1.0. Introduction

In response to an invitation extended by the Commission Electorale Independante (CEI), EISA deployed an observer mission to the Presidential and Parliamentary Elections held in the Democratic Republic of the Congo (DRC) on Sunday 30 July 2006.

The Mission has made the assessment of the poll and its preliminary findings and recommendations are presented in this interim statement. Our observations and views regarding the electoral process in the DRC are based on the guidelines enshrined in the Principles for Election Management, Monitoring and Observation in the SADC Region (PEMMO). EISA will produce a more comprehensive and final report on the entire election process. This will provide an in-depth analysis, detailed observations as well as recommendations for the attainment of sustainable peace and consolidation of the country’s democratic governance. EISA will therefore continue to follow the process to its completion, including the announcement of results so as to evaluate the overall post-election phase.

On behalf of the EISA Regional Election Observer Mission, I, as the Mission Leader and my Deputy would like to take this opportunity to extend our gratitude to the people of the DRC for the warm welcome and hospitality given to the Mission. We also congratulate the people of the Congo for their political maturity and the peaceful manner in which the election was conducted.

We also extend our sincere appreciation to the CEI for the invitation to observe the election. We were allowed unhindered and unrestricted access to all key offices dealing with elections, all polling stations, polling centres and counting stations visited as well as access to both the national and local results compilation centres. We were impressed by the hospitable, courteous and friendly
manner in which the election personnel received our Mission. This warm welcome and hospitality made our task both easier and enjoyable.

1.1. About EISA

EISA is a non-profit organisation established in June 1996. The vision of the organisation is to promote credible elections and democratic governance in Africa. This vision is executed through the organisational mission: to strengthen electoral processes and promote good governance, human rights and democratic values through research, capacity building, advocacy and other targeted interventions. EISA services electoral commissions, political parties, civil society organisations and other institutions operating in the democracy and governance fields in Africa.

Since its inception the organisation has participated in the electoral processes of all the countries in the Southern African Development Community (SADC) and beyond, namely in Angola, Botswana, Burundi, Democratic Republic of the Congo (DRC), Côte d'Ivoire, Haiti, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Nigeria, Rwanda, Tanzania, Zambia and Zimbabwe.

EISA is based in Johannesburg, South Africa, and has field offices in Angola, the DRC and Mozambique.

Observation of elections is a key component of EISA's work as it allows for the collection of relevant data and information on electoral practices. Equally important, election observation provides an opportunity for mission members to acquire and exchange experiences with respect to the organisation and conduct of democratic elections and to learn from the host country.

1.2. Composition of the Mission

Led by Advocate Yusuf Aboobaker, Chairperson of the Electoral Supervisory Commission of Mauritius, the EISA Regional Observer Mission to the DRC Presidential and Parliamentary Elections consisted of 30 members, including representatives from Electoral Commissions, Civil Society Organisations and Political Parties from Angola, Côte d'Ivoire, Lesotho, Madagascar, Mauritius, Mozambique, South Africa, Tanzania, and Zimbabwe, as well as delegates from the Netherlands, the United Kingdom and Switzerland.

The EISA Mission was established and deployed with the main aim of contributing to the emergence, institutionalisation and consolidation of democracy in the DRC, as well as demonstrating solidarity towards the people of the DRC during this critical phase in their history.

1.3. Method of work

The EISA Mission to the Presidential and Parliamentary Elections was a short-term observation assignment which began when the pre-election team of the Mission arrived in Kinshasa on Monday 10 July 2006. The Mission considered and examined all legal documents governing the organisation and conduct of the electoral process in the DRC.

In order to accommodate the need for a holistic approach to election assessment, EISA conducted various activities covering the pre-election, the polling and the post-election phases. The assessment methodology includes the following activities:
• Research and Publication: Election Update

As part of its pre-election assessment, EISA gathered relevant information and produced an Election Update 2006: DRC. The first issue of the update covered the pre-election phase. Two more issues will be produced, covering both the election and post-election phases.

• Stakeholder Meetings and Political Party Rallies

Members of the Mission held meetings with various electoral stakeholders including representatives of the DRC Independent Electoral Commission, political parties, civil society organisations, the media and academics. The Mission also met domestic observers, faith-based groups and other international observer teams. Stakeholder meetings were held in Kinshasa and at provincial level. These meetings provided useful insight into the different key stakeholders’ assessment of the process as well as the general mood throughout the DRC as the election drew near.

