

EXPLANATORY NOTE

This is the Report of the Commonwealth Observer Group which was present for the Presidential, National Assembly and Local Government Elections in Zambia, held on 28 September 2006.

The Group's report is reproduced here in the form in which it was signed by the Observers on 5 October 2006. It was transmitted to the Commonwealth Secretary-General on Friday 20 September 2006. It was then sent to the President of Zambia, the Chairperson of the Electoral Commission, the main political parties and Commonwealth governments. It was placed on this web-site and released to the media on Wednesday 1 November 2006. Printed copies are available from:

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**Report of the Commonwealth
Observer Group**

**ZAMBIA
PRESIDENTIAL, NATIONAL
ASSEMBLY AND LOCAL
GOVERNMENT ELECTIONS**

28 September 2006



Commonwealth Secretariat

**Zambia Presidential, National Assembly and Local
Government Elections
28 September 2006**

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COMMONWEALTH OBSERVER GROUP**

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Commonwealth Observer Group

Zambia Presidential, National Assembly and Local Government Elections
28 September 2006

5 October 2006

Dear Secretary-General

Following your invitation to observe the Presidential, National Assembly and Local Government Elections in Zambia on 28 September 2006, we have now completed our report and are pleased to forward it with this letter.

The Election Commission of Zambia should be commended for their efforts in making significant improvements in the electoral process since the elections in 2001. You will see that in most parts of Zambia a largely successful effort was made to enable the people to vote freely and that conditions were such as to enable the will of the people to be expressed.

There are also some issues that need to be addressed, particularly with respect to the transparency of the results process, and this is reflected in our report. In this regard propose areas for Commonwealth assistance to further consolidate the democratic process in Zambia.

We have set out our conclusions and recommendations at the end of this report.

We thank you for the opportunity to participate in the Commonwealth Observer Group and we would like to convey appreciation for the support provided by the Commonwealth Secretariat.

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Chapter One

INTRODUCTION

INVITATION AND ASSESSMENT MISSION

Following invitations from the Ministry of Foreign Affairs and the Electoral Commission of Zambia (ECZ) to the Commonwealth Secretary-General to observe the 2006 Presidential, National Assembly and Local Government elections in Zambia, the Commonwealth Secretary-General sent an Assessment Mission to Zambia from 18 – 25 July 2006, in line with the guidelines adopted by Commonwealth Heads of Government.

The objectives of the Assessment Mission were to determine whether the major political parties and civil society were broadly supportive of the presence of Commonwealth observers; to ensure that observers would have full access to polling and counting stations and generally be able to pursue their mandate. The Mission also briefed all concerned on the way in which such an observer group would work.

The Assessment Mission met with the President of Zambia and the Electoral Commission, who provided the necessary assurances on access to polling and collating/tabulating stations, with representatives of political parties and civil society, and with Commonwealth High Commissioners and other international partners. The Mission concluded that there was 'broad support' for the presence of Commonwealth Observers and that the Group would have the access necessary to freely fulfil its mandate.

The Commonwealth Secretary-General therefore decided to constitute a Commonwealth Observer Group consisting of ten Observers, supported by five Commonwealth Secretariat staff. A list of the members of the Group, led by Hon Paul Berenger, former Prime Minister of Mauritius, is at **Annex I**. A press release issued in London on 15 September 2006 to make public the constitution of the Group is at **Annex II**.

TERMS OF REFERENCE

The Terms of Reference of the Group were as follows:

"The Group is established by the Commonwealth Secretary-General at the request of the Government of the Republic of Zambia and the Electoral Commission of Zambia. It is to observe relevant aspects of the organisation and conduct of the elections scheduled to take place on 28 September 2006, in accordance with the laws of the Republic of Zambia. It is to consider the various factors impinging on the credibility of the electoral process as a whole and to determine in its own judgement whether conditions exist for a free expression of will by the electors and if the results of the elections reflect the wishes of the people.

The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgement accordingly. It would also be free to propose to

authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of the Republic of Zambia, the Electoral Commission and the leadership of the political parties taking part in the elections and thereafter to all Commonwealth Governments."

ACTIVITIES OF THE GROUP

One member of the Group, Mr Ollen Mwalubunju, travelled to Zambia ahead of the main Group to act as an 'Advance Observer'. He began his work on 1 September 2006. The main group of observers arrived in Lusaka on 19 September 2006 and an Arrival Statement was issued at a press conference at the Intercontinental Hotel in Lusaka on 21 September 2006 (see **Annex III**).

Over a period of four days, the Group was briefed by the Advance Observer, the Electoral Commission of Zambia, political parties, civil society and media organisations, the Human Rights Commission, domestic observers, youth representatives, Commonwealth High Commissioners and other international partners and representatives of other international organisations. The Group's Schedule of Engagements is at **Annex IV**.

On 25 September 2006, the observers were deployed across the country, in seven two-person teams (see **Annex V** for the deployment plan). The Chairperson and the leader of the staff support team, Dr Victor Pungong, were based in Lusaka but also covered Central Province. Observation Notes and Checklists were issued to the teams to assist them in their task (samples at **Annex VI**).

Soon after arrival at their places of deployment, the teams visited the police, district election officials, and other local officials and stakeholders. They familiarized themselves with their area of deployment; observed the final stages of the campaign, including rallies; saw the transportation and storage of polling materials and the training and deployment of officials; and met with members of the general public.

On polling day – Thursday 28 September 2006 – members of the Group observed polling in 100 polling stations and counting at 7 of these stations across the country. The teams then followed the transportation of the results sheets, the ballot boxes, ballot papers and other materials from these 7 stations to the respective collation centres at the constituency level. Collation and tabulation was observed at thirteen Constituency and District centres. Where possible, our teams met representatives of the political parties afterwards to hear their reactions to the poll, count and results processes.

On Friday 29 September 2006, following consultations with members of the Group, the Chairperson issued an Interim Statement (**Annex VII**). On Sunday 1 October members of the Group re-convened in Lusaka for a debriefing and began to prepare their report to the Commonwealth Secretary-General.

On 3 October 2006, the Chairperson of the Group attended the inauguration of the President-elect, Mr Levy Mwanawasa, at Parliament Buildings in Lusaka. The Commonwealth Secretary-General issued a statement of congratulations on behalf of the Commonwealth.

Having finalized their Report, the Group issued a Departure Statement in Lusaka on 5 October 2006 (see **Annex VIII**). Members of the Group left Zambia on Thursday 5 October 2006.

Chapter Two

POLITICAL BACKGROUND

EARLY HISTORY

Zambia's geographical position kept it largely free of foreign influences until the 19th century. The Lunda and Bemba kingdoms, in what is now northern Zambia, were the largest pre-colonial polities, joined from 1838 by the Lozi, whose kingdom still survives today (as Barotseland). As elsewhere in southern Africa, there was also an influx of Nguni settlers at about the same time. There are about 72 ethnic communities in present day Zambia.

COLONIAL RULE

Significant and far-reaching political changes began in 1890 when Cecil Rhodes' British South Africa Company signed a series of treaties with local leaders, leading to the establishment of Northern Rhodesia in 1911, which they administered. Great Britain formally assumed control in 1923. Copper mining, which began in the early 20th century, led to an influx of Europeans, although white settlement never reached the levels it did in Southern Rhodesia. In 1953, the two Rhodesias were joined with Nyasaland (now Malawi) in the short-lived Federation of Rhodesia and Nyasaland, vociferously opposed by black nationalist leaders who viewed it as a vehicle for white domination. Following the Federation's collapse in 1963, Northern Rhodesia was renamed Zambia.

POST-INDEPENDENCE POLITICS

The United National Independence Party (UNIP), led by Dr Kenneth Kaunda, won the 1964 pre-independence elections, and Zambia gained independence on 24 October 1964. At the end of 1972 Zambia was declared a one-party state. Political and economic pressures, largely the result of a fall in copper prices, but also arising from the country's support for independence movements elsewhere in southern Africa, led to social unrest and a coup attempt in 1990. At the end of 1990, President Kaunda accepted the need for multi-party democracy and a National Council of State (the highest body of the then sole political party UNIP) accepted his recommendation that multi-party elections be held. On 31 October 1991 the Movement for Multi-party Democracy (MMD), led by trade unionist Dr Frederick Chiluba, swept to power in both Presidential and Parliamentary elections. Dr Kaunda later relinquished the leadership of UNIP, which became the main opposition party.

The 1991 Constitution, amended in 1996, provided for a multi-party system, a President whose tenure is limited to two terms of five years and a National Assembly of 150 elected members and up to 8 other members nominated by the President. There is also a 27-member advisory House of Chiefs.

Dr Kaunda returned to active politics in 1994, and regained the UNIP leadership at a party convention in June 1995. In the run-up to the Presidential and National Assembly elections in November 1996, the

Government appeared increasingly intolerant of opposition. In May 1996, the National Assembly passed an act requiring Presidential candidates to have Zambian parents (Dr Kaunda's were allegedly Malawian). The number of presidential terms allowed was limited to two terms of five years each. UNIP and a small number of opposition parties boycotted the elections. Dr Chiluba and the MMD won a landslide victory, taking 139 out of 150 seats in the National Assembly. In August 1997, Dr Kaunda and an opposition ally were wounded at a UNIP rally when police opened fire. A subsequent enquiry ground to a halt.

In October 1997, a small group of middle-ranking army officers, led by a captain, took over the media centre at the headquarters of the Zambia National Broadcasting Corporation (ZNBC) and claimed to have overthrown the government. The army quickly restored order, and detained the ringleaders. President Chiluba declared a State of Emergency (later extended by the National Assembly to May 1998). Over 100 people, including Dr Kaunda and the leader of one of the other main opposition parties, were detained. Dr Kaunda was charged with having prior knowledge of the coup. Trials began in June 1998. Dr Kaunda was discharged and immediately released. At the conclusion of the trials in September 1999, 58 soldiers were found guilty of treason and given mandatory death sentences. These were later commuted to varying terms of imprisonment by President Levy Mwanawasa in 2003.

President Chiluba's attempt to change the Constitution, in order to stand for a third Presidential term, provoked a political crisis in 2001. There was widespread opposition, and 67 anti-third-term MPs signed a motion to impeach the President. The next day, Dr Chiluba announced that he would leave office at the end of his term.

THE 2001 ELECTIONS

The 2001 Presidential, National Assembly and Local Government elections were controversial. Mr Levy Mwanawasa, the MMD candidate, was elected President at polls held on 27 December 2001 with 28.69% of the popular vote, closely followed by Mr Anderson Mazoka of the United Party for National Development (UPND) with 26.76%. Other candidates were Mr Christon Tembo of the Forum for Democracy and Development (FDD) with 12.96%; Mr Tiljenji Kaunda of UNIP with 9.96%; Mr Godfrey Miyanda of the Heritage Party with 7.96%; Mr Ben Mwila of the Zambia Republican Party with 4.84%; and Mr Michael Sata of the Patriotic Front with 3.35%. Four other candidates shared 5% of the votes cast. The MMD was the single largest party in Parliament, but without an overall majority.

There was considerable domestic and international criticism of the management of the 2001 elections. Complaints included problems with voter registration and the voter's register, lack of a level playing field, use of state resources in the campaign, unbalanced media coverage, inadequate logistical arrangements, and lack of consultation by the Electoral Commission with stakeholders. Crucially, most stakeholders agreed that the process of counting, collation, tabulation and transmission

of results from polling stations to the Constituency level and finally to the Electoral Commission in Lusaka was not sufficiently transparent. Similarly, the verification process instituted by the ECZ was not open to observers and political parties, and generally lacked the necessary transparency.

