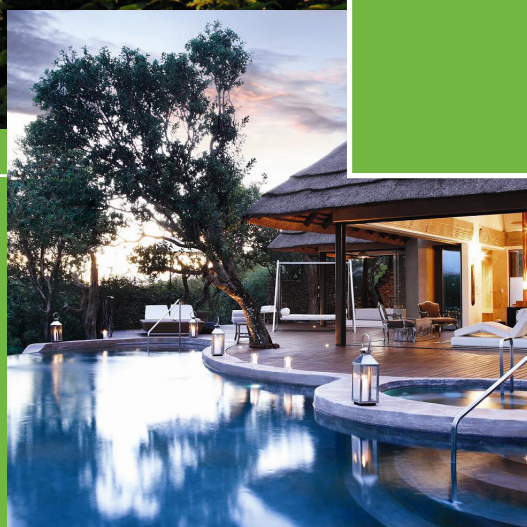
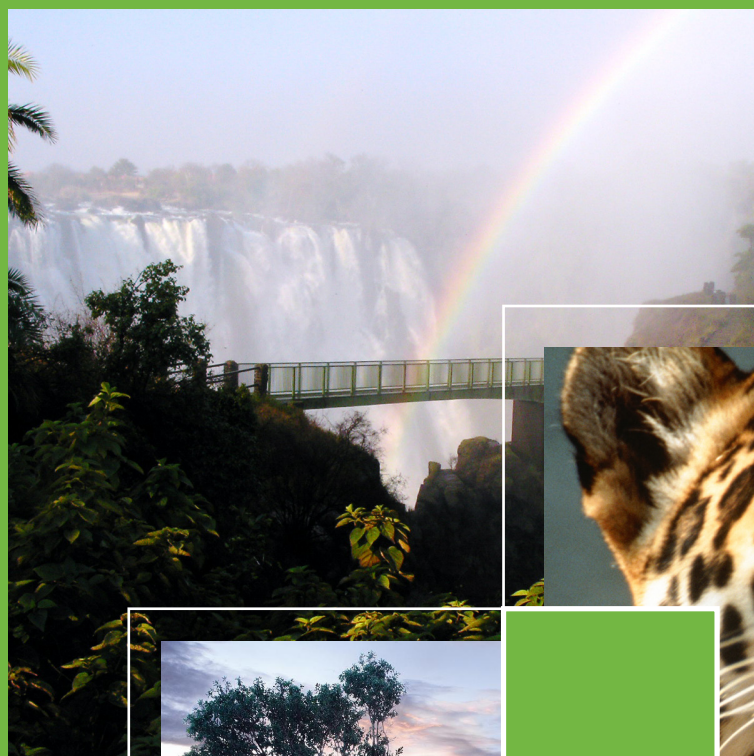




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Effect of the Global Financial and Economic Crisis on Job Losses in the Zambian Tourism Sector

Alex Valeta and Elizabeth Banda – Jere

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International Labour Organisation
Lusaka, Zambia

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These acknowledgements notwithstanding, it should be emphasised that the views contained in this report do not necessarily reflect those of the ILO or the MLSS.

ACRONYMS AND ABBREVIATIONS

AIDS	Acquired Immune Deficiency Syndrome
ART	Anti Retroviral Therapy
EYB	ILO - Expand Your Business module
FNDP	Fifth National Development Plan
GDP	Gross Domestic Product
HCAZ	Hotel and Catering Association of Zambia
HIV	Human Immune Virus
ILO	International Labour Organization
IRC	Industrial Relations Court
JCTR	Jesuit Centre for Theological Reflection
JCTR	Livingstone Tourism Association
LASF	Local Authorities Superannuation Fund
LTA	Livingstone Tourism Association
MATEP	USAID - Market Access Trade and Enabling Policies Project
MDG	Millennium Development Goals
MLGH	Ministry of Local Government and Housing
MLSS	Ministry of Labour and Social Security
MSME	Micro, Small and Medium Enterprise
MTENR	Ministry of Tourism Environment and Natural Resources
NAPSA	National Pension Scheme Authority
NGO	Non Governmental Organization
NRCF	Natural Resource Consultative Forum
NTE	Non Traditional Export
STIs	Sexually transmitted infections
SYB	ILO - Start Your Business module
TAAZ	Travel Agents Association of Zambia
TCZ	Tourism Council of Zambia
TCLC	Tripartite Consultative Labour Council
UN	United Nations Organization
VAT	Value Added Tax
ZCTU	Zambia Congress of Trade Unions
ZDA	Zambia Development Authority
ZDWCP	Zambia Decent Work Country Programme
ZFE	Zambia Federation of Employers

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FOREWORD

Since the last quarter of 2008 the world has experienced the impacts of the global financial crisis, which turned into an economic crisis, and very soon became an employment and job crisis. Some parts of the world are still reeling from the knock-on effects of these global crises. Few countries and few sectors were completely spared the impacts of the jobs crisis, and Zambia has been no exception. In 2009 the press was full of headlines on job losses here and there.

As the specialized United Nations agency responsible for employment and labour matters, the International Labour Organization (ILO) both globally and regionally was greatly concerned at the massive job losses and the consequent impact on people's lives and incomes. As well as trying to quantify the impact of the job losses so as to better inform governments, employers' and workers' organizations alike, the ILO tried to come up with sustainable and longer-term people-centred recommendations aimed at mitigation as well as an employment-centred path to recovery. In Zambia, the ILO's Lusaka Country Office had a three-pronged strategy to: (i) determine and quantify the extent of the losses in two hard-hit sectors of mining and tourism; (ii) make proposals for short- and longer-term solutions to the job crisis, and (iii) undertake quick impact responses on a pilot basis in Luanshya in the Copperbelt, through ILO's Luanshya Integrated Support Initiative on Employment (LISIE) project. In all this work, the ILO fully engaged its tripartite constituents, viz. Government (Ministry of Labour and Social Security), as well as the employers' organization, Zambia Federation of Employers, and the two trade union federations, Zambia Congress of Trade Unions and Federation of Free Trade Unions of Zambia.

In January 2010, the ILO and Zambia Federation of Employers brought the preliminary findings and draft recommendations from the two studies to a dissemination workshop in Lusaka, at which the Hon. Minister of Finance and National Planning was the Chief Guest. Subsequently, the ILO Lusaka Country Office has been finalizing the reports and recommendations for publication.

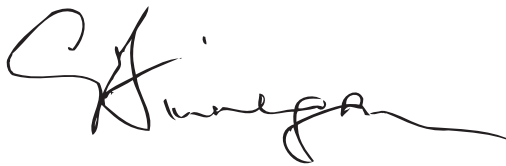
The ILO's study on Job losses in the Tourism Sector has drawn on a number of published and informal sources, and furthermore involved a survey of some 30+ tourism enterprises in various parts of the country. Regrettably up-to-date information on tourist arrivals for 2008 and 2009 was not received from official sources, although some press reports yielded piecemeal data. Many hotels and tourism establishments in the country continue to record low occupancy rates, although there are some indications of recovery. The links between tourist arrivals, job losses, reduced incomes and poverty are admirably depicted in Jo Pope's article, reproduced by permission within the report.

Although the survey comprised only a small proportion of Zambia's tourism establishments, and their figures are not very dramatic (falling far short of the national estimate of 2,500–5,000 jobs lost), the survey reinforces the pattern of job losses highlighted in national estimates. One of the surveyed enterprises demonstrated significant job gains within the 12-month time frame covered in the survey, presumably showing that this is a new tourism enterprise.

Among the final recommendations, some are aimed at avoiding the hardship situations that befell workers in the tourism sector. Others propose strengthening existing machineries related to labour inspection and overall compliance with Zambia's labour and employment laws. Another set of recommendations targets more systematic and qualitative upgrading of jobs in the sector, such as through supporting workers to

“train themselves out of casualization and vulnerability”, and designating the tourism sector as a “pilot Decent Work” sector, in line with the priorities of the Zambia Decent Work Country Programme, the ILO’s Recommendation on Social Justice for a Fair Globalization (2008), and the ILO’s Global Decent Work Agenda.

My special thanks go to the authors of this study, Alex Valeta and Elizabeth Banda, and to ILO colleagues and resource persons, Belinda Chanda-Programme Officer and Griffin Kafwimbi Nyirongo, for their support in bringing this study to a conclusion.

A handwritten signature in black ink, appearing to read 'G. Finnegan', with a long horizontal flourish extending to the right.

Gerry Finnegan

DIRECTOR – ILO Lusaka Country Office for
Malawi, Mozambique & Zambia

Figure 1: Map of Zambia



EXECUTIVE SUMMARY

The global financial meltdown has had a knock-on effect on all spheres of the Zambian economy including tourism. In Zambia, the crisis has not only affected the levels of business in the tourism sector, but also the conditions of employment and the staffing levels as companies put in place measures to counter the negative effects of the crisis. In both global and regional terms, Zambia has never been regarded as a low-cost tourist destination, and the impacts of the global financial crisis and the consequent downturn in the number of tourists has placed even greater strain on the fledgling tourism sector in Zambia. As often happens in a time of crisis, the crisis brings with it opportunities for fresh assessment and re-appraisal. For Zambian tourism to weather the storm created by the financial crisis, more needs to be done to improve the productivity and efficiency of those working the sector, along with improved and upgraded skills sets among the workforce. These are areas where the Government can take the lead, and support the private sector in bringing about the required improvements to the productivity, competitiveness and profitability of the sector, and where social dialogue and tripartism can be meaningfully applied by employers and workers alike to ensure harmonious industrial relations and promote gain-sharing in a vibrant and viable economic sector of the economy.

According to the Tourism Council of Zambia (TCZ), the tourism sector employs 25,000 workers. These are spread through all the subsectors, which include hospitality, nature-based, and services. TCZ projected that job losses in the sector to reach 2,500 by the end of 2009, and stated that without Government interventions this could have been as high as 5,000 by the year end. From field findings in this study based on a sample size of 40 companies, the number of jobs lost was 165, representing 7% of the total employed by the 40 companies interviewed, and almost 70 new jobs have been created during the same period.

According to the Travel Agents Association of Zambia (TAAZ), business has gone down by between 15% and 25%, as a result of the global financial crisis. Further, Livingstone has reported reduction in business of between 20–30%, and Luangwa National Park 40%. The car hire sector estimates loss of 70% of its normal business. In terms of accommodation, the reduction in business countrywide is 20%, while Lusaka has reported a 25% drop in jobs.

Only 20% of the respondent companies indicated positive employment projections for the year 2010. This was on the assumption that there will be continued improvements to the economies in the United States, Europe and Asia due to the stimulus packages being implemented there. The other contributing factor to positive projections was the expansion programmes which the individual enterprises had already planned for implementation in the year 2010, in anticipation of the influx of tourists coming to the region for the World Cup, to be held in South Africa.

The majority of enterprises declined to provide projected figures on employment and alluded to uncertainties as to how long the global financial crisis might last. However, they indicated that they would maintain the current work force levels, which are mostly composed of short-term contract employment of one-year duration.

The majority of enterprises interviewed have maintained the conditions of service agreed with the unions and the individual workers. There were no reports of significant improvements made to the conditions of service; the employers are giving the low volume of business as the reason for the stagnation in conditions of service, which are traditionally renegotiated and improvements agreed upon every year.

Occupational health and safety standards have apparently not been affected because of the global financial crisis. There were no reports of accidents or ailments resulting from non-compliance of the occupational health and safety regulations as a result of the financial crisis.

It was reported that the Ministry of Labour and Social Security is poorly equipped to effectively inspect all facilities and companies as required by law. Therefore, it is unable to check whether the health and safety standards in all tourism enterprises are in line with the laws and regulations, and that the workers' health is not compromised. The Ministry lacks adequate resources, such as staffing, finance, and appropriate infrastructure such as occupational hygiene laboratories and equipment

With regard to HIV and AIDS support before and after the crisis, the enterprises that had HIV and AIDS support programmes have maintained the medical schemes as before, and the workers have been able to access the services for counselling and Anti-Retroviral Therapy (ART) through these medical schemes.

In general, the concept of "Decent Work" has not been widely understood and even appreciated by the majority of the stakeholders interviewed. The level of awareness on the Zambia Decent Work Country Programme was very low. The tourism sector has contributed to job creation in the country, particularly between the years 2000 and 2008 when over 13,000 new jobs were created. However, with the onset of the crisis, there has been a downward trend in levels of employment and in new employment opportunities. The crisis can be used as a real opportunity to enable the tourism sector to further develop and grow, and through the means of social dialogue to encourage employers and workers together to make the tourism sector in reality a "Decent Work" sector on the economy.