Our different teams also attended political party rallies in various parts of the country where they were deployed.

1.4. Deployment and observation of the voting process

After the two-day briefing during which key stakeholders addressed the Mission on the critical issues of the electoral process in the DRC, as well as the level of preparedness ahead of the polling day, EISA deployed 13 observer teams on Wednesday 26 July 2006 covering all the provinces as follows:

- Two teams in Kinshasa;
- One team in Bas-Congo;
- One team in South Kivu;
- One team in North Kivu;
- Two teams in Katanga;
- One team in Equator;
- One team in Province Oriental;
- One team in Kasai Oriental;
- One team in Kasai Occidental;
- One team in Bandundu; and
- One team in Maniema.

Upon arrival in their areas of deployment, EISA teams held further meetings with the main stakeholders involved in the electoral process at both provincial and local levels, including officials of the CEI, representatives of political parties and civil society organisations, as well as members of the diplomatic community working in the DRC. This period was also used by the teams to familiarise themselves with the local context in which the Presidential and Parliamentary Elections were to take place, observe the campaign and make preliminary visits to various voting centres and polling stations before the poll.

On election day, EISA teams visited a total of 118 polling centres, 251 polling stations and observed the voting and counting of ballot papers.
1.5. Principles for Election Management, Monitoring and Observation (PEMMO) in the SADC Region

The EISA Observer Mission's assessment of the DRC 2006 Presidential and Parliamentary Elections is based on the Principles for Election Management, Monitoring and Observation in the SADC Region (PEMMO). PEMMO is a set of benchmarks against which an election can be measured to assess whether it is free and fair. It was developed by EISA in partnership with the Electoral Commissions Forum (ECF) of SADC Countries, which comprises all the election management bodies in the SADC region. These principles are the result of extensive research and region-wide consultation with electoral stakeholders, in particular electoral management bodies and civil society organisations that operate in the field of elections.

The principles cover the whole electoral process, including the period before, during and after the poll. They provide an objective standard against which an election can be assessed. Furthermore, they constitute a useful tool in the post-election review and for electoral reforms. For observers, PEMMO also outlines guidelines on the expected behaviour for the enhanced ethical conduct and credibility of both election observation and monitoring groups.

After its adoption at a regional conference on 6 November 2003 in Johannesburg, South Africa, PEMMO has been successfully used to assess elections held since April 2004 in the SADC region and beyond.

2.0. Preliminary findings of the Mission

After analysing the observations made by its different teams deployed on the ground and basing itself on norms and guidelines contained in the PEMMO, the EISA Mission has made the following findings:

2.1. The political context of the transition in the DRC

The Mission notes that the DRC has been undergoing a historic dual transition from war to peace and from dictatorship to democracy. The country’s Presidential and Legislative elections of 30 July 2006 are a culmination of concerted efforts by the Congolese people to bring to an end a protracted violent conflict and repressive rule in the country spanning a period of 40 years in which democratic elections were non-existent.

The Mission recognises the significance of the Inter-Congolese Dialogue (ICD) as the defining moment of the political transition. Started in April 2002, the ICD, facilitated by South Africa, and involving the main belligerent forces, the political opposition and civil society aimed to bring peace to the war-torn DRC and build a foundation for democratic transition. The culmination of the ICD process was the signing of the Global and Inclusive Agreement which defined the duration, form and substance of the political transition. The transition started in earnest on the 30th June 2003 planned to last for 24 months with a possibility of a maximum of one-year extension. Within the transition period the following objectives formed the main raison d’être of the Transitional Constitution adopted on the 2 April 2003:

- Re-unification, pacification, reconstruction of the country;
- Nation-building, national reconciliation and harmony;
- Establishment of a restructured and integrated national army;
- Bringing about a new political order; and
• The holding of free and transparent elections within the framework of a democratic and constitutional system.

The Mission notes that the July 2006 elections is therefore not only historic, but is an important achievement of one of the objectives of the Global and Inclusive Agreement. The election itself was managed by the CEI chaired by Reverend Appolinaire Malu Malu following a constitutional referendum held between 18 and 19 December 2005. Thus, the Presidential and Legislative elections were held within the framework of a new constitution and a new electoral law. EISA observed the referendum process and produced a comprehensive report on how the process unfolded and made appropriate recommendations.

