

5th ZAMBIA ALTERNATIVE MINING INDABA DECLARATION

“Our Natural Resources, our Future! Extraction for Sustainable Development”

21ST to 23rd JUNE 2016 | CRESTA GOLFVIEW HOTEL,
LUSAKA, ZAMBIA

OBJECTIVES OF THE INDABA

1. To provide a platform for voices of marginalized and mining affected communities in order for decision and policy making on mining to take full account of their realities, concerns and aspirations.
2. Provide a safe space for constructive, multi-stakeholder dialogue on mining and natural resources governance.
3. Explore and propose solutions for improved governance of the sector.



Preamble

We, Civil Society Organizations, Faith Based Organizations, Academia, Development Partners based in Zambia and strategic partners from Kenya, Ghana, South Africa, Uganda, Mozambique, Zimbabwe and Australia that met for the fifth Zambia Alternative Mining Indaba (ZAMI) held at Cresta Golfview Lusaka, from the 21st to 23rd of June 2016 under the theme, *“Our Natural Resources, Our Future! Extraction for Sustainable Development”* deliberated on different issues on the Zambian extractive industries and strategic role that government, private sector and civil society should play in the sector. We recognize the potential that the mining sector has as an important ingredient for human, social and economic development in Zambia. However, we note with dismay the challenges in the sector including abrogation of human rights that the sector has had in the communities that host them and the continued tax avoidance and evasion by the mining companies robbing the country of billions of dollars that would otherwise be used to up lift the lives of the Zambian people.

We recognize and appreciate government’s efforts to improve the legislative framework governing the mining sector in Zambia through the continuous revision of the Mining Act. However we note with concern that these processes, have not been fully participatory, as a result the outcome of the said Act disadvantages communities. For example with the removal of the provision

of mineral royalty sharing mechanism and the revision of the mining tax regime which now favors the mining companies at the expense of communities.

On Illicit Financial Flows (IFF's) & Beneficial Ownership;

The delegates at the Indaba continue to note with concern that Zambia is said to be losing an estimated 3 dollars billion annually to IFFs. The significance of Illicit financial flows cannot be overemphasized as 3 billion dollars lost annually is approximately 36 billion kwacha. On the 9th of October 2015, Zambia announced a budget of 51.3 billion kwacha. This means that IFFs in Zambia are 70% of our national budget. This is money that could otherwise be used to finance the provision of public services such as health and education, as well as critical national development projects such as roads, railways, bridges and power infrastructure which are all key to Zambia's industrialization. We believe as civil society that if we plug this hole on illicit financial flows, we would fully finance our national development plans. Therefore we implore government to;

- Synergise efforts among the stakeholders in tackling IFFs and improved platforms of information sharing and educating the public. A platform for all stakeholders should be established for the development of a mining tax regime that is stable, progressive and seals the loopholes of IFFs, especially transfer pricing.
- Review and/or terminate tax incentives given to mining companies, especially those proven to engage in tax dodging tactics.
- Conduct a cost benefit analysis of all existing Double Taxation Agreements with the intent to re-negotiate the terms so that they benefit the country.
- Enact Legislation that compel Multinational Corporations (MNCs) to report their business activity on a Country by Country basis, that compels the disclosure of Beneficial Ownership Information in the extractive sector and that provide for government to government exchange of Tax Information that is publicly accessible
- Promote/support capacity building of key financial institutions to tackle IFFs
- Domesticating international policies and treaties that are aimed at curbing the current tax competition

Alternative to mining

We note with concern the continued dependence of the country on copper mining as a main economic activity. Additionally, Zambia continues to rely on the sales of raw products that yield very little returns in terms of revenue. Therefore we implore government to;

- Expedite the implementation of policies that support value addition to the raw materials (minerals) and deepening of local linkages. This will generate jobs and business opportunities for the Zambians.
- Introduce policies that will support Diversification into other non-traditional exports, specifically focusing on agriculture and tourism. This will ensure the country doesn't suffer any setbacks in a situation where copper production and prices are low.
- Increasingly invest in the tourism sector as this sector has potential to substantively contribute to the national treasury.

Transparency, Revenue Collection and Expenditure

We note with concern that Zambia does not have a specific mineral resource account where the proceeds from the sector are deposited. The allocation and use of mineral resources needs to be guided by a transparent mechanism. The Indaba further notes with concern the poor coordination among the Ministries of Finance, Lands, Natural resources and Environmental Protection, Mines and Local Government and Housing in the governance of the sector. To improve this aspect of mineral sector governance;

- We call upon the government to establish and operationalize a mineral resource account
- We demand that government to reconsider the tax band for 2016 mineral tax regime as we feel it is retrogressive and favours the mining companies.
- We demand that government reintroduce the Mineral Revenue Sharing Mechanism (MRSM) as a means of ensuring that local communities benefit from mineral resources extraction, preferably 10% of the royalties collected from mining companies by the Government should be ploughed back into the hosting communities..
- The government should continue to strengthen the capacity of institutions that independently verify mining production figures and mining operations to ensure that all citizens have access to comprehensive geological data.
- We call upon government to demonstrate transparency and accountability in the utilisation of mineral revenues through a public reporting systems
- We call upon the government to define and clarify the long term fiscal vision for the mining sector