Legal challenges to the conduct and outcome of the presidential and legislative polls were only finally resolved in February 2005, when the Supreme Court rejected an opposition challenge to President Mwanawasa's December 2001 victory, but agreed that the election had flaws. Challenges to the parliamentary elections led to a number of by-elections.

PRESIDENT MWANAWASA'S FIRST TERM

On coming to power, President Mwanawasa launched an anti-corruption campaign which led to the arrest of former President Chiluba and a number of other senior figures in politics, business and the public service. In July 2002, Parliament voted to remove the former President's immunity from prosecution. He was charged with corruption, abuse of office and theft of public funds in February 2003. His long-running trial has been dogged by adjournments, procedural problems and his ill health. In September 2004, many of the corruption charges against Dr Chiluba were dropped, but within hours he was re-arrested on six new charges. He is currently on bail.

In a controversial move, President Mwanawasa appointed opposition politicians into his Cabinet without formal consultations with and approval by the respective parties. This provoked resentment from the political opposition, who viewed the measure as "unconstitutional". However court challenges were unsuccessful.

The need for a new Constitution for Zambia was one of the dominant political issues during President Mwanawasa's first term in office. A Constitutional Review Commission was appointed, received submissions from the public, and submitted a Report. Controversy surrounded questions as to how, when, and by whom the recommendations of the Constitutional Review Commission were to be adopted. The main bone of contention were proposals contained in the Report of the Constitutional Review Commission for a substantial reduction in presidential powers. The Constitutional Review Commission was chaired by Mr Wila Mung'omba, a respected lawyer and a former President of the African Development Bank.

Another controversial proposal by the Constitutional Review Commission was for debate on and adoption of a new Constitution by way of a Constituent Assembly, and possibly a national referendum, rather than by the National Assembly. The Government eventually gave in to pressure for a Constituent Assembly, to be set up after the 28 September 2006 elections. Elections to a Constituent Assembly are expected next year. Some proposals from the Constituent Assembly are expected be put to a referendum.

President Mwanawasa suffered a minor stroke in April 2006 and was flown to the United Kingdom for medical treatment. He was able to resume his official duties, and to campaign for re-election. His closest rival in 2001, Mr Anderson Mazoka, passed away in a South African hospital in May 2006. He had been expected to pose a strong challenge to President Mwanawasa in this year's poll. Mr Mazoka's party, the UPND, was rocked by factionalism as several contestants sought to assume his mantle. His party eventually chose Mr Hakainde Hichilema, a businessman who had not previously held elected office. He was later nominated as the presidential candidate for the United Democratic Alliance (UDA) coalition.

Mr Michael Sata, a former Cabinet Minister in Dr Chiluba's government, was nominated as the presidential candidate for the Patriotic Front, formed shortly before the 2001 elections. Its leadership consists mainly of former MMD members.

POLITICAL PARTIES

Multi-party politics was re-introduced in Zambia in December 1990 with the amendment of Article 4 of the Constitution. Freedom to form political parties was retained in the 1991 Constitution. The Electoral Commission of Zambia website lists the following as the political parties that participated in the 2006 elections:

Agenda for Change
All Peoples' Congress Party (APC)
Direct Democracy Movement (DDM)
Heritage Party (HP)
Movement for Multi-party Democracy (MMD)
National Democracy Party (NDP)
National Democratic Front (NDF)
New Generation Party (NGP)
Patriotic Front (PF)
Reform Party (RP)
United Democratic Alliance (UDA-UNIP, UPND, and FDD)
United Liberal Party (ULP)
Zambia Conservative Party (ZCP)

Of these, five (MMD, PF, UDA, HP and APC) fielded candidates for the presidential elections.

The Group noted that the ECZ's "Register for Party and Independent Symbols, 2006 Tripartite Elections" published in August 2006 listed 29 political parties.

HUMAN RIGHTS

Human rights standards are improving in Zambia. Special measures adopted in response to alleged attempts to overthrow both UNIP and MMD governments have been revoked. President Mwanawasa has notably commuted the death sentences given to the 1997 coup plotters and indicated his opposition to judicial execution. Alleged harassment of the media by government and agents of the state remains the main area of

concern. Editors and journalists have reportedly been arrested in recent years under public security legislation for “spreading fear and alarm”.

The Human Rights Commission themselves told the Group that they were generally content with the state of human rights in Zambia, and in particular felt that the new Electoral Code of Conduct had helped to promote a healthier electoral campaign. The Commission observed that in any case, Zambians were not accustomed to solving political problems through violence.

ECONOMIC BACKGROUND

Following the steady decline in Zambia’s economy up to 1991, the new MMD Government adopted and has pursued liberal economic policies. The decade since 1995 has seen sustained economic growth, with real GDP forecast to rise by 6.4% in 2006. This has been helped by increased investment, particularly in the copper industry, which has resulted in increased production.

In April 2005 the World Bank approved a US\$ 3.8 billion debt relief package for Zambia, thus writing off more than 50% of her debt.

The Government recently unveiled its fifth National Development Plan for the period 2006 – 2010, and made much of its record of sound economic management as a campaign issue.

COMMONWEALTH ENGAGEMENT

Zambia has always been an active member of the Commonwealth and hosted the 1979 Commonwealth Heads of Government Meeting. The Regional Centre of the Commonwealth Youth Programme (CYP) is based in Lusaka. The Commonwealth actively encouraged the restoration of a multi-party system and continues to support economic and social development in the country through its technical assistance programmes. The Commonwealth Secretariat has also provided technical assistance to the Constitutional Review Commission and the Electoral Commission of Zambia.

A Commonwealth Observer Group was present for the Presidential and National Assembly Elections on 31 October 1991. A two-person Secretariat Staff team represented the Secretary-General at the 27 December 2001 Presidential, National Assembly and Local Elections.

DOMESTIC MONITORS

The Foundation for Democratic Process (FODEP) is a voluntary civic Non-Governmental Organisation working for the promotion and protection of the democratisation process in Zambia. It is a successor to the Zambia Elections Monitoring and Coordination Committee, a conglomerate of civil society organisations and interest groups formed in 1991 to monitor Zambia’s first multi-party elections. It was the main domestic monitoring group, and fielded more than 3000 monitors across Zambia. FODEP collaborated with three other NGOs, who also fielded domestic monitors. They are the Anti Voter Apathy Project, the Southern African Centre for

Constructive Resolution of Disputes (SACCORD) and the National Women's Lobby Group.

INTERNATIONAL OBSERVERS

Other international observer groups that were present in Zambia included the following:

AU
Canadian Embassy
COMESA
EISA
EU
Institute for Multi Party Democracy
SADC ECF
SADC PF
SADC Secretariat
French Embassy
Indian High Commission
Irish Embassy
Netherlands Embassy
Nigerian High Commission
Norwegian Embassy
South African High Commission
UK High Commission
USA Embassy

Local Groups with International Observers:

Church Council of Zambia
FODEP
YWCA

A total of 423 international observers were accredited for the elections.

Chapter Three

ELECTORAL FRAMEWORK AND PREPARATIONS FOR THE ELECTIONS

The electoral framework for the Presidential, National Assembly and Local Government Elections 2006 should be viewed against the backdrop of legislative and other reforms initiated by the Government of Zambia to enhance the efficiency and transparency of the electoral process, in the wake of the concerns expressed about the conduct of the 2001 elections.

The electoral framework of Zambia is established under:

- the Constitution of Zambia, 1991, and as amended in 1996
- the Electoral Act (No. 12 of 2006)
- Statutory Instrument No. 90 of 2006 (The Electoral Code of Conduct)
- the Electoral Commission Act No 24 of 1996
- the Local Government Elections Act (Cap 282)
- Local Government (amendment) Act No 17 of 1997
- Electoral (General) Regulations 2006 – Statutory Instrument No 92 of 2006

THE CONSTITUTION

The President

Article 33 of the Constitution provides for an executive President, who is Head of State and of the Government and the Commander-in-Chief of the Defence Force. Under Article 34, the election of the President is by direct universal adult suffrage and by secret ballot and conducted in accordance with Article 34 and as may be prescribed by or under an Act of Parliament. An election to the office of President is held whenever the National Assembly is dissolved or when the office becomes vacant through death, resignation or incapacity.

The President is elected for a term of five years and a person twice elected is not eligible for election to another term.

Where there is only one qualified candidate nominated for election, that candidate is declared elected without an election. Where there is more than one candidate, the candidate who receives the highest number of votes cast is declared duly elected.

Under the Constitution, a person qualified to be a candidate for election as President must: be a citizen of Zambia; have attained the age of thirty-five years; be a member of, or sponsored by, a political party; be qualified to be elected as a member of the National Assembly; and have been

domiciled in Zambia for a period of at least twenty years. Both parents of such a person must be Zambians by birth or descent.

Under Article 41 of the Constitution, the Chief Justice is the Returning Officer for Presidential elections.

During the prescribed period of 11-14 August 2006, five persons filed their nominations for the 2006 Presidential elections. They were, in alphabetical order:

- Hakainde Hichilema (United Democratic Alliance)
- Godfrey Miyanda (Heritage Party)
- Levy Mwanawasa (Movement for Multi-party Democracy)
- Winright Ngondo (All People's Congress)
- Michael Sata (Patriotic Front)

The National Assembly

The Constitution of Zambia provides for a National Assembly of 150 elected members, not more than eight members nominated by the President of the Republic, and a Speaker elected by the National Assembly from among persons qualified to be elected to the National Assembly but who are not actually members of the National Assembly.

Election of members of the National Assembly is by universal adult suffrage and by secret ballot. A person qualified to be elected to the National Assembly has to be a citizen of Zambia; have attained the age of twenty-one years; and be literate and conversant with the official language of Zambia.

The National Assembly has a term of five years but can be dissolved at any time by the President or by a two-thirds majority of its members.

Under Article 77 of the Constitution, the country is divided into constituencies equal to the number of elected seats. The ECZ determines the constituency boundaries on the basis of population quotas, geographical features and means of communication.

Bills passed by the National Assembly have to be assented to by the President to become law.

A total of 709 candidates were duly nominated for election to the National Assembly. Of these, 603 (85 per cent) were male and 106 (15 per cent) were female.

Local Government

Article 109 of the Constitution provides for a system of local government in Zambia based on democratically elected councils on the basis of universal adult suffrage.

A total of 4,429 candidates were duly nominated for election to 1,422 wards in 72 city, municipal and district councils. Of these candidates, 4,025 (91 per cent) were male and 404 (9 per cent) were female.

The Electoral Commission of Zambia

Article 76 of the Constitution establishes the Electoral Commission of Zambia (ECZ) as an autonomous body to supervise the registration of voters, to conduct Presidential and Parliamentary elections and to review the boundaries of the constituencies into which Zambia is divided for the purposes of elections to the National Assembly.

The composition and operation of the ECZ are provided for under the Electoral Commission Act (24 of 1996). Under this Act, the Commission consists of a Chairperson and not more than four other members appointed by the President, subject to ratification by the National Assembly (Section 4 (1) (b)), for a term not exceeding seven years. In addition, the President may remove a member if the member is insane or otherwise deemed to be of unsound mind, or is declared bankrupt.

The Chairperson of the Commission has to be a person who has held, or is qualified to hold high judicial office, or any other suitably qualified person. Whereas the Chairman and members of the Commission constitute the policy making body, the Electoral Commission Act No 24 provides for the Commission to appoint a Director who is the Chief Executive Officer of the Commission and is responsible for the management and administration of the Commission and for the implementation of its decisions.

The current four-person Commission is chaired by Hon Justice Irene C Mambilima, and includes as members Mr Joseph Jalasi, Mr Noah N K Kalala and Ms Grace Mulapesi.

