Business Environment Reform Facility

Local Content Policy: What Works, What Doesn't Work

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About this Report

Research for this study was conducted by Jeff Geipel and Dan Hetherington between August and October 2018.

Department
for International
Development

Acronyms and Abbreviations

ACET	African Center for Economic Transformation
AfCFTA	African Continental Free Trade Area
APP	Africa Partner Pool
BEE	Black Economic Empowerment (South Africa)
BEED	Business Environment for Economic Development
BEEP	Business Enabling Environment Programme (Zimbabwe)
BER	Business environment reform
BERF	Business Environment Reform Facility
BEWG	Business Environment Working Group
BMO	Business membership organisation
BSA	Benefit sharing agreement
CCSI	Colombia Centre on Sustainable Investment
CDA	Community development agreement
CIRDI	Canadian International Resources and Development Institute
COMESA	Common Market for Eastern and Southern Africa
DCED	Donor Committee for Enterprise Development
DFID	(UK) Department for International Development
DOI	Digital object identifier
E4D/SOGA	Employment and Skills for Eastern Africa (previously Skills for Oil and Gas)
ECDPM	European Centre for Development Policy Management
ECIPE	European Centre for International Political Economy
EITI	Extractive Industries Transparency Initiative
EPA	Economic Partnership Agreement
ESA	Eastern and Southern Africa
FCAS	Fragile and/or conflict-affected state(s)
FTA	Free-trade agreement (or area)
GATS	(WTO) General Agreement on Trade in Services
GATT	(WTO) General Agreement on Tariffs and Trade
GDP	Gross domestic product
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit (German department for international development)
GRI	Global Reporting Initiative
HQ	Headquarters
IC	Investment climate
ICSID	International Centre for Settlement of Investment Disputes
ICT	Information and communications technology
ICTSD	International Centre for Trade and Sustainable Development
IGF	Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development
IISD	International Institute for Sustainable Development
ILO	International Labour Organization (a UN organisation)
ISBN	International standard book number
ITIF	Information Technology and Innovation Foundation
KEPSA	Kenya Private Sector Alliance
LCP	Local content policy
LCR	Local content requirement
LDC	Least developed country
LPRM	Local Procurement Reporting Mechanism

MSV	Mining Sustainable Value
NGO	Non-governmental organisation
ODI	Overseas Development Institute
OECD	Organisation for Economic Cooperation and Development
PNG	Papua New Guinea
PPD	Public–private dialogue
PSD	Private sector development
RBZ	Reserve Bank of Zimbabwe
SADC	Southern African Development Community
SCM	(WTO Agreement on) Subsidies and Countervailing Measures
SGR	Standard gauge railway
SME	Small and/or medium sized enterprise(s)
SPP	(University of Calgary) School of Public Policy
TAD	(OECD) Trade and Agriculture Directorate
TVET	Technical and vocational educational training
UK	United Kingdom
UN	United Nations
UNCTAD	UN Conference on Trade and Development
UNDP	UN Development Programme
UNECA	UN Economic Commission for Africa
UNU-WIDER	UN University World Institute for Development Economics and Research
US	United States (of America)
VAT	Value-added tax
WEF	World Economic Forum
WTO	World Trade Organization

All references to dollars in this report, including the dollar sign, refer to US dollars.

Contents

Tables and Figures

Executive Summary

Almost all government policy has some role in supporting the domestic economy to create value. Local content policy (LCP) is a more focused attempt to promote the same objective, but it is often difficult to separate these interventions from so many other supporting policy areas. Some analysts focus in on local content *requirements* (LCRs) — rules compelling the private sector to utilize domestic resources, such as employing more local people or buying goods and services from in-country suppliers. But local content policy contains other critical elements. First, there are **voluntary alternatives to LCRs that encourage or prompt firms to localise their supply chains.** Second, it is equally important to look at the supply side of the equation to **examine why local inputs are struggling to compete with imports, and to support firms to overcome these challenges.** It is rare that good economic outcomes can be achieved by legislating to command firms to take specific actions in support of government policy.

This report focuses on the mining and agro-processing sectors — two economic areas of great importance for Zimbabwe. At first sight they are structurally very different: with mining dominated by a few foreign firms tied to specific locations, compared to an agro-processing sector based on smaller, often local firms, with lower capital requirements and much greater interconnection with the domestic economy. One particular difference stands out for LCP: most agro-processors are able to market their goods domestically, so forward linkages abound with opportunities for integrated local supply chains. In contrast, the domestic potential market for cut and polished diamonds, or gold jewellery is very small, so the vast majority of mineral production will be exported. Forward linkages in mining must be internationally competitive to survive, which introduces a range of challenges that are beyond the scope of LCP.

Our analysis of agro-processing has led us to focus on the downstream sectors of **retail and tourism as the marketplaces to which LCP can most easily be applied to promote domestic manufacturing and agricultural inputs.** These are sectors in which information asymmetries tend to favour imported inputs, even though Zimbabwean products could compete on price and quality with the right support. They are also areas in which consumers may be persuaded to pay a premium for locally sourced goods.

Government procurement also offers a range of opportunities for promoting local content — and simultaneously promoting content from disadvantaged groups. The international trading system has provided a great deal of policy space in this area because such policy is so widely used by countries at all levels of economic development. **Public procurement avoids some of the most important practical pitfalls of LCR, and a conducive legal framework is already in place in Zimbabwe.** However, maximising the impact of procurement for the local economy requires improved government capacity across a range of institutions.

A critical lesson of the local content experience elsewhere is that the process is just as important as the exact measures chosen. **The government needs in-depth, high-quality**

data in order to target its measures to induce sustainable change, and it needs early and open dialogue with the private sector. Local content policy works when it nudges and enables transition from an import-intensive equilibrium to a high local content equilibrium. Policies fail when they instead push the economy towards a situation that can only be sustained through substantial regulation or subsidy. Good analysis is needed to ensure that goals are specific and achievable, or interventions will have the negative outcome of dissuading investors and undermining viable local businesses.

Transparency requirements can achieve a number of objectives. First, to increase the information available to government, and therefore its ability to analyse, negotiate, and target resources. Second, the process of reporting nudges firms to review their supply chains and reconsider where local alternatives are available. Finally, publishing such information helps to enlist civil society to seek means to bring pressure on companies, and to empower NGOs and other actors that build capacity for businesses and individuals. In fragile states, where government capacity to implement and enforce its policies is incomplete, **business membership organisations (BMOs) and the media can offer valuable support where objectives are shared.**

These lessons are critical in Zimbabwe's case due to **a lack of resources on the government's part to support supply-side initiatives** such as capacity-building for businesses. Using techniques to encourage action by companies and coordinate scarce resources, such as through increased information availability, is all the more important without major resources to support suppliers. The government should also **harness as much aid and NGO activity as possible to provide support for SMEs** in the absence of larger government funding.

Another lesson from comparable economies is that any LCP should rely on a definition of "local" that matches policy goals. A narrow focus in Zimbabwe on ownership alone risks a policy that merely rewards a small group of indigenous entrepreneurs (who are sometimes "fronting" for international companies); instead, **"local" should be defined to maximise the role of entrepreneurs, the actual participation of employees – the largest group of beneficiaries – and the firm's use of domestic inputs (i.e. value addition).**

Local content policy lies at the intersection of a broad array of policy areas, from education to infrastructure to immigration.[1] **Local content policy is rarely able to compensate for more fundamental policy weaknesses.** While LCP relies on dialogue with the private sector, the government should be ready to listen and identify other policy reforms that more directly contribute to the priority needs of industry.

[1] See Appendix 1.

Table 1: Priority interventions

Favourable options available to government, donors and BMOs		
Priority	**Intervention**	**Responsible**
High	Require major anchor companies to submit local procurement plans (including mining companies, major supermarket chains and hotel chains).	Government
High	Require the mining sector to publicly report on their local procurement policies, processes and results to empower potential suppliers and their supporting institutions.	Government
High	Facilitate the setting up of ongoing dialogue committee structures to regularly meet and identify and target supply opportunities.	BMOs
Medium	Map existing aid, NGO and other activities providing capacity-building support for SMEs, and ensure existing programmes are included in the mapping exercise.	Donors

While this report is not inherently against the use of demand-side targets requiring mining companies and other major buyers to purchase a certain percentage locally, it advises *against* the use of such targets in the short-term where there is a lack of state capacity to set realistic targets, and the lack of enforcement capability. Softer methods such as the collection of data for use by the government and stakeholders would be the most effective approach in the near future – this does not preclude the use of targets at a later stage when the monitoring of industry sector inputs and outputs and the analysis of production and trade data have demonstrated need and the Government's capacity to design and regulate a LCP effectively.

1. Introduction: The Challenge

Zimbabwe is one of many countries that are currently seeking to increase local content across sectors including mining, oil and gas, and agriculture. Its efforts are representative of a broader global trend across countries highly dependent on commodities, and one that accelerated significantly as the prices of commodities slumped from 2012 onwards.[2] The 2000s saw a commodities "super-cycle" of high prices, but with the onset of the downturn it rapidly became apparent that this boom had not been harnessed for true structural transformation in many countries. Countries that boomed during the 2000s using natural resource prices often faced economic and fiscal crises with the downturn, including Sierra Leone, Nigeria, Mongolia and Venezuela.[3]

In addition, a long-standing trend continued – natural resource dependent countries underperforming those without high resource production. As of 2013, "almost 80 percent of resource-driven countries [had] below-average levels of per capita income".[4] Recently compiled data also shows that manufacturing as share of GDP has fallen across resource-rich countries since 1990.[5]

The African Union and its member states had the foresight to recognise this problematic lack of linkages from mining even ahead of the commodities slump. For this reason, local content featured heavily in the African Mining Vision, formally adopted by all African heads of state in 2009. Globally, 90 per cent of "resource-driven" countries had some form of local content policy in place by 2013,[6] and this number has risen since.

Within this global context, Zimbabwe — a country highly dependent on mining and agriculture — is seeking to use LCP as means of leveraging these sectors for growth and economic diversification. There is a sense that mining-dependent countries need to "get it right" in time for the return of higher commodity prices. At the same time, agriculture and agro-processing are so central to output and employment that LCP cannot ignore them. UNCTAD points out that

> *No country has made the arduous journey from widespread rural poverty to post-industrial prosperity without employing targeted and selective government policies that seek to shift the production structure towards new types of activities and sectors with higher productivity, better paid jobs and greater technological potential.*[7]

Nevertheless, government interventions in pursuit of local content are not without risk, and have often proved counter-productive, as examples in this report will show.

[2] UNCTAD, 2016, pp11–14.
[3] Sachs and Maennling, 2015.
[4] Dobbs et al, 2013, p6.
[5] Hailu and Shiferaw, 2018.
[6] Dobbs et al, 2013, p13.
[7] UNCTAD, 2016, pXIII.

2. Terminology

2.1 Defining "local content"

One of the challenges involved in any attempt to increase local content is to achieve a common understanding of basic terms right from the start. "Local content" is a term that means very different things to different people, but this confusion can seriously undermine efforts to reach agreement on an appropriate policy.

The OECD provides a neutral and objective definition that will be used in this report:

> ***Local content*** *(also referred to as "National Content" or "[Zimbabwean] Content") is generally understood to be the local resources a project or business utilises or develops along its value chain while investing in a host country. This may include employment or inputs, goods and services procured from local sources, locally hired workforces, operations carried out in partnership with local entities, development of enabling infrastructure, the improvement of domestic capacity, or the improvement of local content capabilities.*[8]

Using this definition, "local content requirements" or "local content regulations" mean obligations that a company has regarding any part of local content. Here again, the OECD provides a useful and neutral definition:

> ***Local content requirements*** *refer to obligations related to Local Content enshrined in laws or included as part of licensing, procurement agreements or other contracts.*[9]

Very importantly, different people use local content to mean different things, and often this lack of precision leads to confusion, preventing multi-stakeholder processes from developing the best policy. The most common confusion is between local *content* and local *procurement* — resulting in people referring to the purchase of goods and services from domestic suppliers as "local content". This error should be avoided: governments and other stakeholders should try to be as specific as possible in this area.

