

AFRICA RISK CONSULTING

Country briefing – Zimbabwe

February 2013

1 Summary

Parliament released the final version of the draft constitution. The draft constitution retains high levels of presidential power, does not fully guarantee property rights and is not retrospective with regard to term limits. A constitutional referendum is scheduled for 16 March. Prime Minister Morgan Tsvangirai expects presidential and parliamentary elections to take place in July. The opposition Movement for Democratic Change (MDC) faces internal divisions and has to defend its record in the power sharing government. The MDC also faces a tough electoral challenge against the ruling Zimbabwe African National Union-Patriotic Front (Zanu-PF) military style political machine. In February, the European Union (EU) extended its Zimbabwe sanctions program for one more year, but reduced the number of names and entities included.

2 Political dynamics

Draft constitution is finalised ...

Parliament presented the final version of Zimbabwe's draft constitution on 6 February. The draft constitution was a culmination of long drawn out negotiations between Zimbabwe's three main political parties – the ruling **Zimbabwe African National Union-Patriotic Front (Zanu-PF)**, the opposition **Movement for Democratic Change-Tsvangirai (MDC)** and **MDC-Mutambara (MDC-M)**¹.

The draft constitution retains high levels of presidential power, does not fully guarantee property rights² and is not retrospective with regard to term limits allowing for President **Robert Gabriel Mugabe** (1980 – present) to stay in power if he wins the upcoming election (see below).

The draft constitution stipulates the president must select a cabinet from the members of the senate or national assembly, with a maximum of three cabinet members appointed from outside parliament based on merit³. Despite this restriction the draft constitution retains a high degree of presidential

¹ Source, senior finance sector business person, Harare.

² Source, political analyst, Harare.

³ Draft constitution of Zimbabwe, January 2013.



power. While in power the president is not liable to civil or criminal proceedings in any court for things done or omitted to be done in his or her personal capacity. Moreover, the president retains the power to appoint⁴:

- the attorney general;
- the prosecutor general;
- chairperson of the Zimbabwe Human Rights Commission;
- chairperson of the Zimbabwe Gender Commission;
- chairperson of the Zimbabwe Media Commission;
- chairperson of the Judicial Service Commission and the Committee on Standing Rules and Orders;
- chairperson of the Zimbabwe Anti-Corruption Commission;
- chairperson of the Zimbabwe Land Commission;

The draft constitution does not fully guarantee property rights as noted in sections 71 and 72. Finally, the draft constitution is not retrospective with regard to current and former presidents. Section 91-2 states

“A person is disqualified for election as President or Vice-President if he or she has already held office as President under this Constitution for two terms, whether continuous or not...”⁵”

This allows for the possibility of Mugabe serving for two more terms as president.

Constitutional referendum date set for 16 March ...

Based on the power sharing agreement between the Zanu-PF and the MDC, the first step towards presidential and parliamentary elections is a referendum on adopting the draft constitution. The government has said the referendum will take place on 16 March.

Zimbabwe had previously tried to ratify a new constitution in 2000, but voters rejected it, which helped lay the foundation for the current political impasse between the opposition and the ruling Zanu-PF. However,

“Politics has changed dramatically since the last constitutional referendum. At that time people saw the draft constitution as a Zanu-PF document designed to maintain the party’s grip on power ... So the people voted it down. This time all political parties agreed to the draft constitution and are telling all their supports to vote for it. ... There will definitely be a ‘yes’ vote, less than 20% will vote no⁶”.

⁴ Draft constitution of Zimbabwe, January 2013.

⁵ Draft constitution of Zimbabwe, January 2013.

⁶ Source, senior finance sector business person, Harare.

The referendum is expected to go ahead as scheduled.

“The referendum will go ahead for sure. It will not have much impact on investment or the business environment. Investors are not worried about the constitution; they are worried about what happens after ... the constitution paves the way for election ... the results will have a much bigger influence on the business environment”⁷.

Elections are the next step...

