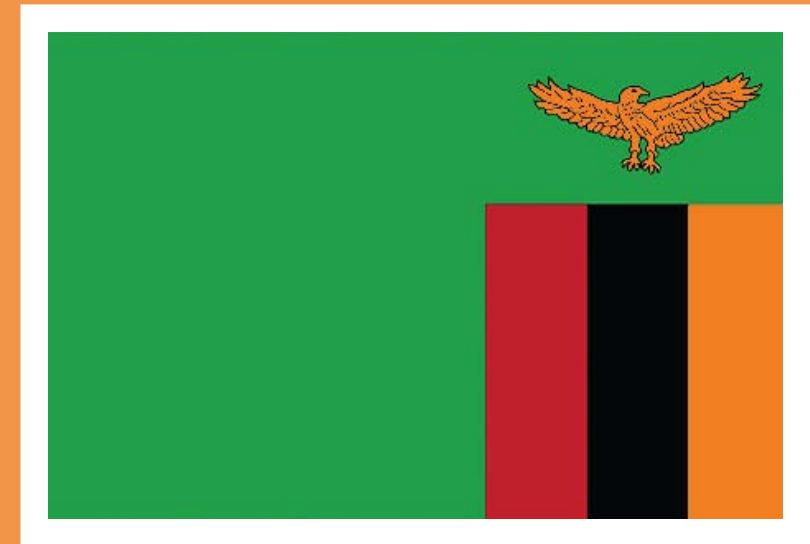


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# EISA ELECTION OBSERVER MISSION REPORT

# ZAMBIA



PRESIDENTIAL, PARLIAMENTARY AND  
LOCAL GOVERNMENT ELECTIONS  
20 SEPTEMBER 2011



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EISA strives for excellence in the promotion of credible elections, citizen participation and the strengthening of political institutions for sustainable democracy in Africa.

EISA Observer Mission Report, No. 42

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## Acronyms and Abbreviations

ADD	Alliance for Democracy and Development
ANC	African National Congress
ANFREL	Asian Network for Free Elections
APC	All People's Congress Party
ATIDE	Association Tunisienne pour l'Intégrité et la Démocratie des Elections
AU	African Union (AU)
AVAP	Anti-Voter Apathy Project
CMC	Conflict Management Committees
COMESA	Common Market for Eastern and Southern Africa
CRC	Constitutional Review Committee
CSEC	Civil Society Election Coalition
ECF	Electoral Commissions Forum of SADC Countries
ECZ	Electoral Commission of Zambia
EISA	Electoral Institute for Sustainable Democracy
ERTC	Electoral Reform Technical Committee
EU	European Union
DNR	Department of National Registration
FDD	Forum for Democracy and Development
FODEP	Foundation for Democratic Process
FPTP	First-past-the-post
HP	Heritage Party
IOAC	International Observer Accreditation Centre
MMD	Movement for Multiparty Democracy
MP	Members of Parliament
NAREP	National Restoration Party
NDF	National Democratic Forum
NDI	National Democratic Institute
NDP	National Democratic Party
NGOCC	Non-Governmental Organisations Coordinating Council
NGP	New Generation Party
NMP	National Movement for Progress
NRC	National Registration Card
NRP	National Revolutionary Party
ODK	Open Data Kit
OYV	Operation Young Vote
PARKITS	People Authentication Registration Kits
PC	Personal Computer
PEMMO	Principles for Election Management, Monitoring and Observation
PF	Patriotic Front
SACCORD	Southern African Centre for the Constructive Resolution of Disputes
SADC	Southern African Development Community
SADC – ESN	Electoral Support Network of SADC
SADC – PF	SADC Parliamentary Forum
SIDA	Swedish International Development Agency
TACCEO	Tanzania Civil Society Consortium for Election Observation
UDA	United Democratic Alliance
ULP	United Liberal Party
UNIP	United National Independent Party
UPND	United Party for National Development
YWA	Young Women in Action
ZCSD	Zambia Council for Social Development
ZED	Zambians for Empowerment and Development
ZNBC	Zambia National Broadcasting Corporation
ZNWL	Zambia National Women's Lobby

## EXECUTIVE SUMMARY

In response to the invitation of the Electoral Commission of Zambia (ECZ), EISA deployed a mission to observe and assess the integrity of the Presidential, Parliamentary and Local Government elections held in Zambia on 20 September 2011.

The EISA mission was led by Mr Yusuf Aboobaker, chairperson of the Supervisory Electoral Commission of Mauritius. Assisting Mr Aboobaker as deputy mission leader was Mr Miguel de Brito, EISA Country Director in Mozambique. The mission comprised 12 members from Cameroon, Cote d'Ivoire, the Democratic Republic of Congo, Kenya, Mauritius, Mozambique, Tanzania, Thailand, Tunisia, South Africa and Zimbabwe.

The observation of the Tripartite Elections began with a pre-election briefing session conducted on 14 and 15 September 2011. As the EISA mission in Zambia piloted the use of new technologies to observe the elections, during the pre-election briefing sessions members of the mission were trained on how to use 'tablet' personal computers (PCs) to collect data on Election Day. The EISA mission also included an IT consultant to review the application of Principles for Election Management, Monitoring and Observation (PEMMO) to electoral processes that use technology, and to incorporate the use of technology in these benchmarks. The briefing session laid down the conceptual framework for election observation and guiding principles for the assessment of elections. National stakeholders, including the ECZ, representatives from civil society, academia, political parties, the media, as well as international NGOs and the donor community, briefed the mission on their assessment of the socio-political environment ahead of the elections, the constitutional, legal and regulatory framework, and the administration and logistics of the elections. On 16 September, six observer teams were deployed to observe the pre-election period, voting and counting in Lusaka, Chipata, Ndola, Livingstone and Solwezi.

The Principles for Election Management, Monitoring and Observation (PEMMO) were used as the basis for the election assessment by the EISA mission. PEMMO is a document that was developed under the auspices

of EISA and the Electoral Commissions Forum of SADC Countries (ECF). It outlines standards and best practices for the conduct and assessment of elections in the SADC region.

Using the PEMMO, the mission concluded that the 20 September elections were conducted in a manner that allowed the people of Zambia to express their democratic choice freely.

This report presents the main observations and findings of the EISA mission. The mission offers its conclusion and recommendations for further improvements.

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## EISA ELECTION OBSERVATION METHODOLOGY IN ZAMBIA

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EISA strives for excellence in the promotion of credible elections, citizen participation and the strengthening of political institutions for sustainable democracy in Africa. In this regard, EISA undertakes applied research, capacity building, advocacy and other targeted interventions. It is within this broad context that EISA fields election observer missions to assess the context and the conduct of elections in the continent.

Over the past years, EISA has contributed to the democratic process in Zambia by providing expert advice to the ECZ and the Electoral Reform Technical Committee (ERTC) and assisting in the preparation of the Electoral Code of Conduct. Additionally, EISA trained Zambian electoral stakeholders in the use of the Principles for Election Management, Monitoring and Observation (PEMMO), launched in Lusaka on 24 March 2006. EISA has also published on political parties in Zambia and provided training of trainers for the ECZ programme on conflict management. It is against that background that EISA deployed a Continental Election Observer Mission to the 2011 tripartite elections in Zambia.

Led by Mr Yusuf Aboobaker, Chairperson of the Mauritius Supervisory Electoral Commission, the Mission consisted of seven female and five male short-term observers (see appendix 1). The Mission arrived in Lusaka on 13 September 2011. A two-day briefing session was held on 14 and 15 September 2011. The EISA Mission in Zambia piloted the use of new technology in its missions. In order to incorporate technology into observation, observers were trained on observing and collecting data on Election Day using the Open Data Kit (ODK) software on 'tablet' PCs. Additionally, observers were briefed on election observation; international and regional benchmarks for elections; 'free and fair' elections; election observation methodology; and the code of conduct of international election observers. On the second day of the briefing, various electoral stakeholders from the ECZ, academia, the media, civil society organisations, political parties and the donor community shared their perspectives on the 2011 electoral process (see appendix 3). Additionally, the mission announced its official arrival through the release of its Arrival Statement on 15 September 2011 (see appendix 4).

On 16 September 2011, six teams were deployed to the following provinces: Lusaka Province, Central Province, Eastern Province, Copperbelt Province, Northwestern Province, and Southern Province. The teams each comprised two observers who were deployed to undertake on site assessment by meeting with representatives of various organisations at provincial level, in addition to attending political rallies and campaign-related activities. During their deployment observers also met and consulted with other international observer teams. On Election Day, EISA teams visited a total of 103 polling stations, where they observed voting and counting of ballot papers. The Mission held a debriefing session upon the return of the teams in Lusaka on 21 September 2011. The mission released its Interim Statement covering its observations and preliminary findings at a press conference on 22 September 2011 (see appendix 5). Prior to the departure of the mission, an EISA delegation composed of three observers followed the transmission of results and the periodic release of results at the National Results Centre at the Mulungushi Conference Centre on 22 September.





# 1

# Historical and Political Overview



- I.1 Background
- I.2 The First Republic (1964-1972)
- I.3 The Second Republic (1973-1990)
- I.4 The return to Multipartyism under the Third Republic
- I.5 The 2001 Elections
- I.6 The 2006 Tripartite Elections
- I.7 The 2008 Presidential By-Election

## **I.1 BACKGROUND**

Zambia, formerly Northern Rhodesia, gained independence from Great Britain in 1964. Located in Southern Africa, the country is landlocked and covers a total area of 752,614 km<sup>2</sup>. It is bordered by eight countries: Angola to the west; Democratic Republic of Congo to the northwest; Tanzania to the northeast; Malawi to the east, Mozambique to the southeast; Zimbabwe to the south; and Botswana and Namibia to the southwest.

Three periods have defined the history of modern Zambia. From 1964 to 1972, the First Republic laid the groundwork for the first set of multiparty elections. The Second Republic, which lasted from 1973 to 1990, institutionalised a one-party system. The Third Republic saw the re-introduction of multiparty elections in Zambia.

## **I.2 THE FIRST REPUBLIC (1964-1972)**

The first two multiparty elections of 1964 and 1968 marked the birth of the First Republic. Following his victory in the 1964 elections, Kenneth Kaunda of the United National Independence Party (UNIP), became the first President of the Republic of Zambia. UNIP was born out of the split of the African National Congress (ANC) of the then Northern Rhodesia in 1958. After the split, UNIP and the ANC formed the first government of the country in 1962.

Although the Constitution of Zambia provided for a pluralist political system, UNIP retained dominance throughout the First Republic. Kenneth Kaunda



and his party secured victory of both presidential and parliamentary elections in 1968. The introduction of a single-party system in 1973 entrenched UNIP domination of the political landscape in Zambia.

### **1.3 THE SECOND REPUBLIC (1973–1990)**

The one-party system established at the end of the First Republic limited competition in the National Assembly elections. Although UNIP had supremacy over parliamentary decisions, real power lay in the hands of the presidency. Kenneth Kaunda was re-elected in 1973, 1978, 1983 and 1988. The Kaunda government reintroduced multiparty elections following public dissatisfaction with the economic decline, military coup attempts in 1988 and 1990, and local and international calls for political liberalisation. Subsequently, Article 4 of the Constitution of the Second Republic was repealed in order to accede to the demands of the opposition.

### **1.4 THE RETURN TO MULTIPARTYISM UNDER THE THIRD REPUBLIC**

The 1991 elections marked the official return of Zambia to multipartyism. Frederick Chiluba of the Movement for Multiparty Democracy (MMD), a coalition of civic organisations, emerged as the winning candidate with 75.8 percent of the popular votes. Domestic and international observers judged the elections to be largely fair and transparent. Thereafter, Zambia was plagued by rising levels of unemployment and poverty. Ultimately, the implementation of structural adjustment programmes did not lead to the much-awaited improvement in living standards of ordinary Zambians.

The MMD retained power with the re-election of the incumbent President Chiluba in the 1996 elections, although there were socio-economic challenges, concerns over internal democracy within the ruling party and controversy over a constitutional amendment that excluded Chiluba's closest rival, former president Kenneth Kaunda, from contesting the presidential election. A state of emergency was declared in late 1997 after a small group of army officers falsely claimed to have overthrown the government. Former President Kenneth Kaunda was briefly detained on accusations of having had prior knowledge of the coup attempt. There was a sharp decrease of political freedom between 1996 and 2001. Internal squabbles erupted over Frederick Chiluba's attempt to run for a third term. The disagreement over Chiluba's bid led to the expulsion and resignation of a number of senior members of

the MMD. The nomination of Levy Mwanawasa as the MMD presidential candidate resulted in a further split. Michael Sata, then secretary general of the MMD, left the party to establish the Patriotic Front (PF).

