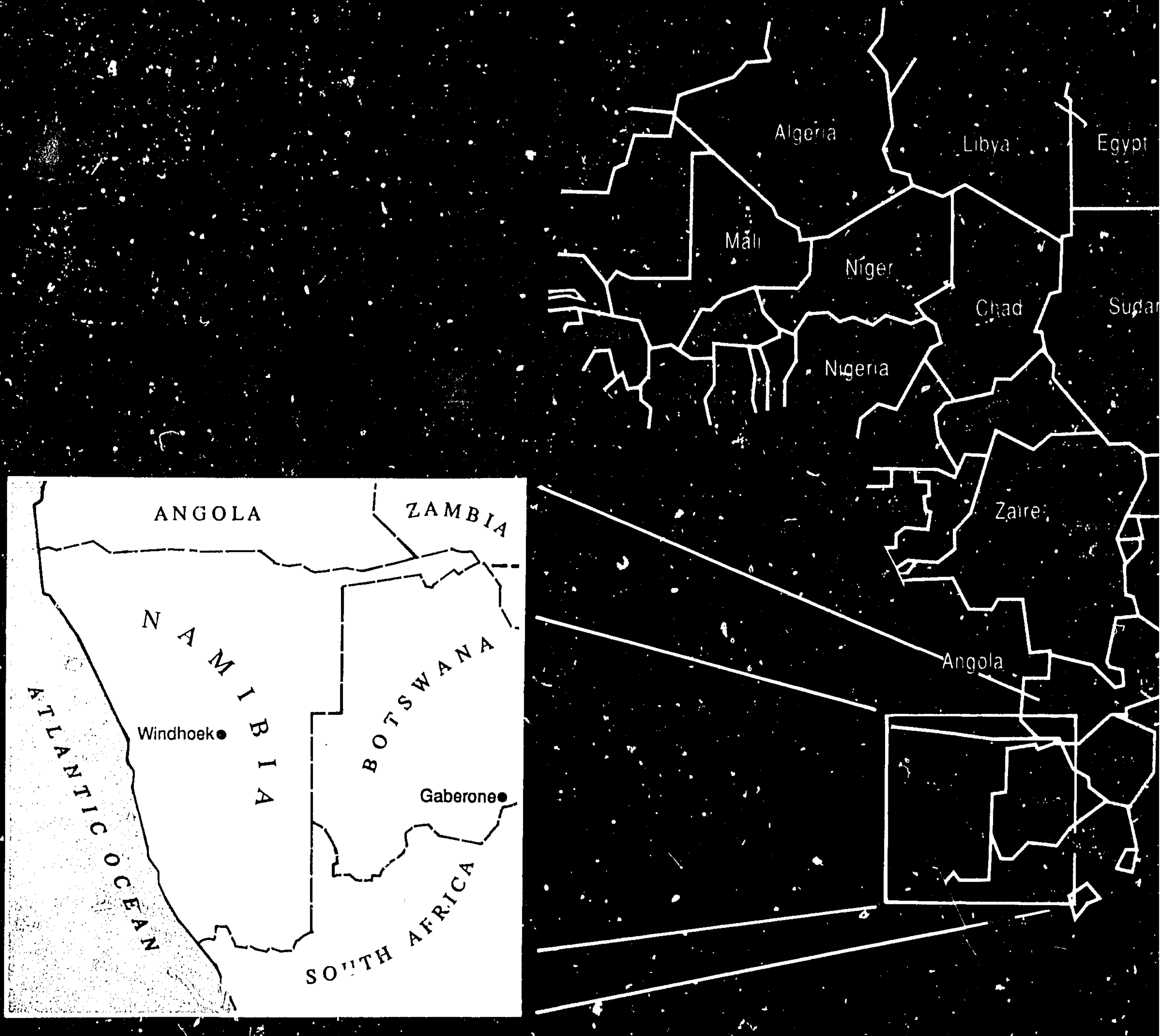
THE AGENCY FOR INTERNATIONAL DEVELOPMENT
PRESENTS

# Critical Issues
## For American Investors in
# Namibia



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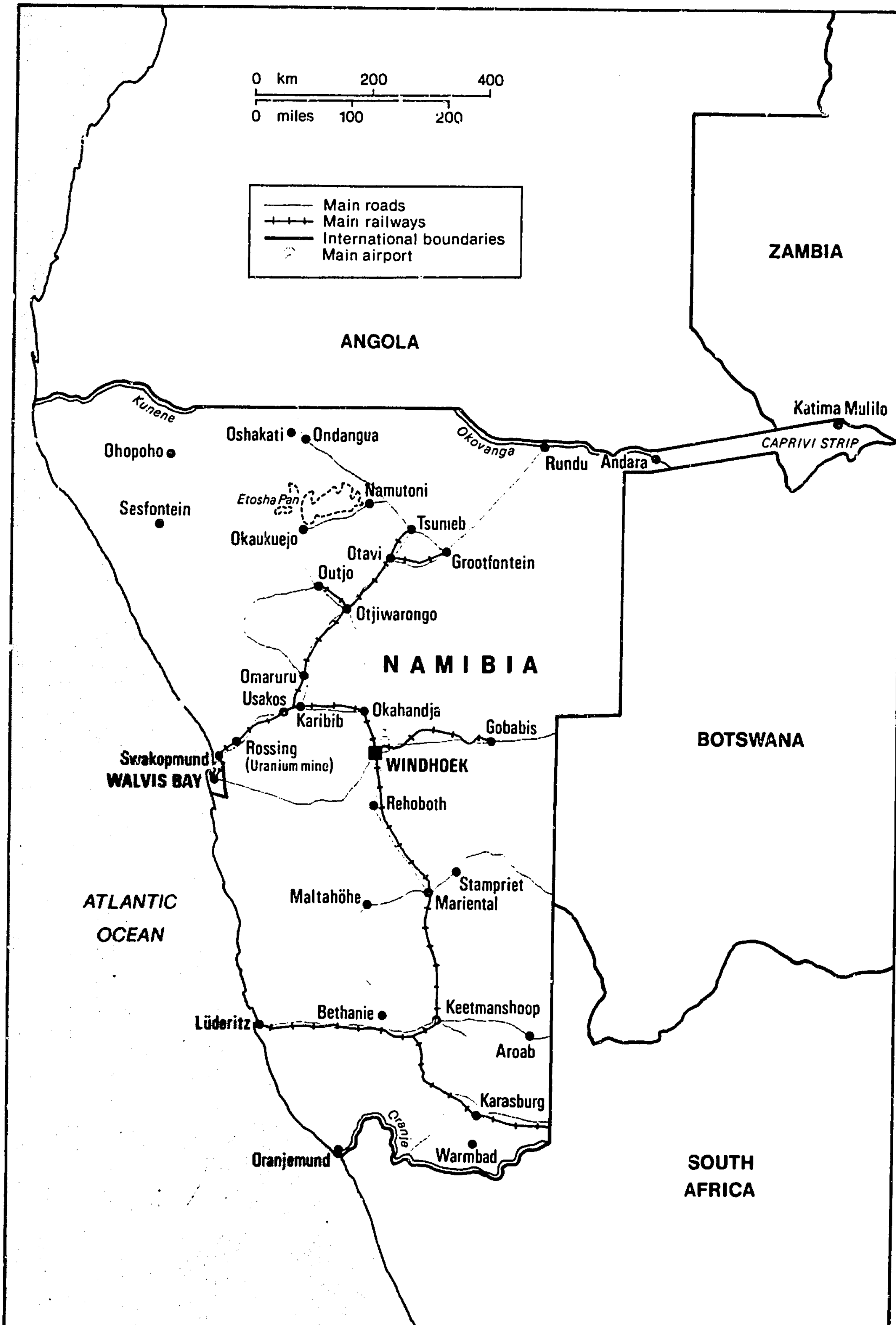
# Namibia

Prepared and published by
Business International
40 Duke Street, London W1A 1DW
United Kingdom

# Namibia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Ohopoho
Rundu
Andara
Namutoni
Etosha Pan
Sesfontein
Tsumeb
Okaukuejo
Otavi
Grootfontein
Outjo
Otjiwarongo
NAMIBIA
Omaruru
Usakos
Okahandja
Karibib
Gobabis
Rossing
(Uranium mine)
Swakopmund
WINDHOEK
WALVIS BAY
BOTSWANA
Rehoboth
Stampriet
Mariental
Maltahöhe
ATLANTIC
OCEAN
Keetmanshoop
Bethanie
Lüderitz
Aroab
Karasburg
Orange
Warmbad
Oranjemund
SOUTH
AFRICA

**BASIC DATA:** **NAMIBIA**

| | |
|---|---|
| Land Area: | 823,145 square kilometers (excluding the Walvis Bay area of 1,124 square kilometers) |
| Population: | 1.3 - 1.6 million |
| Main Towns: | Windhoek 160,000 (estimate 1990)<br>Rundu 15,000<br>Swakopmund 14,000 |
| Climate: | Semi-arid and sub-tropical |
| Languages: | English (official), Afrikaans, Kwanyama, Ndonga, Herero, Nama and German |
| Measures: | Metric system |
| Currency: | South African rand (R) = 100 cents. Average exchange rate for 1990: R2.586 = $1 |
| Time: | 2 hours ahead of GMT |

# Contents

# Executive Summary

Namibia is well on the way to establishing one of the most attractive investment climates in Africa. The government has taken the initial and crucial step in providing an enabling environment conducive to foreign business by enacting a foreign investment act in December 1990 which sets out visible and clear ground rules for the participation of overseas investors in the economy. Although this does not of itself provide specific incentives in the form of tax holidays, export or regional grants, the government is considering a package of possible incentives to be published at a later stage. The fact that the act was passed with all-party support within nine months of Namibia's independence is in itself indicative of the generally positive attitude towards the promotion of inward investment flows.

Of equal importance is Namibia's position as a full member of the Common(Rand) Monetary Area (CMA) and the Southern African Customs Union (SACU). The former groups Namibia with South Africa, Lesotho and Swaziland and the latter the same countries plus Botswana.

The government is moving ahead with the establishment of an independent financial system and plans to introduce a national currency, the Namibian dollar, in about two years time. The dollar will be at parity with the rand for at least an initial period and Namibia will remain within the CMA while it evaluates the possible benefits of delinking its currency from the rand. At present investors are in a position to benefit from the two-tier exchange rate system of a commercial and financial rand, by using the financial rand for establishment of new investments. However, transactions at the preferential financial rand rate are subject to the strict exchange controls. Applications for financial rand by nonresidents will be judged by the exchange control committee on what contribution the investment concerned will make increasing productive economic activity and providing employment to Namibians.

The two-tier exchange rate system may be abolished by South Africa in the not too distant future, now that country's external debt position has improved, investors therefore have a limited period in which to take advantage of the present system.

The government has stated that once Namibia introduces its own currency, the intention will be to introduce a more liberal exchange control regime. This will in practice depend on the strength of Namibia's balance of payments position and its accumulation of sufficient foreign exchange reserves to provide normal import cover. At present dividend remittances to overseas investors are made at the commercial rand rate.

Namibia's membership in the Southern African Customs Union (SACU) has a twofold significance for overseas business. The main disadvantage is that exporters face a high external tariff comprising a basic customs duty and in the case of luxury items a scaled tax that can be as high as 110%. This provides a significant competitive advantage to South African companies who are exempt from most of these taxes and already have a strong position as suppliers to the Namibian market. Given that Namibia is keen to diversify trade and reduce dependence on South Africa, the government has indicated it is looking at ways of improving the competitive position of non-SACU firms. One measure under consideration is to exempt sales to government organizations from customs duty while duty imposed on certain products, including luxury goods such as automobiles, may be reduced or abolished.

On the other hand, US and other overseas firms establishing a direct presence in Namibia can trade free of customs duty with South Africa and other SACU members. This is particularly important given that the small size of the Namibian market and low purchasing power of the bulk of the population means limited internal trade volumes. The access to a larger market provided within SACU offers the economies of scale that may make a given investment more worthwhile.

The government has made clear that it would wish to facilitate investments in value-added manufacturing activities that have an export potential and Namibia's membership of SACU make it a good base for exporting to the region. To this advantage can be added those of a sound local financial services sector, excellent infrastructure between the principal centers, and a generally accessible bureaucracy.

Senior members of the government are fully accessible to potential investors wishing to discuss particular projects, and the investment center recently established within the Trade and Industry Ministry is intended to function eventually as a one-stop investment clearing house. Another feature of importance is the use of English as the official language and it is also steadily replacing Afrikaans as the main business language.

### The Role of Private Enterprise

The private sector is predominant in the commercial economy and most mines, manufacturing plants and farms are owned by companies, partnerships or individuals. There is as yet no stock exchange in Namibia, but a proposal for the establishment of one is being considered by the government. Most large concerns are either subsidiaries of South African or other nonresident companies, family-owned businesses or sole proprietorships. As a result business ownership is concentrated in relatively few hands and at present few commercial concerns are operated by black entrepreneurs. The most extensive black-owned businesses are in the north and engaged predominantly in the retail trade.

Local companies are engaged primarily in manufacturing, financial services, transport and tourism and the principal industrial activities are food processing, brewing, steel and other structural metal products, building materials, plastics, leather goods and textiles. However, in many cases the final production process takes place outside Namibia, usually in South Africa. A case in point is cereals- although wheat is milled locally production of breakfast cereals takes place in South Africa.

Firms from South Africa enjoy a major share of the market for a number of reasons apart from the close administrative and financial links characterizing pre-independence Namibia. Through serving a larger market in South Africa these firms enjoy economies of scale which enable them to produce goods in sufficient volume to sell at reasonable prices in Namibia. The effect of the SACU tariffs protect these companies from outside competition, while local firms have frequently claimed predatory pricing tactics have been used to undercut attempts to compete in the domestic market.

The development of secondary industries involving value-adding to locally available natural resources is encouraged by the government as one means of diversifying sources of supply from the present heavy dependence on South Africa. Although immediate trade opportunities to service the Namibian market may be limited, establishing a local presence is a way of gaining a foothold in the region.

While the Foreign Investments Act provides for equal treatment of nonresident and foreign firms (including those from South Africa) applications to establish manufacturing capacity where there is import substitution or export potential will be regarded with particular favor. Innovative companies could find market niches not so far identified - an example would be the local assembly of electronic capacitators for regional export which would also have the advantage from the government's point of view of providing skills training to Namibians.

**The Regulation of Foreign Investment**

Foreign investors do not need formal approval from the government to locate in Namibia although there are advantages in applying for "status investment" in terms of the Foreign Investments Act, 1990. Companies are free to register locally either as externally-owned or locally incorporated concerns subject to standard regulatory procedures. However, it would almost certainly be beneficial for most potential investors to discuss their proposed investment with the government first, since applications to use the financial rand, for example, will be assessed in terms of the contribution to Namibia's development priorities.

In the mining sector, mineral rights are vested in the state, as was the case prior to independence, and the new mines and minerals act prescribes standard conditions for the granting of exploration and mining licences. These include an approved work schedule and indication of financial status. The state will exercise a similar, mainly regulatory, role in respect of oil exploration concessions, with bids from oil companies for offshore rights due to be invited by the end of this year. Mining and energy are the two key areas where the state reserves the right to participate in production activities, in terms of the Foreign Investments Act.

The major points of interest to investors in the Foreign Investments Act are that it guarantees title protection and the right to repatriate capital and profits. Foreign investors are entitled to invest or engage in any business activity which any Namibian citizen or corporate entity may undertake. Under certain circumstances the Minister of Trade and Industry can issue a Certificate of Status Investment with regard to a particular foreign investment in Namibia. This entitles the company or individual concerned to certain additional guarantees in return for meeting a number of specified criteria.

The guarantees principally concern the right to purchase freely convertible foreign currency to meet overseas financial obligations, such as loan finance, arising from the investment. Foreign currency will also be made available for the transfer of profits and dividends out of Namibia, as well as proceeds arising from the sale of the enterprise concerned. The re-investment of funds arising from these and other investments also qualify for consideration as status investments.
The criteria applied by the government in considering applications for status investment comprise:

* the size of the proposed investment;
* the extent to which the proposed investment is likely to contribute towards Namibia's development objectives;
* the utilization of local resources, including labor and natural resources;
* increases in local employment opportunities and provisions for training of Namibians;
* the earning or saving of foreign exchange;
* generation of economic growth in the under-developed regions of the country;
* the advancement of Namibians who have been educationally, economically or socially disadvantaged by past discriminatory laws and practices;
* equal opportunities for women;
* protection of the environment.

These criteria are not to be applied rigidly, however, and are rather to be regarded as a set of principles designed to ensure that overall a given investment is so structured as to strengthen the Namibia economy and the well-being of its people to the maximum. The threshold value of qualification for a status investment is not therefore stipulated, although a minimum figure of $200,000 has been cited in a preliminary draft of the investment code.

The government's investment-friendly approach was highlighted at the Private Sector Investment Conference (PSIC) held in Windhoek from February 3-6, 1991 in which some local and foreign investors participated. In his statement to the opening session of the conference on the country's enabling environment, the Finance Minister, Dr Otto Herrigel, said "I can give you the assurance that the Act will be applied in a flexible manner because our objective is to facilitate and encourage investment rather than to put obstacles in its way".

**Joint Ventures**

In addition to a liberal administrative regime another positive feature of Namibia's investment climate is the availability of a wide range of potential local partners for the formation of joint ventures by investors. Establishing joint ventures has a number of attractions, including familiarity of the local partner with the domestic market and operating conditions while they may also be able to assist in the raising of local finance through the Namibian commercial banking system.

Information on the availability of suitable local partners for projected investments is shown in Appendix Three. The First National Development Corporation (FNDC), which has acted for the past decade as the main investment promotion agency has a detailed list of potential projects in the different sectors of the economy. Most of the larger local companies, subsidiaries of South African and some other foreign companies are members of the Namibian Chamber of Commerce and Industry (NCCI), which compiled a list of companies actively looking for overseas partners for the PSIC. The Namibian National Chamber of Commerce and Industry's (NNCCI) membership comprises mainly smaller, black Namibian firms or individual entrepreneurs and has a wider regional spread. It is therefore a particularly useful contact point for investors considering small scale activities or investment outside the main urban and industrial centers of the country.

Given the high degree of penetration of the Namibian market by South African companies, investors need to be aware that they may find that they have to deal through South African subsidiaries or set up joint ventures with South African companies. This particularly applies in the manufacturing sector where large South African industrial groups such as Anglo American, Barlow Rand, Gencor and Rembrandt Group operate through a number of Namibia-based affiliate or subsidiary companies.

In addition there are two other sectors, mining and fishing, where joint venture partners are available and indeed may be essential participants for the feasibility of an investment. Most known mineral deposits in Namibia are held under claim by exploration and mining firms which means that overseas investors looking for an immediate prospect rather than carrying out exploration programs of their own will need to form joint ventures to gain access. It was stressed by the director of Geological Survey at the PSIC that there were few known deposits waiting to be picked off the shelf. Of assistance here would be the local organization representing mineral prospecting companies whose members hold a good proportion of the current exploration grants. A full list of the current areas held under claim on open file is obtainable from the Ministry of Mines and Energy.

In the fisheries sector, access to Namibia's fishing grounds within the 200 mile exclusive economic zone (EEZ) proclaimed after independence, is subject to controls in order to conserve resources from overfishing. Quotas are allocated annually setting total allowable catch (TAC) levels for the main species - pilchard, hake, horse mackerel and lobster. The government is seeking to develop a Namibian fishing industry - including an expanded fishing fleet and onshore processing facilities - and for this purpose joint ventures with outside investors are regarded as particularly appropriate. The quota allocation for the 1991 season also sets aside 15% for new entrants to the industry. Several local companies have already formed joint ventures with outside investors and the hitherto dominant South African-controlled fishing cartel is crumbling.

**US Investment in Namibia**

At present US companies are fairly thin on the ground in Namibia and the main sector in which they are present is oil supply and distribution. This reflects the fact that Namibia was included in the provisions of the 1986 Comprehensive Anti-Apartheid Act (CAAA) and the impact of the widespread disinvestments by US firms from South Africa in subsequent years, which also affected subsidiaries in Namibia. Thus Mobil Oil in South Africa and Namibia is no longer US-owned. Namibia was exempted from the sanctions imposed under the CAAA by President Bush on March 21, 1991. Caltex is one of six firms (including Mobil) which import and distribute refined petroleum products and lubricants on the Namibian market. US firms are also active in the oil exploration sector. Carson Services Inc carried out an extensive aeromagnetic survey of northern Namibia at the end of 1990 under contract to Overseas Petroleum Investment Corporation of Taiwan. The corporation is conducting exploration in a huge 250,000 square kilometers concession obtained under a leasing agreement with Etosha Petroleum, a subsidiary of Brilund Mining of the USA, which originally acquired exploration rights in the 1960s.

US firms have a strong presence in the Namibian market as suppliers of high-value products in the aviation, mining, agriculture, communications and construction sectors. The domestic fleet of the national airline Namib Air comprises three Beechcraft 1900s while Cessna aircraft are in wide use for charter and private flights. Vehicle equipment firms such as Caterpillar are represented through local importing agents and distributors.

## The Case for Investing in Namibia

The attractions of Namibia to investors are essentially three-fold: the commitment by the government to the creation of an enabling environment conducive to overseas investors; Namibia's significant economic potential, particularly as regards natural resources; the country's geographic location as part of a wider regional market in which trade barriers are largely absent.

Although economic growth has largely been stagnant over the past decade due to a particularly unfavorable combination of factors, including the impact of a protracted drought of the early 1980s, the political disincentives to outside investment prior to independence and fluctuating world mineral prices, high local inflation rates and the tight fiscal and monetary policy applied by South Africa. Growth picked up in 1987-88 due to more favorable export markets for diamonds and other minerals, but in 1989 growth was virtually zero. The current recession is largely a reflection of contraction in the South African economy and lower world mineral prices. The government has sought to stimulate growth by raising capital spending which combined with its policies of fiscal stability are likely to engender a recovery during 1991.

The economy is potentially one of the most productive in Africa and its varied spread of natural resources comprising exploitable mineral deposits, fisheries and marine resources, as yet under-utilized agricultural resources outside the livestock sector, mean the country has overall an exceptionally high level of resources per capita. Other advantages comprise the modern transport and communications system, well-developed power and water network, and a generally high standard of well-maintained infrastructure. There are gaps in infrastructure provision, especially in northern Namibia and rural areas outside the developed commercial farming districts. The government has targeted the expansion of infrastructure and other services as a priority for its own capital investment and for external aid programs. Where lack of infrastructure could form a constraint on investment, such as in the case of mining or energy developments, the government has indicated it would consider taking on the task of providing the necessary facilities. This is a policy that has been used successfully by Botswana to encourage capital-intensive mining developments, of which the Sua Pan soda ash project is the most recent example.

Business operations in Namibia are facilitated both by the liberal regulatory environment and the existence of a small, but sophisticated banking system, and skilled management resources. There are shortages of skilled personnel in some areas, for example engineers, and at present much of the workforce is unskilled due to the disparities in educational provision and training opportunities between the black majority and white minority which characterized pre-independence Namibia. The government is taking effective measures to improve the educational system and the provision of training to upgrade the general skills level of the majority of the population while looking to investors to make a contribution by instituting training programs as part of their commitment to the country.

