
FINAL RESOLUTIONS OF THE NATIONAL CONVENTION

PREAMBLE

A. PARAGRAPHS OF THE PREAMBLE RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following paragraphs of the Preamble without amendments:

- (i) First paragraph on ACKNOWLEDGE the supremacy of God Almighty;
- (ii) Third paragraph on UPHOLD ...;
- (iii) Fourth paragraph on COMMIT ...;
- (iv) Fifth paragraph on RESOLVE ...;
- (v) Sixth paragraph on CONFIRM ...;
- (vi) Seventh paragraph on RECOGNISE AND UPHOLD ...; and
- (vii) Ninth paragraph on AND DIRECT ...

B. PARAGRAPHS OF THE PREAMBLE ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following paragraphs of the Preamble with the amendments as follows:

- (i) Second paragraph DECLARING the Republic as a Christian Nation by substituting the words “but uphold” with words “while upholding”; and
- (ii) Eighth paragraph on RESOLVING that Zambia shall remain a free, unitary, indivisible, multi-ethnic by paragraph by deleting the term “multi-religious”.

C. ADDITIONAL PARAGRAPH(S) ADOPTED

The Convention resolved to adopt additional paragraph(s) to add to the Preamble in the First Draft Constitutions as follows:

- (i) To recognise and honour freedom fighters.

PART I: SUPREMACY AND DEFENCE OF CONSTITUTION

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 1: Supremacy of Constitution; 2: Defence of Constitution; and, 3: Continuous effect of

Constitution

PART II: REPUBLIC OF ZAMBIA AND SOVEREIGN AUTHORITY OF THE PEOPLE

ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 5: Exercise of Sovereign Authority; 6: National symbols; and 7: Laws of Zambia.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

(i) Article 4: Republican Status of Zambia, by deleting the term “multi-religious” in clause (2).

PART III: NATIONAL VALUES, PRINCIPLES AND BASIS OF STATE POLICY

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 8: Application of national values, principles and basis of State policy; and, 11:

President’s report on application of values, principles and policies.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

(i) Article 9: National values, principles and basis of State policy, by deleting the term “minority and marginalized” in paragraph (c) and consequently redefining the term “minority and marginalized” in Article 311 so that it expressly exclude groups that practice vices that are incompatible with the provisions of this Constitution such as homosexuality and lesbianism;

(ii) Article 10: Economic Policies, by:

- including the words "protect and guarantee" in clause (1) so that it reads: “The State shall create an economic environment which encourages individual initiative and self-reliance among the people, so as to promote, protect and guarantee investment, employment and wealth”;

- including “local” investment in clause (3) so that it is also promoted, protected and guaranteed by the State, as the case is with foreign investment.

PART IV: CITIZENSHIP

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 12: Existing citizenship; 13: Acquisition of citizenship; 14: Citizenship by birth; 15:

Citizenship by decent; 18: Dual citizenship; 19: Renunciation and deprivation of citizenship; 20:

Citizenship Board of Zambia; 21: Entitlements of citizens; 22: Responsibility of citizen; and, 23:

National status of parent and legislation on citizenship.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

(i) Article 16: Citizenship by registration, by:

- increasing the period of ordinarily resident from three to ten years, immediately preceding the person's application for registration in clauses (1)(a) and (1)(b);

- deleting the words "or was" and increasing the period from three to ten years in clause (3); and
- providing that clause 4 reads "A child of a diplomat accredited to Zambia or a child of a person with refugee status in Zambia shall not be entitled to be registered as a citizen".

(ii) Article 17: Citizenship by adoption, by providing that "Adoption of a child who is not a citizen and who is adopted by a citizen shall not guarantee automatic citizenship and shall be eligible to apply for citizenship as provided for under an Act of Parliament".

PART V: BILL OF RIGHTS

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 26: Application and interpretation of Bill of Rights; 28: Right to life; 29: Human dignity; 30: Protection from Inhuman treatment; 31: Freedom of person; 32: Security of persons; 34: Protection of privacy of person, home, property and communication; 36: Freedom expression; 39: Political rights; 40: Freedom of association; 41: Rights to assemble, demonstrate, picket, lock out and petition; 42: Freedom of movement and residence; 43: Refugees and asylum seekers; 45: Equality before law; 46: Fair administration; 49: Rights of persons detained or in custody; 51: Equality of both gender; 53: Older members of society; 56: Youth; 57: Protection of young persons; 59: Special measures for persons with disabilities; 61: Progressive realization of economic, social and cultural rights; 63: Language and culture; 64: Freedom to choose trade, occupation or profession; 65: Labour relations; 68: Limitation on rights and freedoms; 70: Derogation of rights and freedoms during emergency or national disaster; 71: Restriction and detention during emergency; 72: Enforcement of Bill of Rights; 73: Human Rights Commission; and, 74: Gender Equality Commission.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

- (i) Article 24: Status of Bill of Rights, by deleting the words "or contemplated" in paragraph (e) of clause (3), so that it reads "are subject only to the limitations contained in the Bill of Rights";
- (ii) Article 25: Duty of State to promote rights and freedoms, by replacing the term, "civil society" with the term "non-State actors" in clause (2), so that it reads "The state shall recognize the role that non-State actors play in the promotion and protection of the Bill of Rights". Consequently, include the definition of the term "non-State actor" in Article 311 and revisit the definition of the term "Civil society" in the same Article.
- (iii) Article 27: Protection from discrimination, by:

- ensuring that the provision does not give any leeway to anti-social practices such as homosexuals and lesbians; and

- adding the word “political” after the word “social” in clauses (1) and (3) so that political orientation is included among the grounds on which a person would have a right not to be discriminated against.

(iv) Article 33: Slavery, servitude and forced labour, by replacing it with Article 14 of the current Constitution which reads in part:-

“(1) A person shall not be held in slavery or servitude

(2) A person shall not be required to perform forced labour

(3) for the purpose of this Article. The “expression forced labour” does not include...”

(v) Article 35: Freedom of religion and conscience, by deleting paragraph (a) of clause (3) which reads “anti-Christian teaching and practice”;

(vi) Article 37: Access to Information, by adding the phrase “and State institutions” to paragraph (a), to read “information held by the State and State institutions”.