### **1.5 THE 2001 ELECTIONS**

Zambia organised the third Presidential, National Assembly and Local Government elections on 27 December 2001. Because of the late start of the voter registration exercise, the ECZ registered 56 percent of eligible voters. Anderson Mazoka of the United Party for National Development (UPND) and Levy Mwanawasa of the ruling Movement for Multiparty Democracy (MMD) were the two major contestants in the presidential race. The National Assembly and Local Government elections were a fierce competition between the ruling party and the UPND. The tabulation of results at district level and transmission of the results to the national results centre created controversy.

Discrepancies were picked up in the results announced at constituency level and those announced by the ECZ at the national results centre. There was no record of invalid ballots on some results sheets. Furthermore, the accuracy of the results was challenged given the small margin between the two leading presidential candidates. Ninety-six hours after the polls, the ECZ announced the official results amidst protests in Lusaka. Levy Mwanawasa, the winner of the presidential election, obtained 28.69 percent of valid votes, while his main challenger, Anderson Mazoka, received 26.76 percent of valid votes. Following the loss of its parliamentary majority ten years after its rise to power, the MMD was able to regain control in parliament with the eight presidential appointees, by-election victories and back-door alliances. In the 2001 election, Michael Sata received only 3.4 percent of the vote.

### **1.6 THE 2006 TRIPARTITE ELECTIONS**

Tripartite elections took place on 28 September 2006. Three out of 11 registered political parties contested the presidential election. The three main contesting parties were the ruling MMD, the PF the United Democratic Alliance (UDA), a coalition by UPND, FDD and UNIP. The leader of UPND, Anderson Mazoka, died in a Johannesburg hospital on 24 May 2006. The UPND was beset by internal power struggles after the loss of its leader. Following the selection of businessman Hakainde Hichilema as new leader of the UPND the UDA

subsequently nominated Hichilema as its candidate for the presidential election. With 42.98 percent of the valid votes, Levy Mwanawasa of the MMD secured his re-election for a second and final term as the president of Zambia. Michael Sata of the PF and Hakainde Hichilema of the UPND scored 29.37 percent and 25.32 percent of the popular vote respectively.

A total of 709 candidates from 13 political parties contested the National Assembly elections. A total of 4,095 registered candidates registered stood in the local government elections. Women made up 15 percent of the National Assembly election candidates, whereas less than 10 percent of the candidates running for local government elections were women. The MMD won 50 percent of the seats in the National Assembly. In the National Assembly elected in 2006, only 14.6 percent of members were women.

### **1.7 THE 2008 PRESIDENTIAL BY-ELECTION**

Two years after his re-election in 2006, incumbent president Levy Mwanawasa passed away in France on 19 August 2008 from of a heart attack. As a result, an unprecedented presidential by-election was held in Zambia on 30 October 2008. Rupiah Banda, then acting president of the MMD, emerged as the presidential candidate of the ruling party following his nomination by the party National Executive Committee. Four candidates, namely Rupiah Banda of the Republic, Michael Sata of the PF, Hakainde Hichilema of the UPND and Godfrey Miyanda of the Heritage Party (HP) contested the fifth multiparty election. The candidature of Rupiah Banda was boosted by the endorsement of a number of opposition parties, namely the National Democratic Forum (NDF) of Benjamin Mwila, who withdrew from the presidential race, the United National Independent Party (UNIP), the All People's Congress Party (APC), the Reformed Party (RP), Forum for Democracy and Development (FDD), United Liberal Party (ULP), National Democratic Party (NDP), New Generation Party (NGP), and the National Revolutionary Party (NRP).

Allegations of vote rigging and an outbreak of rioting preceded the announcement of the final results. With 40.63 percent of the votes, Rupiah Banda was declared the winner of the election. Michael Sata and Hakainde Hichilema obtained 38.64 percent and 19.96 percent of the popular votes respectively.

**Table 1: 2008 presidential by-election results**

<b>Candidate</b>	<b>Party</b>	<b>Vote</b>	<b>% Votes</b>
Rupiah Banda	Movement For Multiparty Democracy (MMD)	718,359	40.63
Michael Sata	Patriotic Front (PF)	683,150	38.64
Hakainde Hichilema	United Party For National Development (UPND)	353,018	19.96
Godfrey K. Miyanda	Heritage Party (HP)	13,683	0.77
<b>Total</b>		<b>1,768,210</b>	<b>100.00</b>

Source: Website of the Electoral Commission of Zambia – Past election results, [http://www.elections.org.zm/past\\_election\\_results.php](http://www.elections.org.zm/past_election_results.php)), 2011

# 2

## Constitutional, Legal & Institutional Framework



2.1 Constitutional and legal framework

2.2 The electoral system

2.3 Election administration

### 2.1 CONSTITUTIONAL AND LEGAL FRAMEWORK

The Constitution of Zambia of 1996, the Electoral Act no. 12 of 2006, the Electoral Commission Act 24 of 1996, the Local Government Elections Act Chapter 282 of the Laws of Zambia, and the Electoral (Code of Conduct) Regulations of 2011 form the basis of the constitutional, legal and regulatory framework for elections in Zambia, and governed the Presidential, National Assembly and Local Government Elections of 2011. Overall, the electoral framework is in line with regional, continental and international legal benchmarks for the conduct of credible elections.

#### 2.1.1 The Constitution of Zambia

The transition from the Second to the Third Republic was marked by the adoption of the Constitution of 1991 drafted to accommodate the re-introduction of multiparty politics in Zambia. The Constitution was amended in 1996. Part Three of the Constitution provides for the protection of an array of fundamental human rights and freedoms of expression, movement, assembly, association and democratic participation in elections, to name but a few. A clear separation between the three powers of government is advocated in the Constitution. Article 34 of the Constitution empowers Zambians to elect the president of the Republic by universal adult suffrage and secret ballot. Qualifications for election to the presidency and to the National Assembly are laid down in Article 33 (3) and Article 64 respectively. The Constitution contains stringent residential and parentage requirements for presidential

candidates, as described below. Additionally, the law does not allow for independent candidates for the presidency. Independent candidates are only permitted in The National Assembly and Local Government Elections.

Attempts at reforming the 1996 Constitution stemmed from the 2001 tripartite elections, and were unsuccessful, notwithstanding the constitutional reviews in 2003 and 2005. The failure of the National Assembly to pass, in March 2011, the draft Constitution proposed by the National Constitutional Conference is evidence of strong opposition to constitutional reforms within some political circles in Zambia. Reform of the current electoral system is the most contentious issue in the debate. There have been growing demands for the use of an absolute majority system for the presidential election and mixed-member proportional representation for National Assembly elections. Since 2001 the popular legitimacy of presidents has been seriously questioned, as candidates have won the presidency with less than the absolute majority of votes. Other proposed constitutional reforms pertain to the introduction of a fixed date for the elections; the method for appointing the Chairperson and members of the ECZ, and the powers of ECZ; regulations for public party and campaign financing, and their accountability and transparency; and a transition period between the declaration of results and the swearing-in of the president-elect.

### **2.1.2 Electoral Act No. 12 of 2006**

The Electoral Act No.12 of 2006 lays out the institutional framework, procedures for delimiting constituency, qualifications and requirements for candidates, and guidelines on all matters relating to the process of elections, including:

- Legislation (legal framework);
- Delimitation of constituency, wards and polling districts;
- Voter registration and voter education;
- Nomination of candidates;
- Registration of parties and candidates, including design of ballots;
- Election campaigns;
- Polling (voting process);
- Counting and tabulation of votes;

- Announcement of results; and
- Verification of results and resolution of election-related disputes.

Section 25 of the Electoral Act also provides that the National Assembly elections should be held not more than 90 days after the dissolution of the previous National Assembly.

### **2.1.3 The Electoral Commission Act no. 24 of 1996**

The Electoral Commission Act no. 24 of 1996 provides for the establishment a full-time Electoral Commission of Zambia (ECZ), which is responsible for the conduct of elections. Article 76 (1) of the constitution emphasises the independence of the Electoral Commission. Its duties include:

- Registration of voters;
- Delimitation of boundaries for electoral districts;
- Conduct of referenda, national and local elections;
- Management of election disputes through Conflict Management Committees;
- Voting Operations;
- Vote Counting; and
- Announcement of ward and constituency results.

The Electoral Commission Act provides for a commission made up of five commissioners, including a chairperson and four other Commissioners who are appointed by the President of Zambia subject to ratification by the National Assembly in accordance with Section 4(3). Members of the Commission serve on a full-time basis. Over the years, the method of appointment of ECZ members by the President has raised questions about public perception of the impartiality of the Commission or lack thereof in the view of opposition parties and other stakeholders. The former ruling party's majority in the previous National Assembly complicated the situation further. The Commission that conducted the September 2011 Tripartite Elections was made up of four commissioners under the chairpersonship of Judge Irene Mambilima, a Supreme Court Judge. She held the position of chairperson in 2005 until her appointment as Deputy Chief Justice of Zambia. President Rupiah Banda re-appointed her in March 2011 following the resignation of Judge Florence Mumba as Chair of the ECZ in January 2011.

Section 129 of the Electoral Commission Act confers upon the ECZ the administrative and regulatory powers to initiate legislation pertaining to the conduct of elections in the form of statutory instruments. The Electoral (Code of Conduct) Regulations and the electoral conflict management regulations gazetted in 2006 are an example of the ECZ's exercise of these regulatory powers in consultation with civil society, political parties and the public.

#### **2.1.4 The Electoral (Code of Conduct) Regulations**

Statutory Instrument No. 52 of 2011 is a legal document that provides for the *Zambian Electoral Code of Conduct*. The new Electoral Code was issued in 2011. This code outlines a set of principles that all electoral stakeholders, including candidates, political parties, Conflict Management Committees, the media, election monitors and observers must adhere to. The code guarantees rights and freedoms of both the electorate and the contestants. It forbids bribery, corruption, intimidation and violence. Additionally, it details a list of electoral offences related largely to the election campaign, including the disruption of political rallies and the tearing of campaign posters. The code also forbids election-related abuses of government facilities and resources for campaign purposes. In the past, the main weakness of the code was the lack of a clear complaints mechanism. This issue has been addressed through provisions for lodging complaints as well as through the establishment of Conflict Management Committees (CMCs). The code grants the ECZ powers to refer and report violations of the code to law enforcement agencies such as the Anti-Corruption Commission and the police for investigation and prosecution. The Electoral Act adopted for previous elections provided for institutions responsible for the enforcement of aspects of the code, including the ECZ, the Anti-Corruption Commission and the police.

## **2.2 THE ELECTORAL SYSTEM**

The president of Zambia is elected for a term of five years. In line with international benchmarks and standards, the Constitution of Zambia sets a limit of two terms for tenure of the presidential office. Party registration is regulated by the Societies Act in accordance with the Constitution of Zambia due to the absence of a law on political parties. To stand in the National Assembly Elections, a candidate must be a Zambian citizen, must be 21 years old and must be literate and conversant with the official language of Zambia, which is English.



Zambia uses the first-past-the-post (FPTP) electoral system. Under this system, the President and Members of Parliament (MPs) are elected to a one chamber National Assembly. Legislative power is vested in the National Assembly and the President of the Republic. The electoral system has been heavily criticised for its lack of fairness, particularly after the victory of the late President Mwanawasa in the 2001 election with less than 30 percent of the popular vote, putting his legitimacy into question. Unsuccessful attempts at reforming the electoral system were made by the Mwanawasa and Banda administrations. President Mwanawasa opened the road to electoral system reforms by appointing the Constitutional Review Committee (CRC) in April 2003 and the Electoral Reform Technical Committee (ERTC) in August 2003. In its recommendations, the CRC proposed the adoption of an absolute majority system (50 percent + 1 votes cast) for the election of the president.

The electoral system has been criticised for marginalising women and the youth. The ERTC submitted to the Office of the President a 664-page report at the end of 2005. Proposed reforms of the ERTC included changing the electoral system for parliamentary elections to a mixed-member proportional system, which combines features of the FPTP and the proportional representation systems. Under a mixed-member proportional system, 160 MPs were to be elected by the existing single-member plurality and 40 members elected under proportional representation with party lists. Of these 40 MPs, 35 would be allocated to women, three to people with disabilities and two to the youth. These changes had not taken place prior to the 2008 Presidential By-Elections despite the government's pledge that these reforms would come into effect after the 2006 elections following the establishment of a Constitutional Assembly comprising all the relevant stakeholders. The Banda administration decided that the content of the report and the recommendations should form part and parcel of the workings of the National Constitutional Committee, whose report was expected to be produced at the end of 2009. Similarly, the National Constitutional Conference produced a draft constitution between 2007 and 2010 which failed to pass the National Assembly in 2011.