Land, Compensation & Resettlement

The Indaba notes with concern continued human rights violations in natural resource rich communities through displacements, poor compensation, land alienation and inadequate consultation. As CSO's we recognize and appreciate government for initiating the process of putting

in place the resettlement policy. Right to land with the minerals must be emphasized even after resettlement for the community to continue receiving royalties after they have been moved. We demand that:

- The government and private investors obtain and respect the Free, Prior and Informed Consent (FPIC) of local people for decisions that may require displacement of people to pave way for mining projects,
- The negotiations of lasting agreements on the use of resources have to recognize the rights of local communities and the FPIC principle must be embedded in the policy and legal frameworks,
- Government to develop specific policies that address involuntary displacement
- Resettlement must always be a last resort to avoid the constant disruption of the communities live.
- Communities should not be resettled more than twice, this should happen once in fifty years as we need to preserve heritage of the citizens,
- Government should develop a standard formula for compensation based on a calculation of impact costs and the present value of future land uses and a percentage value of mineral reserve to be mined

Bio-diversity, Climate Change & Environment

We observe the high level of environmental degradation emanating from mining sector activities and the weak enforcement of rules and regulations. We also note with concern the deplorable working conditions of mine workers especially casual mine workers. We are concerned that some mining companies do not comply with the environmental laws and regulations. Deforestation and forest degradation are areas that the government urgently needs to look into as these are greatly contributing to climate change. We recommend that: We recommend that;

- There should be an independent environmental monitoring system that include CSOs and other stakeholders as well as the communities, to conduct monitoring prior to mining activities
- The government should enforce our legislation to go beyond Polluter Pay Principle. By ensuring that company contribute to Environmental Protection Fund which will deal with long term impacts of mining. This is as opposed to the lack of involvement of the community when ZEMA conducts the EIA.
- We recommend that Social and Labour plans must become part of the requirement for any mine to get a mining license
- The government introduces requirements for a strategic environmental impact assessment before exploration.

Children, women, men, and youth participation in mining in Zambia- how can all benefit

We note with concern how the costs of mining, disproportionately fall on women, youth and children in pre, active and post mining areas. The delegates at the 5th Zambia Alternative Mining Indaba noted that Mining mostly disturbs the social context of communities, and this leads to socio-cultural impacts such as increased gender based violence, increased spread of HIV&AIDS, displacement of women from farming lands leading to food insecurity. There are increased incidences of child labour in the extractive industry, leading to high school dropout rates. At it is noted that the benefit of members of the community from mining does not trickle down to them: Therefore;

- The government must make deliberately steps in ensuring that revenues from the extractive sector are used to respond to the needs of the Women , children and youth in mining host communities,
- We demand that government set minimum standards for housing to be provided by mining firms to mitigate the impact of mining on women and children;
- We demand that mining companies conduct social impact assessments to address the impact of mining on men, women and children
- Government should implement the decentralization policy to ensure a direct link of policies to the community to enable them participate in the selection of mining projects in their areas
- Legal clauses in the contract whose contents must be shared with the community and stakeholders, must be inserted to compel the companies to keep their promises to the communities
- Government must develop a comprehensive CSR policy that will compel a consultative process of CSR projects and disclosure of beneficiaries for accountability and transparency
- Government must develop a model for Community Development Agreements to guide the negotiations process with the communities.

Mapping extractive sector to SDGs and Agenda 2063

The mining sector is supposed to contribute to sustainable development and the sector should not comprise the economic, should and cultural rights of the citizens. The mining sector is one of the largest contributor to government revenue as such the government should ensure that the revenues are protected for dedicated to guaranteeing meeting the Sustainable Development Goals:

- The government should ensure that all development programmes and plans are directed towards meeting the Sustainable Developmental Goals and the aspirations of Agenda 2063
- We call upon the government to put in place a policy directive that promotes disclosure of beneficial ownership. This would ensure that the core owner(s) who control account of companies, trust and foundation of companies exploiting our resource are publicly known
- Mine companies should respect the law of the land and should support the developmental agenda and aspiration of the country.

Role of Traditional leaders in managing natural resources

Noting the importance of the participation of traditional leaders:

- We demand that the roles of chiefs and their subjects should be seen as important stakeholders during consultation of mining rights
- We demand that communities interests must always be protected and their heritage and way of life must always be given respected and taken into consideration,
- We recommend that the local chieftaincy as a collective and not chief the individual must be allocated a proportion of royalties in mining as a primary principle to ensure that future generation can still be sustained even in the market economy. A governance framework for the use of the revenues should be developed and enforced.
- We recommend companies mining should train hosting communities in mining so that some of the local communities can work in a high intensive and technology driven mining investment
- As civil society lobby tribal authority and advocate for Communal Property Act which will assist the chieftaincy in the administration of the community trust. have a right to decide and influence land must be give

In conclusion, we urge government to consider engaging the African Minerals Development Centre in developing Zambia’s country mining vision and coming up with AMV compliant mining policies and legislation. This will ensure that the country stays on the right path of shaping itself towards extraction for sustainable development. We also urge the government to be actively involved in regional initiatives to develop mineral value chains to propel industrial development.

We further appeal to government to include these recommendations in their planning processes as well as include CSOs in planning platforms to guarantee a strong link of the ZAMI recommendations and the 7NDP process.

FR Cleophas Lungu (ZAMBIA EPISCOPAL CONFERENCE)
Chairperson ZAMI 2016