One problem area at present is in the provision of work permits to expatriates which are being tightly controlled in order to maximise employment opportunities for Namibian citizens. However, given the government's commitment to facilitating investment specific applications related to new undertakings which are viewed as making a contribution to Namibia's overall development objectives are likely to be given priority.

Namibia has received substantial aid pledges from the international community to assist the government to fulfil these objectives and to contribute to the reconstruction of the economy. At the donors' conference held in New York from June 20-22, 1990, $200 million was pledged towards the first year of Namibia's reconstruction and development program and this aid is now in the process of being disbursed. The US is contributing an initial $10 million in grant aid which is being allocated mainly for education.

The availability of donor aid has a two-fold significance for US investors who may be able to tap aid finance in support of certain projects while aid-funded improvements to infrastructure and social provision for the majority of Namibia will have a beneficial impact on the business operating climate by opening up additional possibilities. For example, improved infrastructure in parts of the north may make the location there of investments designed to process raw materials or to service the market more attractive.

Namibia also needs to be viewed as part of a regional market, including South Africa, in which trade barriers are minimal. Namibia's potential as a base for exporting to the region is therefore an important element of any assessment of the country's investment attractions. The major changes now underway in South Africa are another consideration with the prospect that this will ultimately result in closer economic and trade links between that country and its neighbors in southern and central Africa, including the ten-members of the Southern African Development Coordination Conference (SADCC), some of whom are also members of the larger Preferential Trade Area for East and Southern Africa (PTA).

A longer term prospect is the developing of trade with Angola once conditions of peace in that country enable economic development to resume. Namibia's close commercial ties with South Africa, its developing links with neighboring states - especially Botswana, Zambia and Zimbabwe - and the long-term potential of Angola are therefore important elements of the overall Namibian investment opportunity.

## Investment Opportunities in Namibia

Despite the limitations of Namibia's small market the country offers a wide range of investment opportunities for US commerce and industry. The sectors of primary interest which constitute the core of the country's productive capacity are mining, fisheries, agriculture and manufacturing. Tourism is a sector which the government is seeking to expand and diversify by attracting a greater range of visitors from overseas, subject to environmental constraints on the volume of tourists that can be handled, while investors will have new opportunities in the energy sector when the government invites bids for offshore exploration permits.

The sectors offering the best investment opportunities to US investors can therefore be summarized as:

**Mining:** Mineral exploration - gold, base metals, industrial minerals, processing technology (for base minerals currently unprocessed or semi-processed), supply of mining equipment. It should be noted that although some 880 prospecting licences are currently registered with the Ministry of Mines and Energy, only some 150 are held by locally active companies or individuals. The main minerals currently produced are gem diamonds, uranium oxide, blister copper, refined lead, zinc concentrates, marble, lithium, salt and other industrial minerals, semi-precious stones. Diamonds are exported in uncut form and although sorting is carried out locally there is no processing within Namibia. The establishment of a diamond cutting and polishing operation would fit well with the government's strategy of increasing local value-added. There are opportunities also in the development of suitable technology for offshore diamond mining.

Opportunities for mineral processing include zinc, currently refined in South Africa, and tin. The only mine producing tin is currently on a care and maintenance basis but will probably reopen when world prices recover. There are also tin deposits elsewhere in Namibia. Tin was exported in concentrate form for processing into tin plate in South Africa and would provide the raw material for a local canning industry. Installation of a zinc fuming plant would allow recovery of zinc from the large slag dumps at the Tsumeb mine which also contain high concentrations of germanium. Increased opportunities for the sale of mining equipment are likely to flow from a recovery in exploration activity and the desire to broaden supply lines,

**Energy:** There will be significant opportunities for the supply of equipment once offshore oil exploration gets underway and US suppliers should be well positioned given that US oil firms will be among those applying for exploration permits. Should a decision be taken to develop the offshore Kudu gas field there will be a need for production inputs of many types, including platforms, pipelines, pumping stations, as well as onshore facilities. It is envisaged that gas would be piped ashore for conversion in a liquefaction plant. The government would be looking to establish such a facility on Namibian soil, although South Africa would be the major market for gas and an alternative or additional option would be to pipe gas ashore to the Cape Province.

In the electricity sector, Namibia is considering the development of an additional hydroelectric plant at Epupa on the Cunene river, with a 450 mw capacity to supply the country's future needs and provide an exportable power surplus. Should this project go ahead there would be considerable opportunities for US firms to participate in the design and execution of the plant.

**Fishing:** Now that Namibia has an internationally-recognised EEZ the government is in a position to plan the exploitation of Namibia's rich fishing grounds in a coordinated fashion for the first time. Priorities are the protection of the EEZ, research and conservation of marine resources and development of an indigenous fisheries industry. The government is keen to develop onshore processing facilities with a view to increasing domestic consumption of a cheap, high-protein product, and exports to the region and overseas markets. Opportunities include the supply of patrol boats and fishing vessels, marine equipment, and processing plant. There are considerable prospects for joint ventures with local fishing companies.

**Agriculture:** Excluding the commercial livestock sector, the country's agricultural potential is largely under exploited. The government's priority is to develop northern Namibia, particularly with regard to food crops and several pilot schemes are currently being developed - such as millet marketing and vegetable cultivation - in this regard. Small quantities of cotton, groundnuts, melons, tomatoes and other vegetables are produced locally but most fruit and vegetables are currently imported from South Africa.

Even within the commercial livestock sector, apart from local slaughtering of part of the annual herd offtake, very little value-adding is done in Namibia. Karakul pelts are largely exported unprocessed, with small local manufacturer of finished garments, and tanning exists only on a small scale. There is considerable scope for increasing the processing of by-products, including hides, wool etc. Namibia is also a net importer of pork, broilers and eggs, one of the reasons for which is the low level of fodder production, despite the existence of local fodder components in the form of fishmeal, bone, blood and meat meal.

There are likely to be considerable opportunities for the supply of equipment for development of the food-growing potential of northern Namibia, including irrigation technology and equipment, farmer inputs, improved crop seed etc. Most production inputs, including much agricultural machinery, is currently imported from South Africa.

**Manufacturing:** Processing of locally-available raw materials to supply the domestic market through import-substitution and for exports to the region offer probably the greatest opportunities initially. There are also a number of sectors where there is no domestic capacity at present, including phamaceuticals, packaging, light manufacturing, electronics, industrial dyes and other products.

Textiles is another sector of potential with a number of small Namibian manufacturing units offering prospects for joint ventures. At present most convert imported fabric into printed materials. Although the range of industrial chemicals required by the mining industry is limited, there is scope for the establishment of a petrochemicals industry.

Heavy industrial opportunities are in general limited due to the small size of the market, but a Namibian company has recently completed construction of a local cement works, which has a capacity of 200,000 tons a year, sufficient to meet local demand and replace imports from South Africa.

**Tourism**: The tourism industry has been historically dependent on South African visitors but with the establishment of more air services within the region and overseas, Namibia is in a position to market the country's extensive natural attractions, especially its wildlife, more widely. It is particularly keen to attract high-value tourism from overseas, including the USA, and there are opportunities for US travel firms to devise tour packages. These will be facilitated by cooperation with the local tourism industry and in addition to the marketing of vacations, joint ventures could be established to develop tourist attractions.

At present most major conservation areas are operated by the government, but it may selectively privatise certain assets, including accommodation facilities. There are also opportunities on the hotel side as Namibia lacks a five-star hotel while accommodation outside the towns is mainly limited to bungalow-style rest camps or camping locations. At present gambling is not permitted, but the government is examining the possibility of introducing a gaming act which would enable the establishment of an entertainment/casino complex.

# Introduction

The new nation of Namibia, having gained independence on March 21, 1990, has established itself firmly on the world stage as one of Africa's all too-rare functioning multi-party democracies. The policy of national reconciliation, introduced at the outset by the Swapo government under the leadership of President Sam Nujoma, has held and the provisions of Namibia's written constitution in the field of human rights, individual freedoms and independence of the judiciary have been fully adhered to. This evolution has been materially assisted by the commitment of all parties represented in the country's parliament, the National Assembly, to respect the constitution's provisions and has been achieved despite the legacy of bitterness and human cost of the pre-independence war.

In a relatively short space of time, the government has covered a lot of ground in establishing an institutional framework to facilitate the attainment of Namibia's national development priorities. These give priority to establishing stable economic growth in order to provide the resources for investments in rural development, education, training, health and housing for the benefit of the economically and socially deprived majority of the Namibian population. To further these objectives the government has set out to provide an enabling environment which is attractive to overseas investors who are regarded as vital partners by Namibia. This approach was highlighted by President Nujoma's opening statement at the Private Sector Investment Conference (PSIC) held in the Namibian capital, Windhoek, from February 3-6, 1991: "We, therefore, look to the international community and to the private sector in particular to be our partners in the task of economic reconstruction and nation-building". He added: "Our policy on foreign investment is to have an open door. We do not intend to close off any significant activity from foreign participation."

The centerpiece of the government's strategy to attract private capital investment in the productive sectors of the economy - and particularly value-added activities which have an import-substitution character or export potential - is the Foreign Investments Act approved in December 1990. This provides a liberal operating environment for business, applying equal treatment in legal and fiscal terms to foreign and local firms, as well as guarantees for fair and prompt compensation in the event of any expropriation, with the right to invoke international arbitration in the event of a dispute. There is no compulsory provision for a minimum stake in enterprises by local private or public interests although the state reserves the right to participate in certain areas regarded as strategic, such as mining and energy.

The government is near to finalising a labor code which will set out clear procedures for wage-bargaining and the settlement of industrial disputes while Namibia's trade union movement has welcomed the contribution foreign investment can make to increasing job opportunities and improving employment conditions for Namibians.

On the institutional side, the Bank of Namibia was established in August 1990 as the country's central bank, with a highly professional management team of international financial executives. This has the crucial task of developing greater monetary independence for Namibia in partnership with the Ministry of Finance.

A decision has been taken to introduce a national currency, to be known as the Namibian dollar, in two years' time. To minimise disruption to the economy and established trading patterns this will trade at parity with the South African rand initially and Namibia will remain a member of the Common (Rand) Monetary Area, reflecting the continuing close financial, trading and investment links between the two countries.

Immediately after independence a National Planning Commission (NPC) was set up to act as the principal interface between the government and its bilateral and multinational aid partners. This is headed by Dr Zedekia Ngavirue, a widely-respected Namibian who was previously chairman of the country's leading mining company. An initial roundtable meeting with the international donor community took place in June 1990 to secure commitments to meet Namibia's short term external financing and national development needs. The NPC is now in the process of finalising a medium-term development plan. Bilateral aid agreements have been signed with a number of countries, including the USA, Germany, France and the Scandinavian states.

A crucial element of the government's development strategy is to minimize recourse to foreign borrowing, given the external debt inherited by Namibia at independence. Although at some $275 million this is not large by developing country standards and much of its is denominated in local currency rather than foreign currency it constitutes a considerable constraint on the government's fiscal operations. For this reason, the government has stressed its preference for external assistance in grant form, rather than concessional loans. While investors are free to devise the financial packages of their choosing, the government preference here also is for direct equity investment rather than loans.

Despite these difficulties, the Finance Minister, Dr Otto Herrigel, was generally credited with having introduced a skilful first budget, covering the financial year 1990/91. This took an initial step towards restructuring expenditure in favor of higher capital- as opposed to recurrent- spending, while servicing Namibia's existing external debt and keeping the overall budget deficit within reasonable limits. However, there are indications that the 1991/92 budget may be a more difficult exercise given a shortfall in revenue due to the impact of the current international recession on the prices of Namibia's main exports and the high cost of the public service- which is large relative to Namibia's population.

Namibia does face major challenges and these would be a daunting task for any government. First and foremost is the under provision of services to the bulk of the population, resulting from the colonial legacy of apartheid. This is at its most acute in the sphere of education and training which has meant most Namibians lack skills with which to gain better paid jobs. The government is currently integrating the fragmented educational provision for the different population groups, into which the inhabitants were formally classified by South Africa, into a national education system. Rapid progress in raising educational attainments will need a considerable expansion in the numbers of qualified teachers and school buildings, especially in northern Namibia, where some two-thirds of the total population reside. A considerable input has already been made into upgrading and expanding technical and vocational training centers.

Rural development is another major challenge given that the bulk of the population remain dependent on subsistence agriculture and that communal farming areas were neglected under the policies of the pre-independence administration. This is regarded as crucial if Namibia is to avoid the social dislocation of rural drift to the towns given the commercial economy is presently unable to provide jobs for more than a small proportion of the economically active population. This is currently estimated at some 550,000 with another 16,500 reaching the job market each year. Only some 200,000 Namibians are currently in formal sector employment. Unemployment is estimated to average 25-30% and is higher in Windhoek and other towns. Some 32,000 out of the 43,000 Namibians who have returned following independence remain without jobs, in additional to some 10,000 demobilised former Swapo and colonial force troops who have not been recruited into the new Namibian armed forces.

On the positive side, the government's policy of national reconciliation has ensured that there has been no white exodus since independence, thereby preserving the existing managerial and professional skills base. Most senior white civil servants have stayed on and the constitution guarantees all existing contracts. Given the importance of commercial farming activities to the economy 70% of Namibians are estimated to be dependent on earnings from the sector in some form - the fact that very few white farmers have quit is another important plus factor. There is an active local private sector, particularly in manufacturing, trade, financial services and tourism - which can provide partners for foreign investors looking for opportunities to service the market in both Namibia and neighboring states.

Namibia's geographical location and possession of a sound, well-maintained infrastructure in the form of roads and other transport services, power and water supply, provide it with considerable opportunities for expanding trade with neighboring countries. The provision of infrastructure is highly uneven and while virtually all towns and major economic centers are well serviced, there is a much lower level of infrastructure throughout northern Namibia and rural areas. This has particular implications for expanding the internal market, given that the bulk of the population reside in the north. The government is therefore focusing on upgrading services to these areas, by developing a more extensive regional road network, expanding telecommunications, power and water supply.

Within the region, South Africa is likely to remain the predominant partner of Namibia for the foreseeable future and while seeking to diversify Namibia's links with its other neighbors the government has made no moves to restrict relations with South Africa. Much will depend on how quickly the process of reform underway in South Africa produces a majority-ruled democratic state. Bilateral relations between Namibia and South Africa have generally been relatively cordial. The major outstanding issue to be resolved is the status of Walvis Bay, the only deep-water harbor on the Namibian coastline. A preliminary round of negotiations over the future of the port and its surrounding enclave took place in mid-March with both countries outlining their claims to sovereignty. A formulae allowing the port's reintegration into Namibia would materially assist Namibia's prospects of becoming a trading base for the wider region, by providing a gateway to the landlocked countries of central Africa - Zambia, Zimbabwe and Zaire - and transit trade is being rapidly developed. Overseas suppliers are using the combined rail/road route inland from Walvis bay to ship to Zambia and Zaire, while Zambia is exporting part of its refined copper exports via Walvis Bay, with other goods being exported by Zaire and Zimbabwe.

As a full member of the Southern African Development Coordination Conference (SADCC), Namibia now has access to external regional aid to improve links with its neighbors. An initial priority is upgrading the two existing roads to Botswana to tarred standard, and the road from Gobabis across the border in the east links to the new Trans-Kalahari highway under construction in Botswana which on completion will provide a shorter route between Namibia and the main South African industrial area of the Witwatersrand. This will increase the attraction for firms wishing to service the South African market of locating in Namibia.

In the longer term, peace in Angola will place Namibia in a good position to act as a supplier to the much bigger market to the north. Another priority on which work has started recently is upgrading the main road from the Namibian border to Lubango and the port of Namibe in southern Angola.

**Natural Resources and Trade**

Namibia is particularly rich in mineral resources and its existing value of output makes it the fifth largest mineral producer in Africa (after South Africa, Zaire, Botswana and Zimbabwe). The potential for locating commercially-mineable deposits is high given the favorable geological environment. The best prospects include gold, base and industrial minerals - including dimension stones such as marble. A number of areas, such as the

Kaokoveld in the northwest have hardly been explored at all despite indications of substantial mineral deposits.

Namibia's lengthy coastline gives it access to one of the world's biggest richest fishing grounds, although catching levels will be carefully controlled to ensure preservation of marine resources in view of the overfishing by South African and foreign vessels prior to independence. The white fish resources of the deep sea area - now part of Namibia's patrimony for the first time with the proclamation at independence of a 200 mile exclusive economic zone (EEZ) - are seen as particularly promising.

The government is seeking to encourage a pattern of joint ventures so that foreign expertise can help build up Namibia's domestic fishing fleet and onshore processing capacity. the shoreline also holds out the promise of oil and gas discoveries. Seismic surveys along the entire coast have been completed, petroleum legislation has recently been enacted and the government intends to invite oil firms to bid for exploration permits offshore by the end of 1991. The Kudu gas field- with reserves estimated a minimum of 5 trillion ft of dry gas- is the only known hydrocarbons deposit, but the geology of the continental shelf is thought to indicate good prospects for the location of oil-bearing formations.

Agriculture is dominated by the livestock industry and a priority is to expand production of locally-grown food crops and expand farming production by subsistence farmers in the north. Much of Namibia's large cattle herd has been marketed live to South Africa which has also been the main market for processed beef from local abattoirs. Slaughtering capacity has been under-utilized in recent years and can be expected to expand now that Namibia has a quota to sell beef to the European Community (EC) under the Lomė Convention. There is also considerable potential for greater processing of by-products. Sheep are the other main livestock, with mutton sold mainly to South Africa, and karakul sheep hides sold at overseas auctions. At present livestock from northern Namibia and other rural areas is not commercially marketed in any quantity. Namibia currently produces a proportion of its cereal needs and despite the dry climate, conditions are favorable for expanding crop production in certain regions, including Kavangoland and Caprivi in the north east. Pearl millet is the main subsistence crop and is currently grown mainly for own consumption, but a pilot millet marketing scheme has been initiated and research into growing of vegetables and other food crops is proceeding under a private sector initiative.

Local manufacturing capacity is presently small and the presence of large South African suppliers in the market mean that it is not an easy one to penetrate. Namibia's continued membership of the Southern African Customs Union (SACU) - grouping South Africa, Botswana, Lesotho, Namibia and Swaziland - mean that supplies from outside face the disadvantage of a high external tariff on most products. Conversely, once established in

Namibia, a business has the advantage of being able to service a larger market without being subject to tariffs or non-tariff barriers. This is a major attraction of investment in local value-added activities which are not currently carried on by local industry.

Given the government's positive attitude towards private investors, Namibia offers an attractive investment climate overall, in which the day-to-day realities of doing business are easier than in many other parts of the continent. Namibia is a full member of the IMF and the World Bank and has successfully negotiated accession to the Lomé Convention. With the USA, links are already developing strongly, and Namibia signed a bilateral agreement with the Overseas Private Investment Corporation (OPIC) in June 1990. US exporters also have access to Export-import Bank cover for trade with Namibia and in January 1991 duty-free access to the US market in respect of some 4,000 products was granted under the Generalized System of Preferences (GSP).

The US Agency for International Development (USAID) opened a local office at the beginning of 1991 and is implementing the $10 million economic assistance program in grant aid approved for the 1991 fiscal year.

Chapter 1

# The Political Background

## 1.1 Overview

Namibia came to independence on March 21, 1990 following years of patient diplomacy by the US administration and its partners in the western "contact group" to convince South Africa to implement the provisions of UN Resolution 435 of 1978. The national liberation struggle waged by Swapo on behalf of the Namibian people, the changed political climate in South Africa and the new era of superpower cooperation between the US and the Soviet Union were equally crucial elements in attaining the goal of soverign independence for Namibia.

Following a year of almost continuous negotiations between South Africa, Angola and Cuba with the then US assistant secretary of state for African affairs, Dr Chester Crocker, acting as mediator, a formal protocol was signed in Brazzaville, Congo, on December 13, 1988. This set a date of April 1, 1989 for the commencement of the decolonization process in Namibia and a timetable for a staged withdrawal of Cuban forces from Angola. It also provided for the establishment of a joint commission between the signatory states to resolove any disputes arising from interpretation and implementation of the agreement.

Two accords were subsequently signed in New York at the end of that year, one a tripartite agreement between Angola, Cuba and South Africa, and the other a bilateral treaty between Angola and Cuba setting out the modalities for the withdrawal of Cuban troops. Swapo, although not a formal signatory to the accords, pledged its support for the plan and agreed to cease hostilities with the establishment of a formal ceasefire as provided for under Resolution 435.

## 1.2 The Independence Process

The transition to independence took the form of a year-long exercise. The key elements of which comprised the emplacement of the UN Transition Assistance Group (Untag) to ensure observance of the cease fire, the demobilization and restriction to base of Swapo combatants and South African and locally-recruited security forces, the return of Namibian exiles and the organization of national elections for a Namibian constituent assembly. This had the crucial role of adopting a constitution for the independent state of Namibia and in terms of the preceding international accords was to be elected by proportional representation with a two-thirds majority of elected members required for approval of a constitution. In line with its obligations, South Africa dissolved the existing "interim" Namibian government - composed of parties opposed to Swapo - and most discriminatory laws or other regulations impeding freedom of movement and expression were abolished by June. However it took longer to secure the full demobilization of South African and locally recruited forces to the UN's satisfaction, of which a contributory factor was an initial outbreak of fighting between South African troops and Swapo forces crossing the border into Namibia before Untag was fully deployed. The joint commission established under the tripartite agreement played a major role in defusing this situation. The electoral laws, size of the assembly and its powers - which were not laid down in detail in Resolution 435- also had to be negotiated between the UN and the South African administrator general, as the latter remained in charge of Namibia's civilian administration throughout the decolonization period.

A number of non-governmental groups and observers, including from the US, the Lawyers Committee for Civil Rights Under Law, played a significant part in shaping the final arrangements for the holding of the elections. The UN High Commissioner for Refugees (UNHCR) was in charge of arrangements for the return of Namibians from exile and by August some 43,000 had returned to Namibioa, including most of the senior Swapo leadership outside the country.

The commitment of the Namibian people to securing their own future was demonstrated by the participation of 97% of the registered electorate of just under 700,000 in the elections held during November 1989. The outcome was a political victory for Swapo, although its 57% share of the votes cast left it short of a two-thirds majority in the assembly. It won 41 seats compared to 21 seats for the Democratic Turnhalle Alliance (DTA), which obtained a 29% share of the vote, with five smaller, mainly ethnically-based parties sharing the remaining 10 seats between them.

Swapo's victory was largely due to its strength in its Ovamboland heartland, although it also gained majorities in certain urban districts, including Windhoek and Swakopmund. The outcome of the election ensured that it would be necessary for all parties to cooperate if a constitution was to be approved and in the eyes of many observers was a crucial factor in the generally conciliatory spirit in which the discussions in the assembly were conducted.