Tsvangirai says he expects presidential and parliamentary elections to take place in July⁸. However, a July election is at risk of delay due to funding issues⁹. The election timetable presents a timing crunch but it is likely that Mugabe envisages returning to the international fold as an elected leader in August 2013 when **Zambia** and **Zimbabwe** host the **United Nations World Tourism Organisation 2013** conference and when Zanu-PF also marks its 50th anniversary¹⁰. It is *“highly unlikely that Mugabe will allow this event to be marked by his being out of power”¹¹*.

In a 2012 **Freedom House** poll, 47% of respondents said they would not vote or chose not to indicate a preference (up from 41% in 2010); 20% said they would support MDC-T (down from 38% in 2010) and 31% ZANU PF (up from 17% in 2010)¹². However, Zanu-PF still has a command structure and operates like a military organization - focused and determined on victory.

“Zanu-PF has launched psychological warfare on the voting population and on the opposition. War veterans and former soldiers have already moved into areas that must have Zanu-PF control to win. Their presence, a latent threat, is sufficient to force a Zanu-PF vote in rural areas”¹³.

The power sharing government has benefited Zanu-PF to the detriment of MDC. Zanu-PF has not had to manage the social services delivery portfolios and is therefore criticising the MDC for not delivering on its promises. Zanu-PF has also focused its message on the incidence of corruption within the MDC. Moreover, the Zanu-PF’s message has a wide public audience through state owned media and Zanu-PF owned press¹⁴. Zanu-PF controlled media outlets include: **The Herald; The Sunday Mail; The Sunday News; The Chronicle; The Manica Post; Kwayedza/Umthunywa** (a vernacular newspaper); **Zimbabwe Television** and **Zimbabwe Broadcasting** stations and the **Zimbabwe News**

⁷ Source, senior finance sector business person, Harare.

⁸ Reuters, 13 Feb 2013.

⁹ Source, senior finance sector business person, Harare.

¹⁰ Source, veteran journalist, Zimbabwe.

¹¹ Source, veteran journalist, Zimbabwe.

¹² www.freedomhouse.org

¹³ Source, veteran journalist, Zimbabwe.

¹⁴ Source, veteran journalist, Zimbabwe.

Agency (ZIANA)¹⁵. There is also **The Patriot** which **Central Intelligence Organisation (CIO)** and Zanu-PF linked academics and business people allegedly run¹⁶. The Patriot specialises in digging up information on which donor funds which organisation and allegedly uses the information to get the police to raid the various NGOs¹⁷. The Patriot is also linked to **ZiFM**, a Zanu-PF run radio station, linked to businessman **Supa Mandiwanzira**¹⁸.

The MDC has fared less well in the power sharing government. Its leadership is weak. Tsvangirai is mired in personal issues with his wife, **Elizabeth Macheke**. Tsvangirai married Macheke in 2012. She is the daughter of **Joseph Macheke** - a Zanu-PF central committee member and former Zanu-PF mayor of **Chitungwiza**, one of Harare's largest working class suburbs¹⁹. Joseph Macheke was accused of shooting to death a man and wounding two others during the January 1998 food riots.

The attorney general refused to prosecute Joseph Macheke, claiming that he was acting in self-defence²⁰. Elizabeth Macheke's late first husband was **Zimbabwe Air Force (ZAF)** wing commander **Mabasa Simba Guma** who the **Zim Eye** claims was a "...farm invader who was promoted to a senior military post as a reward for his farm invasions in the eastern town of *Chegututu*"²¹. Tsvangirai's decision to marry Elizabeth Macheke raises questions about his decisions and judgment²² and has increased suspicions within the party that she is a Zanu-PF plant. She is also described as ambitious; hence Tsvangirai was forced to insist that she will play no role in politics to allay some of the MDC's fears²³.

Moreover, the MDC structure is no match for the Zanu-PF military style organisation. The MDC as a movement is split between MDC-T and MDC- M (see above). MDC finance minister **Tendai Biti** is allegedly frustrated with Tsvangirai's leadership. Biti is also the MDC's secretary general and the person credited for expanding the appeal of the MDC out of the cities to the rural areas. However, in his role as finance minister he is unable to campaign to maintain this support²⁴.

