



**SADC ELECTORAL OBSERVATION MISSION (SEOM) TO
THE REPUBLIC OF ZAMBIA**

**PRELIMINARY
STATEMENT**

BY

HIS EXCELLENCY OLDEMIRO JÚLIO MARQUES BALOI

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FOREIGN AFFAIRS AND COOPERATION

OF THE REPUBLIC OF MOZAMBIQUE

AND HEAD OF THE SEOM

**TO THE 2016 GENERAL ELECTIONS
AND REFERENDUM**

HELD IN THE

REPUBLIC OF ZAMBIA

**Delivered on 13 August 2016
Lusaka**

The Chairperson of the Electoral Commission of Zambia (ECZ);

Your Excellency Goodluck Jonathan, former President of the Federal Republic of Nigeria and Head of the African Union (AU) Election Observation Mission to the Republic of Zambia;

Your Excellency Jakaya Mrisho Kikwete, former President of the United Republic of Tanzania and Head of the Commonwealth Election Observation Mission to the Republic of Zambia;

Your Excellency Cassam Uteem, former President of Mauritius and Head of the Electoral Institute for Sustainable Democracy in Africa (EISA) Election Observation Mission to the Republic of Zambia;

Your Excellencies, Heads of the International Election Observation Missions;

Distinguished Guests,

Ladies and Gentlemen,
"Mulibwanji",
Good Morning.

It is my honour and privilege to welcome you to this occasion, where I present the Preliminary Statement of the Southern African Development Community (SADC) Electoral Observation Mission (SEOM), on the 2016 Presidential, Parliamentary, Mayoral and Councilors Elections, in the Republic of Zambia. The elections were held parallel to the Referendum on the amendment of the Constitution to enhance the Bill of Rights contained in Part III of the Constitution of Zambia. These elections took place on Thursday, 11 August 2016. We thank all present here for gracing this occasion.

Subsequent to the declaration of the election date, the Electoral Commission of Zambia (ECZ) had, on behalf of the Government of the Republic of Zambia, extended an invitation to SADC on 18 May 2016 to observe the elections in the Republic of Zambia.

The Chairperson appointed me in my capacity as the Minister of Foreign Affairs and Cooperation of the Republic of Mozambique to lead the SEOM to the Republic of Zambia. I was assisted by Her Excellency Nyeleti Brooke Mondlane, Deputy Minister of Foreign Affairs and Cooperation of the Republic of Mozambique.

**Your Excellencies,
Ladies and Gentlemen,**

Electoral observation within our region has been the norm and practice of SADC Member States over the years. This practice has enabled us to deepen democracy in our region through the participation of citizens in political and decision-making processes. The SEOM has the mandate to ensure adherence to the *Revised SADC Principles and Guidelines Governing Democratic Elections* (2015), aiming to enhance the holding of regular, free and fair, transparent, credible and peaceful democratic elections.

**Your Excellencies,
Ladies and Gentlemen,**

The SEOM deployment was preceded by the Goodwill, Pre-deployment Assessment and Long Term Election Observation Mission undertaken by the SADC Electoral Advisory Council (SEAC) and representatives of the

SADC Organ Troika from 05 to 12 June 2016. The aim of the Mission was to assess the level of preparedness of the country to hold the 2016 General Elections. In this respect, the Mission established that the political atmosphere and security environment were generally conducive for holding peaceful elections.

The SEOM was officially launched on 30 July 2016 at the Inter-Continental Hotel, Lusaka after which the deployment commenced on 31 July 2016 with a total of 49 observers comprising 12 teams deployed at both SEOM headquarters and to the 10 Provinces of Zambia.

**Your Excellencies,
Ladies and Gentlemen,**

These elections are conducted under the guidance of the legal framework of the Constitution of Zambia as amended by (Act No. 2, 2016); the Electoral Process Act 2016 (Act No. 35, 2016); the National Elections Regulations (Presidential and Parliamentary Elections) 2016; the Electoral Code of Conduct Act 2016; the Local Authorities (Councilors' Elections) Regulations Act 2016; the Electoral Commission Act 1996 (Act. No. 4, 1996); and the Local Government Election Act 1997.