(vii) Article 38: Freedom of media, by:

- replacing the word “State” with the word “public” in clause (4), so that it reads “all public-owned media shall”;

- replacing the word “opportunity” with the word “coverage,” in paragraph (c) of clause (4) so that it reads “afford fair coverage for the presentation of divergent views and dissenting opinions”;

- adding a new clause based on Article 20(2) of the current Constitutions which reads “subject to the provision of this Constitution, a law shall not make any provision that derogates from the freedom of the press”;

(viii) Article 44: Acquisition and protection of property, by making the right to property subject to Article 298, so that it reads “A person has the right, subject to Article 298, either individually or in association with others, to acquire property-...”;

(ix) Article 47: Access and right to Justice, by reducing the period after which a judgment may be enforced by execution against the State in paragraph (b) of clause (3) from one year to six months;

(x) Article 48: Rights of suspects and arrested persons, by replacing the phrase “as soon as reasonably practicable” with the term “immediately” and include the phrase “where this is not possible as soon as it is reasonably practicable but in any case within 24hours” in paragraph (c) of the Article, so that it to reads “to be informed immediately, of the reasons for the arrest or

detention and where this is not possible, as soon as it is reasonably practicable but in any case within 24 hours.”;

(xi) Article 50: Fair trial, by replacing the words “as soon as possible” with the word “immediately” in paragraph (b) of clause (1), so that an accused person is informed immediately of the charge with sufficient details to answer the charge;

(xii) Article 52: Further rights for women, by:

- adding the words “except for abortion on demand” to clause (a) so that it reads “reproductive health, including family planning and access to related information, except for abortion on demand”. Consequently, the definition of the phrase “reproductive health” to be included in Article 311 and should expressly exclude abortion on demand;

- deleting the words “including the right to change the nationality of their children if this is in the best interest of the children” in paragraph (b);

- adding the phrase “except in marriages” at the end of paragraphs (c), (d) and (e); and

(xiii) Article 54: Family, by increasing the marrying age in clause (2) from eighteen to twenty-one years;

(xiv) Article 55: Children, by:

- deleting the word “free basic” in clause (5)(c) of the Article, so that it reads “Every child has a right:- (c) to education”; and

- increasing the age in clause (5)(d) from eighteen to twenty-one years, as a consequence of the amendment to clause (2) of Article 54;

(xv) Article 58: Persons with disabilities, by qualifying the devices that persons with disabilities would have access to in clause (1) with the term “assistive” so that the devices are referred to as “assistive devices”;

(xvi) Article 60: Minority and marginalised groups, by adding the words “except for practices prohibited under this constitution or any other law” at the end of paragraph (d). Consequently, the definition of minority and marginalised groups to be revisited to bring it in line with the definition as used in the United Nations human rights system which refers to national or ethnic, religious and linguistic minorities as laid out in the United Nations Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities and in Article 27 of the International Covenant on Civil and Political Rights;

(xvii) Article 62: Economic and social rights, by qualifying the education with the words “accessible and quality” in paragraph (f) of clause (1), so that it reads “a person has the right to – (f) Accessible and quality education”. The definition of the phrase “health care services” to be included in Article 311 of the First Draft Constitution”;

(xviii) Article 66: Consumer rights, by replacing the word “reasonable quality” with the words “approved quality standards” in paragraph (a) of clause (1), so that it reads “(1) Consumers have the right to- (a) goods and services of approved quality standards”;

(xix) Article 67: Environment, by including the word “safe” immediately before the word “clean”, so that it reads “a person has the right to safe, clean and healthy living environment”;

(xx) Article 69: Non-derogable rights and freedoms, by adding the following rights “Enforced disappearance, Non- refoulment and non-retrospective application of criminal law,” to the list of non-derogable rights.

PART VI: REPRESENTATION OF THE PEOPLE

A. ARTICLES ADOPTED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 76: Basis of Electoral System; 77: Franchise; 78: Electoral Process; 79: Access to Media; 85: Matters to be taken into Account when delimitating

Electoral Districts, Multi-Member Constituencies and Wards; 87: Representation of Gender, Youth and Persons with Disabilities; and, 88: Legislation on Political Parties.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with amendments as follows:

(i) Article 75: Electoral System, by:

- providing in clause (2) for Mixed Member Proportional Representation system (MMPR), which is a mix of First-Past-The-Post and Proportional Representation, with 20% seats assigned to PR;

- providing in clause (3) for Mixed Member Proportional Representation system (MMPR), with 20% seats assigned to PR; and

- adding a new provision to put a caveat against unnecessary by-elections. This provision should be to the effect that a Member of Parliament who resigns shall be barred from re-contesting the seat and being appointed to any public office, until the end of the lifespan of that Parliament from which the member has resigned.

(ii) Article 80: Independent and Unopposed Candidates, by including Member of Parliament in clause (2) of the Article and by deleting clause (7) of the Article;

(iii) Article 81: Losing Candidate not Eligible for Certain Appointments, by deleting the Article;

(iv) Article 82: Election Date for General Elections, by replacing clause (2) with provisions in Section 28 of the Electoral Act, No. 12 of 2006, which reads as follows:

“The Commission may postpone the polling day for an election provided the commission is

satisfied that:

(a) The postponement is necessary for ensuring a free and fair election

(b) The polling day for the election shall still fall within the period as required by the Constitution in Article 82 (1).”

(v) Article 83: Electoral Commission of Zambia, by:

- deleting the word “progressively” in clause (1);

- adding in clause (3) the word “electoral” before minor disputes and specify the minor disputes the Commission can settle;

- by providing in clause (4) that the composition of the Electoral Commission should comprise eminent persons with integrity and moral uprightness in society;

- by providing for Parliament to enact legislation to the effect that:-
 - any eminent person who qualifies to be a member of the Electoral Commission qualifies to be Chairperson of the Commission. The Chairperson should not necessarily be one who qualifies to be Judge; and

 - the Electoral Commissioners should serve on part-time basis, so that they concentrate on providing policy direction and leave management affairs to the Commission management team.

- providing for Parliament to enact legislation to the effect that:-
 - any eminent person who qualifies to be a member of the Electoral Commission qualifies to be Chairperson of the Commission. The Chairperson should not necessarily be one who qualifies to be Judge; and

 - the Electoral Commissioners should serve on part-time basis, so that they concentrate on providing policy direction and leave management affairs to the Commission management team.

(vi) Article 84: Delimitation of Multi-Member Constituencies and Wards, by aligning the

provisions to the amendment made in Article 75(2), where Proportional Representation system has been replaced with Mixed Member Proportional Representation system;

(vii) Article 86: Political Parties, by deleting clause (3)(b) providing for the requirement for political parties to have a national character.

