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**AFRICAN UNION ELECTION OBSERVER MISSION TO THE
7th DECEMBER 2012 GENERAL ELECTIONS IN
THE REPUBLIC OF GHANA**

PRELIMINARY STATEMENT

I. INTRODUCTION

1. At the invitation of the Government of the Republic of Ghana and the Electoral Commission (EC) of Ghana, the Chairperson of the African Union Commission, H.E. Dr. Nkosazana Dlamini-Zuma, deployed an African Union Election Observer Mission to the 7th December 2012 General Elections in the Republic of Ghana.
2. Led by H.E. Olusegun Obasanjo former president of the Republic of Nigeria, the Mission is comprised of 40 observers drawn from the Pan-African Parliament, members of the Permanent Representative to the African Union, Election Management Bodies and African Civil Society Organisations from the following countries: Benin, Cameroon, Côte D'Ivoire, Ethiopia, Kenya, Mauritania, Mozambique, Niger, Nigeria, Sierra Leone, South Africa, Tanzania, The Gambia, Togo, Uganda and Zambia.
3. The Mission is supported by a team of experts from the African Union Commission, the Pan-African Parliament and the Electoral Institute for Sustainable Democracy in Africa (EISA).
4. The AU Mission observed the elections within the spirit and letter of the Durban Declaration on the Principles Governing Democratic Elections in Africa (AHG/Decl.1 (XXXVIII), as adopted by the Assembly of Heads of State and Government of the African Union in July 2002; the African Charter on Democracy, Elections and Governance, which came into force on 15 February 2012; the Guidelines of the African Union Election Observation Missions and Election Monitoring, as well as the legal framework for the conduct of elections in the Republic of Ghana.

5. The Mission arrived in Ghana on 30th November 2012 and will remain in the country until 13th December 2012. Given the fact that tabulation of electoral results is ongoing, and the final results of the elections are yet to be declared, the AU Mission hereby presents its preliminary findings and recommendations based on its consultations and observations up to the close of polling and counting on 7th December 2012. A more detailed final report of the Mission will be shared with relevant authorities in Ghana after the elections.

II. OBJECTIVES AND METHODOLOGY OF THE MISSION

6. In line with the mandate provided in the AU instruments, the objective of the AU Mission is to make an independent, objective and impartial assessment of the 7 December 2012 General Elections in Ghana.
7. As part of the methodology and to realise its stated objectives, the Mission undertook the following activities in accordance with the Guidelines of the African Union Election Observation Missions and Election Monitoring:
 - a. The Mission consulted with key electoral stakeholders including the Director of Political Affairs and Peace and Security of ECOWAS, the two former Presidents of Ghana (H.E Jerry Rawlings and H.E John Kufuor), the Electoral Commission (EC) of Ghana, The Chief Justice of Ghana, the National Peace Council (NPC), representatives of civil society organisations, leaders of political parties, media organisations, leaders of other International Election Observer Missions and the National Security Task Force. The Mission will hold further consultations with relevant stakeholders throughout the remainder of the election process.
 - b. The Mission conducted a two day briefing session for its observers, where key electoral stakeholders from Ghana, gave presentations and briefing on the political, security and electoral environment in Ghana preceding the 2012 elections.
 - c. Members of the Mission observed the final stages of the campaigns in the various regions where they were deployed and held further consultations with key stakeholders in the respective regions.
 - d. The AU Mission deployed twelve (12) teams of observers to 10 Regions, namely: Western, Central, Greater Accra, Eastern, Ashanti, Brong-Ahafo, Volta, Northern, Upper West, and Upper East. On election day the teams visited a total of 246 polling stations in their areas of deployment.

III. PRELIMINARY FINDINGS AND OBSERVATIONS

THE PRE-ELECTION CONTEXT

8. The Mission's assessment of the pre-election context is based on the findings of the African Union Panel of the Wise/the Pre Election Assessment Mission that visited Ghana in October 2012, and the consultations held with various stakeholders since its arrival in Ghana.