### **2.3 ELECTION ADMINISTRATION**

Election administration is the responsibility of the autonomous Electoral Commission of Zambia (ECZ). The independence of the ECZ is enshrined in the Constitution of Zambia. Article 76 of the Constitution confers powers

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on the ECZ to conduct referenda, Presidential, Parliamentary and Local Government Elections. The Commission is responsible for the registration of voters and the review of the voters' roll, the delimitation of boundaries for electoral districts, voter information and education, conflict management, voting and counting operations, and the announcement of ward and constituency results.

The Electoral Commission consists of a chairperson and four other members appointed by the President subject to ratification by the National Assembly. The commissioners are appointed for a term not exceeding seven years. Most stakeholders were of the view that the ECZ generally discharged its functions with impartiality, professionalism, and efficiency. However, the method of appointment of ECZ members by the President raised questions of appearance regarding the impartiality of the Commission in the view of opposition parties and other stakeholders. The fact that the former ruling party held a majority in the National Assembly heightened the perception of partisanship of the ECZ among some local stakeholders.

# 3

## The Pre-Election Phase



- 3.1 Voter registration and the voters' roll
- 3.2 Nomination of candidates
- 3.3 Civic and voter registration
- 3.4 Funding for political parties
- 3.5 The campaign process
- 3.6 Media access and coverage
- 3.7 Conflict management
- 3.8 Gender representation

### 3.1 VOTER REGISTRATION AND VOTERS' ROLL

In accordance with Article 6 of the Electoral Act of 2006, a prospective registrant must be a Zambian citizen, 18 years of age, and in possession of a green National Registration Card (NRC). The ECZ used the 2006 voter register as the basis of the continuous voter registration. The 2006 electronic voters' roll recorded 3,940,000 registered voters. With the support of most local stakeholders, the ECZ implemented continuous voter registration using digital registration kits, also known as People Authentication Registration Kits (PARKits), for the 2011 elections. Each voter had to produce a green National Registration Card at the registration centre. Once the personal data of the prospective voter was captured on the system, a photo, fingerprint and the signature of the voter were digitally recorded using the facilities on the PARKits.

Initially, the Commission conducted mobile registration for 90 days starting on 21 June 2010. Because of the slow issuance of National Registration Cards (NRCs) and the lack of publicity of the registration exercise, the ECZ extended registration for 72 days, from 19 September to 30 November 2010. The ECZ publicised the exercise through the use of flyers, posters, voter education campaigns, and the use of the media. The extension was deemed necessary, as most people did not have a national registration card. The ECZ sought to register 2.5 million new applicants upon completion of the registration process.<sup>1</sup> The Commission worked closely with the Department

of National Registration (DNR) of the Ministry of Home Affairs to ensure that more people were issued with NRCs. Following the closing of the mobile registration, the Commission continued registering people at City Councils throughout the country up to February 2011. Stakeholders appealed to the ECZ to extend the mobile voter registration for a further 21 days. The final exercise commenced on 10 March 2011 and ended on 31 March 2011. The ECZ registered about 1,279,181 new voters.

The total number of voters on the provisional voter register stood at 5,223,316. The provisional voters' roll was displayed for public inspection for two weeks from 30 May 2011 to 12 June 2011. The ECZ printed and distributed approximately 13,500 copies of the preliminary voters' roll to the voter registration centres nationwide. For the verification of the voters' roll, the ECZ hosted a national trainer of trainers workshop on 13 and 14 May 2011, and a second trainer of trainers workshop at provincial level on 17 and 18 May 2011.

The ECZ raised awareness on the verification of the voters' roll through advertisement on radio, TV and newspapers from 16 May 2011.<sup>2</sup> Registrants who were unable to visit their registration stations during the inspection period had the option to confirm their details by text messaging their National Registration Card (NRC) number to the ECZ on 2011. The facility was available on the three cellular networks in the country. Names of a number of prospective voters were omitted from the provisional voters' register as a result of a technical fault on some Digital Registration Kits.

Civil society organisations and opposition parties indicated that the verification period allowed by ECZ for public inspection of the provisional voters' roll was too short and that voters were not provided with enough information about the verification period. Upon certification of the voters' roll on 31 July 2011, the ECZ confirmed the registration of 5,167,154 voters for the 2011 tripartite election. The ECZ ensured that the final voters' register was made available to party agents free of charge. In polling stations visited, the Mission noted with satisfaction that every party agent had a copy of the voters' register of his/her polling station.

**Table 2: Number of registered voters in 2011**

<b>Number of female voters</b>	2,590,821	<b>Number of voters 18 - 24 years</b>	1,064,730
<b>Number of male voters</b>	2,576,333	<b>Number of voters 25 - 35 years</b>	1,716,858
		<b>Number of voters above 35 years</b>	2,385,566
<b>TOTAL</b>	<b>5,167,154</b>		<b>5,167,154</b>

Source: Website of the Electoral Commission of Zambia, 2011 Register of voters – Registered voters per constituency, 2011.

### **3.2 NOMINATION OF CANDIDATES**

Presidential election nominations took place from 7 to 12 August 2011, while nominations for National Assembly and local government elections were held on 12 August 2011. Nomination of presidential candidates was originally scheduled from 7 to 10 August 2011. However, due to the large number of aspiring nominees, the ECZ extended the nomination period by two days.

Criteria to register as a presidential candidate are laid out in Article 34 (3) of the Constitution of Zambia<sup>3</sup> as follows. A candidate must:

- Be a Zambian citizen;
- Have parents who are Zambians by birth or descent;
- Be at least 35 years old;
- Be a member or sponsored by a political party;
- Be qualified for election as a member of the National Assembly;
- Have been domiciled in Zambia for a period of at least 20 years;
- Submit a declaration of assets and liabilities;
- Have his or her nomination supported by not fewer than 200 registered voters; and
- Pay a non-refundable nomination fee of K10,000,000 (10 million Kwacha – US\$2,000.00).

The Patriotic Front lodged a petition in the High Court over the candidature of Rupiah Banda following allegations that he did not meet the criteria of citizenship because one of his parents was born out of Zambia. The case was successfully thrown out of court on procedural grounds.

As stated in Article 64 of the Constitution of Zambia, aspiring parliamentary candidates must be Zambian citizens; must be at least 21 years old; and must be literate and be conversant with the official language of Zambia. Parliamentary candidates need the endorsement of nine registered voters of their respective constituency. They are expected to pay a non-refundable nomination fee of K500,000.00 (five hundred thousand Kwacha – US\$100).

Ten presidential candidates, including all four who had contested the 2008 presidential by-election, were validly nominated according to the list of presidential candidates released by the ECZ on 18 August 2011. In relation to the nomination of women candidates, all political parties performed poorly in view of the SADC Protocol on Gender and Development, which calls for gender parity in all decision-making bodies by 2015. This may have led to the high number of independent candidates, including independent female candidates. Five presidential aspirants withdrew before filing their nomination papers, while two failed to qualify. The list of nominated parliamentary candidates was officially released by the ECZ on 26 August 2011. The MMD and Patriotic Front were the only two political parties that fielded candidates in all 150 constituencies.

### **3.3 CIVIC AND VOTER EDUCATION**

In accordance with Article 77 of the Electoral Act No.12 of 2006, the ECZ has the mandate to provide voter education. The ECZ designed a voter education programme mindful of the administrative division of the country. The electoral commission established the National Voter Education Committee, constituted of CSOs and public institutions. Furthermore, 74 Voter Education Committees were set up at district level. Training was provided to 1,422 voter education facilitators for the implementation of the programme in every ward.

The implementation of the voter education programme sought to sensitise the electorate on people's rights, voting procedures and ultimately to capacitate voters in the exercise of their civic and political rights. The ECZ produced voter education materials in seven local languages. Voter education advertisements were aired on television and the radio. The Mission noted the display of voter education materials on billboards in the capital and its surroundings.

Stakeholders hailed the ECZ and CSOs for the conduct of voter education campaigns, which were of high significance considering the number of first-time voters in the 2011 elections. Satisfaction was generally expressed over the content, coverage and reach of civic and voter education campaigns, although some stakeholders maintained that voter education campaigns were less intensive in rural areas. Special efforts were made to educate target groups such as women. With the assistance of the Zambia Council for Social Development (ZCSD), Bwafwano, a grassroots organisation, provided voter education to a group of 150 expectant mothers during their antenatal classes at local clinics in Mporokoso district on 25 January and 8 February 2011. The unusual voter education campaign sought to raise awareness of women on the voter registration process and voting procedures with a view of increasing the number of female registrants and voters in the 2011 elections.<sup>4</sup>



*A voter information billboard*

### 3.4 FUNDING FOR POLITICAL PARTIES

There is no public funding for political parties, or electoral campaigns in Zambia. Political parties are not required by law to disclose their sources, amounts and expenditure of private donations. There are no restrictions or limits on the amounts of donations. Political parties finance their activities,



including their election campaign, with membership fees and contributions from supporters. A number of political parties within the opposition decried the use of state resources and public facilities by the incumbent for the purpose of campaigning. A number of political parties expressed concern that they did not have adequate funding to finance their daily operations and campaigns. Furthermore, they alleged that candidates from the ruling party had an unfair advantage in the election as they took advantage of incumbency to use state resources for campaign purposes. Opposition political parties also claimed that private businesses are reluctant to fund them for fear of reprisals by the ruling party. However, the Mission had no means to verify these allegations.

### **3.5 THE CAMPAIGN PROCESS**

Campaigning in Zambia is governed by two main instruments: the Public Order Act (1955) and the Electoral Code of Conduct Regulations of 2011. In accordance with Article 8 of the Electoral Code of Conduct Regulations of 2011, the ECZ determines the duration of the campaign period. Following the dissolution of the National Assembly on 28 July 2011, the election campaign commenced on 29 July 2011 and ended on 18 September 2011.

The election campaign was carried out with enthusiasm and passion amid reports of sporadic and small-scale campaign-related incidents of violence perpetrated by supporters of various political parties, fuelled sometimes by candidates' use of personalised attacks against their opponents. The Mission witnessed an incident of campaign-related violence among supporters of rival political parties during a rally in Lusaka, but found no evidence of orchestrated or sustained and widespread violence or intimidation. However, more circumspect behaviour on the part of stakeholders would have avoided the flaring-up of occasional violence during the campaign. Political parties had pledged to uphold provisions of the Electoral Code of Conduct in a communiqué issued at a special political party liaison committee meeting convened by the ECZ on 26 August 2011.

The MMD and the PF dominated the campaign environment, as the two major parties maintained a highly visible presence nationwide throughout the campaign process. UPND also canvassed in a number of regions. There was no major hindrance to the freedom of assembly and movement, as



candidates and political parties were able to freely campaign and hold rallies across the country. Campaigning took the forms of posters, advertisements on big billboards, political rallies, television appearances by candidates and debates involving representatives of various candidates, and other types of media outreach through television, radio stations and newspapers. Political party rallies were lively and colourful. The police were on standby, ready to restore law and order during the campaign. Armed forces displayed a good level of professionalism in the discharge of their duties.

The ECZ decision to establish a 48-hour cooling-off period between the end of the campaign and voting day was commendable considering the polarised nature of the campaign and of the election. The ECZ issued a public notice as an official reminder to contesting political parties and other stakeholders about the end of the election campaign and the importance of compliance with the regulations.<sup>5</sup>



*A billboard on peaceful campaigning*

Reports of violations of the Electoral Code of Conduct were made by stakeholders. Some CSOs raised complaints about the fact that some political parties began canvassing before the official start of the election campaign. Prior to the official launch of the campaign, the ECZ issued a public notice

on the conduct of unofficial campaigning through airing of campaign songs and messages in the media. While recognising the freedom of expression of political parties, the ECZ appealed to stakeholders to refrain from violating provisions of the Constitution and the Electoral Code of Conduct. Stakeholders voiced their concerns over the excessive use of state resources by the former ruling party for campaign purposes, and the absence of a level playing field. The ECZ was in no position to control the use of resources by political parties due to the lack of regulatory provisions on campaign expenditures.