The Electoral Commission of Zambia was established in terms of Article 229 of the Constitution of Zambia as amended by (Act No. 2, 2016) as an autonomous body. The amended Constitution also stipulates, in Article 56(1), that the General Elections in the Republic of Zambia would be held every five years, on the second Thursday of August. This year, the elections were held on 11 August 2016.

With regard to the Referendum, the Constitution of Zambia provides that any repeal and replacement of Article 79 in the Bill of Rights, as contained in Part III of the Constitution, requires the hosting of a Referendum in which eligible citizens are expected to vote for or against the question relating to the Bill of Rights and Article 79.

**Your Excellencies,
Ladies and Gentlemen,**

Prior to the launch of the Mission, the SEOM paid courtesy calls on the Minister of Foreign Affairs of Zambia and the Chairperson and Commissioners of the ECZ.

The SEOM further engaged various stakeholders to gather information on the electoral process in the Republic of Zambia. These consultations provided an opportunity for the Mission to learn about the views and concerns of various stakeholders. The stakeholders interacted with includes amongst others:

1. The Electoral Commission of Zambia (ECZ);
2. Leaders and Representatives of the contesting Political Parties;
3. The Inspector General of Police;
4. The Solicitor General;
5. The SADC Heads of Diplomatic Missions in Lusaka;
6. Other International Election Observation Missions;
7. Representatives of the Media;
8. The Human Rights Commission;
9. Non-Governmental Organisations;
10. Faith Based Organisations;
11. The University of Zambia; and
12. The Law Association of Zambia (LAZ).

**Your Excellencies,
Ladies and Gentlemen,**

Following the engagements with electoral stakeholders since the launch of our Mission on 30 July 2016, the SEOM wishes to share the following preliminary findings on both the General Elections and the Referendum:

1. The Legal and Constitutional Framework

The promulgation of the Constitution of Zambia (Amendment) Act, 2016 into law on 5 January 2016, introduced among others, the following new aspects to the legal framework governing elections:

- a) Article 47(1), read with Article 101, introduces the Single Member Majoritarian (SMM) system, where a presidential candidate is required to garner at least of 50% + 1 to be declared the winner;
- b) Article 70(1)(d); Article 100 (1)(e) and Article 153 (4)(c) requires that candidates for president, parliament, mayor and council possess a valid Grade 12 Certificate;
- c) Article 72(1) relates to the vacation of office as Member of Parliament and dissolution of parliament;
- d) Article 56(1) provides for the definition of the election period;
- e) Article 110(1) introduces the notion of a presidential running mate;
- f) Article 60 (4) (a) provides for the establishment and management of a Political Parties' Fund to provide financial support to Political Parties with seats in the National Assembly;
- g) Article 101(4) provides for petition of the election results within 7 days of the declaration of results; and
- h) Article 101(5) provides for the Constitutional Court to hear the petition within 14 days.

In light of this, the SEOM observes that the amended Constitution has brought many improvements to the legal framework governing elections in the Republic of Zambia, which will serve to resolve disputes within a reasonable timeframe. These are important steps in the application of the rule of law in conflict prevention.

The just concluded election provided an opportunity for the country to implement the provisions in the Constitution of Zambia (Amendment) Act, 2016 and subsequent electoral legislation adopted by Parliament. In cases where there was uncertainty relating to the interpretation of the provisions thereof, the Constitutional Court established, provided an avenue for recourse.

2. Preparedness of the ECZ

The SEOM gathered that the ECZ had invested a considerable amount of resources to ensure the success of the 11 August 2016 General Elections and Referendum. The SEOM notes that while the procurement process of the printing of the ballot papers by a Dubai based company had caused concerns amongst many stakeholders, a number of steps were taken by the electoral management body to address them. These included:

- a) Transporting of key stakeholders to Dubai to witness the printing of the ballots through the month of July 2016;
- b) Facilitating the observation of the arrival of ballots from Dubai by all relevant stakeholders; and
- c) Facilitating the inspection of the ballot papers and election materials by stakeholders.

