

## The Privatisation Process

### The move to liberalisation

In the 1980s the World Bank and the IMF started to use the leverage that came with Zambia's massive debts to them, and its inability to fund government revenues from mining income, to push the country to adopt economic liberalisation policies. Zambia accepted its first conditioned loan from the IMF in 1973/4 and entered its first World Bank structural adjustment programme in 1983. From that moment on, the IFIs have tightly policed Zambia's economic policies. Zambia learned the hard way not to try and resist. In July 1987, facing protests against the austerity measures in its adjustment programme the Government rejected the conditions of its loan and instituted a 'New Economic Recovery Programme' that limited debt-service payments to 10% of net export earnings. By September, Zambia's refusal to pay at the IMF's preferred rate resulted in almost all of Zambia's donors deciding collectively to starve the country of assistance (25). Arrears to the IMF continued to stack up, and no new money arrived. Within eighteen months the donors had made their point: the price of future support would be compliance with donor priorities. The Government decided that it had little choice but to accept, re-engaging the Bank and Fund, devaluing the currency, decontrolling prices and cutting food subsidies (26).

When Zambia accepted a new adjustment programme in 1989 donors started to come back in. Nonetheless, it was too late for UNIP. Repeated urban food riots, industrial unrest, and eventually the loss of support for the ruling party from the Zambian Congress of Trade Unions (ZCTU) saw the unions form an opposition Movement for Multiparty Democracy (MMD), headed by ZCTU leader Frederick Chiluba. They swept the board in elections in 1991 (27).

### Privatisation under the MMD and the role of external aid donors

The MMD owed its original momentum to trade union led resistance to structural adjustment. However, by the time of the elections, the unions had made a wide range of alliances within the business community, human rights groups and in civil society and the MMD ran on a manifesto that promised to liberalise the economy and secure a new democratic political dispensation. The Mineworkers Union endorsed privatisation partly because trade unionists had suffered as badly as anyone else from the decline of nationalised companies, and saw the need for new investment. They also wanted to be supportive of the MMD and saw dismantling the state-owned industries as a way of challenging UNIP's previous power base. Finally, both unions and the MMD believed that the only way to get the country's shattered economy back on track was to win the trust of international banks and investors, and that the only way to do that was to accept the donors' demands.

Donors hoped that an energetic reforming government could lead the first popular privatisation process in Africa. They aimed to support Zambia to become a 'success story' by 'buying' the MMD an extended political honeymoon with aid designed to cushion the social (and political) impact as they pushed through a massive programme of economic shock therapy. Over the first few years, aid money poured in (28), and the budget became more than 40% donor dependent (29).

A huge range of economic conditions attached to the loans contracted as part of Zambia's aid boom. Many of these related to the privatisation programme started from 1992, designed to sell 280 parastatal companies. By June 1996, 137 had been sold, in a process that the World Bank would recommend as a model for other countries because of its speed and thoroughness (30) and that others would condemn for the 'looting' (31), de-industrialisation, deepening debt and increasing poverty that came with it. The non-emergence of a vibrant private sector to step into the economic vacuum left by privatisation saw employment and growth go into reverse, where they stayed throughout the 1990s. Foreign companies bought up the largest and most viable firms with very little profit staying in Zambia. In 2002, the World Bank also eventually accepted that despite massive lending and a massive adjustment programme, "The supply response from the extensive privatisation of small and medium enterprises was limited... outcomes could have been significantly better—in terms of faster and stronger resumption of economic growth and reversal in per capita income and poverty trends—if the relevance and efficacy of Bank strategy had been higher. Outcomes of many Bank operations, and of the overall Bank program, were unsatisfactory." (32).