PART VII: EXECUTIVE

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 89: Office of the President and vesting of executive power; 92: Ratifications by National Assembly; 93: Prerogative of Mercy; 94: Advisory Committee; 95: Emoluments of President; 98: Nomination papers for election as President; 100: Transition Period before assuming office; 101: Election Petition; 102: Assumption of office; 103: Tenure of office; 104: Removal of President on grounds of incapacity; 105: Impeachment of President for violation of Constitution; 106: Performance of executive functions during absence of President; 107: Vice President, election and swearing in; 108: Functions of Vice President; 109: Removal from office of Vice President; 111: Declaration of state of public emergency; 112: General measures relating to public emergency; 113: Declaration of threatened State of public emergency; 114: Declaration of national disasters; 115: Validity of emergency; 116: Cabinet; 117: Functions of Cabinet; 118: Proceedings of Cabinet meetings; 119: Cabinet Secretary; 121: Provincial Minister and appointments from outside National Assembly; 123: Oaths of office; and, 124: Code of conduct.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

(i) Article 90: Executive functions of the President, by:

- deleting the words “diplomatic representatives and consuls” in paragraph (b) of clause (2);

- deleting the words “diplomatic representatives, consuls and heads of international organizations” in paragraph (c) of clause (2);

- providing that consideration will be given to career diplomats or persons who have relevant professional qualifications in respect to paragraph (b) to of clause (2);

- providing that paragraph (e) of clause (2) is subject to Article 120 in addition to being subject to approval of National Assembly;

- providing that Ambassadors, High Commissioners, plenipotentiaries are subject to National Assembly ratification;

- adding a new paragraph (j)bis to provide that the President must ensure that the

distribution of developmental resources is nationally balanced; and

- adding a new clause (3) to provide for the spirit of “One Zambia One Nation” (unity and ethnic diversity) in all appointments by the President referred to in clause (2).

(ii) Article 91: Approvals by National Assembly, by removing reference to the declaration of war in clause (5) so that the declaration of war by the President shall not require approval by Parliament;

(iii) Article 96: Protection of President from legal proceedings, by providing that if the President commences civil proceedings, she/he ceases to enjoy immunity in respect of those proceedings;

(iv) Article 97: Qualifications and disqualifications for nomination as President, by providing a limitation on the age of Presidential aspirants to 75;

(v) Article 99: Election of President, by providing that in the event that a presidential candidate dies or is disqualified for any reason, referred to in clause (7), the running mate becomes the presidential candidate, and he should select a new running mate;

(vi) Article 110: Declaration of War, by deleting references to the prior approval of Parliament before a declaration of war is made.

(vii) Article 120: Ministers and appointments from outside National Assembly, by deleting the number of persons to be appointed as Ministers in clause (1).

(viii) Article 122: Parliamentary Secretaries, by:

- providing for Deputy Ministers in place of Parliamentary Secretaries and for appointment from outside National Assembly, of such Deputy Ministers, who shall not be more than two per Ministry and not sit in Parliament; and

- recasting clause (2) to harmonise the functions therein in view of the arrangement that Deputy Minister will be appointed from outside Parliament, will not be members of Cabinet (which is the policy making body and cannot, therefore, perform the functions referred).

PART VIII: LEGISLATURE

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 125: Establishment of Parliament and vesting of legislative function; 126: Exercise of legislative function; 127: Retrospective legislation; 128: Functions of National Assembly; 130: Presidential assent and referral; 132: Coming into force of Act of Parliament; 133: Acts of Parliament, enactment clause and categorization; 134: Statutory instruments; 137: Qualifications and disqualifications of Members of Parliament; 140: Vacation of office by independent Members of Parliament; 141: Emoluments of Members of Parliament; 143: Code of

conduct for Members of Parliament; 144: Sittings of National Assembly; 145: Powers, privileges and immunities; 146: Procedure of National Assembly; 147: Presiding in National assembly; 150: Committees of National Assembly; Article 151: Power to call evidence; 152: Life and Prorogation of Parliament; 154: Clerk of National Assembly; 155: Officers of National Assembly; 156: Parliamentary Service Commission; 159: Oaths to be taken by Speaker, Deputy Speakers and Members of Parliament; 160: Right to petition; and, 161: Public Access and participation.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

- (iii) Article 129: Money Bills, by providing that only a Minister should introduce a Money Bill.
- (iv) Article 131: Challenge of Bill and reference to Constitutional Court, by clarifying that only “any person” who needs to seek leave of the Constitutional Court and not the thirty or more Members of Parliament;
- (v) Article 135: Elections to National Assembly, by deleting the Article and replacing it with the provisions of Article 144 of the Final Draft Constitution of the Republic of Zambia (NCC) subject to amendment by providing that the President shall not nominate Members of Parliament;
- (vi) Article 136: Composition of National Assembly, by providing for the Mixed Member Representation system in line with Article 135;
- (vii) Article 138: Nominations under party, by deleting the Article;
- (viii) Article 139: Tenure of office and vacation of Member of Parliament other than independent candidate, by providing that there shall be no crossing of the floor by Members of Parliament and that the maximum number of terms in office shall be limited to two;
- (ix) Article 142: Leader of Government Business in National Assembly and leader of opposition, by providing that the Vice President becomes the Leader of Government Business in the House without being a Member of Parliament;
- (x) Article 148: Quorum, providing that fifty percent of the Members of Parliament will form a quorum as opposed to one-third provided in the First Draft Constitution;
- (xi) Article 149: Voting in National Assembly, by providing that the Speaker votes to break the tie referred to in paragraph (b) of clause (2);
- (xii) Article 153: Speaker and Deputy Speakers of National Assembly, by providing the minimum qualification for one to be elected Speaker of National Assembly shall be a first University Degree or equivalent in paragraph (e) of clause (2) and that the two Deputy Speakers shall be elected from among the elected Members of Parliament;
- (xiii) Article 157: President may address National Assembly, by replacing the word “may” with the word “shall”; and
- (xiv) Article 158: Vote of no confidence, by deleting the Article.