However, the SEOM notes that despite these efforts to promote transparency by the ECZ, some political parties continued to raise concerns relating to the process.

In this respect, our observers witnessed one such incident where Police were compelled to open ECZ trucks at the Namibia/Zambia border by party cadres, who suspected the vehicles might have been transporting pre-marked ballots. Similar reports of the obstruction of ECZ trucks were received from other parts of the country. These incidents raise concerns about election security and smooth running of the electoral process. Fortunately, the materials reportedly reached their destinations.

In general, the ECZ assured SEOM that they had adequately prepared for the General Elections and the Referendum, including a second round of the presidential elections – should the need arise.

3. Political and Security Environment

Stakeholders expressed concerns about isolated acts of inter-party violence allegedly perpetrated by members of the two major political parties. The atmosphere of tension and fears of violence were further exacerbated by the open display of makeshift weapons, by party cadres at major rallies. According to our findings, Police recorded a total of 21 acts of election-related incidents involving Patriotic Front (PF) and United Party for National Development (UPND) cadres between 5 May 2016 and 22 July 2016. The Police report shows that three of these incidents which took place at Kanyama township in Lusaka; Mazabuka and Kazembe/Mwansabombwe in Luapula province, involved dangerous weapons. Other incidents were recorded in the Northern, Lusaka, Southern, Western, Luapula and Muchinga provinces.

Overall the rest of the country, in the areas we observed was calm. We further note that the ECZ played its role in curtailing violence by banning

electoral campaigns in Namwala, in Southern Province and in Lusaka Province for ten days, to avert a possible escalation. This bold step played a significant role in dissuading acts of violence.

4. Women's Participation

The SEOM notes that Article 45 (1) (d) enjoins the state to ensure gender equity in the National Assembly or Council. However, our observation is that there has been low participation of women in this election. In addition, there appears to be no mechanism to deliberately foster gender balance within the political system. Stakeholders mentioned cultural barriers and unequal access to resources and opportunities, especially in the rural areas, as impediments. Furthermore, the requirement for candidates to hold a grade 12 certificate in order to contest the elections was reported to have further contributed to low women's participation.

5. Access to Public Media

Article 50 of the Amended Constitution makes provision for a political party and a candidate contesting an election to have access to the media especially during election campaigns. Section 8(1) of the Schedule on the Code of Conduct of the Electoral Processes Act (Act No. 35, 2016), states that the public television, radio and electronic media shall allocate public airtime equally to all political parties and candidates for their political broadcast. However, SEOM noted that there was polarization of the media in their reporting on the elections. The two main political parties received overwhelming coverage in the media while the smaller ones were disadvantaged.

6. Application of the Public Order Act

Another key issue raised by opposition political parties was the manner in which the Public Order Act has been allegedly administered by the Zambia Police Service. All opposition parties consulted have complained about restrictions on their rallies by the Police, especially in cases where the Republican President was holding election related activities in the same district or province.

7. The Referendum

The decision to hold the Referendum on the amendment of the Constitution to enhance the Bill of Rights contained in Part III of the Constitution of

Zambia and the repeal and replacement of Article 79 of the Constitution concurrently with the General Elections was taken in May 2016. The SEOM observed that the time allocated for civic education on the Referendum was thus not sufficient. During engagements with stakeholders concerns were raised over the politicisation of the Referendum. Furthermore, stakeholders raised concern over the lack of understanding of the Referendum question, its purpose and the contents of the enhanced Bill of Rights.

**Your Excellencies,
Ladies and Gentlemen,**

The SEOM further noted that campaigns ended at 18:00 hours on 10 August 2016, and that no campaigning took place on the day of Elections.

