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# An Analysis of aspects of international law that provide incentives for Zambian Companies to Invest Abroad

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## Abstract

A number of companies intending to invest in foreign markets including Zambian companies may be subjected to various regulations in the countries they intend to invest. Some of the regulations may work to the advantage of the investing company in foreign markets and some of the regulations may work to the disadvantage of these companies. This article analyses aspects of international law that provide incentives to foreign companies including Zambian companies to invest abroad. The article focuses solely on incentives that relate to Zambian companies.

Due to the specialized nature of the topic the article is entirely based on secondary data. Information is specifically obtained from scholarly articles in finance, management and legal studies, various textbooks in finance, management and legal studies and journals from professional bodies.

**Keywords:** Regulations on foreign trade, Taxation Policy, Social welfare policies, Monopolies legislation and Fair Competition Regulations, Product safety, Regulations on Health and Safety, Employment law, PESTEL framework

## Introduction

This article analyses the aspects of international law that provide incentives that would attract Zambian companies to invest abroad. The article specifically details how the disparities in the local rules and regulations and the rules and regulations in the country where a Zambian investor intends to invest may work to the advantage of the Zambian investor.

### Aspects of international law that provide incentives that have the potential for attracting Zambian companies to invest abroad.

The following are the aspects of international law that have the potential for attracting Zambian companies to invest abroad.

## Regulations on foreign trade

Regulations on foreign trade are one aspect of international law that have the potential for attracting Zambian companies to invest abroad. This is dependent on the attitude the elected officials portray towards international trade. If for instance the focus of the government in power in the country in which the company intends to invest is to attract foreign direct investment, then this may provide conducive environment for the company to invest in such a country. Foreign trade regulations area component of political factors on the PESTEL framework (BPP Learning Media, 2007: 25).For example, in 1992 textiles, which are among the more important of Zambia's non-traditional exports, find a market mainly in the EU and Switzerland (www.wto.org).

## Taxation Policy

Taxation Policy is the other aspect of international that has the potential to attract Zambian companies to invest abroad. For instance, due to lack of capacity for certain commodities some governments may employ flexible tax policies for products to meet the consumer demand in those countries by reducing tax on such products, others may even offer tax concessions. This may particularly be applicable to essential commodities such as medicines, and food staffs. This may provide an opportunity for a Zambian company to invest in such countries. Taxation policy is an essential part of political factors under the PESTEL framework (BPP Learning Media, 2007: 25). For instance, in 2011 the private sector in Zambia received a boost in trade when the Chinese government made its decision to grant zero-tariff status to some least developed countries of which Zambia was among the countries that benefited from the decision (www.lusakatimes.com). This was an opportunity for Zambian companies to expand markets for the country’s exports to China.

## Social welfare policies

Regulations enacted on social welfare is another aspect of international law that have the potential to attract Zambian companies to invest abroad and the minimum wage is a good example.

Social welfare policies are an essential part of political factors under the PESTEL framework (BPP Learning Media, 2007: 25).In Zambia the current minimum wage effective January 2024 now stands at ZMK 1, 300 (www.parliament.gov.zm). It is essential to recognize that the minimum wage has essential benefits for the citizens of Zambia as it increases their disposal income which is essential in enhancing their standard of living and has enormous benefits to the country’s economy too. On the other hand, the minimum wage adds to the costs of a Zambian businessman. Thus, if another country where a Zambian businessperson intends to export goods enacts the minimum wage policy which is comparatively lower than that of Zambia they would prefer to export their commodities in such countries due to the benefit associated with reduced costs in comparative terms.

### *Monopolies legislation and Fair Competition Regulations*

A Monopoly is a market structure where one firm is the sole supplier of a product or service that has no close substitute i.e. the firm makes up the industry (BPP Learning Media, 2007: 79).