Decent Work "deficits" in areas such as rights at work, social dialogue and social protection could not be directly attributed to the crisis, rather to the legal and implementation challenges which require a review to enhance the achievement of decent employment. The Government needs to increase awareness campaigns on Decent Work amongst all stakeholders so as to ensure that its concepts and principles are clearly understood and appreciated by all stakeholders, including the workers and employers in the tourism sector.

In the tourism sector, trade unions have played a positive role in protecting jobs and conditions of employment during the current global economic crisis. The unions effectively engaged management and were able to protect their members' interests in the enterprises where the workers are represented by their union. However, owing to the fact that the majority of tourism enterprises employ less than 25 workers, the effective role of the trade unions has been weakened. This is attributed to the labour laws, which do not provide for recognition agreements to be made in enterprises with less than 25 workers. According to the Hotel and Catering Workers' Union, two-thirds of the work force in the tourism sector are consequently not represented, and thus do not benefit from belonging to a union. It is estimated that the union has a membership of 6,000 out of a potential 18,000 members.

The role played by the trade unions in the tourism sector has exhibited the effectiveness of social dialogue and that social dialogue is good for business, as social dialogue has worked to protect the interests of both parties and promote cordial working relationships. The issue of representation of casual workers and short contract

staff has increasingly become a subject of concern among the social partners. The issue has even greater importance for trade unions as it points to the deficit in the employment legislation to protect this particular group of workers. Casual workers and short contract staff are often the first to be affected by restructuring, but are often not represented by trade unions, and have generally been excluded from both individual and collective representation and participation in social dialogue mechanisms and agreements.

Though the policy and regulatory framework provides for protection of employment for permanent workers by indicating legally accepted methods for termination of employment, as well as determination of the conditions of service for the workers, this does not extend to situations and circumstances at times of crisis. The study findings revealed that there are no laws in Zambia which are specifically designed to apply in a crisis situation such as the global financial crisis. All employers in Zambia, regardless of the employment circumstances, are subject to the provisions of the labour laws and any departure from the same would and should be deemed 'illegal'.

While the policies and statutes on employment are generally conducive for protecting jobs and conditions of employment, the findings reveal that there are some areas which require a review to enhance protection of jobs and conditions in a crisis situation, e.g. those workers engaged on short-term contracts are not provided with redundancy packages. The increased casualization of labour leaves most workers, particularly those in the tourism sector, without any protection. Another area is that of delayed payment of wages: there are no provisions in the statutes for penalties to offenders. Nor are there provisions to protect female workers who are on 1-to-2 year contracts to ensure that they have appropriate maternity entitlements. Furthermore, the law, which does not provide for workers in establishments which employ less than 25 workers, does not cater to the general rights to freedom of association, as enshrined in the ILO's Core Labour Standards, which Zambia has also ratified.

CONCLUSIONS

(i) Minimum Wages and Conditions of Employment

The minimums set under the Minimum Wages and Conditions of Employment Act are inadequate and restrictive, and these should constantly be reviewed to ensure that the law makes some sort of provision to protect the workers who are not covered by workplace agreements of by membership of trade unions.

(ii) Short-term Contracts and Casualization of Labour

The main impediment to protecting jobs and conditions of employment is the trend towards casualization of labour and short-term contracts. Increasingly some parts of the private sector, and particularly the tourism industry, is doing away with secure long-term employment contracts in preference for casuals and short-term contract staff, who tend to provide cheaper labour. The labour laws on contract employment are weak in terms of ensuring decent employment for the Zambian workers on short-term contracts of employment. Employers find it easier and cheaper to terminate short-term contract employment in the event of a crisis or reduction in business levels, such as has happened following the impacts of the global financial crisis. Permanent and pensionable employment tends to be avoided due to, among others,

the redundancy provisions in the labour laws which specify for 2 months pay for each complete year of service, and accumulation of recurrent liabilities upon the worker's severance from employment (i.e. entitlements to pension, retirement benefits and accrued leave). If workers are declared redundant in large numbers in the scenario of current crisis, companies would be encumbered with huge redundancy bills. The employer is thus restrained from effecting lay-offs of permanent and pensionable workers for fear of becoming insolvent, owing to the huge financial liability that accompanies such lay-offs.

In many cases it would appear that employers in the tourism sector are not replacing full-time and pensionable staff that pass on, resign or retire. Most companies in the tourism sector have frozen recruitment of new staff.

Systematic skills upgrading for those workers on casual and short-term contracts which is aimed at improving the productivity of the tourism enterprises, can help provide those workers with the sort of skills that are in high demand in the tourism sector, and enable these workers to move out of vulnerability and casualization to obtain better quality employment and earn decent wages in the sector.

(iii) Role of Trade Unions and Social Dialogue

Many of the MSME businesses do not encourage workers to join trade unions due to the negative perceptions of unions, and sometimes the perceived confrontational stances taken by trade unions with employers. It has been observed that where unions exist, social dialogue takes place and jobs and conditions of service are better protected than in those companies where no union representation is available. Similarly, labour relations are generally better and as a result there are more harmonious working relations, fewer disputes and better productivity, which in turn enhances the competitiveness and profitability of the tourism sector.

(iv) Legislation and Policy

The gaps and shortcomings in the laws on redundancy, maternity entitlement, sick leave, payment of wages and the right of workers to participate in union activities are among the conditions that contribute to Decent Work deficits in workers' conditions of employment and jobs in the current labour environment. The conditions in the employment policies and laws have contributed to the shift from long-term employment contracts to short-term contracts and casualization, for fear of employers becoming insolvent when long-term contracts lapse.

(v) Gender, Disability and HIV/AIDS Policies

In most companies, there are women employed in the operations department in the tourism sector, in some cases up to 30%, even where there is no gender policy. Existing policies on gender and disability are not widely publicised to employers in the tourism industry. Though most companies do not have a Disability Policy, it is common practice by many establishments not to employ disabled persons owing to the prevailing perceptions about the manual and laborious nature of the work in these establishments, as well as the lack of information on disability, and the general shortage of 'disability friendly premises'. Most of the larger establishments in the tourism sector have workplace policies on HIV and AIDS, however, most of the smaller ones do not have such a policy.

RECOMMENDATIONS

3.2.1 GENERAL

- Government and all stakeholders should step up efforts through the Tripartite Consultative Labour Council (TCLC) with the recently created Zambia DWCP Advisory Committee in the monitoring and evaluation of the implementation of employment programmes and policies, in particular the Zambia-DWCP and National Employment and Labour Market Policy (NELMP), to ensure that appropriate measures are put in place in a timely manner, and this should apply to the Tourism sector as it is one of the Government's priority growth areas. This would require more resources including a full-time secretariat for the TCLC. This should be accompanied by vigorous education and awareness campaigns for workers and enterprises on the labour laws. Accordingly, the capacity of the Ministry of Labour and Social Security needs to be enhanced to ensure that it is able to effectively carry out its mandate.
- In addition to the review of labour laws, the existing NELMP should be resuscitated to bring about improvements in the access to appropriate and state-of-the-art skills training, productivity and competitiveness improvement programmes, entrepreneurship and enterprise development, sector-specific occupational safety and health improvements, alongside labour inspections, workers' rights and social dialogue to make the Tourism sector operate as a "Decent Work" sector of the Zambia economy.

3.2.2 SPECIFIC

I. Minimum Wages and Conditions of Employment

The regulations should promote collective bargaining to take place in enterprises where there is no trade union, thus assisting the workers to make their voices heard collectively and to have a say on their conditions of employment. Improved wage levels could come from innovative and mutually beneficial gains-sharing mechanisms between management and workers, introduced on the back of more productive, efficient and competitive tourism enterprises.

II. Casualization

The labour laws should be strengthened to protect workers engaged as casuals and on short-term contract workers, particularly those of less than one-year duration. Systematic skills upgrading for workers on casual and short-term contracts which is aimed at improving productivity in tourism enterprises can help give those workers skills that are in demand in the tourism sector, and enable these workers to move out of vulnerability and casualization to obtain better quality employment and wages. Workers need to have opportunities to "train themselves" out of the downward spiral of casualization, and these training opportunities should be provided through combined efforts of the private sector and public institutions.

III. Social Security

Government should formulate an employment policy to provide guidelines on the responsibilities of companies before, during and after retrenchment, thus ensuring that workers have some form of economic security post-retrenchment. The Government should streamline the current social security system under NAPSA to extend coverage to retrenched workers.

IV. Social Dialogue

The role of trade unions in the tourism sector should be strengthened through legislation, thus permitting establishments with less than 25 workers to have Recognition Agreements, and Section 63 of the Industrial and Labour Relations Act should be reviewed. Social dialogue should be institutionalised by law so that enterprises without trade unions are encouraged, if not compelled, to engage in social dialogue. Social dialogue is the ideal mechanism for promoting tripartite and/or bipartite initiatives to improve the productivity and competitiveness of the sector, and promote negotiated gain-sharing arrangements which satisfy both employers and their workers. Companies should share financial information with the trade unions to build confidence and ensure transparency in negotiations.

V. Gender, Disability, and HIV & AIDS Policies

Gender, disability and HIV & AIDS awareness and sensitisation workshops should be organized to ensure that all employers in the tourism sector take these issues seriously in places of work. Government should ensure that the infrastructure in the tourism sector is made accessible to people with disabilities, with appropriate floor surfaces, toilets and lifts/escalators for use by persons with disabilities. Government should implement the UN Convention on Rights for People with Disabilities and ensure that all employment policies and programmes meet the Convention. A Persons with Disabilities Act should be developed in line with relevant UN and ILO standards.

Companies should be sensitised on the gender aspects in their operations and encouraged to employ more women at all levels. The SADC and AU Gender Protocols should be institutionalised to improve gender representation.

A sector-wide HIV and AIDS policy should be finalised and applied/implemented consistently throughout the tourism sector, and it should build upon the ILO's Code of Practice, and ensuring compliance with the planned ILO Recommendation on HIV and AIDS, due for adoption in June 2010. This will complement efforts by employers to provide support for workers living with HIV and AIDS through medical schemes.

VI. Legislation and Policy

The labour laws require review, taking account of the following provisions:

- Redundancy provisions need to be made more relevant and compatible with crisis situations, e.g. through redundancy insurance schemes which could compensate workers declared redundant as a result of crisis.
- Casual and short-term contracts must be redefined to ensure that jobs of a continuous nature (with permanent employment conditions) are not casualised or made unstable.

- Sick leave provisions in the Minimum Wages and Conditions of Employment Act and those in the Employment Act should be harmonised to protect workers, and take into consideration HIV and AIDS concerns.
- Maternity leave entitlement should be reviewed taking account of the current labour market environment and the tendency of some employers to engage staff on short-term contracts.
- Provisions must be strengthened relating to payment of wages when due and payable to ensure that workers are compensated when their wages are paid when due, as stated in the Employment Act.
- Sections 63, 64 and 5 of the Industrial and Labour Relations Act should be reviewed and the right of workers to participate in union activities is harmonised to include establishments with less than 25 workers. This will enable workers to participate in social dialogue, and contribute to the protection of their jobs and conditions of employment.

VII. Post-Retrenchment Support

Micro, small and medium enterprise (MSME) support programmes should be introduced to enable retrenched workers to access entrepreneurship and skills training, as well as finance, to start businesses. This should include training on how to start, maintain and grow their businesses, e.g. through the ILO Start Your Business (SYB) and GET Ahead courses.

Programmes offered during the 1990s privatisation exercise for retrenched and retired workers, as part of the National Social Safety Net programme, should be revived to assist workers retrenched as a result of the global financial crisis.

VIII. Doing Business in Zambia

Government should develop more measures to reduce the cost of doing business as follows:

- i. Further reduce (or remove) Visa fees to attract more tourists.
- ii. Reduce the number of licences tourism enterprises have to obtain (as high as 23 in some cases).
- iii. Waive VAT for the tourism sector to increase investment and employment.
- iv. Under the ZDA Act, tourism is classified as a Non-Traditional Export (NTE), but this has yet to be fully implemented. Once implemented, tourism enterprises will pay 15% Corporate Tax.
- v. Government should defer the 3% Tourism Levy on tour packages, enshrined in the new Tourism and Hospitality Act and the Zambia Tourism Board Act.
- vi. VAT free status granted to Livingstone should be extended to the tourism sector country-wide.
- vii. State-of-the-art skills training programmes should be developed by Government in partnership with the private sector and the trade unions to encourage and promote innovation, marketing, productivity and competitiveness of Zambia's tourism sector, as well as specialized sub-sectors.
- viii. The price of A1 jet fuel should be reduced.