The Legal Framework

9. The legal framework for the 2012 elections in Ghana is principally contained in the Constitution of Ghana promulgated in 1992, the Election Laws and statutory instruments on voter registration, presidential/ parliamentary elections, and constituency demarcation instruments, the Political Parties Act of 2000, the Local Government Act, the Electoral Commissions Act, and the relevant regulations developed by the Electoral Commission (EC) of Ghana.
10. The Constitution of Ghana is the most important law that governs election in Ghana and its supremacy in relation to other laws is provided for in Article 2 of the Constitution. The Mission notes that the Constitution enshrines fundamental rights and freedoms and affirms the right to vote as a fundamental right. The Constitution establishes the elective offices and provides the eligibility criteria for contesting the office of the president and parliament. The establishment of the Electoral Commission (EC) of Ghana is elaborately dealt with in the Constitution which also forms the legal basis for political parties in Ghana.
11. The detailed procedure for elections is contained in the election legislations and the relevant statutory instruments. Specifically, the instruments deal with salient aspects of elections, among them, voter registration, constituency demarcation and election to the office of the president and parliament. The Mission further notes the existence of the Political Parties Act (2000) that deals with the political parties in Ghana and the Electoral Commission Act that details the functional and administrative operation of the Electoral Commission of Ghana as part of the electoral laws.
12. The Mission notes with satisfaction that the legal and constitutional framework for election in Ghana is sufficient to guarantee credible elections, as well as efficient resolution of electoral disputes both in the pre and post election phase.

Election Management

13. The body charged with the responsibility of managing elections in Ghana is the Electoral Commission (EC) of Ghana established under Article 43 of the constitution. The ECG Act of 2000 gives the electoral commission functional and administrative

powers which extends to electoral administration. Within the context of 2012 elections, the commission is responsible for the registration of voters and maintenance of voter register, demarcation of constituencies and supervising all public elections and referenda.

14. The Mission notes the level of collaboration between the Electoral Commission and the Political Parties through the Inter Party Advisory Committee (IPAC) that has created a consultative framework where all aspects of elections are discussed. Through IPAC forums, political parties participated in key electoral processes among them voter registration, development of the election Code of Conduct and procurement of electoral materials.
15. In the course of consultation with the various stakeholders, the Mission noted the confidence and goodwill that the stakeholders expressed in the electoral commission, and affirmed its belief that the EC had managed the various aspect of the election cycle in a transparent and efficient manner. The Mission is confident on the ability of the EC to preside over credible elections that reflect the wishes and aspiration of Ghanaians.

Voter Registration

16. For the purposes of 2012 elections, the EC adopted a Biometric Voter Registration (BVR) system. The process of voter registration from the procurement, registration exercise, verification of voter register, and involvement of political parties was conducted in a transparent and efficient manner. The exercise was carried out from 24th of March to the 5th of May 2012. Thereafter, the inspection of the voter register was conducted where claims and objections were dealt with as well as the verification of the voters' list. At the conclusion of the exercise, 14.3 million voters were registered to participate in the 2012 elections. The Mission is confident that the BVR process was done in an efficient manner and that the new register will go a long way in enhancing confidence in the 2012 elections.

Civic and Voter Education

17. The Mission noted with appreciation that the legal basis for civic education in Ghana is premised in the Constitution at Article 231 that establishes the National Commission for Civic Education (NCCE). The mandate of the Commission extends to the sensitisation of citizens on the Constitution as well as civic awareness. The Electoral Commission also has a responsibility with regard to voter education and this effort is complemented by a host of CSOs and NGOs active in the field of voter/civic education.

Delimitation of Constituencies

18. The Electoral system in Ghana is constituency-based First-Past-the-Post System (FPTP). For the purposes of 2012 elections, Ghana is divided into 275 constituencies following the delimitation exercise conducted by the ECG that increased the number from 230 to 275. The Electoral Commission has jurisdiction with regard to the review of the constituency boundaries and creation of new constituencies. The Mission notes the overlapping roles between the Local Government Ministry with regard to the creation of administrative districts and the Electoral Commission with regard to the creation of constituencies. The 45 additional constituencies were created following the creation of new districts to comply with the requirement of one constituency one district. The Mission recommends that the creation of constituencies should be done well before the elections to avoid anxieties and emotions usually associated with constituency delimitation in the FPTP system.

Political Parties, Candidates and Campaigns

19. The Constitution provides an important safeguard and premise for the existence of political parties in Ghana. The right to form political parties and participate in the political process is anchored in the 1992 Constitution at Article 55. The Political Parties Act (2000), further makes provision for the registration, and operation of political parties in Ghana. Ghana has a total of 23 registered political parties out of which eight (8) parties have fielded presidential candidates to contest the 2012 elections. While most political parties have nominated candidates for the parliamentary elections, it is only the ruling NDC and the major opposition party NPP that have nominated candidates in all the 275 constituencies.
20. The Mission notes that political parties have established a dialogue platform under the auspices of the Inter Parties Advisory Committee (IPAC) that brings together the Electoral Commission and CSOs. Through IPAC forums, political parties developed the Political Parties Code of Conduct that is intended to invoke best practices within the context of elections. Within the framework of IPAC political parties also negotiated a framework for peace known as the Kumasi Accord (signed on 27 November 2012) that commits election stakeholders to peaceful elections.
21. The nomination of candidates ushered the country into a period of campaign which, has generally been peaceful. The Mission notes that parties and candidates have employed various strategies for campaign among them mass rallies, door-to-door campaign, TV advert and presidential debates. The Mission notes that the campaign was concluded 48 hours to the elections in compliance with the electoral laws. On the whole, the Mission is satisfied that the campaign period was conducted in a peaceful manner without any major incidence that could compromise peace and security.