Swapo for its part made clear it would pursue a policy of national reconciliation and would work with its political opponents. Despite the legacy of bitterness from the national liberation war, former opponents were largely able to bury their differences in the interests of national unity, and the constitution was adopted unanimously at the beginning of February 1990. Its entrenched protections for human rights, abolition of the death penalty, provisions for freedom of association and religion, checks and balances between the executive and the legislature, and independence of the judiciary, are amongst its most notable features (see Chapter 7).

In the economic sphere, the constitution vests primary ownership of Namibia's land, water and natural resources in the state, unless otherwise "lawfully owned", but prescribes a mixed economy with "just compensation" payable for any private property taken over by the state.

## 1.3 Composition of the Government

The policy of national reconciliation is well reflected in the composition of the government established at independence. The Swapo leader, Sam Nujoma, was unanimously appointed by the assembly as head of state designate and he appointed a transitional team of ministers to ensure a smooth transition to independence. This team formed the core of the new government. In line with the fact that some two-thirds of the population are in the north, northern namibians predominate in the cabinet, but the other major African groups are also well represented. Several white Namibians hold important posts, including finance, agriculture, the chief justice and attorney-general, with a number of others appointed as deputy ministers. Two representatives of other political parties also hold junior posts and a post was also offered to the DTA, which turned it down on the grounds that this would be incompatible with its status as official opposition in the National Assembly, as the Constituent Assembly became at independence. All other senior posts are held by members of Swapo, but here also a balance was struck between the leaders who had remained within Namibia and those returning home after long years of exile.

Most Swapo ministers also hold posts on the party's central committee and other bodies but the party structure is clearly distinct from the government. In terms of the constitution party organs have no formal status in the government system. The government has shown in practice it fully accepts its accountability to the National Assembly. In a review of the assembly's proceedings on March 11 this year, prime minister Hage Geingob stated: "Indeed the foundation for democracy in Namibia has been concretely established. This is reflected in the proceedings of the House where opinions, criticisms and ideas are frankly and openly expressed..". He added that the government would always "welcome" the opposition making any proposals for alternative solutions to government policies and programs.

## 1.4 Political Pressures

Rising expectations on the part of the Namibian people following independence have inevitably led to pressures on the government to deliver on its pledge to secure a better standard of living for Namibians. These pressures are at their acutest in terms of the conditions of social deprivation experienced by most Namibians, including low wages, shortages of housing, inadequate levels of health care, education and local amenities. Unemployment has risen since independence due to the downturn in economic activities and migration of many rural Namibians to the towns in search of employment. It is estimated that the majority of the Namibian's who have returned remain unemployed, while most demobilized combatants remain without jobs.

The new Namibian army, formed out of integrated units recruited from both sides of the former conflict, is expected to number 10,000 men, which leaves some 20,000 ex-combatants without employment. The government has announced its intention to form development brigades to carry out rural projects and other community-based activities although these will only absorb a proportion of the ex-combatants. A formulae for the disbursement of R36 million ($14 million) offered by South Africa has been reached, but the funds will mainly be used for once off ex-gratia payments rather than job creation schemes as the government had hoped.

As a result the government is under pressure from its own supporters to increase employment rapidly, through affirmative action and expansion of government-financed projects. However, the Swapo leadership has reaffirmed that the policy of national reconciliation will not be modified in the interest of short-term solutions to complex problems. It believes its policies of partnership with the private sector in fostering sound growth of the productive sectors of the economy, combined with government-financed upgrading of the social infrastructure and educational reforms will produce visible results in the near to medium term.

Another issue that will need careful handling is the sensitive matter of land reform. There are expectations in some parts of the population that a transfer of existing farmable land to landless Namibians is the required solution. To deal with the issue in a considered way, the government is organizing a national land conference in June 1991, at which all proposals for reform can be considered. However, the government has made it clear that any purchases of productively-farmed land would be on a willing buyer willing seller basis. The conference will also examine strategies for improving the agricultural environment for subsistence farmers.

A crucial test of how far the government's message on the realities of post-independence Namibia has got across to the electorate will be upcoming regional elections for the yet-to-be constituted upper house. This will be elected on the basis of new regional administrative units whose composition is currently being determined by a cross-party delimitation commission. If this concludes its work on schedule, elections may be held by the end of 1991, or otherwise in early 1992.

### 1.5 International Relations

Namibia has quickly established itself as a full member of the world body of nations, becoming a member of the UN, the OAU, the Commonwealth, the IMF and the World Bank at or shortly following independence. The government is committed to playing a positive part at the UN on the basis of non-alignment and non-interference in the affairs of other countries. It is currently in the process of establishing its diplomatic representation abroad, the first group of overseas missions to be established included Washington, New York, London and Brussels.

### 1.5.1 Relations with Neighboring States

Namibia has developed close relations with directly neighboring states - Angola, Botswana, Zambia and Zimbabwe - following from its membership of the Southern African Development Coordination Conference (SADCC) and the establishment of bilateral links. President Nujoma has good personal relations with the leaders of all four directly neighboring states and visited Botswana and Zambia in 1990, followed by Angola at the beginning of 1991.

Particularly close links are being developed by Botswana, whose head of state, President Masire, paid a reciprocal visit to Namibia in 1991. The two countries have established a joint cooperation commission, and areas of cooperation include beef marketing, veterinary controls and research, energy, water affairs, transport, communications and tourism. Two existing gravel road links from Namibia to Botswana are being upgraded to bitumen standard as SADCC-backed projects and in February 1991 an agreement for the marketing of Namibia's beef to the EC by Botswana's london-based overseas marketing firm was signed.

Zambia is providing exports of power to Namibia's Caprivi region and is routing part of its copper export trade through Namibia. Bilateral trade links are also being developed with Zimbabwe, which is also advising on the development of small scale mining. With Angola there have been a series of bilateral exchanges and these include agreements on border security, utilization of water resources of the Cunene river - which arises in Angola and forms the common border in the west - trade, and investment. The two countries are cooperating in the upgrading of the main highway running north from the Namibian border to Lubango and the planning of a Namibe corridor route which would provide an alternative outlet for northern Namibia to Walvis Bay. An early settlement of the civil war in Angola will clearly significantly facilitate close economic cooperation between the two countries and reduce Namibia's border security concerns.

### 1.5.2 Relations with South Africa

The close economic, commercial and financial ties with South Africa make the state of relations between the two countries of particular importance to Namibia. The government has publicly expressed its support for the reform program of President F W de Klerk and although formal diplomatic relations have yet to be established, relations so far have been generally cordial despite disagreements on certain specific issues. These have included

South Africa's refusal to allow the extradition of suspects wanted in connection with the murder of the Swapo official, white lawyer Anton Lubowski, in September 1989, and the initial retention by South Africa of Namibia's only marine research vessel. South Africa currently maintains an interest office in Windhoek, where the African National Congress (ANC) has also opened an office. No decision has yet been announced on when full diplomatic ties may be established.

This may largely depend on how quickly it proves possible to resolve the main bone of contention between the two countries, namely the future status of Walvis Bay, the only deep water harbor on the Namibian coastline. The constitution specifically refers to Walvis Bay as an integral part of Namibia and the government has expressed the hope that South Africa will make an early decision to recognize its sovereignty claim. On the other hand, the South African government maintains it derived sovereignty over Walvis Bay from the British occupation of the area in the latter 19th century.

An initial round of talks between Namibia and South Africa took place in Cape Town in mid-March at which the Foreign Minister, Theo-Ben Gurirab, formally outlined Namibia's case for ownership of Walvis Bay and appealed to South Africa not to continue to base its claim on outmoded legal considerations. While the bulk of the African inhabitants of Walvis Bay regard themselves as Namibians - and travelled to nearby Swakopmund to cast their votes in the 1989 elections - some at least of the white community may be resistant to change. However, this consideration is unlikely to be the determining factor for South Africa. In economic terms, the harbor has little value to South Africa, while it is not only Namibia's main gateway to the outside world, but also the principal base of the inshore fishing industry, with a considerable manufacturing capacity.

Various proposals for Walvis Bay have been suggested as a means of defusing the sovereignty issue, including its development as a neutral, export-processing zone or a transitional period of joint administration, but none of these have any official backing at this stage.

Chapter 2

# A General and Sectoral Analysis of the Economy

## 2.1 Economic Overview

Namibia inherited a sectorally unbalanced economy heavily dependent on the production and export of primary commodities - minerals, livestock and pelagic fish products. Growth in the past decade has been weak and below the annual rate of increase in the population, averaging only 0.1% annually in the ten years from 1980-89 while the population is increasing by 3%. This produced a reduction in per capita incomes in real terms. The trend reflected the impact on the local economy of recessionary conditions in South Africa, generally tighter export markets and the impact of international sanctions from the mid-1980s which had an adverse impact on uranium exports in particular. The open nature of the economy, its export orientation and the dominant role of the primary sector make it vulnerable to extraneous factors such as drought, unstable commodity prices and growth trends in industrialized countries to which most of Namibia's high value mineral exports are sold (see Chapter 5).

Due to Namibia's political isolation prior to independence, regional economic and trade links, apart from those with South Africa, remained limited. Namibia has only a small domestic market and while in recent years domestic industry has expanded, a large share of demand is met by imports from South Africa or supplies from South African-controlled enterprises operating in Namibia. The population is small and sparsely spread, with northern Namibia and the central districts around Windhoek the most densely populated regions, separated by a distance of some 700 kilometers. The climate of the country means that it is subject to prolonged, periodic drought, the most recent lasting from 1979-84, with a consequent adverse impact on the livestock industry.

The economy remains fundamentally dualistic, with the bulk of the population outside the commercial economy. Some 70% of the population in the rural areas derive their livelihood mainly from subsistence activities, migrant labor and small-scale trading or informal sector activities. In urban areas only 5% of the population enjoy a GDP per capita income comparable to that of an industrialized country. While Namibia has a high average per capita income of over $1,000, the highly skewed income distribution within the country means that the majority of Namibia's inhabitants have incomes in many cases below officially calculated poverty datum levels. The disparity in income levels is exacerbated by the country's rather underdeveloped social infrastructure in rural areas, with a backlog of improvements needed in the health, housing, education, training, and rural services, water supply, power, roads and village infrastructure.

On the positive side are the country's generally well-developed and maintained physical infrastructure, with the qualifications noted above, its abundance of natural resources, particularly in minerals and fish, and a small but thriving private sector. Parastatal enterprises have generally been managed efficiently and internal debt to the government is not a major problem. Namibia has considerable potential for diversifying its exports of minerals and agricultural produce, supplying a greater share of domestic food requirements. Development in these sectors also has the scope for providing linkage to industrial activities and although it is small, the manufacturing sector offers numerous development opportunities for import substitution and export to regional and overseas markets.

Apart from diversifying the country's productive basis, growth in these sectors will be crucial to the country's prospects of generating employment opportunities to provide new jobs for the annual intake onto the labor market and reduce prevailing high unemployment and underemployment levels. At present the formal sector unemployment rate is conservatively estimated at around 25%, rising to 50% in some urban areas, while only 185,000 people were in formal employment in 1988, only 14-16% of the estimated total population (see Chapter 6). Access to better-paid, formal sector employment for most Namibians has been limited by the low average standards of education and training. While nearly all of the white population is literate, literacy for the rest of the population is estimated at only 30% and only 20% or so are fully conversant with English, the country's official language. Some 30-40% of school age children currently do not attend school.

## 2.2 Components of GDP

The primary sector normally accounts for around 40% of total GDP, 90% of total exports and the bulk of domestically generated tax revenues. One illustration of the narrow base of the economy is that uranium mining at Rossing, normally provides between one-quarter and one-third of all exports by value, 13% of total GDP and 12-15% of government revenue (excluding grants). Mining by itself comprised 29% of total GDP in 1989 and its real growth rate has been the major influence on overall GDP During the period 1984-89, mining recorded significant real growth only in 1986 at nearly 7%, and stagnant or negative growth in other years. Overall GDP grew by 3.3% in real terms in 1986, thereafter falling by 3.0% in 1987 and 1.7% in 1988.

In 1989 the economy managed only fractional growth of 0.2% and indications are that negative growth resumed during 1990 due to stagnant uranium earnings, weaker base metal prices, and lower karakul pelt earnings. There may have been some improvement in the diamond sector due to prevailing high world prices, while the volume of cattle and small stock marketed rose. Given the long lead times involved in mining developments, the major boost in coming years is likely to come from the expansion of fish catches and processing, reflecting Namibia's control over its deep-sea fishing grounds and manufacturing. The start of beef sales to the EC market in 1991 will also provide a boost to local value-added output and foreign exchange earnings.

**Trend of gross domestic product at factor cost[a]**
(R mn)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|---|
| At current prices | 1,970 | 2,540 | 2,928 | 3,113 | 3,767 | 4,326 |
| At 1980 prices | 1,347 | 1,346 | 1,391 | 1,432 | 1,457 | 1,460 |
| Real growth (%) | -1.3 | -0.1 | 3.3 | 3.0 | 1.7 | 0.2 |

[a] Excluding Walvis Bay.

*Source: Ministry of Finance, Statistical/Economic Review.*

**Gross domestic product by sector at current prices[a]**

| | 1984 R mn | % | 1989 R mn | % |
|---|---|---|---|---|
| Agriculture & fishing | 167.4 | 8.5 | 489.5 | 11.3 |
| Mining & quarrying | 510.4 | 25.9 | 1,258.7 | 29.1 |
| Manufacturing | 102.6 | 5.2 | 210.3 | 4.9 |
| Construction | 61.9 | 3.1 | 111.3 | 2.6 |
| Electricity & water | 48.6 | 2.5 | 77.2 | 1.8 |
| Transport & communications | 137.2 | 7.0 | 265.0 | 6.1 |
| Trade, hotels, etc | 255.5 | 13.0 | 532.8 | 12.3 |
| Finance & real estate[b] | 153.0 | 7.8 | 311.2 | 7.2 |
| Government | 427.3 | 21.7 | 855.7 | 19.8 |
| Community services | 41.3 | 2.1 | 85.1 | 2.0 |
| Other producers | 64.5 | 3.3 | 129.4 | 3.0 |
| **GDP at factor cost** | **1,969.7** | **100.0** | **4,326.2** | **100.0** |
| Indirect taxes less subsidies | 142.9 | | 654.2 | |
| **GDP at market prices** | **2,112.6** | | **4,980.4** | |

[a] Excluding Walvis Bay
[b] After deduction of financial service charges

*Source: Ministry of Finance, Statistical/Economic Review*

The poor performance in GDP growth over the past decade was in substantial measure a reflection of the low growth rate in real gross domestic fixed investment (4.3% in 1989) as well as a ratio to GDP (18.6% in 1989). Gross domestic fixed investment had increased steadily during the 1970s, mainly due to the expansion in mining activities, but from a 1980 peak fell sharply during the next six years, with a steep fall in private capital outlays.

In 1988 overall investment levels rose by 14% due to increased capital formation by the private sector, but in the following year growth in private capital outlays fell back to 23% from the exceptionally high rate of 36.5% recorded in 1988. More positively 1990 was the fourth year of real growth in real private sector investment. In contrast, total fixed investment by the public sector fell by 15.5% in 1989, compared to only 2.2% in 1988, reflecting a fairly large cut in the capital budget for the 1988/89 fiscal year.

**Gross domestic fixed investment**
**(R mn; at constant [1980] prices)**

| | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|---|---|---|---|---|
| By sector: | | | | | | | | | | |
| Agriculture | 22 | 21 | 21 | 20 | 18 | 16 | 16 | 16 | 15 | 17 |
| Mining | 112 | 66 | 37 | 28 | 20 | 17 | 32 | 36 | 58 | 71 |
| Manufacturing | 16 | 20 | 7 | 7 | 6 | 5 | 4 | 3 | 3 | 5 |
| Construction | 16 | 12 | 14 | 7 | 7 | 3 | 2 | 3 | 3 | 3 |
| Transport | 26 | 28 | 30 | 24 | 15 | 18 | 13 | 14 | 10 | 8 |
| Trade | 12 | 15 | 14 | 8 | 9 | 9 | 7 | 8 | 8 | 10 |
| Finance | 13 | 11 | 15 | 17 | 23 | 17 | 16 | 24 | 34 | 41 |
| Government | 202 | 167 | 149 | 110 | 92 | 103 | 88 | 87 | 83 | 70 |
| Other | | | | | | | | | | |
| Total | 437 | 382 | 316 | 283 | 197 | 197 | 186 | 195 | 222 | 232 |
| % change | 10.4 | -12.6 | -17.3 | -24.7 | -17.2 | 0.0 | -5.6 | 4.8 | 13.8 | 4.5 |
| % of GDP | 30.3 | 26.6 | 22.4 | 17.4 | 14.6 | 14.6 | 13.4 | 13.6 | 15.2 | 15.9 |
| By type of organization: | | | | | | | | | | |
| Private[a] | 198 | 177 | 128 | 101 | 87 | 74 | 84 | 95 | 129 | 156 |
| % of GDP | 13.7 | 12.3 | 9.1 | 7.4 | 6.4 | 5.6 | 6.2 | 6.6 | 9.0 | 10.7 |
| Public[b] | 240 | 205 | 188 | 137 | 110 | 121 | 100 | 100 | 91 | 76 |
| %of GDP | 16.6 | 14.3 | 13.3 | 10.0 | 8.2 | 9.0 | 7.2 | 7.0 | 6.2 | 5.2 |
| At current prices | 437 | 437 | 421 | 261 | 326 | 378 | 423 | 5.1 | 655 | 805 |
| of which: | | | | | | | | | | |
| Mining | 112 | 75 | 48 | 41 | 32 | 32 | 75 | 95 | 171 | 249 |
| % share | 25.6 | 17.2 | 11.4 | 15.7 | 14.6 | 8.5 | 17.7 | 19.0 | 26.1 | 30.9 |

[a] Comprises fixed investment of "private business enterprises" and public corporation.
[b] Comprises investment by "general departments" and "public business enterprises".

*Source: Ministry of Finance, Statistical/Economic Review, 1990*

Real fixed capital spending by the government was reduced by 15.1% in 1989, involving a drop in rea. outlays on building and civil construction of 19.3% and 10.1% respectively. Real fixed investment in public corporations was also reduced by some 7.3% in 1989 compared to an increase of 44% in 1988. This was in spite of the fact that the activities of the South African Transport Services (SATS) in Namibia, which were incorporated into the National Transport corporation and subsequently TransNamib, were reclassified from a public business enterprise to a public corporation .

## 2.3 Economic Policy and Government Expenditure

The central features of the economy noted above have been largely instrumental in shaping the economic development strategy adopted by the government, which is focused on promoting economic growth and a more equitable social environment through employment generation and a reduction in income disparities. The chief elements of the government's strategy were succinctly outlined in Namibia's first post-independence budget by the Minister of Finance, Dr Otto Herrigel.

Three principal aims comprise:

* to reactivate the economy;
* to reduce income disparities;
* to restrain and redirect public expenditure.

Dr Herrigel stated: "The first tasks confronting the new state are to revive our own economy, to release the pent-up available energies and to create the vigor and vitality of a free economy. To achieve these aims we will, first and foremost, expand the nation's investments in human resources to a maximum. We will equally ensure that the budget will be made an instrument of prosperity and stability...I am convinced that business is the partner of government, that our success is dependent on their success and their success is again dependent on ours. I do not believe that there is a clash between the interests of the government and the business community. Each will play its proper role and the conceived partnership between the two will be based on mutual understanding and fertile cooperation".

The details of the government's economic and social priorities were outlined more fully in the General Policy Statement prepared in May 1990 for the donors' conference in New York the following month. This envisages a dynamic role for the private sector within a mixed market economy based on social responsibility. It attributed priority status to agricultural and rural development, improved education, training, health care and affordable housing. In addition priority would be given to increasing the domestic supply capacity of the economy, by promotion of small and medium scale businesses, increasing the value added factor in resource development to expand employment opportunities, promoting efficient use of public sector resources through restructuring of government services, and establishment of sound financial instruments and an attractive investment environment.

### 2.3.1 The 1990/91 Budget

The 1990/91 budget introduced on July 6, 1990 marked the government's initial effort to provide a boost to the economy and address the problems caused by the inherited external debt of over R700 million (approximately $270 million). Total estimated expenditure was set at R2.6 billion (approximately $1 billion), a rise of only 5% on the revised estimates for the preceding year, while capital spending was boosted by just under 40% to R261 million, still only 10% of the total budget. Most of the capital allocations were in respect of social infrastructure, with the largest amount of R156 million, 21.3% of the budget, going to the Ministry of Works, Transport and Communication for education, health, urban and transport infrastructure. Recurrent spending of R2.3 billion, up only 2.4% on the preceding year, included R920 million for public service remuneration and R296 million for debt servicing payments. Defence spending was slightly lower at R123 million. (4.8% of the budget).

Estimated revenue was set at R2.4 billion, up just under 2% on the preceding year although as of February 1991 it appeared that revenue collections would fall short of this figure. The General Sales Tax (GST) was expected to raise R300 million and mining taxes an overall R296 million, with R542 million expected to come from an increased share of Southern African Customs Union (SACU) receipts. The shortfall between own revenue and expenditure is expected to be reduced to a final budget deficit of R210 million, about half the amount anticipated, due to the transfer of second-tier authority cash balances, transfers from the debt amortization fund, and an anticipated R160 million in external grant aid replacing the former South African government budget subsidy. To finance the deficit, Dr Herrigel said that recourse would be made to local loans and by arranging overdraft facilities at the central bank.

No changes in taxation were announced, although some changes are likely to be made in 1991/92 following a review of mining taxes. No salary increases for civil servants were provided for in the budget as the public sector is considered to be overstaffed and in line for rationalisation as a result of the pre-independence administration's policies. A problem here is that the constitution provides for the maintenance of existing contracts and the government is not in a position to effect economies through compulsory staffing reductions, while facing strong political pressure to increase recruitment of Namibians under affirmative action programs. This issue is being tackled by the Prime Minister, Hage Geingob, and the recently established Public Service Commission (PSC).

**Government budgeted expenditure estimates**
**(R mn; fiscal year ends Mar 31)**

| | 1989/90[a] | 1990/91 Current | Capital | Total | % of Budget |
|---|---|---|---|---|---|
| President's office | - | 28.0 | 2.6 | 30.6 | 1.2 |
| Prime minister's office | - | 52.7 | - | 52.7 | 2.1 |
| Home affairs | 155.7[b] | 140.7 | - | 140.7 | 5.5 |
| Defence | 125.6 | 122.7 | - | 122.7 | 4.8 |
| Foreign affairs | - | 45.9 | - | 45.9 | 1.8 |
| Finance | 540.4[c] | 363.0[c] | 16.5 | 379.5[c] | 14.7 |
| Information & broadcasting | - | 48.6 | 6.2 | 54.7 | 2.1 |
| Works, transport & communications | 263.2 | 393.6 | 156.3 | 549.9 | 21.3 |
| Education, culture, youth & sport | 148.7[d] | 468.6 | 0.4 | 469.0 | 18.2 |
| Health & social services | 128.2 | 351.7 | - | 351.7 | 13.7 |
| Agriculture, fisheries, water & rural development | 143.4[e] | 139.6 | 38.9 | 178.4 | 6.9 |
| Local government & housing | - | 71.6 | 34.5 | 106.1 | 4.1 |
| Wildlife, conservation & tourism | - | 28.7 | 0.1 | 28.8 | 1.1 |
| Lands, resettlement & rehabilitation | - | 9.9 | 6.0 | 15.9 | 0.6 |
| Labor & manpower development | 118.1 | 12.0 | - | 12.0 | 0.5 |
| Mines & energy | 16.4[g] | 10.1 | - | 10.1 | 0.4 |
| Trade and industry | | 9.1 | - | 9.1 | 0.4 |
| Justice | 22.9 | 18.4 | - | 18.4 | 0.7 |
| Total | 2,448.5 | 2,314.8 | 261.3 | 2,576.1 | 100.0 |

a Total expenditure; revised estimates by pre-independence administration. Where compatible with current government structure, departmental spending levels are shown.
b Spending on police only.
c Includes loan interest and amortisation payments.
d Spending on 'national education'.
e Includes nature conservation also.
f Spending on civic affairs and manpower.
g Spending on economic affairs, which included Mines and Energy, Trade and Industry and tourism also.