1 INTRODUCTION

1.1 BACKGROUND

The current global financial crisis has impacted negatively on the world economy on a magnitude of unprecedented proportions witnessed in recent decades. Not only has the financial system threatened the economic fundamentals in developed countries, but also people's livelihoods have been affected across the globe.

The International Labour Organization's (ILO) 2008 Global Employment Trends Report predicted a dramatic increase in unemployment in developed countries, as well as in poverty and vulnerable employment in developing countries. The results showed that open unemployment could increase globally between 30 and 50 million people in comparison to 2007, reaching 230 million, which corresponds to a global rate of unemployment of 7.1%. The number of people in extreme poverty was estimated to increase globally by 6.1 percentage points over the 2007 levels, taking the world back to the poverty situation it had in 1997, and in the process wiping out many of the gains over the past decade. In the Global Employment Trends Update (May 2009), the ILO revised upwards its unemployment projections to levels ranging from 210 million to 239 million unemployed worldwide in 2009, corresponding to projected global unemployment rates of between 6.5% and 7.4%.

In Zambia, the crisis stemmed from decreased demand for Zambia's main export commodity, copper, as a result of the slowdown in economic activities in the major economies. This reduced demand led to a sharp fall in copper prices on the global market. The price of copper fell to under US\$3,000 by December 2008, from a high of US\$8,985 in July 2008. As copper exports account for approximately 70% of Zambia's total exports, they play a critical role in the resuscitation of the economy. The crisis resulted in job losses mainly in the mines.¹

The Zambian Government has placed tourism as the second priority area after agriculture. According to the Ministry of Tourism Environment and Natural Resources (MTENR), information from tourism service providers indicates that the number of visitors to Zambia drastically reduced from the second part of 2008 onwards. A number of hotels have reported cancellations of bookings as a result of the crisis, and car hire business has declined. The Tourism Council of Zambia projected a 50% reduction in bookings, and estimated that 5,000 jobs could be lost in the sector in 2009.

The social impact of the job losses is likely lead to an increase in anti-social, illegal and counterproductive activities such as increased crime, illegal mining, child labour and increased exposure to the dangers of HIV and AIDS. It is further predicted that the attainment of the Millennium Development Goal (MDG) number one of reducing poverty by 50% will not be met, as more people are likely to fall into the poverty trap.

This report sets out the findings of the study to assess the impact of the global financial and economic crisis on the tourism sector.

1.2 STUDY OBJECTIVES

The specific study objectives were as follows:

- i. To quantify and analyse job losses in the tourism sector and where possible determine employment trends in the sector;

¹ See the related ILO report on the Impact of the Global Financial Crisis on the Mining Sector.

- ii. To assess any deterioration in conditions of work as a result of companies in the tourism sector taking measures to mitigate the impact of the crisis (e.g. increased working hours, loss of benefits etc.); and
- iii. To propose measures that enterprises in the tourism sector and the tripartite constituents (workers' and employers' organizations i.e. ZCTU and ZFE) could apply to minimize job losses and deterioration of conditions of work.

1.3 STUDY METHODOLOGY AND SCOPE OF WORK

In order to effectively address the ten specific tasks as outlined in the Terms of Reference (Annex A), the study conducted a literature review, interviewed selected stakeholders, and held focussed group discussions with retrenched workers.

1.3.1 Literature Review

This phase entailed the review of all relevant documented material on the tourism sector in terms of reports and policy documents. Also reviewed were Collective Agreements for particular enterprises in the tourism sector, as well as employment and labour policy documentation and statutes.

1.3.2 Stakeholder Interviews

A stakeholder identification activity targeting a cross section of the key players in the tourism sector was undertaken. This was followed by field visits and interviews with stakeholders in Lusaka, Southern and Eastern provinces using a structured questionnaire designed for specific stakeholders, such as the enterprise owners, industry associations, retrenched and institutions such as the Ministry of Labour and Social Security.

1.3.3 Focus Group Discussions

Focus Group Discussions were held with retrenched workers from the tourism sector.

1.3.4 Sampling and Data Considerations

The selection of respondents took into consideration their appropriateness in addressing the specific tasks in the Terms of Reference (TORs), as well as budgetary and time constraints. The study subsequently illustrates the synoptic view of the labour perspective of the tourism sector in light of the global financial crisis. It should be noted that the study team was limited to analysing data provided by the respondent stakeholders, which in some cases was incomplete due to some respondents showing reluctance and only choosing to provide information they felt could not be used by the tax authorities.

1.3.5 Scope of Coverage

The study relied largely on secondary data, as well as information collected from a sample of stakeholders through interviews, focus group discussions and questionnaires. The study covered Lusaka, Southern and Eastern Provinces.

1.3.6 Field Surveys and Stakeholder Meetings

The field surveys and stakeholder consultations were conducted in Lusaka Province, Southern Province, and Eastern Province.

The stakeholders consulted were drawn from the following:

- Tourism Council of Zambia (TCZ)
- Travel Agents Association of Zambia (TAAZ)
- Hotel and Catering Association of Zambia (HCAZ)
- Livingstone Tourism Association (LTA)
- The Ministry of Labour and Social Security (MLSS)
- Hotel and Catering Workers' Union of Zambia
- National Pension Scheme Authority (NAPSA)
- Retrenched workers
- The Future Search Unit (under Cabinet Office)
- Zambia Association for the Disabled (ZAFOD)

Forty enterprises in the tourism sector were interviewed, and ten (10) retrenched workers attended the focussed group discussions. The list of persons and enterprises interviewed are at Annex B and Annex C respectively.

1.3.7 Data Analysis

This phase entailed the analysis of the survey questionnaires and qualitative information obtained in the field survey.

1.3.8 Report Preparation

This phase entailed the preparation of the report on the study findings.

1.4 LIMITATIONS TO THE STUDY

The study team encountered the following difficulties during the assignment.

1.4.1 Lack of Cooperation

The study team encountered some uncooperative stakeholders during the assignment. In some instances, procuring an interview with management and worker representatives was a problem, as most of them claimed to be busy or were not available at the time of field visits. In addition, some of the companies were very uncomfortable with providing information on their operations, which they felt could incriminate them in the event that such information landed into the hands of the tax authorities and other Government regulatory wings.

Employers were reluctant to release information on job losses and the effects on their workers' conditions of service. They were reluctant to allow their staff to be interviewed on the same, and preferred that the study team set alternative dates and times to interview their staff during their free time. Consequently, the staff could not speak freely on the health and safety issues and conditions of service. The majority of business owners were unavailable for the interviews, preferring that their Human Resource managers attend to the interviews.

1.4.2 Traceability of Retrenchees

It was very difficult to organize and trace the retrenched workers, as employers did not keep a record of their whereabouts after retrenchment. The Ministry of Labour Offices equally had no records of retrenched workers. The only ones available were those that came to the Labour Offices looking for work. Notwithstanding the foregoing, the study team endeavoured to carry out its work in line with the dictates of the study.

2 STUDY FINDINGS

2.1 EFFECTS OF GLOBAL FINANCIAL CRISIS ON JOBS IN THE TOURISM SECTOR

2.1.1 Tourist Arrivals

Government has done a lot in terms of promoting the creation of employment in the tourism sector through the implementation of programmes and policies to promote the growth of the tourism sector. An important indicator is the number of tourist arrivals, which had been increasing over the period 2000 to 2007 with an average number of 596,375 per year. It is also worth noting that the Government's "Visit Zambia" Campaign mounted by the Zambia Tourism Board since 2005, has had a major part to play in the increase in tourist arrivals. The tourist arrivals for 2008 were reorted as being 850,000². Table 1 gives the tourist arrival figures for the period 2000 to 2007.

Table 1: Tourist Arrival Numbers 2000 - 2007³

Year	Tourist Arrivals	% Change
2000	457,419	7.03
2001	491,992	12.93
2002	565,081	2.15
2003	577,526	5.34
2004	610,108	6.12
2005	649,867	5.77
2006	689,625	5.45
2007	729,385	5.17

It is anticipated that the number is expected to drop in 2008 and 2009 owing to the global financial crisis. The anticipated reduction in tourist arrivals is evidenced by various developments. According to the Travel Agents Association of Zambia (TAAZ), business has gone down by between 15% and 25% as a result of the global financial crisis. According to TCZ, Livingstone has reported a reduction in business of between 20–30%, and Luangwa National Park 40%. The car hire sector has lost 70% of its normal business. In terms of accommodation, the reduction in business countrywide is 20%, while Lusaka has reported a 25% drop on jobs.

The Livingstone Tourism Association (LTA) asserts that the main source market for Zambia's tourism, Europe, has experienced massive job losses and this has led to drastic reductions in expenditure on leisure and holidays. This has led to a decrease in tourist arrivals from Europe, and some trips were suspended. The closure of Zambian Airways was also attributed as a factor in the reduction of tourist arrivals, as was the illness and subsequent death of the late President of Zambia Levy Mwanawasa in August 2008. In addition, some business owners felt that the 2008 cholera outbreak in Zimbabwe did not help matters for Zambia.

At the firm level, the reduction in tourist arrivals has reduced occupancy rates in hotels and lodges, e.g. most of the Sun Hotel International's clients come from the Far East and Europe, and as a result of the credit crunch the occupancy rate reduced

2 Following several requests from the ILO to Ministry of Tourism, unfortunately the ILO received no official figures for 2008. The ILO has had to depend on a press article for this information, attributed to Timothy Mushibwe, ZTB Chairperson – see Post Newspaper, 25 March 2010 – "Tourism bodies partner to rebrand Zambia"

3 Source: MTENR

to 50% in 2009 as opposed to 75% in 2008, as arrivals dropped.

According to the Natural Resource Consultative Forum (NRCF) in its report titled “The Real Economic Impact of Nature Based Tourism in Zambia”, one tourist coming to Zambia creates 0.307 jobs. This implies that it takes four nature-based tourists to create one job in the sector. The number of tourist arrivals has a direct bearing on the subsequent jobs created. It is important to note that while this may be true for nature-based tourism, it may not hold true for the other subsectors of the industry, as no empirical studies have been carried out thus far.

2.1.2 Effect of Global Financial Crisis on Jobs

The tourism sector has been growing steadily over the years, creating jobs and contributing to reducing poverty levels in the country. The number of jobs in the tourism sector has been increasing over the period 2000 to 2007, and the Tourism Council of Zambia (TCZ) estimates that there are 25,000 jobs in the tourism sector, spread through all the sub-sectors which include hospitality, nature-based, and services. Other than the TCZ estimate, the only actual available figures on employment levels were from the hospitality sub-sector of the tourism industry as compiled by the MTENR. Table 2 shows the progression in employment levels in the hospitality sector.

Table 2: Employment Levels in Hospitality Sub-Sector (2000-2007)⁴

	2000	2001	2002	2003	2004	2005	2006	2007
Number of Rooms	4,744	4,822	5,060	5,202	5,360	5,521	5,682	5,549
Number of Beds	7,920	8,136	8,601	8,774	9,115	9,417	9,425	9,660
Employment	11,892	13,444	14,996	16,548	18,100	19,652	21,204	22,756

The table shows that about 11,000 jobs were created in the tourism sector between 2000 and 2008.

It is generally agreed that jobs were lost due to the financial crisis, particularly in Southern Province where the number of tourists from Asia, United States of America and the United Kingdom has reduced. There was a decline in formal sector employment in the tourism sector, particularly in the period 2008-2009. From the interviews with stakeholders and qualitative data obtained during the field surveys (based on a sample size of 40 companies), the number of jobs lost was 165 or 7% of the work force. Of the number of jobs lost, between 30% and 40% are women while 60% to 70% are men. However, interestingly several of the other tourism enterprises recorded gains in employment over the same period, amounting to 67, giving overall net losses in the 40 surveyed enterprises of almost 100 jobs lost.

The Ministry of Labour and Social Security (MLSS) conducted a snap survey to ascertain job losses due to the global financial crisis. The survey covered a number of hotels in Livingstone in May 2009. According to the Ministry’s findings, the total number of jobs lost was 254. TCZ projected job losses in the sector to reach 2,500 by the end of 2009, and stated that without Government interventions this could have been as high as 5,000.

⁴ Source: MTENR

Human resource reductions were undertaken mostly through non-renewal of contracts for staff on short-term employment contracts, mostly of 1 year or less duration. The number of workers on casual and short-term contracts is increasing and these are the first ones to be let go, as the cost of separation is not as high as for workers on long-term and pensionable terms. These casual workers are very vulnerable in a crisis situation and have a higher risk of falling into poverty if nothing is done to support them through social protection schemes.

