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REPUBLIC OF ZAMBIA

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AND INTERNATIONAL COOPERATION**

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MFAIC/104/21/43

10th October, 2023

The Executive Secretary,
SADC Secretariat,
GABORONE.

RE: LETTER FROM THE CHAIRPERSON OF THE SADC ORGAN ON POLITICS, DEFENCE AND SECURITY, COOPERATION, ADDRESSED TO THE PRESIDENT OF THE REPUBLIC OF ZIMBABWE, SUBMITTING THE FINAL REPORT OF THE SADC ELECTORAL OBSERVATION MISSION (SEOM) TO THE GENERAL ELECTIONS IN THE REPUBLIC OF ZIMBABWE HELD ON 23RD AUGUST, 2023

I forward, herewith, a letter from Mr. Hakainde Hichilema, President of the Republic of Zambia and Chairperson of the SADC Organ on Politics, Defence and Security Cooperation, addressed to His Excellency Dr. Emmerson Dambudzo Mnangagwa, President of the Republic of Zimbabwe, submitting the final Report of the SADC Electoral Observation Mission to the General Elections which took place in Zimbabwe in August, 2023.

I would be grateful if the letter and the Report could be forwarded to its highest destination.

Please accept, Your Excellency, the assurances of my highest consideration.

Hope Kalabi Situmbeko (Mrs.)
Permanent Secretary (A)

**MINISTRY OF FOREIGN AFFAIRS
AND INTERNATIONAL COOPERATION**

cc: The Honourable Minister
Ministry of Foreign Affairs and International Cooperation
LUSAKA

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REF: SADC/13/3/2

25 September 2023

H.E. Emmerson Dambudzo Mnangagwa
President of the Republic of Zimbabwe
HARARE, REPUBLIC OF ZIMBABWE

Your Excellency

**RE: SUBMISSION OF THE FINAL REPORT OF THE SADC ELECTORAL
OBSERVATION MISSION TO THE 23-24 AUGUST HARMONISED ELECTIONS IN
THE REPUBLIC OF ZIMBABWE**

Reference is made to the above stated subject matter.

Pursuant to Article 8.1 of the *SADC Principles and Guidelines Governing Democratic Elections (2021)*, and as per the invitation to SADC to observe Zimbabwe's Harmonised Elections, the Executive Secretary of SADC in consultation with the Chairperson of the Organ constituted and deployed the SADC Electoral Observation Mission (SEOM) to observe the elections held on 23-24 August 2023.

Please be informed, Your Excellency, that as per Article 11.8.1 of the *SADC Principles and Guidelines Governing Democratic Elections*, reports are to be submitted to Member States that held elections and copied to their respective Electoral Management Bodies (EMBs), and subsequently distributed to key stakeholders by the SADC Secretariat. Please also note that in line with Article 11.8.2, Member States are expected to consider the SEOM recommendations and may submit responses to the Chairperson of the Organ.

In light of the foregoing, I hereby submit the final report of the SADC Electoral Observation Mission on the Harmonised Elections.

Member States:

Angola	Eswatini	Mauritius	South Africa
Botswana	Lesotho	Mozambique	United Republic Tanzania
Comoros	Madagascar	Namibia	Zambia
Democratic Republic of Congo	Malawi	Seychelles	Zimbabwe

II correspondence should be addressed to the Executive Secretary

Please accept, Your Excellency, the assurances of my highest consideration.



Mr. Hakainde Hichilema
PRESIDENT OF THE REPUBLIC OF ZAMBIA, AND
CHAIRPERSON OF THE ORGAN ON POLITICS, DEFENCE AND SECURITY
COOPERATION

CC: Justice Priscilla Chigumba
Chairperson of the Zimbabwe Electoral Commission
HARARE, REPUBLIC OF ZIMBABWE

Member States:

Angola	Eswatini	Mauritius	South Africa
Botswana	Lesotho	Mozambique	United Republic Tanzania
Comoros	Madagascar	Namibia	Zambia
Democratic Republic of Congo	Malawi	Seychelles	Zimbabwe

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Restricted



**SADC ELECTORAL OBSERVATION MISSION TO
THE REPUBLIC OF ZIMBABWE**

REPORT ON THE

**2023 HARMONISED ELECTIONS IN
THE REPUBLIC OF ZIMBABWE**

HELD FROM

23-24 AUGUST 2023

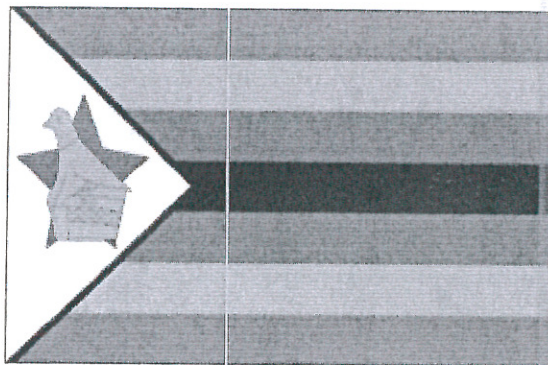


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1. DEFINITIONS OF CONCEPTS AND ACRONYMS

The *SADC Principles and Guidelines Governing Democratic Elections* result from broad consultations by the Southern African Development Community (SADC)'s Electoral Advisory Council (SEAC), with Member States, stakeholders and regional electoral experts. The principal objective of the *SADC Principles and Guidelines Governing Democratic Elections* is to promote the holding and observation of democratic elections based on the shared values and principles of democracy, the rule of law and respect for human rights enshrined in the SADC Treaty signed at Windhoek, Namibia in 1992.

In line with the relevant provisions of the *Revised SADC Principles and Guidelines Governing Democratic Elections (2021)*, the following acronyms and concepts that are in alphabetical order shall have the following meanings:

“Credible elections” means *‘electoral processes enjoy considerable support and confidence of the citizenry and international or regional community, leading to mutually agreeable results from competing entities that participate actively in the electoral process’;*

“Democracy” means *‘a system of government based on the respect of the rule of law; in which all citizens of a state enjoy fundamental human rights and freedoms; and are fully involved in decision making processes about affairs affecting their welfare, typically by electing their representatives at all levels of government, under a free and inclusive electoral system’;*

Democratic Elections means *‘a competitive, periodic, inclusive, regular elections in which persons to hold office at all levels of government are elected, through the secret ballot, by citizens who broadly enjoy fundamental human rights and freedoms’;*

“Electoral Process” means *‘ a series of key election-related undertakings encompassing, inter alia, the formulation of legislation, delimitation, conflict prevention and management initiatives, civic and voter education, registration of voters, development and implementation of codes of conducts, nomination of candidates, campaigning, voting, tabulation, results announcements and election adjudication’;*

“Electoral Justice” means *‘the means and mechanisms for ensuring that actions and procedures employed in the electoral process are consistent with the national and applicable municipal and international laws in order to prevent electoral disputes’;*

“Electoral Integrity” means *‘electoral processes are held in conformity with regional and international norms and standards’;*

“Free (elections)” means *‘Fundamental human rights and freedoms are adhered to during electoral processes, including freedom of speech and expression of the electoral stakeholders; and freedom of assembly and association; and that freedom of access to information and right to transmit and receive political messages by citizens is upheld; that the principles of equal and universal adult suffrage are observed, in addition to the voter’s right to exercise their franchise in secret and register their complaints without undue restrictions or repercussions’;*

“Fair (elections)” means *‘electoral processes that are conducted in conformity with established rules and regulations, managed by an impartial, non-partisan professional and competent Electoral Management Body (EMB); in an atmosphere characterised by respect for the rule of law; guaranteed rights of protection for citizens through the electoral law and the constitution and reasonable opportunities for voters to transmit and receive voter information; defined by equitable access to financial and material resources for all political parties and independent candidates in accordance with the national laws; and where there is no violence, intimidation or discrimination based on race, gender, ethnicity, religious or other considerations’;*

specified in these SADC Principles and Guidelines Governing Democratic Elections’;

“Peaceful” means *“electoral processes are punctuated by calm; are undisturbed and untroubled by violence or intimidation, are conflict-free and generally exude an atmosphere where all citizens are free and unhindered to express their right to vote; can offer themselves without intimidation for election, communicate their electoral choices freely; and enjoy freedom of assembly and association”*;

“Transparent” means *‘elections are operated in an open, clear, visible and unhindered manner’*; and

“Troika” means *‘A system of coordination within the SADC as defined by Article 9(a) of the SADC Treaty’*.