Participation of Women and the Physically Challenged Persons

22. The Mission notes that women representation in elective politics in Ghana has not been impressive despite the fact that Ghana is one of the leading democracies in Africa. The declining trend on women representation is more glaring if one compares the last two elections. In 2004, twenty four (24) women were elected in parliament while the number fell to 19 in the 2008 elections. In 2012 elections, no woman has been nominated to contest the presidential election. Given the numbers of women nominated to contest the parliamentary elections in 2012, no significant gain may be realised in terms of increased women representation in the next parliament. This situation is exacerbated by the fact that there is no legislative framework in Ghana for the enhancement of women representation and no institutional framework by political parties to enhance women participation.
23. The Mission, however, noted with satisfaction mechanism put in place to assist old and physically challenged voters to exercise their franchise. In many polling stations visited, physically challenged and old voters were accorded priority in voting as well as allowed to be assisted by people of their choice.

Media

24. Ghana has very vibrant organisations and sufficient laws to guarantee press freedom. The Ghana Broadcasting Corporation (the state owned media) has national geographical coverage and reaches all parts of the country. In terms of organisations, the media in Ghana operate under two umbrella organisations, the National Media Commission and the Ghana Journalists Association, which also provide the regulatory framework for the media organisations. Within the context of elections, the Constitution provides that the state media should provide equitable coverage for all the political parties to sell their policies and manifestos. Political parties also resort to paid airtime to propagate their policies and outreach. The Mission notes that the media organisations in Ghana operate in a free atmosphere without stifling laws to hinder their work. The Mission commends the media for the effective role played during the election day and especially the periodic announcement of results.

ELECTION DAY OBSERVATIONS

The Mission's assessment of the election day is based on the actual findings and reports by the AU observer teams who were deployed in the various regions and the observations obtained in the polling stations.

25.1 Opening the poll

The Mission is satisfied that most of the polling stations opened within the stipulated time of 7a.m. However, due to logistical and operational issues, some polling stations did not open on time and voters had to wait in the queue for a long time.

25.2 Polling stations and election materials

Most of the polling stations were conveniently located with easy access to the voters. For the most part, the polling stations were located in public places and voting done in the open. The number of registered voters in each polling station was manageable as most stations had less than 1000 registered voters. The Mission was satisfied that the layout of the polling stations was sufficient to guarantee the secrecy of the vote and the open voting enhanced transparency in the process. In all the polling stations visited, the Mission noted the adequacy of election materials and there was no incident reported of insufficient materials at the polling station. The Mission further noted that adequate safeguard was made for the aged and physically challenged voters to exercise their voting rights.

25.3 Voter turnout

In most of the polling stations visited, the Mission noted impressive voter turnout particularly in the morning when polls opened and at the closing of the poll.

25.4 Voting procedures

The voting process was generally orderly and well understood by the voters save for situation where voters were assisted. In most of the polling stations visited, priority was given to the aged, pregnant women, voters with infants and physically challenged persons. Voters who required assistance were also allowed to vote with assistance from a person of their choice.

25.5 Voting Machines and verification process

The voter verification process was slow and cumbersome in some polling stations. This was complicated by the BVR data and the verification machine. The Mission noted four problems with regard to the functioning of the machines. In some polling stations, the machines could not read the finger prints of some voters; the other problem that was observed was the incompatibility between the BVR data and the data contained in the poll book where some voters' names appeared in the BVR but were missing from the poll book. Some electoral commission personnel did not follow instructions given to them with regard to the handling of the machines which caused undue delay in some polling stations. Finally the machines faced technical hitches that led to the malfunction in some polling stations. While these complications were not widespread across the country, the delay caused interrupted voting in some polling stations that lasted for up to four hours, necessitating the extension of voting well into the night. To avoid disenfranchising voters in the affected areas, the EC made a decision to allow voters to vote on the second day. While on the whole, voting and counting was concluded in most parts of the country on time, the Mission notes that these challenges,

while not deliberate can have the potential of heightening tension especially in a competitive election.