Absence in restriction or restraints from extreme free-market capitalism is a contributing factor to the emergence of monopolies. This is a situation where a single entity is large enough to either own the whole market or nearly the whole market for a particular type of product or service. Government-enforced barriers to entry or regulations that limit competition can also sustain monopolies. Monopolies will thrive when there are high barriers to entry and the absence of competition.

To curb the adverse effects of monopolies, several governments have enacted the fair completion regulations. In Zambia for instance the National Assembly of Zambia enacted the Competition and Fair Trading Act to encourage competition in the economy by prohibiting anti-competitive trade practices; to regulate monopolies and concentrations of economic power; to protect consumer welfare; to strengthen the efficiency of production and distribution of goods and services; to secure the best possible conditions for the freedom of trade; to expand the base of entrepreneurship; and to provide for matters connected with or incidental to the foregoing(www.parliament.gov.zm).

For instance, in order to ensure fair competition and transparency among economic operators in the region, COMESA enacted the regional competition law and policy to harmonize existing national competition policies to avoid contradictions and provide a consistent regional economic environment (www.comesa.int).

Zambian companies that intend to conduct business in any of the COMESA member states may find it easy to trade in such a member state due the regional competition law and policy enacted by COMESA which will discourage monopolies in such member states to dominate the market and accord other firms in the regional block an opportunity to trade and be subjected to fair competition and transparency in conducting trade. Monopolies legislation and fair competition regulations are an essential part of legal factors under the PESTEL framework (BPP Learning Media, 2007: 25)

### *Product safety*

Assessing the safety of consumers by applying standards, ensuring that the product complies with a designated standard is essential to ensure consumer products are safe. This is known as a presumption of conformity. For instance, in Zambiathe Zambia Bureau of Standards (ZABS) is one of the statutory bodies under the Ministry of Commerce, Trade and Industry that offers product and systems certification to industry as well as training in various management systems (www.zabs.org.zm).Furthermore, internationally product safety certification can be undertaken by the International Organization for Standardization (ISO). Certification by ISO establishes credibility and trust among consumers, clients, and other business partners (www.iso.org). It is an essential ingredient for an organization intending to enter the international market that it adheres to global standards of quality assurance, manufacturing, and business. Product safety is an essential part of legal factors under the PESTEL framework (BPP Learning Media, 2007: 25)

Zambian companies that manufacture high quality products that go through the required certification processes that may possibly include certification by ZABS locally as well as certification by ISO internationally can take advantage of such certification to enter a foreign market to gain competitive advantage over their competitors. Therefore, regulations or policies on product safety are one aspect of international law that would provide incentives to Zambian companies to invest abroad.

One other essential reason why Zambian companies intending to invest abroad should always abide by product safety regulations or policies is that noncompliance of product safety regulations or policies can eventually lead to possible legal suits which in worst circumstances can also impair the entity's operation as a going concern, especially if they amount to companies pay huge amounts in damages. The Johnson and Johnson Scandal is a good example. Johnson & Johnson agreed to pay $8.9bn to settle tens of thousands of lawsuits alleging that talc in its iconic baby powder and other products caused cancer (www.theguardian.com).The agreement was as the result of the appeals court ruling.

Zambian firms intending to invest abroad should also put in possible measures to undertake when they face a predicament similar to the one Johnson & Johnson faced. They may not only be due to lapses in product safety regulations, but also other factors. One good example of such a measure is to put a disaster recovery plan to curb possible disasters that may arise in future. The recovery plan of Johnson & Johnson is a good example. To address the crisis and mitigate the potential negative impact on public safety and its reputation, Johnson & Johnson made the immediate decision to recall all Tylenol products from store shelves nationwide. Furthermore Johnson & Johnson introduced tamper-evident packaging for their products, setting an industry standard and they redesigned the Tylenol packaging to include safety features(www.forbes.com).