2.2. The constitutional and legal framework for elections

The Mission notes that the new constitutional framework was put in place following the December 2005 referendum in which 84.31% of the electorate approved the new Constitution while 15.69% voted against it. Following this successful referendum, the post-transition Constitution was adopted and duly promulgated on the 18 February 2006. The Constitution spells out various organs of government and how they are established. Two of these are the office of the President and Parliament, both of which are elected institutions. The polls of the 30 July 2006 relate to the elections of the President and a new Parliament and these will be followed by provincial and local government elections in due course.

The Electoral Law adopted in March 2006 provides for direct election of the President, members of the National Assembly, Members of provincial assemblies and Members of urban, municipal and sector councils. It further provides for indirect election of Senators, Provincial governors, Mayors and Heads of Sectors.

The elections in the DRC are governed by a range of legislation including:

• Law No.04/002 of 15 March 2004 regulating the functioning of political parties;
• Law No.04/009 of 5 June 2004 establishing the CEI;
• Law No.04/024 of 12 November 2004 regulating DRC Citizenship;
• Law No. 04/028 of 24 December 2004 on voter identification and registration;
• Law No. 06/006 of 09 March 2006 on the Organisation of Presidential, Parliamentary, Provincial, Urban, Municipal and Local Elections.

2.3. The electoral system

The Mission notes that the DRC uses a majoritarian system of voting for electing the President. In this system an absolute majority of valid votes is required for a winner to assume the presidency. This system is also known as the Two-Round System (TRS) given that in case no presidential candidate wins 50%+1 vote, then a second round of ballot (or a run-off) is organised, involving the two candidates with the most votes.

With regard to the election of the 500-member National Assembly, Proportional Representation (PR) is used in which MPs are elected from 169 districts on the basis of the open-list.
2.4. The Commission Electorale Indépendante (CEI)

The CEI is a key institution established by Article 154 of the transitional Constitution to manage and supervise elections in the DRC. It comprises 21 members appointed on a parity basis by the main political players and civil society agencies that participated in the ICD process which culminated in the Global and Inclusive Agreement.

2.5. Civic and voter education

The Mission recognises the centrality of voter education to an election and of civic education to a democratic process in between elections. It is imperative therefore that key democracy stakeholders undertake voter and civic education in order to inculcate a culture of responsible and responsive citizenship. The Mission learnt that in the run-up to the Presidential and Parliamentary Elections in the DRC, the CEI and a number of national civil society organisations and international agencies, including EISA, embarked upon voter and civic education constrained primarily by resources and geographic reach throughout the length and breadth of the country. While our observation is that there has, indeed, been a marked improvement in terms of citizens' knowledge of the electoral process since the December 2005 constitutional referendum, the Mission is concerned that political parties do not seem to engage effectively in voter and civic education processes.

2.6. The media

Free and fair access to the media has and continues to be an important feature of elections. An appropriate broadcast framework had been developed, the Haut Autorité des Medias (HAM) to ensure that all the political parties as well as independent candidates operated within a ‘level playing field’ in terms of access to airtime.

However, the Mission noted the concern of certain political parties as well as independent candidates who felt that the access to State-owned media was unbalanced while access to private media was restrictive and prohibitive. The Mission also observed with some concern that some of the private television channels seem to be owned by people close to some of the candidates and that unrestricted access to them created manifest imbalance.

2.7. The campaign process

The Mission noted the fervour, enthusiasm and passion that the election had triggered among various political actors and the public at large. Of particular note was the spirited political campaign by various political parties and independent candidates. Campaigning took the forms of posters, advertisements on big billboards, political rallies, television appearances by contestants and other types of media outreach through newspapers and radio stations. The political campaign ended 24 hours before the official start of the polls. It was evident to the Mission that those contestants with rich resource endowment had more visibility than those with relatively poor resource endowment. The Mission further noted that campaigns were largely conducted in the urban areas.