25.5 Election personnel

The Mission noted that the electoral commission personnel were in all the polling stations on time and generally conducted the election well. Election officials were easily identifiable in polling stations visited by AU observers. In some polling stations, however, the polling staff had challenges with the election machines and did not quite follow instructions given on their operation. The Mission also noted that some of the election officials demonstrated different understanding and interpretation of election procedures.

25.6 Women's participation on Election Day

The Mission noted the impressive participation of women in the process on Election Day as polling officials, security officials and voters. In all the polling stations visited, remarkable attempt was made to satisfy gender balance in the composition of the EC officials. The Mission noted that women presided over a few polling stations notwithstanding their visible absence as party agents and limited number as citizen observers.

25.7 Party agents and independent observers

The Mission observed the presence of other observers (both citizen and international) in the majority of polling stations visited. The presence of party agents representing the two leading parties (NDC and NPP) was also noted in all the polling stations. Specifically, AU observers noted the presence of the following groups: Economic Community of West African States (ECOWAS), Commonwealth, EISA and diplomatic missions represented in Ghana. The Mission also noted a strong presence of citizen observers under the umbrella Coalition of Domestic Election Observers of (CODEO). The relationship between the polling staff, observers and party agents in the polling stations was cordial and the polling staff made efforts to address the concerns raised by the agents and observers.

25.8 Security

The Mission noted with satisfaction that the election day was generally calm and peaceful. In all the polling stations visited, the team observed the presence of security personnel in the polling precinct and was satisfied with their role in maintaining order within the polling centres. This was particularly observed in areas that had witnessed delays in voting and in polling stations where the machines experienced malfunction. The Mission commends the security personnel for coordinated and structured manner in which election security was provided. The Mission is hopeful that the peace and tranquillity will be maintained in Ghana throughout the remainder of the electoral process.

25.9 Closing and counting procedures

While most of the polling stations across the country closed on time, some polling stations did not close as planned due to late start of voting operations, breakdown and technical

malfunction of the verification machines in certain regions which led to a slowdown and backlog of the voting process. Voting was extended to one more day as a result of long delays observed in the Greater Accra Region, Upper East and Central Regions. The counting process was transparent, open and in compliance with the electoral procedures and regulations. The transmission of the results was however slow owing to the manual transmission which is the practice in Ghana.

IV. RECOMMENDATIONS

Based on its observations and consultations, the Mission offers the following recommendations:

26 The National Electoral Commission should:

- Provide adequate training of the polling staff especially on the verification machine;
- Improve on civic and voter education to minimise the number of spoilt ballots;
- Conduct an audit on the functioning of the voting machines and address the problems and challenges experienced;
- Publicise the voters' register and publicly display the register in the polling stations on election day;
- Proper back up and rapid response to expeditiously address incidences of malfunction of voting machines;
- Improve on the result transmission system; and
- Develop a logistical plan for rapid delivery of election materials.

27 The State should:

- Develop strategies of mainstreaming and enhancing the participation of women and other marginalised groupings in elective offices should be explored.

28 Political parties should:

- Undertake affirmative action to enhance the participation of women in leadership position; and
- Improve the training of party agents to enable them understand their role in the process.

29 Legal reforms:

- Harmonise the laws on constituency delimitation and the establishment of district boundaries;
- Legislation on Affirmative Action to enhance women participation in leadership position; and
- Consider State funding of political parties.

V. CONCLUSION

The 2012 elections in Ghana presented an opportunity for the country to continue along the path of democratic consolidation. The African Union Election Observer Mission highly commends the people of Ghana and all the stakeholders in the manner in which they conducted themselves throughout the electoral process.

The Political and electoral environment before and on election day was calm and peaceful. The Mission calls on the people of Ghana to maintain the peaceful atmosphere of the elections even as they await the announcement of results.

While the Mission notes the challenges posed by the use of BVR and verification machines on election day, the Mission commends the Electoral Commission of Ghana for the professional, inclusive and transparent manner with which they managed the election day especially enhanced communication that served to update the country on progress at every stage of the voting process. The Mission recognises that the challenges with the machines notwithstanding, the use of BVR constituted an important first step in improving future elections in Ghana.

The Mission calls on all political parties and candidates to continue in their compliance with the legal framework for elections and to exercise peace and tolerance as they await the declaration of final results and a determination on whether the country will conduct a presidential runoff election.

Based on its observations and assessment, the African Union Observer Mission concludes that the 7th December 2012 General Elections in the Republic of Ghana were conducted in a peaceful and credible manner and was largely a reflection of the wishes and aspiration of the people of Ghana.

Issued in Accra on 8 December 2012

Mission Leader

H.E Olusegun Obasanjo