*Source: Ministry of Finance*

### 2.3.2 Prospects for 1991/92

Overall expenditure is expected to be trimmed in the 1991/92 budget, reflecting the shortfall in revenue experienced in 1990/91, although capital spending is likely to be increased. The budget is due to be presented in April and spending departments were circulated with proposed expenditure at the beginning of 1991. In his presentation on "the enabling environment" to the Private Sector Investment Conference (PSIC) of February 3-6, 1991, Dr Herrigel said measures would be taken to limit government expenditure as a percentage of the GDP, which was an "unacceptably high" 50 per cent for 1990/91, while his ministry was also examining possibilities of broadening the tax base. The whole budgeting process was being reviewed and streamlined to comply with international norms, with the assistance of IMF experts.

Figures provided in an additional budget tabled in February by Dr Herrigel showed total expenditure for 1990/91 is now expected to be R2,730 million, up 6 per cent on the original estimate. Total revenue is expected to be R2,169 million, 4 per cent less than estimated, due largely to a R80 million shortfall in mining tax income. The inflow of external grant aid for 1990/91 is not expected to exceed R100 million, compared to the estimated R160 million. However, the budget deficit for the year ended March 31 will only be slightly higher than anticipated at R212 million. This is because of a much larger surplus than originally calculated from the preceding year, of R349 million. The deficit will be financed by a central bank overdraft. Areas of extra spending in 1990/91 included R65 million for education, including R40 million on salaries and pensions, and R22 million for police and prisons.

## 2.4 Sectoral analysis

### 2.4.1 Mining

The mining industry is the most important productive sector of the economy in terms of its contribution to GDP, exports and public revenues, although not in terms of employment. The industry is characterized by three large mining operations - diamonds at Oranjemund and along the coast (CDM), uranium at Rossing (Rossing Uranium) and base and precious metals at Tsumeb and ancillary locations (Tsumeb Corporation - part of Gold Fields Namibia).

Medium sized operations include the Rosh Pinah lead-zinc-silver mine in the south (Imcor Zinc, owned by ISCOR), the sole tin producer at Uis (ISCOR, on a care-and-maintenance basis since December 1990), the Otjihase copper-gold-pyrite mine (in which Tsumeb Corporation has a 70% interest on a joint venture basis) and the new Navachab primary gold mine at Karibib (CDM/Anglo American/overseas investors). Karibib is the center for several smaller operations, including lithium and marble production, while there are a number of small base metal and industrial mineral operations, and semi-precious stones are recovered in small quantities.

The most important industrial minerals producer is the locally-owned Salt Company, which extracts the material from brine pans near Swakopmund. Gold, base metals and industrial minerals are currently seen as the products with greatest potential in terms of easily accessible deposits and employment generation, given their suitability for small mining operations. In addition to Rossing, several large uranium deposits were located in the western region during the 1970s, but the current world market prospects make it unlikely that it will be found commercially feasible to exploit these reserves in the near future, although they are reportedly of higher average grade than Rossing.

While prospecting expenditure has increased in recent years, exploration is generally below the level justified by the country's mineralisation and geological structure. In 1989 total prospecting expenditure of R63 million (approximately $24 million) significantly exceeded the R39 million spent in the preceding year. A total of 177 prospecting licences were issued in 1989 and 1,637 claims were registered. Mineral industry sources says the main need is for additional exploration to fully evaluate known deposits. The government is seeking to expand the activities of the geological survey.

### (i) Gold

There was an improvement in exploration and capital expenditure in 1988-89 with the commissioning of the Navachab gold mine in 1990 and the expansion of CDM's mining at new facilities inland at Auchas on the Orange river and at Elizabeth Bay. Gold output from Navachab is targeted to reach 1,900 kilograms annually at full production and there are good prospects of extending existing proven reserves, currently sufficient for a 13 year operation, and of locating other mineable deposits. The mine cost R90 million ($30 million) to develop and is expected to earn $25 million annually in foreign exchange, dependent on the gold price.

**Minerals production by commodity**
**('000 tons unless otherwise stated)**

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|---|
| <u>Precious metals & minerals</u> | | | | | | |
| Diamonds ('000 carats) | 931 | 910 | 1,010 | 1,037 | 975 | 908[a] |
| Gold (kg) | 196 | 194 | 184 | 172 | 240 | 342[b] |
| Silver (tons) | 96 | 98 | 105 | 95 | 108 | 110 |
| <u>Energy minerals</u> | | | | | | |
| Unanium oxide[c] | 3,700 | 3,400 | 3,500 | 3,500 | 3,400 | 3,300 |
| <u>Base metals and minerals concentrates</u> | | | | | | |
| Arsenic trioxide (tons) | 2,504 | 2,471 | 2,208 | 1,864 | 2,983 | 2,399 |
| Cadmium, refined (tons) | 40 | 58 | 61 | 51 | 106 | 88 |
| Copper, blister | 48.6 | 47.6 | 50.1 | 37.7 | 42.2 | 37.9 |
| Copper, concentrates | 136.8 | 143.8 | 157.0 | 118.9 | 131.6 | 102.7 |
| Lead, refined | 28.9 | 38.5 | 40.0 | 40.6 | 44.4 | 44.2 |
| Lead, concentrates | 70.8 | 94.3 | 77.8 | 75.5 | 80.6 | ... |
| Pyrite, concentrates | 172.3 | 174.3 | 189.5 | 120.3 | 226.7 | 196.5 |
| Sodium antimonate (tons) | - | - | - | 51 | 156 | 73 |
| Tantalite, (kg)[d] | 5,115 | 3,113 | 8,186 | 13,809 | 6,905 | ... |
| Tin, concentrate[e] | 1.4 | 1.5 | 1.3 | 1.6 | 1.8 | 0.7 |
| Tin, contained metal[e] | 0.9 | 1.0 | 0.7 | 1.1 | 1.2 | 0.5 |
| Zinc, concentrate | 56.5 | 57.5 | 65.5 | 75.7 | 71.7 | 73.1 |
| Zinc, contained metal | 29.8 | 29.7 | 31.9 | 37.6 | 34.2 | 39.3 |
| <u>Industrial minerals</u> | | | | | | |
| Lithium minerals (tons)[f] | 900 | 2,260 | 2,075 | 3,083 | 1,642 | 1,398 |
| Limestone | 21.6 | 32.2 | 31.1 | - | - | ... |
| Marble (tons) | 1,800 | 2,987 | 2,758 | 4,215 | 4,149 | ... |
| Granite (tons) | ... | ... | 71 | 730 | 12,698 | ... |
| Salt, coarse | 84.6 | 147.1 | 128.2 | 123.6 | 141.8 | ... |
| Salt, rock (tons) | ... | 3,006 | 5,811 | 5,951 | 990 | ... |
| Salt, refined (tons) | 740 | 580 | 475 | 470 | 570 | ... |
| Silica | 1,082 | 1,591 | 6.959 | 5,002 | - | ... |
| Wollastronite (tons) | - | 373 | 601 | 500 | 396 | ... |
| Semi-precious stones[g] (tons) | 515 | 386 | 300 | 664 | 2,503 | ... |

[a] Includes 21,500 carats recovered offshore. [b] Includes 72 kg from the new Navachab mine.
[c] Estimated. [d] Recovered as a tin by-product. [e] Includes recoveries by tribute miners.
[f] amblygonite, lepidolite, petalite, quartz, mica and beryl. [g] agate, amethyst, rose quartz, tourmaline.

### (ii) Diamonds

Alluvial diamond production, with a very high gem content of over 95%, reached a peak during the 1970s of around 1.6 million carats annually, but has subsequently fallen off due to the exhaustion of higher grade deposits, some of which have been mined continuously for over 60 years. CDM has a huge fleet of vehicles engaged in clearing sand overburden and extending the foreshore mining area by seawalls. The best hopes of future maintenance or expansion of current production levels lie with incremental increases from known small deposits inland and marine diamond mining, involving recovery of diamonds washed down the Orange river, from the sea bed.

In 1989, production was 904,000 carats (excluding offshore recovery), down 4% on the preceding year, due to lower average stone size and a further fall in recovery grades despite a higher volume of ore mined. CDM has invested R225 million (approximately $87 million) in Auchas and Elizabeth Bay which should produce 300,000 carats annually from 1991. CDM began the local sorting and valuation of diamonds in Windhoek through a local subsidiary, CSO Valuations Namibia, in 1988 and at present the entire output is sold to the De Beers' Central Selling Organization (CSO). The government is likely to look at ways of increasing the value-added through the establishment of a local cutting industry - Botswana has two cutting plants due to come on stream in the next few years, which it believes will also help it gain greater knowledge of world market conditions through the sale of cut stones directly to traders.

### (iii) Uranium

Uranium from the large, open-cast low-grade deposit at Rossing came on stream in 1976 and reached full capacity of 5,000 short tons in 1980. Most of the uranium oxide (yellowcake) produced is sold to civil nuclear generating firms and utilities in industrialized countries under long-term contracts, but the application of US economic sanctions to Namibia led to loss of business according to the company. Production is currently running at around 3,600 tons or 75% of capacity and due to oversupply on the world market may have to be further reduced in the next two years. However, the company has gained a new long-term contract with France for delivery of 5,200 tons from 1995 to 2002, and is actively seeking new markets, with the full support of the government. RTZ Corporation is the major shareholder with a 46.5% stake, and the government inherited a 3.5% stake controlling 50% of the voting rights from a trust established by the company, at independence.

### (iv) Base Metals and Other Minerals

The major base metal producer, Tsumeb Corporation, currently accounts for over 70% of the minerals produced outside the diamond/uranium sectors by value, including blister copper, refined lead, pyrites, together with small quantities of silver, gold, cadmium, arsenic trioxide and sodium antimonate as by-products. A project waiting for a sponsor is the large slag tonnage that has accumulated over the years at Tsumeb mine, containing large quantities of germanium, gallium and 11% zinc. A modified zinc fuming plant enabling recovery of the germanium is one prospect that has been investigated. The slag is estimated to be one the world's largest inventories of germanium. Underground mining at the main Tsumeb mine is likely to cease in 1995. A new deposit at Tchudi to the west would partially replace lost output, although its commissioning schedule will be largely dependent on the performance of the copper price. The integrated copper/zinc smelter/refinery will also require major alterations, probably involving conversion into a single copper smelter, as the ending of Tsumeb underground operations will remove the main source of lead concentrate feed.

Of Namibia's 40 operating mines, only eight currently employ more than 200 people, and overall employment levels have been steadily falling over the past decade. The government recognises that large capital-intensive schemes are unlikely to produce new employment on a major scale, and the experience of both Botswana and Zimbabwe in stimulating small scale, labor intensive, mining is being investigated.

### (v) Government Policy

The government has implemented policies designed to maximise the potential of the economy's most important productive sector by restructuring mining administration and establishing a new legal framework for the industry. A modern functional structure for the Mines and Energy Ministry has been adopted and the activities of the Directorate of Geological Survey are being expanded for the purpose of increasing the dissemination of geological information to prospective exploration companies and highlight areas of greatest mineral potential. Measures include computerisation of geophysical interpretation while Germany and Finland are assisting with the preparation of new geological maps.

A modern mining act has been drafted with the assistance of experts from the Commonwealth Secretariat to replace the 1968 ordinance currently governing mining activities. This has been designed to facilitate a series of objectives:

* high density exploration activities;
* optimal exploitation of deposits to the benefit of all Namibians;
* development of small-scale mining to create incentives for small mining entrepreneurs;
* encouragement of value adding and downstream processing of mineral products;
* expanded education and training facilities to service the mining industry.

The Act is expected to be passed by the National Assembly in the near future. Like the existing ordinance, the Act vests all mineral rights in the state, but sets out a reformed licensing system. There is to be a transitional period of several years during which rights granted under the 1968 ordinance will remain in force pending their conversion into equivalent rights under the new act. There are two separate licensing routes for large-scale and small-scale activities. The former system comprises:

* a reconnaissance licence (RL), short-term and non-renewable;
* an exclusive prospecting licence (EPL), for three years initially, renewable subject to approval of scheduled program of work;
* a mining licence (ML), providing the exclusive right to mine specific minerals;
* a mineral deposit retention licence (MRDL), for five years initially, enabling companies to take out rights over minerals whose extraction is not immediately feasible due to world market conditions.

Government officials at the recent Private Sector Investment Conference (PSIC) stressed that the terms of a mining licence would continue to be negotiated on a case-by-case basis and that provided obligations had been carried out by the company concerned existing rights would be automatically renewed.

Details of the proposed fiscal regime for mining have yet to be published and for the present the existing mining taxes apply (see Chapter 14). It is expected that there will be some simplification of the existing tax structure to remove some anomalies and relate government revenues more closely to prevailing profit levels although an overall increase in taxation is not anticipated. Details are likely to be announced in the 1991/92 budget due to be presented by end-April 1991.

### 2.4.2 Energy

Namibia is completely dependent on imports for its petroleum energy requirements at present and has therefore sought to diversify sources of supply to reduce dependency on South African refined products. Supplies of diesel fuel from Angola and of petroleum from overseas refineries have been obtained with the aim of procuring some 30 cent of requirements from non-South African sources; distribution is regulated in terms of the Petroleum Products and Energy Act, 1990. Despite its import dependency, until now the greater part of Namibia's continental shelf has never been fully investigated for its hydrocarbon resource potential. However, dissemination of seismic data on offshore geological formations obtained in 1989-90 has stimulated considerable interest from oil companies worldwide)

A number of mainly US oil firms actively prospected in the early 1970s but the only significant discovery was the Kudu gas field offshore the Orange river mouth and just inside Namibia's territorial waters. Two wells have subsequently been sunk which has confirmed estimates that the field could contain up to 2-3 trillion cubic feet of gas. Further development drilling is required to confirm Kudu's potential.

Onshore, exploration activity by Overseas Petroleum Investment Corporation of Taiwan commenced in 1989 in northern Namibia on a 260,000 square kilometers concession leased from the US firm Brilund (see Chapter 10). They hope to start drilling their first well by the end of 1991 and believe that a 50,000 barrels-a-day operation would be viable. Namibia at present imports all its oil requirements in refined form, and a commercial strike would open up the prospect of a local refinery and import substitution. The main market for gas is likely to be overseas, as hard currency earnings would be required to justify the high cost of the shore-based conversion facilities, pipelines etc. There would be the option of supplying gas as a source of domestic heating and cooking fuel also, although this would require considerable investment in the necessary infrastructure.

Bills covering the legal framework and fiscal regime for the exploration and production of natural oil and gas were approved by the National Assembly in March. Firms can apply for a reconnaissance grant, followed by an exploration licence and a production licence, with exploration permits to be valid initially for four years, subject to the fulfilment of drilling commitments by holders.

The three tax elements comprise of royalty, income tax and partly negotiable additional profits tax (APT). A royalty of 12.5% is payable quarterly on the market value of oil produced or stored; in the case of marginal fields, this may be wholly or partly deferred. Income tax is payable at the standard 42% corporate rate. The APT, taking the form of a three-tier incremental levy, will only become applicable where a specified rate of return has been earned on project net cash flow after deducting exploration, development and operating costs from gross income. An initial 25% threshold rate of return applies. However, as an incentive, producing companies are exempted from the non-resident shareholders' tax normally payable on dividends declared to external shareholders. A series of promotion seminars to outline Namibia's oil legislation and the country's prospectivity indicated by interpreted geological information will be held during 1991.

### 2.3.3 Agriculture

The bulk of Namibia's population live in the predominantly rural areas of northern Namibia where a traditionally communal and subsistence farming system largely applies. Rural inhabitants elsewhere are mainly engaged as skilled and semi-skilled workers on commercial farms and/or as small scale cattle, sheep and goat owners. The agricultural sector is marked by pronounced inequalities in land distribution, infrastructure and production inputs. Development to date has been largely geared to the commercial farming sector which is characterized by large cattle and sheep ranches in north-central and eastern, and southern regions respectively.

Livestock is the preponderant activity with food crop production currently sufficient to meet only a proportion of domestic demand. The balance of grain and other commodities provided by South Africa and other suppliers such as Zimbabwe (maize). Livestock farming normally contributes about 80-90% of the value of commercial agricultural output and although agriculture as a whole has performed poorly in recent years, mainly due to the protracted drought from 1979. Drought returned to parts of northern Namibia in 1989 and to southern Namibia in 1990, and the government launched a drought relief program, geared to providing maximum assistance to small stock owners, at the end of last year. The 1991 rainy season, however, has been a good one.

**(i) Soil fertility and water supply**

Communal tenure land, mainly in northern Namibia, comprises 41% of the country's land area. Subsistence farmers are estimated to have access to only 200 hectares of land per person. This compares to an average 8,600 hectares for commercial farmers, although it should be borne in mind that commercial livestock farming do have minimum grazing requirements in respect of cattle and sheep. The issue of skewed land ownership and possible rural development strategies are to be discussed at a national conference scheduled for June 1991. Agricultural growth and rural development are priorities in expanding rural employment and domestic food production. Soil fertility in much of the north is poor and land utilization low. However soil in Ovamboland is fertile but thin.

At present only some 3% of the land is under cultivation and while the north normally receives good rains between January-March, water supply throughout the rest of the year is inconsistent and irrigation potential thereby limited. Several improvements in water supply, which could assist crop production are in hand and the reopening of the Calueque dam in Angola on the Cunene river has enabled the Department of Water Affairs to resume pumping of water through the canal serving eastern Ovamboland with effect from December 1990. Water flows to the Ogongo storage dam where the region's main purification plant is located by pipelines to other centers. A recently completed 43 kilometer pipeline to Okahau contains 21 stock watering and domestic supply points and plans for a new water infrastructure to irrigate western Ovamboland are on the drawing board. Similarly the water resources of the Okavango river to the east could be tapped to provide irrigated land for crop cultivation.

**(ii) Crop production**

At present crop production is limited to the Ovambo drainage area, a narrow strip along the Okavango and Zambezi rivers, the Otavi-Grootfontein maize area, and small irrigation schemes in the south. The Caprivi region has the highest rainfall levels in the country and fertile soil which could prove suitable for the commercial production of cash crops, including rice, sugar, cotton etc. The development of new farming land will require considerable investment in new infrastructure, credit facilities. agricultural extension services, training centers and research into soil types. At present it is estimated that only 1.4% of the total potential crop farming land is being utilized, and as well as offering more job opportunities, greater production of staple foods would reduce dependency on imported foodstuffs. This will crucially require the development of appropriate marketing systems and fair pricing methods to ensure that small farmers have sufficient incentive to produce a surplus for sale.

The main subsistence food crop grown in Namibia is millet (locally known as mahangu) which contributes some 45-60,000 tons annually to Namibia's grain basket. It is not commercially marketed at present but a pilot marketing scheme has recently been launched through the Namibian Agronomic Board (NAB). The NAB has established four intake points in Kavangoland and a producer price at the relatively high level of R680 ($263) per ton of packed grain for 1991. The Board markets maize, wheat and sunflower seeds, including derivatives such as maize meal and flour, which together with imported grains are largely processed by the local milling industry.

Some 40% of the maize produced in Namibia is grown as a dryland commercial crop in the Otavi valley region near Tsumeb. Domestic output averages 25,000 tons, around 40% of domestic demand. Wheat production mainly comes from the Hardap irrigation scheme near Marienthal in the south, supplying some 5-6,000 tons annually, or about 15% of total demand. Total import restrictions are maintained on maize meal with the aim of ensuring the milling companies process the domestic crop first, while a 50% restiction is applied in respect of flour.

The domestic market for sunflower is about 10,000 tons, and local primary production has fallen to around 600 tons. There is a total import restriction on refined cooking oil to protect the oilseed plant at Omaruru although unrefined vegetable oil products can be imported.

Sorghum is grown for own consumption in northern Namibia, and other products produced in small quantities from individual farming districts include potatoes, and other vegetables. There is seen to be considerable potential for irrigated farming on the north bank of the Orange river, where one farmer is producing grapes, melons, tomatoes and tomato paste. There is also considerable potential for domestic production of processed stockfeed from yellow maize and oilcake but at present the market is largely in the hands of the highly subsidized South African industry.

**Marketing of Food Crops**[a]
**(tons)**

| Season | White Maize[b] | Yellow Maize | Wheat | Sunflower Seed |
|---|---|---|---|---|
| 1985/86[c] | 7,600 | 1,100 | - | 516 |
| 1986/87 | 18,289 | 4,618 | 1,162 | 5,922 |
| 1987/88[d] | 6,779 | - | 4,960 | 524 |
| 1988/89 | 14,415 | 1,599 | 4,609 | 833 |
| 1989/90 | 21,000 | 1,600 | 5,500 | 710 |
| 1990/91[e] | 26,870 | 1,585 | 4,050 | 614 |

[a] Controlled food crops delivered to the Agronomic Board.
[b] Excludes output from FNDC project farms in northern Namibia.
[c] No wheat scheme had been started as of 1985/86.
[d] No scheme for the intake of yellow maize was implemented in 1987/88.
[e] Preliminary totals for estimates.

*Source: Namibian Agronomic Board.*

**Producer Prices for Food Crops**[a]
**(Rands per ton)**

| Season | White Maize | Yellow Maize | Wheat | Sunflower Seed |
|---|---|---|---|---|
| 1985/86 | 310 | 306 | - | 520 |
| 1986/87 | 328 | 311 | 391 | 586 |
| 1987/88 | 338 | - | 448 | 633 |
| 1988/89 | 371 | 340 | 443 | 672 |
| 1989/90 | 440 | 381 | 485 | 769 |
| 1990/91 | 441 | 422 | 564 | 791 |
| 1991/92 | 464 | 438 | - | 847 |

[a] Prices are for the best grades of the product as applicable at the various intake points.