It has become common to call restructuring within Micro, Small and Medium Enterprises (MSMEs) “Silent Restructuring” simply because, despite these companies constituting 80% of the tourism enterprises, very little is heard about SME restructuring. This is due to a lack of interest in the press and a mistaken belief that there is little knock-on effect across the economy as a whole. Yet it is precisely these very companies that have the least resources, are less likely to have representative structures at workplace level, and which will find restructuring generally more difficult to deal with. A case in point was an enterprise visited in Chipata where management has been unable to implement retrenchments due to cost implications. Nor did they engage the workers into negotiations to explore other avenues of restructuring, such as those negotiated by the unions and management in other enterprises elsewhere, where social dialogue has taken place.

It is worth noting that the effects of the global financial crisis have not been as severe for those responding enterprises whose customers are mainly local. As indicated above, there were even some enterprises that recorded increases in labour during this period. Many of the “local” enterprises have maintained their labour force, but have generally not increased employment numbers due to the high cost of inputs owing to the depreciation of the Zambian Kwacha in relation to the United States Dollar. The rate of the Zambian Kwacha to the United States Dollar depreciated from K3,400 in June 2008 to K4,700 in June 2009.

2.1.3 Jobs Outlook for 2010

On an optimistic note, 20% of the respondent companies indicated positive employment projections for the year 2010. This was on the assumption that there will be improvements to the economies in the United States, Europe, and Asia due to the stimulus packages being implemented there. The other contributing factor to positive projections was the anticipated influx of tourists coming to the region for the 2010 World Cup to be held in South Africa, for which most of the enterprises had already planned expansion programmes.

The majority of enterprises did not project employment figures on employment, and alluded to uncertainties as to how long the global financial crisis might last. However, they indicated that they would maintain the current human resource levels, which is mostly composed of fixed-term contract employment of one-year duration. In view of the uncertainties in the business environment, the majority indicated that in the event of an increase in the levels of business activity in the year 2010, they would consider employing casual workers as opposed to fixed-term and or permanent workers.

This is a clear indication that the trend for casualization of labour in the tourism sector will increase as more and more employers prefer to engage casual workers for short periods of time. Most respondents felt that employment opportunities, especially on permanent terms and conditions of employment, were increasingly being done away

with in preference for short-term contracts mostly of one-year duration and casual of labour. This was because most enterprises did not want to commit themselves to the liabilities which are characteristic of permanent terms and conditions of employment, and also because contract employment was easier to administer, particularly in the event of retrenchment such as during the global financial crisis.

The creation of new permanent and pensionable employment is generally avoided in the sector due to, among others, the redundancy provisions in the labour laws: 2 months pay for each complete year of service, and accumulation of recurrent liabilities on the workers severance (i.e. pension, retirement benefits and accrued leave). If workers are declared redundant in large numbers in the current crisis scenario, companies would be encumbered with huge redundancy bills. The employer is thus restrained from effecting lay-offs of permanent and pensionable workers for fear of becoming insolvent owing to the huge financial liability that accompanies such lay-offs.

Zambia and its key tourism stakeholders, including both employers and workers, should look at the possibilities of the global financial crisis bringing with it opportunities for lesson-learning and for doing things better.

2.2 EFFECTS ON WORKING CONDITIONS

There is a general view among managers and workers in the tourism industry that real incomes have declined due to a rise in the prices of goods in the economy. The Central Statistical Office indicates that inflation has increased from 9.3% in January 2008 to 14.4% by June 2009, and preliminary estimates show that inflation was down to single figures before the end of 2009⁵. They further attributed this to the effects of the global economic crisis.

The majority of enterprises interviewed have maintained conditions of service as agreed with the unions and the individual workers. There were no reports of significant improvements made to the conditions of service; employers gave the low volume of business as the reason for the stagnation of the Conditions of Service, which are traditionally renegotiated and improvements agreed upon every year. The same tends to apply even in establishments where there is no union presence.

The only enterprise where there have been major changes to the conditions of service as a result of the global financial crisis was the Sun International Hotel whose occupancy rates have reduced from 75% in 2008 to 50% in 2009. As a cost-saving measure, the hotel engaged the union in negotiations to restructure staffing levels and review conditions of service. This is an example of social dialogue at the enterprise level. As a result of the negotiations, management and the union agreed on the following changes:

- i. To reduce the staffing levels in the hotel by any means except by redundancies;
- ii. That all contracts of employment for workers on fixed-term contracts may not be automatically renewed when they expire;
- iii. That natural attrition be used as a strategy for reducing the staffing levels, and that all staff losses due to death, resignation and medical discharges will not be automatically replaced;
- iv. Reduction in the number of expatriate staff;

⁵ CSO reports to the media in December 2009.

- v. Change in the way laundry is cleaned: this was previously outsourced, and now would be done in-house by hotel staff;
- vi. Reduction in working hours: workers are now being paid for reduced hours worked, meaning that the take-home pay for the workers has also reduced;
- vii. Workers are being rostered and any overtime is compensated by way of off-days as opposed to being paid overtime, which is double the normal rate;
- viii. The employer negotiated with management staff to reduce the amount of cell phone airtime given to them.

A proposal by management to send some of the unionised workers on forced leave was rejected by the union and thus, could not be implemented.

2.3 OCCUPATIONAL HEALTH & SAFETY STANDARDS

Occupational health and safety standards in the tourism sector have apparently not been affected as a result of the global financial crisis. There were no reports of increases in accidents or ailments resulting from non-compliance of the occupational health and safety regulations because of the financial crisis. The enterprises maintained Occupational Health and Safety Standards as approved by the MLSS to protect the workers from occupational accidents as well as sickness.

However, it was pointed out that the Ministry of Labour and Social Security is ill-equipped to effectively inspect Occupational Health and Safety Standards due to limited resources such as staffing; financial resources, and appropriate infrastructure such as occupational hygiene laboratories and equipment.

2.4 ACCESS TO HIV AND AIDS SUPPORT AND COUNSELLING

The tourism sector has not been spared the effects of the HIV and AIDS pandemic. In this vein, most enterprises in the sector have put in place measures to deal with the problem. Most employers subscribe to medical schemes in Government hospitals or private clinics on a contributory basis and in some cases, fully paid for by employers.

Under the Food and Drugs Act, all workers who handle food must be tested every six months at a Government or recognised clinic or hospital for communicable diseases such as tuberculosis and sexually transmitted infections (STIs). The Collective Agreements also provide clauses on the requirement for all food handlers to be medically examined every 6 months.

With regard to HIV and AIDS support before and after the crisis, the surveyed enterprises have maintained the various medical schemes as before, and workers have been able to access the services for counselling and Anti-Retroviral Therapy (ART) through these medical schemes. A number of the enterprises, particularly the large ones such as the Sun Hotel International, Intercontinental Hotel, Taj Pamodzi Hotel and Budget Hotels (Garden Group), have put in place HIV and AIDS programmes at the workplace. These include training and peer education on HIV and AIDS; free access to condoms, counselling and testing; and educating the communities in the neighbourhood on HIV and AIDS. In the case of the Sun Hotel International, the employer pays for the cost of medication and services for HIV and AIDS support services. These services have been maintained even during the global financial crisis.

At the other end of the spectrum, some of the small lodges have also started

providing a helping hand to workers affected and infected with HIV and AIDS. For example, Kamocho Guest House, a 12-bed facility in Eastern Province, has put in place measures to ensure that sick workers still have a job to return to when they recover, and continue receiving part of their salary during periods of extended illness.

The Hotel and Catering Association of Zambia (HCAZ) has been working with the USAID Market Access Trade and Enabling Policies Project (MATEP) in providing HIV and AIDS messages and training of peer educators in member establishments. In addition, a Workplace HIV and AIDS Policy is in the final stages of development and will be launched in the coming months. This should build upon the ILO's Code of Practice and relate to the planned Recommendation on HIV and AIDS, due to be adopted by the International Labour Conference in June 2010.

2.5 DECENT WORK DIMENSIONS

The concept of Decent Work was developed by the International Labour Organization (ILO) on the premise that productive employment and decent work were key elements for achieving equitable, inclusive and sustainable development. Decent Work implies the provision of work in conditions of freedom, equity, security and human dignity. The ILO's global Decent Work Agenda has four main strategic objectives namely:

- i. Fundamental principles and rights at work and International Labour Standards;
- ii. Employment and Income opportunities;
- iii. Social Protection and Social Security; and
- iv. Social Dialogue and Tripartism.

The Zambian Government with assistance of key cooperating partners, spearheaded by the ILO, has developed new policies and programmes aimed at facilitating the creation of productive employment with Decent Work. Such policies and programmes include the National Employment and Labour Market Policy and the Zambia Decent Work Country programme (Z-DWCP), which runs from 2007 to 2011. The objectives and strategies of the above initiatives have been integrated and are being implemented in line with the Fifth National Development Plan (FNDP), running from 2006 to 2010.

The Zambia Decent Work Country Programme was launched in December 2007 with the following three priority areas agreed upon by the social partners:

- i) More and better employment opportunities for the youth, women and people with disabilities, supported by enhanced Labour Market Information (LMI) systems;
- ii) Responding to HIV and AIDS challenges in the world of work;
- iii) Eliminating child labour, particularly in its worst forms.

2.5.1 Appreciation of the Decent Work Concept

In general, the concept of Decent Work is widely understood and appreciated by most of the stakeholders interviewed in the sector, and the level of awareness on the Zambia DWCP was very low. Out of the total number of 58 respondents, only 2 (namely the Ministry of Labour and Social Security and the Hotel and Catering Workers' Union of Zambia) were familiar with the concept of Decent Work.

The Government and social partners (Workers' and Employers' organizations) need to increase awareness on Decent Work amongst all stakeholders to ensure that its concepts and principles are clearly understood and appreciated by all stakeholders, particularly workers and employers in the tourism sector. There are opportunities for the major stakeholders in the tourism sector – employers, workers and Government – to determine ways in which Zambia's tourism sector becomes a "Decent Work" sector of the economy, providing safe and healthy employment opportunities, and building upon the mechanisms of social dialogue to create more and better sustainable enterprises.

2.5.1.1 Employment

All employer respondents attested to being equal opportunity employers in their recruitment policies and that gender, disability, and HIV and AIDS were not an issue of consideration in recruitment. It is, however, evident that the employment of people with disabilities still remains a big challenge as the majority of the enterprises visited did not employ disabled persons, save for Sun International which employed 4 persons with disabilities in their establishment.

2.5.1.2 Social Protection

Government, through the labour laws and the National Pension Schemes, has made substantial progress in mitigating and providing social protection to workers in employment. All the enterprises covered contribute to the National Pension Scheme Authority (NAPSA) pension scheme and reported that they were up-to-date with their NAPSA contributions. This is despite the negative effects of the global financial crisis on the businesses in the tourism sector. However, NAPSA itself has been affected by the global financial crisis and complained of having lost income through the loss of contributions from workers that had been laid off. NAPSA is financed by equal contributions from the employer and worker, and is limited to providing life-long retirement benefits, invalidity and survivors' pensions.

However, those retrenched as a result of the crisis have no formal social protection schemes to cushion them post-retrenchment. Not only are workers on short-term contracts not covered by any pension scheme, but the social security scheme in Zambia does not provide any protection upon loss of employment even for those on long-term employment. Workers laid off during the crisis, or indeed at any time, do not have any recourse to the available formal social security schemes, unless they reach retirement age, which in Zambia is 55 years.

The non-existence of social protection for retrenched workers and generally the unemployed could not be attributed to the global financial crisis. Rather, it was attributed to the legal and regulatory framework on social protection, which does not provide cover to the unemployed and retrenched. Government's argument on the lack of adequate social security is that it does not have sufficient resources to guarantee even the minimum of social protection to the unemployed, given the high levels of unemployment in the country. Government has been unable to provide for the unemployed, as there are other competing priority needs in the country. Provision of social protection is, therefore, still a challenge, which will have to be addressed through the Z-DCWP and other appropriate means.

2.5.1.3 HIV and AIDS at the Workplace

Responding to HIV and AIDS challenges in the workplace is one of the priority

areas agreed with the constituents under the Decent Work Country Programme. Increasingly, the issue of HIV and AIDS is recognised as a workplace issue in most companies. As stated in Section 2.4 above, a number of companies, particularly the big hotels and lodges, maintain HIV and AIDS workplace policies and programmes. The global economic crisis has apparently not affected the maintenance of the HIV and AIDS workplace policies and programmes, as they have largely continued to be maintained as before.

2.5.1.4 Rights at Work

Freedom of association and expression are rights that are enshrined in the Zambian Constitution and various labour laws. However, it has been observed that most of the workers, particularly in organizations where there is no union presence, are unaware of their rights as provided for in the labour laws and, therefore, are susceptible to exploitation and victimisation by employers who may equally be ignorant of the laws. It must be pointed out that this may be true for the majority of small and medium-size tourism enterprises who are not members of TCZ or Zambia Federation of Employers (ZFE) and, therefore, do not benefit from awareness campaigns conducted by ZFE.

