



## **MISSION REPORT**

# **SADC PARLIAMENTARY FORUM ELECTION OBSERVATION MISSION TO THE 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS**

**6 TO 24 AUGUST 2011  
LUSAKA, ZAMBIA**

1.	INTRODUCTION .....	5
1.1.	THE SADC PARLIAMENTARY FORUM (SADC PF) .....	5
1.2.	PRE-ELECTION CONSULTATIVE MISSION TO ZAMBIA (14-20 AUGUST 2011) .....	6
1.3.	SADC PF ELECTION OBSERVATION MISSION TO THE 2011 ZAMBIA TRIPARTITE GENERAL ELECTION .....	6
1.4.	MISSION'S TERMS OF REFERENCE .....	7
2.	BRIEF GEOGRAPHICAL, HISTORICAL AND SOCIO-ECONOMIC BACKGROUND OF ZAMBIA.....	8
2.1.	GEOGRAPHY AND ADMINISTRATIVE ARRANGEMENTS .....	8
2.2.	ZAMBIA'S BRIEF POLITICAL HISTORY .....	8
2.2.1	THE FIRST REPUBLIC (1964-1972) .....	8
2.2.2	THE SECOND REPUBLIC (1973-1990) .....	8
2.2.3	THE THIRD REPUBLIC (1991 TO DATE) .....	9
2.2.3.1	THE 1996 TRIPARTITE GENERAL ELECTIONS .....	10
2.2.3.2	THE 2001 TRIPARTITE GENERAL ELECTIONS .....	10
2.2.3.3	THE 2006 TRIPARTITE ELECTIONS .....	11
2.2.3.4	THE 2008 PRESIDENTIAL BY-ELECTION .....	11
3.	ORIENTATION WORKSHOP AND BRIEFINGS FROM MAJOR STAKEHOLDERS .....	12
3.1.	WELCOME REMARKS BY SADC PF SECRETARY GENERAL, DR ESAU CHIVIYA.....	13
3.2.	REMARKS BY THE SWEDISH AMBASSADOR TO ZAMBIA, MARIE ANDERSSON DE FRUTOS ....	14
3.3.	REMARKS BY THE REGIONAL DIRECTOR AFRICA PROGRAMME, INTERNATIONAL IDEA, AMB. MUSTAQ MOORAD.....	14
3.4.	ELECTIONS AND DEMOCRACY IN THE SADC REGION .....	15
3.5.	POLITICAL PARTIES AND DEMOCRACY .....	15
3.6.	MITIGATING ELECTION RELATED CONFLICTS.....	15
3.7.	SOME ISSUES IN ELECTION OBSERVATION .....	15
3.8.	RATIONALE FOR OBSERVING ELECTIONS IN SOUTHERN AFRICA .....	16
3.9.	FRAMEWORK FOR SADC PARLIAMENTARY FORUM ELECTION OBSERVATION .....	16
3.10.	MAINSTREAMING GENDER IN ELECTORAL SYSTEMS AND PROCESSES .....	17
3.11.	UPDATE ON THE 2011 ZAMBIA ELECTIONS CONTEXT .....	17
3.12.	PREPAREDNESS OF THE ELECTORAL COMMISSION OF ZAMBIA .....	18
3.13.	BRIEFINGS FROM SOME POLITICAL PARTIES .....	18
3.14.	MEDIA COVERAGE OF THE 2011 ZAMBIA ELECTIONS .....	19
3.15.	ROLES AND RESPONSIBILITIES DURING ELECTION OBSERVATION BY DR CHIVIYA.....	19
3.16.	GUIDELINES ON WORKING IN THE FIELD BY DR CHIVIYA.....	19
4.	DEPLOYMENT PLAN AND METHODOLOGY OF WORK FOR THE SADC PF ELECTION OBSERVATION MISSION TO THE 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS.....	20

4.1.	DEPLOYMENT PLAN .....	20
4.2.	OBSERVATION METHODOLOGY .....	21
4.3.	GUIDING PRINCIPLES AND POINTS OF ENQUIRY .....	22
5.	THE MISSION'S FINDINGS .....	22
5.1.	THE CONSTITUTIONAL AND LEGAL FRAMEWORK .....	22
5.2.	ELECTION ADMINISTRATION AND THE ELECTORAL COMMISSION OF ZAMBIA .....	25
5.3.	THE POLITICAL ENVIRONMENT .....	26
5.4.	VOTER REGISTRATION .....	27
5.5.	VOTERS' ROLL .....	27
5.6.	GENDER REPRESENTATION .....	28
5.7.	PARTICIPATION OF YOUTHS.....	28
5.8.	ROLE OF CIVIL SOCIETY ORGANISATIONS.....	29
5.9.	ROLE OF TRADITIONAL LEADERS.....	29
5.10.	ROLE OF DEVELOPMENT PARTNERS.....	29
5.11.	MEDIA COVERAGE OF THE ELECTORAL PROCESS .....	29
5.12.	VOTER EDUCATION .....	30
5.13.	POLITICAL CAMPAIGNS.....	30
5.14.	POLLING CENTERS/STATIONS .....	30
5.15.	THE VOTE AND THE COUNT .....	31
5.16.	CONFLICT RESOLUTION MECHANISMS IN PLACE.....	31
5.17.	PROVISION OF SPECIAL VOTING ARRANGEMENTS.....	32
6.	GOOD PRACTICES OBSERVED FROM THE ZAMBIA TIPARTITE GENERAL ELECTIONS AND AREAS FOR IMPROVEMENT .....	32
6.1.	GOOD PRACTICES .....	32
6.2.	AREAS FOR IMPROVEMENT .....	33
6.3.	MISSION'S OVERALL ASSESSMENT OF THE ZAMBIA TRIPARTITE GENERAL ELECTIONS OF 20 SEPTEMBER 2011 .....	34
7.	APPENDICES.....	35
APPENDIX 1:	2011 PRESIDENTIAL ELECTIONS RESULTS .....	35
APPENDIX 2:	2011 NATIONAL ASSEMBLY ELECTIONS RESULTS SUMMARY .....	36
APPENDIX 3:	PRESS STATEMENT ON THE ARRIVAL OF THE SADC PF ELECTION OBSERVATION MISSION TO THE 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS.....	37
APPENDIX 4:	COMPOSITION OF THE SADC PF ELECTION OBSERVATION MISSION TO THE 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS.....	39
APPENDIX 5:	TRAINING AND ORIENTATION PROGRAMME FOR THE SADC PARLIAMENTARY FORUM ELECTION OBSERVATION MISSION TO THE 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS.	40

<b>APPENDIX 6:</b>	<b>INTERIM MISSION STATEMENT BY THE SADC PARLIAMENTARY FORUM ELECTION OBSERVATION MISSION TO THE 20 SEPTEMBER 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS .....</b>	<b>44</b>
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## **1. INTRODUCTION**

Following an invitation by the Government of the Republic of Zambia, the SADC Parliamentary Forum (SADC PF) constituted an Election Observation Mission to observe the 20 September 2011 Presidential, National Assembly and Local Government Elections in Zambia.

### **1.1. THE SADC PARLIAMENTARY FORUM (SADC PF)**

The Southern African Development Community Parliamentary Forum (SADC PF) was established in 1996 and was approved by the SADC Summit of Heads of State and Government in 1997, in accordance with Article 9 (2) of the SADC Treaty. The SADC PF is a Regional inter-parliamentary deliberative and consultative body composed of fourteen (14) National Parliaments, representing over 3,500 Parliamentarians in the SADC Region. The Member Parliaments are Angola, Botswana, Democratic Republic of Congo (DRC), Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South, Africa, Swaziland, Tanzania, Zambia and Zimbabwe. Before the SADC PF was established, there was no regional mechanism for Parliamentarians of SADC Member States to debate and inform SADC on the popular views on development and other issues affecting the peoples and countries of SADC.

Among other key objectives, SADC PF also aims to promote the virtuous ideals of human rights, gender equality, good governance, democracy, transparency, peace and stability within the SADC region. Accordingly, SADC PF has developed tools that have served as references for National Parliament and Governments in promoting good governance and deepening democracy, thereby contributing to peace and stability in SADC Region. The instruments have also been used by other institutions outside the SADC Region. These include the following:

- i) Norms and Standards for Elections in the SADC Region which were adopted in 2001, becoming the first instrument on democratic elections in SADC. This has brought sustained democratic elections discourse and electoral reform agenda in SADC by providing benchmarks/norms and standards for elections. Since the adoption of these Norms and Standards, SADC PF has become a respected institution in election observation in the Region and beyond. At the international level, SADC PF was one of only three African institutions that participated in the development of the Declaration of Principles for International Election Observation and Code of Conduct for International Observers under the auspices of the United Nations Electoral Assistance Division (UNEAD) and is a signatory to these instruments;
- ii) The Model Law on HIV/AIDS which was approved by the SADC PF Plenary Assembly in 2008 and provides a comprehensive framework for harmonisation of HIV and human rights laws in Southern Africa and is aimed at assisting SADC countries, in particular policy-makers and legislative drafters, to address all of the relevant areas in need of legislative reform by adopting and adapting provisions of the model legislation to suit each country. The Model Law has been acknowledged as an important point of reference and sounding board for legislative reforms and has been used by some SADC Member States such as Lesotho; and

- iii) Benchmarks for Democratic Legislatures in Southern Africa adopted in 2010 as a tool to enhance Parliamentary Reforms by Member Parliaments through fostering a standards-based approach. The Benchmarks are helping Parliaments to identify strategic priorities to be included in their Strategic Plans and to guide Parliamentary development practitioners and development partners to design more appropriate Parliamentary Support Programmes.

Consistent with the above ideals, the Forum has taken a keen interest in involving Parliamentarians in election observation in SADC Member States, thereby bringing sustained democratic elections discourse and electoral reform agenda in SADC countries. This has helped to minimise disputes over the outcome of elections among contesting political parties and contributing to peace and political stability in the SADC Region.

The 2011 Zambia Tripartite General Election is the 26<sup>th</sup> election to be observed by SADC PF since 1999. Previously, the Forum observed the following elections: Mozambique and Namibia (1999); Mauritius, Zimbabwe and Tanzania (2000); Zambia (2001); Zimbabwe and Lesotho (2002); Malawi, South Africa, Botswana, Namibia and Mozambique (2004); Mauritius and Tanzania (2005); Zambia, DRC and Madagascar (2006); Lesotho (2007); Malawi, South Africa, Botswana, Mozambique and Namibia (2009); and Mauritius (2010).

## **1.2. PRE-ELECTION CONSULTATIVE MISSION TO ZAMBIA (14-20 AUGUST 2011)**

In preparation for its main Observation Mission, SADC PF sent a Pre-Election Consultative Mission to Zambia from 14 to 20 August 2011. The main objective of the Mission was to familiarise SADC PF with the prevailing political environment in Zambia ahead of the Elections in order to adequately prepare for its main Election Observation Mission.

The Pre-Election Mission held consultative meetings with various electoral stakeholders including the Electoral Commission of Zambia (ECZ), leaders of political parties, the United Nations Development Programme (UNDP), the Speaker of Parliament, the Dean of SADC Ambassadors, Civil Society Organisations (CSOs), academics and the media.

The Pre-Election Mission comprised the following Members:

- Hon. Eng. Stella Martin Manyanya, MP (Tanzania), Chairperson of the SADC PF's Standing Committee on Democratisation, Governance and Gender Equality;
- Hon. Adv. Sango Patekile Holomisa, MP (South Africa), Member of the SADC PF's Standing Committee on Democratisation, Governance and Gender Equality;
- Dr. Esau Chiviya, Secretary General of SADC PF;
- Mr. Sheuneni Kurasha, Democracy and Governance Programme Manager SADC PF; and
- Ms. Nomonde Nkayi, Staff Member from the Parliament of South Africa.

## **1.3. SADC PF ELECTION OBSERVATION MISSION TO THE 2011 ZAMBIA TRIPARTITE GENERAL ELECTION**

For the 2011 Zambia Tripartite General Elections, the SADC PF constituted a 40-Member Mission which was in the country from 6 to 24 September 2011. The Mission was composed of 20 Members of Parliament, 10 staff from National Parliaments and 10 staff from the Forum's Secretariat. The Mission comprised male and female Members of Parliament from

both the ruling and opposition political parties from Angola, Botswana, DRC, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, and Zimbabwe. This was the third time that the SADC Parliamentary Forum has observed General Elections in Zambia, having previously observed the 2001 and 2006 Tripartite General Elections.

The Mission Leader for the SADC PF Election Observation Mission was Hon. Elifas Dingara, MP, a Member of the National Assembly of Namibia and a Member of the SADC PF Executive Committee. The Deputy Mission Leader was Hon Zeca Castro Morgado, MP, Member of the National Assembly of Mozambique.

The purpose of this Report is to buttress the SADC PF Election Observation Mission's Interim Statement released on 23 September 2011, sharing with the peoples of Zambia, the SADC Region's Parliaments and citizens as well as the international community in general, the Mission's Observations, Findings and Recommendations which are aimed at strengthening democratic electoral practices in the SADC Region.

#### **1.4. MISSION'S TERMS OF REFERENCE**

In undertaking its election observation work, the SADC Parliamentary Forum Election Observation Mission to the 2011 Zambia Tripartite General Elections was guided by the following terms of reference which are premised on the Forum's Norms and Standards for Elections in the SADC Region.

- i) Assess the extent to which the elections are conducted in line with the Zambian constitutional and legal framework as well as the Norms and Standards for Elections in the SADC Region;
- ii) Assess the contextual factors, (political, economic, social and human rights) that are likely to impinge upon the integrity, transparency, freeness and fairness, credibility and legitimacy of the elections;
- iii) Assess the impartiality, efficiency and effectiveness of the ECZ in the management of all relevant aspects of the elections;
- iv) Make an honest, independent, impartial and objective assessment of the extent to which conditions existed for the people of Zambia to freely express their will in the choice of political representatives;
- v) Assess special provisions/facilities in place to enable imprisoned persons, the disabled, sick, infirm, expecting mothers, citizens living abroad and public servants on duty to vote;
- vi) Draw some good practices, conclusions and recommendations on the election and report to the SADC Parliamentary Forum; and
- vii) Produce a report on the outcome of the election including strengths and possible areas of improvement.

In light of the above terms of reference and in order to set a relevant locale for the Mission's observations and recommendations, this Report includes a review of the historical and legal contexts of the 2011 Zambia Tripartite General Elections. In addition, the Report also covers the major highlights of the Mission's Training and Orientation Workshop which prepared the Delegates for their election observation duties in the field before being

deployed to the nine (9) Provinces of Zambia. Lastly, the Report covers the Mission's Findings including observed good practices and recommendations for the future.

## **2. BRIEF GEOGRAPHICAL, HISTORICAL AND SOCIO-ECONOMIC BACKGROUND OF ZAMBIA**

### **2.1. GEOGRAPHY AND ADMINISTRATIVE ARRANGEMENTS**

Formally known as Northern Rhodesia before attaining independence from Britain in 1964, the Republic of Zambia is a Southern African land locked country which covers a total area of 752,614 km<sup>2</sup>. It is bordered by eight countries, namely Angola, the DRC, Malawi, Mozambique, Namibia, Tanzania and Zimbabwe. Zambia is divided into 9 Provinces: the Central, Copperbelt, Eastern, Luapula, Lusaka, Northern, North-Western, Southern and Western. For administrative and electoral purposes, Zambia is further divided into 72 Districts and 150 electoral constituencies.