The ECZ completed and issued a new and comprehensive Code of Conduct booklet (Statutory Instrument No 90 of 2006) to strengthen further the electoral process. It also issued handbooks for Presiding Officers and Returning Officers, to assist them with their duties.

Three bodies are mandated to hear complaints under, and to ensure enforcement of, the Code of Conduct. These are the Electoral Commission of Zambia, the Anti-Corruption Commission, and the Police.

ELECTORAL SYSTEM

"First past the post" is the electoral system currently in use in Zambia. Candidates for the Presidential, National Assembly and Local Government elections are considered elected on the basis of receiving the most votes cast at the respective elections. Independent candidates are allowed to stand for National Assembly and Local Government elections but candidates for the presidency have to be members of or be sponsored by a registered political party.

BOUNDARY DELIMITATIONS

Under the Constitution, the delimitation of constituency boundaries for the National Assembly is the prerogative of the ECZ. The Electoral Act also empowers the ECZ to delimit the wards for Local Government elections.

There were no variations in the constituency boundaries for the 2006 elections to the National Assembly. However, the number of wards was increased from 1287 to 1422 and Polling Districts increased from 5510 to 6456. Many polling stations had multiple streams, taking the total of voting points to 9,314.

Each stream had a maximum of 650 voters and was managed by a full complement of elections officers. These streams assisted considerably in reducing the time people had to wait at polling stations.

VOTER REGISTRATION

While the Electoral Act provides for continuous voter registration, the compilation of the new voters register only took place from 31 October to 31 December 2005. Of 5,517,639 eligible voters projected by the Commission, 4,015,639 individuals were registered on the provisional register. The provisional voters roll was published for inspection and verification throughout the country from 5 June to 18 June 2006. Following this exercise, 3,940,053 eligible voters were recorded on the final voters roll that was certified on 31 July 2006. Out of 3,940,053 eligible voters, 1,941,347 were male and 1,998,706 female.

The variance between the provisional and final voters roll could be explained in terms of people registering more than once (of which 17,924 were removed from the register); persons below the age of 18 attempting to register; and errors in the completion of registration forms (117,625 forms were cancelled for this reason).

Some people, especially young people, appear to have encountered difficulties in registering. The ECZ explained that some persons had lost their National Registration Cards, while others who had reached voting age had not obtained them. The Green National Registration Card, which is issued by the Ministry of Home Affairs, is a pre-requisite for registration as a voter. Bureaucratic procedures associated with the issuing of National Registration Cards may have prevented or discouraged some people, especially the youth, from registering.

Logistical difficulties and the shortage or lack of registration materials, such as photographic films, may also have hampered registration in some areas. Nevertheless, the 2006 voter register contained the highest number of voters since Zambia's independence. The ECZ should be commended for this major achievement.

CIVIC AND VOTER EDUCATION

The law mandates the ECZ to provide civic and voter education. In addition, individuals and other organisations may also become involved in such education provided they are impartial and independent of any political party and that they promote conditions for free and fair elections.

The ECZ mounted an intensive voter education programme in all the 72 districts of Zambia in the lead-up to the 2006 Elections. Community voter educators from all over Zambia were recruited and trained for that purpose. The ECZ produced a series of radio and television commercials, and also disseminated leaflets, posters and newspaper advertisements urging Zambians to vote. Voter information was also disseminated in local languages. The importance of peaceful elections and the secrecy of the vote were also stressed during this exercise.

Stakeholders have commended the ECZ for a well-run and intensive voter education programme. However, more needs to be done in terms of outreach in some rural areas, particularly in those areas with a high illiteracy rate. We observed that on polling day many illiterate voters in rural communities had difficulties in understanding the voting procedures, including marking their ballot.

CONFLICT MANAGEMENT COMMITTEES

As laid down by the Electoral Act, district and national conflict management committees were established to facilitate the speedy resolution of disputes and complaints arising out of the Code of Conduct. The members of these committees were selected from among registered political parties, representatives of civil society and local government administrations. A considerable amount of effort appears to have gone into the constituting and training of these committees. However, more needs to be done to enhance their effectiveness and thus to gain the confidence of the stakeholders.

RECRUITMENT AND TRAINING OF POLLING STAFF

The Returning Officer in each constituency was usually a public servant. Presiding officers and other staff recruited for polling day activities were drawn primarily from the teaching profession or local government. All staff appointed by the Electoral Commission of Zambia were required to take an oath before the returning officers. There was a reasonable level of representation of women and youth amongst the election officers.

We observed that election officers were not always recruited from their area of abode, especially in the rural areas. We heard allegations that the attractive remuneration packages paid to these officials might have led to a degree of nepotism and favouritism in their selection. These allegations should be thoroughly investigated by the ECZ.

SUPPLY OF MATERIALS

The use of transparent ballot boxes by the ECZ was a positive development in allaying concerns about ballot stuffing. The printing of ballot papers (in South Africa), under the supervision and scrutiny of representatives of political parties and other stakeholders, also helped in enhancing the transparency of the electoral process.

The ballot papers were flown into Lusaka in batches, again under the scrutiny of the stakeholders. There were allegations that ballot papers had been "smuggled" into Zambia but these were never substantiated.

Concerns were also expressed about the level of excess ballots printed, although we did not see any evidence of misuse.

Most polling stations received their full complement of election materials. But shortages of materials at some stations led to confusion and considerable delay in the start of polling at those stations.

SECURITY

The conduct of the police in the lead up to the elections has been widely commended by the political parties themselves as well as by other stakeholders. Except for a few minor incidents, law and order was maintained throughout the campaign without undue restrictions being placed on the activities of political parties.

There was a police presence at all the polling stations that we visited but this was neither intrusive nor intimidating.

OVERALL ASSESSMENT

Our overall assessment of the electoral framework and the preparations for these elections is a positive one. In nearly every respect, these preparations represented a significant improvement on the 2001 elections. The ECZ is to be commended for a job well done in this regard.

Public confidence in the registration process would be further enhanced if in the future more time is provided for voter verification and more widespread use is made of mobile registration teams. It would also help if bureaucratic impediments to the issuing of National Registration Cards were removed, especially with regard to newly qualified voters.

There needs to be greater clarity as to the respective remits of the three bodies responsible for enforcing the Code of Conduct. Breaches of the Code must be rigorously investigated and where necessary met with sanctions. Continued confusion in this area may undermine confidence in the effectiveness of the Code of Conduct itself.

The Constitutional Framework should be strengthened to ensure that the electoral system guarantees full participation of all citizens, including women; that the Constitution is gender-sensitive and user-friendly as recommended by the Zambia National Women's Lobby Gender Checklist.

The election laws should be strengthened to provide equality of opportunity between men and women in the selection and appointment of office bearers and decision-makers at all levels; and to enshrine the right of every man and woman to participate in all activities of the election process.

Chapter Four

THE CAMPAIGN AND THE MEDIA

THE CAMPAIGN

The official campaign period began on 28 July 2006 and ended at 1800 hrs on September 27, the day before the poll. Campaigning took the form of public rallies, door-to-door canvassing, posters and billboards, printed T-shirts and caps, and advertisements in the print and electronic media. Posters for the ruling party presidential candidate were seen around the country. Also widespread, but less prominent, were the campaign posters of the other presidential candidates.

In rural/remote areas, especially those without electricity and distant from the main roads, the main methods of communication used were candidates' posters, political party meetings and speeches delivered from vehicles with bullhorns. There were also parliamentary candidates' debates held at community level by NGOs such as the Foundation for Democratic Process (FODEP) with support from the Institute for Multi-Party Democracy (a Netherlands-based NGO).

The presidential campaign was quite competitive between the three leading candidates, especially in the areas where their parties traditionally enjoyed strong popular support. These were: for Mr Mwanawasa, Central, Eastern and North-Western Provinces; for Mr Sata, Northern, Luapula and Copperbelt Provinces and Lusaka District; and for Mr Hichilema, Southern Province.

Most presidential campaign rallies held in the strongholds of the three leading political parties were well attended. Generally, it was felt that the simplification of procedures for obtaining police authority to hold political rallies was an improvement on the situation in 2001. However, one opposition party was reported to have been prevented by local police from holding a political rally in Kitwe.

Presidential and National Assembly campaigns overshadowed the local government elections, for which in most cases campaigns were very low-profile. Many people, especially in urban areas, did not know the local government candidates.

Campaigning was to some extent issues-based, focusing on such concerns as corruption, unemployment, education, health, investment or agriculture. However, there was a tendency for the campaigns to become increasingly personality based, particularly between the presidential candidates of PF and MMD. It was reported that attempts to have a televised presidential debate were not successful because the incumbent was unwilling to engage in face-to-face debate with the PF leader on the basis that such a debate would end up being personality-based rather than issues-based.

The campaign was generally peaceful. However, some incidents of violence were reported, such as a clash between PF and MMD 'cadres' in Ndola on 18 September, and another at Lusaka City Market Bus Station on September 16. In Mazabuka Constituency in the Southern Province, MMD and UDA supporters clashed. Six UDA supporters were arrested and charged with conduct likely to breach the peace. A Commonwealth Observer ascertained that the police had not objected to the MMD's holding their rally in the location of their choice, even though this was close to the UDA campaign camp.

Opposition parties also raised an issue regarding the Maureen Mwanawasa Institute, led by the wife of the incumbent. This charity organised several high-profile events during the campaign, including the opening of a health clinic and the donation of charitable goods. These were interpreted as being aimed at inducing voters to vote for the President, and were therefore seen as contravening the Code of Conduct. The First Lady was reported to have provided assurances to the ECZ that the charity would cease all such activities for the remainder of the campaign period; however, some reportage of such events was observed after these assurances were given, including lengthy coverage of a speech by the First Lady at an AIDS conference in Libya.

The other complaint from the political opposition was that the President and Vice President launched government development projects during the time of the campaign. This was interpreted by some stakeholders as an unfair inducement to vote for the incumbent to the disadvantage of other candidates.

USE OF PUBLIC RESOURCES

There were allegations that public resources such as personnel and vehicles were used by MMD for campaign purposes. It was alleged that private number plates were used on government vehicles to avoid detection. We noted, however, that the President had taken some measures to minimise the abuse of public resources during the campaign, including dissolving the cabinet prior to the elections. There is no state funding of political parties in Zambia.

THE MEDIA

The 2006 Electoral Code of Conduct contains provisions in regard to 'Duties of the Media', 'Allocation of Air Time', and 'Election Results Programme'. These include the requirement that "all print and electronic media shall provide fair and balanced reporting of the campaigns, policies, meetings, rallies and press conferences of all registered political parties and candidates during the period of campaigning." This and other requirements appear to outlaw media bias and to promote a level media playing field for all candidates. However, these provisions were not always rigorously enforced.

Two provisions of the Code met with resistance from media practitioners. One provided that 'all public and private media personnel shall ... refrain from broadcasting their own political commentary or assessment; and where they wish to do so, they shall clearly identify the opinion,

commentary or assessment as their own and shall carefully balance it in order to avoid bias'. The other provided that the media 'shall not speculate election results but shall broadcast confirmed election results as they are announced by presiding officers'. These were felt by some journalists to inhibit freedom of expression, but were defended by the ECZ as the most appropriate and responsible way of making public the outcome of the elections.

There are in Zambia both state owned and private media, and we observed no restriction on media freedom. Estimates of the reach of print and broadcast media suggest that some 70 per cent of the population is influenced primarily by radio, and 30 per cent primarily by the print media.

The general impression was that there had been significant improvement in the performance of the media as compared with the 2001 elections. However, there was still evidence of bias towards the ruling party on the part of the government-controlled media, in terms of news coverage of the campaign.