Right from the start, the crown jewels of the privatisation process were understood to be the copper mines. As early as 1993, Zambia's second Privatisation and Industrial Reform Credit (PIRC II) from the World Bank required that the Government study options for privatising ZCCM. A Germany Company, Kienbaum Development Services (GmbH), was contracted to assess the options and reported in April 1994, recommending that ZCCM be unbundled into 5 separate units. By 1995 the Bank (Economic Recovery and Investment Project (ERIP)) and IMF (Enhanced Structural Adjustment Facility (ESAF)) both extended loans that demanded Zambia adopt and implement plans within this framework. The Bank repeated the demand in 1996 (Economic and Structural Adjustment Credit (ESAC II)) and 1999 (Structural Adjustment Fund (SAF)), as did the IMF in 1999 (Enhanced SAF) (33). Throughout the process, the Government sought delays for technical and political reasons and the issue became a sticking point in relations with donors, with repeated accusations of bad faith on either side. Concerns were expressed by the Mineworkers Union of Zambia that unbundling of ZCCM into a number of companies would leave the least attractive assets either with insecure futures, or would leave the Government with significant assets on its hands. Better, they concluded, to encourage one serious investor to take on all of the liabilities and all of the facilities. The union was also concerned that introducing intra-company competition that would drive down conditions of service for their members (34).

What broke the deadlock was Zambia's qualification in 1996 for the World Bank's Heavily Indebted Poor Countries (HIPC) initiative. This process for relief of un-payable poor country debt established frequent hurdles (most importantly HIPC decision point and completion point) for the country to clear, each of which involved an assessment of performance by IFI staff before debt relief could be delivered. As each hurdle approached Zambia came under pressure to push through more controversial privatisations. In most cases, the state stalled, tried to appease domestic interests, and then eventually went ahead anyway, choosing debt relief over domestic politics.

Once it was clear that sale of the mines was to go ahead, three key questions remained:

- How should the companies be regulated after privatisation?
- Which of the mines would be sold to whom?
- Under what terms would Development Agreements be signed with new owners?

How should the companies be regulated?

Throughout the privatisation period the Government was being encouraged by donors to establish an 'investor friendly' policy regime. The most significant policy changes were enshrined in the 1995 Investment Act (reform of the Act was a condition of the World Bank's 1993 PIRC II loan) and the 1995 Mines and Minerals Development Acts. The Investment Act established the Zambian Investment Centre (ZIC) to assist companies through the process of buying into the Zambian economy. It provides the general incentives that apply to all investors as well as special incentives for investors in particular industries. It provides assurances against forced acquisition of companies by the state, preventing a repeat of Kaunda's nationalisations. The Act does away with foreign exchange controls, allowing companies to take out of Zambia, without interference, all funds in respect of dividends, principle and interest on foreign loans, management fees and other charges.

The Mines and Minerals Act of 1972 which regulated the nationalised industry was repealed to give way to The Mines and Minerals Act of 1995. This provides for the particular incentives for investors in mining. Under the Act tax paid for copper removed from Zambia – called a 'mineral royalty' is charged at the rate of 3% of the net back value of the minerals produced (35). The Act permits companies to minimise their income tax returns by allowing deductions for investment in mining. It also provides relief from paying customs duties on imported machinery and equipment. The Act does not specify the amounts of these forms of relief. Rather, it permits the government to enter into 'Development Agreements' with specific companies, under which they may extend more incentives than the Act grants, including reductions in royalty rates.

It was not simply the World Bank and IMF that were pressing for these policies. The Permanent Secretary of the Ministry of Mines reports prospective investors made specific requests. "The private sector wanted concessions so that when they take over these assets they would be able to recapitalise and at the end of the day, make these mines profitable. So in the Mining Act you find provision for these concessions. The companies wanted to drive certain taxes down. And this is how we came up with very low mineral royalties. Today I think we are the lowest in the whole of Africa at 0.6% of gross turnover for mineral royalties. This is how, over the period, we have pegged the company tax at 25% for the mining sector, compared to manufacturing companies which are at 35%. And then on imports of capital equipment, these things are brought in duty free if they are brought in for mining operations and for exploration work in mining. Not only that we have made many items tax deductible when you come to income tax calculations. Capital investment is tax deductible and the interest that you pay on loans is also tax deductible. So the whole package is very, very attractive." (36)

Which of the ZCCM mines went to whom?