The country's approximately 13 million inhabitants (2010 Preliminary census results) speak eight main vernacular languages and 70 other local languages. The government type is a republic with a legal system based on English Common Law and Customary Law.

### **2.2. ZAMBIA'S BRIEF POLITICAL HISTORY**

The post-colonial political history of Zambia is generally divided into three distinct phases namely the First Republic (1964-1972), the Second Republic (1973-1990) and the Third Republic (1991 to date).

#### **2.2.1 THE FIRST REPUBLIC (1964-1972)**

The multiparty elections of 1964 and the formal granting of independence to the then British colony of Northern Rhodesia gave birth to the Republic of Zambia and ushered-in the era of the First Republic. During the January 1964 elections, the United National Independence Party (UNIP) defeated its main rival, the African National Congress (ANC), leading to Dr Kenneth Kaunda becoming the first President of the Independent Zambian Republic.

The First Republic derives its significance in Zambian political and electoral history from the fact that the 1964 elections marked Zambia's first experience with political pluralism although Dr Kaunda and his UNIP remained dominant throughout the First Republic. This single party domination of Zambian political space was further solidified through the introduction of a one-party state system of governance in 1973 leading to an era which is now generally referred to as the Second Republic.

#### **2.2.2 THE SECOND REPUBLIC (1973-1990)**

The Second Republic was established in 1973. The so called "one party-participatory democracy," was effectively a one-party state ruled by the UNIP. All other political parties were banned, and Dr Kaunda's dominant role in the UNIP and the government assured him an uncontested rule.

The one-party system constrained competition for National Assembly elections as nominations were filled within party primaries and only up to three candidates could



compete for each parliamentary seat before the final list of contestants was adopted by the UNIP Central Committee. UNIP enacted a constitution which elevated party decisions and policies above those by the Parliament and other organs of government.

President Kaunda, as leader of both the party and government was able to increasingly amass power and influence to the extent of becoming the single most powerful force in Zambian politics of the time and in the process, subordinating the power of the Parliament and UNIP structures. In light of the above, Dr Kaunda was elected unopposed successively in 1973, 1978, 1983 and 1988.

However, the Second Republic faced a plethora of difficulties due to corruption within the civil service, government, and parastatal sector, and declining government revenue caused by the falling price of copper on the international markets. The government's revenue options dwindled significantly leading to the State resorting to borrowing unsustainably to support the vast state expenditure.

Mounting economic difficulties led the Kaunda Government to adopt an International Monetary Fund (IMF) backed economic liberalization programme with the hope of reviving the ailing economy. However, attempts to half-heartedly liberalize the economy stoked inflationary pressures which saw the general price levels in Zambia sharply increasing against the background of falling real incomes leading to escalation of discontent throughout the country over the 1980s. Although the IMF backed economic liberalization programme was later dropped in 1987, discontent had already reached high levels characterised by militancy of organised labour, student protests and growing opposition within UNIP structures.

Mounting economic crisis and political pressure from mainly civic society organisations led Dr Kaunda, in 1990, to repeal Article 4 of the Second Republic Constitution and open up Zambia's political space to allow for multiparty elections once again.

### **2.2.3 THE THIRD REPUBLIC (1991 TO DATE)**

The Third Republic adopted a multi-party Parliamentary democracy. Peaceful Presidential and Parliamentary elections were held on 31 October 1991. Movement for Multiparty Democracy (MMD) candidate, Frederick Chiluba resoundingly carried the presidential election over Kaunda with 81% of the vote. To add to the MMD landslide, in the Parliamentary elections, the MMD won 125 of the 150 elected seats, and UNIP won the remaining 25.

The enunciation of the Third Republic with its attendant return to multiparty politics therefore marked the end of Dr Kaunda's 27 years of leading the country. Over 200 international observers and 7,000 local monitors described the 1991 election as having been generally free and fair.

The introduction of the IMF and World Bank backed structural adjustment programme conferred character to President Chiluba's first five year term as President of the Republic. Although this programme resulted in the relative stabilisation of the inflation rate as well as boosting of inflows of foreign aid, the structural adjustment initiative also resulted in further

deterioration in the general living standards of the majority of Zambians due to deepening poverty and widespread unemployment.

#### **2.2.3.1 THE 1996 TRIPARTITE GENERAL ELECTIONS**

Towards the end of President Chiluba's first term as President, the MMD's commitment to political reform had faded in the face of re-election aspirations. President Chiluba, in May 1996, pushed through constitutional amendments that eliminated former President Kaunda and other prominent opposition leaders from the 1996 Presidential elections. In the Presidential and Parliamentary Elections, Mr Chiluba was re-elected, and the MMD won 131 of the 150 seats in the National Assembly. Kaunda's UNIP party boycotted the Parliamentary polls to protest the exclusion of its leader from the Presidential race, alleging in addition that the outcome of the election had been predetermined due to a faulty voter registration exercise. As Chiluba began his second term in 1996, the opposition and civil society challenged the results of the election.

In early 2001, President Chiluba supporters launched a campaign to amend the Constitution to enable him to seek a third term of office. However, civil society, opposition political parties, and many members of the ruling party exerted sufficient pressure on Chiluba to force him to back away from the third term initiative. The fissures that President Chiluba's attempt at securing a third term created in the MMD party had far reaching effects as the party lost most senior members opposed to the third term bid either through expulsion or voluntary resignation from the party. In addition, the nomination of Levy Mwanawasa as the Presidential candidate for the 2001 elections resulted in a further split of the MMD as the then Secretary General, Mr. Michael Sata, left the MMD to form the Patriotic Front (PF).

#### **2.2.3.2 THE 2001 TRIPARTITE GENERAL ELECTIONS**

The Zambia 2001 Presidential, Parliamentary and Local Government elections were held on 27 December. Eleven political parties contested the Elections which according to various observation missions was fraught with numerous administrative problems. One of the major problems was the introduction of a new voter registration system by the ECZ which, due to a number of factors including publicity, only managed to register 56% of the eligible voters. In addition, there were allegations of discrepancies between the figures from constituencies and those announced by the Electoral Commission, raising fears among opposition parties and other stakeholders that the election results could have been manipulated. In light of the above, the results compilation process, which took an unusually long period of 4 days, was marred by protests in Lusaka.

Despite the afore-described irregularities and protests in Lusaka, MMD Presidential candidate Levy Mwanawasa won the election, having garnered a plurality of the vote with 28.69% of the valid votes against 26.76 % for his main opponent, Mr Anderson Mazoka of the United Party for National Development (UPND). Mr Mwanawasa was sworn into office on 2 January 2002 while Mr Mazoka logged a legal challenge on the election outcome. The Zambian Supreme Court dismissed the case in 2002.

The most significant characteristic of the Zambia 2001 election result was that for the first time in the history of Zambia, opposition parties won a majority of the contested Parliamentary seats. However, with 8 additional Members of Parliament appointed by the

President and MMD victories in subsequent by-elections, the ruling party managed to re-secure its lost majority in Parliament.

### **2.2.3.3 THE 2006 TRIPARTITE ELECTIONS**

Prior to the election, the MMD government in mid-2006 introduced some changes to the electoral process to avoid a repeat of the 2001 election. The changes included the introduction of transparent ballot boxes, inclusion of photos on voters' cards, introduction of an electoral code of conduct to govern the conduct of political parties and other stakeholders during elections, and limits on political campaign donations as well as handouts to the electorate.

The 2006 Zambia Presidential, National Assembly and Local Government Elections took place on 28 September 2006. Out of over 11 political parties who registered to participate in the elections, significant contest existed between the ruling MMD, the United Democratic Alliance (UDA), a coalition that included UPND, and the PF, led by Mr Michael Sata. Mr Anderson Mazoka, leader of UPND and the strongest challenger to Mwanawasa in 2001, however, died in a Johannesburg hospital on 24 May 2006 before the 2006 election.

Mr Mazoka's death ignited fierce internal power struggles within the rank and file of the UPND leading to the eventual elevation of Mr Hakainde Hichilema to the helm of the party. The UPND subsequently nominated Mr Hichilema as its candidate for the Presidential election. In the National Assembly elections, 13 parties participated and a total of 709 candidates contested the 150 parliamentary constituencies. A total of 4,095 candidates registered to compete in the elections for local government councils. Fifteen per cent of the Parliamentary candidates were women and less than 10% of the candidates running for local government were women.

The 2006 Tripartite Elections saw Levy Mwanawasa of the MMD being re-elected for a second and final term as Zambia's President after garnering 42.98% of the votes, while Mr Sata of the PF received 29.37% and Mr Hichilema scored 25.32%. The MMD received the majority of Parliamentary seats.

President Mwanawasa suffered a debilitating stroke on 29 June 2008 during an African Union Summit in Sharm El-Sheikh, Egypt, and died from complications in a Paris hospital on 19 August 2008.

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

The 30 October 2008 Presidential Election took place following the passing away of the incumbent President, Mr Levy Mwanawasa, on 19 August 2008 in France. Since he had gained his Presidential mandate from the 2006 Tripartite Elections, President Mwanawasa still had three years to serve at the time of his death.

In accordance with Article 38 (1) of the Constitution of Zambia, the Electoral Commission of Zambia had to organise for the holding of an election within 90 days from the date the Office of the President became vacant in order to come up with a President who would serve only the remaining term of office until the 2011 Tripartite General Elections.

The death of President Mwanawasa pushed Zambians in general and the ECZ in particular into an unprecedented political and administrative situation in the history of Zambia, as it was the first time a sitting President had died in office.

Despite the short timeframe the ECZ had to meet the constitutional requirement and prepare for a fresh poll, the 30 October 2008 Zambia Presidential By-Election was described by various international election observation missions as having been conducted transparently and in a way that allowed the people of Zambia to freely express their political will.

Mr Rupiah Banda of the ruling MMD Party won the by-election with 40.09% of the total votes cast, narrowly beating Mr Michael Sata of the PF who garnered 38.13% and Mr Hakainde Hichilema of the UPND who came third with 19.70%. Summarised results of the Election were as shown in the table below;

THE 2008 PRESIDENTIAL BY-ELECTION			
PARTY	CANDIDATE	VOTES	PERCENTAGE
Movement for Multi-Party Democracy (MMD)	Rupiah Banda	718,359	40.09%
Patriotic Front (PF)	Michael Sata	683,150	38.13%
United Party for National Development (UPND)	Hakainde Hichilema	353,018	19.70%
Heritage Party	Godfrey Miyanda	13,683	0.76%
Valid votes		1,768,210	98.68%
Invalid of blank votes		23,596	1.32%
Totals		1,791,806	100.00%
Voter Turnout		45.43%	
Source: Electoral Commission of Zambia (ECZ)			

### **3. ORIENTATION WORKSHOP AND BRIEFINGS FROM MAJOR STAKEHOLDERS**

The work of the Mission commenced with a three-day Training and Orientation Workshop for the MPs and staff in Lusaka from 6 to 9 September 2011. The main purpose of the Training and Orientation Workshop was to familiarise the Mission with issues of democracy, governance and elections, the political, constitutional and legal context of the electoral process as well as to equip the Members with the skills for election observation including the terms of reference and the methodology for the Mission. The Stakeholders that briefed the Mission included the ECZ, representatives of contesting political parties, CSOs and the media.

Specific objectives for the Workshop were:

- To familiarise the MPs with issues of Democracy, good governance and election observation;
- To enable the Members of Parliament (MPs) to understand the terms of reference for the Mission;
- To provide a deeper understanding of the context of the 2011 Zambian Tripartite Elections;
- To provide an update on the state of electoral preparedness of the ECZ regarding the Zambian Tripartite Elections;

- e) To familiarise Members of the Mission with the detailed procedures, logistics and arrangements put in place by SADC PF for observing the Zambian elections; and
- f) Orient staff from Parliaments as well as Parliamentary Forum staff on their roles in facilitating the work of the Observation Mission.

During the Workshop, Mission Members were taken through an intensive programme of presentations and plenary discussions which included pertinent topics on Elections and Democracy in the SADC Region, Democracy and Political Parties, Mitigating Election Related Conflicts, Election Observation Methodologies and Techniques, Framework for SADC PF Election Observation, Gender Mainstreaming in Electoral Processes, Zambian Elections Context and the State of Preparedness of the ECZ for the Elections. The Mission was also briefed by the main political parties. It was briefed on roles and responsibilities of Members and staff during election observation and guidelines for observation in the field.

The Resource Persons were drawn mainly from the International Institute for Democracy and Electoral Assistance (International IDEA) and SADC PF while the ECZ presented on electoral preparedness. The contesting political parties briefed Mission on their assessment of the electoral environment while at the same time articulating their broad electoral agendas.

The Workshop was a huge success as evidenced by the in-depth understanding and appreciation by MPs and staff, of critical issues on elections and democracy, the electoral processes, the role of election observers, the context of the 2011 Zambian Elections and the terms of reference of the SADC PF Observation Mission to the 2011 Zambian Tripartite Elections.

The following are some of the major highlights of the presentations made during the Training and Orientation:

### **3.1. WELCOME REMARKS BY SADC PF SECRETARY GENERAL, DR ESAU CHIVIYA**

The SADC PF Secretary General welcomed the MPs and staff and congratulated them for having been accorded the opportunity to be part of the SADC PF Election Observation Mission to the 2011 Zambian Tripartite Elections.

The Secretary General informed the participants that SADC PF undertakes Election Observation in SADC Member States as an oversight function and therefore uses Parliamentarians to do the actual observation with support from National Parliaments' staff. This, he said, was because Parliamentarians emerged from the outcome of election process and were thus familiar with the political environment of elections in the Region. MPs were also key agents to advocate for the review and reform of existing laws and practices that are not consistent with multi-party democracy and other election instruments such as the Norms and Standards of Conducting Elections in the SADC Region and SADC Principles and Guidelines Governing Democratic Elections.

Dr. Chiviya further indicated that because of its long experience dating back to 1999, SADC-PF's role in the field of election observation and setting of standards was widely recognised both regionally and internationally. He also highlighted that SADC PF was the first institution

to come up with a regional instrument for democratic elections when it adopted the Norms and Standard for Election in the SADC Region in 2001.

The Secretary General expressed deep gratitude to the Swedish Government for generously extending financial support to the SADC PF Mission to the 2011 Zambia Tripartite Elections. He also thanked International IDEA for technically and financially supporting the Training and Orientation Workshop. Dr Chiviya further appreciated the support the Mission had received from National Parliaments that had financed the participation of 11 MPs and 4 Parliamentary staff.

### **3.2. REMARKS BY THE SWEDISH AMBASSADOR TO ZAMBIA, MARIE ANDERSSON de FRUTOS**

The Ambassador welcomed the collaboration between her Government through the Swedish International Development Cooperation Agency (SIDA) and SADC PF and explained that Sweden was supporting the Mission because it believed that the presence of the SADC PF Mission in Zambia would guarantee the integrity of the 2011 Tripartite Elections. Furthermore, the Ambassador appreciated the diversity of the SADC PF's Mission in terms of the Parliamentarians' experience in election observation and political composition, adding that this would augur well for the achievement of the Mission's intended objectives. The Ambassador also applauded the collaboration between SADC PF and International IDEA in the Training and Orientation of the Mission.

Ambassador de Frutos underscored that while elections on their own do not constitute democracy, regular holding of credible elections remained a critical cornerstone in building a strong and sustainable democracy, hence the importance of the SADC PF Election Observation Mission. In light of the above, the Ambassador called on the SADC PF Observation Mission to do its work diligently in order to protect the integrity of electoral process in Zambia. The Ambassador, however, expressed concern over the gender imbalance of the SADC PF Observation Mission to the 2011 Zambia Tripartite Elections which was tilted in favour of the male gender.