2. INTRODUCTION

- 2.1 In accordance with the established practice of observing National Elections in Southern African Development Community (SADC) Member States, His Excellency Hakainde Hichilema, President of the Republic of Zambia and the Chairperson of the SADC Organ on Politics, Defence and Security Cooperation, constituted the SADC Electoral Observation Mission (SEOM) to observe the elections following an invitation extended by the Government of the Republic of Zimbabwe. This practice conforms with the SADC Treaty, the SADC Protocol on Politics, Defence and Security Cooperation and the revised SADC Principles and Guidelines Governing Democratic Elections (2021). In this regard, President Hakainde Hichilema mandated Mr. Elias Magosi, the Executive Secretary of SADC to facilitate the deployment of the SEOM to the Republic of Zimbabwe.
- 2.2 the Chairperson appointed His Excellency Dr Nevers Mumba, former Vice President of the Republic of Zambia, to lead the SEOM to the Republic of Zimbabwe. Ambassador Humphrey Chibanda assisted the former Vice President of the Republic of Zambia from the Ministry of Foreign Affairs of the Republic of Zambia.
- 2.3 The SEOM employed the Long-Term Election Observation Methodology, which inquired into the broad critical elements of the Electoral Cycle (Pre-Election, Election and Post-Election periods). The method aims at ascertaining whether the electoral process was being conducted in conformity with the Revised SADC Principles and Guidelines Governing Democratic Elections. The SEOM observation methodology includes assessing Zimbabwe's legal and constitutional framework; meeting with various stakeholders; media monitoring; document review and direct observation.
- 2.4 Against this background, the SADC Electoral Advisory Council (SEAC) Pre-election Goodwill Assessment Mission was deployed to Zimbabwe from 12-19 April 2023. Its role was to assess whether the political and security environment was conducive to the holding of democratic elections, as well as to gauge the level of preparedness of the Zimbabwe Electoral Commission (ZEC) to conduct the polls.
- 2.5 The SEAC mission was then followed by the deployment of the SEOM on 13 August 2023, comprised of Short-Term Observers and Long-Term Observers (LTOs). The Observers started observing the pre-election period on 18 August 2023 and covered all ten provinces of Zimbabwe, namely Bulawayo, Harare, Manicaland, Mashonaland Central, Mashonaland East, Mashonaland West, Masvingo, Matabeleland North,

Matabeleland South, and the Midlands.

2.6 The SEOM consisting of LTOs and STOs was launched on 18 August 2023 with the strength of 50 observers grouped into 12 teams, who were then deployed to all the ten provinces to observe the pre-election period and the election day, and they returned on 25 August 2023. The LTOs were further redeployed from 26 August to 28 August 2023, to observe the post-election period, which included tabulation and announcement of results, as well as post-election period, the political developments and dispute resolution.

2.7 As part of its preparations for the observation, both the LTOs and STOs underwent a refresher three-day pre-deployment SADC Electoral Observation Training on applying Information Communication Technology (ICT) in election observation and reporting. Among other aspects, the training focused on:

- (a) The Revised SADC Principles and Guidelines Governing Democratic Elections (2021);
- (b) International and Regional Benchmarks for Elections;
- (c) The Role and Responsibilities of the SEOM;
- (d) The SEOM Observation Methodology;
- (e) Guidelines for Observers' Fieldwork;
- (f) Political Context and Legal Framework of the Republic of Zimbabwe;
- (g) The Code of Conduct for SADC Observers;
- (h) Observers' Reporting Methodology;
- (i) Use of ICTs in the collection and transmission of daily field reports and information; and
- (j) The state of Preparedness of the ZEC for holding the 2023 Harmonised Elections.

2.8 In line with the Electoral Act, the Government of Zimbabwe welcomed more than 130 foreign observers. The SEOM is comprised of 68 personnel from nine SADC Member States, namely, the Republic of Angola, the Republic of Botswana, the Kingdom of Eswatini, the Republic of Malawi, the Republic of Mozambique, the Republic of Namibia, the Republic of South Africa, the United Republic of Tanzania, and the Republic of Zambia. The observers were supported by a core team of 13 experts and administrative staff from the SADC Secretariat.

2.9 The SEOM issued its Preliminary Statement on 25 August 2023 on the conduct and outcomes of the pre-election and election days of the 2023 Harmonised Elections in the Republic of Zimbabwe.

3. CONSTITUTIONAL AND LEGAL FRAMEWORK GOVERNING THE 2023 HARMONISED ELECTIONS IN THE REPUBLIC OF ZIMBABWE

3.1 The Mission noted that the 23-24 August 2023 Harmonized Elections in Zimbabwe were regulated by the Constitution of the Republic of Zimbabwe and the Electoral Act [2:13]. According to Section 158 (1)(a) of the Constitution of Zimbabwe, 2013, General Elections should occur not more than thirty days before the expiry of the five-year specified in Section 143. This section applies to the duration and dissolution of Parliament. The section stipulates that Parliament is elected for five years from the date on which the President-elect is sworn in and assumes office.

3.2 Section 144 of the Constitution requires the President, by Proclamation Call, to set a date for a General Election after consultation with the Zimbabwe Electoral Commission. Pursuant to this provision, His Excellency Dr. Emmerson Dambudzo Mnangagwa had on 31 May 2023 issued a proclamation fixing 23 August 2023 as the date for Presidential, Parliamentary, and Local Government Elections, referred to as the Harmonised Elections. A further proclamation was issued, rendering 24 August 2023 election day because of the delay in opening certain polling stations. Furthermore, President Mnangagwa also proclaimed 2 October 2023 for the run-off election to the president's office if such a poll became necessary.

3.3 Political rights in Zimbabwe are underpinned by section 67 of the Constitution of Zimbabwe (2013), which provides for the right of all persons of 18 years and above to vote and or stand for an elected position. The same constitutional provision states that every Zimbabwean citizen above 18 years has the right to vote in free, fair and regular elections for any elective public office established in terms of this Constitution or any other law and to make political choices freely.

3.4 The Constitution promotes key principles for conducting democratic elections, which include:

- (a) the right of all political parties to function and campaign freely within the electoral law and the general law;
- (b) the will of the people to be demonstrated through elections that are conducted in a free, fair, transparent and efficient manner; and
- (c) state-owned media to be impartial and afford fair opportunity to present divergent views and opinions.

3.5 Section 232 of the Constitution refers to institutional mechanisms referred to as *Chapter 12* institutions of the Constitution, whose purpose is to promote democracy in Zimbabwe. These institutions are the Zimbabwe Electoral Commission, Human Rights Commission, the Gender Commission, the Media Commission, and the National Peace and Reconciliation Commission, which have complementary roles to play in the electoral context, particularly in conflict prevention, management and resolution.

3.6 The electoral system is based on five principles as provided for under section 155(1) of the Constitution. In this regard, the elections and referendums must be:

- (a) held regularly;
- (b) peaceful, free and fair;
- (c) conducted by secret ballot;
- (d) based on universal adult suffrage and equality of votes; and
- (e) free from violence and other electoral malpractices.

3.7 In this context, the Zimbabwe Electoral Commission, which is an independent body in charge of the conduct of elections and referendums, is required to ensure that:

- (a) whatever voting method is used must be simple, accurate, verifiable, secure and

- transparent, and
- (b) the election or referendum results are announced as soon as possible after the close of the polls.

3.8 Additionally, appropriate systems and mechanisms are put in place to:

- (a) eliminate electoral violence and other electoral malpractices; and
- (b) ensure the safekeeping of electoral materials.