The significance of terminology having been stressed, it is also important to understand the government's objectives. It is commonly understood that local content is made up of a number of different forms of increased domestic participation in the value chains of a given sector such as mining. These forms are listed in Table 2.

Table 2: Different forms of local content in a value chain

Names given to different types of local content and their meaning		
Name	**Meaning**	**Example**
Backward (or upstream) linkages Local (or national) procurement Local (or national) sourcing	The procurement of goods and services from local suppliers by a given link of a value chain	A mine uses a local construction company to build its supply road

[8] OECD, 2016a, p24.
[9] OECD, 2016a, p24.

Names given to different types of local content and their meaning		
Name	**Meaning**	**Example**
Forward (or downstream) linkages Value-addition Processing Beneficiation	The subsequent processing of an output into a new output	Mined diamonds being further processed into polished diamonds
Local hiring Direct employment	The hiring of national employees by a firm along a given value chain	A foreign manufacturer trains and employs mechanics to maintain its machinery
Horizontal linkages	The use of skills, technologies and other capabilities required to supply one sector, to target others	Adapting earth-moving skills required in mining for use in civil works such as road building
Shared infrastructure Shared use Spatial linkages	Core infrastructure is developed in partnership between a company and government to ensure that the investment has broader benefits for the domestic economy	A mine builds in a railway between its mine site and the port in partnership with the government, who provide additional investment to build facilities suitable for passenger transport

Beyond improving the general business environment and improving the marketing skills of firms, horizontal linkages are difficult to target with policy. Shared infrastructure opportunities tend to come with the development of new mines or major expansions. And due to the very large added expense of hiring expatriate staff, there are already strong financial incentives for companies to localise jobs wherever this is technically feasible. It is therefore recommended that Zimbabwe *should not focus* on these three aspects of local content in mining and other sectors.[10]

2.2 Defining "local"

The second dimension of terminology is what is meant by "local" when it comes to firms — based on a factors such as geography, ownership, participation of national employees, and value addition.

Not all "local content" is equal. For example, a mine site purchasing imported goods from a locally owned retailer could create little impact, whereas the purchase of goods manufactured in-country by local workers (either directly, or through a retailer or distributor) could create far greater benefits in terms of tax revenue, employment and skills development. A policy providing strong incentives for the former does not make sense, even if it allows the government to claim that its policy has led to a large volume of procurement being localised.

Possible dimensions of "local" are listed in Table 3, along with reasons that they do or do not align with Zimbabwean government objectives.

[10] For further information, see IGF, 2018a, §§5.2 and 5.3 (which includes shared infrastructure).

Table 3: Which definition of "local" fits best with Zimbabwean policy objectives?

Alignment of different "local" criteria for goods with policy objectives			
Dimension	**Common criteria**		**Reasons**
Geography	Registered domestically for tax HQ in-country	✗	Requires minimal foreign presence or impact Local presence is guaranteed provided the value addition criterion is met
Ownership	E.g. >50% ownership by nationals	?	Often leads to "fronting" of foreign firms Minimal domestic impact for workers Skills and technology often stay with foreign firms
Employment	Firm employs e.g. >75% nationals	✗	Most firms already face strong economic incentives to localise employment where possible to reduce costs, so regulation has little additional impact
Value addition	Some domestic transformation	✓	In-country value addition provides employment and the opportunity to upgrade skills Subsumes geographic criterion

Source: authors' analysis.

An additional factor is the complexity of any definition — how costly, slow or difficult it is for a company to find out or demonstrate whether each of its inputs qualifies. For a supermarket purchasing thousands of products, the impact of even a small cost can quickly add up. Consequently, it is helpful if "local" can be defined in terms of a single dimension, rather than burdening businesses with the need to demonstrate multiple requirements.[11]

For the reasons outlined in Table 3, we recommend that "local" is defined to mean that goods have undergone some domestic transformation (i.e. value addition), and we assume this to be the case throughout this report.[12] While there are theoretical benefits associated with local ownership, in order to realise these benefits the government requires substantial resources and capacity, as illustrated by the experience in South Africa.[13] For services and "local" hire requirements, this means that as much work as possible was carried out by Zimbabwe citizens, and ideally this includes management and other higher value work. One way to measure this is to define a service provider as local if a particular percentage of its in-country wage expenditure is paid to national citizens.

This report pays particular attention to large, foreign-owned supermarkets and hotels as the anchor firms in their respective value chains (see chapter 5). Here there is a need for a definition that excludes local Zimbabwean SMEs that make up the large majority of firms, due to the complexity of targeting many firms, and SMEs' lack of an existing bias towards imports (this will be explored in depth in chapter 5). While such thresholds can cause difficulties, in practice the difference in turnover between a large supermarket chain and a small retailer provides space for a threshold with few borderline cases.

[11] In trade policy, the definition of an originating (i.e. local) product is a complex area with detailed rules (SADC, for instance, has a 24-page definition to determine if a good is Zimbabwean (Annex I to SADC Protocol on Trade, pp21–44). This is inappropriate for LCP because the incentive for demonstrating that a good is local is *much* lower, and most businesses will have many different inputs that need classification.

[12] For background on the concept of transformation in trade economics, see WTO, undated b.

[13] Nickerson et al, 2017.

It is understood that stakeholders may choose to move to a more complex definition, or to adopt different definitions in particular sectors as the LCP matures everybody involved becomes more familiar with the complexity. However, a simple definition focusing on domestic value addition is the most natural starting point.

If an LCP chooses to simultaneously promote content from disadvantaged groups, the factors involved in choosing a definition of qualifying firms are very similar. This is discussed briefly in section 5.4.

3. Types of Intervention

Zimbabwe and other countries with a high degree of dependence on mining have a wide variety of policy options to try to increase local content around the sector. Broadly speaking, these fall into "demand-side" options and "supply-side" options. As the Inter-Governmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) states:

> *On the demand side, [policies] focus on creating a demand for local procurement of goods and services. These can range from mandatory specified percentages to voluntary incentives for achieving targets. On the supply side, the focus is on building the capacity of local suppliers to bring them up to global standards on price, quality and reliability. Both types of policies are typically needed; supplier development helps to ensure that demand-side policies do not require more than local firms are able to supply.*[14]

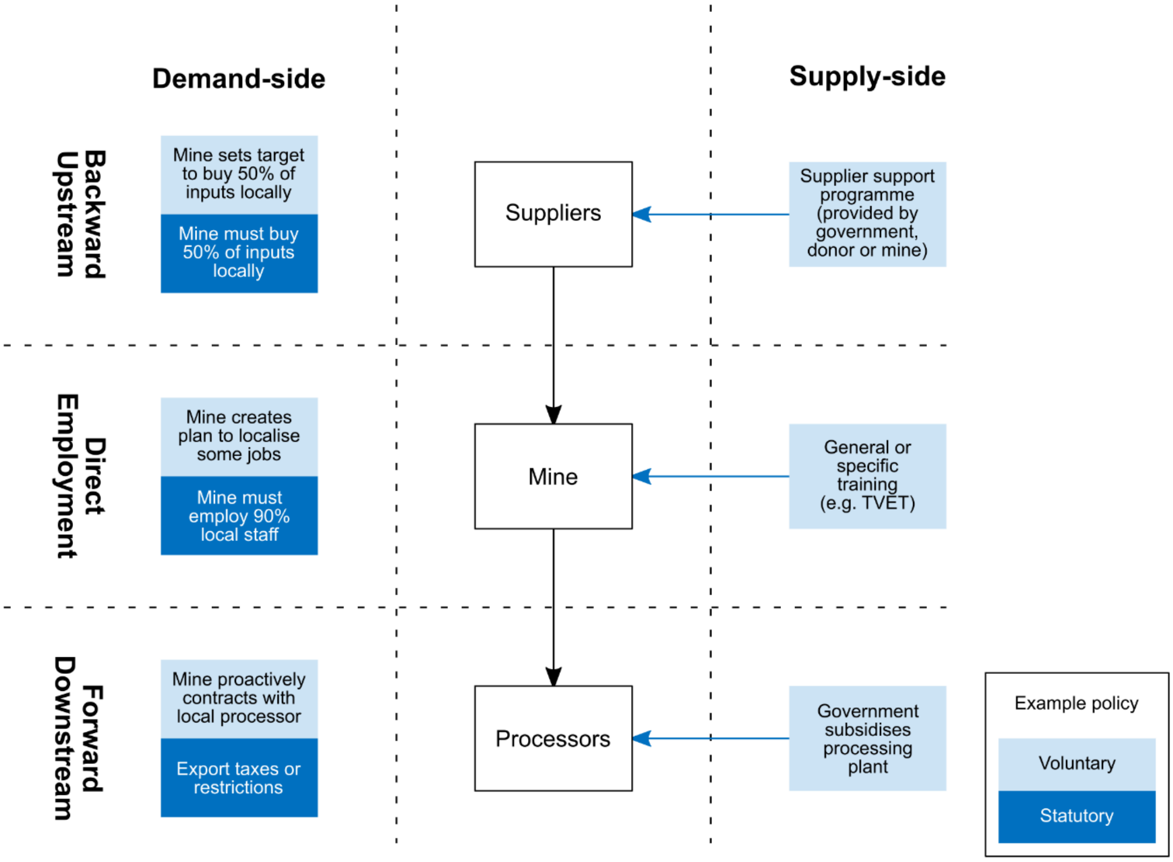
While demand-side targets have worked in some cases, most notably during the East Asian economic miracle, they have worked *when accompanied by extensive complementary measures*, including supply-side support. In the extractive industries, Norway is the most striking case study of a country that used strict targets requiring oil and gas companies to purchase and hire locally — but again, such requirements were accompanied by targeted education and tax policy. Brazil is another case study of an extractive sector using targets relatively successfully. If Zimbabwe is considering strict requirements, a critical lesson to be heeded is the importance of complementary measures.

Local content interventions are in use from least developed countries (LDCs) all the way to high-income countries. In 2015, Australia introduced its Indigenous Procurement Policy mandating preferences and support for public procurement from indigenous-owned suppliers.[15]

Each different category of LCP relevant for government policy-making will now be detailed (Figure 1).

[14] IGF, 2018a, pviii.
[15] Australian Government, undated.

Figure 1: Typology of local content policy with example policies



3.1 Backward linkages

There is a spectrum of demand-side options for backward linkages[16] that extends from very soft measures that encourage and facilitate local procurement, to harder measures which require a certain percentage of particular purchased goods to be local (or an across the board requirement for all products). In contrast, supply-side measures focus on supporting current and potential suppliers through capacity building, financing and registration systems.

3.1.1 Demand-side interventions

The following are potential options for government intervention:

- required percentages of particular goods and services or a required total percentage of procurement that must be purchased locally (through legislation, regulation, or a community development agreement);
- "set-aside" goods and services lists that must be purchased locally;

[16] Also referred to as also referred to as upstream linkages or local/national procurement.

- requirement for mining companies to submit local procurement plans that are monitored and potentially enforced by regulators; and
- required use of community development agreements (CDAs) to set targets or set aside lists for local procurement or supplier support.

Where demand-side interventions have worked historically, they have been accompanied by supply-side policies. The South African experience provides an important lesson. The South African Government has had strict targets on mining sector procurement from enterprises qualifying under Broad-Based Black Economic Empowerment legislation (BBBEE), but their lack of meaningful capacity-building for businesses has led to serious mismatches.[17] In contrast, Nigeria uses targets for its oil and gas sector, and while challenges remain, the fact the targets are accompanied by a national supplier fund and supplier hubs, has meant that it has achieved at least some success (though empirical data to support government claims is lacking).