Two international consultants Rothschild, and Clifford Chance, advised on the practical modalities of privatizing ZCCM (37). They suggested that the company should be privatized in two stages. In stage 1, substantial majority interests in all ZCCM assets were to be offered in a number of separate packages that would leave the Zambian state – in the form of a company called ZCCM Investment Holdings (ZCCM-IH) - as an owner of minority interests in companies controlled and managed by the incoming investors. In stage 2, the Government would then dispose of all, or a substantial part of, its share holding. These shares were to be offered for sale to the Zambian public as well as financial institutions in Zambia and abroad.

The outcome of the tender process was that:

1. The Nkana mine and assets were packaged with the Mufulira mine and concentrating and treating assets, to form the largest company - Mopani Copper Mines Plc (MCM).
2. The second largest grouping included the mines and other assets at Nchanga which were paired with those at Konkola and Nampundwe to form a company called Konkola Copper Mines Plc (KCM).
3. The smaller facilities at Baluba and Luanshya mines were put together with a concentrator and the Mulyashi greenfield site. These were known as the Roan Antelope Mining Corporation of Zambia (RAMCOZ).
4. The mining assets at Chambishi were split off from the other assets to form a company called Chambishi Mines Plc.
5. The smelter at Chambishi was sold together with the acid and cobalt plants and the Nkana slag dumps to form a company called Chambishi Metals Plc.
6. An acid plant, and the Kansanshi copper deposit were put together to form Bwana Mkubwa Mines Ltd.
7. The mine at Kalulushi was sold as a firm called Chibuluma Mines Plc.

The mines have thus undergone three major phases. From their establishment to 1969, the Mines were in private hands under the control of the Roan Selection Trust (RST) and the Anglo-American Corporation (AAC). In the period after 1969, the mines were first nationalised and then in 1982 merged to form ZCCM. Although ZCCM was a state enterprise, Anglo-American, through its subsidiary, Zambia Copper Investments (ZCI) continued to hold 27.3% of the shares and pre-emptive rights to buy back shares that the Government offered in ZCCM at a later date before they were offered to anyone else.

Between 1997 and 2000, ZCCM was split up into seven different units and sold off. The units were initially bought up by seven multinational mining companies, including Anglo-American which chose to exercise its pre-emptive rights, taking on 65% of KCM, a package which included the right and expectation to develop the massive new Konkola Deep Mining Project (KDMP). However, Anglo only waited until 2002 for the copper price to rebound, before deciding that it wasn't going to, and that there was not as much money to be made in the short term from KDMP as they had hoped. Anglo, along with other minority investors in KCM – the Commonwealth Development Corporation (CDC) and the World Bank's International Financing Corporation (IFC) completely pulled out of Zambia, handing the mine back to state ownership and, in the process, threatening to bring a halt to production at the country's biggest asset.

The situation created a major panic for the Government, which was eventually relieved to sell 51% of interests in KCM, in 2004 to a British/Indian company, Vedanta, at a knockdown price. Anglo must have regretted their decision as much as the Zambian Government and local workers. Within a year, the copper price rebounded spectacularly and Vedanta immediately recouped their \$25 million investment. Both Chambishi Metals and RAMCOZ went through similar processes. They were initially bought by a South African firm Anglo-Vaal and the Indian-led Binani Group respectively. Both quickly abandoned their investments and the mines sat idle for three years before being acquired in 2004 by a little known Swiss investor, J&W. J&W was a subsidiary of the Swiss company Enya, and the assets are now held under that name. As the world copper price fluctuates, as it inevitably will under the current global trading rules, investors make short-term decisions to maximise profit. Shares and share-holding companies change hands rapidly and the ownership structure of all the companies is still fairly fluid. This is particularly true of the biggest company, Mopani Copper Mines, which continues to be run by a board whose membership reflects the shifting balance between share-owners, including the Zambian state which still holds a minority interest via ZCCM-Investment Holdings (ZCCM-IH). Fig. 1, below, shows the assets held by the different blocs of private and then nationalised mines and then the percentage shareholdings of the various private companies as ZCCM was privatised.