3.9 For purposes of enforcing and implementing these requirements, Section 157 of the Constitution provides for the minimum requirements that an electoral law must address, and these are:

- (a) The periodic delimitation of constituencies and wards in accordance with section 161;
- (b) The registration of voters and requirements for registration on particular voters' rolls;
- (c) A code of conduct for political parties, candidates and other persons participating in elections and referendums;
- (d) A system of proportional representation for the election of Senators and seats reserved for women in the National Assembly, and the procedure for filling vacancies in those seats, which vacancies must be filled by persons belonging to the same political parties as those who previously held the seats; and of the same gender as the persons who previously held the seats.
- (e) The election of representatives of persons with disabilities under section 120(1)(d);
- (f) The conduct of elections to provincial and metropolitan councils and local authorities;
- (g) Challenges to election results; and
- (h) The nomination of candidates in any election must take place at least 14 days after the publication of the proclamation calling for that election, and polling must occur at least 30 days after the nomination of candidates.

3.10 The Electoral Act in an attempt to reduce or eliminate intimidation during the electoral process, criminalizes intimidation under Section 133 B. Section 133 A has defined intimidation as:

"For the purposes of this Part, a person shall be regarded as having done or attempted to do something through intimidation if he or she achieves or attempts to achieve an object through any of the following methods—

- (a) inflicting or threatening to inflict bodily injury upon a person; or*
- (b) abducting a person or detaining a person against his or her will; or*
- (c) causing or threatening to cause unlawful damage to a person's property; or*
- (d) withholding or threatening to withhold from a person any assistance or benefit to which that person is legally entitled; or*
- (d) persuading or attempting to persuade another person that he or she can or will be able to discover for whom that other person cast his or her vote in an election; or*
- (e) illegally doing or threatening to do anything to the disadvantage of a person.*

3.11 As one of the key positive aspects of the Electoral Law, the Fourth Schedule sets out a Code of Conduct for Political Parties, Candidates, and other Stakeholders. This essential framework enables a climate of tolerance in which election activity may occur without fear, coercion, intimidation or reprisals.

4. THE SADC ELECTORAL ADVISORY COUNCIL (SEAC) PRE-ELECTION GOODWILL MISSION

4.1 The SADC Electoral Advisory Council (SEAC) Pre-Election Goodwill Assessment Mission to the Republic of Zimbabwe occurred from 12 to 19 April 2023. The SEAC engaged with various electoral stakeholders to gather substantive information on the electoral process to assess whether the political and security environment was conducive to holding democratic elections. The SEAC mission was to also gauge the state of preparedness of the Zimbabwe Electoral Commission (ZEC) to conduct the elections.

4.2 The SEAC assessment mission concluded that the Republic of Zimbabwe was ready to hold Harmonised Elections in a calm and secure political environment. No major incidences of concern were brought to the attention of the Mission during this period. Significantly the Mission noted the stated commitment of the country's leadership to avoid political violence, whilst also acknowledging the apprehension of certain stakeholders regarding recent acts of intra-party political violence.

4.3 The SEAC, therefore, recommended a physical deployment of the SEOM to Zimbabwe, in line with the *SADC Principles and Guidelines Governing Democratic Elections together with SADC Guidelines for Elections Observation Under Public Health Emergencies*.

4.4 It is important to also note the following three key recommendations that the SEAC made in April 2023:

- (a) Following the Electoral Act, the Zimbabwe Electoral Commission (ZEC) is urged to **immediately** avail the electronic copy of the updated voters' roll to all interested parties whilst equally implementing its powers against manipulating or misusing the electronic copy of the voters' roll. Apart from satisfying the rights of interested parties for access to the voters' roll, **this will also enhance the credibility of the ZEC and confidence in the election management system and institutions;**
- (b) The Zimbabwe Republic Police is urged to build confidence amongst all political parties by exercising restraint in the rejection of proposed public gatherings for political purposes; and
- (c) The management of State-owned media are urged to comply with the Electoral Law with respect to impartial coverage of competing political views and events.

5. THE ROLE OF THE SADC ELECTORAL OBSERVATION MISSION (SEOM)

- 5.1 The SEOM was guided by the *Revised SADC Principles and Guidelines Governing Democratic Elections (2021)* (hereinafter referred to as the SADC Principles and Guidelines). The SADC Principles and Guidelines are consistent with the African Union (AU) *Declaration on the Principles Governing Democratic Elections in Africa and the Guidelines for African Union Electoral Observation and Monitoring Missions*.
- 5.2 Electoral democracy in the SADC Region is anchored on article 4(c) of the SADC Treaty, which provides for the fundamental principles of democracy, human rights and the rule of law. In normative terms, the Protocol on Politics, Defence and Security Cooperation (the Protocol) sets out the parameters¹ for regional cooperation in the context of the consolidation of democracy. The operational aspects of these key normative provisions are the *SADC Principles and Guidelines*. *The Guidelines* set out what is expected of a SADC Member State's electoral system and related national supporting infrastructure, such as the judiciary. At the regional level, and in support of each Member State, the Guidelines outline the responsibilities of the other Member States, the SADC Electoral Advisory Council, and the SADC Secretariat in the context of the SADC Electoral Observation Mission (SEOM). The SEOM is the principal tool that assists SADC in ensuring that Member States adhere to the Guidelines and effectively implement their political development objectives.
- 5.3 Section 4 of the *SADC Principles and Guidelines* outlines the following principles for conducting democratic elections which the SADC Member States committed to uphold:
- (a) Encourage the full participation of all citizens in democratic and development processes;
 - (b) Ensure that all citizens enjoy fundamental freedoms and human rights, including freedom of association, assembly and expression;
 - (c) Ensure that the law prescribes the date or period of elections. The date or period of elections shall be based upon the legal framework and applicable Constitutional provisions;
 - (d) Take all necessary measures and precautions to prevent corruption, bribery, favouritism, political violence, intolerance and intimidation;
 - (e) Promote and respect the values of electoral justice which include integrity, impartiality, fairness, professionalism, efficiency and regularity of elections;
 - (f) Promote necessary conditions to foster transparency, freedom of the media, access to information by all citizens; and equal opportunities for all candidates and political parties to use the State media;

¹ See Article 2(2)(g) which mandates SADC to promote the development of democratic institutions and practices within the territories of State Parties.

- (g) Guarantee an environment of open contest with no undue exclusion and restrictions on anyone to vote, as well as the right of eligible and qualified citizens to stand as candidates in any election;
- (h) Encourage regular reviews of the participation of citizens in the diaspora in national elections;
- (i) Uphold and guarantee the impartiality and independence of the Judiciary, the Electoral Management Bodies (EMBs) and all other electoral institutions;
- (j) Ensure that voter education capacitates and empowers all eligible citizens, as well as fostering ownership of the electoral process and the democratic political system;
- (k) Ensure the adherence to a binding Electoral Code of Conduct (ECC);
- (l) Ensure the acceptance of the election results by all electoral stakeholders as proclaimed to have been free, fair, transparent, credible and peaceful by the competent and Independent National Electoral Authorities following the respective laws of the land; and
- (m) Condemn and reject unconstitutional change of government and non-acceptance of results after due process, as announced by the legally competent authorities.