Allegations were made of an unlevel playing field and to unbalanced media coverage which disadvantaged candidates who did not have access to State resources.
There were isolated cases of violent clashes involving security forces and some political formations during the campaign. However this was not a generalised trend. The poll itself took place in a general atmosphere of tranquility. This was a major achievement given the country’s decade of violent conflict and no established political culture of democratic elections and practices.

### 2.8. The poll

The Mission is satisfied that the polling arrangements were of such a nature as to ensure and assure the secrecy of the ballot. Generally speaking, polling officials conducted themselves in an efficient manner. The result was that by the close of polls, at least at the polling centres visited by the Mission, only a few stations had voters who were yet to cast their ballots. In keeping with the provisions of the electoral laws, such voters were allowed to cast their ballots. On their part, election officials endeavoured to follow the opening, closing and counting procedures as provided in the law.

With the exception of Mbuji-Mayi and Mweka where polling had to be taken on 31 July and following the destruction of several stations and damage of election material, the Mission noted with satisfaction that voting took place generally in an atmosphere conducive to the elector being able to cast his/her vote in a free and orderly manner.

A remarkable feature of the polling process was how the people had appropriated ownership of the process and had actually involved themselves in seeing to it that this poll should be a success. This has resulted in maintaining the generally calm atmosphere in which it took place. A noteworthy feature was the presence of party witnesses, the majority of them young and doing their observation next to each other and in obvious harmony.

The high turnout by all accounts will assist in giving credibility to the process and will truly reflect the wishes of the people thereby strengthening the democratic institutions which have been put in place.

The polling process was however not without certain imperfections complained of. On balance the Mission is of the view that the imperfections complained of were not however of a nature to jeopardise the outcome of the process, or to put in doubt its sincerity and integrity. These complaints are however of some concern and need to be highlighted here. These complaints concern in particular last minute changes to the electoral lists, the publication of the lists late on the day of the election itself, the fact that in certain voting stations the electors’ list was not displayed, the repetition of registration numbers, the complaints to the effect that the CEI has delayed replacing lost card or damaged voters cards has led to a certain amount of frustration being expressed by voters who were not able to vote for these reasons. These can only fuel suspicions about the integrity of the process.

### 2.8.1. The CEI personnel

A source of satisfaction to the Mission is the fact that in comparison with the December referendum, the electoral staff had a firmer grip on the voting procedures devised by the CEI and were applying them with consistency. This was of further assistance to the voters for casting their vote.
The CEI personnel displayed commitment and fortitude in carrying out their tasks, working extremely long hours, without food and under difficult conditions. Some of the staff had to sleep at their designated stations the night before (due to transport difficulties) so as to ensure their timely arrival at their station and also for the counting. The Chief in command of each centre helped with the smooth running of the process.

However observers noted some inconsistency in levels of staff performance, in particular for the counting process. Completing the various forms proved a challenge for some members of staff.

The Mission noted the inclusion of women amongst the electoral staff. However increased representation should be encouraged.

2.8.2. Polling stations and election materials

The Mission noted that the CEI established 843 polling centres with 49,746 polling stations throughout the DRC allowing for between 350 and 600 voters per station depending on the location of the station. The Mission found the number of polling stations to be adequate and accessible to ensure that as many eligible voters as possible cast their votes avoiding lengthy queues. It was also noted that polling stations were located in neutral places such as schools and church centres.

In order to prevent lengthy queues some of the stations provided additional stations in the grounds.

In addition where physical structures were not available, stations were set up in open places.

Although polling stations were scheduled to open at 6.00am generally polling stations opened between 6 and 7.00 am but remained open for the scheduled 11 hours. In areas where voting could not take place on the scheduled day due to security reasons, the CEI made provision for stations to open on the following day.

Overall adequate material was in place. Observers however noted that in some stations, in varying parts of the country, some of the material, such as the electoral list, was missing causing these stations to open later.

Observers noted some confusion or uncertainty by electoral staff regarding the collection of the electoral material at the conclusion of the count.