### **3.3. REMARKS BY THE REGIONAL DIRECTOR AFRICA PROGRAMME, INTERNATIONAL IDEA, AMB. MUSTAQ MOORAD**

Ambassador Moorad thanked the Secretary General of the SADC PF, Dr Chiviya for inviting International IDEA to participate in the Training and Orientation Workshop for the SADC PF Mission to the Zambian Tripartite Elections. He informed the participants that for International IDEA, promoting and protecting the principle of "the right of citizens to elect their representatives" in a free, fair and inclusive environment remained one of the core reasons for International IDEA's championing of democracy assistance as well continued call for a paradigm shift from supporting elections as one technical event to support the entire electoral cycle which includes pre-election, during election and post election phases.

Ambassador Moorad emphasized the need for the electoral processes to be conducted with integrity as that is the basis of securing the necessary commitment to the acceptance of the outcomes of the elections, adding that the acceptance of outcome is critical in the preservation of peace and advancement of human development. He also indicated that the participation of International IDEA in the Training and Orientation Workshop was the

beginning of a long lasting partnership between the two organisations in various areas of mutual interest.

### **3.4. ELECTIONS AND DEMOCRACY IN THE SADC REGION**

During this session Mr Rushdi Nackerdien from International IDEA took participants through a variety of issues relating to electoral democracy in the SADC Region. Among the pertinent issues covered were an overview of the history of electoral democracy in the Region, international principles behind the holding of democratic elections, international legal instruments relating to holding of democratic elections, Regional electoral legal instruments applicable to the SADC Region, political commitments on democratic elections, common observation criteria for elections, relevant electoral instruments in SADC and Africa, electoral systems/models and electoral stakeholders.

### **3.5. POLITICAL PARTIES AND DEMOCRACY**

Addressing the participants during the session, Ms Rumbidzai Kandawasvika-Nhundu from International IDEA articulated on the roles of ruling and opposition political parties in fostering a culture of sustainable democracy. She highlighted that the political parties are the building blocks of democracy and hence issues of fair representation, gender mainstreaming, political tolerance, transparency as well democratic checks and balances should be nurtured at political party level if they are to be achieved in a national governance context.

On political party funding Ms Kandawasvika-Nhundu highlighted that the source of funding for a political party has a bearing on the party's policies and hence it was in the interest of transparency and democracy that political parties should be compelled to declare their sources of funding.

### **3.6. MITIGATING ELECTION RELATED CONFLICTS**

The session was presented by Mr Nackerdien from International IDEA who focused on how the absence of credible systems to guard against electoral offences can create fertile grounds for elections related conflicts. Starting with the most severe, the presenter ranked the election offences as follows: violence and intimidation, election fraud and illegal practices and technical and minor offences. Mr Nackerdien defined elections-related violence as acts or threats of coercion, intimidation, or physical harm perpetrated to affect an electoral process or that arises in the context of electoral competition. He also outlined the various factors that determine the incidence of election related conflicts as well as the role of observers in election-related conflicts. He pointed out that research had shown that although observers may not eliminate election fraud, they can reduce election-day fraud at the polling stations they visit.

### **3.7. SOME ISSUES IN ELECTION OBSERVATION**

Mr Theophilus Dowetin from International IDEA made the presentation and focused on the concept of free and fair elections, highlighting that 'free' means that voters should be able to express their preference without pressure and 'fair' means that the process of running the election and counting the votes is done honestly and openly. The presenter also explained the difference between election observation and monitoring. In addition, the presenter advised the observers on the pertinent issues they should look-out for as they

undertake their election observation mandate. He also highlighted the importance of realising that an election is a complicated process spanning over a period of time and the voting day is just one vital part of the long process. Mr Dowetin reiterated that elections are not an end in themselves but one of the several building blocks of a sustainable democracy.

### **3.8. RATIONALE FOR OBSERVING ELECTIONS IN SOUTHERN AFRICA**

This was a relatively brief session. Mr Nackerdien from IDEA focused on the broad objectives behind observing elections and the basic guidelines for assessing the entire election cycle, namely pre-election, voting and post election. The presenter cited the need to promote accountability as well as expression of solidarity with the process of holding credible democratic elections as the main reasons for election observation.

### **3.9. FRAMEWORK FOR SADC PARLIAMENTARY FORUM ELECTION OBSERVATION**

Mr Kurasha, the Democracy and Governance Manager for SADC PF, who was also the Elections Coordinator, defined key concepts of Election Observation and Election Monitoring including the difference between the two, Electoral Assistance, as well as Short Term and Long Term Observation. He also outlined SADC PF's Elections Observation Mandate, Rationale for SADC PF Observing Elections, the SADC PF Election Observation Mission's Terms of Reference, relevant Election Instruments for the SADC Region, an in-depth analysis of the SADC PF Norms and Standards for Elections in SADC, SADC PF Election Observation Methodology and specific points of enquiry in SADC PF Election Observation.

Mr Kurasha explained the objectives behind SADC PF's Election Observation mandate as:

- i) Promotion of common political values, systems and shared values which are transmitted through institutions which are democratic, legitimate and effective;
- ii) Harmonization of political and socio-economic policies of Member States;
- iii) Consolidating, defending and maintaining democracy, peace, security and stability;
- iv) Promoting peace, democracy, security and stability on the basis of collective responsibility;
- v) Familiarising the peoples of SADC with the aims and objectives of SADC; and
- vi) Supporting the development of permanent conflict resolution mechanisms in the SADC.

Regarding the rationale for SADC PF observing elections, Mr Kurasha outlined them as follows:

- i) Informing different publics on the conduct of the electoral process;
- ii) Providing psychological support and enhancing public confidence in the process;
- iii) Informing electoral systems review initiatives;
- iv) Assisting in election-related conflict management and transformation;
- v) Encouraging contestants to accept of results;
- vi) Contributing to reducing violence, intimidation and fear;
- vii) Serving as objective, impartial and neutral witnesses;
- viii) Assessing the integrity and legitimacy of the process;
- ix) Calling attention to flaws, detect and expose fraud, irregularities and the occurrence of avoidable mistakes;
- x) Reporting and documenting positive trends; and
- xi) Promote mutual learning and exchange of experiences on good practices.



Mr Kurasha outlined the Election Instruments used in Election Observation as follows:

- i) Norms and Standards for Elections in the SADC Region (March, 2001);
- ii) SADC Principles and Guidelines for Democratic Elections (2004);
- iii) AU Declaration on the Principles Governing Democratic Elections in Africa (2002);
- iv) Principles for Election Management, Monitoring and Observation (2003); and
- v) African Charter on Democracy, Elections and Governance (2007).

Mr Kurasha also took participants through a step-by-step guide of the SADC PF Election Observation methodology, underscoring that this should be anchored on the critical principles of neutrality, comprehensiveness, accuracy, transparency and competence in order for the Mission to achieve its intended objectives.

### **3.10. MAINSTREAMING GENDER IN ELECTORAL SYSTEMS AND PROCESSES**

The session was presented by Ms Kandawasvika-Nhundu who defined gender mainstreaming and highlighted the need for gender balance at all stages of the electoral process to ensure the creation of a sustainable and participatory democracy. In addition, the presenter cleared the usual misconception that gender is all about women, explaining that the term “gender” actually captures the social relations and roles between men and women.

Ms Kandawasvika-Nhundu called on the SADC PF Observers to look out for equal access and inclusion of men and women in all electoral processes and report on what measures the various stakeholders notably the ECZ and political parties had put in place to ensure that both men and women had equal opportunities for participating in the 2011 Zambia Tripartite Elections.

### **3.11. UPDATE ON THE 2011 ZAMBIA ELECTIONS CONTEXT**

The Presentation was jointly made by Hon. Advocate Sango Patekile Holomisa, MP, from South Africa and Hon. Engineer Martin Manyanya, MP, from Tanzania, who were both part of the SADC PF’s Pre-Election Mission to Zambia from 14 to the 20 August 2011. The Pre-Election Mission had been set up mainly to familiarise SADC PF with the prevailing political environment in Zambia ahead of the Elections. The Pre-Election Mission had held consultative meetings with various stakeholders including the ECZ, leaders of political parties, the UNDP, the Speaker of Parliament, the Dean of SADC Ambassadors, CSOs, academics and the media.

The Pre-Election Mission Report covered issues such as the general political environment and political parties funding, election related conflict resolution mechanisms in place, the preparedness of the ECZ, media coverage, participation of women and youths, role of CSOs, development partners and traditional leaders.

Overall the Pre-Election Mission had observed that in spite of the various identified difficulties and challenges facing the electoral stakeholders in Zambia, all the stakeholders consulted had consensus that the political environment was conducive for Zambians to freely elect leaders of their choice in a peaceful manner come elections day.

### **3.12. PREPAREDNESS OF THE ELECTORAL COMMISSION OF ZAMBIA**

The Mission received briefing from Ms Priscilla Mulenga Isaac, the Director of the ECZ and Mr Erick Kamwi the Commission Secretary. Mr Kamwi presented on the electoral legal framework in Zambia while Ms Mulenga Isaac covered the ECZ's state of preparedness.

### **3.13. BRIEFINGS FROM SOME POLITICAL PARTIES**

During this session the SADC PF Observation Mission had a chance to be briefed by some of the contesting political parties namely the ruling MMD, the UPND and the Forum for Democracy and Development (FDD) led by the only female Presidential candidate for the 2011 Zambian Tripartite Elections, Ms Edith Nawakwi. The three political parties which were represented at senior levels articulated a number of issues relating to their party manifestos and also shared their reflections on the electoral system and electoral environment highlighting the following salient issues:

#### **a) Election Issues**

The political parties indicated that the stakes were high in the 2011 Zambia election where major campaign issues were centred on the economy, unemployment, health, education and service delivery in general.

#### **b) Political Party Funding**

The political parties, especially the UPND and the FDD, lamented the absence of government funding for political parties in Zambia. The opposition parties felt that the status quo favours the ruling party which could use its incumbency to access government and private resources to its advantage.

#### **c) Political Parties Campaigns**

The political parties described the political environment as generally calm. The opposition parties expressed that the few incidents of violence that had been reported were mainly between the MMD and the PF. There was consensus amongst political parties on the need for political parties to publicly denounce political violence.

#### **d) Playing Field and Media coverage**

The UPND and the FDD expressed a view that the playing field was tilted in favour of the ruling party as it was taking advantage of its incumbency status to use public resources, for instance, through the resources availed to its President and Vice President by virtue of them being the Head of State and the Deputy Head of State.

The opposition political parties also cited the bias of the public media in favour of the ruling party as distorting the playing field. The ruling MMD party however, complained about the bias of the sections of the private media against its candidates. Similarly, the UPND complained about the privately owned Post Newspaper which had placed a ban on the party and its candidates including even paid adverts.

#### **e) Electoral Code of Conduct**

While appreciating the presence of the Electoral Code of Conduct regulating the actions of political parties and other stakeholders such as the media, the police, observers and

monitors, political parties lamented the absence of a clear enforcement mechanism for the Code.

#### **f) Participation of Women**

None of the three parties have a deliberate and clear policy to ensure equal representation of women in leadership positions and among its candidates. Ms Edith Nawakwi of the FDD who was the only woman in the race for Presidency spoke passionately against the First Past the Post (FPTP) system for its failure to guarantee the participation of women in the democratic and governance processes.

### **3.14. MEDIA COVERAGE OF THE 2011 ZAMBIA ELECTIONS**

Mr Daniel Sikhazwe from the Media Institute of Southern Africa (MISA) pointed out that there was a clear trend of dichotomy in the way public and private media houses were covering political parties. He indicated that according to a survey carried out by MISA, the public media gave more coverage to the ruling MMD with a 50% margin while the mainstream print private media focused on the PF at 50% than all the other parties combined. Mr Sikhazwe however, indicated that monitoring done by MISA on four community radio stations spread across the country had revealed that the community media seemed to fill the gap left by the unbalanced coverage of political issues by the mainstream media.

### **3.15. ROLES AND RESPONSIBILITIES DURING ELECTION OBSERVATION BY DR CHIVIYA**

The Secretary General explained the roles and responsibilities of the various members of the Mission to ensure all members appreciate the respective roles in order to ensure that the Mission achieved its intended objectives. These included the following:

- i) the Mission Leader who was the overall leader of the SADCPF Observation Mission;
- ii) the Secretary General who provided overall management and leadership for the Forum's Secretariat staff and the Observation Mission;
- iii) Team Leaders who provided leadership to the Teams in the field;
- iv) Elections Coordinator who was the overall coordinator of the Mission's activities;
- v) Parliamentary Staff who provided secretariat services to the Teams in the field including compilation of the daily reports; and
- vi) the Rapporteur who was responsible for recording all proceedings of the SADC PF Observation Mission including the Training and Orientation Workshop, Teams Debriefing Presentations, Drafting Interim Mission Statement and writing of the Mission Report.

The Secretary General also outlined the SADC PF's expectation from Mission Members which included commitment to duty and willingness to undertake assigned tasks in any part of the country.

### **3.16. GUIDELINES ON WORKING IN THE FIELD BY DR CHIVIYA**

The Secretary General took the Mission Members on SADC PF's guidelines for working in the field during the 2011 Zambia Tripartite Elections. The Secretary General called on all teams to ensure that their observation endeavours in field are in accordance with the set guidelines which included method of work, reporting methodology as well guidelines for working with the media and other stakeholders in the field.

#### 4. DEPLOYMENT PLAN AND METHODOLOGY OF WORK FOR THE SADC PF ELECTION OBSERVATION MISSION TO THE 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS

##### 4.1. DEPLOYMENT PLAN

The deployment of the SADC PF Election Observation Teams to the 9 Provinces was guided by a number of factors including population density, number of polling stations within a Province, Province accessibility, gender balance of the Teams, political plurality as well as Team Members' election observation experience and/or training.