# Shifting Ownership Patterns for Large-Scale Copper Mining Assets on the Zambian Copperbelt from Colonialism to the Present Day

**KEY**  
 Company, Owner, shareholding %, (Country of origin), Assets held

Roan Selection Trust (RST)  
 Luanshya, Chambishi, Kalulushi, Nkana, Mufulira  
 1931 – 1969

Roan Copper Mines (RCM)  
 1969 – 1982

Nchanga Copper Mines (NCM)  
 1969 – 1982

Anglo-American Corporation (AAC)  
 Nchanga, Konkola, Chingola, Nampundwe, Chililabombwe  
 1931 – 1969

Zambia Consolidated Copper Mines (ZCCM)  
 AAC/ZCI (US) 27.3% minority stake  
 1982 – 1997/2000

1997/2000 - 2006 Sept. 2006 owners in black boxes

1997/2000 - 2006 Sept. 2006 owners in black boxes

RAMCOZ  
 Binani, 85%, (India), ZCCM-IH 15%  
 Luanshya, Mulyashi

Luanshya Mines Plc  
 J&W/Enya (Switzerland)

Chambishi Metals.  
 Anglo-Vaal (South Africa)  
 Chambishi smelter, Nkana slag dumps

Chambishi Metals  
 J&W/Enya (Switzerland)

Chambishi Mines Plc.  
 Non-Ferrous Metals Co. - Africa, (China)  
 Chambishi mine

Chibuluma Mines Plc.  
 Metorex, (South Africa)  
 Kalulushi

Mopani Copper Mines (MCM).  
 Glencore, 73.1%, First Quantum, 16.9%, (both Canada), ZCCM-IH, 10%.  
 Nkana, Mufulira

Konkola Copper Mines  
 AAC/ZCI (US) 65% IFC 7.5 % CDC 7.5% ZCCM-IH 20%.

Konkola Copper Mines (KCM)  
 Vedanta, 51% (UK / India), ZCCM-IH 49%  
 Nchanga, Konkola, Chingola, Nampundwe, Chililabombwe,

Bwana Mkubwa Mines Ltd.  
 First Quantum, (Canada)  
 Kansanshi

Under what terms were Development Agreements signed with new owners?

The final and most important stage of privatisation was the negotiation and signing of Development Agreements with each of the companies. These secret documents established the terms under which the mines were sold, and the rights and responsibilities of the Zambian state and the new mining companies. The original agreements were negotiated between 1997 and 2000, and a number of these are published online as annexes to this document at [www.minewatchzambia.com](http://www.minewatchzambia.com). Appendix 1 provides a comparison of the different agreements. We do not have access to all of the original agreements or to those signed by subsequent investors after the original investors exited, some of which involved amendments to the originals. However, it is possible to identify key trends because much of the content of the agreements has been cut and pasted between the different documents.

#### The Development Agreements and Tax

Despite the Mines and Minerals Act specifying that mineral royalties should be set at 3% for those holding large-scale mining licences, the rate negotiated by most mining companies is 0.6% of the gross revenue of minerals produced in the mining areas. The agreements also allow companies to avoid paying a good deal of corporate tax by carrying forward losses for periods of between 15 and 20 years on a 'first-in, first-out' basis, meaning that losses made in year 1 of operations could be subtracted in subsequent years from taxable profits. The companies were also granted deductions of 100 percent of capital expenditure in the year in which it is incurred and were exempted from paying customs and excise duties or any other duty or import tax levied on machinery and equipment. This exemption was extended to other contracting firms importing machinery for mines development.

The government undertook not to amend any of these tax regimes after the agreement was struck, for as much as 20 years. These 'stability periods' are a particularly important provision because until they expire the terms of the Development Agreement are legally binding and overrule any existing or future national legislation. If at any time during the stability period either party feels that the other is not holding up their side of the bargain, they can refer the dispute to an international arbitration process.