On the other hand, simply requesting mining companies to increase local procurement through "best endeavours" language in the mining codes does not have much prospect of success. As Botswana's experience shows, vague language like this does not even require companies to think further about localisation.

Another option is to use targets, but in the context of what are generally called "Community Development Agreements". Although most often associated with indigenous communities in Canada and Australia, CDAs can be used in any setting. In Mongolia, having a CDA (which they call a mining cooperation agreement) is a condition for a mining licence.

An advantage of CDAs is that because they are made for individual mine sites, they allow tailoring. Canada has many successful cases whereby formerly very underdeveloped indigenous communities have achieved significant economic growth using this approach — with no overarching legal requirements or targets in place. However, just as the success of regulation is affected by the capability of government, the results of CDAs are highly dependent on the capability of local-level community representatives. There are also risks of corruption, such as when local government is made up of people with direct ties to local business.

A promising middle option between vague statements and hard targets is the requirement for each mining company to submit a local procurement plan. Ghana has recently adopted this approach, requiring mining companies to submit five year local procurement plans with targets and detailed support for suppliers, and plans must be revised each year based on results.[18] Australia has achieved significant success using plans, and government uses the information provided to identify supplying opportunities and steer policy and support.

[17] Nickerson et al, 2017.
[18] IGF, 2018d, p4.

Importantly, the plan option is only as good as the ability of the state — and other supporting actors — to monitor, and steer based on those plans. Australia has a great number of assets in this respect, such as very competent business associations, government support systems for business in general, and modern certification systems. The more that information can be made publicly available, the more a wide range of stakeholders can contribute to monitoring and providing the right pressure.

3.1.2 Supplier-side interventions

The following are supply-side options for government, donor and BMO interventions:

- supplier capacity-building programmes;
- supplier finance programmes;
- matchmaking and other forms of facilitation between mining companies and potential suppliers (e.g. trade shows); and
- creation of a supplier portal.

Ultimately, suppliers to any sector have to improve their capacity to provide goods and services competitively, without the need for demand-side local content policies that force buyers to purchase from them. In this regard, programmes to build the capacity of suppliers can be critical. However, supplier development programmes are complex and can be expensive. There may also be existing support that should be harnessed before creating new programmes. Lastly, if there are problematic policies for small businesses, or other constraints such as poor electricity access, then capacity-building for suppliers is clearly not the appropriate treatment.

Access to finance is a major barrier for SMEs in many markets, including Zimbabwe. As such, supporting the provision of more affordable finance options is a major way to help. Anglo American pioneered many mining-specific finance support options, and their Zimele programme should be examined due to its success in South Africa and Mozambique.[19] For a more recent model in a neighbouring country, the Private Enterprise Programme (PEP) in Zambia, also funded by DFID, has created a fund for mining suppliers.[20] However, like capacity-building programmes, the Zimbabwe government needs a full understanding of the constraints on SMEs to determine whether finance is the major barrier.

The purpose of a supplier portal is to reduce the transaction costs involved in finding and hiring local suppliers, by pre-qualifying companies that are able to pass the industry's due diligence tests. Although there are significant reputational risks that prevent large companies (including mines and international hotels) from sourcing from the informal sector, a portal can at least provide clear information on the steps necessary to become a supplier, even if this involves formalisation.

[19] Anglo American, 2005.

[20] DevTracker identifier GB-1-201980; see also http://pepzambia.com/mines-mining-services/.

Across all of these options, it is important to facilitate connections and ensure potential business opportunities are seized. Whether a part of government policy or mining company strategy, what really makes local procurement happen is proactively identifying supply opportunities and bringing players together to make them happen. Local content "boards" or other multi-stakeholder forums that regularly convene to exchange data and ideas for opportunities are needed to ensure policies are actually implemented. As mentioned above, Australia serves as an ideal case study in this regard.

3.2 Local hiring

In general, mine sites and manufacturing firms employ a large majority of citizens of the country in which they are located, regardless of ownership. The key drivers of this are the lower wages of domestic workers and the high cost of flying staff in and out. Mining companies can also train up their staff in a way that while challenging, is much less complex and involves fewer external variables than doing capacity-building for a supplier.

Governments also find it easy to control the flow of labour as this is not subject to GATT rules (though it can be covered in bilateral trade or investment agreements, and is included in the GATS), whereas trade in goods is.[21] Implementation is relatively easy, since governments typically have immigration controls for other purposes. Governments have policy and programme options for direct hiring on both the demand and supply side. On the demand side, the options are:

- mandatory local hiring quotas (overall or for specific roles);
- requirements for mining companies to provide training to current and potential employees;
- requirements for mining companies to provide localisation plans to transition from expatriates to local employees;
- visa or work permit restrictions on expatriate employees; and
- fiscal incentives to mining companies for hiring locally or providing training.

Whereas on the supply side:

- specific government training programmes (potentially co-funded by mining companies);
- employment readiness support, such as helping candidates tailor CVs for international companies, and practice their interview technique; and
- general public education policy.

There is a similar dynamic as with backward linkages, in that any requirements forced on companies to hire locally need to be complemented by supply-side policy and programmes.

[21] See Appendix 3.

Forcing companies to hire locally for particular jobs even though there is no talent available will obviously not work.

As with procurement, governments should be aware that in most developing countries there is already extensive support for skills training in current donor funding. Quite often there will be existing programmes that can be steered towards the mining or manufacturing value chain.

When employees receive training that dramatically increases their market value, they often have the opportunity to take another job — preventing the company from benefiting from the return on their investment. It can be difficult to find practical means to prevent this (though improved employment conditions can mitigate slightly), which is a good economic reason not to place the full financial burden of training on the private sector, since there is an incentive to underinvest.

In future, as automation increases, it is expected that the most efficient proportion of lower-skilled jobs will fall in mining. Fewer direct hires in turn mean a reduction in supporting roles, such as camp services and human resource administrators. There is also likely to be a multiplier effect in reducing indirect employment near to the mine. Any government regulating mining needs to be proactive in addressing this issue in their local content strategy, such as by pursuing policies to incentivise training for the high-skilled jobs required by automation and new technologies. Governments could also consider how a reduction in the tax and employment benefits from mining investment should change their overall approach to regulation and investment promotion.

Box 1: Promoting inclusive hiring in the mining industry in Papua New Guinea (PNG)

While the selection of national or international workers is typically based on technical requirements and strong economic incentives, in many countries the mining industry has a particularly gender-imbalanced workforce. This presents an opportunity for international companies (and donors) to contribute to progressive social change, while simultaneously improving monitoring of community development agreements,[22] and in turn community–company relations.

A long-term programme led by the PNG Chamber of Mines and World Bank supported dialogue, planning and capacity building to increase women's participation both as workers and stakeholders in mining communities. In other cases, the private sector has taken the lead, for instance the Lihir mine was able to increase its direct employment of women to 24 per cent of the workforce by focusing on inclusive employment. In fragile states such as PNG, where state monitoring of CDAs is weak, the capacity of the local community to consult directly with the company on issues of concern is critical.[23]

[22] CDAs are called benefit sharing agreements (BSAs) in PNG.
[23] Based on IGF, 2018e.

3.3 Forward Linkages

Forward linkages[24] seem intuitively similar to backward linkages in that governments have similar options in terms of supply- and demand-side policies. Governments can incentivise or force mining companies to further process mineral outputs (demand side), and can provide support to firms that process mineral outputs (supply side). Policies can take the following forms:

- fiscal incentives for downstream firms (reduced tax rates or subsidies)
- export taxes or bans on mineral outputs that haven't been further processed.

However, it is not appropriate to lump together policies for backward and forward linkages for minerals. Global value chains expert David Kaplan explains:

> *Looked at as physical objects, a pot or a pan for example are logical extension[s] of iron and steel. But, looked at as a set of economic activities, pots and pans differ radically from iron and steel – successful pots and pan production requires different skills, capabilities, and access to markets than are required for the production of iron and steel. Countries that have the skills and capabilities in the production of the raw materials do not inherently have the capabilities, skills and market access required for successful downstream production.*[25]

There is a disproportionate interest across Africa when it comes to forward linkages compared to other aspects of local content. In the African Mining Vision the "problem" of exporting raw materials and then buying them back processed is frequently raised by governments across the continent as something to "fix".[26] However, it is instructive that many high-income countries that could easily build the capacity to process their own raw materials choose not to.

> *It is notable that the degree of downstream processing is relatively low in high income countries that would be expected to be able to exert some influence over markets, for instance, Australia in bauxite and iron ore, Chile in copper, and Sweden in iron ore. It would certainly be technically feasible for these countries to increase downstream processing. The fact that they have not done so would appear to argue that the attraction of downstream integration is not self-evident.*[27]

While Sweden and Australia both have the *technical ability* to process iron ore into steel, it does not make economic sense in either case because neither has a natural large market for steel. In contrast, China — with no iron ore — has a large number of domestic steel-using industries, providing a large, accessible market that justifies substantial steel manufacture.

In the mining sector, there have been some recent high-profile failures of countries trying to force beneficiation. Indonesia put in place a ban on exports of raw nickel mined in-country in 2014 to spur efforts at beneficiation. However, without the required smelting capacity, nickel mining plummeted, and exports fell $4 billion in the first year. While some investment did enter processing facilities, the government was forced to reverse the ban in 2017 — partly because

[24] Also known as downstream linkages, beneficiation, or processing of mineral outputs.
[25] Author's interview.
[26] AU, 2009.
[27] Östensson and Löf, 2017, p13.

the state mining company had stockpiled raw nickel it was unable to export, leading to large losses.

That said, there are positive examples, such as Botswana achieving diamond cutting and sorting capabilities in partnership with De Beers, and it is possible that Zimbabwe can find something similar. However, it is notable that in Botswana, the government had huge leverage on the company because it sources 60 per cent of all its diamonds from the country.

This is not to say that Zimbabwe should never encourage forward linkages — just that theory and the empirical record show that any country seeking to do so *should proceed very cautiously*. Even if it may be possible for a country to achieve downstream beneficiation of its mineral outputs, there is likely to be a far greater return on investment in backward linkages. Again, data is key (see section 4.1), and any government needs to do a full analysis of the costs, benefits and risks of forward linkage policies versus others.

3.4 Government procurement

Policy on government procurement is an important component of demand-side LCP, which is sometimes overlooked because it has less relevance in the mining sector. Such policies generally aim to ensure that everyday government procurement processes assess the local content in competing bids, and award contracts to local firms or firms sourcing more inputs locally, even where this is moderately more expensive for government. Procurement can already be challenging in fragile states, and the added complexity of taking into account preferences for local firms can add both technical difficulty and risk to the process.

4. Implementation Lessons

One of the most important lessons in implementing local content policy is that procedural factors are at least as important as policy selection — that is, the *how* matters as much as the *what*. This chapter covers the most important process lessons.

4.1 Data must inform policy

Government interventions must be informed by accurate and up-to-date data. From the OECD:

> *It is necessary to have a deep and detailed knowledge of the resources supply chain in terms of revenue, opportunities for businesses and potential for employment creation in order to inform the strategic orientation of government policy.*[28]

Likewise, the IGF's Local Content Guidance for Member States stresses that governments need to take stock in order to

> *highlight what opportunities might exist, what targets are reasonable, what gaps need to be addressed, what parallel initiatives might be needed, what leverage governments might have with investors and, ultimately, what types of local content policies might be feasible, given their objectives and their particular circumstances.*[29]

For example, when targets are implemented for local procurement of particular goods, despite the government not understanding the potential demand or supply of the good in question, tensions with industry and failure to meaningfully increase local sourcing should be expected. Likewise, when seeking to create forward linkages into manufactured goods using mineral outputs, government will only be successful if they have the data to allow them to understand what is a realistic type of forward linkage to target.

