted in the House.

Evidence shows that the committees have been sufficiently resourced in the last four years to enable them complete their mandates without difficult. Additionally opposition parties play an effective role in the Oversight Committees. Standing orders and established practice provide that committees will be balanced on the basis of among other things, political parties' representation in the House. This has enhanced the voice of the minority parties. Successive committees have been applauded for the work done in highlighting Executive excesses.

3.4.2 Public Accounts Committee (PAC)

The PAC is one of the oversight committees of Parliament that scrutinizes the budget after implementation. Audited government accounts and financial statements constitute the main raw material for the work of the Public Accounts Committee.

The Zambian Legislature has a Public Accounts Committee that examines the expenditures of Government. This PAC is chaired by a member of an opposition party as a practice in Zambia. The PAC has power to subpoena witnesses and documents for all users of public funds including Ministers and this is backed by law as provided in Standing Orders and the Parliamentary Powers and Privileges Act, CAP 12 of the Laws of Zambia. This instrument provides for proceedings to be held in public except for matters bordering on national security. PAC reviews all standard audit reports in a timely manner while performance Audit Reports are sent to relevant portfolio committees.

The PAC has a specific mandate under the standing orders of Parliament and as such cannot initiate an investigation into any matter of public interest. The PAC only makes recommendations to the Executive who are expected to enforce. This is done in line with the doctrine of the separation of powers yet adequate mechanisms exist for the PAC to track the implementation of its recommendations and this can be accessed and verified by the public through the Executive's Treasury minutes (Action taken reports) and PAC reports.

The PAC is well supported with adequate logistical requirements and has been able to complete all its activities as mandated. The PAC has also collaborated well with anti-corruption institutions and participates in sensitization meetings and workshops when required. Despite this scenario, many stakeholders especially civil society and the donor community have demanded that PAC findings must be directives for investigations by law enforcement agencies rather than Executive review when cases of financial violations have been cited. It is argued that this will mitigate Executive excesses and reinforce prudence in fiscal management.

3.4.3 Audit

Audit is the verification of the implementation process and therefore refers to the institutional capacity, mandate, procedures and processes by which supreme audit institutions produce the audit reports for the scrutiny of parliament.

The Constitution of Zambia places this responsibility with the office of the Auditor General (AG), however this does not make the AG an Officer of Parliament. In the current setting, there is no legal requirement for the AG to submit all reports such as performance audits to Parliament. The standard audit reports come in time for PAC to consider them in subsequent financial years. The timing and regularity of submission of reports has greatly improved in the recent years. These reports become Public immediately after they are tabled in Parliament.

The Legislature cannot request the Auditor General to conduct any special audits on its behalf as the AG is not subject to any directives under the law. Although the AG has sufficient legal authority under the Republican Constitution, it can do much more to enhance budget oversight if it was adequately resourced to fully discharge its mandate. The AG has received a lot of support from different stakeholders including donor funding so that it can be more effective in discharging its function and provide the necessary professional expert advice to the PAC.

3.5 Institutional Capacity of Parliament

The Institutional capacity encompasses the human and material resources employed by parliament as a means of effective organization of its business in accordance with democratic

values and the performance of parliament's legislative and oversight functions in a manner that serves the needs of the entire population. The assessment's focus is on the financial and material; and human resources which are vital to parliamentary business.

3.5.1 Financial and Material Resources

The Financial and material element assessed the resources at the disposal of parliament to carry out its legitimate function. Ironically, the Legislature in Zambia is not financially independent. It prepares its annual budgets and presents them to the Executive for consideration and inclusion in the consolidated national estimates. The Minister of Finance is empowered to present estimates of revenue and expenditure but the constitution of Zambia does not make special provision that the Minister should bring Parliament's estimates as requested. So far, sufficient support in terms of office space, equipment, transport and catering are provided, including support to constituency offices.

Members of Parliament have provision of a constituency development fund which is not efficiently managed in most constituencies as Audit reports have revealed the mismanagement of the funds. A study by the Economic Association of Zambia (EAZ) on the impact of CDF in Zambia showed how financial resources have been abused. Parliament also receives technical and advisory assistance from external sources through the Parliament Reforms Programme Department to complement public funding. The financial provision still falls short of the required threshold.

3.5.2 Human Resources

Human resources are the ultimate resource for any functional process. Under the API, this aspect refers to skills sets available to parliament in the discharge of its functions. The composition and quality of this resource underscores its performance rating. The Legislature is an equal opportunity employer with a well-documented and implemented Gender Policy. This is evident from the current staff composition where a number of positions including that of Clerk of the National Assembly are held by females.