The majority of workers in the tourism sector do not belong to a trade union, amid claims that their employers are against them joining the union. The fact is that the employer is not obligated by law to recognise a trade union in any enterprise employing less than 25 persons. This effectively limits or indeed precludes the workers' "Freedom of Association" in those enterprises. In addition, their right to "Freedom of Expression" and effectively negotiate for conditions of service is restricted.

The right of women workers to maternity leave entitlements is not enjoyed by workers on short-term employment contracts. The study findings reveal that the majority of workers in the tourism sector are on 1 or 2 year fixed-term contracts of employment, and that these contracts terminate after each period as stated in the contract. The implication is that most of the female workers this type of contract may never qualify for paid maternity leave due to the provisions of the Employment Act. According to the provisions of the Act, maternity leave is granted to every female worker who has completed at least two years of continuous service with her employer from the date of first engagement or since the last maternity taken. Consequently, female workers do not enjoy their basic right to maternity entitlement, as each time they fall pregnant they have to resign from employment.⁶

The high unemployment levels and the lack of new employment opportunities in the economy have not helped the situation in terms of assisting workers to be able to effectively demand that which is within their right by law.

In the FNDP, the Government, through MLSS has undertaken to implement regular labour inspections and awareness programmes on labour laws. It is evident that the Government has not yet attained the necessary regulatory and awareness levels in the tourism sector, let alone in the country. Therefore, there is need for Government to increase such awareness campaigns, as well as implementation of labour inspections in workplaces, so as to ensure that the workers' rights as provided for in the labour laws are upheld.

⁶ See also the related ILO paper on Rapid Assessment on Women Workers and their Rights, April 2010.

2.6 SOCIAL DIALOGUE

Social dialogue means negotiation, consultation, or exchange of views in a workplace situation, involving the employers and management on the one hand, and the workers and their representative trade union(s) on the other. Social dialogue has great potential and can be used to meaningfully manage change in crisis situations and achieve equitable economic and social goals, both at national and enterprise level.

At the national level, social dialogue is extended to involve all of the tripartite actors in the labour market, such as employers, workers and the Government. In Zambia, the framework and structure for purposes of social dialogue are provided for in the Industrial and Labour Relations Act Cap 269 of the laws of Zambia. Where unions exist, the employers and unions have often undertaken bipartite social dialogue for the purpose of collective bargaining as provided for by law. The promotion of social dialogue as a tool for dispute resolution, facilitating consultation and effectively addressing strategic issues on employment and labour in the workplace is one of the objectives being pursued through the implementation of the Fifth National Development Plan.

At enterprise level, social dialogue has successfully been utilised for collective bargaining purposes by employers and unions in the tourism sector, albeit only in enterprises where unions exist. Though the global financial crisis has not affected the potential of social dialogue in enterprises where unions exist, the problem lies in those enterprises and units where there is no union presence, and these are in the majority. There was no evidence of social dialogue or the involvement of workers to promote consensus building in enterprises where unions do not exist, even prior to the crisis.

In the majority of cases, the employer just informed the workers, and decisions pertaining to retrenchment and conditions of employment were implemented. In most of these enterprises, employees are never engaged in negotiations on conditions of service and staffing levels. Considering that the majority of the workers in enterprises in the tourism sector are not unionised, much more needs to be done to promote greater inclusiveness and participation of all key stakeholders if social dialogue is to be enhanced. This situation is aggravated by the lack of any legislation or provision that establishes a structure for social dialogue to take place in enterprises where there is no union presence. The Employment (Amendment) Act, particularly the provisions on redundancy, and the Industrial and Labour Relations Act do not provide for a legally recognised forum for social dialogue to take place in the absence of a trade union.

Social dialogue takes place at the national level through the Tripartite Consultative Labour Council (TCLC), comprising of Government (MLSS), trade unions and employer organizations. The last meeting was held in April 2009. Amongst the agenda items for this meeting were the effects of the global financial crisis and the review of the labour laws. The global financial crisis has increased the desire and interest by national institutions (including the National Assembly) to learn more and participate in social dialogue with stakeholder institutions such as the unions in order to find lasting solutions to the negative effects of the crisis.⁷ It is the TCLC which could take

⁷ The Hotel and Catering Workers' Union of Zambia were summoned to the National Assembly to discuss the impact of the global financial crisis on employment and possible solutions to mitigate the crisis.

the lead in assessing the potential for designating the tourism sector as a “Decent Work” sector of the economy, and in the process showcasing the effectiveness of applying rights at work, employment creation and enterprise development, social protection and occupational health and safety, and social dialogue – the four pillars of the ILO’s global Decent Work Agenda.

2.7 ADEQUACY OF SOCIAL SECURITY MECHANISMS

Social security is the economic assistance provided to members of society for economic security and social welfare in case of income losses due to unemployment, illness, maternity, disabilities, old age or death of a breadwinner. Currently, the main social security mechanism in Zambia is the social insurance model, which is limited to the provision of protection against loss of income as a result of retirement, disability and survivorship. According to MLSS records, there are three public pension schemes and over 200 private occupational pension schemes providing pension management services to the public and private sector.

Other than those workers who were on casual employment, all the workers interviewed contributed to NAPSA while in employment. Contributions to NAPSA, which is a compulsory scheme for all regularly employed persons, does not cushion the effects of job losses owing to the conditionality attached to the NAPSA claims, where contributors can only access support from NAPSA upon attainment of 55 years. Those who were retrenched and contributed to NAPSA and were below the age of 55 did not, therefore, qualify for any claims under NAPSA. By design, the scheme does not cover those who lose employment through retrenchments prior to attaining the age of 55, which is the retirement age in Zambia. From the enterprises covered in this survey, a total number of 165 workers had lost their jobs.

The majority of those interviewed in the focus group discussions held with the retrenched workers, had worked on fixed and casual contracts and had since left employment. These retrenchees had been out of employment for periods ranging from 8 to 10 months.

From the experiences of the retrenchees, the impact of the global financial crisis on the tourism sector has been evidenced in terms of reduced number of tourists coming into the country, companies experiencing financial problems because of low volume of business, and closure of some companies.

As a result of the crisis, jobs have been lost with the consequent social and economic effects on those affected. The social and economic effects of retrenchment as experienced by the retrenchees included the lack of income, and therefore lack of capacity to support their families. As a result, most of them could not afford to provide the basic needs of their families, such as food and accommodation, let alone support their children in school. They also complained of lack of job opportunities, and that days on end were spent job-hunting without much hope. Some of them admitted that they had resorted to illegal activities such as crime and prostitution in order to survive the effect of job losses. The majority of the retrenchees were not prepared for termination by their employers through any form of counselling or training. They were merely informed of the global crisis and the need to reduce staff numbers. The box below on “Whose Village” portrays the wide-ranging impacts of the global financial crisis on Zambia’s local tourism scene.

WHOSE VILLAGE?

How will the credit crunch affect Zambia's tourism? As the driving force behind Robin Pope Safaris, and tireless champion of Zambia's cause, Jo Pope is better placed than most to answer this question. From her home on the banks of the Luangwa, Jo describes for Travel Zambia how global recession becomes local reality – and explains why this is an issue that concerns us all.

Global Village. I wonder who first used this phrase. Hard to remember now, but it was not that long ago in the grand scheme of thing and I doubt that, at the time, we really understood how truly 'global' this village was. Now, for the first time, we are beginning to grasp what it means for every human being on the planet.

When the five o'clock BBC World News first started describing the 'financial crisis' I would wonder, in my usually sleepy state, just how this might affect Zambia. Could a bank messing up in Wall Street really have any impact on Mr Banda in Mfuwe?

That was a year ago. And now the answer is crystal clear: Mr Banda is very much part of the financial global village – whether he wants to be or not.

For over 20 years I have been involved in Zambia's tourism, building up a safari company, promoting Zambia as a destination and, for my sins, becoming addicted to the fledgling airline industry. All these things go hand in hand. And over this time it has been very rewarding to have witnessed – and become involved in – the positive knock-on effect that this industry has on the local community.

We safari operators promote wild and remote areas. By default, therefore, we work among remote rural communities, who generally have few opportunities in life and must survive on subsistence farming. Tourism brings jobs, cottage industries, small-scale commercial farming and more to these communities. In Mfuwe, the community that borders South Luangwa National Park, this 'responsible tourism' is highly developed: most safari companies support local education and health, and local people benefit in many ways – some obvious, others more subtle. So does the wildlife, as donations to conservation work also arise.

The last ten years have seen Zambia's tourism grow steadily and the benefits to the rural areas increase accordingly. Take Mr Banda. He works as a guide at a community tourist village, his father is a waiter at a bush camp, his cousin makes mats for the lodges, his sister grows tomatoes and sells them to the lodges, his children are getting a better education at a sponsored school and his wife is employed at a local textile factory – for which the market comprises tourists visiting the lodge shops. Meanwhile a doctor, recruited and sponsored by the lodges, recently attended to Mr Banda's mother at a nearby clinic.

As the local economy spins faster so those with money want to spend, and more dukas (small shops), hairdressers, tyre-menders and other small-scale entrepreneurs mushroom around the community. I first knew local business must be booming when the Chipata 'ladies of the night' began travelling the 120km to Mfuwe for the weekends to ply their trade here.

But whilst the Zambians living next to South Luangwa National Park were finally hauling themselves out of extreme poverty and realising opportunities for a better life, the financial whiz kids of the West were playing Russian roulette with the world economy. And finally they fired the chamber with the bullet.

Mr Banda has been taken by surprise. He is aware of the 'global crisis'. He may not have access to the Internet but, like everyone here, he listens to the radio and it is a topic that dominates the airwaves daily. Quite what it all means is not clear, of course. It's hard enough for those living in London or New York to grasp the intricacies of 'toxic assets' and 'short-selling'. But he has no doubt that it is serious.

Zambia played no part in all this high-level financial risk taking, so it does not seem fair to Mr Banda that he and his family are already affected. Tourist numbers are falling – not crashing, but falling – and it will not take much to reverse the economic growth of the last decade. Mr Banda looks around and sees lodges cutting back on their workforce and their spending in the local community. He notices that the tourists who do come are donating less to education and conservation projects. Mr Banda is worried. "When will it end?" he asks me. A very good question Mr Banda. I have no idea. We now all live in a global village.

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The retrenched workers did not receive any form of social security assistance from their employers, other than the contractual terminal benefits provisions in the form of leave pay and payment in lieu of notice where applicable. The average take home pay, after retrenchment and depending on position held was between ZMK250,000 and ZMK1,000,000, which they felt was not enough to sustain them for the period they would be looking for employment, or to enable them to engage in any meaningful income-generating ventures.

Retrenchment renders an employee vulnerable, especially where they are not eligible to redundancy benefits, which could be used as capital to engage in business ventures and other alternative income-generating activities.

2.8 THE ROLE OF TRADE UNIONS

A trade union is commonly defined as an organization of workers who have banded together to achieve common goals in key areas and working conditions. This is undertaken through negotiations between the employer and the workers, who are represented by the trade union concerned. The elements for negotiations may include: negotiation of wages; work rules; complaint procedures; workplace safety and health policies; and retirement and redundancy policies. The representation of workers' interests by trade unions constitutes an essential part of social dialogue. Trade unions have played their role in protecting jobs and conditions of employment during the current global economic crisis. The unions have engaged with management and were able to mitigate the impacts of the crisis on their members. This was evident at the Sun International Hotel and the Pamodzi Hotel where the union and management held negotiations and were able to amicably agree to changes to the conditions of service and levels of staffing reductions.

The nature of the agreements made by trade unions in the tourism industry during this crisis, where the unions negotiated and agreed to some "negative change" in conditions of service, is quite unprecedented in the history of negotiations and agreements in Zambia. Trade unions in Zambia have a reputation for demanding improvements in the conditions of service and salary increments, without due consideration of the economic circumstances of the enterprise. This notion has been evidently challenged, going by the understanding and level of maturity exhibited by the Hotels and Catering Workers' Union and their members during this crisis. The trade union showed its capacity to understand and appreciate, not only the country's economic conditions, but also the business conditions and capacity to generate income at the enterprise level. The union members also showed confidence in their union, while the union exhibited their unity and strength during the crisis.

Without trade union representation, particularly in big enterprises such as the Sun International, the achievements made towards the maintenance of industrial harmony in the midst of job losses and the partial erosion of conditions of service would not have been realised.