### **3.6 MEDIA ACCESS AND COVERAGE**

In Zambia, the media has freedom of expression, freedom of coverage and freedom of reporting. Article 13 (1) of the Electoral Code of Conduct provides for the provision of fair and balanced reporting of campaigns, meetings, rallies and press conferences of all registered political parties and candidates during the campaign period. However, the partisanship of the main media, both public and private, resulted in selective reporting and coverage of campaign activities of political parties, and encroached on the right of the electorate to accurate and fair information. Media reporting and coverage of the election campaign, in particular, lacked balance and fairness. Public media was perceived to be pro-government giving preference to campaign activities of the ruling party. Private media was perceived to be in favour of one specific party within the opposition, the Patriotic Front (PF). Media reports were more about personalities and less about the programmes and visions of contestants.

The overt partisanship of the media was noted in the content, the tone and number of media reports. For instance, the *Zambia Daily Mail* and the *Times of Zambia* were in favour of the ruling MMD, as most of their reports focused on the activities of the MMD in general, and of the campaign-related activities of Rupiah Banda, the MMD presidential candidate. The *Zambia Post* was pro-Patriotic Front, as the leading private newspaper mostly covered the campaign activities of the main opposition party. The media disregarded the importance of ethical reporting and the responsibility of the media to report in a balanced and fair manner as stipulated in the Electoral Code of Conduct. The ECZ emphasised the critical importance of ethical reporting during a five-day training workshop for broadcast and print media in July 2010.<sup>6</sup>

Article 13 (1) of the Electoral Code of Conduct provides for equal allocation of airtime to all candidates and political parties. Candidates were allocated the same amount of airtime given the extensive coverage the MMD presidential candidate received in the Zambia National Broadcasting Corporation (ZNBC), the state-owned broadcaster.

### **3.7 CONFLICT MANAGEMENT**

The Electoral Act No. 12 of 2006 grants the ECZ powers to establish Conflict Management Committees (CMCs). For the purpose of resolving electoral disputes, the ECZ set up a National Conflict Management Committee and 74 CMCs at district level in August 2011. The CMCs are mandated with the prevention and management of election-related conflicts. The Lusaka-based national CMC is constituted of law enforcement agencies, political parties and civil society organisations. The 24 members appointed by the ECZ serve a three-year renewable term. District CMCs have an average of fifteen members appointed by the District Electoral Officers.

In its announcement about the re-establishment of the CMCs the ECZ maintained that the committees would pay special attention to bribery and vote-buying during the election campaign. Political parties expressed confidence in the ability of the CMCs as an alternative appeal and dispute mechanism. The CMCs were actively involved in places where the elections were closely contested. They played a role in resolving disputes about campaign materials and threats of violence.

### **3.8 GENDER REPRESENTATION**

There was a visibly high representation of women amongst the electorate, civic educators, party supporters, polling staff, party agents, and citizen observers.

Regrettably, women were not well represented as candidates. Edith Nawakwi of the Forum for Democracy and Development (FDD) was the only woman on the presidential candidate list. A total of 111 women out of 768 candidates qualified as candidates for the 150 elected seats in the National Assembly. Twenty-one women stood as independent candidates in the parliamentary election. Only eight out of 20 parties contesting parliamentary elections nominated female candidates. The three largest political parties, namely the

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MMD, the Patriotic Front and UPND, fielded around 20 female parliamentary candidates each. Other parties had 10 or fewer female candidates. Zambia is a signatory of the Southern Africa Development Community Protocol on Gender and Development, which aims at gender parity in all decision-making bodies at country level by 2015. The low number of female candidates in the 2011 elections goes counter to the goals of the SADC Protocol. The Non-Governmental Organisations Coordinating Council of Zambia (NGOCC), a coalition of women's organisations, set up an election fund for the procurement of election campaign materials for women candidates.<sup>7</sup> The first-past-the-post, single-member constituency system, women's difficulties in raising funds for election campaign and societal barriers to women participation in decision-making are some of the structural impediments to the representation of women in elective politics, despite the fact that women constitute more than 50 percent of the voting population.

# 4

## The Election Phase



- 4.1 Voting process
- 4.2 Polling stations
- 4.3 Voters turnout
- 4.4 Polling Staff, party agents and security officers
- 4.5 Observers
- 4.6 Counting process

### 4.1 VOTING PROCESS

Peace, tolerance and a positive mood prevailed on Election Day in constituencies that the EISA observer mission visited. Most voters cast their vote in the first hours of the morning of polling. The Mission noticed a rush in the last hour of voting. A large number of polling stations visited opened at 6:00 am and closed at 18:00 pm. The late arrival of election materials, the shortage of materials, late set-up of polling stations and delayed polling staff were reportedly the main reasons for the late opening of a few polling stations visited in Lusaka, Ndola and Solwezi. Voters who were in the queue at the time of closing were allowed to vote. The ECZ ensured that polling took place for the legislated 12 hours in every polling station regardless of the opening time.

The layout of polling stations promoted a good and easy flow of voters and also guaranteed secrecy of the vote. Election materials, dispatched to the various districts on the eve of Election Day, were available in adequate quantities. In order to vote, voters were expected to be in possession of their voter's card and their National Registration Card (NRC). Upon verification of the identity of the voter, the voter's name, NRC number and voter's card number were called out by the polling official, checked on and crossed out by party agents on their copy of the register. The use of transparent ballot boxes boosted the confidence of voters, party agents and observers. The ECZ should be commended for having made available a copy of the voter register



free of charge to each and every party agent. In order to differentiate the ballot box for each election, the ECZ used an orange lid for the Presidential election; a red lid for the Parliamentary election and a black lid for the Local Government election. The colour codes were unknown to most voters and to some polling officials. This resulted, in some cases, in voters being given wrong directions as to which of the ballot boxes to use to cast their ballots. This led to several ballot papers being inserted in the wrong boxes, which caused some constraints in the counting process. The Mission observed that some polling officials had taken the initiative to clearly mark the type of election on the ballot boxes for voters' ease of identification.

Voter education efforts were somewhat undermined by growing rumours about the alleged use of ink of some special type that would make voting marks disappear, or special paper that would transfer voters' marks to other candidates when ballots were folded. A number of voters refused to use the pens supplied by ECZ and used their own pens. Many voters folded ballot papers with the voting mark visible to the public or even attempted to cast their ballots without folding them.



*Voting process*

## 4.2 POLLING STATIONS

To service 150 constituencies and 1,422 Wards, the ECZ established 6,456 polling stations divided into 9,022 polling streams for the 2011 Tripartite Elections. Polling stations with more than 850 registered voters had two or more polling streams. The streams were in alphabetical order, with the first letter of voters' surnames appearing on a placard. Each stream had a copy of the voters' roll corresponding to the number of registered voters in that particular stream. The number of polling stations was adequate and accessible enough to ensure that as many eligible voters as possible cast their votes. The layout of the polling stream rooms was generally conducive both to a good flow of voters and ensuring the secrecy of the vote. Most polling stations were located in schools, public halls and centres.



*A polling station*

## 4.3 VOTER TURNOUT

Slightly more than half (53.65 percent) of the 5,167,154 million registered voters turned out in this year's elections. This amounted to an increase of 8.25 percent over the 2008 Presidential By-Election. There was a noticeably

good turnout of young voters as well as a balanced turnout of both female and male voters in polling stations visited. Insufficient voter information and education campaigns could account for the level of turnout.

Stakeholders within civil society were critical of the fact that voter information and education campaigns were not as intensive in the rural areas as they were in the urban areas. Voter turnout might have been affected partly by cases of registered voters who had gone to the wrong polling station; voters whose names did not appear on the voters' roll in spite of the fact that they had a voter's card; or voters whose identity was questioned because their name on the voter's card did not match their details on the National Registration Card (NRC).

The turnout was also impacted upon by the number of polling staff on duty outside their constituency who could not cast their vote because they did not obtain a Certificate of Authority from the ECZ on time.



*Voters queuing up to vote in Central Province*



**Table 3: Voter turnout per province**

Number	Province	Number of Registered Voters	Voter turnout
1	Copperbelt	845,569	59.50%
2	Southern	643,588	58.04%
3	Northern	659,534	57.28%
4	North Western	315,670	54.88%
5	Lusaka Central	772,458	52.05%
6	Luapula	408,937	50.49%
7	Eastern	644,725	48.89%
8	Western	394,660	47.77%
9	Central	482,013	46.87%
<b>National</b>		<b>5,167,154</b>	<b>53.65%</b>

Source: ECZ Website, 2011

Six out of the nine provinces recorded a voter turnout higher than 50 percent. The Copperbelt province recorded the highest voter turnout of 59.50 percent of 845,569 registered voters. The lowest voter turnout was recorded in the Central Province, with 46.87 percent of 482,013 registered voters. Although Lusaka Central has the second-highest number of registered voters in Zambia, 52.05 percent turned out to vote in the 2011 elections. This percentage could be attributed to the tense security context prevailing ahead of the elections.

#### **4.4 POLLING STAFF, PARTY AGENTS AND SECURITY OFFICERS**

The Directorate of Elections of the ECZ recruited and trained over 60,000 polling staff to manage 6,456 polling stations. Polling staff had to pass an assessment test before recruitment and appointment. They were recruited amongst government workers, headmasters and teachers. There was an adequate number of polling staff in the polling stations visited. The number varied between four and six polling staff per stream. However, most polling stations visited had five polling staff per stream. Polling staff were knowledgeable about the voting and counting procedures, and performed their tasks with ease and vigilance. Political parties fielded per stream one

or two party agents, known as polling agents in the Zambian context. In polling stations visited, polling agents were predominantly from the MMD, PF, UPND and FDD. The police were present in all the polling stations that the EISA observer mission visited. There was one security officer per stream in polling stations with more than two streams. While carrying out their duties of maintaining law and order, security officers maintained a visible but discreet and reassuring presence in the polling stations.

#### **4.5 OBSERVERS**

Part 7 of the Electoral Act No. 12 of 2006 provides for the conduct of election monitoring and observation in Zambia. Legal provisions are also made for local monitors and observers in the Electoral (Code of Conduct) Regulations of 2011.

From 18 to 22 September 2011, the ECZ accredited 10,980 observers and monitors to observe operations in the polling stations and totalling centres, and 585 observers and monitors to observe proceedings in the Results Centre. Accreditation of local monitors, domestic and international observers was decentralised for the 2011 Tripartite Elections. As a result, the ECZ established an International Observer Accreditation Centre (IOAC) to handle the accreditation of international observers in Lusaka. Although the accreditation process was run in an efficient and professional manner, the accreditation offices were overwhelmed by the number of citizen observers who sought their assistance in the last days of the accreditation process. The EISA observer group met observer missions of various regional, continental and international organisations, including the African Union (AU), the European Union (EU), the Commonwealth Secretariat, the National Democratic Institute (NDI), the SADC Secretariat, the SADC Parliamentary Forum (SADC-PF), the Electoral Support Network of SADC (SADC-ESN), and the Common Market for Eastern and Southern Africa (COMESA).

A good presence of citizen observer groups was noted during the 2011 elections. In joint efforts to observe the 2011 elections, eight Civil Society Organisations (CSOs) formed the Civil Society Election Coalition (CSEC) comprising the Anti-Voter Apathy Project (AVAP), Caritas Zambia, Foundation for Democratic Process (FODEP), Operation Young Vote (OYV), Southern African Centre for the Constructive Resolution of Disputes

(SACCORD), Transparency International – Zambia (TI-Z), Young Women in Action (YWA) and Zambia National Women’s Lobby (ZNWL). Having deployed 9,000 observers throughout the country, CSEC was the biggest citizen group to observe the polls and the results management process in Zambia.

#### **4.6 COUNTING PROCESS**

Counting began immediately after closing of polling stations. In the presence of party agents and observers, the counting of three sets of ballots was done at every stream, which allowed for a fast and efficient process. In most polling stations visited the counting of the presidential ballots was completed by midnight. In some instances, the number of ballot papers issued for each election did not tally with the number of ballot papers in the ballot boxes, because ballot papers had been slipped into the wrong ballot box during the voting process. To correct the problem, polling officials moved the ballot paper to the right ballot box under the close watch of party agents and observers. Overall polling officials were well-trained in counting procedures. Those who had consulted the Election Officers’ Handbook or the Voting, Counting and Results Procedures Guide during the count followed the procedures to the letter. Presidential Election results were announced while results for the National Assembly and Local Government Elections were declared upon completion of the counting process. Party agents and citizen observers signed the result sheets, of which they received a copy. Signed copies of the results form were pasted on the wall outside the polling station.

The Mission noted that the counting process was generally conducted in an open and transparent manner, ensuring that all those present had a clear view of the marked ballot paper. The Mission was struck by the level of cooperation between the agents of the various parties, observers and polling officials, which contributed to the generally orderly counting procedure. There was a very low number of rejected or spoiled ballots in the polling stations observed. Rejection of ballots was not the subject of debate, as party and candidate agents readily abided by the decision of the Presiding Officer.