The legislature also has a fully-fledged research department which, though fully-staffed, is lacking in budget analysis skill which are critical to providing effective budget oversight. The institution could better be served with the requisite skills for undertaking detailed research and policy analysis. The workshop consensus on this element was clear on the need for capacity enhancement.

3.6 Transparency and Integrity

The legislature as a representative body of the public is expected to be transparent in its business and its members are expected to exhibit a high level of personal integrity which will ultimately be a reflection of the institution. The API process ascribes this element to the openness of parliament to the nation through different media and how transparent it is in the conduct of its business. To promote transparency and uphold the expected institutional integrity, the Zambia Parliament has an enforceable code of conduct that guides the behaviour and actions of MPs. The Committee on Privileges, Absences and Support consisting of eight members appointed by the Speaker at the commencement of every session is responsible for administering and enforcing the code. In addition, APNAC is in place although no established efficient and effective mechanisms exist to detect and prevent corrupt practices among MPs and legislative staff or are there processes to bring to justice any person engaged in such activities.

Based on audit findings and media reports, there have been notable instances of misuse of CDF resources by MPs and widespread corruption during campaigns. These issues undermine the integrity of the legislature and also for the fact that there is no law or any rules of procedure that requires MPs to declare their assets and business interests for the sake of transparency and to uphold the integrity of the body. There is also a lack of commitment to committee meetings in the House and towards capacity building workshops unless where there are pecuniary gains involving money. So much effort has been made to make parliament transparent but the conduct of some of its members has often been questioned by the public. This negative perception has been pronounced in the media and in various literatures from different stakeholders. Civil society has been calling for more accountability by the MPs in their conduct and commitment to the business of the body. This is evident in the poor score rating for this element during the workshop as affirmed by the participants.

CHAPTER 4: CONCLUSIONS AND RECOMMENDATIONS

4.0 Conclusions

The Zambian Parliament has undergone significant reforms since the re-introduction of multiparty democracy in 1990. The reforms implemented since 2002 under the Parliamentary Reform Programme have seen the institution become much more effective in the level of performance of the different functional areas with respect to the budget process. These have been complemented by other important programmes including the APSP which have worked to enhance the performance of Parliament and the effectiveness of its oversight function through strategic capacity building activities including the API.

4.1 Recommendations

Parliaments are perceived to be people based institutions since they assemble representatives directly voted for by the public and as such are subject to public scrutiny in as much as the Executive. In trying to better the outlook and performance of Parliament, it is important that any recommendations on the future interventions are practical and implementable within the ensuing reform processes. With this hindsight, several recommendations were made by the participants at the workshop bordering on legal as well as administrative reforms. These were made with particular focus on the six core function areas and relevance to the eleven specific elements of the API self-assessment. Arising from the evidence and consensus, the following were the recommendations;

1. Constituency offices should be depoliticised, strengthened and effectively used to sensitise the public about the openness of Parliament.
2. Parliament should be proactive and exhibit at agricultural and commercial shows in all the national and provincial events to showcase its role and activities.
3. Parliamentary debates should be covered live on national television while necessary literature must be made available in English and local languages to the public.
4. The Executive and Parliament should work together along-side CSOs to disseminate information on the budget process and the role of MPs in the process.

5. There is need to strengthen the legal framework to control the supplementary expenditures, enhance the role of the MPs and the public in the budget process and to provide for legislative tracking mechanisms.
6. The legal framework should be reformed to allow for more time for budget review and amending of budget ceilings by Parliament.
7. The government should make provision for more involvement of the Estimates Committee in the budget process.
8. The Estimates Committee should hold public hearings in the provinces on the Budget to allow for more citizen participation at local levels.
9. The law should be amended to provide for the rejection of the Budget without recess or recourse to the dissolution of Parliament.
10. The Appropriations Act should be made more detailed than the current elementary presentation of information.
11. A Budget Act should be enacted to also provide for a Budget Office.
12. Periodic budget reviews by the executive should be submitted to Parliament for approval.
13. Sector audit reports should be handled by the relevant sector committees.
14. Committees should deliberate on state owned enterprises falling under their portfolio, as the standing orders empower them to do. In the alternative, Parliament should consider re-introducing a committee to look at SOEs.
15. Parliament should have regular sensitization of Parliamentary Liaison Officers and follow up on executive action taken reports.
16. The legislature must work with the Executive on implementing mechanisms to ensure its financial independence.
17. The chairing of Public Accounts Committee by a member who does not belong to the party in Government should be placed in the Standing Orders though it's currently in place only as a practice.
18. Human resources support to the PAC should be increased to enhance the Committees' effectiveness.
19. The Constitution should be amended to make the Auditor General an Officer of Parliament and the submission of all Audits and other value for money reports to Parliament.
20. Financial and material support to the Office of the Auditor General should be increased to enhance its operational effectiveness.