5.4 In upholding the above principles, Member States “**shall** undertake to implement interventions designed to promote democratic principles and practices”². Member States are therefore obliged to uphold and adhere to the SADC Principles and Guidelines. Significantly, section 5.1.1 thereof, emphasizes that it is the responsibility of Member States to:

*“Make every effort to ensure the **scrupulous implementation** of the “Principles for Conducting Democratic Elections”, as contained in section four (4) of the SADC Principles and Guidelines Governing Democratic Elections, and in accordance with the constitutional processes of the country.”*

5.5 Further, in terms of section 5.1.5 of the SADC Principles and Guidelines, it is also the responsibility of Member States to:

*“Ensure that the EMB, or other legally designated institution, is independent and that it **has adequate logistics, human, financial resources and contingencies made available for the entire Electoral Cycle**, including the authority to recruit, train and build the capacity of permanent and temporary electoral staff.”*

5.6 Electoral observation, inter alia, improves electoral integrity, mitigates electoral conflict, enhances public confidence and promotes citizen participation in the electoral process. In the short term, electoral observation provides a basis for accurate and impartial evaluations of the nature of the electoral process. The observation of

² See section 5.1 of the SADC Principles and Guidelines.

elections assists in enhancing transparency, political credibility and acceptance of the election results. Electoral observation also provides an impartial and methodical assessment of electoral outcomes.³ In this regard it is critical to note that section 8.3 of the SADC Principles and Guidelines provides that:

“The mandate of the SEOM shall be to determine the adherence of the Member State holding elections to the relevant provisions of the SADC Principles and Guidelines Governing Democratic Elections.”

- 5.7 Whilst the deployment of the SEOM does not preclude bilateral arrangements between SADC Member States, it is important to note that the SEOM is a stand-alone structure that is not obliged to align itself with the views of bilateral observer missions deployed by one or more SADC Member States to another SADC Member State holding elections.
- 5.8 In order to fulfill its mandate, the SEOM assesses and evaluates the following, amongst others⁴:
- (i) whether the legal and constitutional framework guarantees freedom of expression, freedom of assembly, freedom of association and human rights.
 - (ii) the structure and model of the electoral system, the EMB, the Electoral Act and regulations and the nature of civil and political rights; and economic, social and cultural rights.
 - (iii) the establishment, process of appointment and retention of members of EMBs; in addition to assessing the composition, status, independence, impartiality, professionalism and preparedness of the EMB for the election.
 - (iv) the SEOM shall ensure that the delimitation of election boundaries was done in a manner acceptable to stakeholders and whether the factors that prompted delimitation were in accordance with the laws of the land.
 - (v) Whether the delimitation process was undertaken in accordance with the national law and without undue exclusion of particular¹¹ groups or political interests.
 - (vi) The procedures for nomination and provision of reasonable time frames to allow political parties and candidates to comply with the requirements of the registration process.
 - (vii) The existence of a Code of Conduct governing all political parties and candidates.
 - (viii) The neutrality of the security forces in providing election security and the existence of requisite special voting facilities for security forces to enable them cast their votes.
 - (ix) The requirements and practices regarding direct and indirect access to the

³ See section 11.1 of the SADC Principles and Guidelines.

⁴ See sections 13.2, 13.3, 13.4, and 13.5 of the SADC Principles and Guidelines.

mass media for political parties, candidates, supporters and the general public;

- (x) The requirements and practices concerning state-controlled, public and private media reporting about political parties, candidates and supporters or opponents.
- (xi) The capacity and quality of civic and voter education programmes to afford all prospective voters accurate, comprehensible and adequate information upon which to make electoral choices.
- (xii) The extent to which the process enjoys the electorate's trust, including inclusiveness, accuracy, and transparency, and whether the electorate can own and identify with the process.
- (xiii) The appropriateness of locations of polling stations, and adequacy and accessibility of their facilities;
- (xiv) The production and distribution to polling stations and storage of ballots and other sensitive election materials;
- (xv) The conduct of voting, including assisting voters, counting, tabulating and announcing results; the transparency of procedures and adequacy of safeguards against inaccuracies.
- (xvi) The conduct of procedures and processes concerning electoral complaints and challenges by citizens, prospective voters, and those seeking election, including the provision of effective remedies for violations of electoral-related rights.

5.9 In the SEOM context, a "credible election" is shorthand for compliance with at least twenty-six (26) evidence-based criteria for the management and conduct of elections. Essentially, SEOM has applied electoral credibility based on evidence-based observation of the following key considerations:

(a) Two main concepts are applied, (i) **free elections** and¹²(ii) **fair elections**. Other concepts are **credible elections**, and **peaceful elections**, these other two are applied as an elaboration of the first two. The final concept is **transparent elections**. A **total of 26 indicators** are relevant in the assessment of the implementation of these **5 concepts of assessing the conduct of an election**. In elaboration, SADC observers focus on the following:

- (i) **Free elections:** This means whether fundamental human rights and freedoms have been adhered to during the electoral process. It's a measurable concept with specific **(seven) indicators**, which are:
 - i. Freedom of speech and expression of electoral stakeholders;
 - ii. Freedom of assembly and association;
 - iii. Freedom of access to information;
 - iv. The right to transmit and receive political messages by citizens;

- v. Principles of equal and universal adult suffrage;
- vi. Right of voters to vote in secrecy; and
- vii. Right to register complaints without undue restrictions or repercussions.

(ii) **Fair elections:** There are **six indicators**, this has meant considering whether elections are:

- i. Conducted in conformity with established rules and regulations;
- ii. managed by an impartial, non-partisan, professional and competent EMB;
- iii. held in an atmosphere of respect for the rule of law;
- iv. guaranteed rights of protection for citizens through the electoral law and the Constitution, and reasonable opportunities for voters to transmit and receive voter information;
- v. defined by equitable access to financial and material resources for all political parties and independent candidates in accordance with national laws;
- vi. where no violence, intimidation or discrimination based on race, gender, ethnicity, religious or other considerations specified in the SADC Principles & Guidelines.

(iii) **Credible elections:** There are **two indicators**:

- i. The election has considerable support and confidence of citizens, international or regional community; and
- ii. Leading to mutually agreeable results from competing entities participating in the election.

(iv) **Peaceful elections:** This is another facet of "free election", it is concerned with exercise of some fundamental rights in the absence of intimidation or violence. The following **seven indicators** have been applied, i.e. that the electoral process is:

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- i. Punctuated by calm;
- ii. Undisturbed and untroubled by violence or intimidation;
- iii. Conflict-free;
- iv. Atmosphere where all citizens are free and unhindered to express their right to vote;
- v. Citizens are able to offer themselves for election without intimidation;
- vi. Citizens communicate their electoral choices freely; and
- vii. Enjoy freedom of assembly and association.

(v) **Transparent elections:** Transparency has been measured by the following **four indicators**, i.e. if an election is conducted in:

- i. An open;
- ii. Clear;
- iii. Visible; and

iv. Unhindered manner.

5.10 As part of its impartial election observation methodology, the SEOM engaged stakeholders in Zimbabwe, deployed election observers to all provinces of the country, and reviewed the relevant constitutional and legislative provisions and their actual application to the electoral process.

6. CONSULTATIONS WITH STAKEHOLDERS

6.1 Following its launch on 18 August 2023, the Head of the SEOM, accompanied by Ambassador Chibanda, the Executive Secretary of SADC, and the Chairperson of SEAC, paid a courtesy call on His Excellency Dr. Emmerson Dambudzo Mnangagwa, President of the Republic of Zimbabwe.

6.2 The SEOM further engaged a wide range of stakeholders constituting State and non-state actors, which included the following:

- (a) SADC Ambassadors accredited to the Republic of Zimbabwe
- (b) The Zimbabwe Electoral Commission (ZEC);
- (c) The Zimbabwe Republic Police (ZRP);
- (d) European Union Ambassadors accredited to the Republic of Zimbabwe;
- (e) United Nations Resident Coordinator in Zimbabwe;
- (f) The leaders/representatives of the following political parties;
 - (i) Zimbabwe African National Union-Patriotic Front (ZANU-PF);
 - (ii) Citizens Coalition for Change (CCC);
 - (iii) Democratic Union of Zimbabwe (DUZ); and
 - (iv) Independent candidates.
- (g) Faith-based organizations, as represented by the Council of Churches of Zimbabwe
- (h) Media Institute of Southern Africa (MISA);
- (i) Attorney General of Zimbabwe;
- (j) Zimbabwe Lawyers for Human Rights (ZLHR);
- (k) Zimbabwe Election Support Network (ZESN);
- (l) Women in Law in Southern Africa Group;
- (m) Crisis in Zimbabwe Coalition;
- (n) The Heads of the following International Observation Missions:
 - (i) Joint AU and COMESA Election Observation Mission;
 - (ii) European Union Observer Mission (EUOM);
 - (iii) The Commonwealth Observer Group;
 - (iv) Electoral Commissions Forum of SADC Countries (ECF-SADC); and
 - (v) The Carter Centre (USA).