One financial measure is in place in the Development Agreements that aims to claw benefits back to Zambia in cases where the global copper price increases significantly and the companies start to earn major windfall benefits. These 'price participation' clauses state that if the price of copper at the London Metal Exchange exceeds a specific benchmark (US\$2700 per tonne), then the Government starts to claim back a percentage of each sale made. However, the impact of price participation clauses is minimal because the payment to the government is again deductible by the companies for income tax purposes. This implies that as government starts enjoying income from price participation, the income tax payable by the companies will be reduced.

#### The Development Agreements and the Environment

Copper ore is separated from the rocks in which it is found by being crushed to a powder and floated in acids to separate out. This process produces a powdery substance called 'concentrate' which is dried out and then heated in furnaces called smelters to produce molten copper which can be shaped into sheets known as 'cathodes'. By-products of the process include liquid effluents made toxic by heavy metals and smoke from smelting which includes SO<sub>2</sub>, sulphur dioxide, which if released into the atmosphere in high concentrations causes human respiratory illnesses and combines with water to form acid rain which corrodes metal roofs, kills trees and lakes and prevents many plants from growing.

Through the ZCCM era Government targets were set limiting the amount of pollution from the mines going into the rivers and atmosphere. If ZCCM overran these targets, fines were paid by the company to the Environmental Council of Zambia (ECZ), both as an incentive not to pollute, and to help to pay for clean-up. However, the Development Agreements contain significant exemptions to these laws. During their stability periods, so long as the companies do not discharge pollution in excess of what ZCCM was discharging, they will not be held responsible, even though ZCCM would have been fined for the same behavior, and even though it may constitute a criminal offence.

The companies also used the negotiations to ensure that they took on only ZCCM assets, and not its liabilities. So, where the ZCCM Division being purchased had created, for example, a dam to store toxic 'leachings' or a slag heap that the new company did not think they could make use of, they refused to take on the dam or heap, leaving long-term environmental management with the Government. These dams and heaps are both damaged by the seasonal tropical rains of the Copperbelt region and need to be stabilized, through planting of trees on heaps and maintenance of dam walls to ensure that they are not eroded such that toxic waste floods local homes and fields. The companies also negotiated that, for those assets that they did take on, they should only have responsibility for clean-ups caused by 'current pollution'. Where for example a river is silted or polluted with heavy metal deposits, the companies are now able to deny responsibility for their own pollution, claiming that it is historic, and to refuse assistance to much-needed dredging and clean-up projects.

These exemptions under the Development Agreements were granted to companies on two conditions. They had to agree to prepare an Environmental Management Plan that would be accepted by ECZ, and then to report regularly on their implementation. As will be discussed, this system has not operated effectively to replace the previous systems of regulation, not least because at least one company has simply not submitted a plan for approval, leaving ECZ with nothing to police.

The Development Agreements and responsibility to workers, communities and local economies

As discussed throughout this report, since privatisation, there has been widespread disappointment at:

- the performance of the new companies and municipal authorities in providing social infrastructure that was previously the responsibility of ZCCM,
- the lack of opportunities for local staff to step into management positions and to receive training,
- the collapse of ZCCM procurement and sales procedures designed to increase linkages to the local economy.

Because the Development Agreements were secret, it is widely assumed on the Copperbelt that the privatisation process did not impose any responsibilities on the companies to continue with ZCCM policies in these areas. However, on inspection of the Agreements we have found that the situation is not so straightforward. The introduction to each of the Development Agreements suggests that the aim of the agreements should be to ensure that the country benefits from mining. For example, MCM's Development Agreement reads: "GRZ wishes to ensure that the continued development and exploitation of the commercial deposits of copper and cobalt ore at the Facilities' mines, together with the development and operation of the smelter, refinery, concentrators and cobalt plant will secure the maximum benefit for, and adequately contribute to the advancement and the social and economic welfare of, the people of Zambia, including the people in the vicinity of the Contract Area in a manner consistent with their needs and the protection of the environment and, at the same time, secure an appropriate return on investment for the company, commensurate with the risks involved for the company." (38)