In light of the above, the Mission deployed one Team in each of the nine (9) Provinces on 10 September and Teams were in the Provinces until 21 September. The Teams operated from provincial capitals of Kasama (Northern Province), Ndola (Copperbelt Province), Chipata (Eastern Province), Mansa (Luapula Province), Kabwe (Central Province), Solwezi (North-Western Province), Livingstone (Southern Province) and Mongu (Western Province). The Mission Leader and his Team covered Lusaka Province. The deployment plan is as shown in the table below:

PROVINCE	TEAM MEMBERS / DELEGATION	G	COUNTRY
Lusaka Province	<b>TEAM 01</b> 1. Hon Elifas DINGARA (Mr) ( <i>Mission Leader</i> ) 2. Hon. Kotiti DIHOLO (Mr) 3. <i>Ms. June KHUZWAYO....Staff</i>	M M F	Namibia Lesotho South Africa
Northern Province (Kasama)	<b>TEAM 02</b> 1. Hon. Fani MUNENGAMI (Mr) ( <i>Team Leader</i> ) 2. Hon. Moses Joseph MACHALI (Mr) 3. <i>Mr. Albius MUTONGA.....Staff</i>	M M M	Zimbabwe Tanzania Namibia
Copperbelt Province (Ndola)	<b>TEAM 03</b> 1. Hon Zeca Castro MORGADO (Mr) ( <i>Team Leader</i> ) 2. Hon. Ruth MENDES (Ms) 3. <i>Mr. Jaime Ezequiel NUMAIO .....Staff</i> 4. <i>Michel Saraiva (Mr)...Interpreter</i>	M F M M	Mozambique Angola Mozambique Zambia
Eastern Province (Chipata)	<b>TEAM 04</b> 1. Hon. Francisco Castro MARIA (Mr) ( <i>Team Leader</i> ) 2. Hon. Raul BARCELOS (Mr) 3. <i>Mr. Geraldo CAMBIETE....Staff</i> 4. <i>Jose PINTO (Mr)...Interpreter</i>	M M M M	Angola Angola Angola Zambia
Luapula Province (Mansa)	<b>TEAM 05</b> 1. Hon. Kenneth Sililo MUBU (Mr) ( <i>Team Leader</i> ) 2. Hon. Henry DLAMINI (Mr) 3. <i>Mr. Absalom KUNZWA...Staff</i>	M M M	South Africa Swaziland Zimbabwe
Central Province (Kabwe)	<b>TEAM 06</b> 1. Hon. Maneswar PEETUMBER Hon (Mr) ( <i>Team Leader</i> ) 2. Sen. Emmanuel Kisimba KIMBA (Mr) 3. <i>Mr. Sibiti Maowa LUPAYA....Staff</i> 4. <i>Michel MWEZA (Mr)...Interpreter</i>	M M M M	Mauritius DRC DRC DRC
North-Western Province (Solwezi)	<b>TEAM 07</b> 1. Hon. Stella MANYANYA (Ms) ( <i>Team Leader</i> ) 2. Hon. Botsalo NTUANE (Mr) 3. <i>Mr. Lawson Laston CHITSEKO.....Staff</i>	F M M	Tanzania Botswana Malawi

Southern Province (Choma)	<b>TEAM 08</b> 1. Hon. Ben ULENGA (Mr) ( <i>Team Leader</i> ) 2. Hon. Ellina SHIRICHENA (Ms) 3. Hon. Fidelis MOLAO (Mr) 4. <i>Mr. Liseddi KEEKAE.....Staff</i>	M F M M	Namibia Zimbabwe Botswana Botswana
Western Province (Mongu)	<b>TEAM 09</b> 1. Hon. Dr. Zukile LUYENGE (Mr) ( <i>Team Leader</i> ) 2. Hon. Magalle John Paul SHIBUDA (Mr) 3. <i>Mr. Jossy Stephen MWAKASYUKA.....Staff</i>	M M M	South Africa Tanzania Tanzania

#### 4.2. OBSERVATION METHODOLOGY

The Mission Teams employed several methods to gather information. These included the following:

- i) review of the constitutional and legal framework of elections in Zambia;
- ii) analysing the various election documents provided by the ECZ;
- iii) attending political campaign rallies;
- iv) witnessing door to door campaigns;
- v) holding discussions with SADC Ambassadors;
- vi) analysis of newspapers as well as electronic media; and
- vii) interacting with other Election Observer Missions such as the African Union, SADC Secretariat, COMESA, the Commonwealth Secretariat, National Democratic Institute, Commonwealth Parliamentary Association (CPA), and the European Union in order to exchange observations and information.

These various methods enabled the Mission to gather comprehensive information and to assess the degree to which the 2011 Zambian electoral processes were managed. The Mission's Teams visited a total of 109 of the 150 National Assembly Constituencies, 54 out of the 72 Districts and 96 polling stations during the observation as is shown in the table below.

TEAM AND PROVINCE	NUMBER OF DISTRICTS VISITED	NUMBER OF CONSTITUENCIES VISITED	NUMBER OF POLLING STATIONS VISITED
Team 1: Lusaka	4	12	12
Team 2: Northern	8	13	9
Team 3: Copperbelt	10	15	14
Team 4: Eastern	5	14	13
Team 5: Luapula	5	8	12
Team 6: Central	6	13	11
Team 7: North-Western	6	10	8
Team 8: Southern	5	11	7
Team 9: Western	5	13	10
<b>TOTALS</b>	<b>54</b>	<b>109</b>	<b>96</b>

Further, the Mission's observation process was guided by the *Norms and Standards for Elections in the SADC Region*, the *SADC Principles and Guidelines for Democratic Elections*, the *SADC Protocol on Gender and Development*, and the *African Union Declaration on the*

*Principles Governing Democratic Elections in Africa*, among other relevant regional and international instruments. The global *Declaration of Principles for International Election Observation* and the *Code of Conduct for International Election Observers*, which the SADC PF is party to, were also useful references for the Mission.

#### **4.3. GUIDING PRINCIPLES AND POINTS OF ENQUIRY**

In carrying out its observation work, the Mission was guided by the following principles:

- impartiality,
- neutrality,
- comprehensiveness,
- transparency,
- inclusiveness, and
- objectivity.

The specific points of enquiry for the Mission were:

- i) Constitutional and legal framework
- ii) Comprehensiveness of Voters Roll and related processes;
- iii) Civic and voter education;
- iv) Participation of women and the youth as voters, candidates and election officials;
- v) Preparation and distribution of voting materials, adequacy and location of polling stations;
- vi) Polling arrangements;
- vii) Counting of ballots, tabulation and verification of results;
- viii) Use of ICTs in the electoral process;
- ix) Conflict Resolution mechanisms;
- x) Media coverage of parties, candidates and election-related events;
- xi) Conduct of the campaign process;
- xii) Role of security forces;
- xiii) Political party funding
- xiv) Conduct of political parties and candidates,
- xv) Good practices from the Zambian Election;
- xvi) Areas of Improvement; and
- xvii) Overall Mission Assessment of the Electoral Process.

### **5. THE MISSION'S FINDINGS**

#### **5.1. THE CONSTITUTIONAL AND LEGAL FRAMEWORK**

The electoral process in Zambia is governed principally by the following legal instruments:

- i) Constitution of the Republic;
- ii) Electoral Act (2006);
- iii) Electoral Commission Act (1996);
- iv) Public Order Act (1996);
- v) Local Government Act (2010);
- vi) Various ECZ Regulations; and
- vii) Electoral (Code of Conduct) Regulations of 2011.

### **a) The Constitution of Zambia**

Article 76 of the Constitution of the Republic of Zambia provides for the promulgation of various Acts of Parliament to govern the administration and management of elections in the Republic while the delimitation and management of constituency boundaries is provided for under Article 77.

Article 34 of the Zambian Constitution provides for the election of the President of the Republic of Zambia by direct universal suffrage and by secret ballot. Presidential Elections must be held whenever the National Assembly is dissolved or within 90 days of the President vacating office by resignation, death or ceasing to hold office (Article 38). The Zambian Constitution allows for the President and Vice President to continue exercising their functions and duties even after the dissolution of Parliament until the new President and Vice President are sworn in.

Part IV and Part V of the Constitution make provision for, among other issues, elections for the President, designation of the Chief Justice as Returning Officer for Presidential Elections, Elections for the National Assembly seats, the electoral system, and delimitation of constituencies. The Constitution also lays down qualifications for the Presidency and Members of the Legislature, a unicameral National Assembly consisting of 150 elected Members and an additional 8 Members appointed by the President.

Part (iii) of the Constitution of the Republic of Zambia provides for the protection of citizens' fundamental freedoms of conscience, movement, expression, assembly and association, among others, with Article 21 specifically providing for citizens' right to form or belong to political parties. These freedoms were, in the Mission's view, respected and exercised without undue hindrance.

### **b) The Electoral Act**

The Electoral Act No. 12 of 2006 lays out the institutional framework, electoral system, and procedures for delimiting constituencies, qualifications and requirements for candidates, and guidelines on all matters relating to the electoral process. These include:

- i) Legislation (legal framework);
- ii) Delimitation of constituencies, wards and polling districts;
- iii) Voter registration and education;
- iv) Candidate nomination;
- v) Registration of parties and candidates, including the design of ballots;
- vi) Election campaigns;
- vii) Polling (voting process);
- viii) Counting and tabulation of votes;
- ix) Declaration of results; and
- x) Verification of results and resolution of election-related disputes.

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

### **c) The Electoral Commission Act**

The Electoral Commission Act No 24 of 1996 provides for the establishment of a full-time Electoral Commission which is responsible for the conduct of elections with its duties including:

- i) Registration of voters;
- ii) Delimitation of boundaries for electoral districts;
- iii) Voting operations;
- iv) Vote counting; and
- v) Announcement of ward and constituency results.

The Electoral Commission Act of 1996 provides for an Electoral Commission of Zambia made up of the Chairperson and not more than four other members who are appointed by the President of Zambia subject to ratification by the National Assembly. In addition, the Electoral Commission Act sets the circumstances under which the President may remove a member of the Commission.

Section 129 of the Electoral 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 of 2011 and the Electoral Conflict Management Regulations which were gazetted in 2006 are examples of the ECZ's exercise of these regulatory powers in consultation with CSOs, political parties and the public.

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

The Mission noted the existence of an Electoral Code of Conduct regulating the conduct of political parties and other stakeholders such as the media, the police, observers and monitors during elections. The Mission further noted that the Code, which has a legal enforcement mechanism including fines, police enforcement and penalty sentences, gives power to the ECZ to reprimand political parties and candidates violating the Code of Conduct.

Statutory instrument No. 52 of 2011, also called the Electoral (Code of Conduct) Regulations of 2011, was promulgated to enforce the Zambian Electoral Code of Conduct. The Code guarantees rights and freedoms of both the electorate and the contestants, and forbids intimidation and violence, bribery, corruption, and inducements as a means of wooing voters during elections. The Code further forbids election-related abuses of government facilities and resources for campaign purposes. Clause 18 (3) of the Electoral (Code of Conduct) Regulations cite the Zambia Police Force and Anti-Corruption Commission among the law enforcement agents to which the ECZ can report any violation of the Code.

The Mission however, observed that the law doesn't give the ECZ enough powers to enforce the Code. Hence the continued violation of the same by various stakeholders especially on issues relating to lack of fairness, balance and objectivity by the media in their coverage of political campaign issues as well as the use of public resources during campaigns.

#### **e) The Public Order Act (1996)**

The Public Order Act of 1996 regulates the right to assemble and provides for the police to give the go-head for political rallies after assessing whether the political situation is conducive for such a rally. The Mission's interactions with some stakeholders, especially the



opposition political parties revealed that the Public Order Act is perceived by some opposition parties and candidates as a tool used by the Government, through the police, to stifle opposition party campaigning.

#### **f) Zambia's Electoral System**

The Zambian Constitution provides for five year presidential, National Assembly and local Government representatives terms. Candidates for the office of the president and those for the unicameral National Assembly must fulfil the following qualification criteria:

- **Presidential candidates**
  - i) Be a Zambian citizen and in possession of a green National Registration Card;
  - ii) Attained the age of 35 years and above;
  - iii) Be sponsored by a political party;
  - iv) Qualify to be elected as a member of the National Assembly;
  - v) Has been domicile in Zambia for a period of at least 20 years; and
  - vi) Both parents are Zambian by birth or decent.
- **National Assembly Candidates**
  - i) Be a Zambian citizen and in possession of a green National Registration Card;
  - ii) Attained the age of 21 years and above; and
  - iii) Literate and conversant with the official language of Zambia.
- **Local Government Candidates**
  - i) Be a Zambian citizen and in possession of a green National Registration Card;
  - ii) Attained the age of 21 years and above; and
  - iii) Be ordinarily resident in the said area of that council.

Zambia uses a First-Past-The-Post or plurality electoral system. Under this system, the candidate who garners the most votes is declared the winner. In Zambia, the President and 150 Members of Parliament (MPs) are elected to a one-chamber National Assembly, with the President free to appoint a maximum of 8 additional MPs. Councilors for the 1,422 wards are also directly elected on the same day as the President and MPs. The FPTP electoral system has been criticised for marginalising groups such as women and the youths.

#### **g) Assessment of the Constitutional and Legal Framework**

The Mission is of the view that notwithstanding issues relating to the inadequacy of enforcement mechanisms for the Electoral Code of Conduct, the constitutional and legal framework governing elections in Zambia generally augurs well for the conduct of free and fair elections.

### **5.2. ELECTION ADMINISTRATION AND THE ELECTORAL COMMISSION OF ZAMBIA**

Article 76 of the Constitution of the Republic of Zambia establishes the ECZ as an autonomous body with the sole mandate of supervising voter registration, conducting elections and delimiting constituency boundaries. Issues relating to the composition and operations of the ECZ and the conduct of elections are further articulated in the Electoral Commission Act (1996), the Electoral Act (2006) and the Electoral (Code of Conduct) Regulations of 2011. The law provides that the ECZ comprises a Chairperson and not more

than four other members. The members are appointed by the President subject to ratification by the National Assembly. For one to qualify as Chairperson of ECZ, one should have held or be 'qualified to hold high judicial office or, any suitably qualified person.' The power and authority to appoint the Director and staff of the Commission rests solely with the Commission, to which such staff are accountable.

During the consultations with political parties, the Mission noted fears by some opposition political parties that the ECZ was not partial and in support of the ruling party. The opposition parties cited the appointment of Commissioners by the President who in turn was an interested party in the election as the basis for their impartiality argument. In addition, the Mission also noted fears by some opposition parties that the ECZ's awarding of the tender to print ballot papers to a South African Company was part of a plan to steal the vote.

Recognising the notable exceptions, the Mission is of the view that the majority of electoral stakeholders in Zambia expressed confidence in the independence, impartiality, accessibility and capacity of the ECZ to organise and conduct credible elections.

The Mission further noted that the legal framework within which the ECZ is established and operates generally augurs well for the independent and autonomous functioning of the Commission. This is in line with the Norms and Standards for Elections in the SADC Region and the SADC Principles and Guidelines for Democratic Elections.

The Mission observed that the ECZ was evidently prepared for the 2011 Tripartite Elections. The ECZ ensured the printing of ballot papers in time under the observation of stakeholders including representatives of political parties, carried out civic and voter education programmes in collaboration with CSOs, and distributed both sensitive and non sensitive voting materials to District Polling Centres in the Provinces and constituencies according to the electoral calendar. It also trained polling staff and engaged stakeholders throughout the process. However, there were isolated cases where ballot papers and other voting materials could not be delivered in time. Notable cases in this regard included in Western Province where voting at three polling stations had to be delayed to the following day due to late arrival of voting materials and also the delays in opening of a polling station in Lusaka again due to late arrival of essential voting materials.

Overall, the Mission commends the ECZ for the professional work in preparing for the 2011 Zambia Tripartite Elections.

### **5.3. THE POLITICAL ENVIRONMENT**

The Mission found out that the political environment was generally peaceful as demonstrated by unimpeded political rallies, campaigns, high degree of tolerance among political party supporters. Isolated cases of political violence and conflict mainly involving the then ruling MMD party and the then main opposition, the PF, were reported to the Mission's Teams by stakeholders including the Police. The Mission further noted with concern the tendency by political parties and candidates to use emotive and inflammatory language targeting personalities rather than issues which tended to promote polarisation and which could easily fan political violence.

The SADC PF commends the people of Zambia for the generally peaceful and friendly manner in which they conducted themselves during the campaign, voting and counting of ballots.

#### **5.4. VOTER REGISTRATION**

The Mission noted that the voting age in terms of Zambian law is 18 years. The Mission further noted that Zambian law provides for continuous voter registration which, however, was not undertaken due to funding challenges. The SADC PF Election Observation Mission found out that for the 2011 Tripartite Elections, Zambia introduced biometric registration kits for the first time, changing from the manual system which was slow and difficult to update. The Mission also found that during the voter registration exercise, the ECZ collaborated with the Ministry of Home Affairs' Department of National Registration since one requires a National Registration Card before getting a voting card. The Mission noted the challenges faced by the ECZ in the capturing of information from a manual National Identity registration system into a computerised Voters' Roll, as well as deregistration of deceased persons.