The print and broadcast media were also used for voter education, including in local languages. The Code of Conduct was extensively advertised in the press by the ECZ. Newspapers carried editorials and articles on the importance of turning out to vote. Voter education information sponsored by the ECZ and civil society organisations was disseminated on television and radio. Most voter education information was of high quality, urging registered voters to cast their vote on polling day, and giving reasons why it was important for Zambians to exercise their voting rights. Some of this was targeted specifically at young people.

Our Observers did not attempt a systematic quantitative analysis of the elections-related media coverage, but rather carried out a sampling of the media as available to them. Our observations are, however, largely borne out by the analysis done by other observer missions.

The Print Media

Zambia has three national daily newspapers: The Zambia Daily Mail and the Times of Zambia are government-owned, while The Post is owned by several private shareholders, including some politicians. There are also three weekly papers.

During the election period, some efforts were made towards balanced coverage by most of the news media. The government majority-owned newspapers generally devoted considerably more coverage to the ruling party, and coverage of the incumbent's campaign was positive in tone. Coverage of opposition candidates and parties was more limited and sometimes appeared to foreshadow negative consequences if one of the opposition parties were to win. The news coverage of The Post was more balanced, providing access to the three leading presidential candidates. However, the tone was more frequently negative for both ruling party and opposition candidates.

The Group received complaints from some opposition parties about pro-government bias in the print media. For example, the Ndola branch of PF complained to our Observers that its press releases and denials of allegations made by the ruling party seldom got printed.

Both public and private newspapers carried political party advertising for the leading presidential candidates and their parties. Some of this was however negative in tone, seeking to imply that if a particular political party won, there would be negative repercussions for the people and the nation.

On the day before polling, the Times of Zambia included a supplement consisting of two full-page advertisements for MMD, together with the Code of Conduct. We do not believe that it was appropriate for these to appear together in the same supplement.

Reporting on the results process was fairly balanced. On Saturday 30 September, while results were still being tallied and announced, the Post headline was 'Levy headed for victory', while the Zambia Daily Mail led with 'Sata maintains grip'. The Times headline was 'MMD, PF in tight race'. The following day, the Times and Mail said that Mr Mwanawasa was now ahead, while the Post said 'I've won by 55% - Sata'.

Electronic Media

The Zambian National Broadcasting Corporation is the state-owned broadcaster, operating the only nationally available television channel as well as three radio stations (Radios 1, 2 and 4). Privately owned radio stations broadcast in various parts of the country. Radio Phoenix and Radio Christian Voice have coverage in several regions. There are also community radio stations broadcasting over a smaller radius in many regions. However, in some of the more remote rural areas, very little radio broadcasting was accessible.

ZNBC displayed a worrying degree of bias in its news reportage of the campaign, with almost all campaign-related images and most of its verbal reportage devoted to the incumbent president. The first four or five items on the news would typically be on the President's speech at various functions or meetings. Meanwhile, coverage of opposition rallies, where provided, was mainly much shorter in duration, without pictures but often including negative news such as alleged logistical failings or negative statements allegedly made by speakers.

According to some stakeholders, this bias in favour of the incumbent was unavoidable because he remained the President, and needed to continue his official functions. It was argued that it was difficult to draw a clear line between official and party functions, and the news coverage was simply presenting information on what the government had done and proposed to do. A further argument presented to the Group was that ZNBC had a limited number of cameras and reporters and they naturally tended to give preference to the President's functions and therefore to such coverage in the news.

We were informed that the ECZ had summoned the ZNBC and informed them that their news coverage contravened the Code of Conduct. This produced a short-term improvement in the balance of ZNBC's television coverage. However, the improvement was temporary and the pro-government bias returned after a few days.

The majority of paid advertising for presidential candidates was also in favour of the ruling party. This included some negative advertising about the PF candidate, which ZNBC persisted in broadcasting despite the party concerned having obtained a High Court injunction ordering ZNBC to desist.

Media coverage sponsored by ECZ and the Zambia Chapter of the Media Institute of Southern Africa (MISA) was balanced and equitable. Time was given to all presidential candidates to convey their manifestos. Parliamentary candidates from the various parties were also given time to discuss and debate. However, one opposition party complained that broadcasting of their presidential candidate's message coincided with a power blackout in the Central Province.

There is also an issue regarding the ZNBC Act in regard to the appointment of the Board of Directors. The law requires the Minister of Information to submit to Parliament for its approval a proposal for the appointment of the Board of Directors. Media organisations such as MISA and the Press Association of Zambia petitioned the court that the Government had not acted in accordance with the law. The court ruled in the media organisations' favour but the Government appealed to the Supreme Court. A final decision was postponed until after the election period.

OVERALL ASSESSMENT

Our overall assessment is that considerable progress has been made in Zambia in terms of freedom to campaign, freedom of expression and in the level of balance in media coverage of the election campaign.

However, there remains room for improvement regarding the use of state resources in election campaigns and the news coverage of the campaign by the state-owned electronic media. Alleged breaches of the Code of Conduct in this regard should be vigorously investigated.

Correct application of the ZNBC Act and the implementation of proposals to establish an independent broadcasting authority should also help to improve political balance in the broadcasting media.

Chapter Five

THE POLL, COUNT AND RESULTS PROCESS

OBSERVATIONS OF THE POLL

The ECZ is to be commended for making materials available to polling stations and for facilitating the voting process for all those registered to vote on 28 September 2006. This daunting logistical challenge was managed, for the most part, with precision and efficiency. However, there were some problems.

Polling stations were to be ready with all relevant materials to open at 0600hrs and to close at 1800hrs. Some, however, did not start operations on time, owing either to the late arrival of polling materials or to delays in setting up the polling facilities.

Late arrival of materials and staff was in some cases due to poor road conditions and to one vehicle being used to service several polling stations at considerable distance apart. We heard of two instances where vehicles broke down and one where a boat carrying staff and materials capsized – fortunately with no loss of life.

In most cases schools were used as polling centres. Where there were no schools, tents, private and public buildings, including churches, were employed. In at least one case, the keys to open a private building used as a polling station were unavailable, delaying the opening of the station.

In some cases, there was a lack of appropriate accommodation for polling officers. The safe custody for election materials was not always guaranteed. In some cases staff and materials were transported early on polling day, sometimes resulting in delays in opening the stations.

Some generic materials such as forms, stamps, indelible ink and plastic envelopes were either not in the election kits or were insufficient in quantity, while other polling stations had greater numbers than required. In some cases, Presiding Officers may not have used the checklist provided in kits to confirm all items upon opening of their canvas sacks. It was not until items were needed on polling day that these Presiding Officers realised they were missing.

Perhaps to avoid the delays experienced in 2001, many voters chose to come early to the polls. By 0600 hours numbers in queues had reached between 300 and 500 in some stations, with some voters having come as early as 0200hrs. Many had come from doing shift work or needed to vote early and go back to work even though polling day was declared a public holiday. The long wait caused some frustration and unruly behaviour, but generally voters displayed a laudable degree of patience while awaiting their turn to vote.

The ECZ not having permanent staff located at regional and local levels, Provincial Local Government Officers, Town Clerks and Council Secretaries acted as electoral officers at various levels. There was thus some lack of experience, which probably contributed to delays on polling day. There were also some last minute changes to the polling staff in some cases.

Layout and Facilities at Polling Stations

Permanent, semi-permanent and temporary structures were used as polling stations. Temporary structures were small and exposed to heat, dust and direct sunlight at certain times. Semi-permanent structures such as stalls were improvised with plastic sheeting as 'walls' and 'roof' before being used. The uncomfortable confinement within some of these structures did not assist with the orderly processing of voters in these places.

Temporary and semi-permanent structures generally had no power supply, and neither did some permanent structures. The lack of lighting and fans was inconvenient to voters, electoral officials, polling agents, monitors and observers. It may also have contributed to delays in locating voter names on the register as well as errors in counting and tallying.

However, we observed that the diagrammatic representations given for room setup were followed well in many stations.

Introduction of Streaming

The concept of streaming was timely and necessary in polling districts with large numbers of voters on the register. This was well received by all stakeholders. However, the process could have been better managed at the time the polls opened.

Unaware that they had been streamed by the first letter of their surnames, voters sometimes formed a single long queue prior to the opening of the polling station, as they had been used to doing in previous elections. Ushers provided to guide voters were not always strategically placed near the entrance to the polling area, or adequately sensitised to play their role. This led to frustration and protests as voters who had waited found that others who had come later went to the front of the queue. Sometimes it was only quite late that polling officials and police officers came out to explain the streams and re-establish order.

Checking Voter Names against Register and Voting

In the voting process, the first polling assistant encountered by the voter was responsible for checking the National Registration Identity Card (NRIC) and Voter Registration Card (VRC) against the voters register for the polling station. The polling assistant then called out the voter's name, NRIC number and VRC number so that polling agents and the other two assistants issuing ballot papers (one assistant for the presidential ballots, the other for assembly and local government ballots) could hear and check as well. Ballot papers stamped in the polling station were then issued, the VRC number was recorded by polling clerks on the ballot counterfoil and the thumbnail of the voter marked with indelible ink. The voter proceeded to the booth to mark the ballot papers and thereafter

inserted them into the relevant ballot boxes. The colour of the lids matched that of the ballot papers and a polling clerk was present at the ballot boxes to assist voters who needed help.

At the start, the process of checking and issuing the ballot papers was slow in some cases. While the efficient officers took less than two minutes from the time the voter reached the checking assistant until arriving at the booth, less efficient ones took up to 10 minutes per voter. There was some interchanging amongst polling assistants to increase efficiency. It was also observed that it was faster to check the text voter list before looking at the photographic register as there were substantially more pages to review on the list with photographs. The rate of processing of voters became significantly faster as polling day progressed and polling officers became more familiar with their tasks.

We observed some cases where voters were unable to vote because they did not bring both their NRIC and their VRC. We also observed a case where, contrary to Regulations, the Presiding Officer accepted a letter from the Police in replacement for a lost VRC.

Missing Names in the Voter Registration List

We observed some cases where polling staff could not locate the names of voters on the voters register despite the voter carrying a valid NRIC and VRC. These voters were turned away, unable to vote. This created frustration among the voters.

Calls to the Returning Officer and the Director of Elections did not help in resolving such cases. In some instances voters were told to await the arrival of an official from the ECZ, but often they did not wish to wait and in some cases even though they did wait, no electoral officer arrived.

It is to be regretted that despite having the requisite documentation, some voters were turned away. However, the numbers of affected voters noted by our Observers were small.

Secrecy of the ballot

Every time a ballot paper was issued to a voter, the voter registration number was written on the ballot counterfoil, as provided for in the Presiding Officers Handbook. We question the need for this provision. This practice calls into question the secrecy of the ballot because it is theoretically possible to determine how a named voter voted by matching the serial number on the ballot itself with the numbers on the counterfoil.

In one instance, our observer noted that polling station officials sought to retrieve the ballot papers cast by a voter at the close of the poll having identified that the voter was ineligible to vote after the end of polling.

We also noted many cases where voters were insufficiently educated on the need to ensure the secrecy of their own ballots. In seeking guidance on which box to use, voters were observed showing their opened marked ballot papers to polling officials.

Closure of Polling Stations

Most polling stations closed on time, the long queues of voters of the morning having cast their votes well before 1800 hours. Some Presiding Officers, perhaps those who had been better trained, closely followed the procedures set down in the Handbook. They took the necessary action pertaining to announcing the closing of the station and the subsequent sealing of the ballot boxes and the announcement of the serial number of each seal. In other cases it was observed that procedures were not so closely adhered to.

Where stations had to close late because they had opened late lighting became a problem. In some cases, the lanterns supplied to facilitate closing procedures proved inadequate.

OBSERVATIONS OF THE COUNTING PROCESS

It was observed that counting generally commenced between 30 minutes and one hour following the close of the polls.