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7.0 ISSUES RAISED BY STAKEHOLDERS AND THE SEOM OBSERVATIONS

7.1 Independence of the Zimbabwe Electoral Commission (ZEC)

7.1.1 Elections are managed by ZEC. The ZEC is made up of a chairperson appointed by the President after consultation with the Judicial Services Commission (JSC) and the Parliamentary Committee on Standing Rules and Orders, which also includes the ruling party and opposition parties, and eight other members appointed by the President from a list of not less than twelve (12) nominees submitted by the Committee. The appointment of the Commissioners is based on stakeholder consultations, public nomination processes, and public interviews in Parliament. The ZEC's mandate includes:

- (a) Conducting and managing elections and referendums in Zimbabwe in a transparent, impartial and independent manner;
- (b) Establishing a voter registration system that results in a credible Voters' Roll;
- (c) Creating and consolidating structures that facilitate good relations between and among stakeholders in elections; and
- (d) Designing and developing a voter education programme that informs and educates the electorate in Zimbabwe.

7.1.2 Regarding the above, the SEOM noted that the involvement of the public and political parties in the appointment of ZEC Commissioners is a commendable practice as it potentially lends credibility to the electoral management body. However, the SEOM noted some concerns from stakeholders about the actual application of this practice and its effect on the independence of the ZEC.

7.1.3 The main concern was that four ZEC Commissioners are alleged to be close relatives of high-ranking leaders of ZANU PF, the political party in Government. Consequently, the stakeholders questioned the impartiality of these four commissioners, whilst others justified the appointment of these four officials on the basis that being a close relative of a person in Government or in a political party should not deprive a person of employment opportunities. The SEOM was, however, unable to verify the concerns from the stakeholders but also noted that appointing close relatives of politicians has the potential to affect the independence or the perception of their independence¹⁵, and compromise the Commission's impartiality in line with section 11(2) of the Electoral Act, and section 4.1.9 of the SADC Principles and Guidelines.

7.2 Delimitation of constituencies

7.2.1 The Mission was informed that the delimitation exercise that was conducted in 2022 by the ZEC was marred with controversy. In one way or another, concerned stakeholders claimed that the report that ZEC submitted failed to observe the constitutional requirements for such an exercise and that there were also divisions amongst the ZEC's commissioners regarding the report's veracity. The main allegations against the report were that it constituted gerrymandering and failed to observe the correct methodology for calculating the 20% variance constitutional rule with respect to minimum and maximum sizes of the 210 electoral constituencies. The courts dismissed legal challenges brought against the Delimitation Report of 2022. The Mission, however, noted that there remain questions regarding the delimitation exercise for the following reasons:

- (a) In its Delimitation Report of 2022, the ZEC rightly states that “the Constitution recognises the impracticability of having equal number of voters in each constituency by allowing the Commission to depart from this requirement within a stipulated margin. In this case, the Constitution in section 161(6) stipulates that“*no constituency may have more than 20% more or fewer registered voters than other such constituencies*”. The constitution in section 161(6)a-f also lists factors that need to be considered when delimiting since they are important during the exercise.” However, the ZEC goes on to also state that, “*Based on the provision of section 161(6) the Zimbabwe Electoral Commission then calculated the 20% deviation from the national average voter registration expected in each constituency which was 27 640. This yielded a deviation of 5,528 voters. Since the average number of registered voters was regarded as a stable benchmark against which delimitation of constituencies was conducted, the deviation figure was added to the national average to determine the maximum number of registered voters that a constituency delimited would contain i.e., 33 168.*”
- (b) The Mission noted that the **average** number of voters per constituency is inconsistent with the provision of section 161(6) of the new Constitution adopted in 2013. The word “average” appears in section 61A(6) of the old Constitution of Zimbabwe under which it was permissible to calculate the minimum and maximum permissible number of voters per constituency by using the national average as the baseline. The word “average” does not exist in section 161(6) of the new Constitution, which deals with the same subject matter. The difference between section 61A(6) and section 161(6) of the old and the new constitutions, respectively, is far from being merely technical.
- (c) In the new Constitution, and in the context of section 161(6), the maximum deviation is 20% of the voters registered in the constituencies. The new Constitution uses actual constituency by constituency registered voter population, not the national average number of constituency voter population, to calculate the permissible deviation from the requirement that constituencies must have an equal number of voters. Mathematically, the two methods produce very different results and affect the equality of the vote concerning the elections to parliament. On the other hand, since the ¹⁶country votes as a single constituency in the presidential election, the difference in the methods has no particular impact on the equality of the vote in that election. It was, therefore not unexpected that ZEC would receive substantial criticism on this aspect of its latest Delimitation Report.

7.3 The voters roll

7.3.1 The SEOM noted the following regarding access to the voters roll:

- (a) Some stakeholders decried the delay in releasing the voters roll in a searchable and analyzable format as the Electoral Act prescribes. Some stakeholders expressed displeasure that the delay in releasing the voters roll resulted in missed opportunities for them to audit the voters roll and therefore give the public confidence about its veracity. According to the ZEC, however, an opportunity was provided for interested parties to inspect the voter roll as provided by the Electoral Act. The Mission noted that Section 21 (7) of the Electoral Act allows ZEC to format the Voter’s Roll to prevent its being altered or otherwise tampered with, and the

Commission may impose reasonable conditions on the provision of the roll to prevent it from being used for commercial or other purposes unconnected with an election.

- (b) Section 62 of the Constitution of Zimbabwe provides that every Zimbabwean citizen has the right to access any information held by the state or by any institution or agency of government at every level in so far as the information is required in the public interest.
- (c) Section 21 of the Electoral Act, *"The Commission shall within a reasonable period of time provide any person who requests it, and who pays the prescribed fee, with a copy of any voters roll, including a consolidated roll referred to in section 20(4a), either in printed or in electronic form as the person may request."*
- (d) Access to the voters' roll is also premised on the constitutional requirement that the ZEC deliver fair elections. In exercising this function, the Constitution requires the ZEC to ensure that those elections are conducted efficiently, freely, fairly, transparently and in accordance with the law. Following consultations with the ZEC, the Mission was informed of: *"The conflict created by the introduction of the Cyber and Data Protection Act, which enjoins all institutions and agencies to protect the privacy of information entrusted to them vis the provisions of section 21 of the Electoral Act where the voters roll although containing the personal information of voters (i.e. names, date of birth, ID Number, Address, Sex) is a public document open to inspection by the public. Such conflict has resulted in litigation around the voters roll, where in one case an Applicant does not want his information public and in yet another the Applicant seeks an order directing that the voters' roll be availed."*
- (e) The Mission acknowledged the concerns the ZEC raised above regarding difficulties in releasing electronic versions of the voters roll. However, the Mission also noted that the law allows the Commission to impose reasonable conditions to prevent the voters roll from being used for commercial or other purposes unconnected with an election. In particular, the Mission noted that section 21 of the Electoral Act provides that:

"(7) Where a voters roll is provided in ¹⁷electronic form in terms of subsection (3), (4) or (6), its format shall be such as allows its contents to be searched and analysed:

Provided that—

(i) the roll may be formatted so as to prevent its being altered or otherwise tampered with;

(ii) the Commission may impose reasonable conditions on the provision of the roll to prevent it from being used for commercial or other purposes unconnected with an election."

- (f) Apart from the above safeguard measure against the abuse of the voters roll, there is also room to note that as a constitutional body, the ZEC is obliged to give effect to the Constitution as the supreme law. In this regard, the requirement for transparent and fair elections, instead of relying on legislation (the Cyber and Data Protection Act) that negates the specific requirement. In addition to the fees levied for access to the printed voters' roll, the Mission notes that the above scenario restricts access to the voters' roll by interested persons, including political parties.