# 5

## The Post-Election Phase



5.1 Vote counting and results tabulation

5.2 Election results

### 5.1 TABULATION

Following the count of ballots at polling stream level, tallies for all streams were added together to determine the results for every polling station. The presiding officer took the results sheet to the tabulation centre of each constituency, where the results were compiled by the constituency returning officer. At the tabulation centre, the returning officer captured the results from each polling station onto a consolidated results sheet in the presence of party agents and citizen observers, who signed the completed consolidated results sheet and received copies of it. Presidential results were transmitted, either by electronic modem or by satellite phone in remote areas, to the National Results Centre of the ECZ at the Mulungushi Conference Centre in Lusaka. Political parties, domestic and international observers, the media and the diplomatic corps were given space at the National Results Centre. After verification of the results from constituencies, the chairperson of the ECZ periodically announced the results on television. The electronic transmission of election results adopted by ECZ is commendable, as it ensured a speedier release of results.

### 5.2 ANNOUNCEMENT OF RESULTS

Prior to the announcement of the results, the ECZ was confident that it will be able to announce the results 48 hours after voting. As tension was building up in the capital city and other provinces, the ECZ appealed for calm and in a press conference held on 22 September 2011 gave assurances that the 48-hour

deadline would be met. On the basis of results from 143 constituencies, the results of the presidential election were announced in the early morning of 23 September 2011. With 42.24 percent of the valid votes, veteran opposition leader Michael Sata of the Patriotic Front was declared the winner of the 2011 Presidential election. Rupiah Banda of the Movement for Multi-party Democracy (MMD) obtained 35.63 percent of the vote cast, and Hakainde Hichilema of the UPND received 18.28 percent of vote. Contesting political parties accepted the outcome of the presidential race. The president-elect was sworn in on the day of the announcement of the results.

**Table 4: 2011 Presidential election results**

Candidates	Party	Votes	% Votes
Michael Sata	Patriotic Front (PF)	1,170,966	42.24
Rupiah Banda	Movement for Multiparty Democracy (MMD)	987,866	35.63
Hakainde Hichilema	United Party for National Development (UPND)	506,763	18.28
Charles Milupi	Alliance for Democracy and Development (ADD)	26,270	0.95
Elias Chipimo	National Restoration Party (NAREP)	10,672	0.38
Tilyenji Kaunda	United National Independent Party (UNIP)	9,950	0.36
Edith Nawakwi	Forum For Democracy and Development (FDD)	6,833	0.25
Ngandu Magande	National Movement for Progress (NMP)	6,344	0.23
Godfrey Miyanda	Heritage	4,730	0.17
Fredrick Mutesa	Zambians for Empowerment and Development (ZED)	2,268	0.08

Source: Electoral Commission of Zambia, Summary of allocation of National Assembly Seats, 2011 Tripartite Elections

**Table 5: 2011 Presidential vote statistics**

Registered voters	5,167,154
Ballot cast	2,772,264
Percentage poll	53.65
Valid ballots	2,732,662
Spoilt ballots	39,602
Percentage of spoilt ballots	1.43

Source: Electoral Commission of Zambia, Summary of allocation of National Assembly Seats, 2011 Tripartite Elections

As parliamentary elections were postponed in Magoye, Southern Province and Nakonde, Northern Province, due to the untimely death of two candidates, the ECZ released the results of 148 constituencies. Based on the results, the PF won 60 seats followed by the MMD and UPND with 55 and 28 seats respectively. ADD, FDD and three independent candidates won one seat each. The Patriotic Front remains the most dominant political force in Bemba-speaking areas and urban centres as well as in the Copperbelt province and the rural areas of Luapula, Lusaka and Northern provinces. The party made inroads in the Central, Eastern and Western provinces, which have traditionally been MMD strongholds. The Southern province still remains a UPND stronghold. According to the summary of National Assembly seats, 17 women out of 148 MPs were directly elected in the National Assembly election.

The number of women MPs has decreased, as there were 22 women (accounting for a 14 percent female representation) in the previous parliament. Zambia has moved further away from the SADC Protocol on Gender and Development, which aims at gender parity by 2015, a target that the country may fail to meet, given that the next parliamentary elections are scheduled to be held in 2016.

**Table 6: Summary of allocation of National Assembly seats, 2011**

Party/Independent	Total seats	Gender	Number
Alliance for Democracy and Development (ADD)	1	Female	1
		Male	0
Forum For Democracy and Development (FDD)	1	Female	0
		Male	1
Independents	3	Female	0
		Male	3
Movement for Multiparty Democracy (MMD)	55	Female	6
		Male	49
Patriotic Front (PF)	60	Female	8
		Male	52
United Party for National Development (UPND)	28	Female	2
		Male	26

Source: Electoral Commission of Zambia, Summary of allocation of National Assembly Seats, 2011 Tripartite Elections

# 6

## Conclusions and Recommendations



Based on the findings of its assessment of the 2011 elections in Zambia, the EISA Mission is of the view that the process was conducted in a transparent manner, and in a way that allowed the people of Zambia to participate freely and to express their will. The Mission makes the following recommendations with the aim of contributing to the improvement of future electoral processes in Zambia:

### **6.1 CONSTITUTIONAL AND LEGAL FRAMEWORK FOR ELECTIONS**

Within the framework of a future constitutional review process, and in line with international principles and benchmarks, the Mission encourages Zambians to review unnecessary restrictions for presidential candidates, such as parentage and stringent residency requirements, and the legal barrier to independent candidates for president.

### **6.2 POLITICAL AND ELECTORAL SYSTEM**

From the constitutional review process that ended in 2010, it is clear that a discussion on the most appropriate electoral system for Zambia has not been concluded. The Mission encourages Zambians to conclude the debate and reach a decision that reflects the will of the majority of the people. Such debate should pay particular attention to the relationship between the electoral system and the representation of women and youth.



### **6.3 ELECTION MANAGEMENT**

The Mission recommends that in forthcoming constitutional and electoral reform processes consideration be given to a process of selection and nomination of ECZ members that ensures the establishment of an independent, impartial and non-partisan Commission in the eyes of all stakeholders and the general public.

### **6.4 THE ELECTORAL CODE OF CONDUCT**

A stronger effort should be made in future elections to improve the enforcement of the Code of Conduct, both by imposing stiffer penalties and having clearer enforcement procedures. The powers of the ECZ should be extended so as to promote compliance by all stakeholders with the code.

### **6.5 VOTER REGISTRATION**

Because possession of the National Registration Card is a requirement for voter registration and voting, the linkage between the issuance of NRCs and voter registration should be strengthened and improved for future processes. Although the percentage of eligible voters captured by the voter registration process is quite high, an effort should be made in future processes to reduce even further the number of eligible voters excluded from the electoral process for lack of registration. A mechanism should be put in place to allow registrants to change their details on a continuous basis and ultimately ensure the accuracy and completeness of the voter register. The Mission also recommends that the ECZ set a longer period for the verification of the provisional voters' register for future processes.

### **6.6 NOMINATION OF CANDIDATES**

The Mission strongly recommends that political parties be encouraged by law and through codes of conduct to enshrine internal democratic practices as regards the selection of candidates, including female candidates. In respect of candidate nominations, removal of the provisions of Zambian parentage to qualify as a presidential candidate would guarantee the universal right to stand for public office to all Zambians, in line with Zambia's commitments to international and regional principles.

### **6.7 GENDER REPRESENTATION**

In view of the number of female candidates in the 2011 elections, the Mission strongly recommends that corrective measures, such as appropriate legal

reforms and quota requirements, be undertaken to achieve greater gender parity, not only in the nomination process, but also in the final makeup of the Zambian Parliament. Affirmative action taken internally by political parties will ensure higher representation and greater visibility of women at various decision-making levels.

## **6.8 THE MEDIA**

The Mission strongly recommends that an effective level playing field should be created for the fair access to the media by parties and candidates during the electoral process. Stronger regulation of the media, public media in particular, through an enforceable Code of Conduct or other similar mechanism, should be put in place to ensure balanced coverage and reporting of electoral campaigns as well as to compel the media to comply with standards of ethical reporting. The Mission recommends that the public broadcaster afford equitable coverage and airtime to parties and candidates from both the ruling party and the opposition.

## **6.9 POLITICAL PARTY AND CAMPAIGN FINANCE**

The Mission suggests that consideration be given to the establishment of public funding for political parties and electoral campaigns, on the basis of clear criteria, such as share of the popular vote, or seats obtained in Parliament. Public funding helps to level the playing field, and will encourage increased participation by women candidates. For the purpose of transparency and accountability, the Mission recommends the establishment of a regulatory framework for the disclosure of all sources of funding and funding expenditures for political parties and election campaigns.

## **6.10 CIVIC AND VOTER EDUCATION**

While voter information should be provided for a specific election, civic and voter education should be provided on a long-term and continuous basis. Given the considerable number of first-time voters in the 2011 tripartite elections, the Mission recommends that special attention be given to that category of voters. Thus, voter education programmes should not focus only on voting procedures but should incorporate general information on democracy, elections and governance. The Mission also suggests that efforts be made to increase voter turnout by improving the quality and intensity of civic education, especially for voters in rural areas, through partnerships between the ECZ and other stakeholders.

## APPENDICES

### APPENDIX I

#### Composition of the EISA Observer Mission to Zambia Tripartite Elections

	Name	Organisation	Country	Gender
1	Yusuf Aboobaker	Electoral Supervisory Commission	Mauritius	Male
2	Miguel de Brito	EISA	Mozambique	Male
3	Cecile Bassomo	EISA	Cameroon	Female
4	Serges Lokoki	CENI	DRC	Male
5	Maimouna Konate	Consultant	Cote d'Ivoire	Female
6	Colin Thakur	Consultant	South Africa	Male
7	Alka Larkan	EISA	South Africa	Female
8	Somsri Hananuntasuk	Asian Network for Free Elections (ANFREL)	Thailand	Female
9	Bilha Kiptugen	Electoral Commission of Kenya	Kenya	Female
10	Meriem Ben Youssef	Association Tunisienne pour l'Intégrité et la Démocratie des Elections (ATIDE)	Tunisia	Female
11	Laetitia Ntagazwa	Tanzania Civil Society Consortium for Election Observation (TACCEO)	Tanzania	Female
12	Wonder Jekemu	SIDA – Zimbabwe	Zimbabwe	Male



*EISA Election Observer Mission*

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## **APPENDIX 2**

### **Terms of reference of the EISA Observer Mission**

The Terms of Reference describe the role and responsibilities of the EISA Election Observer Mission during deployment for the 2011 Presidential, National Assembly and Local Government Elections in Zambia. They provide a summary of the mission's objectives and outline the activities of international observers.

All EISA observers are guests in Zambia. The election and related processes are for the people of Zambia to conduct. As observers, members of the EISA Mission are expected to assess these processes without interfering in the process. EISA believes that international observers can play a critically important supportive role by helping enhance the credibility of the elections, reinforce the work of domestic observer groups, and contribute to increasing popular confidence in the entire electoral process.

Following an invitation extended by the Electoral Commission of Zambia (ECZ), EISA established a mission to observe the 2011 Presidential, National Assembly and Local Government Elections in Zambia.

Specific objectives for this particular mission include the following:

- To assess whether the conditions exist for the conduct of elections that reflect the will of the people of Zambia;
- To assess whether the elections are conducted in accordance with the electoral framework of Zambia; and
- To assess whether the elections meet the benchmarks set out in regional, continental and international instruments.

In order to achieve the above, the mission will undertake the following activities:

- Obtain information on the electoral process from the Electoral Commission of Zambia;
- Meet with political parties, civil society organisations, other international observer groups and other stakeholders to acquaint itself with the electoral environment;
- Observe all aspects of the election in the areas it will visit;
- Assess if all registered voters have easy access to voting stations and whether or not they are able to exercise their vote in freedom and secrecy;
- Assess the logistical arrangements to confirm if all necessary materials are available for the voting and counting to take place efficiently;
- Find out if all the competing parties and candidates are given equal opportunity to participate in the elections; and
- Report accurately on its observations and refer any irregularities to the relevant authorities.

## **CODE OF CONDUCT**

### **ELECTION OBSERVER MISSION PRESIDENTIAL, PARLIAMENTARY AND LOCAL GOVERNMENT ELECTIONS**

**20 SEPTEMBER 2011**

#### **CODE OF CONDUCT**

International election observation is widely accepted around the world. It is conducted by intergovernmental and international non-governmental organisations and associations in order to provide an impartial and accurate assessment of the nature of election processes for the benefit of the population of the country where the election is held and for the benefit of the international community. Much therefore depends on ensuring the integrity of international election observation, and all who are part of this international election observation mission, including observers and leaders of the mission, must subscribe to and follow this Code of Conduct.