Counting generally took a long time though the process itself varied amongst stations because of the different strategies for counting the ballots that were adopted. Sometimes ballot papers were counted in a manner that did not allow polling agents to see, owing to the speed of counting, the distance from their allocated seating and poor lighting.

We observed that the counting of the presidential ballots was slow and meticulous. The process took much longer than anticipated.

Many Polling Officers were very tired even before the counting began, with many hours work still ahead of them. As the evening progressed and the count moved to the National Assembly and local government ballots, fatigue set in and the quality of attention paid to the counting deteriorated.

Especially at this stage, the process prescribed in the Handbook for counting the entire ballot first by streams before combining all ballots to sort by candidate was not always adhered to. Nor was the process of counting in bundles of 20 by one Polling Officer followed by recount into bundles of 100 by another polling officer.

Polling station staff on hand were not always deployed in an efficient manner, with several polling staff waiting at the edge of the counting process during times when they could have been allocated tasks to speed up the process.

We observed Presiding Officers who followed procedures and also those who did not. Some Presiding officers drew the attention of Polling Agents, monitors and observers to each step of the process as they undertook it. In these cases there was a clear feeling of transparency within the polling station to the satisfaction of all present.

In cases where Presiding Officers did not adhere to procedures, confusion amongst stakeholders and delay in the proceedings sometimes resulted,

as suggestions were offered as to what should be done. It was also observed in some cases that decisions taken through such methods were contrary to what was provided for in the Handbook. While this did not impinge on the credibility of the process as such it could well have contributed to delays in the overall counting process. Presiding Officers should adhere to the Handbook without exception.

It was observed in one case that envelopes containing the Presidential ballot were sealed immediately after the counting of that section. Subsequently misplaced ballots were located within the other ballot boxes, which required the reopening of the sealed envelope.

In some stations, unidentified individuals interested in what was happening within the counting room were coming and going unannounced as the night went on.

Use of Forms

It was observed that Presiding Officers spent an inordinate amount of time doing paperwork during and after the counting. Several forms were used for the record of seals received and used, and a lot of time was taken in searching for the required forms at the time they were needed. The recording of results and completion of forms took up to three hours after the conclusion of the counting process.

OBSERVATIONS OF THE RESULTS PROCESS

According to the procedure established by the ECZ, results from the polling stations for the tripartite elections are tallied at a designated vote tallying centre for each constituency. The Presiding Officer and the Polling Assistants bring the sealed ballot boxes along with the completed forms to this centre where the forms are checked, votes are tallied and the results for the constituency are announced.

Long delays were observed at constituency tallying centres. Among the reasons for this were:

- delays in the counting at polling stations;
- delay in transferring the results, ballots and boxes to the tallying centres, due in some cases to inadequate transport arrangements and the long distances to be covered;
- the provision in the Electoral and Returning Officers Handbook that the tallying process is not to begin until results from all the polling stations have been received;
- the lengthy period of time needed for Returning Officers to inspect, verify and collate the numerous forms submitted by Presiding Officers;
- where rectifications had to be done, the Presiding Officer and polling assistants had to work on them;

- tallying of all the information from the polling stations was done using calculators, which took time and was susceptible to errors;
- the Returning Officer at the tallying centre also had to check, verify and accept the return of other materials and equipment belonging to the ECZ;
- in some cases, there seemed to be no sense of urgency on the part of Returning Officers and their officials to complete the job as quickly as possible;
- it was reported that delays in some tallying centres were exacerbated by the arrival of additional party cadres and supporters, creating a noisy and tense atmosphere inside as well as outside the centre. The presence of unauthorised persons in some tallying centres was also noted;
- in some centres an overall listing of results as received by the returning officer from each polling station was on display. In others, there was no such display of results received. As a result, time was wasted through party agents intervening in the tallying process to verify results against their own records from the counting centres.

The lengthy time taken to announce the results tended to engender suspicion among some party agents that these delays were caused by attempts to rig the results. There were rumours of additional ballot boxes having been brought in at one vote tally centre. This led to heated exchanges of words between officials and party supporters, resulting in the intervention of police officers to bring the situation under control.

ANNOUNCEMENT OF RESULTS AT NATIONAL RESULTS CENTRE

According to the plans originally announced by the ECZ, the presidential results for each constituency were to be conveyed to a district centre, where they would be transmitted electronically to the ECZ headquarters and then to the Mulungushi International Conference Centre in Lusaka, the designated national results centre.

Results sheets were provided with machine-readable tables into which, in addition to the other results sheets, Presiding and Returning Officers were to inscribe the Presidential Results. A sophisticated computerised system was installed at district centres and at Mulungushi Conference Centre for this purpose.

Some political parties made representations to the ECZ to allow ICT specialists appointed by them to be present at ECZ and Mulungushi to observe the electronic transmission. This was agreed. However the ECZ announced early in the results process that the electronic transmission system would not be used. It was stated that this decision was taken in response to representations made by a political party.

The process of announcing the results took the form of televised updates delivered by the Chairperson at intervals throughout the four days

following the election. Results were announced verbally, and in the case of the presidential tallies, tabulated and posted on the ECZ website. The parliamentary results were read out at such speed that it was often difficult to note down the figures. Furthermore, figures for rejected and disputed ballots were usually not given, and hard copies of the result sheets as received from constituencies/districts were not always available. Opposition parties also claimed that results were being announced selectively rather than in the order they were received.

A key point of concern was that discrepancies were noted in the total numbers of votes cast in the Presidential and National Assembly elections respectively. In a few constituencies, these discrepancies ran into the thousands, and in one case (Munali, in Lusaka District) the figure was calculated at more than 22,000. This discrepancy was brought to the attention of the ECZ during a televised question and answer session after one of the updates. The ECZ undertook to investigate and respond.

An analysis of the presidential and National Assembly figures across a sample of 41 constituencies suggested that there were discrepancies in some but by no means all constituencies. In the Group's judgement, based on the information available, these discrepancies were not in themselves sufficiently large to affect the result of the presidential race. But they have yet to be explained to the satisfaction of all stakeholders.

Opposition parties requested that the declaration of the result of the presidential result be delayed until after anomalies they had identified could be explained and if necessary rectified. However, the Chairperson later announced that verification could only be undertaken at constituency level and that scrutiny of the results could be requested through the courts, after the declaration of the Presidential Result.

At the final results update in the evening of Monday 2 October, the remaining constituency results for the presidential election were announced, and Mr Mwanawasa was declared the winner. In accordance with the laws of Zambia, he was sworn in as President the following day.

OVERALL ASSESSMENT

The Electoral Act 2006 came into force in May 2006 and the date for the election was set shortly after i.e. in July 2006. This gave the ECZ limited time in which to make the necessary preparations. In spite of this constraint, the ECZ tried its best with regard to voter education, the printing of election materials, sourcing for equipment and furniture, preparing of the handbooks, training of electoral officials, meeting with stakeholders as well as a host of other things. The ECZ should be commended for this.

The success of the ECZ was clearly demonstrated by the following:

- the high level of enthusiasm of most voters, as evident in the high turnout despite the fact that many had to walk long distances to vote;

- committed and dedicated staff worked on a continual basis for 48 hours or more under sometimes challenging conditions;
- returning officers, presiding officers, polling assistants and the security personnel generally maintained their composure throughout the day despite the pressures on them;
- the punctual closure of most polling stations at the end of the day, with few if any electors still waiting to cast their vote.

There are however a number of ways in which the functioning of the poll, count and results process could be improved. In particular, regarding the poll:

- There is a need to look at logistics for future elections – especially with the packing and dispatch of polling materials. Sufficient vehicles and drivers who know the polling station locations are required. Where private buildings are used the keys to the facility must be made available in advance;
- the selection of appropriate premises as polling stations, as well as qualified and efficient polling staff, is critical. If temporary and semi-permanent centres have to be selected then the provision of additional necessary equipment should be considered;
- the ECZ should review the need for both the NRIC and VRC to be presented on polling day. We suggest that the ECZ consider the possibility of using a single card for voting, namely the VRC;
- voters should be informed by the ECZ about streaming during voter education. Early posting of flow charts and streaming signs at the entrance to the polling station and other strategic places would help voters throughout the entire process;
- the ECZ should display the provisional voters register for a longer period and in more locations before the elections to allow people to check if their names are on it. The ECZ should also prepare a supplementary attachment that lists all the recommended deletions with their particulars in full for each polling station affected. This should be made available in the kit on polling day to minimise the disenfranchisement of bona fide voters;
- to ensure the secrecy of the voter's intentions, we recommend a review of the need to imprint the voter's identification number on the counterfoil of the ballot paper;
- the practice of late closing because of late opening needs to be reconsidered and clearer guidelines provided in the Presiding Officers Handbook;
- there is need for better co-ordination and co-operation between the two institutions responsible for national ID registration and voter

registration. This is essential to ensure the minimisation of disenfranchisement amongst potential voters;

- the procedure provided in the Handbook to ensure that all unused ballot papers are accounted for should be rigorously followed;
- Thorough training of polling officials should be further strengthened.

Regarding the count:

- All Presiding Officers should adhere strictly to the handbook, particularly in completing reconciliation forms at stages as required in order to tally the figures. This practice would ensure internal consistency and prevent difficulties in further reconciliation later on;
- there is a need to review the forms that are used and the relevant requirements for each. While forms are necessary for consistency and checking and counterchecking, too many of them can lead to unnecessary delays and increase the risk of making mistakes. It should be assessed whether the forms used for recording of the seals received and used can be combined into a single form;
- all forms provided for Presiding officers could be collated in a single binder to be later removed for completion and placed in the appropriate envelopes. This would avoid the time wasted in searching for forms amongst all other materials and also assist in ensuring all forms are present before their dispatch to the polling stations;
- as part of their training, it should be emphasized to presiding officers that there are certain parts of forms which can be completed as polling progresses rather than waiting till counting or until the end;
- Presiding officers should be trained to manage the whole process in the polling station rather than undertaking tasks that should be done by the polling assistants thus making best use of the staff allocated to them;
- there should be a sense of urgency in counting the votes and compiling the results;
- to facilitate better understanding of the counting process, the handbook should provide diagrammatic representation of the activities involved in the process;
- the positioning of agents, monitors and observers could also be addressed in the diagrams provided for counting procedure, with attention given to allowing actual observation of the ballot paper markings.

Regarding the results process:

- More vehicles are required to ensure results are transported to the tally centre as soon as they are announced at the polling station;
- Returning officers should not be involved in receiving and verifying material and equipment on behalf of the ECZ;
- there is need to design and implement a more transparent and efficient results system for future elections;
- an adequate computer system could be used to enter the results as they come in and are tallied at the end. Such a system would allow for consistency checks and be much faster for the purpose of computing totals, percentages etc;
- information in the computer file that shows results by polling station could be projected on to a screen for all to see the latest results and for party representatives to countercheck the scores on the screen with what was given to the polling agents in the counting centres;
- in the absence of such a computerised system, the results could be displayed on a whiteboard or flipchart paper. This display of results in whatever form, including electronic scoreboards, at the regional tally centre would enhance the perception of transparency.

With regard to the electoral process as a whole:

- the independence of the ECZ should be ensured so that decisions communicated to the voters are not changed in the closing hours of a major electoral season. The transparency we observed prior to polling should be maintained throughout the process so that the credibility of the election remains intact;
- any amendments to electoral laws should be passed in enough time to enable the ECZ to plan its activities in a timely manner

Chapter Six

CONCLUSIONS AND RECOMMENDATIONS

The 2006 Presidential, National Assembly and Local Government (Tripartite) elections were the fourth general elections in Zambia since the return of multiparty politics in 1991. It is said that the real test of a functioning multiparty democracy comes after the third or fourth elections. Zambia is doing well in this regard and the people of Zambia have embraced democracy with a zeal that augurs well for the country's future stability and prosperity. In the last fifteen years of multiparty politics, not only has power been transferred peacefully from one person to another through the ballot box, it has also moved from one party to another by the same process.