7.4 Nomination of candidates and nomination fees

- 7.4.1 The SEOM noted the unprecedented amount of litigation surrounding the elections, amongst others, concerning the nomination process of candidates. In this respect, we further noted the protest and litigation of Saviour Kasukuwere, who believes that he was unfairly disqualified as a presidential candidate; however, the courts dismissed this complaint.
- 7.4.2 The SEOM further noted stakeholder concerns that nomination fees for a person to stand for election have become too high and restrictive to political participation. In June, the government, through Statutory Instrument 144 of 2022, increased the presidential nomination fee from 1,000 to 20,000 U.S. dollars. Nomination fees for a constituency election increased from 50 to 1,000 U.S. dollars. These amounts were also cited as unduly restrictive to less well-off community members, such as women who lack the means. In this context, we also take note of the significance of paragraph 4.1.7 of the SADC Principles and Guidelines, which requires Member States to guarantee an environment of open contest with no undue exclusion and restrictions on anyone eligible and qualified to stand as a candidate in any election.
- 7.4.3 The SEOM noted that at least two female candidates contesting for the presidency, Elisabeth Valerio and Linda Masarira, encountered difficulties when they attempted to pay their nomination fees when the Nomination Court sat in July 2023. The two individuals had their nomination papers rejected due to the challenges they encountered with the payment system, which, amongst others, could not accept payment of sums as large as USD 20,000. Whilst Elisabeth Valerio succeeded on appeal to the Electoral Court, Linda Masarira's appeal was dismissed.

7.5 Freedom of Assembly

- 7.5.1 The SEOM noted the concerns emanating from applying the Maintenance of Peace and Order Act (MOPA), which sets out a process for notifying the Zimbabwe Republic of Police of the intention to hold a campaign activity. In this respect, there were stakeholder concerns about the right to freedom of assembly for election campaign purposes, whereupon the CCC reported that their rallies were being subjected to unreasonable cancellation by the Zimbabwe Republic Police.¹⁸
- 7.5.2 The SEOM also noted that the SEAC Pre-election Report showed that the ZRP did not permit fourteen (14) CCC public events to proceed between February and March 2023. Engagements with the ZRP also revealed that the police had also not approved some political rallies for the ruling ZANU PF party. What matters for the elections and the electoral system is that the principle and right of freedom of assembly should be safeguarded in the MOPA.
- 7.5.3 Notably, the SEAC took this matter seriously in April 2023 and recommended that the ZRP be urged to build confidence amongst all political parties by exercising restraint in rejecting proposed public gatherings for political purposes. However, the same matter remained a cause for concern when the SEOM deployed in August 2023.
- 7.5.4 The SEOM also noted reports that there was inconsistent application of the notice period for election campaign gatherings, with certain political parties stating that the ZRP required a seven-day notice instead of the three-day notice that is applicable

during election periods following section 7(1)(b)(ii) of the Maintenance of Peace and Order Act.

7.6 Freedom of expression

7.6.1 The Mission received concerns from several stakeholders that the recent amendment to the Criminal Law (Codification and Reform) Act [*Chapter 9:23*] (No. 23 of 2004), which amendment is commonly referred to as the Patriot Act has allegedly resulted in a severe restriction of the freedom of expression which is guaranteed by section 61(1) of the Constitution. The Patriot Act creates the offence of "*Wilfully injuring the sovereignty and national interest of Zimbabwe*". Stakeholders were particularly concerned that this offence is vague, too general, and it criminalises "*any communication between two or more persons, whether happening in person or virtually or by a combination of both, which involves, or is facilitated or convened by, a foreign government or any of its agents, proxies or entities.*"

7.6.2 Of note was also the concern that even the consultations between these stakeholders and international observation missions could fall afoul of this law. The SEOM long-term observers (LTOs) who were deployed in Harare, Chitungwiza, and surrounding areas such as Marondera encountered this challenge directly in their post-election observations. Individuals that the LTOs attempted to engage to assess the post-election environment were mostly reluctant to talk to observers citing the potential to be arrested under the "Patriot Act".

7.6.3 In this regard, the SEOM noted that the Patriot Act is incompatible with the spirit of section 61(1) of the Constitution, and paragraph 4.1.2 and 5.1.10 of the SADC Principles and Guidelines Governing Democratic Elections, which requires Member States to uphold, amongst others, the freedom of expression.

7.7 Freedom of association

7.7.1 The right of every Zimbabwean to freedom of association is provided for under Section 58(1) of the Constitution. Section 4.1.2 of the SADC Principles and Guidelines requires Member States to uphold, amongst others, the freedom of association. However, a number of stakeholders, particularly from the civil society sector, expressed their discomfort regarding the Private Voluntary Organisation Bill. Their concern was that the Bill restricts the space of Civil Society Organisations and does not recognise organisations registered as trusts and associations. The stakeholders were concerned that if passed into law, all the existing organisations will be rendered illegal and will need to be re-registered in accordance with the new law.

7.8 Participation of women as candidates

- 7.8.1 Stakeholders that also included political parties acknowledged the significance of section 80 of the Constitution and the SADC Protocol on Gender and Development, which require that women be given equal opportunities as men in political, social and economic activities. Despite Zimbabwe's innovations, such as the provision of the 30% female quota in respect of councillors for local authorities, the Mission noted that a lot more still needs to be done to achieve gender parity in contested/elected political positions. In this regard, our Mission was advised that in 2023 fewer women succeeded at their parties' primary elections, and fewer women stood for the National Assembly, whilst only one woman stood for the presidency. Amongst others, this could also be attributed to the high nomination fees.
- 7.8.2 Whilst noting that this challenge is not peculiar to Zimbabwe, the SEOM noted that section 4.1.1 of the SADC Principles and Guidelines Governing Democratic Elections enjoins Member States to encourage the full participation of all citizens in democratic and development processes.

7.9 Independence of the judiciary

In view of their significance in the event of legal challenges in the electoral process, some stakeholders expressed the view that the Government compromises the judiciary. A key justification for this perception was information received from these stakeholders that the judiciary recently received large financial and material incentives, which the stakeholders viewed as an attempt by the Government to buy the loyalty and allegiance of the judiciary.

7.10 Alleged intimidation of voters

- 7.10.1 The SEOM was informed that the rural vote may be compromised by alleged intimidation attributed to a group called Forever Associates Zimbabwe (FAZ), which is said to be a quasi-security intelligence organisation. The group was said to have been deployed to wards and around 36,000 villages. The allegations were that people were intimidated to vote in a particular manner and were warned that it would be easy to determine who voted against certain parties.
- 7.10.2 The SEOM noted that at the beginning of its Mission, the existence of this group could not be verified as authorities that were requested to comment on the FAZ professed ignorance of its existence. However, the group was acknowledged after the elections.

7.11 Postal voting controversy

- 7.11.1 There was considerable concern from stakeholders that postal voting by the officers of the Zimbabwe Republic Police was compromised by the alleged coerced voting. There were allegations that police officers undertaking postal voting were coerced to vote in a particular way in the presence of their supervisors, thus compromising the secrecy of the vote.
- 7.11.2 Stakeholders were of the view that provision must be made for observation for postal voting. The Mission noted that the Zimbabwe legal framework does not make such a provision.

7.12 Coverage of the elections by state-owned media

It was the contention of several stakeholders that the State-owned media houses remain biased against the opposition political parties and candidates. While the Mission noted some improvement compared to the 2018 electoral processes, we also noted that the content of the public broadcaster and the State-owned newspapers were in favour of one political party, contrary to Section 61(4) of the Constitution, which requires State-owned media to be impartial, and section 4.1.6 of the SADC Principles and Guidelines which requires State-owned media to give equal opportunities for all candidates and political parties.

7.13 Lack of diaspora voting

7.13.1 Stakeholders expressed frustration at the alleged disfranchisement of the citizens due to lack of diaspora voting. They emphasised the need to make provision for diaspora voting and the frustration emanated from the continuous requests for same in the previous elections.