Suggested frameworks for local content data collection in the mining industry can be found in Appendix 2.

4.2 Definition of "local" must match policy goals

Regardless of the government's primary policy goal, if it is not aligned with the definition of "local" that it uses, this mismatch will undermine any intervention. If for example, the goal of a country is to create more manufacturing, categorizing suppliers based purely on whether a national or expatriate owns a firm (rather than the level of value-addition) will fail to target the right firms, no matter what specific policy tool is chosen. As discussed in section 2.2, if Zimbabwe is seeking to reduce imports and increase domestic jobs and skills, then the definition of "local" should be based on value addition.

This report has generally assumed a binary framework, in which an input can be classified as either "local" or "not local", since this is by far the most common.[30] Some jurisdictions and

[28] OECD, page 14.
[29] IGF, 2018a, pvii.
[30] Nickerson et al, 2017.

mining companies choose to go further, dividing goods into three or more categories. Creating different tiers of "local" is a complex and difficult process that needs to be slowly thought out, and can take many years. However, the more sophisticated governments and industry can be in classifying different firms, the better government can create policy, and the better informed the key stakeholders will be that have an influence on whether local content happens. The most common additional category is for suppliers very close to a mine (often colloquially described as "local-local"), since companies have an incentive to maintain good relationships with host communities. However, companies can gradually break down suppliers into further categories to create increasingly detailed data that can inform government supply- and demand-side interventions. In Mongolia the Oyu Tolgoi Mine now has three categories:

- "umnugovi": suppliers in the home aimag (province) of the mine
- "national": suppliers who are owned by Mongolian nationals
- "in-country": all spending in-country, but including suppliers who are not Mongolian-owned.[31]

If the government has multiple policy goals, such as creating value-addition, employment and upgrading management skills, increasing the number of categories of suppliers allows for more sophisticated data to be gathered to inform government interventions. The more categories that can be created to measure value-addition and actual participation of Zimbabweans in key technical and management processes, the more the government can target suppliers that create long-term value for the country. For example, by disaggregating suppliers of goods by the percentage of their products actually made in-country, policies and programmes can be created to target and support the firms with the highest levels of value-addition. As discussed in section 3.1, the government can require the submission of local content plans, as is done in Ghana and Australia, and increasing levels of detail can be required over time.[32]

4.3 Corruption risks need to be recognised and mitigated

There are numerous points along the mining industry value chain where corruption can take place, including those related to local content. As the OECD notes, local content regulation can be misused to provide support and preferences to firms connected to political elites.[33] Such preferences could be provided to suppliers to the mining industry, or to a firm engaged in processing the mineral outputs of mines. In addition, money can simply be funnelled to political elites directly through procurement spending by state-owned enterprises, as occurred in the high-profile Petrobas scandal in Brazil, in which the company paid inflated prices on

[31] Oyu Tolgoi, 2018.
[32] OECD, 2017; IGF, 2018b. Further guidance is available in World Bank, 2015, pp23–26; a practical example can be found on the Oyu Tolgoi procurement website: http://ot.mn/spend-report-en/.
[33] OECD, 2016b.

contracts to engineering firms in return for bribes and illicit party funding.[34] Many of these risks are greater in fragile states with weak institutions.[35]

Corruption in local content can be very difficult to bring up and address, especially in public. In South Africa for example, many stakeholders privately complained about the connections between protected BBBEE businesses and political elites during research interviews,[36] but it is very rare for companies to call out individual acts of perceived corruption. Given this sensitivity, it is vital to set up adequate systems of information sharing and transparency around local content, and to avoid a narrow focus on supplier ownership as the definition of "local", which appears to create greater opportunities for corruption.

4.4 Policy complexity must match government capacity

Some types of LCP simply require a more competent administration and stronger institutions to work, while others are conducive to fragile states with limited resources. For example, Australia uses a facilitative approach in the mining industry, in which the government collects local procurement plans from companies and uses the information to guide investments in education and infrastructure. This requires a well-resourced state, able to collect and analyse this data. Likewise, supplier development support can be prohibitively expensive and out of reach for resource-constrained governments. In contrast, non-binding demand-side targets on local procurement are much less complex and a capacity-constrained state can use these more easily (though they have pitfalls as has been discussed in section 3.1.1).

4.5 Unintended consequences must be taken seriously

It is also important to pay attention to the likelihood of potential negative impacts. Some policies can be quite harmful if implemented poorly, while others are less likely to be damaging. For example, a poorly executed supply-side policy to build the capacity of suppliers is unlikely to have an impact on the overall investment climate. By contrast, a hard target to purchase a particular good or service that does not make sense has great potential to deter investment.

4.6 Beneficiaries of the status quo should be considered

The Zimbabwe government needs to assess which players currently benefit from the lack of local content use in mining and agriculture. For example, importers of mining goods made in South Africa do not have an economic interest in upsetting long-standing profitable relationships. Likewise, supply chain management staff in major supermarket chains will be resistant to changes that may upset steady and reliable supply, particularly when it comes to perishable goods. As such, special attention should be paid to working with these incumbents to ensure they do not try to deter local content efforts. Such actors can be converted into allies

[34] Mandl, 2018.
[35] OECD, 2016b, pp31–32.
[36] Interviews by the author, conducted for Nickerson et al, 2017.

by demonstrating that in the long run they will reduce their procurement costs by buying from local suppliers, rather than importing.

Likewise, mining companies and other large corporations are generally resistant to both new regulations and changes to the business environment that lead to uncertainty. As such, special effort will be required to engage with these companies to include them in the process so that they recognise long term benefit. The lack of consultation in South Africa over their recently released Mining Charter and linked LCRs has led to lawsuits and intense pushback from industry. By involving and working with these major buyers, a similar outcome can be avoided in Zimbabwe.

4.7 Other policies may better achieve some local content goals

It is important for government to remain aware that LCP exists that is heavily influenced by dozens of other policies. Government should remain open to other policy improvements that might be more direct than LCP. For example, in Zambia the government has announced a new 35 per cent target for local procurement in mining — but domestic suppliers have to pay 25 per cent duty on these components, while mining companies can often import them duty-free under investment incentives. In these circumstances, a local content target is very unlikely to achieve its aims.[37]

[37] See Appendix 1 for more information.

5. Options for Zimbabwe

This chapter introduces the Zimbabwean context into the analysis, to tailor the lessons of the previous two chapters to the current needs of the country. First, the sectors we will focus on will be introduced in turn, and then the most promising policy options for Zimbabwe will be described (drawing on chapter 3), noting any sector-specific challenges and opportunities. The chapter ends with some guidance on making local content policy more inclusive.

5.1 Sector selection

The focus of this report is on the mining and agro-processing sectors. Of the two sectors, mining has a much more established practical literature on local content policy, which identifies the mine as the point in the value chain that is most easily regulated directly. This makes sense, because the mine site is typically a large, single buyer and producer that has the capacity and financial resources to adjust its operation in order to promote domestic linkages.

Within agro-processing and its value chains, there is a less obvious focal point. Agro-processing, generally speaking, is more competitive, operating on lower profit margins, and is more likely to be a domestic firm (by any definition).

In Zimbabwe, there is clearly interest in exploring the option of applying local content policy to agro-processors in order to fill gaps in the availability of agricultural extension support. This relationship will be covered in this chapter. However, domestic agro-processors are themselves an important component in economic recovery and industrial transformation. Many have been starved of investment in recent years, and face strong competition from regional neighbours. They will need government and donor support in order to remain competitive and displace imports. They are a less obvious target for demand-side local content policies than mines, because the costs of supporting farmers cannot be accommodated without affecting the price of their manufactured products.

For this reason, this report also considers how local content policy could be applied further downstream in the agro-processing value chain. In particular, two linked sectors are identified as possible subjects for policy: retail and tourism.

5.1.1 Mining

Mining offers a practical opportunity for direct regulation of local content due to the sheer size of individual mine sites, and because investing companies are tied to the point of extraction. A single mine site can spend hundreds of millions of dollars on procurement of goods and services each year, and during the operation phase this spending is relatively constant and predictable. This means both procurement and direct employment needs are reasonably stable and practical to target. Thus, in many ways, it is less complex to apply local content policy to the mining sector than less concentrated sectors in the domestic market.

As discussed in chapter 3, local content policies in the mining sector can usually be categorized as demand- or supply-side interventions. In contrast to agro-processing, demand-side interventions for jobs and procurement can raise costs for mining companies, though they won't necessarily lead to the outputs being uncompetitive. Mining companies are international price-takers, so increased domestic costs cannot be offset by raising their prices. But global mineral prices are volatile, and sizeable market fluctuations can offset the effect of a local content policy.

While mine sites are unlikely to shut down because of costs incurred by demand-side local content policies, these regulations may deter future investment if they are seen as too onerous. Mining companies operating in a country like Zimbabwe may also cancel potential expansions because the higher costs brought on by demand-side local content polices mean that they prefer to invest in countries that offer better opportunities.

It is also important to note that there is an opportunity cost in LCRs that increase costs for mining companies, because they reduce the amount that can be extracted from the company through taxes and royalty payments (without reaching a level of extraction that reduces investment).[38] In this sense, if the government is otherwise able to extract taxes efficiently,[39] then the cost of a LCR is ultimately paid by government.

As such, the structure of mining activity makes local content policy somewhat less complex for backward linkages and jobs, but it does not mean that using regulations comes without risk.

However, it is a very different picture for forward linkages. Agricultural products can be processed into food items that will be consumed locally if they are of sufficient quality and competitively priced. By contrast, the capital equipment and specialist skills required to beneficiate minerals is much more expensive and dependent on critical factors such as reliable electricity and proximity to customers. Because the domestic market of Zimbabwe is not naturally able to consume processed minerals in high volume (cut and polished diamonds, copper, gold, etc), if export taxes or bans mean they cannot be exported, then they cannot be sold.

5.1.2 Agro-processing and backward linkages to agriculture

In interviews, stakeholders expressed concerns about the large quantity of imports of food that is also grown domestically.[40] Government has recently invested considerably in the re-launch of its "Command Agriculture" programme, devoting $500m to increasing maize production by providing "inputs, irrigation and mechanised equipment" and purchasing at a guaranteed price.[41] Agricultural extension was discussed within the scope of local content policy, with the proposal that agro-processors should be incentivised to (a) develop extension support to their farmer-suppliers and (b) source an increasing share of their raw materials locally. There

[38] Kolstad and Kinyondo, 2015, p4.
[39] This may be a significant challenge, especially in fragile states, but is beyond the scope of this report.
[40] Maize and wheat made up 7.6 per cent of all imports in 2016, almost $400m (COMTRADE). Soya was also frequently mentioned in this context.
[41] Ministry of Lands, Agriculture and Rural Resettlement, undated. The programme is being extended to cover other staples.

appears to be potential for a substantial increase in agricultural yield in at least some crops.[42] There is also a rationale for agricultural extension to be driven by the private sector, which has a clear understanding of the commercial viability of products and aspects of product quality for which consumers will pay a premium. Further, the seeds, beverages, tobacco and dairy industries are cited as positive examples of well integrated supply chains, in which commercial farms, aggregators and processors support smallholder (outgrower) farmers through the provision of inputs, technical support, working capital and predictable purchase. These industries are understandably seen as a model, which may be replicable in other value chains.

A programme as interventionist as Command Agriculture will have a profound effect on the markets for the commodities it targets. LCP in this context will have a minor effect in comparison. LCPs examined in comparable contexts were not combined with a policy of this type, meaning that lessons drawn from other countries are of limited use in understanding how an LCP could support or undermine farmers participating in Command Agriculture.