21. More support should be given to the Constituency Offices especially for office space where such is being rented.
22. The management of CDF should be legislated rather than using guidelines which are easily violated. The funds should be anchored in the Constituency office.
23. The PRP Department should be turned into a Planning unit in the long term and the staff levels should be increased.
24. There should be continued capacity building on budget analysis for the staff in the Research Department to support the budget process.
25. Members should have a peer mechanism how to uphold the integrity of Parliament.
26. APNAC in collaboration with other anti-corruption bodies should be encouraged to constantly sensitise MPs on corruption prevention and promotion of transparency.
27. Integrity Committees should be established at Parliament for both MPs and staff.
28. MPs should be compelled by law and the Rules of Procedure to declare their assets and business interests as a mandatory requirement.

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Sunday Post Newspaper: December 9, 2012

Appendix 1: List of API - Zambia Workshops Participants

| LIST OF PARTICIPANTS IN THE ZAMBIAN - API SELF ASSESSMENT WORKSHOP: 5 – 6 AUGUST 2012 | |
|--|---|
| | |
| No. | Zambian Legislators |
| 1 | Mr. C. Mulenga, MP |
| 2 | Mr. E.M. Sing'ombe, MP |
| 3 | Mr. C. Matafwali, MP |
| 4 | Mr. M. Ngonga, MP |
| 5 | Mr. H.H. Hamududu, MP |
| 6 | Mr. M.H. Malama, MP |
| 7 | Mr. C.H. Chansa, MP |
| 8 | Mr. P. Mucheleka, MP |
| 9 | Mr. R. Mpundu, MP |
| 10 | Mr. A. Milambo, MP |
| | |
| | Parliamentary Staff |
| 11 | Ms. M.K. Sampa |
| 12 | Mrs. C.K. Mumba |
| 13 | Mr. F. Nabulyato |
| 14 | Mr. C. Chishimba |
| 15 | Mr. G. Lungu |
| 16 | Mr. S. Mtambo |
| 17 | Ms. C.R. Mulenga |
| 18 | Mr. S. Chiwota |
| 19 | Ms. C. Musonda |
| 20 | Mr. G. Zulu |
| | |
| | Independent Assessor |
| 21 | Mr. Isaac Ngoma – Economics Association of Zambia |
| | |
| | Observer |
| 22 | Ms. Akol Rose Okullu, MP – Ugandan Parliament |
| | |
| | Parliamentary Centre Staff |
| 23 | Dr. Rasheed Draman |
| 24 | Dr. Anthony Tsekpo |
| 25 | Mr. Issifu Lampo |
| 26 | Ms. Agnes Titriku |
| | |

LIST OF PARTICIPANTS IN THE ZAMBIAN - API CSO VALIDATION WORKSHOP: MONDAY, 3rd DECEMBER 2012

| No. | Civil Society Organisations - Representatives |
|------------|---|
| 1 | Ms. I. H. Mulewa – CARITAS Zambia |
| 2 | Ms. M. M. Nandazi – Economics Association of Zambia |
| 3 | Mr. P. Chisala - Economics Association of Zambia |
| 4 | Mr. M. T. Mweemba – National Youth Constitutional Assembly |
| 5 | Mr. A. B. Kambobe – National Economic Advisory Council |
| 6 | Ms. L. Chirine - Centre for Trade Policy and Development |
| 7 | Mr. R. Mwale – Centre for Trade Policy and Development |
| 8 | Mr. A. Halwampa – Zambia Institute for Policy Analysis and Research |
| 9 | Ms. J. K. Chibuta – Zambia National Women’s Lobby |
| | |
| | Zambian Legislators |
| 10 | Mr. C. Matafwali, MP |
| 11 | Mr. P. Mucheleka, MP |
| 12 | Mr. R. Mpundu, MP |
| 13 | Mr. A. L. Lufumu, MP |
| | |
| | Parliamentary Staff |
| 14 | Mr. S. Mtambo |
| 15 | Ms. C.R. Mulenga |
| 16 | Mr. S. Chiwota |
| 17 | Ms. E. Kanguya |
| | |
| | Independent Assessor |
| 18 | Mr. Isaac Ngoma – Economics Association of Zambia |
| | |
| | Parliamentary Centre Staff |
| 19 | Mr. Issifu Lampo |
| 20 | Ms. Agnes Titriku |
| 21 | Mr. Adams Fusheini |
| 22 | Ms. Barbara Arthur |

Appendix 2: API Self-Assessment Questionnaire – Zambian Assessment

Appendix 3: Computed Weights Tables – Zambian Statistics