The Mission found that the first voter registration was conducted from June to December 2010 and was extended in March 2011 for 3 weeks. This witnessed a big leap in total citizens registered from 3.9 million voters captured in the previous Voters' Roll to 5,167,154 voters, representing 86 percent of the eligible voters. This puts Zambia above the regional average of 77%. In addition, the Mission noted the large number of first time voters in the 2011 Zambia Tripartite Elections, the majority of whom are the youths. A total of 1,272,000 first time voters registered to vote.

In terms of age groups of the registered voters:

- i) 1,064,730 were between the ages of 18 to 25 years;
- ii) 1,716,858 were between the ages of 26 to 35 years; while
- iii) 2,385,566 were above 35 years.

The Mission also observed that of the 5,167,154 registered voters, female voters were a marginal majority at 2,590,821, representing 50.14% when compared to the 2,576,333 male registered voters representing 49.86%.

The Mission however, noted that in some cases, non-resident Zambians residing in foreign countries were allowed to register in their nearest constituencies without proof of residence and using addresses of friends and relatives, a development which can subject the voters' role to manipulation especially for National Assembly and Local Government Elections.

#### **5.5. VOTERS' ROLL**

The Mission noted that copies of the Voters' Roll were available to the public and stakeholders in hard copies and besides the untimely dispatch and complaints by some opposition political parties that the price for a copy of the voters' role of ZK2.5 million was too high, no significant complaints were raised by the contesting political parties, candidates and other stakeholders, relating to anomalies, shortcomings and inaccuracies on the Voters' Roll.

## **5.6. GENDER REPRESENTATION**

The Mission observed that there were very few women candidates participating in the 2011 Zambia General Elections, with only one Presidential candidate being a woman. Out of a total of about 450 Parliamentary candidates for the 150 National Assembly seats, only 85 women candidates were adopted by the political parties or stood as independent candidates as follows:

- 22 for UPND;
- 21 for PF;
- 20 for MMD;
- 17 independent candidates;
- 3 for FDD;
- 1 for UNIP; and
- 1 National Restoration Party (NAREP).

Only one of the 150 National Assembly seats had all women candidates. The Mission's interaction with various electoral stakeholders singled out inadequacies of the First-Past-The-Post electoral system which emphasises winner-takes-all as the major reason for the poor representation of women among the candidates. Other reasons sighted included cultural, socio-economic and job security factors.

In light of the above, the election disproportionately produced only 17 female Parliamentarians compared to 131 elected male Parliamentarians. The Mission observed the urgent need for Political Parties in Zambia to incorporate gender equity in their constitutions, policies and manifestos. In addition, the Mission noted that the outcome of the 2011 Zambia tripartite election in terms of gender representation falls short of the objectives and targets of the SADC Protocol on Gender and Development which requires SADC countries to ensure 50/50 women and men representation in both political and decision making positions by 2015.

The Mission was encouraged by women's representation within the ECZ structures where the Chairperson the Director of the ECZ Secretariat are women. While gender was not a criterion for the recruitment of electoral officials, the Mission observed a fairly equitable representation of women who occupied the positions of Presiding Officers or Returning Officers.

## **5.7. PARTICIPATION OF YOUTHS**

The Mission noted that in spite of the youth constituting the majority of the voters, their participation was generally marginalised to mobilising support for their parties' candidates without having a clearly defined agenda of their own in the electoral process. The Mission further noted that some candidates took advantage of youths unemployment to use them as unpaid political "foot soldiers" and rewarding them with beer.

The Mission is of the view that inclusion of youths in the political party structures of contesting political parties as well as adoption of the same as candidates would help enrich and deepen Zambia's democratic development.

### **5.8. ROLE OF CIVIL SOCIETY ORGANISATIONS**

The Mission appreciated the role played by CSOs in civic and voter education, working with the ECZ. In addition, the Mission noted the role of CSOs in promoting the participation of women in the electoral process through training women candidates in public speaking, fundraising and other empowerment strategies. The Mission however, noted concerns raised by various stakeholders, particularly political parties, regarding lack of impartiality by some CSOs in the discharge of their programmes.

### **5.9. ROLE OF TRADITIONAL LEADERS**

The Mission noted the concerns raised against some traditional leaders that they tended to favour certain political parties and candidates to the exclusion of others. This conduct undermines their stature in the community as symbols of unity and social cohesion. The Mission was also informed that political parties abused traditional leaders by coercing them to openly support them. The Mission further took note of the intervention by the ECZ which had held a meeting with traditional leaders and brought to their attention the fact that they were prohibited from doing that by law. This had resulted in a reduction of such incidents.

### **5.10. ROLE OF DEVELOPMENT PARTNERS**

The Mission appreciated the crucial role played by the United Nations Development Programme (UNDP) in coordinating a basket fund which was used for general electoral support including strengthening the capacity of ECZ, training the police in policing elections and CSOs in their civic and voter education activities.

### **5.11. MEDIA COVERAGE OF THE ELECTORAL PROCESS**

The Mission's observation was that there was polarization in the Zambian media, with the public media, both print and electronic, biased towards the ruling party and the mainstream private print media tilted towards some sections of the opposition. The Mission noted that the public media has a greater obligation to provide balanced coverage of all political players, funded as it is by the tax payer.

In addition, the Mission found out that some sections of the private media, in particular television stations and community radio stations spread across the country, were fair in their coverage of political parties' candidates and the electoral process. This helped to fill the gap left by the generally unbalanced coverage of political issues by the mainstream media. The Mission also noted that the live election debates conducted by the media especially television stations helped to focus the debates on the main issues in the election. This helped to diffuse the polarization brought about by the biased reporting and use of inflammatory language by political parties and candidates.

The Mission noted with concern that media bias and acute polarisation had characterised coverage of elections by the media in Zambia for a long time as the same pattern was observed by the SADCPE Election Observation Missions during the 2001 and 2006 Zambia Elections. The generally unbalanced coverage of electoral issues in Zambia can be traced back to the inadequacy of the powers of the ECZ and law enforcement agents in enforcing the Electoral Code of Conduct as well as the absence of a legally powerful media services regulator in the country to ensure that players in the media industry conduct themselves in an ethical and professional manner.

### **5.12. VOTER EDUCATION**

The Mission found out that since July 2011, the ECZ had coordinated a robust voter education campaign across the country. The Mission further noted that the deployed voter education facilitators were supported with relevant materials in all the eight major languages including a facilitator's guide and manual. The voter education materials were standardised and apolitical as is stipulated by Zambia's Electoral Act.

The Mission observed that the Electoral Act provides for continuous voter education but this was not done due to resource constraints. The Mission further noted the role played by CSOs in complementing ECZ efforts by providing civic and voter education. Political parties and the media also played significant roles in providing voter education.

The Mission further observed that monitoring of voter education activities was devolved to District Voter Education Committees comprising the ECZ and civil society organizations with the National Voter Education Committee helping with policy direction.

### **5.13. POLITICAL CAMPAIGNS**

The Mission noted that the official campaign period for the 2011 Zambia Tripartite Elections stretched from 29 July 2011 to 18 September 2011 following dissolution of Parliament on 28 July 2011. The Mission further noted that the conduct of political parties and other stakeholders during campaigns in Zambia is governed by the Public Order Act of 1996 and the Electoral (Code of Conduct) Regulations of 2011.

The 2011 Zambia Election campaign expressed itself in the form of political rallies, door-to-door campaigns, billboards, posters, radio and television adverts as well as live debates involving candidates.

The Mission observed that apart from the isolated reports of political violence and election-related conflicts, the election campaign was carried out in a calm and orderly manner, with a relative degree of tolerance among contesting political parties and candidates despite the tendency of some candidates to engage in personality attacks of their opponents.

### **5.14. POLLING CENTERS/STATIONS**

The Mission found out that the ECZ established a total of 6,456 polling stations throughout the country with each polling station divided into multiple polling streams of not more than 850 people per stream to expedite voting. The Mission further noted that the voter registers were also customized up to a specific stream, with a register for each stream. The Mission noted that the ECZ trained approximately 60,000 electoral staff members who were recruited for the 2011 Zambia Tripartite General Elections. The Mission further observed that most polling stations visited by its Teams in the Provinces were well staffed, with each stream being manned by five officers other than security officers and ushers and attained some gender balance in the composition of officials manning them. Furthermore, the polling officers generally demonstrated good knowledge of the requisite voting procedures.

The Mission is of the general view that the number of polling stations was adequate and generally accessible enough to allow as many eligible voters as possible to cast their vote.

The Mission, however, observed isolated cases where voters had to travel more than five kilometres to cast their vote. In addition, the Mission noted the special transportation challenges that the ECZ had to deal with in accessing the Islands of Kilwa and Senga in Lake Mweru in Nchilenge and the Islands of Mbabala and Chishi in Lake Bangweulu in Samfya as well as the swamps in Luapula. The ECZ arranged for speed boats to ensure the aforementioned polling stations were accessible.

#### **5.15. THE VOTE AND THE COUNT**

The Mission observed that most polling stations opened and closed at the legislated times of 0600 and 1800 respectively. However, there were some polling stations which opened late due to logistical challenges mainly relating to the late arrival of election materials. The ECZ extended the voting period for those polling stations that opened late to compensate for the lost time. Polling materials were generally available in adequate quantities, allowing voting to proceed smoothly throughout the day at most polling stations. The Mission also noted that the presence of political party agents, election monitors and the police at all polling stations, together with the use of indelible ink to avoid multiple voters, contributed to enhancing the transparency of the voting process.

The Mission noted isolated cases of violence in some of the constituencies including the burning of vehicles and confiscation of voting materials as reported in Kanyama and Lilanda in Lusaka Province, Mongu in Western Province and Solwezi in North-Western Province. Other than the aforementioned cases, the election proceeded countrywide generally with no significant cases of violence and intimidation on the polling day.

The Mission observed that counting of ballots took place at the respective polling stations at the end of the voting process and was generally conducted in a peaceful and transparent manner in the presence of candidate representatives, monitors and in some cases observers. The presiding officers and party agents signed the results before posting a copy on the outside of the polling station while each of the candidates' representatives was given a signed copy of the same.

The Mission however, observed that the ECZ could not conclude the tabulation, collation and verification of all election results within the previously communicated period of 48 hours and this raised tensions bordering on mistrust that the delay could have been part of a ploy to manipulate the results. These tensions were further heightened by the interdict by the High Court of Zambia banning the media from reporting on results not yet verified by the ECZ. The delay in announcing the official results saw violence breaking out in Ndola and Kitwe, where youths destroyed property in protest.

#### **5.16. CONFLICT RESOLUTION MECHANISMS IN PLACE**

The Mission noted the existence, across the country, of Conflict Resolution Committees as provided for in both the Electoral Code of Conduct and the Electoral Act. The Mission further noted that a number of incidences of election-related violence and/or conflict were successfully resolved by the various District Conflict Resolution Committees which were composed of political party representatives, the police and CSOs. The Mission also found out that the District Conflict Resolution Committees received complaints and considered them and the unresolved cases at the District level were referred to the Provincial Conflict

Resolution Committee for further adjudication before forwarding to the National Conflict Resolution Committee, which was an appeals committee chaired by an independent person appointed by the ECZ. The Mission noted the absence of an Electoral Court and that the Zambian High Court handles election related disputes in accordance with the Electoral Act.

#### **5.17. PROVISION OF SPECIAL VOTING ARRANGEMENTS**

The Mission noted that there were no arrangements for special groups such as the sick, the pregnant, the disabled and those living abroad to vote. While arrangements were made for the polling staff and the police on duty to vote in their duty stations, the Mission noted that a number of them were disenfranchised of their right to vote for their Local Government and Parliamentary representatives, having been deployed away from the wards where they were registered and were only allowed to vote for their Presidential representatives. Zambian law does provide for arrangements to be put in place to facilitate voting by those with special needs but a credible method to do this has not yet been put in place. The Mission, however, commends the ECZ for fast tracking voting of the sick, the disabled and the pregnant who managed to make it to the polling stations.

### **6. GOOD PRACTICES OBSERVED FROM THE ZAMBIA TIPARTITE GENERAL ELECTIONS AND AREAS FOR IMPROVEMENT**

#### **6.1. GOOD PRACTICES**

The Mission observed the following as good practices from the 2011 Zambia Tripartite Elections:

- i) High degree of tolerance which contributed to peaceful and orderly campaigns and generally amicable atmosphere during polling;
- ii) Existence of enforceable Electoral Code of Conduct stipulating how various stakeholders should conduct themselves during elections;
- iii) Efforts by the ECZ in opening up the electoral process by engaging and communicating with stakeholders on a regular basis, encouraging voters' interest and participation through voter education, and enhancing the transparency of the electoral process and speedy tabulation of results;
- iv) Professionalism and commitment to duty demonstrated by the electoral staff;
- v) The establishment of multiple voting streams at polling stations and limiting the number of voters to 850 per stream which speeded up the voting process;
- vi) The establishment of Conflict Management Committees at District, Provincial and National levels involving a wide range of stakeholders to handle election-related conflicts;
- vii) The use of biometric voter registration kits and the availability of an electronic Voters' Roll and use of colour photographs for all voters;
- viii) The establishment of an electronic Results Management System which helped to expedite the tabulation, collation and announcement of results;
- ix) The provision for continuous Voter Registration in the law;
- x) The use of transparent and translucent ballot boxes;
- xi) The prohibition of political campaigning 48 hours prior to the election date which helped to create a calm and tranquil environment during the period leading to and on the voting day;



- xii) Role of religious organisations and CSOs in denouncing violence and campaigning for peace;
- xiii) CSOs mobilization of non-partisan monitors who monitored the 2011 Zambian Tripartite Elections;
- xiv) The measures by the Zambian Police to enhance professionalism and political impartiality of members of the Police Service in the conduct of their election related duties;
- xv) Counting of ballots at each of the polling stations in the presence of party agents, monitors and observers, including the signing of polling station result sheets by electoral officials, and party agents and posting of the same at each polling station;
- xvi) With some exceptions, the general acceptance of results by contesting parties and candidates; and
- xvii) The smooth and peaceful transfer of power to the winner of the Elections.

## **6.2. AREAS FOR IMPROVEMENT**

The areas requiring improvement in order to further enhance the electoral process and deepen democracy in Zambia were observed to be the following:

- i) The lack of provisions for gender equity in the electoral processes remains a major challenge in Zambia's democratic development. Political parties are therefore urged to foster national dialogue to address this critical question through the review of the electoral system. On their part, Political Parties should incorporate gender parity in their constitutions and policies in line with the SADC Protocol on Gender and Development.
- ii) The absence of provisions for public funding of political parties in Zambia as well as lack of regulations regarding transparency in political party funding has resulted in variations in financial endowments of political parties and candidates which could unduly and disproportionately influence the capacity of political parties to participate in political processes including elections. There is, therefore, need to come up with a legislative framework for public funding of political parties as well as provisions for disclosure of sources of funding in order to level the playing field;
- iii) The non-implementation of the provisions in the Electoral Act which provide for the facilitation of voting by special groups such as the sick, the disabled and the pregnant;
- iv) The need for the ECZ to review the establishment of polling stations closer to voters in some remote areas in the Provinces in order to shorten the distance voters have to travel in order to cast their votes.
- v) The need for the establishment of a special Electoral Court to expedite the resolution of election related disputes in keeping with good practices; and
- vi) The lack of fairness and balance exhibited by the public media as well as some sections of the mainstream private media calls for the need to review the legal framework to give the ECZ adequate powers to enforce the Electoral Code of Conduct. The polarisation and bias by the media also calls for the establishment of a media services

regulatory framework in terms of the law to enhance ethical and professional reportage of political parties and political activities by the media.