5.1.3 Agro-processing and retail

The rapid rise of foreign supermarket chains in Zimbabwe has facilitated the import of a wide range of processed consumer products, both displacing local competitors and creating new markets. Aspects of these supply chains are often maintained through trust and inertia rather than any unbridgeable advantage in price or quality. Established supply chains are a critical asset in the retail industry, and rapid expansion into new markets is only feasible by drawing on existing supplier relationships. But retail outlets *do* have economic incentives to gradually shift to domestic suppliers. In many cases local suppliers will simply be cheaper than importing like products, with lower transport costs. They have the potential to be more responsive due to shorter transportation links and the lack of uncertainty created by border crossings.

On the other hand, retailers face impediments in switching to local supply. Firstly, it takes time and costs money to establish new supplier relationships (as well as to understand which potential relationships provide the best opportunities for cost savings). Domestic goods may be lower quality, and retailers may feel they need to invest effort to ensure suppliers understand their quality, quantity and customer service requirements.[43] Foreign retailers may use advanced supply-chain management techniques and technology, which domestic suppliers need to be trained to understand and in some cases to use. Trust is an important asset, since contracts are costly to enforce, so there is a natural tendency to continue to work with long-standing suppliers, even when they are more expensive.[44] Finally, supply chain managers may face little internal pressure to find more cost-effective sources of supply whilst their business units are satisfactorily profitable.

[42] See e.g. Mugabe and Etienne, 2016, on maize; Dube and Guveya, 2014, on tea.
[43] Open University, 2009, p3.
[44] There are also network effects here, which act to maintain import dominance even when domestic alternatives are competitive. Where a retailer's suppliers are predominantly in South Africa, it is easier to obtain informal information about the reliability of new South African suppliers from existing contacts. There is an initial cost in establishing trust networks within Zimbabwe, but once these have been created, then the cost of obtaining reliable information about potential Zimbabwean suppliers falls.

A competitive retail sector will drive this process of localisation eventually, but coordinated action by government, domestic industry and donors can ensure that it happens more quickly.

5.1.4 Agriculture and tourism

Tourism shares conducive elements of the retail sector, especially at the higher end, and those firms targeting foreign visitors. Despite adverse conditions including travel warnings from major visitor sources, tourism still accounted for 5.5 per cent of GDP in 2015.[45] The country's major natural attractions and historical sites provide a strong climate for the sector's recovery when the country's international image improves. Arrivals from outside mainland Africa spend an average of $1080 per visit;[46] this is a sub-sector in which competition is based more on quality than price, and local content can be used as a marketing tool, especially with appropriate private sector, BMO and in a limited way government support. Hotels purchase food and beverages in smaller quantities than large supermarkets, which can make them more accessible for smaller suppliers, and tourists are likely to be willing to pay a price premium for a product that they perceive to have social benefits.

5.2 Supply-side interventions

If Zimbabwe achieves greater re-engagement with the international community, this will provide new opportunities to rebalance its approach to local content. Where previously, resource constraints have placed pressure on the government to rely on regulatory inducements, the re-engagement of donors will create new opportunities to provide support to domestic suppliers to improve their capacity. This, when combined with appropriate demand-side measures, will have the greatest impact. Buyers will be more willing to switch to local suppliers if they have support that ensures that they can meet price and quality expectations. Appropriate supply-side interventions are listed in Table 4.

Table 4: Appropriate policy options for supply-side interventions in Zimbabwe

Supply-side policies to promote backward linkages	
Priority objective	**Example policies and donor programmes**
Improve intra-governmental coordination, for instance to ensure that ministries of commerce and tourism collaborate to ensure that tourism policy promotes backward linkages[47]	Ministries of tourism and commerce collaborate to refresh tourism policy to identify opportunities for government to promote backward linkages. Ministries of mining and commerce collaborate to refresh mining policy to identify opportunities for government to promote backward linkages. Ministry of commerce and BMOs participate more actively in tourism and mining policy dialogues to connect suppliers in to new investment projects early in the process.
Identify opportunities, through public–private dialogue, sector organisation and analysis	Strengthen cross-cutting and sector PPD, as DFID has done through Zimbisa. BMOs could organise specific events for companies to network to discuss sub-contracting relationships, to coincide with government release of tenders.

[45] Author's calculation based on RBZ, 2016, pp28 and 58.
[46] RBZ, 2016, p28.
[47] One of the most difficult relationships is often between the ministries of agriculture and commerce, to ensure that efforts to strengthen agro-processing value chains support all domestic actors rather than shifting costs from one part of the chain to another.

Supply-side policies to promote backward linkages	
Priority objective	**Example policies and donor programmes**
Ensure that buyers and sellers have opportunities to discuss opportunities, to ensure that the most advantageous opportunities are identified	Working with BMOs, strengthen or create sector dialogue platforms, including sessions explicitly designed for local suppliers to meet staff responsible for procurement, to make contacts and gain a greater understanding of requirements. Organise, support or fund mining sector trade shows as a means of connecting potential suppliers to mining company procurement.
Develop and deliver capacity support and technical assistance to suppliers to overcome constraints to competitiveness with imports	Donors could support agro-processors to raise suppliers' yield by co-funding agricultural extension programmes. Support a review of national TVET curricula with private sector consultation; support training for TVET instructors in priority disciplines. Government or donors could directly provide training and support BMO-administered peer mentoring to companies in areas such as bid preparation and subcontracting.
Reduce the cost and compliance risk to large foreign companies of contracting SMEs and local firms	Create or support the creation of a supplier portal whereby Zimbabwean SMEs can register in a database that potential buyers can use to find suppliers. These support portals can provide pre-qualification services to vouch for registered suppliers' standards and tax compliance and other variables that potential buyers require (so participating buyers can avoid the cost and delay of having to pre-qualify these firms for eligibility).[48]
Ensure access to finance for current and potential suppliers of the mining industry	Offer or coordinate affordable credit to current and potential suppliers of the mining industry.[49]

The first step in any sector is to learn where the greatest opportunities lie. While government analysis is helpful, the most specific and useful information can only be obtained directly from the private sector, so it is critical to establish sectoral PPDs and use them to build trusting relationships (see section 4.1). In addition, various existing frameworks for mine reporting already exist for governments to draw upon (see Appendix 2). When considering supply-side interventions, it is also important to take stock of existing and planned government and donor support, as supply-side LCP overlaps with many established pipelines. Partnering with existing delivery can ensure that established programmes help to promote local content in addition to their primary aims.

5.3 Demand-side policies

There is reason to believe that there are already economic incentives for retailers to switch to domestic suppliers in the chosen sectors. As well as the long-term reduction of procurement costs that can be achieved by localising supply of products in many sectors, the mining industry also has an interest in ensuring its social licence to operate by maintaining a good relationship with host communities.[50] Supply chains are complex and neither government nor donors will have the detailed and up-to-date data required to understand where the clearest opportunities lie. Under these circumstances, invasive regulation has a high potential to do more harm than good. For instance, the government is probably not *yet* in a position to

[48] See, for instance, Invest in Africa's Africa Partner Pool (APP) programme in Ghana, https://www.appghana.com/.
[49] See, for instance, the Nigerian Content Intervention Fund, targeting suppliers of the oil and gas industry.
[50] Nwapi, 2016, pp10–11.

establish effective targets for local content, due to its lack of understanding of the specific volumes of goods and services purchased, and the lack of a gap analysis examining existing supply capabilities (see Box 2).

Box 2: Targets

One option to encourage firms to purchase local content is to set targets, whether voluntary or enforced by statute. Evidence from interviews suggests that this is not a "good" or "bad" policy inherently, but that it needs to be implemented in the right way, or can cause more harm than good.

It is important to maintain — to the extent possible — the goodwill of the private sector. Local content policies are much more difficult to make successful without a good relationship with those who are making the decision to purchase locally. Many are sympathetic to the obvious development benefits of increasing local content. However, experience from Kenya suggests that it is easy to undermine these relationships by setting unrealistic targets — a common error when targets are set early in the process, with inadequate consultation or analysis.

This can lead to a self-reinforcing cycle, where stakeholders become accustomed to explaining why targets have been missed, which becomes the habit and expectation. In turn, the government is perceived not to understand the reality of the industry. This can make the private sector more reluctant to share information, which makes it harder for the government to analyse, support or enforce. Once mistakes of this type have been made, it can be a slow process to restore confidence and a collaborative approach to promoting local content.[51]

Finally, there is a risk of corruption regarding local content targets, which can be used to direct procurement contracts towards politically connected elites.[52] Perceptions of this happening are widespread in South Africa, where mine sites must purchase target percentages of goods and services from Broad-Based Black Economic Empowerment (BBBEE) firms.[53]

However, demand-side measures are an important component of an effective LCP. Botswana's experience suggests that "best endeavours" language in mining codes is insufficient to prompt meaningful action,[54] and experts have described the expectation of changes in local content without incentives as "naive".[55] Appropriate demand-side interventions are listed in Table 5.

[51] This box draws on interviews conducted by the authors relating to Kenya.
[52] See §4.3, and OECD, 2016, especially pp55–56 and 59–63; Kolstad and Kinyondo, 2015, p15.
[53] Nickerson et al, 2017.
[54] IGF, 2018c.
[55] Warner, 2007, p8.

Table 5: Appropriate policy options for demand-side interventions in Zimbabwe

Objectives and example policies.	
Priority objective	**Example policies**
Ensure that large hotels, retailers and mines do examine opportunities for progressively localising their supply chains	Require foreign-owned hotels, retailers and mines above a threshold turnover to publish[56] regular local content self-assessments, including concrete actions to incorporate more local content. Planning is best done on a 3–5 year horizon, with annual monitoring of progress. In mining, Ghana requires companies to provide plans like this, in which they explain the rationale for importation of particular goods, and procurement of services from international firms. This model has also been shown to work in Australia.[57]
Strengthen consumer-facing local content information in retail and tourism	Ministry of commerce or designated BMO[58] creates accreditation framework that offers gold, silver and bronze awards to retailers and hotels that meet published criteria for supporting local producers through their supply chain. Once established, government or donor provides funding to promote scheme with consumers in Zimbabwe and core tourism markets.
Encourage foreign-owned retailers to progressively shift to domestic suppliers	Consult with established retail chains regarding impediments to establishing a distribution centre in Zimbabwe, and resolve any priority impediments in the business environment. Consider offering investment incentives to establish the first distribution centre in Zimbabwe (while ensuring that any new investment remains revenue positive for government).
Provide preferences for domestic suppliers to the mining sector	Encourage or require community development agreements (CDAs) as a condition of mining activity, that can include local procurement provisions targeted at the site level, based on local community goals and capacity.[59]

Where their capacity is strong, BMOs play an important role in ensuring that demand-side policies are implemented in practice. For instance, Kenya implemented local content preferences in 2015, but they have had more practical impact because BMOs including Kenya Private Sector Alliance (KEPSA) identified and publicised non-compliance by a foreign company on a large investment project. This advocacy led to a substantial increase in local procurement without any formal penalty being enacted. This level of BMO capacity would not normally be expected in a more fragile state, but DFID's ongoing support to a number of BMOs may link well with this function. In addition, the press played an important role as a vehicle for the private sector's advocacy.[60]

5.3.1 Retail: distribution centres

In the supermarket sector, it is worth highlighting the importance of distribution centres, which provide the function of an integrated wholesaler. One of the ways in which retail chains are more cost-effective than independent stores is their ability to reduce supply chain

[56] Requiring submission to government places a substantial capacity burden on the ministry responsible to scrutinise and respond to plans. The sector-specific expertise necessary for this may be difficult to achieve. Asking companies to make these plans publicly available enables BMOs and the media to scrutinise these plans in parallel, and could help to raise consumer interest in supporting local suppliers.
[57] OECD, 2017; IGF, 2018a.
[58] Providing accreditation for meeting voluntary standards of local content (for a fee) could be a central source of revenue for an able BMO.
[59] See §3.1.
[60] See, for instance, Michira, 2015, and Business Daily, 2016.

management costs by centralising purchasing activities in distribution centres. This allows the chain to procure higher volumes at lower prices, and manage fewer relationships thereby reducing costs.