*Source: Namibian Agronomic Board*

### (iii) Livestock

Cattle are the mainstay of the livestock sector as the importance of karakul sheep - known as black diamonds for the once high value of their pelts - has declined with sustained low export prices. Some 4,500 farmers are involved in commercial cattle and sheep rearing, with animals marketed through the Meat Board of Namibia for domestic slaughtering or shipment live to Namibia's main current meat market, South Africa. High red meat and mutton prices on the South African market in recent years have led to an increase in the number of cattle and sheep marketed, with many farmers in the south switching from the karakul to the regional "dorper" breed. Most of the products from the beef slaughtered locally are also sold to South Africa at present, but this will alter with Namibia's EC beef quota. The Meat Board states that a quota of 10,000 tons in beef cuts is equivalent to an input of 60,000 head of cattle which is easily within the capacity of the local slaughtering industry, which has a potential capacity of up to 150,000 head.

The two main commercial plants at Windhoek and Okahandja are operated by the SWAMEAT consortium of private firms and the Agra producer cooperative. There is a third plant at Otavi currently mothballed, and two smaller plants currently owned by the FNDC at Oshakati and Rundu. A total of 346,000 cattle were marketed in 1988/89 and 1 million small stock, predominantly live. The Meat Board's policy is to allocate the maximum number of cattle to the local abattoirs to limit live exports. The existing mutton processing capacity at Windhoek is being expanded and a wet-blue tannery is being built for the fuller beneficiation of slaughter stock hides.

There is considerable scope for further diversification of the industry, including processing of more by-products. The emphasis on meat has meant that up to now dairy production has played only a minor role. Although local producers satisfy local demand for milk; butter and cheese are largely imported. Suitable marketing channels and infrastructure could enable more cattle owners to market both meat and, in eastern districts, dairy cattle. One problem is the continued existence of the colonial "red line" separating the white farming districts from northern communal areas. Veterinary controls are less extensive north of the line and the permeability of the northern border with Angola leaves the region open to imported cattle diseases. Although the government would like to move the line northwards to accommodate small scale cattle owners, it will only do so as veterinary coverage is extended to ensure Namibia's EC beef quota is not affected. The EC operates very strict veterinary regulations in respect of ACP beef exporters and a substantial area of Botswana in the north and west is out of bounds for EC beef supplies.

**Exports of livestock**

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|---|
| Agricultural products | 95 | 128 | 157 | 242 | 258 | 294 |
| of which: | | | | | | |
| cattle | 52 | 65 | 83 | 139 | 149 | 155 |
| small stock | 16 | 31 | 41 | 53 | 58 | 95 |
| karakul pelts | 16 | 20 | 18 | 35 | 35 | 25 |

*Source: Ministry of Finance, Statistical/Economic Review*

### 2.3.4 Fishing

This sector has huge, largely untapped potential, now that Namibia has ensured control of its fishing grounds by the proclamation of a 200 nautical mile exclusive economic zone (EEZ) following independence. By developing a Namibian white sea fishing fleet, onshore processing facilities and joint venture arrangements, it is estimated that Namibia could earn up R2.3 - R2.5 billion within seven years, from a combination of royalty payments by foreign fleets and fish landed by Namibian trawlers.

The government has barred foreign fleets from fishing within the EEZ pending completion of a review of the state of the deep sea fishery resources. With the exception of a small number of mainly Spanish vessels, this ban has largely been complied with. The review has recently been completed and resumption of fishing has been permitted with a scale of levies charged on all fish caught from January 1, 1991. With capacity of the Namibian fishing fleet still limited, foreign vessels, including soviet trawlers, have been allowed to trawl for mackerel. Prior to independence virtually none of the huge volumes of deep sea fish caught by foreign trawlers were landed and no fees were paid prior to independence as Namibia's fishing zone was only 12 miles and trawlers from the 17 member nations of the Icseaf convention were subject to only voluntary quota levels. In 1988 Icseaf member vessels caught 630,000 tons of mackerel and 390,000 tons of hake, together with numerous other species, in the three zones encompassing the Namibian fishing grounds.

The main inshore fishing activity is pelagic, with pilchard, anchovy and mackerel the main species. A system of quota restrictions operates to prevent any overfishing although there is concern that a transparent system for allocating the quotas, in place of the old system in which political and economic interests were the main influences, has yet to be put in place.

South Africa's continued sovereignty over Walvis Bay has also enabled it to claim a share of the Namibian fishing grounds. Resolution of the Walvis Bay issue will enable the government to plan the future of the industry with greater confidence. Fish processing and ancillary activities such as canning and packaging have considerable value-added manufacturing potential. Canned pilchards are currently marketed by an industry body, Atlantic Canned Fish, and export sales to neighboring markets are being actively pursued. The industry produced 3.2 million cartons of canned pilchards in 1989, mainly exported to South Africa, while other pelagic inshore species are used for the production of fishmeal and fishbody oil, primarily for export. Pelagic catches totalled 186,000 tons in 1989, a drop from the previous year's 348,000 tons, due to a fall in anchovy and mackerel catches.

**Pelagic fish catch (tons)**

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|---|
| Pilchards | 55,605 | 52,820 | 49,459 | 62,687 | 62,569 | 76,747 |
| Anchovy | 13,685 | 51,081 | 15,525 | 377,276 | 117,010 | 79,304 |
| Macherel | 90,401 | 26,614 | 79,799 | 34,583 | 168,740 | 30,292 |
| Total | 159,691 | 130,515 | 144,783 | 474,546 | 348,319 | 186,343 |

*Source: Namibian Sea Products*

A separate Ministry of Fisheries and Marine Resources was established in a restructuring of the government announced by President Nujoma in February 1991 (see Chapter 7). This function was formerly included in the Ministry of Agriculture, Fisheries, Water and Rural Development, and the decision to go for a new ministry reflects the significance attached to this sector by the government and the heavy workload of the previous portfolio.

A consultative meeting with representatives of the Namibian fishing industry to consider a national fisheries policy was held on February 23 and this is expected to include new guidelines for the issuance of fish licences and allocation of quotas to facilitate entry of new and small operators into the industry. Other objectives of the ministry include ensuring the conservation of resources by inforcing the EEZ, establishing a Namibian shipping registrar, promoting the creation of a Namibian-controlled fishing industry, seeking new markets for Namibia's marine resources and encouraging the consumption of fish within the country.

A Sea Fisheries Bill is under preparation; this will replace the present Sea Fisheries Act of 1973. This had been amended in July 1990 to allow for the imposition of levies on fish caught under quota and the scale of charges for the different species - pilchard, hake, horse mackerel and lobster - was announced in November 1990. The total allowable catch (TAC) quotas for these species for the 1991 season reserve 15% of the amount for each category to new entrants. These applications are currently being evaluated.

### 2.3.5 Manufacturing

The sector currently contributes around 5% of total GDP (excluding Walvis Bay). Food processing, brewing, non-metallic mineral manufacture, metal working, timber working and furniture, textiles, printing and publishing are the main categories. In 1989 of the 259 registered enterprises, 75 were in food processing, beverages and tobacco, employing 4,700 out of the total 9,200 employed in the sector. Most capacity is owned by private companies, the main exception being the facilities operated in the food processing sector by the FNDC (See Chapter 3). The majority of facilities are located in Windhoek with 170, over half the total of 325 listed by the FNDC.

**Manufacturing firms by category and employee numbers, 1989**[a]

| Category | No of firms | No of employees |
|---|---|---|
| Food, beverages & tobacco | 75 | 4,687 |
| Wood, wood products furniture | 42 | 669 |
| Metal products | 33 | 1,130 |
| Textiles, clothing & leather | 21 | 389 |
| Non-metallic mineral products | 19 | 1,094 |
| Paper products, printing & publishing | 13 | 454 |
| Chemical products | 11 | 329 |
| Repair services | 25 | 293 |
| Other | 20 | 131 |
| Total | 259 | 9,176 |

[a] Excludes Walvis Bay

*Source: Manufacturing Industry Survey, Department of Economic Affairs*

**Manufacturing concerns by location, 1989[a]**

| Area | No. of concerns |
|---|---|
| Windhoek | 170 |
| Swakopmund | 25 |
| Okahandja | 16 |
| Grootfontein | 9 |
| Otjiwarongo | 9 |
| Gobabis | 8 |
| Keetmanshoop | 8 |
| Luderitz | 8 |
| Outjo | 8 |
| Rehoboth | 8 |
| Omaruru | 7 |
| Tsumeb | 7 |
| Otavi | 5 |
| Karibib | 4 |
| Marienthal | 3 |
| Usakos | 3 |
| Other | 27 |
| Total | 325 |

[a] Excludes Walvis Bay and northern centers such as Oshakati.

*Source: First National Development Corporations (FNDC)*

There are considerable opportunities for investment in expanding present operations or establishing new capacity outside the existing narrow base of the sector, and although Namibia's domestic market is small and the purchasing power of the majority of consumers low, the country's expanding regional links means that there could be worthwhile export outlets for specialized products.

Import substitution is another attractive area, especially as the government may be inclined to continue the price protection controls established prior to independence and operated mainly in respect of the food processing industry. The SACU regulations do permit tariff protection of infant industries, although the trend is not in favor of more protection. Within the Namibian context, protection is seen as having been geared to the interests of a small number of inter-linked concerns.

Although relatively small, a number of local firms have an innovative approach and are now actively seeking partners with a view to widening product ranges. There is strong competition in many sectors from large South African companies who have extensive distribution systems. Local assembly of imported materials including vehicles and electronics, could be growth areas. In the longer term, firms in Namibia could be well positioned to supply the Angolan market when political stability is restored and economic conditions improve. Increased purchasing power by inhabitants of northern Namibia would considerably expand domestic sales opportunities. There is also scope for considerable linkages with the primary resource sector of the economy in the form of plants processing natural resources, including pharmaceuticals and chemicals concerns. There is considerable potential for processing raw materials to export overseas and to neighboring countries, using the existing infrastructure of Walvis Bay port and the highway through the Caprivi to central Africa.

A detailed survey of project opportunities at the microlevel is contained in the Development and Investment handbook published by the FNDC in October 1989, while a more recent, general assessment of Namibian manufacturing prospects has been published by the UN Industrial Development Organisation (UNIDO) in its industrial development review series (June 1990).

### 2.3.6 Tourism

Namibia's extraordinary range of natural phenomena, wildlife and desert landscapes provide a strong combination for a healthy tourist industry. However, the number of visitors Namibia can handle is limited by the country's fragile ecology (four wheel drive tracks can remain for years in the Namib desert) and the fairly modest scale of its accommodation facilities. Most tourists have traditionally come from South Africa, many of them on hunting safaris, and the government is keen to maintain Namibia's attractiveness to them, while diversifying into other markets, by attracting high-paying overseas visitors.

Volume tourism is not an option, or a feasible prospect, given the distance from the main European market. Of the 166,000 nonresidents who entered in 1988, 14,000 stayed less than 24 hours, 50,000 were business or official visitors and some 100,000 were tourists. Of these, some 70,000 were South African and most of the remaining 30,000 were from Germany or other European countries. Visitor levels were much higher in 1989 due to the presence of the UN and numerous foreign observers but have since fallen back again. The tourist sector is particularly sensitive to adverse political events, and the government has shown it is keenly aware of this, reacting promptly when undisciplined border guards roughed up a few foreign tourists.

There are currently 70 hotels (but only one four-star and four three-star), 50 guest farms, 40 safari firms offering tours, and 28 rest camps. Windhoek currently has 1,600 hotel beds, Swakopmund - the country's coastal holiday resort - just under 600, and the Etosha Pan wildlife park 750. The government is formulating an international marketing campaign and is appointing an advisory committee on tourism. The need to make Namibian tourist packages financially attractive to overseas tour operators without offering rates of commission that would weaken local operators, and a careful targeting of potential markets are among the options being studied. The improved air links to neighboring states also makes it possible for operators to offer combined packages of several attractions- eg Etosha, the Victoria Falls (Zimbabwe) and the Okavango delta (Botswana),

Chapter 3

# The State's Role in the Economy

While private firms control the bulk of activities in the productive sectors of the economy there is substantial direct and indirect involvement by state-owned enterprises and parastatals. This reflects the South African model of state undertakings in strategic areas; most of the public bodies in Namibia are parastatals originally established by South Africa which during the 1980s were progressively localized under the pre-independence interim governments. While a program of privatization has been launched in South Africa in the past decade, this had not been applied to Namibia and is not presently on the agenda.

## 3.1 Parastatals

The main form of direct state involvement in the economy is through parastatals. The principal ones being the national transport concern TransNamib, the electricity utility South West Africa Water and Electricity Corporation (SWAWEK), the Namibian Oil Corporation, NAKOR, and the First National Development Corporation (FNDC). Prior to independence, South Africa's Industrial Development Corporation (IDC) played a major role in the economy through the provision of loan finance via SWAWEK for the Cunene hydroelectric project and as equity partner in several mining concerns, including Rossing Uranium and one or two now closed smaller base metal mines. The IDC still has a reduced equity interest in Rossing. The other major state involvement was by the Iron & Steel Corporation of South Africa (ISCOR) which purchased the tin mine at Uis in 1958 and developed the larger Rosh Pinah lead/zinc mine in the south during the early 1970s. ISCOR Namibia continues to operate the Rosh Pinah mine but Uis was operating on a care and maintenance basis at the end of 1990.

In contrast to the position of parastatals in many sub-Saharan African countries, the Namibian state firms are financially fairly sound. Both SWAWEK and TransNamib run at a profit and are able to service loans and cover capital commitments out of their own resources. TransNamib has only been established in its current form for two years and in its report for 1989/90 stated that this was expected to be the last year in which budgetary assistance from the government would need to be forthcoming. However both SWAWEK and TransNamib may need to raise additional funding, possibly from external sources, to finance power capacity expansion and transport fleet replacement programs, respectively.

Other important parastatal or statutory institutions include the Land and Agricultural Bank, which provided loans at subsidized rates to the commercial farming sector, the Namibian Agronomic Board, which markets certain food products under a controlled pricing system, and the Meat Board of Namibia, which markets cattle and small stock, negotiating quotas for exports to South Africa. Its marketing role will become more diversified with the start of shipments of beef to the EC under Namibia's Lomé export quota. The operations of the Land Bank are currently being reviewed with the aim of restructuring it to serve a wider range of farmers, including small scale and subsistence farmers who have generally been deprived of access to cheap credit in the past, due to lack of collatoral for loans.

### 3.2 The First National Development Corporation (FNDC)

The FNDC has the widest involvement in the Namibian economy, with its activities being largely geared to northern Namibia. An inter-ministerial committee is currently reviewing the role of the FNDC and other parastatal bodies and its recommendations may involve significant restructuring or abolition of the FNDC in its present form.

The FNDC was established in 1978 to consolidate the assets and personnel of the Bantu development agencies with the aim of promoting commercial development in the private sector through loans and institutional support. However, it ended up running most commercial ventures itself. These functions were later extended into the public sector. A new management team was recruited in 1989 and under the direction of former Tsumeb Corporation general manager, Mr Bob Meiring, the FNDC adopted a higher profile and sought to gear its activities more towards the forthcoming independence of the country. This included preparing a detailed background document on Namibia's investment and development prospects and providing advice to would-be investors on specific sectoral opportunities.

However the FNDC's role was called into question by post-independence allegations that it had used its financial muscle and control over wholesale supplies to prevent competition by indigenous black entrepreneurs. As an initial step, control over the FNDC's farms, including nearly 400,000 hectares of cattle ranches in the north has been taken over by the Ministry of Agriculture with the aim of utilizing them as agricultural development centers. Management of the farms will continue to be by the FNDC for the time being. The move was described as an interim measure by the Minister of Agriculture, Mr Gert Hanekom, who said it "does not mean that the Ministry as such would take over the farms".

The uncertainty over the FNDC's future has restricted its effectiveness in promoting investment and development as both investors and donors have been inhibited from fully utilizing the FNDC's resources until its status is clarified. However, at present the FNDC is virtually the only agency able to carry out the identification, promotion and establishment of enterprises on a national rather than fragmented basis. It is the sole development and finance institution with a multi-disciplinary team of experts formed into an integrated institutional structure which also has a regional presence.

Given Namibia cannot really afford the luxury of multiple institutions with overlapping responsibilities one possibility is that the FNDC's current functions will be continued by two separate but inter-active agencies, acting as a conduit between the government, investors and donor agencies. The first would be a technical/implementation agency to provide expert advice to the government and promote business enterprise. This would also probably have the role of cooperating with the government's information and investment center recently established by the Trade and Industry Ministry.

The second agency would be a standard national development bank type of organization to provide finance and institutional support for development projects. The latter would require the establishment of a capital reserve to finance cash requirements on an ongoing basis. This would probably involve tapping external sources of finance and placing equity with international development finance institutions, such as the African Development Bank, Germany's DEG, the Commonwealth Development Corporation (CDC) and other suitable partners. Having two separate agencies would, end the basic flaw in the FNDC of being both the financier and implementator of projects and assuming ownership, while enabling the positive aspects of the FNDC's role to be continued.

The latest figures for the FNDC's activities show that in the year ended March 31, 1990 it had a total turnover of R151 million, up from R135 million in 1988/89, and earned a profit of R4.7 million. The bulk of its income, R76 million, came from trading enterprises, mainly in northern Namibia, where firms established by the FNDC currently comprise the main sources of cash employment for the population. This was an area where due to the lack of infrastructure, crucially transport, water and support services, as well as the adverse security situation, the private sector - both domestic and foreign - was unwilling to get involved.

The annual report shows the extent to which its ownership of business had developed in ten years, comprising 39 separate companies or business units, mainly located in Oshakati, Ondangua, Rundu and Katima Mulilo in northern Namibia. Activities have involved wholesale and retail concerns, liquor stores, bakeries, butcheries, meat processing plants in Oshakati and Rundu, a grain mill in Katima Mulilo, cool drink plants, several rest camps and a service station. Several of these were affected by joint ventures formed with the private sector during 1989/90.

These comprised:

* Namibia Beverages - cool drink factories in Oshakati, Windhoek and Grootfontein;
* Namib Mills Caprivi - maize meal production in Katima Mulilo;
* PEP Stores Retail - clothing stores in Oshakati, Ondangua, Rundu, Katima Mulilo, Khorixas.

If the government decides that the FNDC's assets should be liquidated there could also be opportunities for foreign investors here. The annual report notes a downturn in turnover in northern Namibia, due largely to the loss of contracts to supply the South African Defence Force (SADF), with the meat and bakery sectors especially affected, while trading enterprises were adversely affected by excessive stock shortages caused by pilfering.

Loans totalling R9.2 million were advanced in 1989/90, down from R12.4 million in the preceding year. During the five years ended March 31, 1990 a total of 361 loans were advanced but the average amount was small as their total value was only R36 million. As of that date the outstanding balance on loans advanced was R35 million in respect of 830 loans of which 476 were bridging or mini-loans. A total of R20 million, was outstanding on loans to manufacturing. Trade credits to borrowers in northern Namibia worth R11.5 million were provided in 1989/90, totalling R44 million over the period 1986-89.

### 3.3 Other state involvement

The other main form of state involvement in the economy is indirectly through pricing controls and credit subsidies. The former include price controls over certain products and the fixing of prices of controlled agronomic products (see Chapter 13).

Prior to independence, white commercial farmers benefitted from three types of credit at subsidized rates: long term credit for land purchase, medium term credit for stock and machinery, short term credit for seasonal inputs. Between 1981-89, total credit advanced to commercial farmers was R1.7 billion, of which R795 million was from the Land and Agricultural Bank and R540 million from the government (97% from the administration for whites). As of 1990, the subsidy per account with the Land and Agricultural Bank averaged just under R6,000. Land and Agricultural Bank interest rates, previously well below commercial rates, have been increased since independence to 18% as of end-1990, above the inflation rate but still below the commercial bank prime rate. The government is now considering ways of providing credit to small-scale farmers in communal areas, and if this involves commercial banks some form of government guarantee may be required given the lack of collateral security, as communal farmers do not hold individual title to land.

Overall the government is not planning to increase the role of the state in the economy, which it has stated will remain a mixed economy. Much depends on the degree of success which attends the government's efforts to promote an inward flow of investment from overseas private companies and other investors. If this fails to materialize on a scale sufficient to significantly increase local employment and diversification of economic activities pressure may grow on the government to expand state funded economic activities. This could lead to the establishment of additional parastatal agencies, for example in the mining or fisheries sector, although a state minerals marketing organization along

Zimbabwean lines is not on the current agenda. However, the government has made : clear that outside the natural resource sectors, where the state reserves the right to acquir an interest, there will be no obligatory provisions for state participation in ne\ developments.

Chapter 4

# Infrastructure

Namibia has a well-established, modern physical infrastructure covering the transportation, communications, electricity and water supply sectors. The level of services and general operating efficiency are of a generally high standard and comparable with those of most industrialized countries. However, the existing infrastructure is largely geared to servicing the major towns, economic centers, mines and commercial farms with the level of services in northern Namibia and in rural districts rather limited at present.

Apart from South Africa, with which there are long established road and rail links, transport connections to other countries in the region are currently restricted to several mainly untarred roads. Improving communications links with Namibia's neighbors is being actively pursued by the government, both through its own capital investment program and via the regionally-funded projects of the Southern African Development Coordination Conference (SADCC). Several projects involving improved transport links between Namibia and SADCC member states have been adopted by the organization's Southern African Transport and Communications Commission (SATCC) and mainly comprise the extension or tarring of roads linking the country to Zambia, Angola and Botswana.

Since independence air transport connections with neighboring countries have been expanded significantly and there is now a range of scheduled flights linking Windhoek directly to Gaborone, Harare and Lusaka, while the frequency of services between the capital and Johannesburg has been increased.

## 4.1 Transport

National transportation services are operated by TransNamib Ltd, a parastatal operated on commercial lines in which the government is the sole shareholder. TransNamib was established in 1988 and functions on a multi-modal basis, with separate business units for road transportation, rail, air and harbor services. In 1990 it established two subsidiaries to operate shipping services. The main competition to TransNamib is provided by private road hauliers based in Namibia and South Africa which have the major share of cross-border traffic.

The government is currently reviewing the existing transport regulations with a view to determining how best to promote a competitive environment while retaining an overall regulatory role to ensure that certain standards, including minimum weight restrictions on trucks, are adhered to. It is expected that the transportation sector will remain characterized by a mixture of private enterprise and publicly-owned operations. Plans floated prior to independence for the partial or total privatisation of TransNamib have been shelved. The Ministry of Works, Transport and Communications is currently formulating a national transport policy which will lead to appropriate legislation covering operational aspects and economic objectives for road and rail sectors, investment priorities and manpower development.

The new legislation is expected to involve rationalisation of the present complex road permit system administered by the Road Transportation Board in terms of the 1977 Road Transportation Act which in the case of applications for public permits imposes strict criteria including a requirement to prove existing transport facilities are not satisfactory. In practice this is seen as having operated against the interests of smaller firms which could not afford the time and money to go through the bureaucratic procedures involved. In addition, a number of permit holders also gained the right to transport "reserved goods"- 14 mainly bulk commodities including minerals, ore, cement and salt - theoretically to be conveyed exclusively by the rail system. New applications for the conveyance by road of these goods were no longer allowed from the end of 1989.