PART IX: JUDICIARY

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 162: Courts of Judiciary and establishment; 164: Independence of Judiciary and Code of Conduct; 165: Financial independence of Judiciary; 166: Chief Justice; 168 President of Constitutional Court; 171: Composition for sittings of Supreme Court; 172: Jurisdiction of Supreme Court; 174: Composition for sittings of Constitutional Court; 176: Court of Appeal; 178: Sittings of Court of Appeal; 179: High Court; 180: Jurisdiction of High Court; 181: Supervisory jurisdiction of High Court; 182 Divisions of High Court; 183: Appointment of Judges; 184: Qualification for appointment as Judge; 187: Removal of Judge from office; 188: Procedure for removal of Judge; 189: Oath of office of Judge and judicial officer; 191: Divisions of subordinate

and local courts; 193: Judicial Service; 195: Functions of the Judicial Service Commission; and 196: Chief Administrator of Judiciary.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

(i) Article 163: Vest and exercise of judicial power, by;

- providing for 90 days period within which judgement shall be delivered after conclusion of the case so as to ensure that there are no delays in delivery of judgements and to bind the judiciary to doing what is right;

- providing in clause (5) that except as otherwise provided in this Constitution or any other law or as may be ordered by a court, proceedings of a court shall be in public.

(ii) Article 167: Deputy Chief Justice, by replacing the term “President” with the term “Chief Justice” in clause (2);

(iii) Article 169: Deputy President of the Constitutional Court, by replacing the term “President” with the term “President of the Constitutional Court” in clause (2);

(iv) Article 170: Supreme Court, by adding the words “or such greater number of Judges as may be prescribed by an Act of Parliament” in paragraph (c);

(v) Article 173: Composition of Constitutional Court, by specifying that the Constitutional Court shall comprise not less than seven Judges, in paragraph (c) of clause (1);

(vi) Article 175: Jurisdiction of Constitutional Court, by deleting the words “on matters relating to public interest litigation” in clause (6);

(vii) Article 177: Jurisdiction of Court of Appeal, by replacing the word “appeal” with the word “apply” between the words “may” and “to”, in cause (3) and by deleting clause (4);

(viii) Article 185: Tenure of office of judges, by deleting clause (2) which provides that a former Chief Justice or President of Constitutional Court could revert to be a Judge, after retirement;

(ix) Article 186: Remuneration of Judges, by splitting clause (1) into two separate clauses, one providing for the Judicial Service Commission to determine and review the conditions of service without referring to the Emoluments Commission; and the other providing for Emoluments Commission to determine and review emoluments for judges;

(x) Article 190: Appointment, retirement and removal of judicial officer, by introducing two new clauses, one providing for the Judicial Service Commission to determine and review the conditions of service without referring to the Emoluments Commission; and the other providing for Emoluments Commission to determine and review emoluments for judicial officers;

(xi) Article 192: Judicial Complaints Commission, by:

- (a) providing that the Chairperson of the Judicial Complaints Commission should be one who qualifies to be appointed as Supreme Court Judge in paragraph (a) of Clause (2);

- (b) reducing the number of legal practitioners on the commission from three (3) to two (2).

Further that they should qualify to be Supreme Court Judges, of proven integrity, with 15 years experience and nominated by the Law Association Zambia or a successor body, in paragraph (b) of Clause (2);

(c) including a person with 10 years experience in investigation or law enforcement, with proven integrity to serve as a member of the commission in clause (1), as paragraph (d).

(xii) Article 194: Judicial Service Commission, by:

- providing for the appointment of members of the Judicial Service Commission by the President in clause (1);

- reducing the number of Commission members from fifteen to nine in clause (2) by deleting from the membership of the Commission the following institutions: Civil Service Commission, Public Service Management, Constitutional Court, Supreme Court, Gender Equality Commission and House of Chiefs in paragraphs (d), (e), (f), (g), (l) and (m); and

- replacing the term “Chairperson” with the term “representative” in paragraph (k) of clause (2) so that it reads “representative of the Human Rights Commission”.

PART X: GENERAL PRINCIPLES OF DEVOLVED GOVERNANCE

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 199: Conflict between National and Provincial Legislation; and, 200: Power of Parliament to Repeal Provincial Legislation.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

(i) Article 197: Devolved Governance System, by including the the wording “political, social and economic functions, financial and other resources” and “fully” in clause (1), so that it reads: “The management of the political, social and economic functions, financial and other resources” of the State shall be fully devolved from the national level to the local level while returning at the national level, the executive authority as provided for under this Constitution”; and

(ii) Article 198: Administrative, Legislative and Judicial Competence in Devolved Governance, by:

- deleting the word progressively” in clause (1);
- adding the word “substructures” after the words “provincial and districts levels” in clauses (1) and (2),”.

PART XI: PROVINCES AND ADMINISTRATION

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 202: Provincial Minister, 205: Retrospective Legislation and Bills Affecting Rights and Freedoms, 206: Legislation on Procedure of Provincial Assemblies; and, 208: Staff of Provincial Assemblies.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

- (i) Article 201: Provinces and Provincial Administration, by providing that before the President creates, merges or changes boundaries for provinces, he shall consult relevant stakeholders like traditional leaders, residents of the province and local authorities, while taking into account certain socio-economic and cultural factors before the proposed action is ratified by Parliament.
- (ii) Article 203: Provincial Assemblies, in clause (1), by increasing the number of representatives under items (i), (ii) and (iii) of paragraph (h) from 1 to 3, and to include labour leaders, senior citizens and pensioners therein;
- (iii) Article 204 Functions of Provincial Assembly, by adding a new clause (3) on funding of Provincial Assemblies, so that the expenses of the Provincial Assembly shall be a charge on the Consolidated Fund;
- (iv) Article 207: Provincial Speakers and Deputy Provincial Speaker, by:

- Providing for a Provincial Speaker to come from outside the Provincial Assembly, and clause (1), to read:

“(1) There shall be a-

- (a) Provincial speaker who shall be elected by the members of the Provincial Assembly from among persons who are qualified to be elected as members of the provincial assembly but are not members of the assembly; and
- (b) Deputy provincial speaker of the provincial assembly who shall be elected from among the members of the provincial assembly, taking into account gender balance.”

- Deleting the “first” clause (4) which provided for an organisation whose representative is elected as Provincial Speaker or Deputy Provincial Speaker of Provincial Assembly to nominate another person to replace the one elected.

(v) Article 209: Reserved Power over Non-performing District Councils, by:

- adding a new clause (1) with text from Article 231 (1) of the Mung’omba Draft Constitution to read as follows:

“209 (1) The Central Government, Provincial Government and Local government shall-

(a) exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional, or institutional integrity of either government and shall respect constitutional status, institutions and rights of the other;

(b) Maintain liaison with each other for the purpose of exchange of information coordination of policies, administration and enhancement of capacity.”

- adding a new clause (7) to read as follows:

“Notwithstanding clauses (1) – (6), the Provincial Assembly shall recommend for the appointment of a Tribunal to deal with the challenges of the district Council before the aforesaid clauses

take effect, provided that the concerns of the people are taken into account.”