2.8.3. Ballot papers and ballot boxes

The Legislative ballot, given its size and bulk, not unexpectedly proved a difficult task to handle both by the voters and the electoral staff. Voters in many cases had to read the ballot outside the voting booth and took quite a long time to be able to cast their vote. This led to a slowing down of processing the individual voter resulting in fairly long queues. The electoral staff came up with a number of initiatives to cope with this problem. Some of them were ingenious and welcome such as the idea of putting up a specimen ballot in the voting centre to enable the voter to locate the candidate of their choice prior to being handed the ballot. Others, less orthodox, such as tearing off the page on which the elector had stated that the name of the candidate of their choice had been found and giving same to the voter to cast his/her vote. This unorthodox procedure was soon stopped on the instruction of the CEI.
In accordance with PEMM0, the Mission noted that ballot boxes were transparent. Given the size of the Legislative ballot in places such as Kinshasa, additional ballot boxes were available in the majority of polling stations.

2.9. The counting process

2.9.1 Counting

Counting of the Presidential and Legislative elections started immediately after the closure of the individual polling stations. This task was performed by the electoral staff who had been involved in the voting process. Counting was performed in the presence of the CEI officials, party agents, candidates’ representatives, observers and witnesses chosen among voters.

The Mission noted that the counting process was generally conducted in an open and transparent manner ensuring that all those present had a clear view of the marked ballot paper. There seemed to be no real problem counting the Presidential ballot. This was however not the case with the Legislative ballot paper whose sheer size and number of papers considerably lengthened the counting process.

The Mission noted that the administrative procedure of recording the results into ‘procès verbaux’ is a very long process. However, these ‘procès verbaux’ offer a very detailed and systematic recording and cross checking of the results as they have to be verified and signed by the CEI officials, party agents, candidates representatives and witnesses.

2.9.2 Compilation

The compilation is currently ongoing. Again the logistics are proving to be a big challenge given the volume of material to be handled, particularly difficulties of storing and sorting of material received from the polling centres. This process is as sensitive as counting and needs to be undertaken with equal diligence.

2.10. Violence and political intimidation

Few incidents of violence were noted on polling day, and the Mission observed no cases of overt political intimidation. Polling day went by generally peacefully and in a relatively calm atmosphere.

The days before polling day were marked by some incidents of violence, particularly the destruction of HAM. However the Mission did not observe any systematic violent attempts at political intimidation.

2.11. Security during the elections
The Mission received a complaint from one political party that campaigning was constrained by the lack of security for the candidates that were not part of the transitional government. This had the potential to favour significantly candidates with access to state security resources.

The presence of security was not intimidating and indeed discreet. This generally calm and peaceful atmosphere is reflected in the high voter turnout which by all accounts has been estimated by informed sources in the region of over 65%.

The Mission noted a positive and calm police presence at almost all the polling centres visited. It found a good level of cooperation between police and CEI officials. No incidence of intervention of military was observed.

The Mission also observed that the police presence in the days before the polling day, particularly during a political party rally failed to provide preventive crowd management and relied instead to responding to incidence of violence. The Mission felt that this approach may have added to the level of tension rather than have diffused it.

2.12 Political Parties and Party witnesses

In order to operate as legally recognised entities, political parties are required to be registered. The Mission learnt that about 269 political parties have registered with the Ministry of Home Affairs. Although a number of political parties took part in the election, only a few made an impact. Many of them entered into pre-election coalitions with a view to increase their chances of winning the election. The contestants participated in the election race as either independent candidates or as representatives of their respective parties/coalitions. All in all, there were 33 presidential candidates and 9,709 candidates registered to contest the legislative elections. Only one party, the Parti du Peuple la Reconstruction et la Democratie, (PPRD) contested elections in all the 169 districts. The Mission noted that there is no public funding of parties in the DRC and this accentuates the difficulty of parties to become effective agents of democracy. This is so despite the fact that article 25 of the Law No. 04/002 of 15 March 2004 stipulates that “the registered political parties may benefit from state subsidies”. The Mission further noted that parties are not as effective as they should have been in regard to voter and civic education. In addition some party witnesses did not display a thorough knowledge of the voting and counting process.

2.13 Observer missions

PEMIMO emphasises the importance of election observation. The Mission notes that various observer missions witnessed the DRC elections with a view to enhance the transparency, credibility and integrity of the process. There were about 1,300 international observers and around 45,000 domestic observers. Observers were invited by the CEI to witness the poll. The CEI and various other stakeholders briefed all the missions in order to help them appreciate the context of the election. The Mission noticed that while the Congolese people received them with warmth and hospitality, in some instances there was a negative attitude towards observers resulting in some of our observers being harassed while observing the campaign and the poll.