Another priority is to reduce the damage caused to the national highway system by overloaded trucks. This could involve more spot inspections and checking of foreign vehicles at border posts, together with revision of current road taxes to ensure they more closely approximate the cost to the state of maintaining and constructing road infrastructure.

As a preliminary step the government is setting up a Transport Advisory Board on which all government and commercial concerns with an interest in transportation will be represented to act as a forum for policy proposals. While total deregulation is not on the agenda, the government's overall strategy seems to be geared to a liberalization of the road transport industry, with the aim particularly of facilitating Namibian companies to enter the industry. The rail system will remain the major carrier of bulk freight. Such a policy could provide scope also for overseas transport concerns to operate services in partnership with local companies.

### 4.1.1 Roads

Namibia's public road network covers some 39,000 kilometers with most major centers connected by 4,500 kilometers of tarred roads. There are some 25,000 kilometers of gravel roads and the rest consist of unsurfaced or earth roads. The two principal arterial highways run north-south from the Angolan border via Ondangua, Tsumeb, Windhoek and Keetmanshoop to South Africa and laterally across the country from Gobabis to the capital and Swakopmund and Walvis Bay. Another important highway runs from the Swakopmund-Windhoek road from Karibib through Otjiwarongo and Grootfontein to

Rundu on the northeastern border with Angola, from where it continues on to Katima Mulilo in Caprivi.

Several road upgrading schemes to improve connections between Namibia and its neighbors have been approved by SADCC, including the untarred roads between Katima Mulilo and Ngoma and between Gobabis and Buitepos, both on the borders with Botswana. The latter will connect up with the 630 kilometer Trans-Kalahari highway under construction in Botswana between Mamuno and Jwaneng in the southwest. On completion in 1993/94, this will provide an alternative and shorter tarred highway link between Namibia and the Witwatersrand industrial heartland of South Africa. The government has also formulated a project in cooperation with Angola for the reconstruction of the road from the Namibian border to Lubango. This has the ultimate objective of providing a through route to the port of Namibe where a SADCC-backed project to upgrade harbor facilities and transport infrastructure is already underway.

Road construction and maintenance inside Namibia was allocated a capital budget of R18 million in 1990/91. A major priority is the development and upgrading of roads in Ovamboland, for which an initial R1.5 million was allocated. A high proportion of the gravel and earth roads in the region have been poorly maintained in the past and as an immediate priority some 450 kilometers are being rehabilitated within a two-year period.

TransNamib Carriers operates a commercial road haulage route network of some 6,300 kilometers. Total tonnage conveyed in 1990 amounted to 215,100 tons, of which fuel and general goods comprised 68%, while 81,600 passengers were also conveyed. Economic activity in the northern regions and the southern sheep-farming areas are the major determinants in profitability. A decline in road transport demand was experienced with the ending of military activities in the north and the subsequent withdrawal of Untag although this did not affect results in 1990. The biggest private road haulage contractor is the Grootfontein-based Road Runners. The two carriers are cooperating in the transportation of Zambian copper from Kitwe to Walvis Bay, but competing for the transport of Namibian salt and other goods from the Grootfontein railhead to Zambia.

### 4.1.2 Rail

The rail network comprises 2,400 kilometers of 1.067 m (3ft 6in) narrow gauge, largely single, track and is of national importance primarily as a freight carrier. The two main lines run from Ariamsvlei on the South African border to Windhoek, Swakopmund and Walvis Bay and from Usakos junction on the Swakopmund-Windhoek line to Oitjiwarongo, Otavi and the northern railheads of Tsumeb and Grootfontein. Two branches connect Windhoek with Gobabis in the east and Aus, south of Keetmanshoop, with the port of Luderitz.

The rail network was largely constructed under German colonial rule and until 1987 was operated by South Africa. TransNamib Rail is the current operator and provides interchange facilities with South African Transport Services (SATS). There are at present no rail connections between Namibia and other neighboring states, although several routes have been proposed and might prove economically feasible if traffic levels to and from neighboring countries build up. These include an extension of the railroad from Tsumeb northwards, to connect with the Angolan system from Namibe to Lubango; extending the line from Grootfontein north eastwards to Rundu and Katima Mulilo, which would provide a direct link to Zambia with the construction of a bridge across the Zambezi, and a Trans-Kalahari Railway from Gobabis across Botswana to the main line between Gaborone and Francistown.

Despite a downturn in freight traffic levels the railroad increased its net operating income to R30 million in the year ended March 31, up from R14 million in the preceding year (annualized figure). Net ton-kilometers of freight showed a 17% fall in 1990 to 1.6 billion, while freight transported during the year fell by 13.5% to 1.9 million tons. Of the total, mining products comprised 34%, bulk liquids 21%, containers 14% and building materials 12.5%. Consumer goods as a whole, including bulk liquids, constituted 59% of total freight tonnage. Traffic patterns changed significantly during 1990 with an increase in local traffic to 55% of the total, while exports rose to 9% and imports declined to 36%. This reduced the imbalance between import and export freight by 190,000 tons. The haulage fleet, entirely diesel units locos, was reduced during the year by 40 units to 88. Considerable capital spending, including large amounts of foreign exchange, will be required for renewal of the loco fleet.

### 4.1.3 Ports

#### (i) Walvis Bay

There are two functioning harbors on Namibia's coastline at Walvis Bay and Luderitz. The former is by far the most important to Namibia although at present it continues to be administered by South Africa, which claims sovereignty over the port and its surrounding enclave, which covers 1,240 square kilometers. Namibia does not recognise South Africa's sovereignty of Walvis Bay, which is specifically included in the national territory defined in Namibia's constitution. An initial round of bilateral negotiations with South Africa were held in Cape Town in mid-March. Meanwhile no difficulty has been encountered by Namibia in using the port facilities, which are managed by South African Transport Services (SATS). The government regards it as vital to ensure Walvis Bay, which is also the center of the inshore fishing industry, is reunited with the rest of Namibia, not least to ensure it could not be used to disrupt the economy, should there be any future deterioration in relations with South Africa.

The port is capable of handling up to 10 million tons annually, and is at present under utilized, handling some 1.5 million tons a year. It is fully equipped to handle container traffic and is a regular port of call for international shipping lines. Facilities include eight berths with 1,400 meters of wharfage, warehouse capacity of 3,500 cubic meters and a bulk mineral loading plant. The port has an airfield and there are direct road and rail links to Windhoek and other economic centers via the coastal town of Swakopmund, just to the north. Its industries include sizeable marine engineering and vessel repair facilities, while it provides the main base of operations for freight forwarding companies and shipping agents in the country. Apart from diamonds, which are air freighted, it handles the bulk of Namibia's export trade to world markets, including uranium, other minerals, beef cuts and fish products.

**(ii) Luderitz**

Luderitz is a much smaller port and less conveniently situated for the major markets in the central and northern regions of the country. It is the base for the rock lobster (crayfish) industry, which has experienced reduced catches in recent seasons, but remains the main source of employment. However, economic activity has received a boost with the development up of a new diamond mine at Elizabeth Bay to the south, marine diamond exploration and the development of new onshore whitefish processing facilities.

The government has approved plans to upgrade road and rail communications between Luderitz and the interior to improve its accessibility. The size of vessels using the port is limited by the shallow nature of the rocky harbor. To enable larger vessels to use the port a costly drilling operation would have to be carried out. In 1990, 16,400 tons were handled and 2,600 tons shipped. The harbor made a small operating profit in 1990 and turnover should have been improved subsequently with the shipment of diesel fuel supplies from Angola for the diamond mining industry and other consumers in the south.

**(iii) Swakopmund**

Swakopmund has a jetty which can be used for unloading vessels by lighter, but there are no plans to develop it as a harbor at present. However, should the Walvis Bay issue not be resolved, consideration might be given to providing new facilities there. Construction of an oil storage depot at Swakopmund, costing some $0.5 million, was approved by SADCC in August 1990. The town's transport links with Windhoek and the interior are as good as those at Walvis Bay and it was used by Germany as the main port during its rule.

Other alternatives to Walvis Bay include the development of the Namibe corridor, which would provide a shorter route to northern Namibia, while several possible sites for new harbors have been identified north of Walvis Bay. However, the infrastructure cost would be very heavy and the building of a new port is unlikely to be decided pending the outcome of negotiations on Walvis Bay's status.

### 4.1.4 Air Transport

Air transport is of particular importance given the distance between many of the principal population centers. Windhoek International Airport is the country's main gateway, with Eros airport nearer to the city center used for domestic and charter flights. Most towns have an airport and there is also a network of airfields and landing strips throughout the country.

Namib Air, originally a small domestic carrier, now operates scheduled services on regional routes and one intercontinental route, Windhoek-Frankfurt. The airline took over operation of this route from South African Airways (SAA) in April 1990 and a twice-weekly schedule is currently operated on a joint-venture basis with Lufthansa. Long-haul flights to European destinations and North America may be started in the future, which would require the airline to acquire its own wide-bodied aircraft fleet. The French airline Union de Transports Aeriens (UTA) began a weekly service from Windhoek to Paris via Luanda on March 21, 1991. A range of regional services is also operated, and good connections are available for other long haul flights operated from Harare, Gaborone, Lusaka and Johannesburg. Namib Air operates 15 return flights weekly to Cape Town and Johannesburg. A joint service to Angola is also being developed and on the Namibian side will initially involve extending a domestic route northwards to Lubango to connect with flights operated by the Angolan airline TAAG, via Namibe from February 1991.

Other Namib Air services include one to Maun in north west Botswana and three per week to the Victoria Falls in Zimbabwe. Despite the high start up costs of these new routes, the airline required no government subsidy in 1989/90 and made an operating profit of R0.9 million. The airline carried 1.1 million tons of cargo and 107,000 passengers in 1990. The start of the Windhoek-Johannesburg flights in August 1990 led to a tenfold increase in the number of passengers carried according to the airline

The National Assembly decided in August 1990 that to more truly reflect the airline's status as a national carrier it should be renamed Air Namibia. This change, which will cost around R1.5 million, is expected to take effect by the end of 1991.

## 4.2 Telecommunications

There is a widespread and efficient telecommunications network in existence although services in northern Namibia and in rural areas outside the commercial farming regions services are limited and household ownership of telephones is low. There are currently some 69,000 telephone subscribers and 1,000 telex subscribers while the number of facsimile lines in use in Windhoek and other economic centers has increased rapidly in the past two years. Direct dialling facilities are available to over 60 countries with an international exchange and automatic telex exchange in Windhoek. The Department of Post and Telecommunications operates 18 automatic and 134 manual exchanges and current priorities include expanding the rural telecommunications network and developing microwave links to neighboring states.

The government is discussing the establishment of direct telecommunications and microwave links with Botswana to access the international satellite system as an alternative to the continued routing of international telecommunications via South Africa. SADCC may provide funding for this project, which would require installation of a satellite ground station. The 1990/91 budget allocated R15.5 million for capital projects in this sector, including R9 million for the installation of an automatic telephone exchange in Oshakati, the biggest town in Ovamboland.

Good postal communications have always been a priority and there are over 70 full post offices throughout the country. There are no deliveries by street address and some 35,000 mail boxes and over 1,000 private bags are rented out.

### 4.3 Electricity

Almost all electricity consumed in Namibia is generated and supplied by the SWAWEK utility from its own power sources and imports from Escom in South Africa. There are a number of small privately operated generators and in the Caprivi, which is not linked to the national grid, diesel generators have been used. In 1990, Zambia began supplying small amounts of electricity to Caprivi and the disel plants are being phased out.

The main and cheapest power source is the Ruacana hydroelectric plant on the Cunene river in the northwest. Due to the seasonal flow of the Cunene river and war damage to the upstream regulatory weir inside Angola, Ruacana has only averaged 130 MW annually over the last six years. For this reason, SWAWEK continues to import a proportion of its power needs from Escom, using a 200MW capacity interconnector. Due to escalating coal and railage costs for Windhoek's Van Eck power station, imported power, while subject to Escom tariff increases, is currently cheaper according to SWAWEK.

Unless a large, high-grade coal deposit is located in Namibia, expansion of hydropower capacity is seen as the best energy option. Average annual demand amounted to 180 MW in 1988/89 and is growing at between 3-5% annually. Namibia and Angola have agreed to cooperate in the development and joint usage of the Cunene river's power and water potential. This will involve the recommissioning of the Calueque weir and repairing the wall of Gove dam in Angola.

A new hydroelectric facility is planned at Epupa, 120 kilometers downstream from Ruacana in Namibia. This would have a 450 MW capacity and be large enough to supply Namibia's requirements until well into the 21st century, while also generating surplus power for export to neighboring countries. The dam would have a 5 billion cubic meter reservoir and costs are estimated at around R1.2 billion. External funding via SADCC is likely to be sought in view of the scheme's regional dimension.

At present some power is exported to Escom when the availability of power from Ruacana is surplus to domestic requirements and South Africa might also be a customer for Epupa supplies. A second interconnector between the countries' two grids might be required according to SWAWEK.

**Electricity Generated and Sales**

| | 1984/85 | 1985/86 | 1986/87 | 1987/88 | 1988/89 |
|---|---|---|---|---|---|
| Total generation & imports of which: | 1,785 | 1,556 | 1,601 | 1,763 | 1,835 |
| Ruacana (hydro) | 1,464 | 1,148 | 1,021 | 1,086 | 1,308 |
| Van Eck (coal fired) | 118 | 128 | 99 | 124 | 90 |
| Purchases from South Africa | 203 | 280 | 481 | 553 | 437 |
| Total Sales | 1,599 | 1,405 | 1,441 | 1,582 | 1,659 |
| of which: | | | | | |
| domestic consumers | 1,148 | 1,157 | 1,268 | 1,349 | 1,392 |
| exports to South Africa | 451 | 248 | 173 | 233 | 267 |
| Transmission losses | 186 | 151 | 161 | 181 | 176 |

[a] Years ending June 30

*Source: Swawek*

Until now SWAWEK has financed fixed and working capital requirements out of internally-generated funds although in the past, when it was still an Escom subsidiary, sizeable loans were obtained from South Africa for works in connection with the Ruacana scheme and the cross-border transmission line. In 1989/90 SWAWEK had a net operating income of R38 million on a R122 million turnover and significant appropriations were made annually to reserve and development funds for financing capital works. Expansion of rural electricity networks is now taking place. Priorities include northern Namibia where a more extensive distribution system will be necessary to facilitate economic development. At present only Oshakati, Oshivello and Rundu are connected to the grid while a number of small townships in the southern, northwestern and eastern districts are also outside the distribution network.

## 4.4 Water Supply

Water is an especially precious commodity given the country's mainly semi-arid climate and susceptibility to periodic, protracted drought. Due to the absence of perennial rivers in the interior of the country, underground water reserves provide the main source of supply. Additional supplies will become available under the joint development and utilization of the Cunene river resources now agreed with Angola, and from the Okavango river in the northeast. The Okavango could become the main source of water for the development of irrigated crop cultivation in the north.

Considerable sums have been invested in the construction and maintenance of bulk water supply schemes over the past decade under the auspices of the Department of Water Affairs. Existing state water schemes supply around 520 million hectolitres annually for domestic and industrial usage. The largest reservoir is at Hardap near Marienthal to the south of Windhoek with a 3 billion hectolitre capacity, about half the current national total. Capital spending on water schemes was allocated R37 million in the 1990/91 budget. The largest project currently under construction is the Eastern National Water Carrier (ENWC) scheme linking underground supplies in the Grootfontein region to dams further south via a 350 kilometers canal with a 600 million hectolitre carrying capacity.

Urban and commercial consumers, and a proportion of the rural population have access to adequate potable water supplies. The main deficiency is in supplies to the northern districts and large parts of the more sparsely populated areas in the northwest and east of the country, where the bulk of the rural population does not currently enjoy access to safe water supplies. An assessment of Namibia's national water supply requirements carried out by the UN Department of Technical Cooperation for Development (UNDTCD) recommended that priority should be given to the expansion of rural water supplies to provide safe domestic supplies and resources for agriculture and other economic activities. At present, the absence of adequate water acts as a constraint on employment-generating industries in these areas, while also restricting expansion of stock farming.

## 4.5 Urban infrastructure

There is a considerable shortfall in the provision of infrastructure and services outside the central business districts and formerly white residential areas of Namibia's towns. Deficiencies include a major backlog in low-cost housing, water supply, sanitation and other facilities. This particularly applies to urban centers in northern Namibia which were not traditionally organised as municipalities. Existing facilities were under additional strain with the return of 43,000 Namibian exiles during the independence process, many of whom have settled in the north or Windhoek's Katutura township.

The Ministry of Local Government and Housing is seeking to upgrade urban infrastructure and expand housing accommodation as a first priority. Its R34 million capital spending program for 1990/91 covers improvements in the supply of water, sewerage and electricity in a number of municipalities and townships coming under the aegis of the peri-urban board. The housing shortage is currently estimated at between 40,000 residential units. The government is also seeking means of raising the standard of existing sub-economic housing while keeping them affordable by low-income Namibians.

The National Building and Investment Corporation (NBIC), a parastatal, is currently the main provider of low-cost housing and for 1990/91 was allocated an additional R2 million share capital and R8 million for construction of housing in northern Namibia and other areas with pressing accommodation requirements. The need for housing is likely to grow rapidly as the urban population is expanding quickly. This process would be exacerbated should employment opportunities not develop quickly enough in rural districts and Namibians move to the towns in search of jobs. The government is seeking external assistance for this sector and there could be opportunities for firms with appropriate technology and experience in urban renewal programs.

Chapter 5

# Trade

## 5.1 Overview

Foreign trade comprises a very significant share of overall economic activity in the country, reflecting the open nature of Namibia's economy and its traditionally close trading relationships with world markets for most of its high value exports and with South Africa for the bulk of its imports. Although diamonds and uranium are sold to overseas countries, South Africa remains at present the single largest export market with an approximate 40% share of Namibia's total exports by value. It supplies about 70% of Namibia's imports and as much as 90% of the country's imports of food and consumer products, reflecting the high degree of market penetration by South African firms. Over the ten-year period 1980-89, exports averaged 62% of the GDP at current prices while imports of goods and services constituted 61% of gross domestic expenditure. Namibia mainly exports primary products (minerals, livestock and fish) in unprocessed or semi-processed form, importing a proportion of its basic foodstuff requirements, processed foods, consumer goods, specialised equipment for the mining and agricultural sectors, vehicles and bulk commodities such as oil products, cement and sugar.

There are prospects for the diversification of Namibia's foreign trade, both through the development of trade within the region (especially Angola, Botswana, Zambia and Zimbabwe) and the establishment of local value-added industries with import substitution and export potential. Given the small size of the Namibian domestic market and the existence of a local private sector with a well developed trading and distribution network, production of an exportable surplus might be required in many cases for new enterprises to be viable.

Namibia's geographical location, including its possession of a coastline and harbor infrastructure providing direct access to overseas markets, make it attractive as a regional trading base. For the land-locked countries of central Africa, such as Zambia, southern Zaire and Botswana, Namibia can provide a more reliable export route than alternative outlets to world markets such as Beira. Since independence, transhipment of goods through Namibia has developed, including exports of Zambian copper and imports of goods destined for Zambia, Zaire and other market in southern and central Africa. Suppliers to African markets in Europe and the USA, including manufacturers of mining equipment and electronic components, have begun shipping consignments to Walvis Bay on a trial basis for delivery to customers in Zambia and Zaire. The Namibian haulier concerned claims that although the land route is longer it avoids shipping delays at Dar es Salaam or Beira and the goods, which are containerized, have less risk of being damaged. One example is a consignment of US manufactured mining equipment worth

$1 million which was shipped to Walvis Bay in January for delivery to Zaire.

This trade is likely to expand further once the status of Walvis Bay is resolved, given the spare capacity available at the port and its high efficiency, coupled with the good inland transport services. However, while the port remains under South African control, some African states, such as Angola, are not in favor of using it (see Chapter 4).

The government is actively encouraging the widening of Namibia's sources of supply to reduce dependence on South Africa. For example, the government has asked oil importing and distribution companies to obtain up to 30% of their requirements from non-South African sources, and since independence several contracts for direct procurement of supplies from overseas countries have been placed. Namibian companies have also begun to develop new regional markets for their products which have opened up since independence. Exported goods include beverages and food products such as canned fish, meat and salt. A Namibian computer consultancy has recently announced plans to export programs and other software services to Zimbabwe and other SADCC countries, with the aim of developing computer skills in the region.

Import penetration of the Namibian market by overseas exporters, including US suppliers, may, apart from certain specialised products, remain constrained by the disadvantage of the high external tariffs levied on goods entering the Southern African Customs Union (SACU), which comprises South Africa, Namibia, Botswana, Lesotho and Swaziland (see below). Local sourcing for many inputs is likely to remain predominant given the duty-free status of goods circulating within SACU. Firms looking for sales inside Namibia or opportunities elsewhere in the region would therefore be likely to derive most benefits by establishing a local presence.

Following the pattern of Botswana, which has a bilateral trade agreement with Zimbabwe providing duty-free access for certain goods depending on local content requirements, Namibia is looking to establish similar arrangements with non-SACU members. It has already signed economic cooperation agreements with Angola, Botswana and Zambia.

Upon Namibian independence on March 21, 1990 the US government granted Namibia most favored nation (MFN) trade status and removed Namibia from the sanctions that had been imposed on it by Congress under the Comprehensive Anti-Apartheid Act (CAAA) of 1986. In February 1991 the US approved Namibia for duty-free export benefits under the Generalized System of Preferences (GSP) which provides duty-free access for certain goods from developing countries. Namibia is now eligible to export some 4,200 products duty-free and according to the Namibian government this will permit preferential access and exemption from excise duty for more than 1,000 Namibian products. These measures are likely to have a significant impact on the profile of trade between the two countries. With regard to US exports, the best prospects are in goods that are not obtainable within

SACU or in product areas where the US has technological superiority, according to the US Department of Commerce. It defines these as mining, agriculture, communications and construction equipment.

The EC is also set to become an increasingly important market for Namibia following the country's accession to full membership of the Lomé Convention. This enables Namibia to benefit from the provisions for unrestricted access to the EC market for the majority of exports, while the Lomé IV agreement which covers a ten-year period from 1990-99, extended trade concessions for a number of agricultural products and liberalized rules of origin.

Of most immediate benefit to Namibia is the 60,000 ton beef quota the government has negotiated for the first five years of Lomé IV. This has been set at 10,500 tons for the first two years rising to 13,000 tons a year thereafter, and is initially expected to generate annual export earnings worth some $25 million. Namibian beef is being sold in a partnership with Botswana, which has an established marketing network in the EC, under an agreement of February 1991 between the Meat Corporation of Namibia and the London-based Allied Meat Importers. Namibia also qualifies for compensation in respect of low commodity export earnings, under the two EC mechanisms Stabex (agricultural products) and Sysmin (mining products). Karakul pelts have been included in the Stabex scheme at Namibia's request, while Lomé IV extended the Sysmin facility to include uranium.

## 5.2 Foreign trade pattern

### 5.2.1 Mining

Namibia has a relatively diversified mineral export base which provides some protection against world market fluctuations, as no one commodity normally contributes more than 35% of export earnings. This is in contrast to Angola, Botswana and Zambia, where oil, diamonds and copper comprise from 75% to 95% of total export revenues. However, Namibia is presently very dependent on mineral earnings as a whole, which contributed on average 76% of total exports by value during the period 1981-89.