Even within SPAR, which is less integrated than other chains due to its franchise model, the Lowveld distribution centre in South Africa directly delivers 60 per cent of goods to every store in Mozambique, and oversees the transactions of around 85 per cent of throughput — reducing the burden on (and discretion of) individual stores considerably.[61] At present, it appears that all South African retail chains operating in Zimbabwe are supplied by distribution centres physically located in South Africa — so purchasing decisions are made in South Africa, which complicates sourcing of Zimbabwean produce even for the Zimbabwe market.

The creation of distribution centres in Zimbabwe would be an important step in dismantling the in-built bias towards imported goods in the structure of retailers' supply chains. It would also deliver benefits to Zimbabwean manufacturers who would be able to supply supermarkets nationwide while dealing with only one customer. In some developing markets, foreign retailers' distribution centres act to counteract delivery difficulties that local suppliers experience by automatically holding buffer stock for goods that supply chain software has identified as being subject to erratic delivery. This reduces the capacity gap that suppliers must bridge to get their products onto supermarket shelves.[62]

5.3.2 Government procurement

Government procurement legislation has recently been modernised in Zimbabwe, with a new act coming into force in 2017 following long-term support from the World Bank.[63] The main objectives of modernisation have been to make procurement "more transparent, accountable, and effective".[64] The new law is permissive of local content requirements, but unlike legislation in Kenya does not prescribe thresholds for local supply.[65] Even in Kenya, prescribing legal thresholds has been only the first step in making local preferences effective. In Zimbabwe, the law leaves procuring entities responsible for setting and implementing their own policy on local preferences — as is so often the case, the real challenge is in implementation.

Establishing government procurement preferences early in a local content policy makes sense for a number of reasons:

- By taking the lead, government can demonstrate to the private sector that sourcing goods locally is achievable.
- Local content targets or requirements can be set without the risk of making any private sector firm less competitive.

[61] Bone, 2014. Similar data was not available for Zimbabwe, but the situation is likely to be similar.
[62] Open University, 2009, p2.
[63] Zimbabwe Public Procurement and Disposal of Public Assets Act, no. 5/2017.
[64] Hasan, 2017; see also World Bank, 2015b.
[65] See Zimbabwe Public Procurement and Disposal of Public Assets Act, 2017, §29, "Domestic preference".

- It is a mechanism by which the government can invest in agricultural extension, provided by other members of the value chain within a competitive environment.
- Other criteria, such as preferences for women, youth and disabled people can be incorporated (as has been done in Kenya).[66]
- It is either permitted or routinely tolerated under international agreements to which Zimbabwe is a party.[67]

It can be managerially difficult to implement public procurement preferences while government is suffering from a substantial budget deficit, has negligible reserves of foreign exchange and cannot borrow advantageously, since favouring local content will almost inevitably increase government costs. This is a more likely challenge in fragile states. While this is expected to be beneficial in the long term, this can be difficult to justify under short-term budget pressure, and hard to reconcile the opposing objectives of improving value for money and investing in local suppliers.

Experience in Kenya has also highlighted the complexity of implementing local content requirements in publicly funded projects implemented by private firms. Recent Kenyan legislation requires exclusive preference to Kenyan citizens for small-scale procurement and mandatory sourcing of at least 40 per cent local content for larger tenders.[68] But this legislation has not been applied automatically to private firms managing government contracts, putting the onus on government to ensure that these requirements are included, monitored and enforced in every contract it signs. This requires considerable implementation capacity on the part of procurement authorities.

5.4 Inclusion

Local content policy has the potential to expand and improve employment within Zimbabwe, including for women, young people, the rural poor and the informal sector, by increasing domestic demand for unprocessed agricultural commodities from agro-processors integrating themselves into premium value chains.

However, the benefits to disadvantaged groups can be maximised in a number of ways.

- Review possible impediments that prevent disadvantaged groups from accessing procurement opportunities (e.g. ensure that procurement opportunities are advertised in ways that women and rural firms can access, break up contracts into smaller pieces, provide longer periods for the submission of bids, provide clear guidance on bid requirements and criteria for preferences, etc).
- Explicitly extend preferences for local content to provide additional or greater preferences for disadvantaged groups (as is done in Kenyan public procurement).[69]

[66] Kenya Public Procurement and Asset Disposal Act, 2015, §157(10).
[67] See Appendix 3.
[68] Kenya Public Procurement and Asset Disposal Act, 2015, §157(9).
[69] Kenya Public Procurement and Asset Disposal Act, 2015, §157(10).

- Make additional effort to include disadvantaged groups in dialogue on local content requirements and events to link buyers and sellers (e.g. women-headed firms and women's business associations).
- Assess procurement rules (including for the public sector) to ensure that they do not unduly discriminate against the informal sector.

Once again, local content policy can be undermined by many associated areas of regulation and policy. This is especially true for the informal sector, which is disadvantaged in a wide range of ways by the tax system and government procurement procedures. In many cases, a local content policy cannot compensate for these impediments, and establishing an LCP should not replace or delay efforts to resolve these issues.

An important lesson can be learned from South Africa in this area. Local content policy in mining in South Africa is based on Broad-Based Black Economic Empowerment (BBBEE). Mining companies are required to prefer goods and services supplied by black-owned businesses as a means of increasing their participation. However, because the focus is solely on ownership, without supply-side support for SMEs, there has been a large gap between goals and outcomes. Mining companies report having to purchase from unqualified suppliers because of their ownership and many firms engage in "fronting" whereby there is a black owner but the meaningful work (and opportunities for skills-upgrading) is done by non-black management and employees.[70] As with the definition of local (see section 2.2), disadvantaged suppliers should always be defined in a way that ensures the disadvantaged group participates meaningfully — through employment, management or opportunities to develop their skills.

5.4.1 Agriculture and agro-processing

Supply-side support to agro-processing, whether boosting output or meeting the quality and delivery expectations of high-end retailers and hotels, will require improvements in the management of the upstream supply chain. This is likely to involve working with farmers, cooperatives, traders and transporters, including in the informal sector, to increase the quantity, and improve the quality and consistency of raw inputs. Extending donor assistance into this section of the supply chain would provide opportunities to target support to deliver better outcomes for disadvantaged groups. However, the nature of support required at this level may diverge substantially from the core outputs of a local content programme, and donors and government may achieve more by cooperating closely with other programmes and ministries who are already working with such beneficiaries (e.g. in agricultural extension, microfinance, etc). In any case, it is important to conduct a stock-take to establish what support is already available in this area before intervening as part of a local content programme.

[70] Nickerson et al, 2017.

6. Conclusions and Recommendations

6.1 Conclusions

- LCP is just one of many policy areas that create the conditions for domestic value addition (see Appendix 1). It can be effective alongside aligned policies, but **lacks the power to counteract other policy weaknesses**.
- **Sector dialogue** and collecting **detailed data** from business are critical to understand and prioritise constraints that prevent import displacement, in order to design interventions that will be effective.
- **Leverage is critical** in determining what is feasible; successful policies used elsewhere that relied on high leverage will fail where that leverage is lacking.[71]
- The **process is as important as the policy**: implementation of LCP is challenging and a well implemented, but sub-optimal policy is likely to be more effective than a "perfect" policy that is implemented with inadequate analysis or consultation.
- Downstream processing in mining is rarely a viable target for LCP, unless the economic case is highly favourable. Many high-income countries have avoided developing the capability to process their own minerals, for economic rather than technical reasons.

6.2 Recommendations

6.2.1 Cross-cutting

- It is important that the **definition of "local"** is aligned with government objectives. If the government aims to increase domestic employment and foster skills improvements then the focus should be on domestic value addition, not solely on business ownership.

6.2.2 Sector focus

- Consider focusing on high-end **tourism** and **retail** as anchor links in the agriculture and agro-processing supply chain. These sectors contain a few, large companies (making direct engagement with government feasible) with enough market power to influence supply chain governance. Both sectors have scope to sensitise consumers to the benefits of higher Zimbabwean content, and both currently buy a wide range of imported goods.

6.2.3 Demand side

- On the demand-side, the first step in most sectors is to establish **transparency requirements** that give the government (and other actors including the media and BMOs) the data needed to develop informed policy and negotiate from a position of greater strength.

[71] For instance, the experience of the diamond mining industry in Botswana is of limited applicability in Zimbabwe.

  - In **mining**, companies would submit an analysis of the source of their inputs, providing evidence where supply cannot be localised and plans to localise those that can. While a helpful prompt to corporate strategy in itself, this policy is much more effective if the government (or BMOs, or the media) has the capacity to scrutinise such plans and hold companies to account for failing to implement them.
  - In **retail** and **tourism**, this would involve requiring large hotels and foreign retail chains to publish an annual breakdown of the origins of their inputs in selected categories (at minimum food and beverages). This could be linked to a consumer-facing scheme to endorse or promote the best performers in this metric, for instance by awarding annual gold, silver and bronze awards for supporting the domestic economy.
- In **retail**, an important objective is to ensure that foreign supermarket chains are supplied by **distribution centres physically located in Zimbabwe**. The distribution centre makes the majority of purchasing decisions and physically receives most goods. Without this step, Zimbabwean manufacturers may have to export their goods in order to supply domestic markets, creating a challenging cost disadvantage. The government should begin with dialogue with the largest companies, to understand the main business constraints to making this transition.
- In **agro-processing**, **government procurement** is the natural starting point to strengthen domestic manufacturers by offering modest price preferences, which can extend additional benefits to firms that support disadvantaged groups. The legal framework is already in place, but each procuring institution establishes its own policy and procedures.

6.2.4 Supply side

- Donor support to **public–private dialogue** should continue, with an ongoing emphasis on strengthening sustainable systems (i.e. supporting rather than displacing core functions, and ensuring all participants secure adequate non-donor funding).
- **Targeted capacity support** and technical assistance from government and donors to agro-processors and mining suppliers will help companies to displace imported goods, provided they take stock of current provision to avoid duplication.
- **Supplier portals** can reduce the cost to mining companies of procuring locally, by reducing compliance burdens and search costs.
- There is anxiety to improve agricultural productivity, but there is already a wide range of programmes from government and donors in agricultural extension in Zimbabwe — and a **local content policy should collaborate** with rather than repeat these efforts.

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Appendix 1 Description of local content policy in context

Distinguishing local content policy from policy that promotes local content		
Policy area	**Local content**	**Supporting policy**
International trade	Export taxes, restrictions and bans Import quotas	Overall tariff structure (higher tariffs on consumer goods than manufacturing inputs) Regional free-trade agreements (especially policy space) Competition and openness in international transport Customs and trade facilitation (including collaboration with neighbours)
Domestic trade and transport	Regulation of private sector's purchase of inputs	Goods movement restrictions (roadblocks, weigh bridges) Transport infrastructure Competition policy in transport Physical market infrastructure
Tax	Fiscal incentives for the use of local content, hiring local workers, supporting domestic suppliers Including local procurement as a factor in offering foreign investment incentives	Domestic national tax burden (level, ease of payment) Local authority taxes Treatment of informal firms VAT refunds
Immigration	Restrictions on companies hiring foreign staff	Cost of visas, work and residency permits Restrictions on obtaining work permit Responsiveness of immigration policy to skills shortages
Industrial policy, infrastructure and transport		Ensuring access to adequate and reliable power, fresh and waste water, internet connectivity Conducive industrial zoning Competition policy in transport
Finance		Easy access to low-cost loans Trade finance
Governments procurement	Procedures that favour SMEs, the informal sector, disadvantaged groups (e.g. female-led firms), local firms	
Education and skills	Targeted worker training Capacity support to selected firms Capacity support to enable suppliers to supply unconnected sectors ("building horizontal linkages") Consulting private sector on TVET curriculum	General education policy Vocational education provision
Labour	Local employment requirements on foreign firms	
Transparency	Companies required to publish summary of local purchasing position	
Agriculture	Incentives for agroprocessor-managed supplier support	Agricultural extension services (affordable availability of inputs, technology, improved seed etc.)