2.14 Gender representativity
Article 14 of the 2006 Constitution commits the DRC to strive for gender parity in key public institutions. This is in line with the commitments made by the Southern African Development Community (SADC) and the African Union (AU) towards equal representation of men and women in the governance institutions and process. The DRC is a member state to both SADC and the AU, so its constitutional commitment towards gender parity is consistent with continental and regional commitments.

The Mission noted, however, that while the constitutional provision for gender equality exists, this was not reflected in the actual practice. Despite the fact that a majority of the registered 25 million voters were women, women were marginalized in the nomination of candidates. Of the 33 presidential candidates, only 4 were women (about 11%). Of the 9,709 parliamentary candidates, only 13.5% were women.

2.15 Conflict Management Panels

The Mission noted the positive role that the mediators played throughout the country in diffusing potentially difficult situations in the various stages of the electoral process. The Mission further notes that the regulations make provision for the existence of mediators.

3. Areas for improvement and recommendations

The mission therefore recommends the following:

3.1 Voters’ registration and voter’s roll

The Mission notes that the CEI embarked on an inclusive voter registration process which allowed voters to register and participate in the historic elections.

However the voters’ list was not easily accessible to the candidates and parties and in some cases was made available only on polling day itself thereby not giving voters enough time to verify that their names were registered on the voters’ list. This led to the complaint that the process was not transparent.

The Mission recommends that in the future the voters’ list is released well in advance of the election in order to allow voters to verify their inclusion on the list.

3.2 Funding of political parties

A number of political parties expressed their concern that they did not have adequate funding for organising their parties and their campaigns and that the incumbent candidates took advantage of their powerful positions and had unfair advantage in the campaign.

The Mission recommends that provision be considered for transparent state funding of political parties with reasonable limitations in order to allow all prospective candidates to participate in the electoral process.

3.3 Access to media
The Mission notes the duties and responsibilities of the HAM. However, the Mission recommends that the capacity of the HAM be strengthened to enable it to execute its mandate in the most effective and efficient way. The Mission further recommends that an effective level playing field should be created and appropriate mechanisms for the enforcement of the code of conduct in place.

3.4. Counting and Compilation

The large ballot papers in some areas delayed the completion and compilation of the counting process. Voting station staff displayed a great deal of patience and commitment to the process as they counted the votes.

The Mission notes however that movement of results sheets from polling centres to the liaison office and then to the compilation centres was slow in all areas with some voting stations still awaiting collection of the materials by 1700hrs on Monday. This delayed the start of the compilation and reconciliation.

The Mission recommends that the CEI puts in place mechanisms to facilitate the speedy collection and arrival of results at the compilation centres such as the provision of a box to accommodate and secure the ballots, material and election stationary during and after transportation to the compilation centres.

3.5. Voter education

The CEI, with the support of various organisations made efforts to educate the public about the election. However the time that it took for voters to vote showed that a number of voters were not aware of the voting procedures.

The Mission recommends that in future voter education should be increased, extended and intensified to ensure that voters have enough information to be able to exercise their right to vote.

3.6. Electoral staff training

On the whole the electoral staff appeared to be well trained in terms of managing the voting process and were able to manage the movement of voters and casting of the ballots. However some staff appeared less confident about the counting procedures and the resulting administrative process.

The Mission recommends that the training given to staff for the counting process be strengthened in order to familiarise them fully with the procedures.

3.7. Gender representativity
The electoral process did not meet the gender parity required by the Constitution and the electoral law.

The Mission recommends that the CEI, civil society and political parties be encouraged to meet these requirements.

4.0. Conclusion

The Mission will not be able to observe the compilation of the counting process and the announcement of the final outcome.

On the basis of its observation and using the guidelines enshrined in the PEMMO, the EISA Election Observer Mission concludes that the Presidential and Parliamentary Elections held on 30 July 2006 in the DRC were conducted in a manner that allowed the people of the DRC to express their democratic choice without hindrance.

The Mission wishes to congratulate the CEI for successfully meeting the daunting challenge of a complex election.

The Mission wishes to encourage the people of the DRC in their desire to strengthen their democratic institutions and to make use of the institutions provided for in the event of any election related disputes.

Yusuf Aboobaker S.C.
Mission Leader