The value of exports largely reflect world market prices and the relative exchange value of the rand. During the late 1980s Namibia's trade balance benefitted from a combination of higher mineral prices, with the major exception of uranium, and a depreciated rand. Sales of both diamonds and uranium are denominated in dollars while most base and precious metals are sold according to London Metal Exchange (LME) quotations.

The traditional role of diamonds as Namibia's major foreign exchange earner was overtaken by uranium in the early 1980s, as the Rossing mine reached full production.

Despite falling output, diamond earnings have risen in recent years in a stable world market. Uranium earnings have fallen due to low world prices and the impact of sanctions, which prevented the company securing new long term delivery contracts. The world market for uranium is not expected to improve significantly before the mid-1990s, but in August 1990 Rossing signed a new contract to supply France with 5,200 short tons from 1995-2002.

Major base metal export earners are blister copper, refined lead and silver produced at Tsumeb, while the new Navachab gold mine which came on stream in mid-1990 is expected to earn $25 million annually. Earnings from base and precious metals increased in 1988-89 but have begun falling in line with less favorable world prices. Overall earnings from Namibia's traditional mineral exports are unlikely to increase significantly in 1991-92, although there will be a boost from additional diamond output from new mines. Thereafter, earnings could rise with the development of additional mineral deposits, while the government is seeking to promote schemes which have a greater local value-added content through the establishment of domestic mineral processing capacity.

### 5.2.2 Agriculture

#### (i) Meat Products

A major source of export earnings are agricultural products, primarily livestock. Prior to Namibia's membership of Lomé the main market for Namibia's beef and other meat exports (mutton and game) had been South Africa. Earnings have risen due to higher meat prices in recent years. Namibia's beef quota, under Lomé IV, provides it with a new source of hard currency and a guaranteed market.

#### (ii) Karakul Pelts

Karakul pelt earnings were particularly significant during the 1970s but have declined sharply in recent years due to weaker international demand as a result of changing fashion trends and consumer resistance to fur products. The quantity of pelts produced was also adversely affected by the severe drought of the early 1980s. Pelts are sorted locally prior to export for auctioning in Frankfurt but most processing and dyeing is carried out overseas. A small quantity of pelts are made up into finished garments by a local firm. It is not expected that prices will stage a recovery in the near future and in recent years karakul earnings have been exceeded by those of mutton, due to high prices in South Africa.

### (iii) Fish Products

Exports of pelagic fish products - canned pilchards, fishmeal and fishbody oil - recovered in the late 1980s due to higher catches but are still way down on the levels of the 1960s-1970s. Namibia used to be a major supplier of pilchards to world markets before the collapse of the resource in the late 1960s. Efforts are being made to develop new markets within the region, in addition to South Africa, currently the major consumer. Rock lobster exports are a significant foreign exchange earner, with Japan and the USA the main markets. Earnings from this sector should be significantly boosted in coming years with the expansion of deep-sea fishing activities, formerly monopolized by foreign trawler fleets.

### 5.2.3 Manufacturing

Manufactured export earnings have risen in recent years. They mainly comprise of processed food products (beef, lobster and other marine products, confectionary goods), beverages, leather and textiles. Manufactured exports by value are well placed to increase their share of total exports in the next few years with the commissioning of shore-based processing facilities of white fish, expansion of the meat processing industry. The development of additional local-value-added enterprises outside the food processing sector, includes the minerals sector, and non-traditional exports such as light industries, vehicle assembly, construction materials and high-technology products.

## 5.3 The Performance of Exports

The performance of the minerals sector has been crucial to Namibia's export performance. In 1989, total exports were worth $1.8 billion a rise of 25% on the previous year. This reflects higher diamond and base mineral prices, which boosted mineral earnings by a third to $775 million. Uranium earnings are not tabulated separately, due to the restrictions of South Africa's Atomic Energy Act which has yet to be modified or repealed, but were probably below the value of other metal exports in 1989.

The value of cattle and small stock exports rose by 21% to $95 million, while manufactured exports were worth a record $52 million. However, due to lower mineral production, export volumes, which had declined in 1988, remained static and the improvement reflected higher prices. In 1990, inspite of the continuing strength of the diamond market, exports are unlikely to have risen in value overall due mainly to lower meat and agriculture prices. Prospects for 1991-92 depend very largely on whether the current world economic recession continues with the end of the conflict in the Gulf. An upturn in metal prices, which will be crucial to a recovery in mineral export earnings, depends mainly on increases in the manufacturing output of industrialized countries.

**Exports by commodity**
(R mn)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|---|
| Minerals | 861 | 1,286 | 1,645 | 1,307 | 1,555 | 2,207 |
| of which: | | | | | | |
| diamonds | 232 | 409 | 616 | 431 | 654 | 814 |
| uranium | 417 | 585 | 762 ) | 876[a] | 901[a] | 1,213[a] |
| other | 202 | 291 | 268 ) | | | |
| Agricultural products | | | | | | |
| of which: | | | | | | |
| cattle | 52 | 65 | 83 | 139 | 149 | 155 |
| small stock | 16 | 31 | 41 | 53 | 58 | 95 |
| karakul pelts | 16 | 20 | 18 | 35 | 35 | 25 |
| Fish products[b] | 25 | 44 | 39 | 63 | 94 | 65 |
| Manufacturers | 68 | 74 | 80 | 98 | 120 | 135 |
| Other | 62 | 63 | 73 | 87 | 114 | 152 |
| Total | 1,101 | 1,594 | 1,994 | 1,796 | 2,141 | 2,672 |
| % share of minerals | 77.3 | 80.7 | 82.5 | 72.8 | 72.7 | 75.9 |

[a] Uranium and other exports are not disaggregated for 1987-89
[b] Unprocessed

*Source: Ministry of Finance, Statistical/Economic Review*

### 5.3.1 Direction of Trade

There are no official data on the direction of trade. Prior to independence, only Japan, Switzerland, the UK and the USA among the industrialized countries, differentiated trade with Namibia from that with South Africa in their overseas trade figures. Diamonds, which are currently sold exclusively to the Central Selling Organisation (CSO) at present, are exported to the UK after local sorting and valuation, for sales to the diamond trade. They do not show up in UK trade figures due to the confidentiality attached to the operations of the world diamond cartel.

The major markets can however be identified as the USA, the UK (diamonds, uranium prior to 1985, karakul pelts prior to 1989), Germany (uranium, base metals, karakul pelts), Switzerland (diamonds in transit to the UK), Belgium (uranium, base metals), France (uranium), Spain (uranium, copper, fish), Japan (lobster, base metals), South Africa (base metals, live cattle, meat and fish products).

In 1989, US bilateral trade with Namibia totalled $27.4 million, with imports from Namibia worth $14.7 million and exports to Namibia worth $12.7 million. Principal US imports comprise base and precious minerals, fish products, lobster; the main US exports to

Namibia are aircraft, associated equipment, trucks, vehicle parts, chemicals, radio and electronic equipment. In comparison, UK-Namibia trade was worth $8 million in 1989 (Namibian exports $19.8 million) in the same year.

## 5.4 Imports

In recent years, the growth of imports has been below that of exports, enabling Namibia to run a merchandise trade surplus in most years. During the period 1985-89, a deficit was incurred in only one year, 1987, due to a fall in the value of export earnings. The trade surplus (exports fob/imports fob) peaked at R442 million ($195 million) in 1986 and by 1989 had recovered once more to R322 million ($217 million). The cif value of imports is not available as it was prior to independence. Namibia does not have full access to SACU data from South Africa, but it is probable that during the 1980s Namibia maintained a small visible trade surplus in most years.

There is no published breakdown of imports by category or by origin, but it is estimated that South Africa normally supplies 75% of total imports by value and that as of 1989, food and beverages comprised 30%, fuel and petroleum products 25%, machinery and vehicles 15% respectively. Export growth has generally outpaced that of imports during the 1980s, reflecting the slowdown in the overall level of economic activity. Even during 1989 when the presence of Untag boosted overseas procurement of vehicles and other equipment, imports grew by only 13%, 9% points less than exports.

With growth likely to have slowed again in 1990 the prospects are that Namibia will have recorded a further trade surplus last year and should do the same again this year, although the size of the surplus in both years may be lower than in 1989 due to lower export prices. The country's terms of trade also improved for the third successive year in 1989, by almost 10% reflecting restrained import price increases.

**Trend of Foreign Trade**
(R mn)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|---|
| Exports fob | 1,101 | 1.594 | 1,994 | 1,796 | 2,141 | 2,672 |
| Imports fob | -1,177 | -1,272 | -1,552 | -1,822 | -2,077 | -2,340 |
| **Balance** | **-75** | **322** | **442** | **-26** | **64** | **332** |

*Source: Ministry of Finance, Statistical/Economic Review*

## 5.5 Balance of payments

Figures are only available for the current account of the balance of payments at present and this reflects the free movement of capital applying to the Common Monetary Area (CMA) and the absence of any central government instrument for monitoring capital flows prior to independence. The Bank of Namibia currently has a team working on establishing overall balance of payments figures for the country. The collection of data also has the purpose of checking on the import trade data provided from SACU.

While Namibia continues to use the rand as its currency and is a CMA member, the country is effectively free of balance of payments constraints as any overall deficit represents a small proportion of CMA liabilities and does not impact Namibia's foreign exchange position. The disadvantage remains that the government does not have information on the overall situation and therefore is not able to adjust domestic fiscal policy in line with external payments trends at present, as is normal practice. Any overall deficit is effectively concealed, and thus indebtedness vis a vis South Africa could continue to accrue. It is likely that Namibia has experienced a capital account deficit in recent years, given that most banks have invested liquid capital on the South African market, and because of the absence of significant inflows of private capital from overseas since the development of the Rossing mine in the 1970s. This would be partially offset by income accruing to Namibian residents but the existing data is insufficient to determine whether or not capital inflow would have provided an overall payments deficit.

Mainly due to the favorable foreign trade position, Namibia's current account is fairly healthy and the country does not require large foreign reserves to finance trade and payments. The current account remained in surplus during 1982-1987, and after recording a small deficit in 1988, returned to surplus in 1989 at $38 million. This was well below the record $247 million surplus recorded in 1986. The main negative elements are the non-factor services deficit and a net outflow of factor payments, mainly repatriated profits and dividends to foreign shareholders in mining and other companies. The latter peaked in 1988 at $177 million but fell back slightly in 1989, and probably further dropped in 1990 with lower profitability within the mining industry.

Net transfer receipts have been of equal importance to the positive trade balance in maintaining the current account in surplus during the past decade. These comprised two sources - South African budgetary aid and receipts from the SACU common revenue pool. With independence, South Africa ceased its budgetary aid but the government has successfully obtained external grants to partially offset the shortfall.

The government is seeking to increase its share of SACU revenue, now that Namibia is a member of the organization. Prior to independence, Namibia's SACU receipts were unilaterally determined by Pretoria and came out of South Africa's share of the pool. The year 1990/91 provided for SACU receipts of R542 million, up from R446 million in the preceding year, although the position is complicated by a two-year timelag between SACU transfers and the annual import value on which they are calculated. There is reason to believe that Namibia should be getting a greater share on the basis of a comparison with Botswana. If Namibia is successful in gaining an equitable share of SACU receipts this should be instrumental in maintaining a healthy current account position in 1991/92. The main factor that could cause a sharp deterioration would be a sustained international recession and downturn in world commodity export prices.

**Current account of the balance of payments.**

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|---|
| Trade balance | -75 | 322 | 442 | -26 | 64 | 332 |
| non-factor services | -201 | -263 | -320 | -385 | -365 | -393 |
| Net exports of goods and services | -276 | 60 | 122 | -411 | -300 | -61 |
| Factor payments | -113 | -298 | -320 | -197 | -400 | -372 |
| Transfers | 541 | 583 | 758 | 616 | 547 | 531 |
| **Balance**[a] | **153** | **345** | **561** | **9** | **-153** | **99** |

[a] Obtained as a residual item, in which over and under estimations are included.

*Source: Ministry of Finance, Statistical/Economic Review*

## 5.6 Trade regulations

Bureaucratic procedures involved in the conduct of overseas trade are fairly minimal and most traders experience little delay in obtaining the necessary authorizations. Regulations are virtually identical to those pertaining in South Africa, and as long as Namibia remains a member of the CMA and SACU they are likely to stay that way. Thereafter, if anything the gvernment would wish to liberalize the trading environment, although this may depend on the continued easy availability of foreign exchange once Namibia has introduced its own currency.

The majority of imports are still subject to permit, but these are now used mainly for information rather than control purposes. As with import surcharges which are periodically imposed by South Africa, this now affects Namibia only in so far as importation of goods via South Africa takes place or South African-sourced products have a high import content. Both import and export permits are issued by Registrar of Companies, Patents and Trademarks within the Ministry of Trade and Industry. Importers requiring permits for trade or manufacture must be registered with the Registrar.

## 5.7 Regional trade groupings

### 5.7.1 Southern African Customs Union

Namibia became the fifth SACU member on gaining independence and arrangements for its full participation, including its share of the common customs pool, are currently being finalized. Administered by South Africa, SACU was set up in 1965 and collects customs duties on member states' imports from outside the SACU area and excise on some local production. The revenue collected is distributed under a complex formulae two years' in arrears. Prior to 1990 Namibia's share, as an involuntary member of SACU, was unilaterally determined by Pretoria. The high tariff wall has the function of protecting manufacturing industries particularly in South Africa. The main criticism of the SACU arrangements are that they discourage switching by the other members to alternative sources of supply. There is a clause within SACU for protection of infant industries for a period of up to 8 years, although it has not been widely invoked and the concern needs to be capable of meeting the bulk of domestic demand before qualifying for tariff protection. The recently opened cement plant at Otjiwarongo might need such protection.

### 5.7.2 General Agreement on Tariffs and Trade

Although Namibia is not yet a formal signatory to GATT, it is intending to become one.

### 5.7.3 Preferential Trade Area for East and Southern Africa (PTA)

Namibia has observer status with the PTA which is committed to the progressive reduction of customs duties on intra-regional trade. Membership rules are in principle incompatible with that of SACU and for this reason Botswana has so far remained outside the PTA, although both Lesotho and Swaziland are members. They have secured exemption until 1994 on reducing tariffs to ensure them time to carry out the necessary adjustments. It would appear likely that if Namibia decides to become a full member of the PTA it will be in concert with Botswana. This would probably herald the end of SACU in its present form and its replacement by a wider regional trade grouping, probably including South Africa.

### 5.7.4 Lomé Convention

Namibia's accession to the Lomé Convention means that in common with most of its neighbors, it has full access to the EC market for most products on advantageous terms. US firms locating in Namibia would derive benefits in trading with the EC not available in respect of US-originated exports, while companies hosted in ACP states also enjoy access to public procurement contracts in EC countries for manufactured goods.

Specific categories of products defined as products wholly originating in an ACP state and eligible for reduced or tariff free entry into the EC with relevance to Namibia's resource base include:

- mineral products extracted from the soil or seabed;
- vegetable products locally harvested;
- products from live animals locally raised;
- products obtained by hunting or fishing.

Chapter 6

# Labor and Employment

## 6.1 Employment structure

The bulk of Namibia's estimated 1.3-1.6 million total population are not employed in the commercial economy but derive their livelihood from subsistence farming or informal sector activities. Including the commercial farming sector it is generally estimated that agriculture as a whole provides a livelihood for around 70% of the country's inhabitants. Migratory labor has traditionally been a major source of cash income, particularly for the population of northern Namibia. Currently only about 400,000 people (or between 25-31% of the population) are employed in or derive their livelihood from the commercial economy and income levels for the majority are generally low. The inferior quality of education experienced by most black Namibians prior to independence, coupled with the lack of nationally organised vocational training and apprenticeships, have meant that most Namibians have hitherto been unable to develop the skills needed to gain access to better paid jobs. The latest official estimate (February 1991) of the economically active population is 550,000 with 16,500 entering the job market each year.

The most recent official figures show that total formal sector employment was 185,000 in 1988, or about 14-16% of the population. This data excludes those engaged in subsistence agriculture and informal activities, as well as employees in Walvis Bay. The total number shown as employed grew by some 25,000 or 23% from the time of the previous manpower survey in 1984, indicating an average annual growth rate of just over 5%. However, this coincided with a period of relatively steady real GDP growth of 2% and may not have been maintained subsequently. At most therefore the number directly employed in the formal sector as of 1990 is likely to be around 200,000. Of the total employed in 1988, just over 124,000 (67%) were male and 60,500 female. The number of females incorporated into the formal labor force showed a sharp increase of almost 90% between 1984-88, reflecting the expansion in service industries, while the number of male employees rose by only 5% over the period.

By category of employment the three largest sectors are central and local government (including educational services) at 38,100, agriculture with 36,100 and trade, hotels and catering with 29,400. Mining and manufacturing between them employed only 19,500 people or just 10% of the workforce, with slightly more, 10,100, employed in mining. The figures underestimate those actually employed in agriculture, as opposed to those engaged in subsistence farming, as on many commercial farms laborers have traditionally been paid in kind rather than cash and are therefore not formally employed.

| Occupation | Labor Force |
|---|---|
| Farm and forestry workers, fisherman & hunters | 38,400 |
| Service employees | 37,200 |
| (incl domestic servants) | 22,000 |
| General laborers | 30,300 |
| Professionals | 23,000 |
| Production & construction | 18,600 |
| Administrative, clerical | 16,600 |

Geographically, just over 40% (76,800 persons) were employed in the Windhoek district. Outside the capital and its surrounding district no one region apart from Ovamboland had a formal sector workforce of more than 10,000.

The regional and sectoral pattern of employment underscores the task facing the government in promoting both employment growth and diversification. It suggests that encouragement of regional growth points may need to form a key element of a national strategy to increase employment opportunities, both in the more populous northern districts, and in the sparsely populated south where existing employment is even more heavily dependent on agriculture (sheep farming).

There is no reliable data on unemployment which is estimated to be running at around 25-30%. This is likely to have risen since independence as most of the 43,000 Namibians who returned home during the independence process have been unable to find jobs while former Plan and SWATF soldiers who have not been recruited into the new army are also largely unemployed. With at least 40% of the population aged below the age of 17 and more rapid growth of population in urban centers due to demographic factors and a migration from rural areas by Namibians in search of work, even to keep employment levels rising in line with overall population growth will be a major task. Unemployment in some urban centers, including Windhoek, is likely to be between 40-50%, while there is considerable underemployment also, particularly outside the towns.

### 6.2 Labor laws

The government is currently preparing new labor legislation to cover the whole field of employment conditions, remuneration levels and industrial relations in line with international standards. It is receiving assistance from the International Labor

Organisation (ILO). A preliminary, consultative draft of the proposed labor code was issued in September 1990 (see Appendix One). The Ministry of Labor, Public Service and Manpower Development plans to introduce legislation in the National Assembly during February-March 1991.

### 6.2.1 The Wiehahn Commission

Prior to independence labor relations in Namibia were regulated by copybook laws of those applying in South Africa, with some local particularities, while reforms were actually introduced more slowly. The first comprehensive investigation into labor matters in Namibia was carried out by a commission of inquiry headed by Professor Wiehahn which reported in February 1989. Its recommendations included proposals for a wages commission, registered trade unions and employers' organizations. Separate legislation regulating conditions of employment in factories, building works, shops and mines had been implemented during the colonial period but a large number of employees were excluded from the provisions of the foregoing, including those working in agriculture, domestic service, transport, the hotel industry and offices.

With a few exceptions, all wages and salaries in Namibia have been determined on the basis of voluntary agreements between employers and employees, resulting in very large differentials between the top and the bottom of the occupational pyramid. This reflected the scarcity of managerial, professional and technical manpower on the one hand and the ready availability of unskilled labor on the other. The Commission found that at the bottom end of the scale, employers were often in a position to virtually dictate the terms of an agreement, with the employee having very little bargaining power. The Conditions of Employment Act passed in 1986 brought Namibia more into line with international labor norms but the Commission found that this act had not been effective in dealing with alleged transgressions of the employment conditions prescribed.

### 6.2.2 The Draft Labor Code

Given the expectations for an end to remaining discriminatory practices and improved employment conditions raised by independence, the government decided to recast existing labor laws in their entirety. A consultative document on the draft code, which has been widely circulated to employers' and employees' organizations for their comments, takes as its centerpiece certain fundamental rights contained in Namibia's constitution, such as freedom from discrimination on grounds of race. sex, religion or disability, the right to form trade unions and the right to withold labor. Some revisions are likely to be made to the draft as a result of the recommendations received, but the broad framework is unlikely to be significantly altered. The final version of the code was expected to be ready in March 1991.

The code would replace most of the pre-independence labor laws but existing regulations governing health, safety and welfare are to remain in force until "progressively replaced". The key innovations include a Wages Commission, which will recommend after public hearings, minimum wages for different sectors of the economy, while the code proposes a maximum working week of 45 hours, 21 days paid leave and bans employment of those under 16 years of age.

The code also provides for the establishment of a Labor Advisory Council made up of management and union representatives with which the Ministry of Labor will consult on all labor matters, including the handling of collective dismissals for economic and structural reasons. While such dismissals are outlawed if they involve victimization of workers, management can implement reductions in the numbers of employees after consultations with the workforce, provided measures to minimize redundancies and find alternative employment for the workers affected are taken.

The code guarantees the right to strike and provides that employers must negotiate with unions in a collective bargaining framework once over half the workforce at a particular work location or plant are union members. Lawful strike action is circumscribed while the code places a legal obligation on unions to represent non-union members and their grievances. The procedure for collective bargaining and the resolution of disputes has attracted the most criticism from unions and other bodies on the grounds that it is overly-legalistic and complex at the expense of voluntary agreements between management and representatives.

A Labor Court is to be established, as a division of the High Court, together with district courts for each magisterial district, to determine any matter arising under the code, any other dispute under other laws affecting employers and employees, and in the case of the Court, between employers and trade unions. The district courts would supervise employment conditions, including unfair dismissals, health, safety and welfare. Disputes must in the first instance be reported to a Labor Commissioner, who will try and arrange a conciliation meeting within 21 days, and an agreed outcome would involve registration of a memorandum of agreement having the same force as a registered collective agreement.

But if the dispute remains unresolved, subsequent procedures depend on the category of the dispute. A dispute of "rights" must be referred to the Court or a labor arbitrator for determination and the protagonists are obliged to abide by his ruling. In a dispute of "interests" both sides may agree to refer it to the Court or the arbitrator or give a minimum 24 hours written notice that they intend to take action through a strike or a lockout. The upshot is that only in the latter case can workers lawfully resort to strike action and the definition of disputes of "interest" in the consultative document leaves it unclear whether attempts to improve existing employment conditions, wages etc can involve lawful strike action. Strikes and lockouts are prohibited in essential services - defined as water, electricity, health, sanitary and fire or any other service whose interruption would endanger lives - and all disputes in these sectors have to go to the Court or arbitrator for resolution. Secondary industrial action, such as sympathy strikes or other forms of action such as go-slows, are outlawed, together with political strikes, under the draft code.