- **Respect Sovereignty and International Human Rights**

Elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine elections are internationally recognised human rights, and they require the exercise of a number of fundamental rights and freedoms. Election observers must respect the sovereignty of the host country, as well as the human rights and fundamental freedoms of its people.

- **Respect the Laws of the Country and the Authority of Electoral Bodies**

Observers must respect the laws of the host country and the authority of the bodies charged with administering the electoral process. Observers must follow any lawful instruction from the country's governmental, security and electoral authorities. Observers also must maintain a respectful attitude

toward electoral officials and other national authorities. Observers must note if laws, regulations or the actions of state and /or electoral officials unduly burden or obstruct the exercise of election-related rights guaranteed by law, constitution or applicable international instruments.

- **Respect the Integrity of the International Election Observation Mission**

Observers must respect and protect the integrity of the international election observation mission. This includes following this Code of Conduct, any written instructions (such as a terms of reference, directives and guidelines) and any verbal instructions from the observation mission's leadership.

Observers must: attend all of the observation mission's required briefings, trainings and debriefings; become familiar with the election law, regulations and other relevant laws as directed by the observation mission; and carefully adhere to the methodologies employed by the observation mission. Observers also must report to the leadership of the observation mission any conflicts of interest they may have and any improper behaviour they see conducted by other observers that are part of the mission.

- **Maintain Strict Political Impartiality at All Times**

Observers must maintain strict political impartiality at all times, including leisure time in the host country. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates, referenda issues or in relation to any contentious issues in the election process. Observers also must not conduct any activity that could be reasonably perceived as favouring or providing partisan gain for any political competitor in the host country, such as wearing or displaying any partisan symbols, colours, banners or accepting anything of value from political competitors.

- **Do Not Obstruct Election Processes**

Observers must not obstruct any element of the election process, including pre-election processes, voting, counting and tabulation of results and processes transpiring after Election Day. Observers may bring irregularities, fraud or significant problems to the attention of election officials on the



spot, unless this is prohibited by law, and must do so in a non-obstructive manner.

Observers may ask questions of election officials, political party representatives and other observers inside polling stations and may answer questions about their own activities, as long as observers do not obstruct the election process. In answering questions observers should not seek to direct the election process. Observers may ask and answer questions of voters but may not ask them to tell for whom or what party or referendum position they voted.

- **Provide Appropriate Identification**

Observers must display identification provided by the election observation mission, as well as identification required by national authorities, and must present it to electoral officials and other interested national authorities when requested.

- **Maintain Accuracy of Observations and Professionalism in Drawing Conclusions**

Observers must ensure that all of their observations are accurate. Observations must be comprehensive, noting positive as well as negative factors, distinguishing between significant and insignificant factors and identifying patterns that could have an important impact on the integrity of the election process. Observers' judgments must be based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence.

Observers must base all conclusions on factual and verifiable evidence and not draw conclusions prematurely. Observers also must keep a well-documented record of where they observed, the observations made and other relevant information as required by the election observation mission and must turn in such documentation to the mission.

- **Refrain from Making Comments to the Public or the Media before the Mission Speaks**

Observers must refrain from making any personal comments about their



observations or conclusions to the news media or members of the public before the election observation mission makes a statement, unless specifically instructed otherwise by the observation mission's leadership. Observers may explain the nature of the observation mission, its activities and other matters deemed appropriate by the observation mission and should refer the media or other interested persons to the those individuals designated by the observation mission.

- **Cooperate with Other Election Observers**

Observers must be aware of other election observation missions, both international and domestic, and cooperate with them as instructed by the leadership of the election observation mission.

- **Maintain Proper Personal Behaviour**

Observers must maintain proper personal behaviour and respect others, including exhibiting sensitivity for host-country cultures and customs, exercise sound judgment in personal interactions and observe the highest level of professional conduct at all times, including leisure time.

- **Violations of This Code of Conduct**

In the event of concern about the violation of this Code of Conduct, the election observation mission shall conduct an inquiry into the matter. If a serious violation is found to have occurred, the observer concerned may have his/her observer accreditation withdrawn or be dismissed from the election observation mission. The authority for such determinations rests solely with the leadership of the election observation mission.

**Pledge to Follow This Code of Conduct**

Every person who participates in this election observation mission must read and understand this Code of Conduct and must sign a pledge to follow it.

## **APPENDIX 3**

### **Briefing Programme**

#### **EISA ELECTION OBSERVER MISSION**

#### **2011 PRESIDENTIAL, PARLIAMENTARY AND LOCAL GOVERNMENT ELECTIONS**

#### **PRE-DEPLOYMENT AND STAKEHOLDER BRIEFING**

**14 - 15 SEPTEMBER 2011**

**DAY ONE: 14 SEPTEMBER 2011**

<b>TIME</b>	<b>TOPIC</b>	<b>PRESENTER/FACILITATOR</b>
09h00 - 10h30	The use of Open Data Kit (ODK) on tablets	Ms Alka Larkan
10h30 - 12h00	Accreditation	Electoral Commission of Zambia
12h00 - 14h00	LUNCH	
14h00 - 14h15	Welcome and Introduction	Mr Yusuf Aboobaker – Mission Leader
14h15 - 14h30	Mission Background and ToR	Mr Miguel de Brito – Deputy Mission Leader
14h30 - 15h00	Election observation: types, role and responsibilities of international observers	Ms Cecile Bassomo – Mission Coordinator
15h00 - 15h30	International and regional benchmarks for elections	Mr Miguel de Brito – Deputy Mission Leader
15h30 - 16h00	What makes an election ‘free and fair’?	Ms Cecile Bassomo – Mission Coordinator
16h00 - 16h30	TEA / COFFEE BREAK	
16h30 - 17h15	Election observation: methodology, reporting forms and checklists	Mr Miguel de Brito – Deputy Mission Leader
17h15 - 17h30	Code of conduct of international election observers	Ms Cecile Bassomo – Mission Coordinator
17h30	End of day one	

## DAY TWO: 15 SEPTEMBER 2011

TIME	TOPIC	PRESENTER/FACILITATOR
09h00-09h15	Arrival Press conference set up	
09h15-09h30	Arrival Press conference	Mr Yusuf Aboobaker – Mission Leader
09h45-10h15	Political and Historical Context of the 2011 Tripartite Elections	Mr Nchimunya Muleya – University of Zambia
10h15-11h15	The State of Preparedness and Readiness of ECZ for the 2011 general elections	Mrs Priscilla Isaac – Electoral Commission of Zambia
11h15-11h30	TEA/COFFEE BREAK	
11h30-12h00	The role of the media in the 2011 electoral process	Mr Daniel Sikazwe – Zambia Media Institute of Southern Africa
12h00-12h30	Preliminary Assessment of the Electoral Process: Perspective from the National Democratic Institute (NDI)	Mr Keith Jennings – NDI Mr Aloisious Nthenda – NDI
12h30-14h00	LUNCH	
1400-15h00	Preliminary Assessment of the Electoral Process: Perspectives from Political Parties	Mr Justin Mweene – United Party for National Development (UNPD)
15h00-15h30	Involvement and role of UNDP in the electoral process in Zambia in preparation for the 2011 general elections	Mr Michael Soko – UNDP
15h30-16h30	Preliminary assessment of the electoral process: Perspectives from Civil Society Organisations	Ms Joan Mute – Young Women Action (YWA)
		Ms Rollen Mukanda – Zambia National Women Lobby (ZNWL)
		Mr Isaac Mundia – Transparency International Zambia
		Mr Lee M. Habasonda – Accord Zambia
16h30-16h45	TEA/COFFEE BREAK	
16h45-18h00	DEPLOYMENT PLANS	Miguel de Brito & Cecile Bassomo
18h00	End of two-day briefing	

## **APPENDIX 4**

### **EISA Arrival Statement**



### **EISA ELECTION OBSERVER MISSION TO THE ZAMBIA 2011 TRIPARTITE ELECTIONS**

#### **ARRIVAL STATEMENT**

#### **15 SEPTEMBER 2011**

In Zambia at the invitation of the Electoral Commission of Zambia (ECZ), the Election Observer Mission of the Electoral Institute for Sustainable Democracy in Africa (EISA) is pleased to announce officially its arrival in the country on 13 September 2011 for the tripartite elections scheduled to take place on Tuesday, 20 September 2011.

The EISA Observer Mission is led by Mr Yusuf Aboobaker, Chairperson of the Electoral Supervisory Commission (ESC) of Mauritius. It comprises 12 members, drawn from Electoral Commissions and Civil Society Organisations across the African continent and beyond, namely Cameroon, Cote d'Ivoire, the Democratic Republic of Congo, Kenya, Mauritius, Mozambique, South Africa, Tanzania, Thailand, Tunisia and Zimbabwe.

In line with EISA's vision of 'an African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment', the specific objectives of the Mission are:

- To assess whether conditions exist for the conduct of elections that allow the people of Zambia to freely express their will;
- To assess and determine whether the elections are conducted in accordance with the constitutional, legal framework for elections in Zambia as well as international, continental and regional benchmarks; and

- To determine whether the final results of the electoral process as a whole reflect the wishes of the people of Zambia.

In order to achieve its objectives, the Mission will hold a series of meetings with election stakeholders, including the Electoral Commission of Zambia (ECZ), representatives of political parties, civil society organisations, the media, academics, international and domestic observer groups and the donor community, ahead of Election Day.

The EISA Election Observer Mission will deploy six teams to Lusaka Province, Lusaka Central, Livingstone, Ndola, Solwezi and Chipata on Friday, 16 September 2011. On Election Day, 20 September 2011, EISA observer teams will observe the voting and counting processes in selected urban and rural areas. Before it departs from Lusaka on 22 September 2011, the Mission will present its preliminary findings, conclusions and recommendations in an interim statement.

The EISA Mission's assessment of the 2011 electoral process in Zambia will be based on the African Union Declaration on Principles Governing Democratic Elections, the African Charter on Democracy, Elections and Governance, the SADC Principles and Guidelines Governing Democratic Elections and especially the *Principles for Election Management, Monitoring and Observation in the SADC Region (PEMMO)*, developed under the auspices of EISA and the Electoral Commissions' Forum of SADC.

The EISA Election Observation Mission to the 2011 Zambia Tripartite Elections undertakes to act with impartiality, objectivity and independence at every stage of the electoral process.

Based at Intercontinental Hotel in Lusaka, the Mission can be contacted for further information through its coordinator, Ms Cecile Bassomo, on +260 971594010.

Thank you

**Yusuf Aboobaker**  
**EISA Mission Leader**

## **APPENDIX 5**

### **EISA Interim Statement**



### **EISA ELECTION OBSERVER MISSION TO THE ZAMBIA 2011 TRIPARTITE ELECTIONS**

**22 SEPTEMBER 2011**

### **INTERIM STATEMENT**

#### **Introduction**

At the invitation of the Electoral Commission of Zambia (ECZ), the Electoral Institute for Sustainable Democracy in Africa (EISA) deployed an Election Observer Mission for the 2011 Zambia Tripartite Elections of 20 September 2011.

The EISA Mission has made its assessment of 2011 electoral process, and its preliminary findings and recommendations are presented in this Interim Statement. Our observations and views are based on the Principles for Election Management, Monitoring and Observation in the SADC Region (PEMMO). PEMMO is a set of benchmarks against which an election can be measured to assess whether it is credible and legitimate. It was developed by EISA in partnership with the Electoral Commissions' Forum (ECF) of SADC Countries.

EISA will produce a final, more comprehensive report on the entire election process within three months. The report will provide an in-depth analysis, detailed observations and recommendations. EISA will therefore continue to follow the process to completion, including the announcement of the final results.

On behalf of the EISA Election Observer Mission, we take this opportunity to extend our gratitude to the people of Zambia and the electoral stakeholders for the warm welcome and hospitality given to us. We also congratulate the people of Zambia for their political maturity and the peaceful manner and atmosphere in which the elections were conducted. During our mission, we were allowed unhindered and unrestricted access to all key offices dealing with elections and all polling sites and electoral offices. We acknowledge and appreciate the hospitable, courteous and friendly manner in which the Electoral Commission of Zambia personnel received our Mission.

### **Mission Composition**

Led by Mr Yusuf Aboobaker, Chairperson of the Mauritius Supervisory Electoral Commission, assisted by Mr Miguel de Brito, EISA Country Director in Mozambique, the EISA Observer Mission consisted of twelve members, including representatives from electoral commissions and civil society organisations from Cameroon, Cote d'Ivoire, the Democratic Republic of Congo, Kenya, Mauritius, Mozambique, South Africa, Tanzania, Thailand, Tunisia and Zimbabwe.