(vi) Article 210: Legislation on Provincial Administration and Provincial Assemblies, by adding a new paragraph (d) to read, “Parliament shall enact legislation to provide for the composition and procedure for the tribunal to be constituted, to investigate allegations of misconduct or incompetence of a District Council”.

PART XII: LOCAL GOVERNMENT

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 211: System of Local Government; 212: District, Wards and District Council; 213: Functions of District Council; 216: Conduct of Councillor; 219: Vacancies and By-Elections for District Councils; 220: Petitions and Local Government Election Tribunal; 222: Sequestration of Property; 223: Revenue of Local Authorities; 224: Local Government Equalization Fund and Funds for District Council; and, 225: Legislation to further Regulate Districts and Local Authorities.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

(i) Article 214: Election of Councillors and Composition of District Councils, by:

(i) including the word “up to” before the words “three chiefs” in paragraph (e) of clause (2), to read: “up to three chiefs representing all chiefs in the district, elected by the chiefs in the district”;

(ii) increasing the minimum age of representatives of District Councils from 18 years to 21 years in paragraph (b) of clause (3);

(iii) replacing the word “allowances” with the word “emoluments in clause (6).

(ii) Article 215: Mayor, Deputy Mayor, Council Chairperson and Council Deputy Chairperson, by adding a new clause (5) to provide that Parliament would enact legislation to provide for the functions of the Executive Mayor;

(iii) Adding a new provision to stipulate a specific percentage of the total national budget to be disbursed to local governments stipulate, in order to match functions with resources;

(iv) Article 217: Accountability of Councillors, by including the ward as one other area to which the Councillor is accountable to;

(v) Article 218: Tenure of Office and Vacation of Office of Councillor, by adding the words “of a district” at the end of paragraph (a) of clause (2), so that it provides for the office of Councillor to become vacant if the Councillor ceases to be a resident of a district;

(vi) Article 221: Local Government Service Commission, by:

(a) applying the principle adopted in Articles 258 (2) to the effect that any commission established under this constitution shall exercise its functions:

- with dignity, propriety and integrity and avoid the appearance of indignity and impropriety and dishonesty;

- without favor or bias; and

- free of any extraneous influence, inducement, pressure, threat or interference.

(b) applying the principle adopted in paragraphs (a) and (e) of clause (3) of Article 259 to the effect that any commission established under this Constitution shall:

- have the power to appoint its own staff; and

- submit annual reports to the National Assembly on its activities and any other report as provided by or under an Act of Parliament; and

(c) applying the principle adopted in Article 260 to the effect that any commission established under this constitution shall have a Chief Executive Officer who shall be appointed by respective commissions.

PART XIII: CHIEFTAINSHIP AND HOUSE OF CHIEFS

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 227: Concepts and Principles Relating to Chieftaincy; 228: Participation of Chiefs in Public Affairs; 232: Oaths of Members of House of Chiefs; 233: Staff of House of Chiefs; and 234: Legislation on House of Chiefs.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

(i) Article 226: Institution of Chieftaincy, by:

- deleting the words “wishes and aspirations” in clauses (3) and (4);

- replacing the words “appointment and election” with “selection”; and the words “resolved as prescribed by an Act of Parliament ” with the words “taken to the House of Chiefs” in clause (4); and

- replacing the words “appointment and election” with “selection” in clause (5).

(ii) Article 229: House of Chiefs, by deleting the words “on customary and traditional matters referred to it by the President or as may be provided by or under an Act of Parliament” at the end of clause (1);

(iii) Article 230: Functions of House of Chiefs, by replacing the words “local authorities regarding the welfare of a local community” with the word “Government” in paragraph (d) to read: “230 (d) initiate, discuss and make recommendations to Government”;

(iv) Article 231: Tenure of Office and Vacancy, by deleting the words “or is appointed to any public office” in paragraph (d) of clause (2); and

(v) Adding a new provision to the effect that the House of Chiefs shall be an autonomous body with its own staff not subservient to a Government Ministry.

PART XIV: PUBLIC SERVICE AND COMMISSIONS

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Article 235: Values and principles of public service; 236: Conflict of interest; 237: Declaration of assets; 240: Constituting Offices for the Public; 241: Holding of public office; 249: Appointing power; 250: Exercise of power; and, 254: Pension and retrenchment benefits to be paid promptly.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows;

(i) Article 238: Participation in politics, by:

- deleting the words starting from “or takeup to the end of the clause and insert the words “or retire” in between “resign” and “from” so that it reads “A public officer who seeks election to a political office shall resign or retire from the public service”; and

- amending the marginal note to read “seeking election to political office” instead of “participation in politics”.

(ii) Article 239: Code of ethics for professions and other vocations, by

- deleting the words “any profession.....” up to the end of the clause, and inserting the words “public officer” after “for” ” so that it reads “parliament shall enact legislation providing for a

code of conduct and ethics for public officers”

- amending the marginal note to read “code of ethics for public officers” instead of “code of ethics for professions and other vocations”.

(iii) Article 242: Attorney General, by:

- removing the words “which pays emoluments” in clause (2) so that it reads “The person appointed Attorney-General under clause (1) shall not be appointed as a Minister or hold any other public office”;

- deleting paragraph (b) of clause (4) which requires Attorney-General to vacate office upon change of President; and

- replacing the word “principal” with “chief” in paragraph (a) of clause (6) so that Attorney-General is “chief legal adviser to the Government”.

(iv) Article 243: Solicitor General, by:

(a) deleting paragraph (b) of clause (3) which requires Solicitor General to vacate office upon change of President;

(b) including a new clause stipulating that the Solicitor General should not be a minister or hold any other public office.

(v) Article 244: Director of Public Prosecutions, by:

(a) deleting clause (4) which provides for the need for the DPP to seek leave of the court in order to enter a nolle prosequi;

(b) introducing clause (4) of Article 246 as the new clause (4). Clause (4) of Article 246 states that “Parliament to enact legislation to provide for any other functions of the DPP and for decentralization of the functions the DPP to the provinces”;

(c) providing that in respect to clause (4) on the nolle prosequi, the provisions of clause (8) of Article 50 shall not apply to fugitives of law. Clause (8) of Article 60 provides that if a is entered on a person and he/she has not been charged on the same facts within 12 months of the entry of the nolle prosequi, the charge shall be void; and

(d) providing that the DPP may consult the Attorney General, but the final decision should rest with the DPP, in clause (7).