The one important factor in the MDC's favour is Zimbabwe's youth population. Zimbabwe's 2012 census showed that a majority of the population is under 30. Critically, few of the new voters remember the liberation struggle, but they do remember the days of hyperinflation under Zanu-PF. The question is whether this 'twitter generation' will register. One veteran Zimbabwean journalist alleges the Zanu-PF is deliberately making registration for youth difficult, forcing them to queue for

¹⁵ Source, political analyst, Zimbabwe.

¹⁶ Source, political analyst, Zimbabwe.

¹⁷ Source, political analyst, Zimbabwe.

¹⁸ Multiple sources: www.newsday.co.zw; Source, political analyst, Zimbabwe.

¹⁹ Multiple sources: Zimbabwe Independent, 14 Sept 2012; harare24.com; Source, veteran journalist, Zimbabwe.

²⁰ The Standard, 22 Apr 2012.

²¹ Zim Eye, 20 Apr 2012.

²² Zimbabwe Independent, 14 Sept 2012.

²³ Source, veteran journalist, Zimbabwe.

²⁴ Source, veteran journalist, Zimbabwe.

up to three hours. There is little evidence the Zanu-PF is trying to reach this generation or persuade them²⁵.

3 Business dynamics

EU loosens sanctions...

The **European Union (EU)** imposed sanctions on Zimbabwe in 2002 over alleged human rights abuses and the government's anti-democratic actions²⁶. The sanctions program is reviewed annually. On 18 February, the EU extended the sanctions until 20 February 2014²⁷. However, to encourage dialogue between the EU and Zimbabwe, the EU reduced its Zimbabwe sanction program as part of the extension. 21 individuals and entities were removed from the EU's restrictive measure list. They include²⁸:

- **David Chapika;**
- **Tinaye Elisha Nzirasha Chigudu;**
- **Tongesai Shadrock Chipanga;**
- **R. Kwenda;**
- **Shuvai Ben Mahofa;**
- **Gilbert Moyo;**
- **S. Mpabanga;**
- **Cephas George Msipa;**
- **C. Muchono;**
- **Isack Stanislaus Gorerazvo;**
- **Columbus Mudonhi;**
- **Bothwell Mugariri;**
- **Isaac Mumba;**
- **S. Mutsvunguma;**
- **John Landa Nkomo;**
- **Michael Reuben Nyambuya;**
- **David Pagwese Parirenyatwa;**
- **Dani Rangwani;**
- **Richard Ruwodo;**
- **Patrick Zhuwao;**
- **Divine Homes (Pvt) Ltd.**

The EU also removed a travel ban on six government officials. They include²⁹:

- **Herbert Muchemwa Murerwa**, lands and rural resettlement minister;
- **Walter Mzembi**, tourism minister;
- **Sylvester Robert Nguni**, minister if the office of vice president Joyce Mujuru;
- **Francis Chenayimoyo Dunstan Nhema**, environment minister;
- **Sithembiso Gile Glad Nyoni**, small and medium size enterprises minister,
- **Webster Kotiwani Shamu**, media and information minister.

²⁵ Source, veteran journalist, Zimbabwe.

²⁶ Guardian, 19 Feb 2013.

²⁷ Multiple sources: Guardian, 19 Feb 2013; EU Council Decision, 2013/89/CFSP, 18 Feb 2013.

²⁸ EU Council Decision, 2013/89/CFSP, 18 Feb 2013.

²⁹ Multiple sources: The Herald, 18 Feb 2013; EU Council Decision, 2013/89/CFSP, 18 Feb 2013.

4 Implications

The constitutional referendum will go ahead as scheduled, with a majority of the population voting 'yes' in support of adopting the new draft constitution. The adoption of the new constitution will not have a major impact of the investment environment but will set the stage for the start of heated political battle between the ruling Zanu-PF and the opposition MDC. Most business and foreign investors will delay major investment decisions until after the election. The EU will maintain its Zimbabwe sanctions program until after a free and fair election takes place. If the EU believes the election outcome is free and fair, they will move quickly to remove sanctions, within months, well before the 20 February 2014 expiry.