On the other hand, workers in enterprises without trade union presence could be better protected and enlightened on their rights if they belonged to the union. One employer in an enterprise without a union, however, was of the opinion that workers could still claim their rights, even in the absence of a union. The employer lamented the passive nature and behaviour of workers. He stated that staff development and career improvement programmes are absent in most tourism establishments. It would appear that workers demonstrate little or no ambition in his view. He stressed the need for serious efforts to educate workers, lest they be taken advantage of and exploited by some investors. He further added that the prevailing work culture is not very helpful to the workers themselves.

2.9 POLICY AND LEGAL FRAMEWORK

There are many pieces of legislation and policies that govern and regulate the relationship between worker and employer under Zambian Law. One of the functions of these policies and laws is to protect jobs and conditions of service for workers, and ultimately create decent employment for the citizens of Zambia. The major pieces of legislation and policies that have a direct bearing on conditions of employment and

jobs in general include:

- i. The Employment Act Cap 268;
- ii. The Industrial and Labour Relations Act cap 269;
- iii. The Minimum Wages and Conditions of Employment Act Cap 276;
- iv. Preferential Claims in Bankruptcy Act of 1995;
- v. The National Employment and Labour Market Policy;
- vi. The Factories Act;
- vii. Employment (Special provisions) Act;
- viii. The National Pension Scheme Act;
- ix. The Workers' Compensation Act;
- x. Case law (where decisions of the courts on protection of conditions of service and jobs have created precedents which influence all future cases).

These statutes and legislation are of primary importance when it comes to matters of protecting workers' rights, conditions of service and jobs in general. Of the statutes mentioned above, four are key when discussing the protection of jobs and conditions of employment for workers in the tourism sector. These are the Employment (Special Provisions) Act; the Employment Act; the Minimum Wages Act, and the Industrial Relations Act.

Related amendments and reviews issued include:

- i. Statutory Instrument No. 119 of 1997 under the Minimum Wages and Conditions of Employment (General) Order, 1997;
- ii. Statutory Instrument No. 120 of 1997 under the Minimum Wages and Conditions of Employment (Shop Workers) Order, 1997;
- iii. Statutory Instrument No. 56 of 2006 under the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2006;
- iv. Statutory Instrument No. 57 of 2006 under the Minimum Wages and Conditions of Employment (General) Order, 2006;
- v. The Employment (Amendment) Act No. 15 of 1997;
- vi. The Industrial and Labour Relations (amendment) Act, No. 8 of 2008.

The study findings revealed that in Zambia there are no laws specifically designed to apply in crisis situations, such as the global financial crisis. All employers in Zambia, regardless of the economic circumstances, are subject to the provisions of the labour laws, and any departure from the same would be deemed illegal. However, a set of regulations on employment, which can only come into force during periods when the President has declared a state of emergency, does exist. This is the Employment (Special Provisions) Act Cap 270 of the Labour Laws.

2.9.1 The Employment (Special Provisions) Act

The Act provides special provisions on the subject of employment. This Act applies when the President of the Republic of Zambia declares a state of public emergency in accordance with the Zambian Constitution, and these provisions protect jobs and conditions of employment in times of state of emergency. Section 4 of the Special Provisions Act provides as follows.

“The President may, by statutory instrument, make such regulations as appear to him to be necessary or expedient of employees and for regulating the conditions of service of employees whose continued employment is secured by virtue of the regulations”.

The same section empowers the President to make provisions for:

“Prohibiting the dismissal or the termination in any other manner of the employment of employees, whether or not previous notice of such dismissal or termination has been given to the employee”.

In addition, Section 5 provides:

“Any person who withholds or alters to the detriment of any employee any of the benefits to which the employee is entitled under his contract of service shall be guilty of an offence”.

These provisions are clearly meant to protect jobs and conditions of employment during periods of a state of emergency. Since the current global crisis was not promulgated as such, the provisions of the Act cannot be enforced to protect jobs.

2.9.2 The Employment Act CAP 268 of the Laws of Zambia.

The Employment Act is the main statute regulating most contracts of employment in Zambia, regardless of sector. The contracts covered include those on permanent and pensionable terms of contracts, those on fixed-term contracts, as well as those covered under Collective Agreements. The statute does not cover workers under the security wings of the public service such as police, the defence force and the prison service.

The provisions of the Employment Act also do not apply to casual workers in the light of the definition of the term “employee”, which under the Act is defined as:

“any person who has entered into or works under a contract of service, whether the contract is express or implied, is oral or in writing, and whether the remuneration is calculated by time or by work done, or is in cash or in kind, but does not include a person employed under a contract of apprenticeship made in accordance with the Apprenticeship Act or a casual employee”.

A casual employee is defined as an employee whose contract of service is for a period of not more than six months, and specifies that the wages of the employee are to be paid on a daily basis.

The Employment Act protects the employees against unlawful termination of employment, as well as unilateral changes to terms and conditions of employment as agreed in an employment contract, or through the collective bargaining process with the union, without agreement by the parties bound by such a contract or an agreement.

2.9.3 The Minimum Wages and Conditions of Employment Act

The Minimum Wages and Conditions of Employment Act regulates the minimum wage levels and conditions of employment for all workers. Currently, there are two statutory orders issued, namely the Minimum Wages and Conditions of Employment Shop Worker Order⁸ and the Minimum Wages and Conditions of Employment General

⁸ Statutory Instrument No 3 of 2002 commonly referred to as “Shop Workers Order”

Order.⁹ The General Order is the one relevant for this purpose and it covers all workers found in the tourism sector, except for those whose conditions of employment are governed by a Collective Agreement.

The provisions of the Minimum Wages and Conditions of Employment Act do not cover unionised workers, but cover all other categories of workers with the exclusion of casuals. Therefore, all employers in Zambia are required by law to abide by the provisions of the Minimum Wages and Conditions of Employment Act, notwithstanding the economic circumstances such as the global economic crisis. The workers' conditions of service in this regard are well protected by law, and any adjustments to the agreed conditions and to the disadvantage of the workers would be illegal unless by agreement with the workers concerned. The major concern is that the minimum wages set are very low and are not sufficient to meet workers' basic needs. They need to be reviewed to take into account the basic food basket, if employment with decent working conditions is to be realised.

2.9.4 Industrial and Labour Relations Act Cap 269 of the Laws of Zambia

The Industrial and Labour Relations Act prescribes the rights of workers and places certain obligations on employers with regard to recognition and registration of trade unions, as well as conclusion of collective agreements and related activities. The key provisions of the Act include:

1. The employees' right to belong to and participate in trade union activities - Section 5 of the Industrial and Labour Relations Act entitles employees to join and participate in trade union activities.
2. Section 63 obliges the employer to register with the Labour Commissioner upon employing 25 or more eligible employees.
3. Section 64 provides that the employer must conclude a recognition agreement with the eligible employees within three months of registration. Failure to conclude a recognition agreement within the prescribed time is deemed to constitute a collective dispute.

In terms of application, the Industrial Relations Act is all-inclusive and captures all kinds of workers except those in management positions, state security organizations, and judges, registrars of the court, magistrates and local court justices.

2.9.5 The National Employment and Labour Market Policy (NELMP)

This Policy is meant to reinforce the provisions of the labour laws in increasing employment with decent working conditions. Through the Policy, the Government's objective is to provide a labour market management mechanism that will respond effectively and efficiently to the demands of a liberalised market economy. The policy document outlines strategies to be adopted in pursuit of its objectives and in partnership with the social partners, cooperating partners and civil society. The policy was launched in 2005, although its content is probably less well known than that of the Zambia-DWCP. Nevertheless, the NELMP provides a valuable policy framework for promoting skills development, productivity and competitiveness, and entrepreneurship and enterprise development alongside labour inspection, occupational health and safety, and workers' rights. This could meaningfully be applied to the tourism sector.

⁹ Statutory Instrument No 2 of 2002 commonly referred to as "General Order"

2.9.6 Redundancy

The study findings have revealed that during the global financial crisis, enterprises have cautiously utilised methods whereby companies have not incurred significant costs in terms of paying terminal benefits for the workers being retrenched. Redundancies have, therefore, generally been avoided in order to avoid payment of the associated redundancy benefits as determined by law.

The minimum redundancy benefits are two (2) months basic pay for each completed year of service, plus notice of one month or payment in lieu thereof. For unionised workers under Collective Agreements negotiated by the Hotel and Catering Workers Union of Zambia, redundancy benefits negotiated range from 2 months basic pay to 5 months basic pay for each completed year of service. These are far above those determined through the Employment (Amendment) Act, under which redundancy benefits must be paid on the last day of an employee's service, and failure to do so means that the employee is entitled to continue drawing his/her monthly salary until the benefits are paid in full.

For obvious reasons associated with cost-saving, employers have avoided terminations by way of redundancy due to the high costs of implementing redundancy. This was the case at the Sun International, where short-term contract staff suffered loss of jobs through non-renewal of contracts.

2.9.7 Casualization of Labour

It was evident from the study that there is an increasing trend towards casualization of labour and short-term contracts of employment in the tourism industry. The majority of enterprises indicated that they were not considering increasing their labour force levels for the year 2009 and 2010 and, that should that need arise, they would consider employing casual workers until they were sure the economy had fully recovered from the effects of the crisis. The preference by employers for short-term contract employment and casualization cannot, however, be attributed exclusively to the global financial crisis. This did not start as a result of the global crunch, but was in existence even before, and has become a general trend in the labour market and particularly in the private sector.

The study findings reveal that short-term contracts and casualization of labour are factors that are working against the principal of creating decent employment in the country. Jobs and conditions of employment can only be effectively protected in an environment where there is stable, secure, long-term employment. It was evident that the workers on permanent and/or long-term contracts of employment enjoy the benefits stipulated in the labour laws. Workers on long-term employment enjoy fringe and social benefits, job security and stable employment, and good prospects for upward mobility.

For workers on short-term and casual employment, the opposite seems to apply. This kind of employment is typified by job insecurity, low incomes, little training, low mobility, lack of significant rewards and fringe benefits, and generally lack of social security.

In addition to the above, workers on short-term and casual employment have no terminal benefits to talk about upon expiry of contract, thus rendering them vulnerable on leaving employment. To compound the matter further, most companies did not

prepare the workers for retrenchment and have no programmes for that purpose. These workers tend to be at the mercy of their employers as they do not negotiate for conditions of service. The power of negotiation is compromised because in most cases the number of workers is below 25. Under casualization and short-term contracts, the workers face the risk of reaching retirement age of 55 without any contributions to social security schemes such as NAPSA, which are partly calculated on the basis of the number of contributions to the scheme and number of years of service. This deprives the workers of the much-needed social protection and security while in employment and in their prime, as well as in their old age.

2.9.8 Maternity Entitlement

Section 15A of the Employment Act on maternity leave provides that:

“Subject to any agreement between the parties or any other written law, providing for maternity leave on conditions not less favourable than are provided for in this section, every female employee who has completed at least two years of continuous service with her employer from the date of first engagement or since the last maternity taken, as the case may be, shall, on production of a medical certificate as to her pregnancy signed by registered medical practitioner, be entitled to maternity leave of twelve weeks with full pay”.

A complementary provision is made under the Minimum Wages and Conditions of Employment (General) Order. Part 4.1 (i) under maternity leave provides that, *“A female employee shall be entitled to 90 days paid maternity leave on production of a medical certificate as to her pregnancy, signed by a registered medical practitioner, provided she has completed two years continuous service from the date of first engagement or since the last maternity leave was taken”.*

The study found that most workers in the tourism sector are on 1 or 2 year fixed-term contracts, and that these contracts terminate after each period as stated in the contract. The implication is that most female workers on 1 and 2 year contracts will never qualify for paid maternity leave due to the provisions of the law quoted above. Workers do not enjoy their basic right to maternity entitlement, as each time they fall pregnant they have to resign from employment.

The provision under section 15A of the Employment Act will have to be reviewed to ensure that the female workers are not discriminated against and that Decent Work prevails for women as well as men.

2.9.9 Wages When Due and Payable

Section 48(1) (a) of the Employment Act provides that the wages of an employee shall be due:

“In the case of a contract of service from month to month, on the last day of each month”.

Due to the global financial crisis, some employers have not paid salaries to the workers on the last day of each month, as stated by law. It was reported that some workers remained unpaid for months on end. The provisions of the law on payment of wages at the stipulated time are weak, and especially during periods of crisis

such as the global financial crisis. The law does not adequately protect the workers, in that it does not prescribe penalties for defaulters. Meanwhile the workers feel discouraged to take such matters to court for redress due to lack of resources and long periods of time taken by courts to resolve cases. The rights of the workers to payment of wages at the right time are being denied.