(vi) Article 245: Performance of Functions of Director of Public Prosecutions during absence, illness or other cause, by making provision for the establishment of the office of the Deputy Director of Public Prosecutions whose appointment and removal procedures shall be provided for under an Act of Parliament.

(vii) Article 246: Tenure of Office of Director of Public Prosecutions, by deleting clause (4) and placing its provisions under Article 244 as the new clause (4) where the functions of the DPP are provided for.

(iv) Article 247: Secretary for Government Services, by:

- deleting clause (1), (2) and (4) of the Article and replace it with what is provided for under Article 53 of the current Constitution on Secretary to Cabinet; and

- amending clause (3) of the Article by replacing the term “Civil Service” with the phrase “Public Service at senior level” so that it reads; “a person qualifies to be appointed as Secretary to the cabinet if that person has or has had at least ten years experience in the public service at senior management level”.

(v) Article 248: Permanent Secretaries, by

- deleting the phrase “or outside” in clause (1) and further, delete the term “civil service” and replace with “public service”, so that it reads; “The President shall, on advice of the Civil Service Commission, appoint a Permanent Secretary based on professional qualifications from within the public service, subject to ratification of the National Assembly”; and

- including clause (e) to read “be responsible and accountable for human resources management including proper conduct and discipline of the public officers in the Ministry”.

(vi) Article 251: Retirement of public officers, by deleting the words starting from “the age of sixty years...” up to the end of the clause, so that it reads: “A public officer shall, unless otherwise provided in this Constitution, retire from the public service on attaining the retirement age”; and as a consequence, provide that retirement age shall be prescribed in the relevant subsidiary legislation.

(vii) Article 252: Pensions, gratuity and retrenchment benefits for public officers, by amending clause (6) of the Article by replacing the term “widows” with the term “surviving spouses” so that it reads; “In this Article, “pension benefits” includes a pension, compensation and gratuity or similar allowance for persons in respect of their service as public officers, members of Defence Force and national security agencies or for the surviving spouses, children, dependants or personal representatives of those persons in respect of the service.”

(v) Article 253: Pension to be reviewed, by deleting the words; “upwards periodically and replacing with “by indexing and actuarial assessment” in clause (1) so that it reads; “pensions shall be reviewed by indexing and actuarial assessment to take into account changes in values

of money, or a review of salaries”.

(viii) Article 255: Civil and Teaching Services Commissions, by including a new paragraph (f) to make provision for early childhood, adult and non-formal education in clause (3);

(ix) Article 256: Establishment of Investigative Commissions, by:

(a) including all principles as provided and amended in Articles 258 (2), 259(3)(a) (e), and 260.

This principle should apply to the Investigative Commissions;

(b) including the proposed new clause (f) that commissioners should serve on part time basis.

This principle shall apply to the Investigative Commissions; and

(c) deleting paragraph (d) of clause (1) relating to the establishment of the Police and Public

Complaints Commissions as an Investigative Commission and create a new Article to make

provision for the establishment of the Police and Public Complaints Commission under a

separate heading.

(x) Article 257: Additional Commissions, by:

(a) including all principles as provided and amended in Articles 258 (2), 259(3)(a) (e), and 260.

This principle should apply to the Investigative Commissions; and

(b) including the proposed new clause (f) that commissioners should serve on part time basis.

This principle shall apply to the Investigative Commissions.

(xi) Article 258: Independence, Integrity and Membership of Commissions, by:

(a) removing the word “part” and replace with the phrase “this constitution” in clause (1) so that it reads “A constitution established under this constitution shall exercise its functions”-

(b) deleting clause (3) relating to the removal of Commission members on the same grounds

and procedures as those relating to a Judge and provide for the procedure for removal of

commissioners in an Act of Parliament.

(c) Delete:

- paragraph (a) on the minimum and maximum number of commission members to serve on a Commission and provide for it in an Act of Parliament ; and

- paragraph (b) on qualifications for appointment to the Commission, in clause (4), and provide for it in an Act of Parliament.(xii) Article 259: Financial Independence and Powers of Commissions, by:

(a) Including the word “audited” before the word “annual” in paragraph (e) of clause (3) so that it reads “Shall submit annual reports to the National Assembly on its activities and any other report as provided by or under an Act Parliament; and

(b) by adding a new paragraph (f) to provide for commission members to serve on part time basis.

(xiii) Article 260: Appointment of Chief Executive of Investigative Commissions, by replacing the words “An Investigative” with the words “A Commission” and replacing the word “part” with

“constitution”, so that it reads “A Commission established under this constitution shall have a chief executive officer who shall be appointed by the respective commission”.

PART XV: OFFICE OF PUBLIC PROTECTOR

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The National Convention adopted the following resolutions without amendments:

Articles 261: Establishment of Office of Public Protector; and 265: Limitation of Powers of Public Protector

B. ARTICLES ADOPTED WITH AMENDMENTS

(i) Article 262: Qualifications for Appointment and Conditions of Service, by:

(a) including a new paragraph (c) in clause (1) to read “is non- partisan and not involved in active politics”. The definition of Active politics being, “holding a position in a political party”;

(b) deleting clause (3) providing the Public Protector from holding any other office which pays emoluments and amending paragraph (b) of clause (1) to include “or any other public office” at the end; and

(c) making provision for the establishment of the Deputy Public Protector whose appointment and removal shall be in accordance relevant legislation that governs the operations of the PP’s Office clause (4);

(ii) Article 263: Functions of the Public Protector, by:

(a) adding the phrase “and all state organs including those established under this constitution” after “any state institution” in clause (1) to read “The Public Protector may investigate an action or decision taken or omitted to be taken, as specified under clause (2), by, or on behalf of, any state institutions and all state organs in the performance of an administrative action”; and

(b) deleting paragraph (a) of clause (3) enabling the Public Protector to bring an action before the court and seek a remedy which is available from the court; and

(c) to make provision that when the Public Protector has made a decision that has not been carried out, the PP can make a request for the offender to be disciplined in accordance with the legislation applicable to the concerned officer e.g. constitution of a tribunal by the Chief Justice under the Ministerial Code of Conduct in paragraph (d) of clause (5).

(iii) Article 264: Independence of Public Protector and Funding, by deleting clause (2) of the Article relating to emoluments.

(iv) Article 266: Accountability of the Public Protector, by providing that the Public Protector shall submit an annual report to the National Assembly.