On the Election Day, the SADC Electoral Observation Mission observed the following:

1. In general, polling stations opened on time at 06:00 hours, and the opening procedures were followed in accordance with the provisions of the Electoral Laws;
2. Party agents, other observers, election monitors and police officers were present during the opening of polling stations;
3. The layout of most polling stations promoted easy flow in the voting process;
4. Whilst errors with the voters' roll and voters' cards were acknowledged, those challenges did not appear to hamper voter turnout;
5. Most polling stations closed at 18:00 hours as provided for in the National Electoral Laws. Voters who were still in queues at the close of the polling stations were allowed to cast their votes;
6. There were no incidents of violence reported;
7. Counting at polling stations started immediately after voting was completed;
8. The prescribed counting procedures were adhered to by the Returning Officers; and
9. Returning Officers announced the results immediately after counting, as provided for in the Electoral Processes Act Article 68 (1)(d).

**Excellencies,
Ladies and Gentlemen,**

To support the successful holding of democratic elections in the Republic of Zambia the SEOM makes the following recommendations for consideration by the Government and relevant stakeholders:

1. Effective application of the Electoral Code of Conduct in its totality;
2. Promote youth leadership programmes at political party and community levels to enable them to make a positive contribution to society;
3. Enhance public awareness campaigns, involving the Police, in the application of the Public Order Act and other Electoral Laws;
4. Increase participation of women at party level in line with the relevant provisions of the SADC Protocol on Gender and Development (2008);
5. Enhance public awareness and non-partisan voter education on the Referendum vote; and
6. Effective application of the Article 50 of the amended Constitution and the relevant Schedule on the Code of Conduct of the Electoral Processes Act. This is to ensure that public media access is facilitated to all political parties and relevant stakeholders during elections.

**Excellencies,
Ladies and Gentlemen,**

We have witnessed Zambians exercising their constitutional rights in voting for the General Elections and the Referendum. The SEOM was encouraged by the turn-out of voters on the Election Day.

The SEOM notes that despite reports of isolated acts of violence during the pre-election phase, our observations are that the country has generally remained ***peaceful***.

SEOM is also of the view that the ECZ has generally made commendable efforts to render the management of key aspects of the electoral process ***credible, free and transparent***.

The SEOM notes that elections are a process and not an event. Therefore the election observation takes into account various inter-related segments of the electoral cycle.

As such, the SEOM will maintain a team of electoral experts on the ground to observe the post-election phase.

Therefore, in accordance with the revised *SADC Principles and Guidelines Governing Democratic Elections*, our final assessment of Zambia's General Elections shall be completed within 30 days after the close of poll. The report shall be directed to the Member State holding elections and to the Electoral Management Body (EMB).

The SEOM urges and appeals to all Political Candidates, Political Parties, and other stakeholders, to respect the will of the Zambian people and to uphold the laws of the country by accepting the outcome of the elections as and when announced by the constitutionally mandated body, the ECZ.

Any challenge to the election result should be dealt with in accordance with the provision by the Constitution by directing complaints to the newly established Constitutional Court and any other relevant dispute resolution mechanisms.

**Your Excellencies,
Ladies and Gentlemen,**

The SEOM congratulates the Electoral Commission of Zambia which, despite the challenges, was able to professionally organise, conduct and deliver these General Elections.

Finally, on behalf of the Chairperson of the SADC Organ on Politics, Defence and Security Cooperation, His Excellency Filipe Jacinto Nyusi, President of the Republic of Mozambique, the SEOM congratulates the people of the Republic of Zambia for the manner in which they conducted themselves during the electoral process.

On behalf of all SADC observers, I would like to express our earnest gratitude to the people of Zambia for the heartfelt welcome and cooperation during the work of the SEOM.

Zikomo kwambili
Muito obrigado
Ahsante sana
Re a leboga
Merci beaucoup

Inter-Continental Hotel,

Lusaka, 13 August 2016
Republic of Zambia