Appendix 2 Data collection tools and frameworks

Frameworks that can be used to obtain information on mining sector procurement include the Global Reporting Initiative (GRI), the Extractive Industries Transparency Initiative (EITI), and the Mining Local Procurement Reporting Mechanism (LPRM).

Table 6: Frameworks for mine reporting

Summary of existing frameworks for mine reporting	
Framework	**Local content information created**
GRI	Broad level information on local hiring and procurement, including the number of nationals working directly for a mine site, and the percentage of procurement that goes to local suppliers.
EITI	Information on mining company community investment programmes – which may include information on supplier development initiatives – and information on non-fiscal impacts (though these are not explicitly defined and different EITI countries have interpreted this to mean different things).
Mining LPRM	Information on mine site local procurement practices, results and relevant programming.

Appendix 3 Local content policy in international law

This section briefly summarises Zimbabwe's commitments under multilateral and regional trade agreements that specifically relate to local content policy, and the ways in which a LCP might be challenged. More information on the relationship between LCPs and the multilateral system can be found in Singh and Jose (2016) and Ramdoo (2016).

Private sector preference for local content

Domestic regulation that requires private firms to purchase locally produced goods would be in violation of international treaties. Such regulations in Zimbabwe would violate the GATT (Art III), SADC Protocol on Trade (Art 11), COMESA Treaty (Art 57) and the ESA interim EPA (Art 18). Relevant provisions are listed below.

Import duties and quantitative restrictions

Import duties are not similarly prohibited as a matter of principle, though each agreement will place limits on the tariff level that can be applied to each product, which are generally more restrictive for regional trade agreements. Other border measures such as quantitative restrictions and import licences are contrary to the GATT (Article XI), though there is a general exception for countries experiencing balance of payments difficulties (Article XII, though notification requirements remain, specified in the *Understanding on the Balance of Payments Provisions of the GATT 1994*). As such, under the GATT quantitative restrictions are seen as a permissible emergency measure to manage and recover from an exceptional situation, rather than a long-term trade policy. Case law clarifies that quantitative restrictions may be contrary to the GATT even if not legally mandatory.[72]

Practical consequences: retaliation and dispute settlement

Despite the general prohibition on these measures, both the frequency with which they are used and the likely consequences for doing so vary from one measure to another. Import duties in excess of bound rates and other import restrictions tend to be internationally visible and more frequently draw retaliation from trading partners. Behind-the-border local content policies are often less visible to trading partners — some claim that this lack of visibility is an important reason that they are gaining popularity.[73]

However, LCRs *are* disputed formally within the WTO. Art III challenges predate the WTO, going back at least as far as 1984, when the US successfully challenged LCRs used by Canada.[74] More recently, the US successfully challenged India's use of local content restrictions in the solar energy sector in 2013.[75] In total, 101 disputes have cited Art III paras 4 and 5 (on national treatment, see full text below) as of September 2018.[76]

[72] WTO, 1995, vol 1, p315.
[73] Deringer et al, 2018, p3.
[74] Deringer et al, 2018, p8.
[75] Deringer et al, 2018, box 1.2 on p6.
[76] WTO, undated a.

A number of options are open to trading partners who perceive that their exporters have been harmed by a policy that contravenes one or more international treaties. In roughly increasing order of cost, and correspondingly decreasing likelihood (at least against a small developing economy such as Zimbabwe), they include:

- Diplomatic request to remove non-compliant measures.
- Reduction or withdrawal of other forms of cooperation, e.g. development assistance or diplomatic cooperation.
- Retaliatory trade measures, e.g. punitive tariffs on Zimbabwean goods.
- Initiating a dispute settlement process within a regional trade agreement.
- Initiating the WTO dispute settlement process.

Government procurement

The GATT excludes government procurement entirely, permitting discriminatory policies favouring local firms. Within the WTO framework, government procurement is handled through a plurilateral agreement. No African economies are parties to this agreement (Cameroon and Seychelles are observers). The ESA interim EPA has a similar exception, but commits parties to extend the agreement to cover transparency in government procurement in future. Neither SADC nor COMESA excludes government procurement, though preferences are common in SADC economies.

Fiscal incentives for the use of local content

The SCM prohibits subsidies (including fiscal incentives) based on use of domestic over foreign goods (Art III, referring to Art I).

Services

Services disciplines are much younger than goods within the multilateral framework, and disciplines on services have less complete coverage. The WTO uses a positive list approach, in which service sectors are not subject to (most) rules unless listed in the member's schedule. Zimbabwe's schedule does not include retail or wholesale services, providing considerable flexibility in the country's obligations to provide market access or national treatment to foreign service providers — but it does include tourism.[77] Thus, multilaterally, it is easier for Zimbabwe to ban foreign retailers than to require them to purchase a certain proportion of their goods locally. SADC takes the same positive list approach, but no schedules of commitments appear to have been negotiated yet.

Text of agreements on national treatment

GATT 1947, Article III (National Treatment on Internal Taxation and Regulation)

[77] WTO, 1994.

4. The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provisions of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

5. No contracting party shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no contracting party shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.

Exempting government procurement:

8. (a) The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods for commercial sale.

101 dispute settlement cases cited Art III(4); 11 cases cited Art III(5).

SADC Protocol on Trade 2014, Article 11 (National Treatment)

Member States shall accord, immediately and unconditionally, to goods traded within the Community the same treatment as to goods produced nationally in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.

COMESA Article 57 (National Treatment)

The Member States shall refrain from enacting legislation or applying administrative measures which directly or indirectly discriminate against the same or like products of other Member States.

Tripartite FTA, Article 8 (National Treatment)

A Tripartite Member/Partner State shall accord to products imported from other Tripartite Member/Partners States treatment no less favourable than that accorded to like domestic products, after the imported products have passed customs, and that this treatment covers all measures affecting the sale and conditions for sale of such products in accordance with Article III of GATT 1994.

The Tripartite FTA does not explicitly exclude government procurement but does explicitly reference GATT Art III. It is not yet in force (it requires 14 ratifications).

AfCFTA, Article 5 (National Treatment)

A State Party shall accord to products imported from other State Parties treatment no less favourable than that accorded to like domestic products of national origin, after the imported *products have been cleared by customs. This treatment covers all measures affecting the sale and conditions for sale of such products in accordance with Article III of GATT 1994.*

The AfCFTA does not explicitly exclude government procurement but does explicitly reference GATT Art III. It is not yet in force (it requires 22 ratifications).

ESA EPA, Article 18 (National treatment on internal taxation and regulation)

3. No Party shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no Party shall otherwise apply internal quantitative regulations so as to afford protection to national production.

[…]

5. The provisions of this Article shall not apply to laws, regulations, procedures or practices governing public procurement.

Article 53

…the Parties agree to continue negotiations in accordance with Article 3 with a view to concluding a full and comprehensive EPA covering the following areas:

(e) trade related issues namely:

(v) transparency in public procurement;

Appendix 4 Terms of Reference

Overview

Following several decades of economic contraction, Zimbabwe is poised to re-join the international economic community under a new leader,[78] who has set out an ambitious growth agenda which will be defined by an explicit welcome for international investors. This is in the context of a fragile uplift in growth for 2018, now projected at 2.7% following a fifteen year annual average growth rate of 0.7%.[79] In announcing the new government's intentions, the Minister of Finance[80] noted the underperformance of the economy including "low production and export levels, and the resultant prevailing high levels of unemployment, and a continuing deterioration in macro-economic stability. The unsatisfactory performance of the economy is being underpinned by declining domestic and foreign investor confidence levels, against the background of policy inconsistencies in an uncertain and uncompetitive business environment."

Senior government officials announced the end of the indigenisation laws which have significantly added to poor investor perceptions of Zimbabwe. According to the World Bank, Zimbabwe's actions to realise its goal of being "open for business" including amendments to the Indigenisation and Economic Empowerment Act, enhances the likelihood of greater domestic investment and foreign direct investment inflows. Sectors which will benefit the most from this important reform are agriculture for long the mainstay of the economy with a growth rate of 14.6% in 2017[81] and mining which accounted for some 35% of total exports in 2017.[82]

Political economy considerations

With the scrapping of the indigenisation laws, Zimbabwe will introduce a local content policy with supporting regulations in its place. Local content requirements (LCRs) are policies imposed by governments that require firms to use domestically manufactured goods or domestically supplied services in order to operate in an economy.[83] The OECD reports in a 2016 policy brief that while LCRs have been around for decades, the last few years have seen a substantial increase in the use of these measures as a way to try and achieve a variety of policy objectives, such as to meet employment, industrial or technological development goals. In Zimbabwe's case, most of these objectives will apply as the country seeks to reverse decades of industrial decline in its main competitive sectors agriculture and manufacturing industry which have historically been important to the Zimbabwean economy, providing

[78] World Economic Forum. January 2018. Speech by President Emmerson Mnangagwa.
[79] Source: World Bank.
[80] Minister of Finance, Hon. P.A. Chinamasa. 7 December 2018. *Towards a New Economic Order:* National Budget Statement for 2018: Presented to the Parliament of Zimbabwe.
[81] Minister of Finance, Hon. P.A. Chinamasa. 7 December 2018. *Towards a New Economic Order:* National Budget Statement for 2018: Presented to the Parliament of Zimbabwe.
[82] DFID. 2018. Draft Discussion Paper: *Extractives and Economic Development (Economic Linkages*).
[83] OECD.2016.Trade Policy Note: The economic impact of local content requirements.

employment for an estimated 66% and 10% of the population[84] respectively, are likely to be priority targets for new local content policy regulations.

The OECD notes, however, that while LCRs may help governments achieve certain short-term objectives, they may not always be the optimum policy lever to achieve long-term industrial competitiveness. Governments (and supportive development partners) are therefore cautioned to thoroughly investigate their LCR options, before determining a pathway that is directly relevant to their national and political economy constraints.

It is in this context that DFID has asked BERF to provide guidance on how to proceed. BERF is currently providing support to DFID Zimbabwe on a range of institutional strengthening measures in support of the new Government's investment climate plans, one of which is the introduction of local content policy regulations.

BERF's Evidence and Learning workstream will provide context for the proposed local content policy regulations. This will help to ensure that DFID Zimbabwe's clients in government are able to operationalise the regulations effectively using the guidance provided on what to implement and what to avoid in launching the LCR.

Objectives

- To identify appropriate lessons on what worked and what hasn't worked in designing and implementing local content policies, drawing on case studies from developing countries, including comparator countries to Zimbabwe and relevant middle income countries in cases where the lessons can realistically be considered transferable to Zimbabwe's context.
- To review evidence of the impact of local content policies on economic growth with reference to key sectors of importance to the Zimbabwean economy – extractives (mining), agribusiness and agriculture, including (a) an assessment of the potential impact of local content policies on their supply chains with regard to direct, indirect and induced jobs and (b) potentially unintended effects on other sectors of the economy.