We were impressed by the spirit of co-operation and dialogue between agents of rival parties at nearly all the polling stations that we visited. It demonstrated a commitment to the use of exclusively peaceful means in the resolution of differences and disputes, which is an important hallmark of any democracy.

We were therefore saddened that the general atmosphere of peace that had characterised the campaign and polling stages of the elections was marred by a few violent incidents during the announcement of the results. We were encouraged, however, when political and civil society leaders quickly condemned this violence and called for calm and restraint. We were particularly pleased that the two main challengers to the presidency publicly committed themselves to using exclusively peaceful and constitutional means in pursuing disputes arising out of the elections. We commend them for their spirit of tolerance and for their political maturity.

In our Interim Statement we emphasised the fact that democracy is a process rather than an event. If it is to take hold and to prosper it must be imbedded in a truly democratic culture characterized by political tolerance, equal rights and opportunities, the rule of law and strong institutions that command the respect and confidence of the political players and the people as a whole.

The recommendations that we have made below are based not only on our direct observations of the polling and the results processes but also on the electoral environment as a whole. We hope that all the stakeholders in Zambia accept these proposals in the spirit in which they are made: as suggestions from friends of Zambia intended to further strengthen public confidence in the country's democratic processes and institutions and to help provide a strong democratic foundation on which the country's economic development could be built.

CONCLUSIONS

Our terms of reference require us, inter alia: *"... to consider the various factors impinging on the credibility of the electoral process as a whole and to determine in our own judgement whether conditions exist for a free expression of will by the electors and if the results of the elections reflect the wishes of the people."*

In our Interim Statement, we noted that on polling day the people of Zambia were able to exercise their democratic rights freely, with enthusiasm and in a peaceful and orderly atmosphere. There were some cases of delays in opening the polls due to logistical problems such as the late arrival of polling materials. But we were impressed by the commitment and professionalism of polling and counting officials, who for the most part were able to deal competently and satisfactorily with the few problems that arose during the polling and counting processes.

Most electors were able to find their names on the voters register and only a few were turned away. There were security officers at most polling stations but their presence was neither intimidating nor intrusive.

We noted that in terms of general organization, these elections, in almost all aspects, represented a significant improvement on the 2001 polls. We wish to once again commend the ECZ and its Chairperson for a job well done. We also wish to commend the conduct of the Police and security forces. Except for a few isolated incidents, law and order was adequately maintained during the campaign without undue restrictions on the activities of political parties.

THE RESULTS PROCESS

Of all aspects of the electoral process, the results process was the one that proved to be the most contentious and that generated the most complaints on the part of the political parties and civil society organizations. We have already noted the efforts of the ECZ to make the overall electoral process as open and as efficient as possible. Nevertheless, our overall assessment is that the results process was the one area where the ECZ's efforts did not result in a totally satisfactory level of transparency and credibility.

The decision at a late stage by the ECZ not to make use of the electronic system for the transmission of results, acquired at considerable cost, was well intentioned but in the event eroded confidence in the Commission's overall control of the results process. An electronic collation system alongside the manual one might have made it easier to investigate discrepancies in the numbers of votes cast variously for the Presidential and National Assembly elections at several polling stations.

OVERALL ASSESSMENT

Our overall assessment is that the difficulties and controversies associated with the results process were not of a scale to have subverted the will of the people, although they do pose significant challenges for the future. We therefore believe that taken as a whole, the conditions existed in Zambia

for a free expression of will by the electors and that the results of the elections reflect the wishes of the people.

RECOMMENDATIONS

We understand that the constitutional review process would continue after these elections. This process might provide the opportunity for the people of Zambia to consider ways beyond the immediate electoral process in which the country's democracy may be further strengthened. There is in particular a need for urgent efforts on the part of all stakeholders to significantly increase women's role and representation at all levels of national life in line with Commonwealth, SADC and other international guidelines and obligations.

A number of Commonwealth countries have benefited from the introduction of some form of proportional representation in legislative elections, including in terms of women's representation. Also, a system where candidates for the presidency are required to obtain a majority of the total votes cast to be elected (if necessary by way of a run-off) could also be considered within the context of the constitutional review.

As far as the electoral process itself is concerned, we wish to make the following recommendations:

With Regard to the Electoral Framework and Preparations for the Elections

- More time should be provided for voter education and more use should be made of mobile registration teams, especially in the more remote areas of the country;
- the procedures for obtaining National Registration Cards should be streamlined and made as accessible as possible, especially for persons who reach the voting age of eighteen;
- the high level of voter education, so evident in the towns and cities, should be extended to rural areas not already sufficiently covered, with a particular focus on illiterate voters;
- greater efforts should be made to ensure that polling materials reach all polling stations in time for polling in order to avoid long delays at polling stations that could in the future affect voter turnout;
- where possible, election officials should be recruited from their localities and care should be taken to ensure a fair and transparent recruitment process;
- only those allowed by law should be present at polling stations at all times. Such persons must carry the necessary identification and accreditation documentation, which should be checked by presiding officers. Police and other security officials at polling stations should not be drawn into polling activities outside their remit;

- there needs to be greater clarity as to the mandates of the various bodies responsible for enforcing the Code of Conduct. The authority and effectiveness of the conflict resolution committees should be enhanced and at all levels the Code of Conduct should be more rigorously enforced.

With Regard to the Campaign and the Media

- The ECZ should monitor more closely the use of state resources in election campaigns and should rigorously investigate complaints in this regard;
- news coverage of the election campaign by the state-owned media should also be more closely monitored. Breaches of the Code of Conduct in this area should be investigated and where necessary sanctioned.

With Regard to the Polling, Counting and Results Process

- The ECZ should make use of its computerised system for entering and collating the results in parallel with the manual/fax system eventually used in these elections. The functioning of this system should be better explained to the political parties and to the public at large;
- an electronic or manual system that tallies the results at the central counting centre as they come in from constituency counting centres would serve to enhance transparency and thus the credibility of the results process;
- the constitutional review may wish to consider the merits of designating a specific Returning Officer, other than the Chief Justice, for Presidential elections. The involvement of the Chief Justice in the process creates a potential conflict of interest with regard to any subsequent petitions that are brought before the Supreme Court. It also carries the potential of unhealthily dragging the judiciary into the political arena.
- we note that at least two of the main political parties have asked for a verification of some or all of the results of the Presidential and National Assembly elections. It may thus be useful to consider the merits of allowing adequate time for legal challenges to Presidential elections to be heard prior to the inauguration of the President.

ANNEXES

ANNEX ONE

COMPOSITION OF THE COMMONWEALTH OBSERVER GROUP

Hon Paul Berenger (Mauritius-Chair)

Hon Paul Berenger founded the Mauritius Militant Movement in 1969 and was a leading trade unionist from 1970 to 1982. Hon Paul Berenger was elected to Parliament in 1976 and in 1982 became the Minister of Finance.

Subsequently, he held posts of Leader of the Opposition, Minister of Foreign Affairs, deputy Prime Minister and Prime Minister.

Ms Phyllis Andoh (Ghana)

Ms Phyllis Andoh is a youth activist with the National youth council.

Ms Andoh is currently the deputy Regional Coordinator for the Commonwealth Youth Programme Africa Centre and also the country representative of the Commonwealth Youth Programme. Ms Andoh is a young leader of the Ghana Girl Guides Association and is also on the national executive of the Federation of Youth Associations of Ghana (FEDYAG)

Mr John Bennett (Australia)

Mr Bennett was Chairperson of the Next Generation Youth Forum at the Royal Agricultural Society of the Commonwealth 2006 Biennial Conference in Calgary, Canada where he also presented a paper titled The Small Show Experience. He is the youngest president in the 130-year history of his Agricultural Show society in Nowra NSW, Australia and is a member of the Royal Agricultural Society of NSW Youth Development Group. Mr Bennett is also President of the Electoral Conference for the seat of Gilmore for Australian Federal Government Whip, Mrs Joanna Gash MP and was a Pre Selector for candidates for both the Legislative Assembly and Legislative Council of NSW State parliament during 2003 and 2005.

Dr Leith Dunn (Jamaica)

Dr Leith L. Dunn is a Jamaican social scientist with a Ph.D. from the London School of Economics and Political Science, as well as a Bachelor's degree (Hons) in Languages and Social Sciences and a M.Sc. in Sociology and Social Psychology from the University of the West Indies. She is currently Senior Lecturer and Head of the Centre for Gender and Development Studies Mona Unit, at the University of the West Indies (UWI), in Jamaica. She previously worked as Assistant Representative with the United Nations Population Fund (UNFPA), Office for the English and Dutch-Speaking Caribbean, with Christian Aid (UK) as well as Caribbean Director for CUSO, a Canadian Development Agency and Executive Director of the Association of Development Agencies in Jamaica.

Dr Dunn has over 20 years experience working as a social scientist, social policy consultant and NGO programme manager. She has taught a range of university courses over this period, joining the University of West Indies full-time earlier this year as Head of the Centre for Gender and Development Studies Mona Unit. She has researched and published extensively in the fields of gender and development, child labour, tourism, and NGO governance.

Dr Dunn is a former member of the Commonwealth Foundation's Civil Society Advisory Committee (CSAC) and was a member of the Commonwealth Observer Group for the 2002 Presidential elections in Zimbabwe

Mr Henry Hogger (United Kingdom)

Mr Hogger is a retired British Diplomat specialising in the Arab World, with 36 years' experience of conducting bilateral relations advising Ministers and reporting on political events. He has experience in the Middle East, Latin America and Africa and has been the British High Commissioner to Namibia and British Ambassador to Syria. Mr Hogger was also Head of the Latin America and Caribbean Department in the UK Foreign and Commonwealth Office.

Mr Hogger is fluent in Arabic, French and Spanish and is currently a Consultant on a variety of Middle East related issues.

Mr Hogger was recently a Medium Term Observer for the European Union Electoral Observation Mission for the Presidential and Legislative Elections in the Democratic Republic of Congo.

Eng Dr Badru M Kiggundu (Uganda)

Eng Dr Badru M Kiggundu is currently the Chair of the Uganda Electoral Commission and was responsible for the coordination of first multi-party elections in February 2006.

Eng Dr Badru M Kiggundu has had a distinguished career in academia and from August 1999 until November 2002 was the Dean of the Faculty of Technology at Makerere University in Uganda. He has authored more than seventy publications and supervised two doctoral studies and fifteen master of science engineering students.

Eng Dr Badru M Kiggundu is affiliated with many Engineering organisations and is Chairman of the Uganda Seismic Safety Association and is Institutionally affiliated to the African Association of Electoral Authorities (AAEA).

Hon Alix Boyd Knights (Dominica)

Hon Alix Boyd Knights has been speaker of the House of Assembly in Dominica since 2000. Hon Alix Boyd Knights is also involved in several activities nationally, regionally and internationally dealing with domestic violence issues, women and the law, birth control, sexual harassment, legal aspects of reproductive health and population matters.

Hon Alix Boyd Knights has attended numerous conferences/seminars internationally organised by the Commonwealth Parliamentary Association (CPA); Inter-Parliamentary Forum of the Americas (FIPA); Inter-Parliamentary Union (IPU), UNIFEM, among others;

In addition, Hon Alix Boyd Knights is the author of several papers and articles in the area of: legislation and the formation of society; women's rights; rights of children; domestic violence

Dr Paramasivam Manogran (Malaysia)

Dr Manogran is a member of the Malaysian Election Commission.