### **Mission Methodology**

In order to have a holistic approach to election assessment, EISA conducted various activities covering the pre-election, the polling and the post-election phases.

The Mission met various electoral stakeholders including the ECZ, political parties, academics, civil society organisations, the media and domestic and international observer teams.

Following a two-day briefing in Lusaka, EISA deployed six teams of observers on Friday, 16 September 2011, covering the following provinces: Lusaka, Central, Eastern, Copperbelt, Northwestern and Southern provinces. Upon arrival in their areas of deployment, the EISA teams held further meetings with the main local stakeholders. This period was also used by the teams to familiarise themselves with the local context and observe the last days of campaigning.

On Election Day, the EISA teams visited a total of 103 polling stations and

observed the voting and counting of ballot papers at the polling stations. The Mission also observed the tabulation of results at the Results Centre at the Mulungushi Conference Centre.

## **PRELIMINARY FINDINGS**

After considering relevant legislation and documentation, statements by electoral stakeholders, media reports, and observations made by its different teams deployed on the ground, and basing itself on guidelines contained in the PEMMO, the EISA Mission has made the following preliminary findings:

### **On the Constitutional and Legal Framework for Elections**

The Mission finds that Constitution of Zambia provides for the fundamental freedoms and basic human, civil and political rights. The legal framework for elections also provides for mechanisms to address conflict management in the electoral process and a right of appeal for aggrieved persons.

The Mission notes the stringent residential and parentage requirements for presidential candidates, and that the law does not allow for independent candidates for President. These restrictions are not in line with the PEMMO and other international best practices for democratic elections. The Mission notes with satisfaction that independent parliamentary and local government candidates are permitted by law.

The Mission was informed of the several unsuccessful efforts at constitutional reform in Zambia since 2003, notably the draft Constitution produced by National Constitutional Conference between 2007 and 2010, which failed to pass the National Assembly in March 2011. Some of the proposed constitutional reforms that were brought to the attention of the Mission included:

- The introduction of an absolute majority system for the presidential election and mixed-member proportional representation for legislative elections;
- The introduction of a fixed date for the elections;
- The method for appointing the Chairperson and members of the ECZ, and the powers of ECZ;



- Regulations for public party and campaign financing, and their accountability and transparency;
- A transition period between the declaration of results and the swearing-in of the president-elect.

### **On the Political and Electoral System**

The Mission notes with satisfaction that Zambians have the right to elect their representative government through regular and periodic elections through universal, direct and secret balloting, and that there are term limits for the presidential mandate in accordance with international benchmarks and standards.

Furthermore, the Mission considers that the choice of an electoral system is the prerogative of each country. However, in countries where cultural and political factors contribute to male-dominated politics, the first-past-the-post electoral system, which is the one currently used in Zambia, has been noted for producing under-representation of groups such as women and youth in Parliament.

### **On the Election Management**

The Mission notes that the Electoral Commission of Zambia is empowered to perform the main functions of election management, such as registration of voters, review of voters' roll, delimitation of constituencies, management of election disputes through Conflict Management Committees, conduct of national and local elections, and conduct of referenda.

The Constitution guarantees the independence of the Commission from external directions in its operations and the Mission considers that the ECZ generally discharged its functions with impartiality, professionalism, and efficiency. Most stakeholders contacted by the Mission are of the same opinion. However, the method of appointment of ECZ members by the President raises questions of appearance regarding the impartiality and non-partisanship of the Commission in the view of opposition parties and other stakeholders.

The Chairperson of the ECZ, Hon. Madam Justice, Irene C. Mimbilima, is a Supreme Court Judge, as recommended by PEMMO, and the Mission notes

with satisfaction that the current composition of ECZ respects the principles of gender balance, with three of its five members being women, and the Director of Elections is also a woman.

### **On Conflict Management**

The Mission noted with satisfaction that a National Conflict Management Committee (CMC) as well as 74 district-level CMCs were established by ECZ with membership by registered political parties and selected civil society organisations as an alternative dispute resolution mechanism to deal with election-related conflicts.

### **On the Electoral Code of Conduct**

The Mission was informed that a new Electoral Code of Conduct was issued in 2011, and it covers campaign behaviour by electoral contestants and observers, as well as certain activities by the police, media and other actors. It also provides a number of penalties for violations of the Code and contains provisions for lodging complaints. However, many stakeholders would have wished for a more vigorous enforcement of the Code, and that violations be dealt with more forcefully and met with stiffer penalties.

### **On Voter Registration**

The Mission was informed of the implementation by the ECZ of a periodic continuous voter registration process for the 2011 tripartite elections, in tandem with the 2006 Electoral Act, which requires the Commission to conduct voter registration on a continuous basis. This exercise started in June 2010 and was completed in March, 2011.

Voter registration was conducted with the use of mobile computer kits and was regarded by most stakeholders as an efficient process. However, according to information provided to the Mission, the voter registration process was affected by the slowness in the issuance of National Registration Cards (NRCs), which are required for voters to register and vote. The Mission notes with satisfaction that the voter register is now connected to the national registration system, which is a great improvement and will facilitate the elimination of deceased voters from the register.

The Mission notes that the 2011 voter register has increased by 30 percent

from 2006, and includes about 80 percent of all eligible voters, with a balance between female and male registered voters, and a substantial number of first-time voters. The Mission regards this as a positive development.

Civil society organisations and opposition parties have indicated that the verification period allowed by ECZ for the public to review the provisional lists of voters was too short and that voters were not provided with enough information about the verification period.

The Mission notes with satisfaction that the Electoral Act provides for the public availability of copies of the voter register to any interested person, at a cost, and free of charge to the candidates.

### **On the Registration of Political Parties and Nomination of Candidates**

In order to operate as legally recognised entities, political parties are required to be registered. Political parties and independent candidates were free to register to compete in the parliamentary and local government elections, and the Mission received no complaints regarding any hindrance to the registration of candidates.

The Mission was informed that the internal party process of selection of candidates was not always conducted in conformity with continental and international benchmarks for democratic parties. In relation to the nomination of women candidates, all political parties performed poorly in view of the SADC Protocol on Gender and Development, which calls for gender parity in all decision-making bodies by 2015. These two factors may have led to the high number of independent candidates, including independent female candidates.

### **On the Electoral Campaign**

The Mission noted the enthusiasm and passion with which the election campaign was conducted. Campaigning took the forms of posters, advertisements on big billboards, political rallies, television appearances by candidates and debates involving representatives of various candidates, and other types of media outreach. The mission noted with regret that candidates often used personal attacks as a campaign tactics rather than the discussion of political and policy issues.

The Mission also received several reports of violations of the Electoral Code of Conduct by political parties and their supporters, but was unable to confirm them.

Given the polarised nature of the campaign and of the election, the Mission commends the ECZ for establishing a 48-hour cooling-off period between the end of the campaign and voting day.

Other aspects related to the electoral campaign, such as media, use of public resources, funding, and violence will be addressed in other sections of this Statement below.

### **On the Media**

It is generally accepted by most stakeholders that there was freedom of coverage and reporting by the media, both public and private. However, the public media was reported as being overtly partisan in favour of the party in government and their candidates, both editorially and in the coverage and reporting of the campaign. The private print media was also reported as being overtly partisan in favour of one particular political party. Although editorially the private media are held to different standards than the public media, they must always respect the principles of journalistic ethics in reporting and especially in the coverage and reporting of election campaigns, which was often not the case.

### **On the Use of Public Resources**

The Mission recorded several complaints from stakeholders to the effect that state resources were used by the ruling party for campaign purposes. However, the Mission had no means to verify these allegations.

### **On Political Violence and Intimidation**

The Mission received several reports of campaign-related incidents of violence perpetrated by supporters of various political parties, and witnessed one such incident. Those incidents were sporadic and restricted, and the Mission found no evidence of orchestrated or sustained and widespread violence or intimidation. In the Mission's view, the climate of political tension and the high stakes of this election were often fuelled by political statements, which contributed to the flaring up of occasional violence.

Overall, the Mission has a positive assessment of the level of peacefulness of the electoral campaign, but regrets the episodes of violence, which could have been avoided had stakeholders behaved more circumspectly.

### **On the Role of Security Forces**

The police force received training on how to handle political campaigns and electoral disputes in order to avoid the excessive use of force, of which it had been accused in previous elections. This training seems to have had a positive impact on police behaviour in this year's electoral campaign.

However, some stakeholders have complained that the police were not active enough against incidents of electoral violence, and sometimes seemingly reluctant to intervene. On voting day, the police presence in polling stations was discreet and did not interfere with the voting process, or with voters' ability to express their wish freely.

### **On Political Party and Campaign Finance**

There is no public funding of political parties, or of electoral campaigns in Zambia. Disclosure of the sources, amounts and expenditure of private donations to parties or to electoral campaigns is not required by law, and there are no apparent restrictions or limits on the amounts of donations. Parties have to rely on their membership fees as well as on contributions from supporters to sustain themselves and to campaign for elections.

A number of political parties expressed concern that they did not have adequate funding for organising their parties and campaigns, and that the candidates from the ruling party took advantage of incumbency to use state resources for campaign purposes and thus had an unfair advantage in the election. Opposition political parties also claimed that private businesses are reluctant to fund them for fear of reprisals by the ruling party.

### **On Civic and Voter Education**

The Mission was informed of the various efforts by the ECZ and by a variety of civil society organisations to educate voters about the electoral process in all its phases. Given the high number of new voters, most of whom had just reached voting age, great emphasis was put on the education of this group of voters. A special effort was also made to educate women voters. Stakeholders

contacted by the Mission were generally happy with the content, coverage and reach of civic and voter education campaigns.

### **On Monitors and Observers**

The Mission notes with satisfaction that various observer missions witnessed the Zambia elections. There were about 300 international observers and an impressive 9,000 domestic observers. Accreditation of international observers proceeded well.

The Mission commends the ECZ for its decision to decentralise the accreditation of domestic observers to 74 accreditation centres across Zambia. This helped solve the problem of late accreditation that was common in previous elections. However, as was to be expected in such a decentralised process, there were some instances of a lack of uniformity in the application of procedures for accreditation. The Mission believes these minor problems can easily be corrected in future elections.

On Election Day, both party monitors and civil society observers were present at every polling stream visited by the Mission. The Procedures Guide on Voting, Counting and Results, provided by the ECZ, states that each party is allowed only two party agents per polling station. This could be problematic for polling stations with more than two streams, as it would leave some streams without permanent monitors. However, in polling stations visited by the Mission, presiding officers allowed one party monitor per stream, regardless the number of streams. The Mission regards this decision by the presiding officers as positive and constructive, and contributing to the transparency of the process.

### **On Gender Representation**

The Mission notes the strong participation of Zambian women in the electoral process as voters, civic educators, campaigners, polling staff, party monitors, and observers. However, as pointed out in different sub-sections of this Statement, there is a serious challenge of gender balance both in nominations and candidatures, which will translate into a significant under-representation of women in the Zambian Parliament. It is expected that the number of female MPs elected in 2011 will be lower than in the previous election. This goes counter to the goals of the SADC Protocol on Gender and

Development, which aims at gender parity in all decision-making bodies at country level by 2015.

The Mission believes that there are several structural factors behind this phenomenon, namely the first-past-the-post single-member constituency system, the lack of public funding for electoral campaigns, which could offset the difficulties female candidates face in raising funds for their own campaigns, and strong scepticism about women in politics.

The Mission commends the efforts of the 94 women who stood as candidates, both through political parties and as independents, despite all the odds.

### **On Polling Day – General Observations**

The Mission observed that, generally, the polling arrangements allowed for the participation of all registered voters. Polling officials conducted their duties in an efficient and transparent manner and endeavoured to follow the opening, closing and counting procedures as provided in the law.

There was a discernible climate of peace, tolerance and general enthusiasm for the process. The Mission noted a positive and calm police presence at almost all the polling centres visited. It found a good level of cooperation between police, ECZ officials and monitors. The Mission was impressed by the widespread presence of party monitors and domestic observers and their level of preparedness for the process. The Mission also noted some inconsistencies and issues, which are detailed below, but which did not affect the general outcome of the process, nor did they prevent voters from expressing their choice.

The Mission was informed that in two constituencies, namely Magoye in Southern Province and Nakonde in Northern Province, legislative elections were postponed due to the untimely death of two candidates.