### *Regulations on Health and Safety*

Regulation on Health and Safety in an organization covers practices, procedures, and resources for developing and implementing, reviewing, and maintaining the occupational safety and health policy, planning process for accident and ill health prevention and ensuring a health and safety work environment in an entity. Regulations on Health and Safety are an essential part of legal factors under the PESTEL framework (BPP Learning Media, 2007: 25).

Several governments have strict health and safety regulations, especially in industries such as the mining industry. This has made a lot of companies invest heavily in safety and safety infrastructure and facilities. In Zambia for instance several mining firms have made huge investments in safety and safety infrastructure and facilities to abide by health and safety regulations in the country.

Zambian companies with huge amounts of cash flows to invest in safety and safety infrastructure and facilities can gain competitive advantage over their competing companies with insufficient cash flows to invest in safety and safety infrastructure and facilities in countries where they intend to invest with strict health and safety regulations. Therefore, regulations or policies on health and safety are one aspect of international law that would be feasible to attract Zambian companies to invest abroad.

On 28th January 2014 Senior Officials from International Monetary Fund (IMF) applauded Konkola Copper Mines (KCM)'s focus to maintain high safety standards and tipped the mining industry to continue to be a major sector of economic growth (www.lusakatimes.com). To be applauded by Senior Officials from International Monetary Fund, KCM spent millions of dollars in health and safety as part of their safety, health, and environment programme. Therefore, KCM should be an example for any Zambian company to follow with the intention to invest abroad, especially in the mining sector. When health and safety standards are poor in the country they intend to invest it may work to their advantage.

***Employment law***

Employment law is the collection of laws and rules that regulate relationships between employers and employees (www.cipd.org). It states that an employer can hire employees to work for them in return an employer must pay the employee for their work. The law creates equity for the employers and employees.

Certain governments may have poor human rights records that may also affect employees in those countries even though the country may have labour laws. In the event where the countries where a Zambian company intends to invest enforces labour laws, the company can gain competitive advantage over its competitors in sourcing for quality Human resource personnel, especially where the company employs corporate governance in managing the company and has respect for workers generally.Corporate governance is the system by which companies are directed and controlled (BPP Learning Media, Page 4). Governance is about ensuring that the company is managed properly and all institutions need good governance (F.K.Musweu andM. S. Imasiku, 2021: 1).

Corporate governance is concerned with practices and procedures for trying to ensure that a company is run in such way that it achieves its objectives, subject to various guidelines and constraints and with regards to other groups with an interest in what the company does. Other groups with an interest in how the company acts include employees, customers, and general public (BPP Learning Media, 2007: 4).Thus, respect for employees is one of the essential attributes an organisation that employs good corporate governance in its operations exhibits. A global example of a firm that has scored successes in this area is Google. Google motivates their employees with flexibility, free perks, health and happiness benefits and offering a totally unique way of working(www.teamtactics.co.uk). Zambian companies with the potential to invest abroad can thus learn from Google in terms of usingemployment regulations to their advantage and to gain competitive advantage over their competitors.

***Note:*** PESTEL Stands for Political factors, Economic factors, Sociocultural factors, Technological factors, Environmental factors and Legal factors.

## Conclusion

One essential point that should be brought out in this paper to Zambian investors with the intention to invest abroad is that entering a foreign market can be a cumbersome process. This issue can be curbed if the investors engage in a formal system of strategic planning. One vital component of a formal system of strategic planning is environmental scanning to identify possible strengths, weaknesses, opportunities, and threats that a firm may be exposed to. Possible strengths, weaknesses, opportunities and threats may arise from environmental factors which may be internal or external, although when we are discussing entry into international market external factors will be the major focus compared to internal factors. These factors will be mostly drawn from the PESTEL framework. When these factors are identified they need to be dealt with in systematic manner by the entity with the intention of entering a foreign market to curb the threats and weaknesses and leverage opportunities and strengths as they enter the foreign market. Some of these factors have been discussed in this paper with the view of how the entity entering a foreign market can address them to gain competitive advantage over its competitors.

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