

AFRICA RISK CONSULTING**Country briefing – Zimbabwe****March 2013****1 Summary**

Zimbabwe holds constitutional referendum, with record turnout and more than 95% of votes in favour of the document. Polling is peaceful but police detain three senior MDC officials and prominent human rights lawyer, Beatrice Mtetwa. The government is yet to confirm a date for the presidential and parliamentary elections, although July still seems the most likely. The Zimbabwe Election Commission faces a number of logistical challenges to be prepared. The Anti-Corruption Trust of Southern Africa criticises interference in investigations into Zimbabwe Mining and Development Corporation and National Indigenisation and Economic Empowerment Board. Australia lifts restrictive measures against 55 Zimbabwean individuals in response to referendum.

1.1 Electorate unequivocally approves new constitution

The constitutional referendum on March 16 was notable in a number of ways. The voter turnout of more than three million was more than double that of the 2000 referendum and a record for the country, defying predictions of an apathetic electorate¹. More than 95% of voters were in favour of the new charter despite concerns about several of its provisions (*see February briefing for details*). Many Zimbabweans, especially in rural areas, will not have seen the document, with one source saying, “most would have voted for the constitution simply because the political party they support would have told them to do so”².

“People see it as a cobbled together compromise. But it’s taken us four years to get here, and people are just relieved to have a constitution, even one which is inconsistent and contradictory. Their thinking is any document can be amended in the future, and is not worth upsetting the applecart over. A compromised document is better than no document at all”³.

This willingness to compromise and the value placed on stability is a positive bellwether in a political landscape which has remained highly polarised under the **Government of National Unity (2009 to present)**. Other positives include the **Zimbabwe Election Commission (ZEC)** proving it has the

¹ http://www.zimbabwesituation.com/mar20_2013.html#.UUmvoxdQZid

² Source: Partner in law firm, Harare

³Source: Zimbabwe analyst, London

capacity to run national polls and release results as scheduled (see below). In Harare, voting was orderly and tranquil for the most part and security forces - while present - remained outside polling stations⁴. The **Southern African Development Community** observer mission praised the referendum as “peaceful and credible”, while the **US** embassy in **Harare** also commended its conduct⁵.

There are, however, some ominous signs. Both **Movement for Democratic Change (MDC)** parties (**MDC- T** and **MDC- N**) and **Zanu-PF** support the constitution, meaning that that the referendum was never likely to be as contentious or politically divisive as the presidential and parliamentary elections slated for July⁶. There was sporadic violence, part of a wider trend over the past six months⁷. Youths suspected to be members of the **Chipangano**, the militant Zanu-PF youth group, attacked MDC activists and parliamentary candidate **Sten Zvorwadza** as they were putting up referendum campaign posters in the **Mbare** township⁸. On the day of the referendum, gunmen later identified as plainclothes police officers, seized regional MDC official **Samson Magumura**⁹. Security officials, the day after the referendum, arrested three senior officials of the MDC including **Thabani Mpfu** who was detained along with his solicitor, prominent human rights lawyer, **Beatrice Mtetwa**¹⁰. **Mtetwa** continues to be held despite a high court order demanding her release¹¹.

“It shows that for the security forces it is business as usual notwithstanding the new constitution. These arrests demonstrate pointedly that a free and fair election cannot be guaranteed until there are meaningful reforms in the security sector; there is too much entanglement between Zanu-PF and senior security officers”¹².

1.2 Elections are next milestone

There is some doubt about when the constitution will become law. According to constitutional and parliamentary affairs minister **Eric Matinenga**, it will be debated by parliament on 7 May¹³. According to the chairman of the **Constitution Select Committee (COPAC)** who drafted the document, it will come into effect at the end of April¹⁴. Either way, the spirit and text of the constitution will take time to take effect and may therefore have little impact on the conduct of the country’s elections, the date of which the government is still to confirm. While July is still considered