2.9.10 Right to Join a Union

The Industrial and Labour Relations Act provides for the right of the worker to take part in the formation of and to join a union of their choice.¹⁰ Section 63 of the Act obliges the employer to register with the Labour Commissioner upon employing 25 or more eligible employees. This is for purposes of facilitating a recognition agreement with the eligible employees.

Section 64 provides that the employer must conclude a recognition agreement with the eligible workers within three months of registration. Failure to conclude a recognition agreement within the prescribed time is deemed to constitute a collective dispute.

There are a lot of enterprises in the tourism sector employing less than 25 workers. The employers of the concerned workers are not obliged to register with the Labour Commissioner and are, therefore, not obliged to enter into a recognition agreement with the Union should the workers decide to join a union.

Provisions of sections 63, 64 and 5 of the Industrial and Labour Relations Act are not in harmony. On one hand they promote the right of the workers to participate in union activities, and on the other do not provide for employees working in enterprises with less than 25 workers join unions. Even where a worker wished to exercise his or her right to join the union and participate in union activities, the employer would not be obliged to enter into a recognition agreement with the union for purposes of negotiating conditions of service for such workers. The purpose for joining such a union would, therefore, be defeated.

Information obtained from the Hotel and Catering Workers' Union of Zambia indicates that the majority of workers working in the hospitality industry are not unionised. The unionised workers are mainly found in the big hotels and large lodges. The larger number of workers is found in the small lodges and restaurants. The HCWU estimates that out of a possible 18,000 members, the union has only 6,000 members.

The workers without union representation are sometimes seen to be "at the mercy of the employer", and lack security in employment due to the nature of their contracts and the fact that the employer is at liberty to replace them at any given time, and is not obliged to give a reason for their action. Due to the global financial crisis, the rising levels of unemployment, and generally the unfavourable labour market situation in the country, the workers find themselves in a weaker position to negotiate for better conditions of service individually.

There were reports of intimidation of workers by employers, and reluctance to associate with the unions for fear of being victimised by employers. These workers have no voice, and their ability to organize freely to defend their interests collectively in negotiations with their employer is weakened. Their right to social dialogue, though implied by law, is not a right in reality.

¹⁰ Industrial and Labour Relations Act section 5(1)(a)(i)(ii)

Secondly, findings revealed that there were some employers who employed more than 25 workers and none of the workers belonged to a union. The employers had ignored the requirements of the laws to register with the Labour Commissioner and enter into a recognition agreement with the workers, thus in contravention of the laws. One such employer in Livingstone argued that their workers did not want to belong to the union, while the union disputed the argument. The problem is compounded by the lack of awareness and knowledge on the part of the workers on their rights, as provided for by law. A lot of worker education on the labour laws is, therefore, required in the tourism industry.¹¹

The unions have taken some employers to court and experienced frustration, as the courts take too long to resolve such matters. The stakeholders also complained about the inability of the Ministry of Labour and Social Security to monitor the enforcement of the laws.

2.9.11 Minimum Wages and Conditions of Employment

There was a general view by the workers interviewed that the minimum wages and conditions of employment as set in the Act were too low and worked to the disadvantage of employees. The impression was that employers who offered “a favour”. The workers felt exploited, and were of the view that in some cases the employer had the ability to pay reasonable wages and apply decent conditions of service, but chose to pay lower wages as long as they were within the Act. In some instances, the workers felt that their employers had the ability to pay more, even under the current situation of the global financial crisis.

The levels set under the Minimum Wages and Conditions of Employment Act should constantly be reviewed to ensure that the workers who are not covered by the unions are cushioned from inflation and are able to meet their basic needs.

In addition, and as mentioned earlier, the regulations should provide a structure within which collective bargaining should be able to take place in enterprises where there is no union presence. This will assist the workers to have a collective voice and to have a say in as far as their conditions of employment are concerned.

The objective of the study was to assess the impact of the global financial crisis on the tourism sector and to recommend measures that the tripartite constituents of the Government, workers and employers could implement in order to minimize job losses and deterioration of conditions of work.

11 See again, ILO report on Women Workers and their Rights (2010)

3 CONCLUSIONS AND RECOMMENDATIONS

3.1 CONCLUSIONS

The global financial meltdown has had a knock-on effect on all spheres of the economy, including tourism. In Zambia, the crisis has not only affected the levels of business in the tourism sector, but also the conditions of employment and the staffing levels, as companies put in place cost-cutting measures to counter the negative effects of the crisis. As indicated earlier, the crisis can also bring with it new sets of opportunities, and these also need to be included in both the conclusions and recommendations.

I. Job Losses

The numbers of tourist arrivals which had been increasing over the period 2000 to 2007 is anticipated to drop in 2008 and 2009 owing to the global financial crisis. According to the Travel Agents Association of Zambia (TAAZ), business has gone down by between 15% and 25% as a result of the global financial crisis.

It is generally agreed that some jobs have been lost due to the global financial crisis, and particularly in Southern Province where the number of tourists from Asia, United States of America and the United Kingdom has reduced. From the interviews with stakeholders and qualitative data obtained during the field surveys (based on a sample size of 40 companies), the number of jobs lost was 165 or 7% of the work force, and new jobs created amounted to 67 in the enterprises surveyed.

Staffing reductions were undertaken mostly through non-renewal of contracts for staff on short-term employment contracts, mostly of 1 year or less duration.

II. Jobs Outlook for 2010

Twenty percent (20%) of the respondent companies projected improvements on employment levels for the year 2010. This was on the assumption that there would be improvements to the economies of the developed countries, as well as the anticipated influx of tourists coming to the region for the 2010 World Cup to be held in South Africa.

The trend for casualization of labour is likely to increase as employers prefer to engage casual workers for short periods of time. Employment on permanent terms and conditions of employment was increasingly being done away with because most enterprises did not want to risk committing themselves to the huge redundancy liabilities go along with such terms and conditions of employment.

III. Conditions of Service

The majority of enterprises interviewed maintained conditions of service as agreed with the unions and the individual workers. There were no reports of significant improvements made to the conditions of service; employers gave the low volume of business as the reason for the stagnation in conditions of service.

Major changes to the conditions of service as a result of the global financial crisis were effected at the Sun International Hotel, whose occupancy rates at reduced from 75% in 2008 to 50% in 2009. As part of its cost-saving measures, the hotel engaged the union in negotiations to restructure staffing levels and review conditions of service.

IV. Occupational Health and Safety Standards

Occupational health and safety standards have apparently not been affected as a result of the global financial crisis. There were no reports of increase in accidents or ailments resulting from non-compliance of the occupational health and safety regulations because of the financial crisis.

V. Minimum Wages and Conditions of Employment

The minimum wages set under the Minimum Wages and Conditions of Employment Act have been found to be inadequate, and these often act as a hindrance to improved salaries and conditions of employment. The observation by workers is that many employers feel they should not pay more than that “minimum level” determined by law, even when they have the ability to pay.

VI. Contract Employment and Casualization of Labour

The main impediment to protecting decent jobs and conditions of employment is the trend towards casualization of labour and short-term contracts. The labour laws on contract employment are weak in terms of ensuring decent employment for the Zambian citizens. This is on the premise that increasingly the private sector, and particularly in the tourism industry, is doing away with secure long-term employment in preference for engaging casuals and short-term contract staff, who are often cheaper to employ.

Employers' preference for short-term employment and casual labour is attributed to firms avoiding having to pay redundancy payoffs that accompany laying off workers on a permanent basis. The redundancy benefits negotiated in the tourism sector for unionised workers under the collective agreement between Hotel and Catering Workers' Union of Zambia, range from 2 months basic pay to 5 months basic pay for each completed year of service. This is generally higher than the redundancy provisions in the labour laws, which is at 2 months wages paid for each complete year of service. This trend has led to job insecurity in the labour market, as these casual jobs can easily be terminated and are characterised by low salaries, minimal benefits, and poor conditions of employment.

VII. Role of Trade Unions and Social Dialogue

It has been observed that where trade unions exist, social dialogue has taken place, and jobs and conditions of service are better protected than in those companies where no union representation is available. The role of social dialogue is critical in a crisis situation. This is evidenced by successes in negotiations with trade unions where the parties involved agreed to reduce conditions of service in order to reduce job losses.¹² Social dialogue promotes industrial harmony, enhances the business climate in a company as there is less conflict, and creates trust in the business by both parties. More importantly, it encourages increased interest by the workers' representatives in the performance of the company. It also contributes to increases in productivity in the company.

¹² Similar examples can be seen in the related ILO paper on the Impact of the Global Financial Crisis on the Mining Sector (2010).

VIII. Legislation and Policy.

The current policy and legal environment is conducive for protecting jobs and conditions of employment for long-term and permanent workers. However, there are weaknesses in the regulatory environment, particularly when it comes to affording protection to casual and short-term contracts workers.

Matters to do with worker rights pertaining to sick leave, maternity entitlement, union membership for all eligible workers, redundancy compensation for short contract staff, payment of wages when due, provision of social security for retrenched staff, and minimum salaries and conditions of employment are some of the areas that need strengthening through appropriate amendments to the current policies and legislation so as to enhance the protection of casual and short-term contracts workers.

IX. Gender, Disability and HIV and AIDS Policies

In most companies, females employed in the operations department were as high as 30%, even in the absence of a gender policy. Existing policies on gender and disability are not widely publicised to employers in tourism industry. Most companies do not have a disability policy and many are constrained from employing disabled persons by the infrastructure, which in most cases is not conducive to persons with disabilities.

The larger tourism establishments have HIV and AIDS policies. However, most of the smaller ones do not have an HIV and AIDS policy. The Hotel and Catering Association of Zambia (HCAZ) has been working with the USAID Market Access Trade and Enabling Policies Project (MATEP) in providing HIV and AIDS messages and training of peer educators in member establishments.

3.2 RECOMMENDATIONS

3.2.1 General

- Government and all stakeholders should step up efforts through the Tripartite Consultative Labour Council (TCLC) with the recently created Zambia DWCP Advisory Committee in the monitoring and evaluation of the implementation of employment programmes and policies, in particular the Zambia-DWCP and National Employment and Labour Market Policy (NELMP), to ensure that appropriate measures are put in place in a timely manner, and this should apply to the Tourism sector as it is one of the Government's priority growth areas. This would require more resources including a full-time secretariat for the TCLC. This should be accompanied by vigorous education and awareness campaigns for workers and enterprises on the labour laws. Accordingly, the capacity of the Ministry of Labour and Social Security needs to be enhanced to ensure that it is able to effectively carry out its mandate.
- In addition to the review of labour laws, the existing NELMP should be resuscitated to bring about improvements in the access to appropriate and state-of-the-art skills training, productivity and competitiveness improvement programmes, entrepreneurship and enterprise development, sector-specific occupational safety and health improvements, alongside labour inspections, workers' rights

and social dialogue to make the Tourism sector operate as a “Decent Work” sector of the Zambia economy.

3.2.2 Specific

I. Minimum Wages and Conditions of Employment

The regulations should promote collective bargaining to take place in enterprises where there is no trade union, thus assisting the workers to make their voices heard collectively and to have a say on their conditions of employment. Improved wage levels could come from innovative and mutually beneficial gains-sharing mechanisms between management and workers, introduced on the back of more productive, efficient and competitive tourism enterprises.

II. Casualization

The labour laws should be strengthened to protect workers engaged as casuals and on short-term contract workers, particularly those of less than one-year duration. Systematic skills upgrading for workers on casual and short-term contracts which is aimed at improving productivity in tourism enterprises can help give those workers skills that are in demand in the tourism sector, and enable these workers to move out of vulnerability and casualization to obtain better quality employment and wages. Workers need to have opportunities to “train themselves” out of the downward spiral of casualization, and these training opportunities should be provided through combined efforts of the private sector and public institutions.

III. Social Security

Government should formulate an employment policy to provide guidelines on the responsibilities of companies before, during and after retrenchment, thus ensuring that workers have some form of economic security post-retrenchment. The Government should streamline the current social security system under NAPSA to extend coverage to retrenched workers.

IV. Social Dialogue

The role of trade unions in the tourism sector should be strengthened through legislation, thus permitting establishments with less than 25 workers to have Recognition Agreements, and Section 63 of the Industrial and Labour Relations Act should be reviewed. Social dialogue should be institutionalised by law so that enterprises without trade unions are encouraged, if not compelled, to engage in social dialogue. Social dialogue is the ideal mechanism for promoting tripartite and/or bipartite initiatives to improve the productivity and competitiveness of the sector, and promote negotiated gain-sharing arrangements which satisfy both employers and their workers. Companies should share financial information with the trade unions to build confidence and ensure transparency in negotiations.