PART XVI: DEFENCE AND NATIONAL SECURITY

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The National Convention adopted the following resolutions without amendments:

Articles 269: Establishment of Police and Prisons Service Commission; 270: Objectives and expenses of Defence Force and National security agencies; 272: prohibition of certain activities in relation to defence and national security; and 273: legislation to further regulate Defence Force and National security agencies.

B. ARTICLES ADOPTED WITH AMENDMENTS

(i) Article 267: Establishment of Defence Force and Functions, by deleting Article 267 and replacing it with the provisions of Article 100 and 101 of the current Constitution;

(i) Article 268: Establishment of national security agencies and functions, by replacing the name

“Zambia Prisons Service” with “Zambia Prisons and Correctional Service” in paragraph (c);
(ii) Article 271: Deployment outside Republic, by amending the Article to allow the President to deploy security personnel at any time and report to Parliament afterwards;
(iii) The Draftspersons to clarify the status of Zambia National Service and Zambia Wildlife Authority with regard to Article 273.

PART XVII: PUBLIC FINANCE AND BUDGET

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 275: consolidated Fund; 276: Withdrawal from Consolidated Fund; 277: Supplementary Expenditure in advance of Appropriation; 278: Compensation Fund; and 283: Public Debt

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

(i) Article 274: Imposition of Tax, by adding the term “or authority” before the word “shall”, so that it reads:

“Where legislation, enacted under clause (1), confers powers on any person or authority to waive or vary a tax imposed by that legislation, that person or authority’ shall, after exercising those powers, make a report to the National Assembly.”

(ii) Article 279: Annual Financial Estimates, by deleting “that financial year” and replacing it with the phrase “the next financial year” in clause (3), so that it reads; “in any year where a general election takes place, the President shall cause to be prepared and laid before the National Assembly, within ninety days of the swearing in of the President, estimates of revenue and expenditure of the Government for the next financial year.”

(iii) Article 280: Budget Legislation, by:

- introducing the word “planning and” in the marginal note, so that it reads; “Planning and budget legislation”;

- deleting the phrase “the annual budget and estimates of expend”, so that the remaining provision reads: “Parliament shall enact legislation relating to planning and budgeting”;

- deleting paragraphs (a) to (f);

(iv) Article 281: Appropriation Act and Supplementary Appropriation Act, by replacing the words “in the current financial year” with the words “before expenditure” in clause (2), so that it reads: “Where legislation, enacted under clause (1), confers powers on any person or authority to waive or vary a tax imposed by that legislation, that person or authority’ shall, after exercising those powers, make a report to the National Assembly before expenditure.”;

(v) Article 282: Borrowing and Lending by Government, by deleting clauses (5) and (6); providing for the National Assembly to authorise Government to enter into an agreement to give loan or grant out of the Consolidated Fund;

(vi) Article 284: Financial report of Government, by:

- replacing the phrase “ six month” with the phrase “three months” in clause (1), so that it reads:

“The Minister responsible for finance shall, within three months after the end of each financial year, prepare and submit to the Auditor-General the financial report of the Government in respect of the proceeding financial year.”;

- deleting clauses (2) and (3);

- reducing the time frame within which the Minister responsible for finance shall lay the financial report of the Government with the Auditor-Generals Opinion before the National Assembly after the end of a financial year in clause (4), from nine months to six month;

(xiv) Article 285: State Audit Commission, by:

(a) including all principles as provided and amended in Articles 258 (2), 259(3)(a) (e), and 260. This principle should apply to the Additional Commissions;

(b) including the proposed new clause (f) that commissioners should serve on part time basis. This principle shall apply to the Additional Commissions;

(c) providing that the Audit Commission shall have oversight administrative functions on the operations of the Auditor General and not interfere with the Audit functions of the Office of the Auditor General in clause (2); and

(a) including persons who have worked in the public service and have since retired to qualify to be appointed a members of the State Audit Commission in paragraph (a) of clause (4).

(xv) Article 286: Auditor General, by:

(a) adding the words “shall be autonomous ”after the words “public office”, in clause (2), so that it reads “The office of the Auditor General is a public and autonomous office”;

(b) including provisions of clause (2) of Article 287 which relates to performance of functions of the Auditor General as the new clause (4) of the Article; and

(c) deleting clause (4) of the Article and replacing it with provisions of the current Constitution on resignation, removal and retirement provided in Article 122 of the current Constitution.

(xvi) Article 287: Funding of Auditor General, by:

(a) Deleting the words “and the staff of the office of the Auditor General” in clause (2) so that it reads “In the performance of the functions conferred on the Auditor General under this constitution or any other law, the

Auditor General shall not be subject to the direction or control of any person or authority”; and
(b) deleting clause (2) which reads “In the performance of the functions conferred on the Auditor General under this constitution or any other law, the Auditor General shall not be subject to the direction or control of any person or authority” and moving its provisions to Article 286.

(xvii) Article 288: Functions of Auditor General, by:

- (a) deleting the term “Government” and replace it with the term “Executive” in subparagraph (i) of paragraph (a) so that it reads “The Executive, the Judiciary, the Legislature, provincial administration, provincial assemblies and local authorities”;
- (b) including the word “public” before the word “University” in subparagraph (ii) of paragraph (a) so that it reads “all offices financed wholly or partly from public funds including the public Universities, the Bank of Zambia, State organs and State institutions”;
- (c) including the words “and all other spending agencies” at the end in subparagraph (i) of paragraph (a) so that it reads; “The Executive, the Judiciary, the Legislature, provincial administration, provincial assemblies and local authorities and all other spending agencies”; and
- (d) introducing a new clause providing that the Auditor General shall submit a report not later than 9 months after the end of each financial year simultaneously to the President and the National Assembly.

(xviii) Article 289: National Fiscal and Emoluments Commission, by:

- (a) amending the marginal note of Article 289 to read “National Equalization and Emoluments Commission”;
- (b) providing for the application of all principles as provided and amended in Articles 258 (2), 259(3)(a) (e), and 260. This principle should apply to the National Fiscal and Emoluments Commission;
- (c) including the proposed new clause (f) stating that commissioners should serve on part time basis. This principle shall apply to the National Fiscal and Emoluments Commission;
- (d) deleting paragraph (a) of clause (2) which on recommending an appropriate percentage of the total annual revenue for the Republic for payment into the Local Government Equalization Fund and constituency development fund;
- (e) introducing a new clause to provide that the commission shall exercise its functions with the following guiding principles, in paragraph (b) of clause
(2): Equal pay for equal work, Transparency and accountability, Sustained harmonization, Fiscal responsibility, and Equity; and
- (v) adding provisions providing:

- that the disposal of State assets that or major asset shall not be sold, transferred or disposed of, except with prior approval of the National Assembly; and

- for public procurement.