Link between BE Constraints, BE Reforms and Poverty Reduction

Evidence from this research will guide DFID Zimbabwe in supporting the Ministry of Industry, Commerce and Enterprise Development's efforts to implement a new local content policy in a manner that is compatible with the Zimbabwean Government's desire to increase foreign investment that spread the benefits and opportunities throughout the country through inclusive jobs. It will also reflect DFID's overall goal to help countries achieve their ambitions of economic transformation of primary sectors like agriculture into high value-added agribusiness ventures that accrue more benefits directly to the local economy. This assignment therefore directly responds to DFID's Economic Development Strategy which aims to support countries to create the regulatory and enabling environment that will actively support the structural

[84] Source: From World Bank data.

transformation needed to attract long term investment, create and retain sustainable jobs, while taking full account of the need for inclusive growth that absorbs the capabilities of women and young people and reduces poverty.

Client and Beneficiaries[85]

DFID Zimbabwe is the client for this report and direct beneficiaries include the Zimbabwean Ministry of Industry, Commerce and Enterprise Development and agencies of the Ministry of Finance which will have responsibility for implementing and monitoring the new local content policy. Indirect beneficiaries are the SMEs, women, youth and rural poor in Zimbabwe who will benefit from income opportunities and jobs which are created. Investors will also benefit from having recourse to a clear policy which provides guidelines on how to engage with the local SME community and workforce.

Scope[86]

- A review of lessons learnt on ‘what works and what doesn’t work’ in introducing local content policies, drawing examples from developing countries, in particular those with a similar economic, institutional and political structure like Zimbabwe where countries have the capacity to organise, monitor and manage a local content policy. The review will draw primarily from suitable lessons as evidenced through research of development partners including the World Bank, African Development Bank, Asian Development Bank et al and DFID, as appropriate. Relevant issues to cover include:
  - A review listing the different types of local content policies, including those as operated by Least Developed Countries (LDCs), Middle Income Countries and Mature Economies highlighting (a) how the regimes differ in terms of rigour/strictness (b) any noteworthy differences between local content policy regimes which have been in place in countries over a long period of time versus those which have been implemented recently by newer entrants to this policy (c) potential positioning for Zimbabwe given its particular economic and political construct.
  - A brief overview of the constraints to introducing and operating local content policies in fragile states such as Zimbabwe.
  - An assessment of the evidence indicating (a) the nature and extent of legislative, regulatory and institutional measures to implement local content policy, b) the advantages and disadvantages of voluntary or mandatory imposition of local content policy (c) the sectors which have performed most effectively following its

[85] This assignment provides expert external assistance and does not replace the work of DFID civil servants.
[86] The Evidence and Learning Note will use the DCED definition of the business environment: which states “a complex of policy, legal, institutional, and regulatory conditions that govern business activities. It is a sub-set of the investment climate and includes the administration and enforcement mechanisms established to implement government policy, as well as the institutional arrangements that influence the way key actors operate (e.g. government agencies, regulatory authorities, and business membership organisations including businesswomen associations, civil society organisations, trade unions, etc.).”

implementation (noting, where appropriate, the performance of extractives, agriculture, agribusiness and manufacturing), and (d) the role of business membership organisations (BMOs) in its operationalisation.

  - An analysis of the challenges in the business environment which affect the private sector's participation in local content policy programmes.
  - Identification of strategies used to ensure inclusive supply chains in addition to sustainable backwards and forwards linkages.
  - Identification of measures which have taken into account the presence of a robust and growing informal sector.

- Recommendations for introducing local content policies, including type, design and implementation with the objective of ensuring inclusive supply chains, sustainable forward and backward linkages and minimising any potential downside effects on the rest of the economy.
- Cross-cutting themes: Reform lessons which emerge from this assignment are expected to impact the approach used by DFID Country Offices and DFID-funded local content policy projects in fragile states by setting out how local content policies have worked for large corporate buyers and SME suppliers and through them, for women, young people and the rural poor. These are likely to include lessons on how to design effective fiscal incentives that take account of the need to ensure sustainable medium and long term jobs for vulnerable and marginalised groups, including women and youth.

Method

The consultants will undertake the following tasks:

Initial briefing with DFID Zimbabwe's Economic Adviser via phone or Skype.

Initial briefing via phone or Skype with DFID Advisers in countries that have substantial extractives, agribusiness and agricultural sectors and have attempted to introduce some form of local content policy (Botswana, Nigeria, Uganda et al).

Consultations via phone or Skype with DFID's PSD Adviser for the E4D/SOGA Employment for Skills Programme in-country in East Africa.

Desk research to include review of the following documents:

- Oxford Development Studies. 2017. Alternatives To Local Content Requirements In Resource Rich Countries
- DAI (2016). Not All Local Content Rules are the Same (2017)
- Global Loca Content Council: Adding Value In-Country – A Selection of Local Content Country Case Studies
- DFID's Economic Development Strategy 2017

- DFID Zimbabwe BEEP Project Completion Report
- BERF Evidence and Learning Note – Zimbabwe: Public Private Sector Dialogue Approaches
- BERF Evidence and Learning Note - Adaptive Programming and Business Environmnt Reform in Zimbabwe
- BERF Evidence and Learning Note - What works in Business Environment Reform in Sub-Saharan Africa
- DFID's Annual Review (2017) of the Employment and Skills for East Africa Programme
- E4D/SOGA Employment for Skills for Eastern Africa flyers and other promotional documents
- World Bank, Zimbabwe Economic Update: The State in the Economy June 2017. Issue 2.
- United Nations University (UNU-WIDER) Wider Working Paper 2017/98: Local Content, Supply Chain and Shared Infrastructure.
- GIZ. Linkages to the Resource Sector: The Role of Companies, Government and International Development Corporations
- Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development. 2018. Local Content Policies
- Towards a New Economic Order: National Budget Statement for 2018: Presented to the Parliament of Zimbabwe (December 2017)
- World Bank Doing Business Report 2018
- World Bank (2014) Human Capital for the Oil, Gas and Minerals Industries, UNECA (2011), ILO (2012), Government of Tanzania: National Development Vision 2025, and Five Year Development Plan for 2011/12-2015/2016
- DCED (2014) Measuring Job Creation in Private Sector Development, including reference to Baulch (2011) Why Poverty Persists: Poverty Dynamics in Asia and Africa, Cheltenham
- Filmer and Fox (2014), Youth Employment in Sub-Saharan Africa, Africa Development Forum; and World Bank (2012), Gender at Work
- World Bank (2013) Extracting Lessons on Gender in the Oil and Gas Sector
- Other research reports as needed based on initial research and/or suggestions from DFID Adviser, Zimbabwe and other stakeholders.

Collate and analyse the evidence to generate a draft Evidence and Learning Note

Following feedback, finalise report

Deliverables

- Revised ToRs and workplan (week 1)
- Draft of Evidence and Learning Note reviewed and QAed by Itad and KPMG (week 7)
- Draft of Evidence and Learning Note reviewed and QAed by BERF and commented on by client (week 9)
- Final draft Evidence and Learning Note - *What Works in Local Content Policy: Lessons for Zimbabawe* delivered to client (week 12). The Note will be produced in the BERF template according to the BERF style guide and will be a maximum of 20-25 pages excluding an executive summary and annexes.

Timeframe (revised 03/07/18)

The workplan below sets out the schedule for undertaking the proposed assignment.

- Desk research is expected to start on 4 July and initial briefings are expected to start week commencing 09 July with the assignment completion scheduled for week of 20 August 2018.
- The level of effort is estimated at 19 days. The assignment will be contracted to two consultants: an expert in mining, extractives and local policy content (with a LoE of 6 days); and a Senior Researcher with proven competence in BER research projects, an appreciation of the political economy context in Zimbabwe and an understanding of DFID's approach to investment climate and BER (LoE 13 days).

Workplan (schedule)

Workplan: Zimbabwe E&L Note: What Works in Local Content Policy: CONSULTANT 1 (J.Geipel)			
Action	**Consultant Days**	**Location**	**Timing (w/c)**
Approval of ToR by Client			04 Jun
Recruitment of Consultant			04 Jun
Desk Research and Lead on Assignment Launch **specifically**: • setting out Local Content Policy report outline • identifying respondents • identifying relevant documents and sections within documents for Consultant 2 to review, and • working with Consultant 2 to develop a questionnaire for interviews	2	Homebased	02 July to 09 July
First round consultations with (a) Zimbisa consultants (b) Other DFID COs implementing local content policy programmes (Botswana, Nigeria, Uganda, plus others to be identified)	1	Homebased	09 Jul

(c) DFID's PSD Adviser for the E4D/SOGA Programme Specifically: Conducting selected interviews with respondents as agreed with Consultant 2			
Report Drafting Specifically: • providing inputs to clarify any questions from Consultant 2 drafting discreet sections as required	2	Homebased	16 Jul
2nd Round Consultations (as needed)		Homebased	23 Jul
BERF QA		Homebased	30 Jul
Revision of Draft and QA Draft produced	0.5	Homebased	30 Jul
Report submitted to client for review and comments received			06 Aug
Inputs provided to ensure report revised based on client's comments; BERF QA	0.5	Homebased	13 Aug
Final QA report submitted to client			20 Aug
Workplan: Zimbabwe E&L Note: What Works in Local Content Policy CONSULTANT 2 (D. Hetherington)			
Action	**Consultant Days**	**Location**	**Timing (w/c)**
Approval of ToR by Client			04 Jun
Recruitment of Consultant			04 Jun
Desk Research	2	Homebased	11 Jun
Conduct majority of first round consultations with (a) Zimbisa consultants (b) Other DFID COs implementing local content policy programmes (Botswana, Nigeria, Uganda, plus others to be identified) (c) DFID's PSD Adviser for the E4D/SOGA Programme	2.5	Homebased	09 Jul
Based on secondary material and interviews, lead on Report Drafting in consultation (as agreed with Consultant 1)	4.5	Homebased	16 Jul
2nd Round Consultations (as needed)	1	Homebased	23 Jul
BERF QA		Homebased	30 Jul
Revision of Draft and QA Draft produced	1.5	Homebased	30 Jul
Report submitted to client for review and comments received			06 Aug
Report revised based on client's comments; BERF QA (with inputs as needed from Consultant 1)	1.5	Homebased	13 Aug
Final QA report submitted to client			20 Aug

Dissemination

The report will be delivered to the Economic Adviser, DFID Zimbabwe who is expected to share it with local implementing partners and stakeholders. BERF will make the report more widely available via its website www.businessenvironment.co.uk. The Evidence and Learning Coordinator will alert other DFID Country Offices once the report is published via email alert or other channels as approved by DFID ICIT (e.g. DFID's internal newsletter). The online availability of the report will make it easily accessible to DFID's BER and IC development partners notably the DCED Business Environment Working Group (BEWG).

Competencies Required (revised 3/7/18)

Two consultants are proposed for this assignment:

(1) Senior Expert – Local Content Policy, Mining and Extractives Sector

- Post graduate degree in Economics, International Development or related discipline
- Expertise in local content policy and regulations
- Expertise in mining, extractives and related supply chain linkages
- Good understanding of the mining and extractives industry in general and related political economy industry considerations in Southern Africa
- Experience in researching and drafting high quality BER/IC reports
- Good understanding of DFID, GIZ, World Bank and other donors' approach to designing and implementing mining and extractives economic development programmes, in particular those with a local content policy dimension
- Good research and report writing skills

(2) Senior Consultant/Researcher (Business Environment Reform/Investment Climate)

- Post graduate degree in Economics, International Development or related discipline
- Experience in business environment reform or investment climate
- Experience in researching and drafting high quality BER/IC reports
- Good understanding of DFID's and other donors' approach to designing and implementing economic development programmes, in particular those with a SME development or linkages component
- Good appreciation of Zimbabwe's political context
- Good knowledge of the political economy challenges which affect BER in developing countries
- Excellent research and analytical skills
- Excellent report writing skills

Budget (to follow)

The cost of this assignment is funded from DFID's Investment Climate, Cities and Infrastructure Team budget.

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