### **6.3. MISSION'S OVERALL ASSESSMENT OF THE ZAMBIA TRIPARTITE GENERAL ELECTIONS OF 20 SEPTEMBER 2011**

Based on its overall findings, the Mission is of the view that there existed a conducive and peaceful environment in which the 2011 Tripartite General Elections were conducted. The people of Zambia were accorded the opportunity to freely express their will in voting for political parties and candidates of their choice. Having duly noted that the 2011 Zambian Presidential, National Assembly and Local Government Elections were, on the whole, a credible reflection of the will of the people of Zambia, the SADC Parliamentary Forum, therefore, declared the 2011 Zambia Tripartite General Elections as having been free and fair.

## 7. APPENDICES

### APPENDIX 1: 2011 PRESIDENTIAL ELECTIONS RESULTS

ZAMBIAN PRESIDENTIAL ELECTIONS RESULTS, 2011				
PARTY	CANDIDATE	VOTES	PERCENTAGE OF VALID VOTES	PERCENTAGE OF REGISTERED VOTERS
Patriotic Front (PF)	Michael Sata	1,170,966	41.98%	22.66%
Movement for Multi-Party Democracy (MMD)	Rupiah Banda	987,866	35.42%	19.12%
United Party for National Development (UPND)	Hakainde Hichilema	506,763	18.17%	9.81%
Alliance for Democracy and Development	Charles Milupi	26,270	0.94%	0.51%
National Restoration Party	Elias Chipimo Jnr	10,672	0.38%	0.21%
United National Independence Party	Tilyenji Kaunda	9,950	0.36%	0.19%
Forum For Democracy and Development	Edith Nawakwi	6,833	0.24%	0.13%
National Movement for Progress	N'gandu Peter Magande	6,344	0.23%	0.12%
Heritage Party	Godfrey Miyanda	4,730	0.17%	0.09%
Zambians for Empowerment and Development	Frederick Mutesa	2,268	0.08%	0.04%
<b>Valid votes</b>		<b>2,732,662</b>	<b>97.93%</b>	
<b>Invalid of blank votes</b>		<b>56,678</b>	<b>2.03%</b>	
<b>Totals</b>		<b>2,789,340</b>	<b>100.00%</b>	
<b>Voter Turnout</b>		<b>53.98%</b>		
Source: Electoral Commission of Zambia (ECZ)				

## APPENDIX 2: 2011 NATIONAL ASSEMBLY ELECTIONS RESULTS SUMMARY

PARTY/INDEPENDENT	TOTAL SEATS	GENDER	NUMBER
Alliance for Democracy and Development (ADD)	1	Female	1
Forum For Democracy and Development (FDD)	1	Male	1
Independent	3	Male	3
Movement for Multi-Party 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
<b>Totals</b>	<b>148</b>	<b>Female</b>	<b>17</b>
		<b>Male</b>	<b>131</b>
Source: Electoral Commission of Zambia (ECZ)			

*N.B: By-elections will be held in Magoye constituency in Southern Province following the death of Willie Malambo, the NMP candidate and also in Nakonde constituency in Northern Province as a result of the death of John Siame, the Patriotic Front candidate prior to the 20 September polls.*

### APPENDIX 3: PRESS STATEMENT ON THE ARRIVAL OF THE SADC PF ELECTION OBSERVATION MISSION TO THE 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS



#### **Press Statement**

#### **ARRIVAL OF THE SADC PARLIAMENTARY FORUM<sup>1</sup> ELECTION OBSERVATION MISSION TO THE 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS**

On the invitation of the Government of Zambia, the SADC Parliamentary Forum (SADC PF) will be observing the organization and conduct of the 20<sup>th</sup> September 2011 Tripartite General Elections in the Republic of Zambia.

The 40-member Observation Mission will arrive in Zambia on 6<sup>th</sup> September and will remain in the country until the 24<sup>th</sup> September 2011 and will observe the conduct of the electoral process in all the nine (9) Provinces of Zambia.

The Observation Mission will be led by Honourable Elifas Dingara of the Parliament of Namibia who is also a Member of SADC PF's Executive Committee. The Deputy Mission Leader is Honourable Zeca Castro Morgado of the National Assembly of Mozambique. Other members of the Mission include Members of Parliament from Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, South Africa, Swaziland, Tanzania, and Zimbabwe, as well the Secretary General of the SADC PF, Dr. Esau Chiviya, and Secretariat staff.

SADC PF has already had a Pre-Election Consultative Mission to Zambia from 14 to 20 August 2011, whose main objective was to familiarise with the prevailing political environment in Zambia ahead of the elections. The Pre-Election Mission held consultative meetings with various stakeholders including the Electoral Commission of Zambia (ECZ), leaders of political parties, the United Nations Development Programme (UNDP), the Speaker of Parliament, the Dean of SADC Ambassadors, civil society organisations, academics and the media. SADC PF will also have a Post-Election Mission that will remain in Zambia from 24<sup>th</sup> to 27<sup>th</sup> September 2011 to observe post-election developments in the country.

The 2011 Zambia Elections will be the 26<sup>th</sup> election to be observed by SADC PF in the SADC Region since 1999<sup>2</sup>.

The Observation Mission will assess the following:

1. The constitutional and legal framework within which elections are conducted;
2. The historical, socio-economic and political environment within which elections
3. are taking place;

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<sup>1</sup> The SADC PF is a regional organisation of the National Parliaments of SADC Member States formed in 1996 and approved by the SADC Summit of Heads of State and Government in 1997 with the primary objective of strengthening the implementation capacity of SADC by involving Parliamentarians in the affairs of SADCs. SADC PF is involved in election observation, gender and women empowerment, capacity development for Parliaments and Parliamentarians, HIV and AIDS, regional integration advocacy and the use of ICTs in advancing the work of National Parliaments. The Forum is the voice of Parliamentarians in the SADC region. The Headquarters of the Forum is in Windhoek, Namibia.

<sup>2</sup> Since 1999, the SADC PF has observed elections in Mozambique (1999), Namibia (1999), Mauritius (2000), Zimbabwe-Parliamentary (2000) Tanzania (2000), Zambia (2001), Zimbabwe-Presidential (2002), Lesotho (2002), Malawi (2004), South Africa (2004), Botswana (2004), Namibia (2004), Mozambique (2004), Mauritius (2005), Tanzania and Zanzibar (2005), Zambia (2006), DRC (2006), Madagascar (2006), Lesotho (2007), Malawi (2009), South Africa (2009), Botswana (2009), Mozambique (2009), Namibia (2009) and Mauritius (2010).

4. The extent to which the elections are conducted in line with the constitutional and legal framework provisions of the country and in relation to the Norms and Standards for Elections in the SADC Region<sup>3</sup>, SADC Principles and Guidelines Governing Democratic Elections (2004) and OAU/AU Declaration on the Principles Governing Democratic Elections in Africa – AHG/DECL.1 (XXXVIII)
5. The gender trends and voter turnout in comparison to previous elections;
6. The organizational arrangements of the electoral process by examining the following:
  - a) Independence, impartiality and accountability of electoral institutions, including stakeholders' confidence in the election authorities;
  - b) Secrecy of the ballot and the transparency and legitimacy of the electoral process;
  - c) Voter registration and the state of the voters roll, paying special attention to the inclusiveness and availability of voters roll to stakeholders;
  - d) The campaign process and the conduct of political parties with reference to the Electoral Code of Conduct;
  - e) Publication of the election calendar, preparation and distribution of voting materials;
  - f) Civic and voter education including the quality of the education, the role of the ECZ, civil society organisations and political parties;
  - g) Role of security forces;
  - h) Gender mainstreaming in political activities and manifestos, electoral system/s, practices and processes, including the management and administration of elections;
  - i) Role of the media with respect to fair and balanced media reporting and coverage on election activities;
  - j) Polling stations with reference to adequacy, location and voters' access to information on polling stations;
  - k) Polling arrangements with reference to opening of polling stations, availability of voting materials, secrecy of the ballot, and related administrative arrangements;
  - l) Counting, reconciliation, verification, tabulation and announcement of results as well as the legitimacy of results in the views of stakeholders; and
  - m) Conflict resolution mechanisms in place with reference to the working relationship between the ECZ, Government, political parties and other stakeholders.

While in Zambia, the Mission will consult with all stakeholders in the electoral process, including the ECZ, political parties, the diplomatic community, civil society and international organisations. Other local and international observer groups and members of the media fraternity will also be consulted. Meetings with stakeholders have been scheduled for Thursday 8<sup>th</sup> September at Taj Pamodzi Hotel before Mission Teams are deployed to Provinces for field observation.

SADC PF Mission Teams will be deployed to all the nine (9) Provinces in Zambia to observe the electoral process during the period 10<sup>th</sup> to 21<sup>st</sup> September 2011. At the end of counting of vote, the Teams will reconvene in Lusaka to issue a statement on the conduct of the electoral process in Zambia during the 2011 Tripartite General Elections. The statement will cover the Mission's findings in terms of the good practices, challenges and recommendations for future elections. In the statement, the Observation Mission will also make a determination as to whether or not the electoral process for the 2011 Zambia Tripartite General Elections was free, fair, credible and legitimate.

**Issued by the Secretary General on 5<sup>th</sup> September 2011**

**SADC Parliamentary Forum Election Observation Mission, Taj Pamodzi Hotel**

**Contact: Mr. Sheuneni Kurasha, Elections Director, Mobile: +260975 570285**

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<sup>3</sup> The Plenary Assembly of SADC PF unanimously adopted the Norms and Standards for Elections in the SADC Region on 25<sup>th</sup> March 2001 as a blueprint for the design and conduct of credible and transparent electoral systems and processes in the SADC Region.

# APPENDIX 4: COMPOSITION OF THE SADC PF ELECTION OBSERVATION MISSION TO THE 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS



## 2011 ZAMBIA GENERAL ELECTIONS COMPOSITION OF SADC PARLIAMENTARY FORUM ELECTION OBSERVATION DELEGATION

PARLIAMENT / INSTITUTION		NAME	GENDER	SIGNATURE
Angola	1.	Hon. Francisco Castro Maria, MP	M	
	2.	Hon. Ruth Mendes, MP	F	
	3.	Hon. Raul Barcelos, MP	M	
Botswana	4.	Hon. Fidelis Molao, MP	M	
	5.	Hon. Botsalo Ntuane, MP	M	
Lesotho	6.	Hon. Kotiti Diholo, MP	M	
DRC	7.	Sen. Emmanuel Kisimba Kimba, MP	M	
Malawi	8.	Hon. Rev. Christopher S.M Ngwira, MP	M	
Mauritius	9.	Hon. Maneswar Peetumber, MP	M	
Mozambique	10.	Hon. Zeca Castro Morgado, MP	M	
Namibia	11.	Hon. Elifas Dingara, MP	M	
	12.	Hon. Ben Ulenga, MP	M	
South Africa	13.	Hon. Dr Zukile Luyenge , MP	M	
	14.	Hon. Kenneth Sililo Mubu, MP	M	
Swaziland	15.	Hon. Henry Dlamini, MP	M	
Tanzania	16.	Hon. Stella Manyanya, MP	F	
	17.	Hon. Moses Joseph Machali, MP	M	
	18.	Hon. Magalle John Paul Shibuda, MP	M	
Zimbabwe	19.	Hon. Ellina Shirichena, MP	F	
	20.	Hon. Fani Munengami, MP	M	
Secretariat	21.	Dr Esau Chiviya (Secretary General)	M	

## APPENDIX 5: TRAINING AND ORIENTATION PROGRAMME FOR THE SADC PARLIAMENTARY FORUM ELECTION OBSERVATION MISSION TO THE 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS



### TRAINING AND ORIENTATION PROGRAMME FOR THE SADC PARLIAMENTARY FORUM ELECTION OBSERVATION MISSION TO THE 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS

**Venue: Taj Pamodzi Hotel, Lusaka, Zambia**

**Date: 6 – 9 September 2011**

**Tuesday 6 September 2011**

**Arrival of the Mission**

**DAY 1:**

08h30 – 09h00

**WEDNESDAY, 7 SEPTEMBER 2011**

Registration of Participants

09h00 – 09h30

**Opening Session**

- Introduction and Programme Overview, Mr. S. Kurasha, Democracy & Governance Programme Manager, SADC PF
- Welcome & Opening Remarks by Dr Esau Chiviya, Secretary General, SADC PF
- Remarks by Amb. Mustaq Moorad, Regional Director Africa Programme, International IDEA
- Remarks by the Swedish Ambassador to Zambia, Marie Andersson de Frutos

09h30 – 10h30

**Elections and Democracy in the SADC Region by International IDEA**

- Electoral Democracy in the SADC Region
- Election Instruments that Guide the Conduct of Elections in the SADC Region
- Electoral Models and their Comparative Advantages
- Role of Stakeholders – political parties, civil society organizations, media, state organs, monitors and observers

**10h30 – 11h00 TEA BREAK & GROUP PHOTOGRAPH**

11h00 – 12h00

**Democracy and Political Parties by International IDEA**

- Role of political parties in democracy
- Role of the ruling and opposition parties
- Political party funding and democracy and good governance

12h00 – 13h00

**Mitigating Election-related Conflict by International IDEA**



- Types, causes, symptoms and effect of conflict relating to and resulting from elections

#### 13h00 – 14h00 LUNCH

14h00 – 14h45

#### **Some Issues in Election Observation by International IDEA**

- Human Rights, Democracy and Elections
- Gender Equality, Democracy and Elections
- ICTs and Elections
- Media and Elections
- Political cost of HIV & AIDS to Democracy in SASDC Region

14h45 – 15h30

#### **Rationale for Observing Elections in Southern Africa by International IDEA**

- Rationale/Broad Objectives for Observing Elections
- Who Observes and Why?
- What is Observed?
- How to Assess an Election
- Voting and Post-Election Assessment

15h30 – 16h30

#### **Framework for SADC Parliamentary Forum Election Observation Programme by SADC PF**

- Definition of key terms/concepts
- SADC PF Observation History
- SADC PF Election Observation Mandate
- Broad Objectives for Observation
- Election observation phases
- Guiding Instruments
- Mission Terms of Reference
- Why Parliamentarians?
- Guiding Principles for Observers
- Election Observation Methodology
- Specific points of enquiry

#### 17h00 – 1730 TEA BREAK & END OF DAY

**DAY 2:**

**THURSDAY, 8 SEPTEMBER 2011**

08h45 – 09h45

#### **Mainstreaming gender in Electoral Systems and Processes by International IDEA**

#### 09h45 – 10h00 TEA BREAK

10h00 – 11h00

#### **Update on the Zambia Elections Context** (political, legal, constitutional, voter registration, etc): **SADC PF's Pre-Election Mission Report**

11h00 – 12h00

#### **Preparedness of the Electoral Commission of Zambia (ECZ) for the Upcoming Elections by ECZ**

- Overview on the Electoral Laws of Zambia

- Voter Registration
  - Voter Education
  - Overview of mechanisms established for elections in each Region/District
  - Distribution of Voting Stations
  - Voting Materials
  - Challenges
- Overall Preparedness