PART XVIII: CENTRAL BANK

A. ARTICLES RETAINED WITHOUT AMENDMENTS

None

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

(i) Article 290: Central Bank, by:

- providing in clause (1) that there shall be established the Bank of Zambia which shall be the Central Bank of the Republic of Zambia and whose operations and functions shall be prescribed under an Act of Parliament;

- deleting clauses (3) and (4) providing for the authority of the Bank of Zambia to be vested in its Board;

(ii) Article 291: Governor of the Central Bank, by:

- deleting paragraphs (a) to (c) providing for a Governor to be a citizen and the experience and integrity of the person;

- deleting in paragraph (d) of clause (1), the following words “under prescribed terms and conditions” and merging clause (1) with remainder of clause (1) (d) so that the Article reads : “There shall be a Governor of the Bank of Zambia who shall be appointed by the President, subject to ratification by the National Assembly.”; and

- deleting clause (2), (3) and (4) providing for the Governor to be the chairperson of the Board, payment of emoluments and taking of official oath of the Governor.

(iii) Article 292: Legislation of Bank of Zambia, by deleting the entire article.

PART XIX: LAND, PROPERTY, ENVIRONMENT AND NATURAL RESOURCES

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 294: Vesting of Land; 295: Classification of Land; 296: State Land; 297: Customary Land; 301: Legislation on land; 303: Protection of Environment and Natural Resources; and 305: Legislation relating to environment and natural resources.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

(i) Article 293: Principles of Land Policy, by:

- adding the phrase “and the recognition of indigenous cultural rights”, at the end of paragraph (b) of clause (1);

 - deleting the word “productive” and adding the word “use” after the word “sustainable” in paragraph (c) of clause (1);

 - deleting the word “cost” in paragraph (d) of clause (1);

 - replacing the words “also” and “economy” with the words “shall” and “economies”, respectively, in paragraph (g) of clause (1); and

 - including new paragraphs: (h) [“land use planning shall be done in a consultative and participatory manner”], (i) [“a reasonable percentage of the investment proceeds in land shall be retained by the local communities, while also recognising usufruct rights in land use”] and (j) [“where investment requires displacement of people, compensation shall be provided”], in clause (1);
- (ii) Article 298: Land tenure, use and alienation, by adding clause (3) to provide for customary land that is converted to State land to revert to customary land at the expiry of the purpose for which it would have been converted to State land or if it is repossessed;
- (iii) Article 299: Lands Commission, by:
- (a) Including all principles as provided and amended in Articles 258 (2), 259(3)(a) (e), and 260. This principle should apply to the Lands Commissions; and
 - (b) including the proposed new clause (f) that commissioners should serve on part time basis. This principle shall apply to the Additional Commissions.
- (iv) Article 300: Functions of Land, by:
- (a) introducing a new clause (d) to provide that the Commission should secure and conserve land for future generations and not alienate land in such a manner that prejudices future generations; and
 - (b) introducing a new clause (f) which provides that the Lands Commission shall ensure equitable distribution of land.
- (v) Article 302: Principles of environmental and natural resources management and development, by:
- Adding the words “cultural” and “environmental” after the word “economic” in paragraph (a) of clause (1);

- adding the word “legislation” after the word “policy” in paragraph (b) of clause (1);
- adding the words “culturally” and “sustainable” in paragraph (d) of clause (1) as follows: “the conservation and protection of ecologically and culturally sensitive areas shall be conducted in a sustainable manner”.
- Adding the phrase “and that of cultural heritage”, between the words “species” and “shall”, in paragraph (e) of clause (1); and
- Adding the words “energy efficiency” and “recycling” as follows: “the energy efficiency, use of renewable energy sources and recycling shall be promoted” in paragraph (h) of clause (1).

(vi) Article 304: Utilisation of natural resources and management of environment, by:

- Replacing the word “minimise” with the word “eradicate”, in paragraph (b) so that the Constitution provide for “eradication” of waste;
- Adding the words “local community” as follows: “encourage public and local community participation and benefits”; and
- including a new paragraph, (h), in Article 304 to read:

“Establish and implement mechanisms that address Climate Change”; and

- including a new paragraph, (i), to read: “protect natural and cultural heritage”.

(vii) Additional recommendation by defining the words “land” and “environment” in Article 311.

PART XX: AMENDMENT OF THE CONSTITUTION

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Articles 306: Amendment of Constitution; 307: Amendment without Referendum; and 308: Amendment by Referendum

PART XXI: GENERAL PROVISIONS

A. ARTICLES RETAINED WITHOUT AMENDMENTS

The Convention resolved to adopt the following Articles without amendments:

Article 309: Official language and use and status of local language; 310: Appointments; 312: Interpretation of Constitution; 313: Appointments; 314: Person, number and grammatical variation; 315: Computation; 317: Implied Power; 318: Power to make regulations, rules, etc., includes power to revoke or amend; 319: Time for exercise of power; 320: Exercise of power between publication and commencement of Acts.

B. ARTICLES ADOPTED WITH AMENDMENTS

The Convention resolved to adopt the following Articles with the amendments as follows:

- (i) Article 311: Definitions, by referring it to the Drafters to include the definitions of certain terms and redefine some terms which are not clear so as to enhance understanding and avoid ambiguities in interpretations; and
- (ii) Article 316: Power to appoint includes power to remove, by referring it to the drafters to examine the implication of replacing the word “Under” with the words “subject to” at the beginning of the Article.

RESOLUTION BY THE CONVENTION ON THE MODE OF ADOPTION OF THE CONSTITUTION

Apart from considering the provisions of the First Draft Constitution, the Convention felt duty bound to resolve on two issues as follows:

(i) Mode of adoption of the New Zambian Constitution

The Convention resolved that the new Zambian Constitution, once completed, be adopted through a National Referendum, which should be held within 12 months from the time of submission of the Final Draft Constitution to the President of Zambia and the people. This is because such a popularly developed Constitution need to allow for a broader consensus by the people of Zambia on its adoption.

(ii) The Barotseland Agreement, 1964

The Convention resolved to refer the matter of the Barotseland Agreement, 1964, to the two parties (ie. The Government Republic of Zambia and the Barotse Royal Establishment) to urgently discuss with a view of finding an amicable solution to the issue. This was in view of the delicate nature of the matter and that voting on it with regard to whether it should be incorporated in the new Constitution or not, could have far reaching implications.