7.13.2 The SEOM acknowledges that the laws of Zimbabwe do not make provision for diaspora voting, and previous court rulings have confirmed that ZEC is not obligated to facilitate voting by the diaspora. The SEOM takes note of section 4.1.8 of the SADC Principles and Guidelines, which encourages regular reviews of the participation of citizens in the diaspora in national elections.

7.14 Alleged lack of transparency in the procurement and printing of the ballot papers

Section 239(g) of the Constitution gives ZEC the mandate to design the ballot paper. The Mission noted that Section 239 (a)(iv) of the Constitution also requires that elections be conducted transparently in accordance with the law. In the spirit of transparency, stakeholders were of the view that they should have been provided with information on the procurement of the printing of ballot papers earlier than the time the ZEC released this information. The stakeholders added that they were not provided with information regarding the company that was contracted to print the ballot papers early into the process. They also were concerned about their lack of awareness of the ballot paper design that would be used during the elections.

7.15 Polling stations

7.15.1 The Stakeholders raised concerns about the delay in informing the public about the number and places of polling stations, fearing possible confusion and low voter turnout during polling day. Section 51 (3) of the Electoral Act requires that:

Commission shall cause a notice of—

- (a) the places at which polling stations are to be established; and*
- (b) the hours during which the polling stations will be open;*

to be published at least three weeks before polling day and again on polling day, in a newspaper circulating in the constituency concerned and in such other manner as it thinks fit.

7.15.2 The SEOM noted that the ZEC complied with the above legal requirements.

8. OBSERVATIONS ON ELECTION DAYS (23-24 AUGUST 2023)

8.1 On the Election Days, the SADC Electoral Observation Mission observed the voting process in ten (10) Provinces of the Republic of Zimbabwe. The deployed observer teams covered one hundred and seventy-two (172) polling stations in their respective areas. The political contestants have continued to call for peace during this election period and after. The SEOM observed the following critical aspects at the one hundred and seventy-two (172) polling stations that we visited:

- (a) The environment at the polling stations was relatively calm and peaceful.
 - (i) Several voters expressed concern due to a lack of, or late arrival of ballot papers and poor administration at some polling stations contrary to Section 52(1) of the Electoral Act, which requires ZEC to ensure that every constituency elections officer is provided with polling booths or papers including ballot papers and make such arrangements to facilitate the taking of the polls as the Commission may consider advisable for effectively conducting the election. It was observed that, notwithstanding the delay, voters remained patient to exercise their constitutional right to vote.
 - (ii) Professional and attentive police presence enhanced the overall peace and secure environment in all the polling stations observed in Paragraph 5.1.6 of the Principles and Guidelines Governing Democratic Elections.
 - (iii) 64% of the voting stations observed opened on time, 36% did not open on time for the 07:00am stipulated opening time. Some polling stations opened more than 12 hours after the stipulated time. The reason provided by ZEC for this unprecedented development was the unavailability of ballot papers, particularly for the local authority elections, and also due to previous litigation. This challenge was, however, specific to Harare and Bulawayo Provinces. Due to the delays, some voters left without casting their votes, while others remained in lengthy queues throughout the day and night. By 06:00am on 24 August 2023, some voters in these two provinces had still not voted. Consequently, these delays also had a knock-on effect as they dissuaded voters from voting in the first place. Against this observation, we further noted as follows:
 - (a) Section 52(1) of the Electoral Act provides that for any election, the ZEC shall ensure that every constituency elections officer is provided with polling booths or voting compartments and ballot boxes and shall provide papers, including ballot papers.
 - (b) Before election day, ZEC had assured our Mission and other stakeholders that all necessary voting materials, including ballot papers, were available and ready for use. This communication was made in section 52A (2) of the Electoral Act which requires ZEC to provide

information on the number of ballot papers and publication of details regarding them. Based on these two considerations, the subsequent information from ZEC that they did not have adequate ballot papers had the unfortunate effect of creating doubts about the credibility of this electoral process.

- (iv) The voters' roll was unavailable at 1% of the polling stations observed and was therefore not displayed outside the polling stations for the convenience of the voters and verification by party/candidates agents.
- (v) During the voting period, and at 26% of the polling stations observed, not all voters who turned out could vote. The reasons advanced for this included:
 - (a) Voters were identified, but their names were not found on the voters' roll;
 - (b) It was not possible to establish the voter's identity;
 - (c) Voters were at the wrong polling station; and
 - (d) Voters did not have a national identity card or passport, or due to the absence of an official witness confirming an elector's identity.

- (vi) 8% of the polling stations observed were not accessible to voters living with disabilities.

The SEOM noted that the said polling stations were not compliant with Section 51 (1a) of the Electoral Act which *requires every polling station to be in a place that is readily accessible to the public, including persons with physical disabilities*. The Mission further noted paragraph 4.1.1 of the SADC Principles and Guidelines governing the Democratic Elections *wherein Member States of SADC committed to encourage the full participation of all citizens in the democratic and development process*.

- (vii) At 50% of the polling stations, voters living with disabilities, the elderly, and pregnant women were not given priority to vote.
- (viii) In 3% of polling stations observed, indelible ink was not checked on the voters before allowing them to cast their vote. 23
- (ix) At 97% of the polling stations observed, voting was free from irregularities.
- (x) Voting proceeded in an orderly manner at 95% of the polling stations observed.
- (xi) Ballot boxes did not remain locked and/or sealed at 2% of the polling stations.
- (xii) As a result of the excessive delays in the opening of polling stations in Harare and Bulawayo provinces, at least 36% of the voting stations observed did not close at the scheduled closing time of 1900hrs, while some had not even opened by that time. It was announced that voting would be extended to proceed into 24 August 2023 to compensate for the late opening.
- (xiii) In previous stakeholder consultations, a shadowy organisation called Forever Associates Zimbabwe was accused of conducting a country-wide

exercise of electoral intimidation. Our observers confirmed the existence of this group as its officials or agents were easily identifiable at some polling stations as they were dressed in regalia emblazoned with the FAZ name and were accredited local observers. These and other unidentified persons who were not polling officials were also observed taking down the voters' names before they cast their votes. In some areas, voters were intimidated by the actions of these individuals.

The SEOM noted section 4.1.4 of the SADC Principles and Guidelines Governing the Democratic Elections, which calls upon Member States to take all necessary measures and precautions to prevent intimidation. The Mission further noted Section 2 of the Fourth Schedule of the Electoral Act (*Electoral Code of Conduct for Political Parties and Candidates and other Stakeholders*) which provides that the legitimacy of a government born out of democratic multi-party-political activity rests on, among other things, that the political environment is at all times free of violence, coercion and intimidation;

- (xiv) The Mission observed the closing and vote counting processes and the findings were as follows:
- (a) 100% of polling stations had police officers ;
 - (b) 100% of ballot party candidates' agents were allowed to stay after the closing procedures to monitor counting;
 - (c) 100% of ballot box adequately locked and sealed at the end of the closing process;
 - (d) 100% of the serial numbers of the ballot boxes sealed are the same as the serial numbers of the ballot box at opening time;
 - (e) 100% polling station allowed for easy counting and monitoring observation;
 - (f) 100% of polling stations took a break before opening ballot boxes for counting, and no one was allowed to leave the room;
 - (g) 100% of the total number of ballot papers in the ballot box matched the total number of used ballot papers as previously announced;
 - (h) 100% of election officials completed the results form at the end of counting each ballot box;
 - (i) 93% of polling stations did not have results posted outside;
 - (j) 100% of party agents signed and received a copy of the results;
 - (k) The counting process proceeded uninterrupted in 86% of the polling stations;

(l) There was adequate lighting to ensure proper counting processes in 93% of the polling stations; and

(m) The polling officers were professional and courteous.