In cases where the ZCCM Division being taken on was associated with particular schools and hospitals, even women's groups and sports clubs that were being sponsored, or stretches of road for which the companies are responsible, the Agreements tend to either transfer these responsibilities to the new companies, including monitoring mechanisms to ensure prices and standards are maintained, or to assert how labour and costs for maintaining the systems will be divided between the company, the local authority and service users. Detailed charts of the number of school places and hospital beds available at the moment of transition, the budgets of the institutions and the number of professionals employed in them are provided in annexes to the Agreements. The Agreements often include requirements that the companies guarantee free provision to retirees and workers' dependents, although they usually allow the company to charge the wider population for what may previously have been free services. It may therefore be that some of the problems now seen relate to failures of implementation and regulation. Others may have been caused by the Development Agreements failing to specify all of the services previously provided by ZCCM – for example preventative health services, rather than making no attempt to transfer responsibilities for social aspects of ZCCM's work.

Similarly, disappointment over lost contracts for local companies has sometimes been blamed on the government allowing new investors to give up on marketing and sales, licensing, tendering and contracting systems established under ZCCM and designed to favour local businesses. In fact, in many of the agreements, complex arrangements are put in place whereby the companies have responsibility for maintaining these systems. These include the establishment of committees to monitor the implementation of local sourcing policies, with the ability to challenge mines to explain cases where local suppliers are failing to win contracts. In some cases, the Agreements establish benchmarks and targets, for example, supplying a certain percentages of copper cathode produced by the mines to local manufacturers that need copper inputs. Again, rather than being the case that the privatisation process ignored these concerns, it seems that few of these committees have been established, let alone functioned effectively.

It appears that those companies that concluded their agreements later have secured more beneficial terms than those that signed earlier, for example paying just 25% corporate tax, rather than 35%, and winning stability periods of 20 years rather than 15 (39).

#### The Development Agreements and Official Secrecy

Underpinning many of the problems discussed in this report is a culture of official secrecy which makes it difficult for citizens to access data and documentation and thus to put pressure on the companies or Government to deliver greater benefits. Most serious is the lack of access to the Development Agreements. Almost a decade after the first of them were struck, trade unions, MPs, local government, even the regulating authorities that are supposed to keep the companies to the promises they made in the agreements have not been allowed to see them. Although throughout the research for this report most government departments and companies have been very willing to talk openly on a range of non-statistical issues, documents and hard data are much thinner on the ground. Investment, production, employment and profit figures for some of the firms are not recorded clearly in annual reports. We have been unable to provide data on contributions to national tax take from each of the companies. Although the mines make annual or periodic reports to, amongst others, Mines Safety Department, the Ministry of Mines, the Zambia Revenue Authority, the Bank of Zambia and the Environmental Council of Zambia these reports are not publicly accessible. The ECZ consultation process on Environmental Management Plans appears to be one honourable exception to this general rule, although this is also not well publicised.

An inability to access the contents of the agreements presents genuine problems for trade unions in performing their basic task of negotiating on behalf of workers. As early as 1999 MUZ wrote to the Minister of Labour, concerned about casualisation of the workforce at Chambishi Mines. They wrote, "We hereby want to bring to your attention some strange labour practices at some of our newly privatised entities which practices, if left unchecked, will reduce this country's labour forces to a level of pauperisation. As a union, our job to confront these issues and monitor the practices of the new investors with regard to the interests of our members has been impaired by our inability to access the sacred sale and development agreements... As a result we are in no position to monitor what was pledged... Our members at Chambishi through the branch have brought these concerns to the attention of the new management, whose response is that whatever they are doing was agreed in the Sale and Development Agreements... As a union we are beginning to see the early seeds and genesis of intractable industrial disharmony if some of the investors are allowed to transplant in this country apartheid-like labour practices." (40).

#### Problems in the negotiating process

All of the mining companies interviewed recognise that the Development Agreements they secured are extremely favourable, and that the 'investment climate' in the country is exceptionally generous. With global commodity prices as high as they are now, all firms are set to make handsome profits. As the new CEO of Luanshya Mining Plc put it, "Going though the Development Agreements for the two companies which we own, Luanshya Copper Mines and Chambishi Metals, I would say they are very fair, very reasonable... It must be one of the more attractive places to invest in globally in terms of new mining ventures." (41). The question for this report is whether the new situation is also attractive for mine-workers, Copperbelt communities and the Zambian economy.