Dr Manogran has had a long and distinguished career in the Public Service and has received four awards: PJN, DPMP, JMN, KMN.

Dr Manogran was the Principal Assistant Director in the Prime Minister's Department, Deputy Director of the National Institute of Public Administration, Director of the Research and Planning Division, Secretary General of the Ministry of National Unity and Secretary-General of the Ministry of Human Resources

Mr Ollen Mwalubunju (Malawi)

Mr Mwalubunju is a policy analyst, governance and human rights expert with 15 years experience. He co-ordinated civil society election monitoring projects in Malawi during the 1999 and 2004 Malawi's General Elections. In 2000, he participated as an International observer for Zimbabwe Parliamentary Elections with the National Democratic Institute. In addition he has also participated in the Electoral Institute for Southern Africa (EISA) initiative of the production of an electoral handbook, "the Principles for Election Management, Monitoring and Observation in SADC Region.'

Mr Mwalubunju has also done a number of consultancy for several years with a number of organizations such as the UNDP-Malawi Country Office, University of Malawi-Centre for Social Research, DANIDA, Open Society Institute for Southern Africa (OSISA), Electoral Institute for Southern Africa, and the Netherland Institute for Southern Africa amongst others.

In 2005, he was appointed as a human rights Commissioner for the Malawi Human Rights Commission by the State President of the Republic of Malawi where he is responsible for investigations and human rights monitoring, and also provides advice in a team of commissioners to the President of the Republic of Malawi and Parliament on issues of Human Rights.

Ms Eunice Roberts (Ghana)

Ms Eunice Roberts is currently a member of the Electoral Commission in Ghana and has held this position since 2004. Ms Roberts has oversight responsibility for the Western Region including electoral and administrative duties.

Ms Roberts has been involved in the planning, managing and overall conduct of the 2004 General Elections and the 2006 District Level and Unit Committee Elections.

Prior to Ms Roberts appointment as member of the Electoral Commission, she held senior positions in the Ghana Education Service as a teacher, guidance co-ordinator and Head of Department. In addition Ms Roberts worked as a member of the management team in charge of Human Resource Management at Challenge Enterprises of Ghana.

STAFF SUPPORT TEAM

Dr Victor Pungong	Team Leader
Mr Daniel Woolford	Assistant to Observers
Mr Martin Kasirye	Assistant to Observers
Ms Julie Broadbent	Assistant to Observers
Ms Amita Patel	Assistant to Observers

ANNEX TWO

PRESS RELEASE ISSUED IN LONDON

15 September 2006



Commonwealth Observer Group

Zambia Presidential, National Assembly and Local Government Elections
28 September 2006

Former Prime Minister of Mauritius to lead Commonwealth Observers for 2006 Presidential, National Assembly and Local Elections in Zambia

15 September 2006

Commonwealth Secretary-General Don McKinnon today announced that the Commonwealth Observer Group for the Presidential, National Assembly and Local Elections in Zambia will be led by the Hon Paul Berenger, Former Prime Minister of Mauritius.

The Observer Group will consist of ten eminent persons, supported by five Commonwealth Secretariat staff. The eminent persons are:

Hon Paul Berenger (Chair)

Former Prime Minister of Mauritius
Mauritius

Mr John Bennett

Chairperson, Youth Forum
Royal Agricultural Society of the Commonwealth
Australia

Mr Henry Hogger

Former High Commissioner to Namibia
United Kingdom

Hon Alix Boyd Knights

Speaker
House of Assembly
Dominica

Mr Ollen Mwalubunju

Commissioner of Human Rights
Human Rights Commission
Malawi

Ms Phyllis Andoh

Deputy Regional Coordinator
Africa Region
Commonwealth Youth Programme
Ghana

Dr Leith Dunn

Senior Lecturer/Head
Mona Unit,
Centre for Gender and Development Studies
University of West Indies
Jamaica

Eng Dr Badru M Kiggundu

Chairman
Electoral Commission
Uganda

Dr Paramasivam Manogran

Member
Malaysian Election Commission
Malaysia

Ms Eunice Roberts

Commission Member
Ghana Electoral Commission
Ghana

The Staff Support Team will be led by Dr Victor Pungong, Head of the Good Offices Section in the Political Affairs Division of the Commonwealth Secretariat.

The Observer Group will start work on Tuesday 19 September 2006, and will hold a press conference on Thursday 21 September 2006 at the Hotel Intercontinental, Lusaka, Zambia.

The Observers have been invited in their individual capacities and the views they express regarding the elections will be their own and not those either of their respective Governments or of the Commonwealth Secretariat.

For media enquiries, please contact: Mr Daniel Woolford on +260 (0)99 823 233,
d.woolford@commonwealth.int.

InterContinental Lusaka, Haile Selassie Avenue, P.O. Box 32201, Lusaka 10101, Zambia
Tel. + 260 (1) 250 000 Fax + 260 (1) 252 046

Note to Editors

The Commonwealth Secretary-General sent a Commonwealth Secretariat Assessment Mission in April 2006, following receipt of an invitation from the Election Commission of Zambia. This Assessment Mission established that there would be broad support from the political parties and civil society for the presence of Commonwealth Observers.

The Terms of Reference for the 2006 Observer Group are:

“The Group is established by the Commonwealth Secretary-General at the request of the Election Commission of Zambia. It is to observe relevant aspects of the organisation and conduct of the Presidential, National Assembly and Local Elections scheduled to take place on 28 September, in accordance with the laws of Zambia. It is to consider the various factors impinging on the credibility of the electoral process as a whole and to determine in its own judgement whether the conditions exist for a free expression of will by the electors and if the results of the elections reflect the wishes of the people.

The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgement accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Zambia, the Electoral Commission, the leadership of the political parties taking part in the elections and thereafter to all Commonwealth Governments.”

ANNEX THREE

ARRIVAL STATEMENT

21 September 2006



Commonwealth Observer Group

Zambia Presidential, National Assembly and Local Government Elections
28 September 2006

News Release

Arrival Statement by the Hon Paul Berenger, Chairperson of the Commonwealth Observer Group

On behalf of the Commonwealth Observer Group, may I say how honoured and privileged we are to be present in your beautiful country. All of our members have now arrived and we have begun work.

The Commonwealth Secretary-General has constituted our Group at the invitation of the Government, and after a visit by a Commonwealth Secretariat Assessment Mission in July.

That Mission concluded that there is broad support from all stakeholders for the presence of Commonwealth Observers. It said that we would be able to observe all stages of the process.

Our Terms of Reference from the Commonwealth Secretary-General state that we are here to consider the various factors impinging on the credibility of the electoral process as a whole, and to determine, in our own judgement, whether the conditions exist for a free expression of will by the electors, and if the results of the elections reflect the wishes of the people.

We will be neutral, impartial, objective and independent.

We cannot visit every polling station or be present everywhere. But we can and will attempt to take a representative sample of the process, so that we can arrive at a broad overview.

We will see the end of the immediate pre-election period – the final preparations for the election and the campaign. We will visit as many polling stations as we can. And we will see the results process through from the counts to the collation.

We will travel extensively, consult widely and take every opportunity to see the process for ourselves. We look forward to meeting as many people of this country as possible. We will co-operate closely with other international election observers and domestic monitors. We will, of course, abide by the laws of this country.

Each of us has been selected by the Commonwealth Secretary-General to participate in our individual capacities. We represent the whole Commonwealth. We are independent of our governments and any organisations to which we belong. Our concern is purely with the democratic arrangements and the credibility of the process.

One of our observers has been here since 1 September, observing the electoral environment. We have already received briefings from him, from the Electoral Commission and from Commonwealth High Commissioners. We will also be briefed by political parties, non-governmental organisations and international partners, media representatives and others. On Monday we will deploy around the country to observe the final stages of the campaign, the poll and the count.

After we have observed the results process we will return to Lusaka to consider our report. We will take into account our direct observations of the polling and results process. We will also consider the electoral environment as a whole – the legal framework, the voter registration process, civic and voter education, the media, the freedom of the parties to campaign, and the freedom of the voters to vote as they wish. We will write the report here and sign it before we depart on 5 October.

When we leave we will submit our report to the Commonwealth Secretary-General. He will in turn forward it to the Government, the Electoral Commission, the leadership of all the participating political parties, and then to all Commonwealth governments. The report will then be made publicly available, here and throughout the Commonwealth.

You may wish to know when you will hear from us again. I should tell you therefore that we will not be producing a running commentary on the election, day by day.

We may issue an interim statement after the polls close on 28 September. We may make further statements after that, on the results process – a part of the whole to which we attach particular importance. We are also likely to make a 'departure statement'. I am the Group's spokesman and will speak on behalf of the Group as a whole.

We wish the people of Zambia well as they approach the conclusion of this electoral process.

21 September 2006

ANNEX FOUR

SCHEDULE OF ENGAGEMENTS

Engagements in Lusaka

20 September

Briefing by Advance Group
Briefing by Election Commission of Zambia
Briefing by Daily Mail

21 September

Briefings by Commonwealth Diplomats
Arrival Statement Press Conference
Briefing by MMD
Briefing by ZNBC
Briefing by The Post
Briefing by the Times of Zambia
Briefing by MISA

Chairpersons Reception

22 September

Briefing by UDA
Briefing by National Youth Constitutional Assembly
Briefing by National Womens Group Lobby
Briefing by FODEP
Briefing by Satccord
Briefing by APC
Briefing by UNDP

23 September

Briefing by EU Deputy Chief Observer
Briefing by UNDP
Briefing by PF

25 September

Briefings by EU, SADC PF, EISA, AU

26 September

Election Commission Recall Meeting

ANNEX FIVE

DEPLOYMENT OF COMMONWEALTH OBSERVERS

LUSAKA PROVINCE and CENTRAL PROVINCE

Chairman, Hon. Paul Berenger
Dr Victor Pungong
Ms Julie Broadbent

LUSAKA PROVINCE and EASTERN PROVINCE

Ms Eunice Roberts
Mr Daniel Woolford

COPPERBELT PROVINCE - Ndola

Ms Phyllis Andoh
Dr Paramasivam Manogran

NORTHERN PROVINCE and LUAPULA PROVINCE – Kasama and Mansa

Mr Henry Hogger
Mr Martin Kasirye

NORTH-WESTERN PROVINCE - Solwezi

Mr John Bennett
Dr Leith Dunn

SOUTHERN PROVINCE - Livingstone

Hon. Alix Boyd-Knight
Eng Dr Badru Kiggundu

WESTERN PROVINCE - Mongu

Mr Ollen Mwalunbunju
Ms Amita Patel

ANNEX SIX

**OBSERVATION NOTES AND POLLING
STATION CHECKLIST**

ZAMBIA PRESIDENTIAL, NATIONAL ASSEMBLY AND LOCAL GOVERNMENT ELECTIONS 2006

OBSERVATION NOTES FOR POLL AND COUNT

PART A

The Experts may focus particular attention on the following aspects of the conduct of the election:

THE CAMPAIGN

1. Balance of TV/radio election coverage and extent and nature of access by candidates.
2. Print media: nature of coverage and extent of access
3. The tone and content of material put out by the candidates, access to printing facilities
4. The conduct of political meetings
5. The conduct of house-to-house canvassing of voters.
6. Nature, scale and effectiveness of Electoral Commission and other voter education on radio and television, in the print media and by other methods.
7. Activities/measures to encourage the participation of women
8. Access to funds and sources of funds

THE POLL

1. The location of polling stations
2. Distances travelled by voters to polling stations, particularly in rural areas.
3. The procedure followed at the opening of the poll.
4. The length of time voters wait to cast their votes.