⁴ Source: Partner in law firm, Harare

⁵ AFP, 17 March 2013

⁶ Zimbabwe Independent, 15 March 2013

⁷ Source: Zimbabwe analyst, London

⁸ AFP, 15 March 2013

⁹ AFP, 16 March 2013

¹⁰ New York Times, 18 March 2013

¹¹ AFP, 18 March 2013

¹² Source: Partner in law firm, Harare

¹³ Zimbabwean radio, 20 March 2013

¹⁴ SW Radio Africa, 20 March 2013

the most likely, there is pressure within the government to delay until September¹⁵. There are a number of logistical concerns which will challenge the capacity of the Zimbabwe Election Commission. Voter registration is a “shambles”¹⁶. The ZEC needs to address the degraded electoral register despite Zanu-PF withholding funds. During the referendum polling staff arbitrarily turned away Zimbabweans with dual nationality; the “elephant in the room” which will need to be addressed in a country in which historical patterns of immigration in search of labour mean many individuals are dual nationals¹⁷. There are reports of police in MDC strongholds intimidating those attempting to register as first time voters, particularly relevant considering the scale of Zimbabwe’s youth demographic¹⁸. At the end of February, respected retired judge **Simpson Mutambanengwe** resigned as head of the Commission citing health reasons, though many believe he was pushed out in favour of acting chair, **Rita Makarau**, who has ties to Zanu-PF and **Joyce Kazembe**, the former vice chair who was a staunch ally of Zanu-PF during the flawed 2008 elections¹⁹. The operating executives remain the same as in previous elections and any logistical challenges or delays to results will encourage perceptions that the Zimbabwe Election Commission is too close to Zanu-PF and therefore undermine its credibility²⁰.

1.3 Regional body criticises government interference in probes

Corruption remains a major impediment to conducting business in Zimbabwe. While investigative and auditing bodies do exist, they are often used as political tools²¹. The increased activity of the **Zimbabwe Anti-Corruption Commission (ZACC)** in recent weeks may be Zanu-PF attempting to appear tough on corruption in the run up to the election. Interference in their probes challenges the government’s commitment to addressing corruption, with the **Anti-Corruption Trust of Southern Africa** particularly critical of the hindrances that ZACC has faced²². After the high court awarded search warrants to the ZACC, police obstructed officials attempting to carry out searches of the Harare offices of the **Zimbabwe Mining and Development Corporation (ZMDC)**. Armed men stopped investigators from entering the **National Indigenisation and Economic Empowerment Board (NIEEB)**. The diamond sector and indigenisation programmes have been particularly subject to accusations of corruption and the recent interference in the ZACC will not assuage concerns.

1.4 Australia lifts restrictive measures on Zimbabwean individuals

¹⁵ Source: Partner in law firm, Harare

¹⁶ Source: Senior INGO official, London

¹⁷ Source: Zimbabwean analyst, London

¹⁸ Source: Senior INGO official, London

¹⁹ Source: Senior INGO official, London

²⁰ Source: Partner in law firm, Harare

²¹ Freedom House, Country Profile, Zimbabwe.

²² SW Radio, 14 March 2013

In March the **Australian** government followed the **European Union** in lifting sanctions against some Zimbabwean individuals. In February, foreign minister **Bob Carr** announced a three stage roadmap according to which Australia would lift sanctions incrementally as the following political milestones are met:

- A date for the constitutional referendum is announced;
- A peaceful and credible constitutional referendum is held;
- Free and fair elections take place followed by a democratically elected government taking office²³.

On 11 March, the government revoked sanctions against 55 individuals. Remaining sanctions include travel and financial restrictions against 98 Zimbabwean nationals and four entities, as well as a continued arms embargo. For details, see Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Zimbabwe) Amendment List 2013²⁴.

2 Implications

Holding a successful constitutional referendum is a major milestone in the **Global Political Agreement**, the roadmap to a more stable democratic future that Zanu- PF and the MDC agreed to in response to the 2008 political violence. However, other elements of the Agreement including security sector reform remain elusive. These are more likely to determine the conduct of the parliamentary and presidential elections than a new document. Investors are likely to remain cautious until after the next set of polls. Corruption will remain a major obstacle to conducting business in Zimbabwe. Attempts to address corruption in the run up to the election will be politically motivated, and parastatals will remain opaque. As with the EU, Australia will maintain its sanctions programme until free and fair elections are held.

²³ http://foreignminister.gov.au/releases/2013/bc_mr_130311.html

²⁴ <http://www.comlaw.gov.au/Details/F2013L00477>