12h00 – 13h00

**Briefings by the main Political Parties contesting the 2011 Zambia Elections (45 minutes for each party)**

- Political Party Manifestos
- Campaign Agenda
- View on the 2011 Elections

- a) Movement for Multi-Party Democracy
- b) Patriotic Front (PF)
- c) United Party for National Development (UPND)

**13h00 – 14h00 LUNCH**

14h00-16h00

**Briefings by the main Political Parties contesting the 2011 Zambia Elections (45 minutes for each party) CONT'D**

16h00 – 16h45

**Media Coverage of the 2011 Zambia Elections, MISA**

**1645 END OF DAY**

**DAY 3:**

**FRIDAY, 9 SEPTEMBER 2011**

08h45 – 09h30

**Roles and Responsibilities during Election Observation Mission by SADC PF**

- Mission Leader
- Secretary General
- Parliamentarians
- Elections Director/DG Officer
- SADC PF Secretariat
- SADC Parliamentary Forum Expectation
- Mission Deployment Plan

09h30 – 10h30

**Working in the Field by SADC PF**

- Role/Responsibilities of Team Leaders
- Role/Responsibilities of Parliamentary Staff
- Working with the Media
- Reports and Forms
- Guidelines and Field Reports
- Management of Resources in the field by the SADC Parliamentary Staff
- Security and Safety Issues

**10h00 – 10h30 TEA BREAK**

10h30 – 13h00

**Accreditation by the ECZ**

**13h00 – 14h00 LUNCH**

14h00 – 15h00

**Finance, Administration and Logistics by SADC PF**

- Management of transport, service providers and accounting for finances

15h00 – 16h00

**Mission Deployment Plan by SADC PF**

**16h00 END OF DAY**

**DAY 4**

**Saturday 10 September 2011**

**DEPARTURE OF ELECTION OBSERVER TEAMS TO THE REGIONS FOR  
FIELD OBSERVATION**

## **APPENDIX 6: INTERIM MISSION STATEMENT BY THE SADC PARLIAMENTARY FORUM ELECTION OBSERVATION MISSION TO THE 20 SEPTEMBER 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS**



### **INTERIM MISSION STATEMENT**

#### **SADC PARLIAMENTARY FORUM ELECTION OBSERVATION MISSION TO THE 20 SEPTEMBER 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS**

##### **1. INTRODUCTION**

Following an invitation by the Government of the Republic of Zambia, the SADC Parliamentary Forum (SADC PF) constituted an Election Observation Mission to observe the 20<sup>th</sup> September 2011 Presidential, National Assembly and Local Government Elections in Zambia. The 40-Member Mission was in the country from 6<sup>th</sup> to 24<sup>th</sup> September 2011. It was composed of 20 Members of Parliament, 10 Parliamentary staff from SADC Parliaments and 10 staff from the Forum's Secretariat. The Mission comprised male and female Members of Parliament from both the ruling and opposition political parties from Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, and Zimbabwe. This is the third time that the SADC Parliamentary Forum has observed General Elections in Zambia, having previously observed the 2001 and 2006 Tripartite General Elections.

The Mission Leader for the SADC PF Election Observation Mission was Hon. Elifas Dingara, MP, a Member of the National Assembly of Namibia and a Member of the SADC PF Executive Committee. The Deputy Mission Leader was Hon Zeca Castro Morgado, MP, Member of the National Assembly of Mozambique.

The 2011 Zambia Tripartite General Election is the 26<sup>th</sup> election to be observed by SADC PF since 1999. Previously, the Forum observed the following elections: Mozambique and Namibia (1999); Mauritius, Zimbabwe and Tanzania (2000); Zambia (2001); Zimbabwe and Lesotho (2002); Malawi, South Africa, Botswana, Namibia and Mozambique (2004); Mauritius and Tanzania (2005); Zambia, DRC and Madagascar (2006); Lesotho (2007); Malawi, South Africa, Botswana, Mozambique and Namibia (2009); and Mauritius (2010).

The Mission was preceded by a Pre-Election Technical Mission from 14<sup>th</sup> to 20<sup>th</sup> of August 2011, whose main objective was to assess the political environment prevailing in Zambia ahead of the 2011 Tripartite General Elections.

The purpose of this Interim Statement is to share with the peoples of Zambia, the SADC Region's Parliaments and citizens as well as the international community in general, the Mission's Observations, Findings and Recommendations which are aimed at strengthening democratic electoral practices in the Region. A more detailed Final Report will be compiled and published not later than 90 days from the date of this Statement.

##### **2. TERMS OF REFERENCE**

In undertaking its election observation work, the SADC Parliamentary Forum Election Observation Mission to the 2011 Zambia Tripartite General Elections was guided by the following terms of reference which are premised on the Forum's Norms and Standards for Elections in the SADC Region.

- viii) Assess the extent to which the elections are conducted in line with the Zambian constitutional and legal framework as well as the Norms and Standards for Elections in the SADC Region;
- ix) Assess the contextual factors, (political, economic, social and human rights) that are likely to impinge upon the integrity, transparency, freeness and fairness, credibility and legitimacy of the elections;
- x) Assess the impartiality, efficiency and effectiveness of the Electoral Commission of Zambia (ECZ) in the management of all relevant aspects of the elections;
- xi) Make an honest, independent, impartial and objective assessment of the extent to which conditions existed for the people of Zambia to freely express their will in the choice of political representatives;
- xii) Assess special provisions/facilities in place to enable imprisoned persons, the disabled, sick, infirm, expecting mothers, citizens living abroad and public servants on duty to vote;
- xiii) Draw some good practices, conclusions and recommendations on the election and report to the SADC Parliamentary Forum; and
- xiv) Produce a report on the outcome of the election including strengths and possible areas of improvement.

### 3. TRAINING AND ORIENTATION WORKSHOP

The work of the Mission commenced with a three-day Training and Orientation Workshop for the MPs and staff in Lusaka from 6<sup>th</sup> to 9<sup>th</sup> September 2011. The main purpose of the Training and Orientation Workshop was to familiarise the Forum's Mission with issues of democracy, governance and elections, the political, constitutional and legal context of the electoral process as well as to equip the Members with the skills for election observation including the terms of reference and the methodology for the Mission. The Stakeholders that briefed the Mission included the ECZ, representatives of contesting political parties, civil society organizations (CSOs) and the media.

### 4. DEPLOYMENT

The Mission deployed one Team in each of the nine (9) Provinces on 10<sup>th</sup> September, where they were based until 21<sup>st</sup> September 2011. The Teams operated from provincial capitals of Kasama (Northern Province), Ndola (Copperbelt Province), Chipata (Eastern Province), Mansa (Luapula Province), Kabwe (Central Province), Solwezi (North-Western Province), Livingstone (Southern Province) and Mongu (Western Province). The Mission Leader and his Team covered Lusaka Province. The deployment plan is as shown in the table below:

PROVINCE	TEAM MEMBERS / DELEGATION	G	COUNTRY
Lusaka Province	<b>TEAM 01</b> 4. Hon Elifas DINGARA (Mr) ( <i>Mission Leader</i> ) 5. Hon. Kotiti DIHOLO (Mr) 6. <i>Ms. June KHUZWAYO....Staff</i>	M M F	Namibia Lesotho South Africa
Northern Province (Kasama)	<b>TEAM 02</b> 4. Hon. Fani MUNENGAMI (Mr) ( <i>Team Leader</i> ) 5. Hon. Moses Joseph MACHALI (Mr) 6. <i>Mr. Albius MUTONGA.....Staff</i>	M M M	Zimbabwe Tanzania Namibia
Copperbelt Province (Ndola)	<b>TEAM 03</b> 5. Hon Zeca Castro MORGADO (Mr) ( <i>Team Leader</i> )	M	Mozambique

	6. Hon. Ruth MENDES (Ms) 7. <i>Mr. Jaime Ezequiel NUMAIO .....Staff</i> 8. <i>Michel Saraiva (Mr)...Interpreter</i>	F M M	Angola Mozambique Zambia
Eastern Province (Chipata)	<b>TEAM 04</b> 5. Hon. Francisco Castro MARIA (Mr) ( <i>Team Leader</i> ) 6. Hon. Raul BARCELOS (Mr) 7. <i>Mr. Geraldo CAMBIETE....Staff</i> 8. <i>Jose PINTO (Mr)...Interpreter</i>	M M M M	Angola Angola Angola Zambia
Luapula Province (Mansa)	<b>TEAM 05</b> 4. Hon. Kenneth Sililo MUBU (Mr) ( <i>Team Leader</i> ) 5. Hon. Henry DLAMINI (Mr) 6. <i>Mr. Absolom KUNZWA...Staff</i>	M M M	South Africa Swaziland Zimbabwe
Central Province (Kabwe)	<b>TEAM 06</b> 5. Hon. Maneswar PEETUMBER Hon (Mr) ( <i>Team Leader</i> ) 6. Sen. Emmanuel Kisimba KIMBA (Mr) 7. <i>Mr. Sibiti Maowa LUPAYA....Staff</i> 8. <i>Michel MWEZA (Mr)...Interpreter</i>	M M M M	Mauritius DRC DRC DRC
North-Western Province (Solwezi)	<b>TEAM 07</b> 4. Hon. Stella MANYANYA (Ms) ( <i>Team Leader</i> ) 5. Hon. Botsalo NTUANE (Mr) 6. <i>Mr. Lawson Laston CHITSEKO.....Staff</i>	F M M	Tanzania Botswana Malawi
Southern Province (Choma)	<b>TEAM 08</b> 5. Hon. Ben ULENGA (Mr) ( <i>Team Leader</i> ) 6. Hon. Ellina SHIRICHENA (Ms) 7. Hon. Fidelis MOLAO (Mr) 8. <i>Mr. Liseddi KEEKAE.....Staff</i>	M F M M	Namibia Zimbabwe Botswana Botswana
Western Province (Mongu)	<b>TEAM 09</b> 4. Hon. Dr. Zukile LUYENGE (Mr) ( <i>Team Leader</i> ) 5. Hon. Magalle John Paul SHIBUDA (Mr) 6. <i>Mr. Jossy Stephen MWAKASYUKA.....Staff</i>	M M M	South Africa Tanzania Tanzania

## 5. METHODOLOGY

The Mission Teams employed several methods to gather information. These included review of the constitutional and legal framework of elections in Zambia, analysing the various election documents provided by the ECZ, attending political campaign rallies, witnessing door to door campaigns, holding discussions with SADC Ambassadors, analysis of newspapers as well as electronic media and interacting with other Election Observer Missions such as the African Union, SADC Secretariat, COMESA, the Commonwealth Secretariat, National Democratic Institute, Commonwealth Parliamentary Association (CPA), EISA and the European Union in order to exchange observations and information. These various methods enabled the Mission to gather comprehensive information and to assess the degree to which the 2011 Zambian electoral processes were managed. The Mission's Teams visited a total of 109 of the 150 National Assembly Constituencies, 54 out of the 74 Districts and 96 polling stations during the observation.

The Mission's observation process was based on the constitution and legal framework for Zambia as well as the *Norms and Standards for Elections in the SADC Region*, the *SADC Principles and Guidelines for Democratic Elections*, the *SADC Protocol on Gender and Development*, and the *African Union Declaration on the Principles Governing Democratic Elections in Africa*, among other relevant regional and international instruments. The global *Declaration of Principles for International Election Observation* and the *Code of Conduct for International Election Observers*, which the Forum is party to, were also useful references for the Mission.

## **6. GUIDING PRINCIPLES AND POINTS OF ENQUIRY**

In carrying out its observation work, the Mission was guided by the following principles:

- impartiality,
- neutrality,
- comprehensiveness,
- transparency,
- inclusiveness, and
- objectivity.

The specific points of enquiry for the Mission were:

- i) Constitutional and legal framework
- ii) Comprehensiveness of Voters Roll and related processes;
- iii) Civic and voter education;
- iv) Participation of women and the youth as voters, candidates and election officials;
- v) Preparation and distribution of voting materials, adequacy and location of polling stations;
- vi) Polling arrangements;
- vii) Counting of ballots, tabulation and verification of results;
- viii) Use of ICTs;
- ix) Conflict Resolution mechanisms;
- x) Media coverage of parties, candidates and election-related events;
- xi) Conduct of the campaign process;
- xii) Role of security forces;
- xiii) Political Party Funding
- xiv) Conduct of political parties and candidates,
- xv) Good practices from the Zambian Election;
- xvi) Areas of Improvement; and
- xvii) Overall Mission Assessment of the Electoral Process.

## **7. MISSION FINDINGS**

### **7.1 The Constitutional and Legal Framework**

The Constitution of the Republic of Zambia provides for the protection of citizens' freedoms of movement, expression, assembly and association, among others. Article 21 specifically provides for citizens' right to form or belong to political parties. These freedoms were, in the Mission's view, respected and exercised without undue hindrance.

The electoral process in Zambia is governed principally by the Constitution of the Republic, the Electoral Act (2006), the Electoral Commission Act (1996), relevant provisions of the Public Order Act (1996), the Local Government Act (2010) and the Electoral Code of Conduct (Statutory Instrument No. 90 of 2006). Part IV and Part V of the Constitution make provision for, among other issues, elections for the President, designation of the Chief Justice as Returning Officer for Presidential Elections, Elections for the National Assembly seats, the electoral system, and delimitation of constituencies.

The Zambian Constitution allows for the President and Vice President to continue exercising their functions and duties even after the dissolution of Parliament until the new President and Vice President are sworn in.

The Mission noted the existence of an Electoral Code of Conduct regulating the conduct of political parties and other stakeholders such as the media, the police, observers and monitors during

elections. The Mission further noted that the Code, which has a legal enforcement mechanism including fines, police enforcement and penalty sentences, gives power to the ECZ to reprimand political parties and candidates violating the Code of Conduct.

The Mission however, observed that the law doesn't give the ECZ enough powers to enforce the Code hence the continued violation of the same by various stakeholders especially on issues relating to lack of fairness, balance and objectivity by the media in their coverage of political campaign issues.

The Mission is of the view that the constitutional and legal framework governing elections in Zambia generally augurs well for the conduct of free and fair elections.

## **7.2 The Electoral Commission of Zambia (ECZ)**

Article 76 of the Constitution of the Republic of Zambia establishes the ECZ as an autonomous body with the sole mandate of supervising voter registration, conducting elections and delimiting constituency boundaries. Issues relating to the composition and operations of the ECZ and the conduct of elections are further articulated in the Electoral Commission Act (1996), the Electoral Act (2006) and the Electoral Code of Conduct (Statutory Instrument No. 90 of 2006). The law provides that the ECZ comprises a Chairperson and not more than four other members. The members are appointed by the President subject to ratification by the National Assembly. For one to qualify as Chairperson of ECZ, one should have held or be 'qualified to hold high judicial office or, any suitably qualified person.' The power and authority to appoint the Director and staff of the Commission rests solely with the Commission, to which such staff are accountable.

Recognising the notable exceptions, electoral stakeholders expressed confidence in the independence, impartiality, accessibility and capacity of the ECZ to organise and conduct credible elections.

The Mission noted that the legal framework within which the ECZ is established and operates generally augurs well for the independent and autonomous functioning of the Commission. This is in line with the Norms and Standards for Elections in the SADC Region and the SADC Principles and Guidelines for Democratic Elections.