5. The adequacy or otherwise of facilities at polling stations and their state of readiness.
6. Availability of adequate supplies, e.g. ballot papers, official stamps and stamp pads etc
7. The performance of electoral officials at the polling stations visited
8. The procedures in place to ensure proper security of ballot papers, ballot boxes and official seals
9. Arrangements to facilitate voting by women
10. The steps taken to ensure that the secrecy of the ballot is assured.
11. The general atmosphere at the polling stations visited.
12. Access of party agents to polling stations
13. Whether illiterate voters are assured of a vote in secret
14. Whether the ballot boxes are properly sealed at the end of the day

THE COUNT

1. Inspection of seals
2. The process of reconciling the number of people who voted with the number of ballots in the boxes
3. The determination of invalid ballots
4. The facilities for candidates, agents and domestic observers to witness and verify the count and overall transparency
5. Access by international observers
6. The conduct of election officers.

PART B

Questions that may be put and which you may ask yourself:

1. Was the Voters' Register compiled in a satisfactory way? Were people missed out? Were the names of dead people or "phantom voters" included?
2. Who are the election officials? How were they chosen? Are voters confident that they will be impartial?
3. Is the person in the street satisfied with arrangements? Will he/she vote? If not, is he/she afraid to do so? Were there any attempts to discourage/encourage the participation of women and were they effective?
4. Have all candidates been able to campaign freely? Has the campaign been free of intimidation? Have all candidates had full access to the mass media?
5. Is there freedom to advertise and distribute posters, leaflets etc?

ON POLLING DAY

1. Before polling starts, are the ballot boxes empty? Are they properly sealed? Are all procedures being adhered to?
2. Are all the parties/candidates represented at polling stations? Are they satisfied with the process?
3. Are the voters apparently voting freely? Are they enthusiastic? Do they talk freely? Do they exhibit signs of fear or intimidation?
4. Do voters understand the procedures properly? If not, are the procedures being explained fully and impartially? Are attempts being made to suggest how voters should vote?
5. Does the turnout indicate that women have been deterred from attending to vote?

6. Is only one person at a time being allowed into the voting compartment?
7. How long are voters waiting to vote? If a long time, are some being put off?
8. Will all candidates be represented at the polling stations throughout voting and the count? Are agents adequately trained and vigilant?
9. Will observers have free access to all stages of the process?
10. Is the security presence effective/oppressive?
11. Were the proper procedures followed at the end of the day?

THE COUNT

1. Are the boxes kept safe until opened? Are all parties present when they are opened?
2. Does the number of used ballot papers tally with the record of those who voted?
3. Are the papers counted properly? Are counting agents present? Are they satisfied with the procedures of the count?
4. Are the proper procedures followed for declaring votes as invalid?

**COMMONWEALTH OBSERVER GROUP
ZAMBIA PRESIDENTIAL, NATIONAL ASSEMBLY
AND LOCAL GOVERNMENT ELECTIONS 2006**

Checklist For Polling Station Visits

Team Member(s):

Constituency:

Polling Station:

Time of Arrival:

Time of Departure:

Voters in Queue: Rate of Processing:

- | | |
|---------------------------------|---|
| 1. Opening of Poll | On time? Procedures followed? All materials?
No/Yes No/Yes No/Yes?
Details: |
| 2. Those Present | Candidates' agents?
Domestic observers?
Others? |
| 3. Register | State of the register? Are voters on it?
Are parties complaining?
Details: |
| 4. Layout and Facilities | Good? Adequate? Poor? |
| 5. Polling Staff | Efficient? Satisfactory? Poor? |
| 6. Security Presence | Discreet? Intrusive? Oppressive? |
| 7. Complaints by | Which are they? |

	Agents	Any complaints?	No/Yes	Details:
8.	Complaints by Voters	No/Yes		Details:
9.	Presence of unauthorised persons	No/Yes		Details:
10.	Atmosphere at Station?	Orderly?	Tense?	Chaotic?
11.	Secrecy of Ballot	Assured?	Poor?	Uncertain
12.	Voting			
	(a) Personation attempts alleged: Details:		No/Yes	
	(b) Multiple voting attempts alleged: Details:		No/Yes	
	(c) Women deterred from voting: Details:		No/Yes	
	(d) Is the voting procedure being followed?		No/Yes	
	(e) What procedures are being followed re illiterate and incapacitated voters?			
13	Limit – is there one, is it being observed		No/Yes	
14.	Closing of Poll	On time? Numbers still in queue? Seals applied? Procedure followed?		No/Yes
15.	Agents/Observers – are the agents/domestic observers satisfied with closure and sealing arrangements		No/Yes	

COMMONWEALTH OBSERVER GROUP
**ZAMBIA PRESIDENTIAL, NATIONAL ASSEMBLY
AND LOCAL GOVERNMENT ELECTIONS 2006**

THE COUNTING OF VOTES

1. **The Count** Are procedures being observed? No/Yes
 Detail:

2. **Post Count** Procedures followed? No/Yes

3. **Apparent fairness overall** Good? Acceptable? Questionable?

4. **Other Comments**

ANNEX SEVEN

INTERIM STATEMENT

29 September 2006



Commonwealth Observer Group

Zambia Presidential, National Assembly and Local Government Elections
28 September 2006

News Release

INTERIM STATEMENT

*By the Hon Paul Berenger,
Chairperson of the Commonwealth Observer Group*

Although the polls have closed in these landmark elections (except in one or two cases), the results process is still under way. It is therefore too soon to make a pronouncement on the entire voting and results phase of the elections. However, now that the people of Zambia have had their say, the members of the Commonwealth Observer Group would like me to make public, on their behalf, our initial assessment of the electoral process up to this point.

We deployed seven teams of two persons each on 25 September 2006, to observe the final days of the campaign and the voting phase of the elections in all the administrative provinces of the country. Prior to deployment, our group was briefed by the Electoral Commission of Zambia; political parties; civil society organisations; domestic and international observer groups; and Commonwealth High Commissioners and other international partners.

Our observer teams were present for the opening of polling stations and observed the voting process throughout the day at as many polling stations as possible. They also watched the closing of voting and the counting process. Where possible, they followed the process of conveying the results sheets and voting materials to the collating centres. Members of our group have been – and are – observing the final stages of the results process. Throughout the exercise, we have established working relationships and exchanged information with other international observers and domestic monitors. Our approach has been to cover a representative sample of the process so as to arrive at a broad overview.

Across the whole country the people of Zambia exercised their democratic rights with enthusiasm and in a peaceful and orderly atmosphere. There were some cases of delays in opening the polls due to logistical problems such as the late arrival of polling materials. But we were impressed by the commitment and professionalism of polling and counting officials, who for the most part were able to deal competently and satisfactorily with the few problems that arose during the polling and counting processes. Most electors were able to find their names on the voters register and only a few were turned away. There were security officers at most polling stations but their presence was neither intimidating nor intrusive.

We wish to congratulate the Electoral Commission of Zambia (ECZ) and its Chairperson for the efficient and transparent manner in which these polls were

organised. All the indications are that these elections, in almost all aspects, represent a significant improvement on the 2001 polls. We also wish to commend the conduct of the Police and security forces. Except for a few isolated incidents, law and order was adequately maintained during the campaign without undue restrictions on the activities of political parties.

Democracy is a process requiring constant adjustments and nurturing if it is to take hold and prosper. In this context, we observed a number of deficiencies in the wider democratic process, which would need to be addressed in order to further strengthen and deepen the democratic culture in Zambia.

The 2006 Electoral Act and the Code of Conduct represent important steps forward. However, there is a need for greater clarity as to the respective remits of the institutions responsible for resolving election-related complaints.

Media coverage sponsored by ECZ and MISA Zambia chapter was balanced and equitable and the print media, including both private and government-owned newspapers, generally made serious efforts to be even-handed. However, we were disturbed by a tendency towards bias, in favour of the ruling party, on the part of the state-owned broadcaster (ZNBC) in its news reportage of the campaign.

We were also concerned that delays and other shortcomings in the process of issuing National Identity Cards may have contributed to the non-registration of some young people who would otherwise have wished to cast their vote. Every effort should be made next time to facilitate the registration of all citizens of voting age, especially newly qualified voters.

We understand that the constitutional review process would continue after these elections. This process might provide the opportunity for the people of Zambia to consider ways in which the country's democracy may be further strengthened. There is in particular a need for urgent efforts on the part of all stakeholders to significantly increase women's representation at all levels of national life in line with Commonwealth, SADC and other international guidelines and obligations.

Our teams will now observe the rest of the results process, so that we can assess if that phase as a whole has been conducted properly and therefore whether the outcome of the elections reflects the wishes of the people. We will therefore issue a further statement before our departure from Lusaka on 5 October 2006. Our report to the Secretary-General of the Commonwealth will elaborate further on these issues and will take into account not only our direct observations of the polling and the results processes but also the electoral environment as a whole.

We wish to take this opportunity to thank all those who have worked so hard in support of the democratic process in Zambia and to pay a handsome tribute to the people of Zambia, whose faith in democracy bodes well for the future stability and prosperity of the country.

29/0906

ANNEX EIGHT

DEPARTURE STATEMENT

5 October 2006



Commonwealth Observer Group

Zambia Presidential, National Assembly and Local Government Elections
28 September 2006

News Release

DEPARTURE STATEMENT BY HON PAUL BERENGER, CHAIRPERSON OF THE COMMONWEALTH OBSERVER GROUP LUSAKA, 5 OCTOBER 2006

Our Interim Statement issued the day after the polls closed presented an initial assessment of the electoral process up to that point. Having now completed our observation of the results process and considered the various factors impinging on the credibility of the electoral process as a whole, we now provide our final assessment of the results phase and of the entire process.

We believe that taken as a whole, the conditions existed in Zambia for a free expression of will by the electors and that the results of the elections reflect the wishes of the people.

We congratulate the people of Zambia for their determination to exercise their democratic rights. They have embraced democracy with a zeal that augurs well for the country's future stability and prosperity. Once again we commend the Electoral Commission of Zambia and its Chairperson for a job well done. We also wish to commend the conduct of the Police and security forces.

However, we noted a number of shortcomings, particularly in the results process. This proved to be the most contentious aspect of the electoral process and generated the most complaints on the part of the political parties and civil society organisations. We have already noted the efforts of the ECZ to make the overall process as open and as efficient as possible. The results process was the one area where these efforts did not result in a totally satisfactory level of transparency and credibility.

We were also saddened that the general atmosphere of peace that had characterised the campaign and polling stages of the elections was marred by a few violent incidents during the announcement of the results. We were encouraged, however, when political and civil society leaders quickly condemned this violence and called for calm and restraint. We were particularly pleased that the two main challengers to the presidency publicly committed themselves to using exclusively peaceful and constitutional means in pursuing disputes arising out of the elections. We commend them for their spirit of tolerance and for their political maturity.

We leave Lusaka today, having completed our report to the Commonwealth Secretary-General. This report will make a number of recommendations which we hope will be accepted by all the stakeholders in Zambia in the spirit in which they are made: as suggestions from friends of Zambia intended to further strengthen public confidence in the country's democratic processes and institutions and to help provide a strong democratic foundation on which the country's economic development can be built.

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- **Code of Conduct for International Election Observers**

The members of this Commonwealth Observer Group signed the *Code of Conduct for International Election Observers*. This and the *Declaration of Principles for International Election Observation* have been agreed by a number of organisations which sponsor international election observation to ensure that such observation is undertaken in line with the highest standards of professionalism and integrity. The Commonwealth Secretariat has endorsed both.

Copies of these documents may be obtained from the Democracy Section, Political Affairs Division, Commonwealth Secretariat, Marlborough House, Pall Mall, London SW1Y 5HX, United Kingdom, or the Commonwealth Secretariat web-site, which is www.thecommonwealth.org