### **On the Polling Stations**

The ECZ established 6,456 polling stations with a total of 9,022 polling streams, and the Mission found the number of polling stations to be adequate and accessible enough to ensure that as many eligible voters as possible cast their votes.

The layout of the polling stream rooms observed by the Mission was generally conducive both to a good flow of voters and ensuring the secrecy of the vote.

In most polling stations, voting began at 6:00 am. However, in some stations, voting materials arrived late, which resulted in some stations opening late. However, where voting commenced late the stations remained open for the scheduled 12 hours.

### **On the Ballot Papers, Ballot Boxes and Election Materials**

The Mission noted that ballot boxes were transparent, which promoted the confidence of voters in the process. The lids of the boxes were colour-coded for each of the three elections for ease of identification.

However, at the beginning of voting process, the ballot boxes had no written marking indicating what election they belonged to. The colour codes were not known to most voters and to some polling assistants. This resulted, in some cases, in voters being given wrong directions as to which of the ballot boxes to use to cast their ballots. This led to several situations of ballot papers being inserted in the wrong boxes, and later on caused some constraints in the counting process, as the number of ballot papers used for each election did not always tally with the number of ballot papers inside their respective boxes. These discrepancies were easily addressed by the polling officials at later stages of the counting process.

In the charged political environment of this election, such problems led to unnecessary tensions.

In general, polling materials were available and in adequate numbers. The Mission commends the ECZ for its decision to distribute all non-security materials to the polling areas well in advance.

### **On the Voting Process**

The voting process was fairly uneventful, with a good degree of consistency throughout the polling stations observed by the Mission. However, first-time voters were not entirely clear about voting procedures. Also, intense rumours about the use of ink of some special type and special paper that would transfer



voters' marks to other candidates or would make them disappear in many cases undermined civic education efforts. Many voters folded ballot papers with the voting mark visible to the public or even attempted to cast their ballots without folding them. In many instances voters preferred to allow people to see the way they voted rather than folding the ballot papers as instructed. Also, a large number of voters refused to use the pens supplied by ECZ and brought and used their own pens.

The Mission is happy to report that, in the polling stations observed, there were almost no cases of voters in possession of both cards unable to vote because their names were not on the voters' register.

The Mission observed a balanced turnout of both female and male voters and a good turnout of young voters. However, general turnout seemed to be low in rural areas.

The Mission congratulates the ECZ for increasing the transparency of the process by providing copies of the voters' register to all party monitors. The Mission also congratulates the ECZ for the gender balance among polling station officials and assistants.

### **On the Counting and Tabulation Process**

Counting of ballots took place at every stream, which allowed for a fast and efficient process, especially with three sets of ballots to be counted. The Mission commends ECZ for that decision.

The Mission found that polling officials were well-trained in counting procedures and generally followed them. The Mission also noted that in cases where situations arose that were not foreseen in the counting procedures (such as ballots placed in the wrong boxes), such situations were handled in a logical and acceptable manner.

The Mission noted that the counting process was generally conducted in an open and transparent manner, ensuring that all those present had a clear view of the marked ballot paper. The Mission was also favourably struck by the level of cooperation between the agents of the various parties, observers and polling officials, which made for a generally orderly counting procedure.

The Mission notes with satisfaction the very low number of rejected or spoiled ballots in the polling stations observed.

As this Statement was drafted, the tabulation and transmission of results was still taking place. Although it is still early to assess the use of the electronic transmission system adopted by ECZ for these elections, the Mission congratulates the Commission for finding cost-effective solutions for speedier and safer transmission of results from the totalling centres to the Central Results Centre. The efficient use of technology in elections with the appropriate safeguards is strongly encouraged by EISA.

## **RECOMMENDATIONS**

Based on its observations and findings, the Mission makes the following recommendations with the aim of contributing to the improvement of future electoral processes in Zambia:

### **1. On the Constitutional and Legal Framework for Elections**

Within the framework of a future constitutional review process, the Mission encourages Zambians to review the unnecessary restrictions for presidential candidates in line with international principles.

### **2. On the Political and Electoral System**

From the constitutional review process that ended in 2010 it is clear that a discussion on the most appropriate electoral system for Zambia has not been concluded, and the Mission encourages Zambians to continue with that debate and reach a decision that reflects the will of the majority of the people. Such debate should pay particular attention to the relationship between the electoral system and the representation of women and youth.

### **3. On Election Management**

The Mission recommends that in forthcoming constitutional and electoral reform processes consideration be given to a process of selection and nomination of ECZ members that ensures the independent, impartial and non-partisan nature of the Commission in the eyes of all stakeholders and the general public.

#### **4. On the Electoral Code of Conduct**

A stronger effort should be made in future elections to improve the enforcement of the Code of Conduct, both by imposing stiffer penalties and by having clearer enforcement procedures.

#### **5. On Voter Registration**

Given that possession of the National Registration Card is a requirement both for voter registration and voting, the linkage between the issuance of NRCs and voter registration should be strengthened and improved for future processes.

Although the percentage of eligible voters captured by the voter registration process is quite high, an effort should be made in future processes to reduce even further the number of eligible voters excluded from the electoral process for lack of registration.

A longer verification period for the provisional voters' register is recommended for future processes.

#### **6. On the Registration of Political Parties and Nomination of Candidates**

The Mission strongly recommends that political parties be encouraged by law and through codes of conduct to enshrine internal democratic practices as regards the selection of candidates, including female candidates.

#### **7. On the Media**

The Mission strongly recommends that an effective level playing field should be created for the fair access to the media by parties and candidates during the electoral process, and that stronger regulation of the media, in particular of the public media, through an enforceable Code of Conduct or other similar mechanism, be put in place to ensure balanced coverage and reporting of electoral campaigns.

#### **8. On Political Violence and Intimidation**

The Mission calls upon the political parties, their leaders and candidates to have a more proactive role in promoting peaceful elections in

future electoral contests and abstain from inflammatory language and accusations.

## **9. On Political Party and Campaign Finance**

The Mission suggests that consideration be given to the establishment of public funding for political parties and electoral campaigns, on the basis of clear criteria, such as share of the popular vote, or seats obtained in Parliament. Public funding helps level the playing field, and will encourage increased participation by women candidates.

The Mission also suggests that rules governing the disclosure of all sources of funding for political parties and campaigns as well as how funds are spent should be established.

## **10. On Civic and Voter Education**

The Mission recommends that special attention be given to voter education for first-time voters on voting procedures.

More importantly, the Mission suggests that efforts be made to increase voter turnout by improving the quality and intensity of civic education, especially for rural voters.

## **11. On the Polling Stations**

An effort should be made to replace as many of the makeshift polling stations as possible, in order to avoid lighting constraints at the time of counting.

## **12. On Ballot Papers, Ballot Boxes and Election Material**

In order to avoid confusion about the different ballot boxes, and in addition to the coloured lids, clear written inscriptions should be placed on the side of the boxes, indicating what election they are for. Furthermore, ballot papers could be colour-coded to correspond to the colours of the boxes to further facilitate the casting of ballots.

## **13. On the Voting Process**

Polling officials should provide more instructions to voters, especially first-time voters, on voting procedures, particularly on folding the ballot papers after voting.

#### **I4. On Gender Representation**

The Mission strongly recommends that corrective measures, such as appropriate legal reforms and quota requirements, be undertaken in order to achieve greater gender parity not only in the nomination process, but also in the final makeup of the Zambian Parliament.

#### **CONCLUSION**

At the time of the drafting of this statement, the tabulation and announcement of results were still in progress. Therefore, our conclusion on the conduct of these elections is restricted to the period of our observation up to this day, 22 September 2011. On the basis of its observation thus far and using the guidelines enshrined in the PEMMO, the EISA Election Observer Mission concludes that the Tripartite Elections held on 20 September 2011 in Zambia were conducted in a manner that allowed the people of Zambia to express freely their democratic choice. It is the hope of the Mission that the tabulation and announcement of the final results will be conducted in the same manner as the preceding stages so that the final electoral outcome can reflect the will of the Zambian voters.

**Lusaka, 22 September 2011**

**Yusuf Aboobaker**

Mission Leader

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- 2 Zambia Votes: Supporting and strengthening the 2011 electoral process, UNDP Newsletter May 2011.
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- 6 Support to the 2009 – 2012 Zambian electoral cycle, Quarterly Newsletter Issue No.1, September 2010.
- 7 Outlook Dim for Women in Polls, AllAfrica, <http://www.trulyzambian.com/news/outlook-dim-for-women-in-polls-5527>, August 14, 2011.

## ABOUT EISA



EISA is a not-for-profit and non-partisan non-governmental organisation which was established in 1996. Its core business is to provide technical assistance for capacity building of relevant government departments, electoral management bodies, political parties and civil society organisations operating in the democracy and governance fields throughout the SADC region and beyond. Inspired by the various positive developments towards democratic governance in Africa as a whole and the SADC region in particular since the early 1990s, EISA aims to advance democratic values and practices and to enhance the credibility of electoral processes. The ultimate goal is to assist countries in Africa and the SADC region to nurture and consolidate democratic governance. SADC countries have received enormous technical assistance and advice from EISA in building solid institutional foundations for democracy. This includes: electoral system reforms; election monitoring and observation; constructive conflict management; strengthening of parliament and other democratic institutions; strengthening of political parties; capacity building for civil society organisations; deepening democratic local governance; and enhancing the institutional capacity of the election management bodies. EISA was formerly the secretariat of the Electoral Commissions Forum (ECF) composed of electoral commissions in the SADC region and established in 1998. EISA is currently the secretariat of the SADC Election Support Network (ESN) comprising election-related civil society organisations established in 1997.

### **VISION**

An African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment

### **MISSION**

EISA strives for excellence in the promotion of credible elections, participatory democracy, human rights culture, and the strengthening of governance institutions for the consolidation of democracy in Africa

## **VALUES AND PRINCIPLES**

Key values and principles of governance that EISA believes in include:

- Regular free and fair elections
- Promoting democratic values
- Respect for fundamental human rights
- Due process of law / rule of law
- Constructive management of conflict
- Political tolerance
- Inclusive multiparty democracy
- Popular participation
- Transparency
- Gender equality
- Accountability
- Promoting electoral norms and standards

## **OBJECTIVES**

- To enhance electoral processes to ensure their inclusiveness and legitimacy
- To promote effective citizen participation in democratic processes to strengthen institutional accountability and responsiveness
- To strengthen governance institutions to ensure effective, accessible and sustainable democratic processes
- To promote principles, values and practices that lead to a culture of democracy and human rights
- To create a culture of excellence that leads to consistently high-quality products and services
- To position EISA as a leader that consistently influences policy and practice in the sector

## **CORE ACTIVITIES**

Research

Policy Dialogue

Publications and Documentation

Capacity Building

Election Observation

Technical Assistance

Balloting



## OBSERVER MISSION REPORTS

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CODE	TITLE
EOR 1	Mauritius Election Observation Mission Report, 2000
EOR 2	SADC Election Support Network Observer Mission's Report, 1999/2000
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EOR 5	Zimbabwe Elections Observer Mission Report, 2001
EOR 6	South African Elections Observer Mission Report, Denis Kadima, 1999
EOR 7	Botswana Elections Observer Mission Report, Denis Kadima, 1999
EOR 8	Namibia Elections Report, Tom Lodge, 1999
EOR 9	Mozambique Elections Observer Mission Report, Denis Kadima, 1999
EOR 10	National & Provincial Election Results: South Africa June 1999
EOR 11	Elections in Swaziland, S. Rule, 1998
EOR 12	Lesotho Election, S. Rule, 1998
EOR 13	EISA Observer Mission Report, Zimbabwe Presidential Election 9-11 March, 2002 (P/C)
EOR 14	EISA Observer Mission Report, South Africa National and Provincial Elections 12-14 April 2004
EOR 15	EISA Observer Mission Report: Malawi Parliamentary and Presidential Elections 20 May 2004
EOR 16	EISA Observer Mission Report, Botswana Parliamentary and Local Government Elections 30 October 2004
EOR 17	EISA Observer Mission Report, Mozambique Parliamentary and Presidential Elections 1-2 December 2004
EOR 18	EISA Observer Mission Report, Namibia Presidential and National Assembly Elections 15-16 November 2004
EOR 19	EISA Observer Mission Report, Mauritius National Assembly Elections 3 July 2005
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- EOB 37 *Mission d'observation de l'élection présidentielle du 27 Juin et du deuxième tour du 07 Novembre 2010 en Guinée*
- EOB 38 EISA Election Observer Mission Report, Zanzibar Presidential, House of Representatives and Local Government Elections of 31 October 2010
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Presidential and Parliamentary Elections of 18 February 2011