The Mission observed that the ECZ was evidently prepared for the 2011 Tripartite Elections. The ECZ ensured the printing of ballot papers in time under the observation of stakeholders including representatives of political parties, carried out civic and voter education programmes in collaboration with civil society organisations, and distributed both sensitive and non sensitive voting materials to District Polling Centres in the Provinces and constituencies according to the electoral calendar. It also trained polling staff and engaged stakeholders throughout the process. However, there were isolated cases where ballot papers and other voting materials could not be delivered in time.

Overall, the Mission commends the ECZ for the professional work in preparing for the 2011 Zambia Tripartite Elections.

## **7.3 The Political Environment**

The Mission found out that the political environment was generally peaceful as demonstrated by unimpeded political rallies, campaigns, high degree of tolerance among political party supporters although isolated cases of election-related violence were reported to the Mission's Teams by stakeholders including the Police. The Mission noted with concern the tendency by political parties and candidates to use emotive and inflammatory language targeting personalities rather than issues which tended to promote polarisation and which could easily fan political violence.



The SADC PF commends the people of Zambia for the generally peaceful and friendly manner in which they conducted themselves during the campaign, voting and counting of ballots.

#### **7.4 Voter Registration**

The Mission noted that the voting age in terms of Zambian law is 18 years. The Mission further noted that Zambian law provides for continuous voter registration which, however, was not undertaken due to funding challenges. The SADC PF Election Observation Mission found out that for the 2011 Tripartite Elections, Zambia introduced biometric registration kits for the first time, changing from the manual system which was slow and difficult to update. The Mission also found that during the voter registration exercise, the ECZ collaborated with the Ministry of Home Affairs' Department of National Registration since one requires a National Identity document before getting a voting card. The Mission noted the challenges faced by the ECZ in the capturing of information from a manual National Identity registration system into a computerised Voters' Roll, as well as deregistration of deceased persons.

The Mission found that the first voter registration was conducted from June to December 2010 and was extended in March 2011 for 3 weeks. This witnessed a big leap in total citizens registered from 3.9 million voters captured in the previous Voters' Roll to 5,167,154 voters, representing 86 percent of the eligible voters. This puts Zambia above the regional average of 77 percent. In addition, the Mission noted the large number of first time voters in the 2011 Zambia Tripartite Elections, the majority of whom are the youths. A total of 1,272,000 first time voters registered to vote. In terms of age groups of the registered voters: 1,064,730 are between the ages of 18 to 25 years, 1,716,858 are between the ages of 26 to 35 years while 2,385,566 are above 35 years. The Mission also observed that of the 5,167,154 registered voters, female voters are a marginal majority at 2,590,821, representing 50.14 percent when compared to the 2,576,333 male registered voters representing 49.86 percent.

#### **7.5 Voters' Roll**

The Mission noted that copies of the Voters' Roll were available to the public and stakeholders in hard copies and besides the untimely dispatch, no significant complaints were raised by the contesting political parties, candidates and other stakeholders, relating to anomalies, shortcomings and inaccuracies on the Voters' Roll.

#### **7.6 Gender Representation**

The Mission observed that there were very few women candidates participating in the 2011 Zambia General Elections, with only one Presidential candidate being a woman. Out of a total of about 450 Parliamentary candidates for the 150 National Assembly seats, only 85 women candidates were adopted by the political parties or stood as independent candidates as follows: 22 United Party for National Development (UPND), 21 Patriotic Front (PF), 20 Movement for Multi-Party Democracy (MMD), 17 independent candidates, 3 Forum for Democracy and Development (FDD), 1 United National Independent Party (UNIP) and 1 National Restoration Party (NAREP). Only one of the 150 National Assembly seats had all women candidates. The Mission's interaction with various electoral stakeholders singled out inadequacies of the First-Past-The-Post (FPTP) electoral system which emphasises winner-takes-all as the major reason for the poor representation of women among the candidates. Other reasons sighted included cultural, socio-economic and job security factors.

The Mission noted the urgent need for Political Parties in Zambia to incorporate gender equity in their constitutions, policies and manifestos.

The Mission therefore noted that the outcome of the election in terms of gender representation falls short of the objectives and targets of the SADC Protocol on Gender and Development which requires SADC countries to ensure 50/50 women and men representation in both political and decision making positions.

The Mission was encouraged by Women's representation within the ECZ structures where the Director of the ECZ Secretariat is a woman. While gender was not a criterion for the recruitment of electoral officials, the Mission observed a fairly equitable representation of women who occupied the positions of presiding officers or returning officers.

### **7.7 Participation of Youths**

The Mission noted that in spite of the youth constituting the majority of the voters, their participation was generally marginalised to mobilising support for their parties' candidates without having a clearly defined agenda of their own in the electoral process. The Mission further noted that some candidates took advantage of youth unemployment to use them as unpaid political "foot soldiers" and rewarding them with beer.

### **7.8 Role of Civil Society Organisations**

The Mission appreciated the civil society organizations (CSOs) for playing an important role in civic and voter education, working with the ECZ. In addition, the Mission noted the role of CSOs in promoting the participation of women in the electoral process through training women candidates in public speaking, fundraising and other skills. The Mission, however, noted concerns raised by various stakeholders, particularly political parties, regarding lack of impartiality by some civil society organizations in the discharge of their programmes.

### **7.9 Role of Traditional Leaders**

The Mission noted the concerns raised against some traditional leaders that they tended to favour certain political parties and candidates to the exclusion of others. This conduct undermines their stature in the community as symbols of unity and social cohesion. The Mission was also informed that political parties abused traditional leaders by coercing them to openly support them. The Mission further took note of the intervention by the ECZ which had held a meeting with traditional leaders and brought to their attention the fact that they were prohibited from doing that by law. This had resulted in a reduction of such incidents.

### **7.10 Role of Development Partners**

The Mission appreciated the crucial role played by the United Nations Development Programme (UNDP) in coordinating a basket fund which was used for general electoral support including strengthening the capacity of ECZ, training the police in policing elections and civil society organisations in their civic and voter education activities.

### **7.11 Media Coverage of the Electoral Process**

The Mission's observation was that there was polarization in the Zambian media, with the public media, both print and electronic, biased towards the ruling party and the mainstream private print media tilted towards some sections of the opposition. The Mission wishes to note that the public media has a greater obligation to provide balanced coverage of all political players, funded as it is by the tax payer.

In addition, the Mission found out that some sections of the private media, in particular television stations and community radio stations spread across the country, were fair in their coverage of political parties' candidates and the electoral process. This helped to fill the gap left by the generally unbalanced coverage of political issues by the mainstream media. The Mission also noted that the live election debates conducted by the media especially television stations helped to focus the

debates on the main issues in this election. This helped to diffuse the polarization brought about by the biased reporting and use of inflammatory language by political parties and candidates.

#### **7.12 Voter Education**

The Mission found out that since July 2011, the ECZ had coordinated a robust voter education campaign across the country. The Mission further noted that the deployed voter education facilitators were supported with relevant materials in all the eight major languages including a facilitator's guide and manual. The Mission also found out that the voter education material was standardised and apolitical as is stipulated by Zambia's Electoral Act.

The Mission observed that the Electoral Act provides for continuous voter education but this was not done due to resource constraints. The Mission further noted the role played by civil society organisations in complementing ECZ efforts by providing civic and voter education. Political parties and the media also played significant roles in providing voter education.

The Mission further observed that monitoring of voter education activities was devolved to District Voter Education Committees comprising the ECZ and civil society organizations with the National Voter Education Committee helping with policy direction.

#### **7.13 Political Campaigns**

The Mission noted that the official campaign period for the 2011 Zambia Tripartite Elections stretched from 29<sup>th</sup> July 2011 to 18<sup>th</sup> September 2011 following dissolution of Parliament on 28<sup>th</sup> July 2011. The Mission further noted that the conduct of political parties and other stakeholders during campaigns in Zambia is governed by the Public Order Act (1996) and the Electoral Code of Conduct Regulations of 2006.

The 2011 Zambia Election campaign expressed itself in the form of political rallies, door-to-door campaigns, billboards, posters, radio and television adverts as well as live debates involving candidates.

The Mission observed that apart from the isolated reports of political violence and election related conflicts, the election campaign was carried out in a calm and orderly manner with a relative degree of tolerance among contesting political parties and candidates despite the tendency of some candidates to engage in personality attacks of their opponents.

#### **7.14 Polling Centres/Stations**

The Mission found out that the ECZ established a total of 6,456 polling stations throughout the country with each polling station divided into multiple polling streams of not more than 850 people per stream to expedite voting. The Mission further noted that the voter registers were also customized up to a specific stream, with a register for each stream. The Mission noted that the ECZ trained approximately 60,000 electoral staff members who were recruited for the 2011 Zambia Tripartite Elections. The Mission further observed that most polling stations visited by its Teams in the provinces were well staffed, with each stream being manned by five officers other than security officers and ushers and attained some gender balance in the composition of officials manning them. Furthermore, the polling officers generally demonstrated good knowledge of the requisite voting procedures. The Mission is of the general view that the number of polling stations was adequate and generally accessible enough to allow as many eligible voters as possible to cast their vote.

#### **7.15 The Vote and the Count**

The Mission observed that most polling stations opened and closed at legislated times of 0600 and 1800 respectively. However, there were some polling stations which opened late due to logistical

challenges mainly relating to the late arrival of election materials. The ECZ extended the voting period for those polling stations that opened late to compensate for the lost time. Polling materials were generally available in adequate quantities allowing voting to proceed smoothly throughout the day at most polling stations. The Mission also noted that the presence of political party agents, election monitors and the police at all polling stations together with the use of indelible ink to avoid multiple voters contributed to enhancing the transparency of the voting process.

The Mission noted isolated cases of violence in some of the constituencies including the burning of vehicles and confiscation of voting materials as reported in Kanyama and Lilanda in Lusaka Province, Mongu in Western Province and Solwezi in North-Western Province. Other than the aforementioned cases, the election proceeded countrywide generally with no significant cases of violence and intimidation on the polling day.

The Mission observed that counting of ballots took place at the respective polling stations at the end of the voting process and was generally conducted in a peaceful and transparent manner in the presence of candidate representatives, monitors and in some cases observers. The presiding officers and party agents signed the results before posting a copy on the outside of the polling station while each of the candidates' representatives was given a signed copy of the same.

#### **7.16 Conflict Resolution Mechanisms in Place**

The Mission noted the existence, across the country, of Conflict Resolution Committees as provided for in both the Electoral Code of Conduct and the Electoral Act. The Mission further noted that a number of incidences of election related violence and /or conflict were successfully resolved by the various District Conflict Resolution Committees which were composed of political party representatives, the police and civil society organisations. The Mission also found out that the District Conflict Resolution Committees received complaints and considered them and the unresolved cases at the District level were referred to the Provincial Conflict Resolution Committee for further adjudication before forwarding to the National Conflict Resolution Committee, which is an appeals committee chaired by an independent person appointed by the ECZ. The Mission noted the absence of an Electoral Court and that the Zambian High Court handles election related disputes in accordance with the Electoral Act.

#### **7.17 Provision of Special Arrangements**

The Mission noted that there were no arrangements for special groups such as the sick, the pregnant, the disabled and those living abroad to vote. While arrangements were made for the polling staff and the police on duty to vote in their duty stations, the Mission noted that a number of them were disenfranchised of their right to vote for their Local Government and Parliamentary representatives, having been deployed away from the wards where they were registered and were only allowed to vote for their Presidential representatives. Zambian law does provide for arrangements to be put in place to facilitate voting by those with special needs. A credible method to do this has not yet been put in place. The Mission, however, commends the ECZ for fast tracking voting of the sick, the disabled and the pregnant.

### **8. GOOD PRACTICES FROM THE 2011 ZAMBIA ELECTIONS**

The Mission observed the following as good practices from the 2011 Zambia Tripartite Elections:

- xviii) High degree of tolerance which contributed to peaceful and orderly campaigns and generally amicable atmosphere during polling;
- xix) Existence of enforceable Electoral Code of Conduct stipulating how various stakeholders should conduct themselves during elections;
- xx) Efforts by the ECZ in opening up the electoral process by engaging and communicating with stakeholders on a regular basis, encouraging voters' interest and participation through voter

education, and enhancing the transparency of the electoral process and speedy tabulation of results;

- xxi) Professionalism and commitment to duty demonstrated by the electoral staff;
- xxii) The establishment of multiple voting streams at polling stations and limiting the number of voters to 850 per stream which speeded up the voting process;
- xxiii) The establishment of Conflict Management Committees involving a wide range of stakeholders to handle election-related conflicts;
- xxiv) The use of biometric voter registration kits and the availability of an electronic Voters' Roll and use of colour photographs for all voters;
- xxv) The establishment of an electronic Results Management System which helps to expedite the tabulation, collation and announcement of results;
- xxvi) The provision for continuous Voter Registration in the law;
- xxvii) The use of transparent and translucent ballot boxes;
- xxviii) The prohibition of political campaigning 48 hours prior to the election date which helps to create a calm and tranquil environment during the period leading to and on the voting day;
- xxix) Role of civil society and religious organisations in denouncing violence and campaigning for peace;
- xxx) Civil Society's mobilization of non-partisan monitors who monitored the 2011 Zambian Tripartite Elections;
- xxxi) The measures by the Zambian Police to enhance professionalism and political impartiality of members of the Police Service in the conduct of their election related duties;
- xxxii) Counting of ballots at each of the polling stations in the presence of party agents and observers, including the signing of polling station result sheets by electoral officials, and party agents and posting of the same at each polling station; and
- xxxiii) With some exceptions, the general acceptance of results by contesting parties and candidates.

## **9. AREAS FOR IMPROVEMENT**

- vii) The lack of provisions for gender equity in the electoral processes remains a major challenge in Zambia's democratic development. Political parties are therefore urged to foster national dialogue to address this critical question through the review of the electoral system. On their part, Political Parties should incorporate gender parity in their policies and constitutions in line with the SADC Protocol on Gender and Development.
- viii) The absence of provisions for public funding of political parties in Zambia as well as lack of regulations regarding transparency in political party funding has resulted in variations in financial endowments of political parties and candidates which could unduly and disproportionately influence the capacity of political parties to participate in political processes including elections. There is, therefore, need to come up with a legislative framework for public funding of political parties as well as provisions for disclosure of sources of funding in order to level the playing field;
- ix) Non implementation of the provisions in the Electoral Act which provide for facilitation of voting by special groups such as the sick, the disabled and the pregnant;
- x) Need for the ECZ to review the establishment of polling stations closer to voters in order to shorten the distance voters have to travel in order to cast their votes.
- xi) Need for the establishment of a special Electoral Court to expedite the resolution of election related disputes in keeping with good practices; and

- xii) The lack of fairness and balance and the polarisation exhibited by the public media as well as some sections of the mainstream private media calls for the need to review the legal framework to give the ECZ adequate powers to enforce the Electoral Code of Conduct.

#### **10. MISSION'S OVERALL ASSESSMENT OF THE 2011 ZAMBIA TRIPARTITE GENERAL ELECTIONS OF 20 SEPTEMBER**

Based on its overall findings, the Mission is of the view that there existed a conducive and peaceful environment in which elections were conducted. The people of Zambia were accorded the opportunity to freely express their will in voting for political parties and candidates of their choice. Having duly noted that the 2011 Zambian Presidential, National Assembly and Local Government Elections were, on the whole, a credible reflection of the will of the people of Zambia, the SADC Parliamentary Forum, therefore, declares the 2011 Zambia Elections as having been free and fair.

#### **END OF REPORT**