The tax and environmental concessions in the Development Agreements partly reflect the fact that the principal aim of privatisation – establishing an attractive investment environment to bring in new money - was prioritised above ensuring that new investors accepted responsibilities to share in the wealth that would flow from their operations. However, the concessions also result from the fact that Zambian negotiators found themselves in a weak position in the discussions.

- The mines were sold when the price of copper was so low that ZCCM was making year-on-year losses. This made it a buyer's market, and the assets were given away cheaply with few strings attached.
- The Government was being pushed by the World Bank to sell. Potential purchasers knew this, and although the state did delay for several years, companies did not need to bargain in fear of Government refusing altogether.
- Although the Government stated that one of its objectives for the privatisation was that it should be a transparent process, consistent with good order in the industry, and the World Bank and IMF, who oversaw the talks, claim to be in favour of good governance and transparency, the process was extremely secretive. There was no consultation with stakeholders or public discussion of the terms of the agreements. This weakened checks on the state negotiators, and allowed the companies to brush away any concerns the state might express about public perception of or resistance to the deals. MUZ did have brief discussions with the Ministry of Mines, but the Ministry was not leading the process (42).

Whatever the weaknesses of Zambia's negotiators, there is no excuse for massive multinational investors to blackmail one of the world's poorest countries to provide special concessions from its national laws. Many companies are signed up to the Organisation for Economic Co-operation and Development (OECD) guidelines on investment, which are designed to promote good corporate citizenship. These state clearly, "Enterprises should refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives or other issues." (43). However, the Chamber of Mines of Zambia is quite brazen about the companies' lobbying effort, stating, "The investment climate that prevailed in the country at the time was not attractive to Foreign Direct Investment (FDI) and since by necessity mining operations are long-term the new investors demanded, as a matter of prudence, for special conditions in the purchase conditions." (44).

## Successes of privatisation

The Zambian Government is clear that the privatisation strategy has worked. The Permanent Secretary of the Ministry of Mines argues, "It has been very, very successful. Closed mines have opened up, new mines are coming up, and the existing mines were limping and they are all doing very well." (45).

### New money

This is a fair description of the current 'boom' in Zambia. Under ZCCM, facing historically low global copper prices, the industry was desperately short of investment and was dying on its feet. Significant investment has now been delivered, re-invigorating the industry and increasing production. Despite criticisms of the privatisation, even the Mineworkers Union of Zambia (MUZ) recognises that, "Since 1998 we have close to \$1.4 billion which has gone into the mining industry, into refurbishment of plants, and purchases of spares and machinery. So one sees that privatisation addressed capitalisation, the issue of refurbishing and the issue of exploration and drilling. It has shown in increased copper production." (46).

The companies themselves are also keen to point up that they are delivering their most significant responsibility: providing the finance to rehabilitate the industry and create employment opportunities and income for the country. The mining industry's representative body, the Chamber of Mines, claims that, by 2005 the companies were putting in over US\$350 million a year. See Appendix 2.

### Higher production

Reflecting the new investments, production has rebounded, although available figures suggest that this rebound was only to 400,000 tons by 2004, which is certainly higher than the figure in the last few years of ZCCM, but is not unusually high in the history of the Zambian industry. Production in 1982 was 591,853, and dropped gradually throughout the 1980s to 415,645 tons in 1989. From then on, production fell steadily through the 1990s to just over 250,000 tons before starting a revival in 2000. Appendix 3 suggests that 2005 production was slightly above trends in 1990.

However, several companies have significant plans for future investment, which will increase production and result in employment creation. The Chamber of Mines predicts production may be as high as 600,000 tons in 2006, a figure never bettered in ZCCM's lifespan from 1982-1997, and that by 2009, it may even reach 800,000 tons (47).