9.0 POST-ELECTION PHASE

9.1 Following the Harmonised Elections, the "SADC Mediation, Conflict Prevention and Preventative Diplomacy Structure" led by the Panel of Elders (PoE) and technically supported by the Mediation Reference Group (MRG) were deployed to Zimbabwe to foster political and security stability by preventing any potential conflicts that might arise as a result of the elections, and in line with the SADC Summit decision of 17 August 2023.

9.2 Complementary to the SEOM, the PoE engaged the acting Minister of Foreign Affairs and International Trade on 29 August 2023.

9.3 The SEOM observed the following in the post-election phase:

- (a) The situation after the announcement of the election results was observed as calm and peaceful but remained tense in Chitungwiza with police deployment on the ground. In terms of the acceptance of results, there were portions of the society that felt that the results were not a true reflection of the will of the people; and
- (b) However, the political situation remains uncertain as CCC has not clearly indicated what steps it wishes to pursue in challenging the results. The party seemed to be less interested in pursuing the challenge through the court process. In the areas SEOM Teams observed at, people were apprehensive about engaging with the SEOM Team, fearing persecution.

10. RESULT MATRIX

10.1 The following are the official results released by the ZEC on 26 August 2023.

Results of the Presidential Election

NO	CANDIDATE	PARTY	RESULTS
1	Emmerson Mnangagwa	ZANU-PF	2, 350, 711
2	Nelson Chamisa	Citizen Coalition for Change	1, 967, 343
3	Wilbert A. Mubaiwa	National People's Congress	53, 517
4	Joseph Makamba Busha	FreeZim Congress	18 816
5	Blessing Kasiyamhuru	Zimbabwe Partnership for Prosperity	13, 060
6	Trust T. Chikohora	Zimbabwe Coalition for Peace and Development	10,230
7	Gwinyai H Muzorewa	United African National Council	7, 053
8	Elizabeth Valerio	United Zimbabwe Alliance	6,989
9	Harry P. Wilson	Democratic Official party	6, 743
10	Lovemore Madhuku	National Constituent Assembly	5, 323

10.2 The ZEC also announced that ZANU PF had won 136 constituencies and the CCC 73 constituencies out of the total of 210, whilst a by-election is yet to be held in the remaining one constituency.

11. DEVELOPMENTS ARISING FROM THE ELECTION RESULTS

11.1.1 Following the announcement of the election results, President Mnangagwa addressed the Nation and congratulated the people of Zimbabwe for exercising their constitutional right to vote. He stated that he was humbled by the trust and confidence reposed on him to once again serve as the President of the Republic of Zimbabwe.

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11.1.2 Some Heads of State and Government from Africa and around the world congratulated President Mnangagwa for his re-election.

11.1.3 The SEOM noted that the CCC party rejected the results of the General Election and claimed that the results were rigged in favour of ZANU PF and its presidential candidate. The CCC also stated that they will not take up their seats in Parliament. The CCC and Advocate Nelson Chamisa have not announced whether or not they plan to file election petitions challenging the results that ZEC announced. The CCC stated that they were in the process of stakeholder consultations regarding the possibility of a new General Election.

11.1.4 At a press conference held on 29 August 2023, the CCC stated that they would proceed to form a government. The modalities of such a government are not clear.

11.1.5 In relation to these contestations, the SEOM advises all parties that, in terms of section 111 of the Electoral Act, an election petition complaining of an undue return

or an undue election of a person to the office of President because of irregularity or any other cause whatsoever, may be presented to the Constitutional Court within seven days of the declaration of the result of the election in respect of which the petition is submitted. The Constitutional Court has 14 days to determine the petition, and its determination is final.

11.1.6 The effect of an election petition in this regard is to suspend the inauguration of the President, and the Constitutional Court has three options in determining the election petition:

- (a) Declare a winner;
- (b) Invalidate the election results and order a fresh election within 60 days of the determination; or
- (c) Make any order that it considers just and appropriate.

12 .0 SADC ELECTORAL OBSERVATION MISSION RECOMMENDATIONS

12.1 To support the successful holding of democratic elections in the Republic of Zimbabwe, the SEOM makes the following recommendations for consideration by the Government, ZEC and other stakeholders:

12.2 The SEOM reiterates the urgent need for all stakeholders to consider and implement outstanding recommendations that were made following the 2018 electoral cycle. These recommendations were designed to enhance the Zimbabwean electoral process, address recurrent stakeholder concerns, and align the electoral process to key constitutional and regional requirements. In this context, the SEOM highlights the following recommendations arising from its report of 2018:

(a) Legal Framework

The Mission urges the Government of Zimbabwe to consider expediting alignment of outstanding aspects of the Electoral Law to the new Constitution, as reflected in the report of the SEOM in 2018.

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(b) Public Communication by ZEC

Given the concerns raised by certain stakeholders on the alleged partiality of the ZEC, the Mission calls on ZEC to consider adopting a pro-active communication strategy which engages stakeholders at every relevant stage of the electoral processes in order to build confidence and a sense of ownership amongst key stakeholders and the general public.

(c) Postal voting

The Mission urges the ZEC to conduct sensitisation programs regarding postal voting particularly related to its modalities and management.

The Mission urges the authorities to ensure that postal voting is conducted in private to guarantee the secrecy of the vote.

(d) Diaspora

The Mission advises that consideration should be given to permit voting by Zimbabweans in the diaspora.

(e) Media

The Mission advises the ZEC and the Media Commission to ensure that the Constitution and Electoral Law are enforced with respect to the conduct of the media.

(f) Timeframes within which Legislative Election Results must be announced

Section 68 of the Electoral Act should be aligned with s110 (3) (h) of the same Act to ensure a maximum time period within which the results of Parliamentary elections must be announced.

12.3 In addition to the above recommendations arising from 2018, the SEOM makes the following recommendations based on its observations of the 2023 electoral cycle:

(a) Legal Framework

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The Mission urges the Government of Zimbabwe to consider:

- (i) making provision for stakeholder engagement in the design of ballot papers for transparency;
- (ii) having clear timelines for the provision of the voter's roll, and information on ballot papers;

(b) Independence of the Zimbabwe Electoral Commission

In event that the concerns from stakeholders that some ZEC Commissioners are closely related to the senior members of the ruling party are found to be true, there is a risk of violation of Section 11(2) of the Electoral Act and Section 4.1.9 of the SADC Principles and Guidelines. SEOM, therefore, recommends that such practice be considered as one of the disqualification criteria in recruitment of ZEC officials.

(c) Voters roll

The Mission urges the ZEC to avail the voters roll to stakeholders to allow enough time for inspection and verification in line with the Electoral Act.

(d) Women and gender parity

In line with the Constitution of Zimbabwe and the SADC Protocol on Gender and Development of 2008, the SEOM encourages all stakeholders, including political parties, to review the political and social environment with a view to promoting women in positions of political leadership and governance structures, towards gender parity.

13. CONCLUSION

13.1 The SEOM commends the people of Zimbabwe for conducting themselves in a peaceful, orderly and exemplary manner during the pre-election phase, voting days, and the immediate post-election period.

13.2 The SEOM commends the political leaders for spreading the message of peace and non-violence throughout the electoral cycle.

13.3 The SEOM noted that, as detailed in sections 6 and 7 of this report, some aspects of the Harmonised Elections fell short of the requirements of the Constitution of Zimbabwe, the Electoral Act, and the SADC Principles and Guidelines Governing Democratic Elections (2021).

13.4 The SEOM calls for all concerned parties to ensure that any grievances with respect to the election results are channeled through the appropriate legal processes to ensure the exhaustion of domestic legal remedies.

13.5 In terms of Section 11.8.2 of the SADC Principles and Guidelines, when SEOM publishes and officially submits the election reports, Member States which held elections, may:

(a) consider the recommendations advanced by the SEOM for improving the conduct of elections; and

(b) submit to the Chair of the Organ, a response to the SEOM report.

Adopted on 31 August 2023

By representatives of the SADC TROIKA of the Organ on Politics, Defence and Security Cooperation.

Head of SEOM
Representative of the Chairperson of the Organ
Republic of Zambia