V. Gender, Disability, and HIV & AIDS Policies

Gender, disability and HIV & AIDS awareness and sensitisation workshops should be organized to ensure that all employers in the tourism sector take these issues

seriously in places of work. Government should ensure that the infrastructure in the tourism sector is made accessible to people with disabilities, with appropriate floor surfaces, toilets and lifts/escalators for use by persons with disabilities. Government should implement the UN Convention on Rights for People with Disabilities and ensure that all employment policies and programmes meet the Convention. A Persons with Disabilities Act should be developed in line with relevant UN and ILO standards.

Companies should be sensitised on the gender aspects in their operations and encouraged to employ more women at all levels. The SADC and AU Gender Protocols should be institutionalised to improve gender representation.

A sector-wide HIV and AIDS policy should be finalised and applied/implemented consistently throughout the tourism sector, and it should build upon the ILO's Code of Practice, and ensuring compliance with the planned ILO Recommendation on HIV and AIDS, due for adoption in June 2010. This will complement efforts by employers to provide support for workers living with HIV and AIDS through medical schemes.

VI. Legislation and Policy

The labour laws require review, taking account of the following provisions:

- Redundancy provisions need to be made more relevant and compatible with crisis situations, e.g. through redundancy insurance schemes which could compensate workers declared redundant as a result of crisis.
- Casual and short-term contracts must be redefined to ensure that jobs of a continuous nature (with permanent employment conditions) are not casualised or made unstable.
- Sick leave provisions in the Minimum Wages and Conditions of Employment Act and those in the Employment Act should be harmonised to protect workers, and take into consideration HIV and AIDS concerns.
- Maternity leave entitlement should be reviewed taking account of the current labour market environment and the tendency of some employers to engage staff on short-term contracts.
- Provisions must be strengthened relating to payment of wages when due and payable to ensure that workers are compensated when their wages are paid when due, as stated in the Employment Act.
- Sections 63, 64 and 5 of the Industrial and Labour Relations Act should be reviewed and the right of workers to participate in union activities is harmonised to include establishments with less than 25 workers. This will enable workers to participate in social dialogue, and contribute to the protection of their jobs and conditions of employment.

VII. Post-Retrenchment Support

Micro, small and medium enterprise (MSME) support programmes should be introduced to enable retrenched to access entrepreneurship and skills training, as well as finance, to start businesses. This should include training on how to start,

maintain and grow their businesses, e.g. through the ILO Start Your Business (SYB) and GET Ahead courses.

Programmes offered during the 1990s privatisation exercise for retrenched and retired workers, as part of the National Social Safety Net programme, should be revived to assist workers retrenched as a result of the global financial crisis.

VIII. Doing Business in Zambia

Government should develop more measures to reduce the cost of doing business.

- i. Further reduce (or remove) Visa fees to attract more tourists.
- ii. Reduce the number of licences tourism enterprises have to obtain (as high as 23 in some cases).
- iii. Waive VAT for the tourism sector to increase investment and employment.
- iv. Under the ZDA Act, tourism is classified as a Non-Traditional Export (NTE), but this has yet to be fully implemented. Once implemented, tourism enterprises will pay 15% Corporate Tax.
- v. Government should defer the 3% Tourism Levy on tour packages, enshrined in the new Tourism and Hospitality Act and the Zambia Tourism Board Act.
- vi. VAT free status granted to Livingstone should be extended to the tourism sector country-wide.
- vii. State-of-the-art skills training programmes should be developed by Government in partnership with the private sector and the trade unions to encourage and promote innovation, marketing, productivity and competitiveness of Zambia's tourism sector, as well as specialized sub-sectors.
- viii. The price of A1 jet fuel should be reduced.

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LIST OF APPENDICES

APPENDIX 1: TERMS OF REFERENCE

BACKGROUND

The current global financial crisis has impacted negatively on the world economy on a magnitude of unprecedented proportions witnessed in the recent decades. Not only has the financial system threatened the economic fundamentals in developed countries but also people's livelihoods have been affected across the globe.

The ILO's 2008 Global Employment Trends Report predicted a dramatic increase in unemployment in developed countries and in poverty and vulnerable employment in developing countries. The results showed that open unemployment could increase globally between 30 and 50 million people in comparison to 2007, reaching a total of 230 million, which corresponds to a global rate of unemployment of 7.1%. The number of people in extreme poverty was estimated to increase globally by 6.1 percentage points over the 2007 levels, taking the world back to the poverty situation it had in 1997, wiping out the gains over the past decade. In the Global Employment Trends Update, May 2009 the ILO revised upwards its unemployment projections to levels ranging from 210 million to 239 million unemployed worldwide in 2009, corresponding to global unemployment rates of 6.5 and 7.4 per cent respectively.

In Zambia, the crisis has emanated from decreased demand of Zambia's main commodity export, copper, as a result of the slowdown in economic activities in the major economies. The reduced demand for copper led to a sharp fall in global copper prices. From a high price of US\$8, 985 per tonne, in July 2008, the price fell to below US\$3,000 by the end of the year. Copper exports account for about 70 percent of Zambia's total exports and have played a pivotal role in the resurgence of the economy whose growth in the last seven years has averaged close to 6 percent. The crisis has resulted in job losses predominantly in the mines. The tourism sector has also been affected. According to the Ministry responsible for Tourism, information from tourism service providers indicated that the number of visitors to Zambia has reduced drastically from the second part of 2008 onwards. A number of hotels have reported cancellations of bookings as a result of the crisis and car hire business has declined. The Tourism Council of Zambia projects a 50% reduction in bookings and estimates that 5,000 jobs will be lost in the sector in 2009.

The social impact of the job losses will likely lead to an increase in anti-social, illegal and counter-productive activities such as increased crime, illegal mining, child labour and increased exposure to the dangers of HIV and AIDS. It is further predicted that the attainment of the MDG number one of halving poverty will not be met, as more people are likely to fall into the poverty trap.

It is in the context of the global crisis that the ILO seeks to undertake a study to quantify, analyse and where possible determine employment trends and deteriorating conditions of work, resulting from the impact of the global financial crisis in the tourism sector. Tourism is the government's number two priority area after agriculture.

Purpose/Objectives

- I. To quantify and analyze job losses in the tourism sector and where possible determine employment trends in the sector
- II. To assess any deterioration in conditions of work as a result of companies in the tourism sector taking measures to mitigate the impact of the crisis

(e.g. increased working hours, loss of benefits etc).

- III. To propose measures that companies in the tourism sector and the tripartite constituents (workers and employers organizations i.e. ZCTU and ZFE) could apply to minimize job losses and deterioration to conditions of work.

Specific Tasks

1. To establish the number of workers laid off in the tourism sector as result of the global financial crisis and determine future employment trends.
2. To identify any deterioration in occupational health and safety standards.
3. To identify any changes in the conditions of work.
4. To assess workers' access to HIV support and counselling before and after the crisis.
5. To identify progress made at the work places towards achieving decent work for workers and assess if there has been any impact on the progress as a result of the crisis.
6. To assess the adequacy of the social security mechanism in place.
7. To assess the role of worker constituents (Trade Unions) in protecting jobs and conditions of service.
8. To assess the role, contribution and potential of social dialogue in mitigating the impact of the global jobs crisis in the tourism sector and on individual tourism enterprises (e.g. collective bargaining).
9. To assess whether the current policy, legal and regulatory environment is conducive for protecting jobs and condition of work during this period of global financial crisis.
10. To propose mechanism(s) and policies aimed at creating more supportive environment within which the tripartite constituents play an effective role in minimizing job losses and deteriorating conditions of work.

Cross Cutting Issues: The study will also take into account the impact of the global financial crisis on gender and workers with disabilities in addressing the tasks above.
Duration of the Assignment: 25 Calendar Days

Scope of Coverage: Lusaka, Southern and Eastern Provinces

APPENDIX 2: LIST OF CONTACTS

Organization	Contact
Tourism Council of Zambia – TCZ (Mulungushi International Conference Centre, Great East Road)	Josephine Mehl - Executive Director: +260977 771771/ 0211 290436/ 0211 291788 secretariat.tcz@iconnect.zm
Hotel and Catering Association of Zambia - HCAZ (Sulmach Building – Showgrounds)	Addie Musakanya – CEO: +260966 800329/ 0211 256837 hotelcatering@zamtel.zm
Travel Agents Association of Zambia - TAAZ (Farmers House – Central Park)	Nickson Chilangwa – Chairman: +260966 764433/ 0211 222941 reservations@zamsaf.co.zm
Board of Airlines Representatives (SAA Offices – Intercontinental Hotel)	Vincent Mupwaya - Chairperson +260 211 254350 lunadmin@flysaa.com
Livingstone Tourism Association – LTA	Kingsley Lilamono - Chairperson +260213 320650/ 0979 311133 limbolodge@zamtel.zm
Luangwa Safari Association – LSA	Adrian Coley - Chairperson +260216 246038 ade@flatdogscamp.com
Professional Hunters Association - PHAZ	Roland Norton - Chairperson Secretary: Angela Coles +260211 251149/ 097 7 712303 phaz@microlink.zm
Zambia Tourism Board – ZTB (Century House, Cairo Road)	Stein Liyanda – Acting MD Ephraim Belemu – Acting Marketing Manager Donald Pelekamoyo – Development Manager +260955717823/ 0977717822 0977/0955 787110 ephrain.belemu@zambiatourism.org.zm stein.liyanda@zambiatourism.org.zm

Organization	Contact
Ministry of Tourism Environment and Natural Resources – MTENR (Kwacha House, Cairo Road)	Justina Wake – Director of Tourism +260 211 229420 tinawake@yahoo.com
Ministry of Labour and Social Security (Government Complex, Nasser Road) Chipata Office	Provincial Labour Officers (Livingstone, Chipata) Labour Commissioner Director Social Security Kabuba Mufuna, 06 – 221341 vidah29@yahoo.com
Zambia Federation of Employers – ZFE	Henry Chanda, 0977722703
Zambia Congress of Trade Unions – ZCTU (CUSA House, Cairo Road) Chipata Office	Stephen C Mumbi, 0977832898 George Daka, 0955887909
Federation of Free Trade Unions in Zambia FFTUZ (ZANACO Building, Cairo Road)	Joyce Nonde – Simukoko – President or Deluxe Mwansa, 0978120918
Zambia Federation of the Disabled	Mr Waliuya, Executive Director, 0977459925
National Pension Scheme Authority	Mr A K Mbangweta, Director HRA, 211 221195 or 0977787306
Future Search, Cabinet Office	Ms M Kakumbi, Director
Hotel Catering Workers Union Of Zambia Chipata Office	Ms D Chawinga, 0955433206 Morgan Lungu, 0977651642
Zambia Development Agency	Noah Dumingo 0977799411

APPENDIX 3: COMPANIES VISITED

	NAME OF COMPANY	NUMBER EMPLOYED 2008	NUMBER EMPLOYED 2009 JUNE	JOB LOSSES/ GAINS
1	Jolly Boys	30	24	-6
2	United Touring Company (Z) Limited	11	11	0
3	Olga's Italian Corner Restaurant	10	14	+4
4	Little Park Ltd – Livingstone Royal Golf Club	80	50	-30
5	Zambezi Sun Hotel	816	695	-121
6	Protea Hotel	50	50	0
7	Zambezi Waterfront	60	70	+10
8	Falls Way Lodge	14	20	+6
9	Thunderbird Investments	8	4	-4
10	Bushtracks Africa	50	95	+45
11	Ocean Basket	23	24	+1
12	Limbo Lodge	14	10	-4
13	Pamodzi Hotel	321	321	0
14	Luangwa House	45	45	0
15	Katutua Lodge	36	36	0
16	Kamocho Guest House	19	19	0
17	Chimwemwe Lodge	12	12	0
18	Pine View Lodge	38	38	0
19	La Rochelle Guest House	8	8	0
20	Mama Rulas	30	30	0
21	Luangwa Lodge	56	56	0
22	Panorama Lodge	12	12	0
23	Chipata Motel	43	43	0
24	Chipata Hotel	12	12	0
25	Kwiza Guest House	6	6	0
26	Lusaka Hotel	56	56	0
27	Mwiza Corporate Lodge	30	30	0
28	Ndeke Hotel	32	32	0
29	Blue Water	39	39	0
30	Pilgrims Motel	13	13	0
31	Mumana Pleasure Resort	35	35	0
32	Travel Tech limited	6	6	0
33	Airmasters Limited	15	16	+1
34	Mushitu Safaris	3	3	0
35	Edinburgh Hotel	87	87	0

36	Mukuba Hotel	62	62	0
37	Kambuku Guest House	15	15	0
38	Gemistar Travel and Tours	39	39	0
39	Ibis Gardens	58	58	0
40	Skyjet Travel	11	11	0
		2305	2207	-165+67 (-98)