### 6.3 Trade Unions

Trade union membership among black workers has expanded significantly over the past decade, although prior to independence activities were circumscribed by the stringent provisions of South African security legislation and marshal law provisions in northern Namibia. Since independence, the unions are still finding their feet in the new political dispensation. However, given the past record of poor conditions and low wages it is not surprising that a rash of disputes - mostly of limited duration - has taken place over the past year. This has been exacerbated in some cases by slowness on the part of local firms to adjust to the new realities, and unions point to many instances of what they regard as unfair dismissals. They have indicated that they will continue to press for improvements, including reductions in income disparities between employees of the same grade, a shorter working week and better health and safety provisions, which varies widely according to the employer. Protracted negotiations in respect of two groups of employees working in the meat processing sector resulted in wide-ranging wage rises designed to favor the poorest paid workers in February 1991, with union praise for the management's positive attitude.

The main trade union federation is the National Union of Namibian Workers (NUNW) which currently claims an affiliated membership of around 55,000. Its secretary general is John Ya Otto, who has been a long standing secretary of labor within the Swapo party structure. Many of the union leaders are Swapo members, and the mineworkers' leader, Ben Ulenga, is a Swapo deputy in the National Assembly and has recently been appointed Deputy Minister of Wildlife, Conservation and Tourism. In representing their members, the unions are likely, nevertheless, to be at odds with government policy in some areas.

The principal NUNW affiliated unions comprise:

* The Mineworkers' Union of Namibia (MUN- 15,000 members)
* The Namibian Food & Allied Workers' Union (Nafau- 13,000)
* Metal & Allied Workers' Union (Manwu- 7,500)
* Namibia Transport & Allied Union (Natau- 7,000)
* Namibia Public Workers Union (Napwu- 11,000)
* Namibia National Teachers' Union (Nantu- 9,000)

The number of fully paid-up members is probably less than above, some estimates put the total at around 35,000. The establishment of new unions to represent other sectors is proceeding and in 1990 the Namibian Domestic & Allied Workers' Union (Ndawu) was formed and one is currently being set up to represent farmworkers. The non-NUNW unions are mainly drawn from craft/artisan grades with a predominantly white membership. The main exceptions are the Namibian Building Workers Union (NBWU), which conducts regular negotiations with the Master Builders' Association and the Namibian Wholesale and Retail Workers Union (NWRWU). The biggest union is the Public Service Union of Namibia (PSUN) which claims a membership of 18,000 among central government employees.

## 6.4 Training

Both training and manpower development fall outside the scope of the labor code but are particularly relevant in the Namibian context given the impact of the present skewed skills availability on patterns of employment. The Wiehahn report judged that most Namibian school-leavers lacked appropriate vocational and other skills to gain remunerative employment, while high school drop-out rates have also been a factor. The formulation of a national training strategy is currently being addressed by the government, with an emphasis on the development of appropriate skills and the expansion of the existing, limited, vocational and technical training centers. A crucial shortage is that of qualified teachers and trainers and the government is obtaining external technical assistance to help fill this gap.

Vocational training is currently provided by a variety of institutions which include:

* The University of Namibia, whose courses include business studies, agriculture, commerce, cost accounting;
* The Institute of Management and Leadership Training, a non-profit concern providing training in commerce, secretarial and computer skills;
* The Rossing Foundation, sponsored by Rossing Uranium, which provides courses in English, typing, motor mechanics, leather working, agriculture;
* The Private Sector Foundation, mainly offering training in small business management and secretarial skills;
* Otto Benecke Foundation, vocational training - this has been financed by the German government but Namibia is currently negotiating to take it over;
* Namibian Agricultural Union, agricultural, technical and farm management skills;
* Swapo's Shumbe Vocational Center is to be moved from Angola to Namibia in 1991.

Among the main external assistance programs is a R7 million grant from the EC for the training of Namibian agricultural personnel during 1991. This will cover training of new entrants to the public sector agricultural workforce and the reactivation of Ogongo

Agricultural Training college in Ovamboland, closed since 1986. The UNDP country program for Namibia is in the process of formulation generally attaches great importance to the need for appropriate training programs.

### 6.5 Employment of Foreign Nationals

There are no restrictions on the employment of foreign nationals within either the public or private sectors, subject to the employee obtaining a work permit according to standard procedures. However, where local skilled personnel are available for recruitment by the public sector, the government is not looking to recruit expatriate personnel given the higher costs involved unless the salary is paid by external aid donors or other organizations. Foreign nationals are welcome to apply for public sector jobs on standard terms as offered to Namibian citizens. However, the government is also introducing affirmative action under its program for a balanced restructuring of the civil service, to increase employment opportunities for suitably qualified Namibians previously barred from recruitment or promotion on grounds of race and color. This also includes increasing opportunities for women.

The main areas of the private sector with high expatriate recruitment at senior managerial and technical levels are the larger mining firms and banking institutions which can offer attractive remuneration and benefit packages. The Ministry of Home Affairs has been slow to issue new or renewed private sector work permits as part of the government's policy of promoting employment of Namibians.

Chapter 7

# The Government

## 7.1 The Constitutional Framework

In terms of the constitution, Namibia is a unitary, secular republic with an executive presidency, bicameral legislature and an independent judiciary; although the upper house has yet to be established. Regular elections are held for both the executive and legislative arms of government on a multi-party basis. Any move to a one-party state would be in contravention of the constitution's provisions on fundamental rights, although there is no obstacle to parties merging on a voluntary basis into one organization.

The president serves a maximum of two five-year terms, and to be successful a candidate must obtain a minimum 50% of the popular vote. President Nujoma assumed office by unanimous decision of the constituent assembly elected in the pre-independence election of November 1989. He is due to stand for re-election in 1994. Executive powers include appointment of the government, armed forces chief of staff, attorney general and members of a public service commission. The president can dissolve the lower house, which is now known as the National Assembly with the adoption of the constitution in February 1990, only if the government is unable to rule "effectively". The legislature can remove the president from office by passing an impeachment motion with a two-thirds majority.

The system of checks and balances is maintained even with a state of emergency, often a backdoor to authoritarian rule in many countries. In Namibia, while the president can declare a state of national emergency and rule by decree, these measures must be approved by the assembly within seven days to remain valid. In any case the right to derogate the constitution's entrenched fundamental rights - including freedom of the individual from detention without trial - are limited.

The Assembly is also elected for five years, using a system of proportional representation although not necessarily that used in the 1989 election. The second or upper chamber, the House of Review, is to be elected on a regional basis for six years. A delimitation commission is currently reviewing proposals to establish new regional units of administration to replace the old second-tier authorities established under the colonial regime for each of the South African-classified population groups. The election of the upper house will not take place until the commission has completed its work; an election date of end-1991 looks most likely. The commission has the dual task of establishing viable regional units of government (ie containing one major urban center or growth point) and a fair distribution of constituents as the basis for elections.

## 7.2 The Principal Government Departments

Prior to independence, President Nujoma named a transitional team to coordinate with existing government departments and senior civil servants. This was the basis of the cabinet which took office in March 1990. The ministerial portfolios involved considerable and mainly logical restructuring of the departments existing under the interim government of 1985-89, with Economic Affairs divided between several ministries including Trade and Industry; Mines and Energy; Wildlife, Conservation and Tourism. Two rather large ministries were also created - Agriculture, Fisheries, Water and Rural Development; Works, Transport and Communication - the latter has by far the largest capital budget, although much of its expenditure is on works related to health, housing, education and other social infrastructure.

Two new ministries - Fisheries and Marine Resources, and Youth and Sport - were established in a restructuring of the government announced by President Nujoma on February 19, the first changes to be made since independence. This has increased the size of the cabinet by two to nineteen, including the prime minister, but has resulted in streamlined responsibilities for the renamed Ministry of Agriculture, Rural and Water Development, and Ministry of Education and Culture. President Nujoma commented that the fisheries sector was likely to become one of the most vital sectors of the economy, while the education ministry had its hands full trying to integrate the eleven separately-administered systems of the colonial era into a national education system. The youth and sports ministry is to have the combating of youth unemployment as its main priority. "Having carefully studied the performance of our ministries over the last ten months, I have come to the conclusion that some of our ministries are unwieldy and overburdened", with important areas not receiving enough attention due to sheer volume of work, President Nujoma added.

## 7.3 The Civil Service

Each ministry also has a deputy minister, while a team of permanent secretaries was appointed to take over responsibilities from the former civil service heads of department. Senior white civil servants have stayed on and cooperation between the ministers and their officials has generally been good, despite some inevitable suspicions of the influence of the Afrikaner establishment. Corruption exists but it is on a modest scale compared to most developing countries.

A balanced restructuring of the civil service is being implemented and this includes affirmative action both for those previously disadvantaged on racial grounds, and in respect of women. This may lead to some loss of efficiency in the public sector. Given their general exclusion from administrative posts in the past most potential black Namibian candidates inevitably lack experience and are less likely to be as well qualified as whites due to the disparities in educational provision. The government is conscious of the need to fulfill its commitment to opening up government service posts. There will be no wholesale replacements as the constitution guarantees officials continued employment under existing contracts. Affirmative action is likely to apply most strongly in parastatals initially.

### 7.4 The Cabinet

The cabinet is generally regarded as a competent mix of former senior exiled Swapo leaders, representatives of the internal party leadership, technocrats and independents. Senior posts are held by close colleagues of the president, including the prime minister, Hage Geingob, formerly the director of the UN Institute for Namibia in Lusaka; the Foreign Affairs Minister, Theo-Ben Gurirab, a long serving Swapo representative at the UN in New York; the Defense Minister, Peter Mueshihange; the Home Affairs Minister, Hifikepunye Pohamba; the Justice Minister, Ngarukutuke Tjiriange; Trade and Industry Minister, Ben Amathila; Mines and Energy Minister, Andimba Toivo ya Toivo (a co-founder of Swapo jailed on Robben Island from 1968-84), and the Information and Broadcasting Minister, Hidipo Hamutenya. Most also hold senior positions on the Swapo central committee. Several members of the white Namibian community hold senior posts, including the Finance Minister, Dr Otto Herrigel, the Agriculture Minister; Gert Hanekom, Deputy Works minister; Klaus Dierks, and Attorney General; Hartmut Ruppel.

The overall political balance of the government would not appear to have been significantly altered as a result of the February reshuffle. The two new cabinet members are Helmut Angula (Fisheries), formerly Deputy Mines and Energy Minister, and Pendukeni Ithana (Youth), previously Deputy of Wildlife, Conservation and Tourism Minister. She becomes the second woman cabinet member, alongside Local Government and Housing Minister, Libertine Amathila. The new team of deputy ministers include Rick Kukuri (Finance), from the commercial banking sector and former president of the Namibia National Chamber of Commerce and Industry; Dr Iyambo Indongo (Health), President Nujoma's personal physician; Jessaya Nyamu (Mines), a former OAU representative; Anton von Wietersheim (Trade), a white game farmer; Ben Ulenga (Wildlife), former Mineworkers' Union of Namibia (MUN) general secretary. Two opposition party representatives remain in the government - Reinhart Rukoro, Deputy Justice Minister, and Reggie Diergaardt, Deputy Youth and Sport Minister (formerly at Trade and Industry).

### 7.5 The National Planning Commission

An important part of the government structure is the National Planning Commission (NPC). This has the task of establishing a national development planning framework and is responsible directly to the president. The NPC director-general is Dr Zedekia Ngavirue, formerly chairman of Rossing Uranium, who acts as the president's principal advisor on all matters pertaining to national planning and attends cabinet meetings at his request. The NPC's secretariat, the department of National Planning, has a structure similar to a ministry, with a permanent secretary and a number of directors - development planning, development aid and central statistics. It is playing a major role in coordinating foreign aid management and interfacing with key development assistance agencies involved in Namibia, such as the UN Development Program (UNDP), the Commonwealth Secretariat, the EC and USAID. The NPC also has responsibility for overall formulation and implementation of the country's national development plan, which is expected to comprise a medium-term public expenditure and investment plan from 1993.

Chapter 8

# The Financial Environment

## 8.1 The Role of the Central Bank in the Monetary System

The Bank of Namibia was established in July 1990 and commercial operations began on August 1st, 1990. However, for the time being, its parameters are somewhat circumscribed by the lack of a national currency, particularly as regards foreign exchange control and interest rate management. Nevertheless, the establishment of the central bank, with initial capital and reserves of R10 million, marked an important first step in the development of an independent financial system for Namibia.

Under a technical assistance program jointly funded by the IMF and the UN Development Program (UNDP), the government has recruited a nine-strong team of international financial experts to manage the central bank. They include a Dutch national, Dr Wouter Benard as governor, with a Swedish national as deputy governor and a Ugandan national as general manager. An important management priority is the training of Namibian nationals to begin to take on responsibility for key functions at the bank.

The Bank of Namibia has taken over the former South African Reserve Bank (SARB) branch in Windhoek and formal authority over exchange controls, which are virtually identical to those applied by South Africa as long as Namibia retains the rand as its currency (see Chapter 12). It sets its own bank rate, but for the same reason, this is the same as the rate applied by the SARB (currently 18%). In consequence Namibia is not at present in a position to exercise full control over the money supply while its ability to use interest rate policies to expand the domestic money market capacity is similarly constrained.

This creative side of a central bank's functions is regarded with particular importance by the government in view of the advantages of expanding domestic capital sources and planning of suitable policies is at an advanced stage, pending the introduction of a national currency. In essence, the central bank is performing two financial functions at present - handling the government's account and banking transactions, acting as a holder of statutory deposits of local banks and facilitating the clearance of inter-bank balances. But without a Namibian currency it cannot assume full responsibility as lender of the last resort. The first function provides it with a monitoring role in checking the government's fiscal position, and under the Bank of Namibia Act it has to be consulted on the national budget and government foreign borrowings. It also has a significant role as an economic and monetary research unit in the planning of Namibia's financial system and as the country's main channel to the international financial community, including the IMF.

When introducing the Bank of Namibia bill to the National Assembly in mid-1990, the Finance Minister, Dr Otto Herrigel, said it was "essential for Namibia to establish its own monetary system as soon as possible" as Namibia was being "dragged along suffering the results of South Africa's problems and mistakes and South African inflation is imported into Namibia without modifications". The Act guarantees a high degree of autonomy to the central bank within a close inter-relationship with the Ministry of Finance, in the management of monetary affairs. He said that an initial priority would be to introduce treasury bills to influence credit expansion and influence the volume of available financial resources.

During its first three months of operation (August through October 1990) the Bank of Namibia more than doubled its total liabilities and assets from R44 million as at end-August to R107 million as at end-October. The balance sheet shows a blank under liabilities for currency in circulation as the central bank is not yet issuing its own notes and coins. Similarly, under assets, no gold and other foreign reserves are shown, although the amounts shown under investments (rand and other currency) are external and at the time a new currency was introduced would become the country's foreign exchange reserves. The total amount has also increased, rising from R27 million initially to R90 million as of end October, of which R86 million was denominated in rand, comprising 80% of total assets.

**Assets and Liabilities of the Bank of Namibia**

| | Aug[a] | Sept[a] | Oct[a] |
|---|---|---|---|
| Liabilities | | | |
| Deposits | 33.0 | 21.6 | 97.2 |
| of which: | | | |
| Central government | 0.1 | 0.1 | 63.6 |
| Monetary institutions[b] | 32.9 | 31.4 | 33.5 |
| Other | - | 0.1 | 0.1 |
| Capital & reserves | 10.0 | 10.0 | 10.0 |
| Other | 0.8 | 0.4 | 0.5 |
| Total | 43.8 | 42.0 | 107.6 |
| Assets | | | |
| Rand coin | 0.2 | 0.1 | 0.1 |
| Foreign reserves[c] | 26.6 | 20.7 | 89.8 |
| of which: | | | |
| Rand currency | 26.6 | 16.5 | 85.6 |
| Other currency | - | 4.2 | 4.2 |
| Advances | 10.5 | 13.5 | 10.8 |
| of which: | | | |
| Central government | 9.5 | 13.4 | 10.7 |
| Banks | 1.0 | 0.1 | 0.1 |
| Fixed assets | 6.1 | 6.5 | 6.7 |
| Other assets | 0.5 | 1.2 | 0.4 |
| Total | 43.8 | 42.0 | 107.6 |

[a] End of period
[b] Mainly required reserve balances
[c] At present these are classified as investments although they amount to external holdings and with the issuing of a national currency would become foreign exchange holdings.

*Source: Bank of Namibia*

## 8.2 The Impact of a National Currency

The introduction by Namibia of its own currency will enable the Bank of Namibia to operate within the normal range of parameters of a central bank. Introduction of a national currency is stipulated in Namibia's constitution but Dr Herrigel points out that the creation of a Namibian currency is "not dictated by reasons of national pride or status but purely by reasons of sound economic policy". At the end of January 1991, Dr Herrigel announced that the national currency was to be the Namibian dollar, divided into 100 cents, and on introduction in 1992 it would trade initially at parity with the rand. Describing the decision as "one more step on the road to monetary independence", Dr

Herrigel pledged that in order to ensure a smooth transition there would be "no hasty steps, no quick decisions". He stated that following introduction of the Namibian dollar, Namibia would remain, at least initially, a member of the CMA. He left open the government's future policy with regard to the currency's exchange rate, while indicating that this would depend on the rand's performance. There would be "tremendous advantages" in keeping the Namibian dollar at parity with the rand, if the South African currency has demonstrated a consistently strong international value by the time Namibia's currency was introduced, he added. Other possibilities, particularly if the rand continued to depreciate, would be to determine the foreign exchange value of the Namibian dollar in terms of a basket of currencies, including the Deutschmark, the US dollar and the yen, Dr Herrigel added. The government is acting on advice from the IMF that it should keep its options open while establishing the necessary modalities for the introduction of Namibia's own currency. The strategy outlined by Dr Herrigel would leave Namibia well-placed to determine the best option according to prevailing conditions in two years time. Apart from the exchange rate of the rand, other factors will be the strength of Namibia's foreign trade position and its foreign reserves situation. The government is in the final stages of choosing a design for the new notes and coins, as well as the denomination of the currency.

One of the most important consequences for Namibia of the introduction of its own currency will be its ability to control the money supply and to set its own interest rate structure, although to some extent this is likely to remain influenced by prevailing trends in South Africa given the close economic links between the two countries. Coupled with the ability to adjust the exchange rate, this will give Namibia the ability for the first time to influence the level of imported inflation, although maintaining the competitiveness of the country's exports will also be a major consideration. The above latitude will apply whether or not Namibia keeps the Namibian dollar linked to the rand, or moves to value it against a basket of currencies on a trade-weighted basis. The government has stressed that the introduction of the Namibian currency and the establishment of an independent financial system will be a gradual process.

## 8.3 The Banking System and Domestic Money Market

The commercial banking sector has expanded considerably over the past decade but as of independence the domestic money market remained restricted due to limited investment opportunities while liquidity tended to flow out of the country in search of the higher returns available on the South African financial market. The free flow of capital will remain a feature of the economy so long as Namibia remains a member of the CMA. The government therefore, is putting emphasis on increasing the attractiveness of retaining funds within country, by developing investment opportunities and the range of financial facilities. The key aim is to ensure that funds that might be used to help economic and social development are not exported for investment elsewhere.

The channelling of domestic savings abroad has reflected both the absence of suitable domestic money and capital market instruments as well as the banks' close connections with the South African financial system.

The government also attaches importance to widening the availability of credit to the population as a whole, as at present the financial system essentially only reaches into urban areas and centers of commercial economic activity. This is particularly important in regard to the government's strategy of assisting small scale and subsistence farmers to grow more food, where lack of credit has been a major handicap. While the commercial farming sector has had access to state-subsidized credit, loans to small scale farmers and others outside the commercial sector were mainly available only on a relatively modest scale from the FNDC parastatal (see Chapter 3).

The financial system currently comprises five commercial banks - First National Bank of Namibia, Standard Bank of Namibia, Commercial Bank of Namibia, Bank Windhoek, Namibian Banking Corporation - two building societies, a number of insurance companies and several government owned semi-financial institutions, namely the FNDC, the Land and Agricultural Bank, Post Office Savings Bank and the National Building and Investment Corporation.

**(i) The Commercial Banks**

Of the banks, First National and Standard, the two biggest, are affliates of their respective South African groups, while the European consortium SFOM has a majority stake in Commercial Bank of Namibia, and the Namibian Banking Corporation is the locally registered affiliate of South Africa's Nedbank.

At present Bank Windhoek, a merger of South African and local banking interests, is the only bank in which Namibian partners hold the majority share but all the banks have suitably renamed their Namibian operations and have a national economic orientation. A first merchant bank, the locally owned Namibian National Merchant Bank, was established in 1990 and applications by overseas merchant banks to set up locally are believed to be in the pipeline. The Banks Act of South Africa which regulates the sector is currently being revised to bring it more in line with local circumstances.

The commercial banks have traditionally predominated in the private financial sector, constituting 84% of the combined balance sheet of the financial system as of 1988. They operate with a strong emphasis on short-term finance, including trade credits, and around two-thirds of their investments have normally consisted of loans. Total liabilities and assets stood at R1,961 million as of end-1989, up 35% on end-1988, with total advances amounting to R1,301 million. Most banks have continued to experience growth in business growth since independence.

**Commercial Banks's Deposits and Advances**
(R mn)

| | 1986[a] | 1987[a] | 1988[a] | 1989[a] | 1990[b] |
|---|---|---|---|---|---|
| Deposits | | | | | |
| Demand | 247.3 | 352.9 | 457.8 | 816.4 | 674.6 |
| Savings | 174.7 | 202.2 | 223.9 | 247.3 | 239.3 |
| Fixed and notice | 430.2 | 445.3 | 476.6 | 590.0 | 744.0 |
| of which: | | | | | |
| Long term | 107.9 | 120.0 | 109.9 | 94.9 | 79.6 |
| Foreign | 12.3 | 14.4 | 8.3 | 5.1 | 15.8 |
| Total | 864.5 | 1,014.8 | 1,166.6 | 1,658.8 | 1,673.7 |
| Advances | | | | | |
| Hire purchase | 86.5 | 126.2 | 200.8 | 261.7 | 215.1 |
| Leasing & Deeds of Sale | 23.9 | 24.8 | 35.1 | 58.0 | 64.2 |
| Other loans & advances | 297.2 | 375.1 | 591.0 | 897.8 | 986.0 |
| total[c] | 407.6 | 526.1 | 826.9 | 1,217.5 | 1,265.3 |

[a] End of year
[b] End of June
[c] Excludes unearned finance

*Source: Ministry of Finance*

### (ii) Building Societies

The larger of the two building societies, SWABOU, established in 1978 as a merger of seven South African building society branches in Namibia, had assets of R317 million as of 1988/89. Most insurance companies are large South African groups including Old Mutual, Sanlam Mutual and Federal, Liberty Life Association, and at present these are also regulated in terms of the applicable South African regulations.

### (iii) A Possible Securities Market

The mobilization of capital for domestic investment and other purposes would be promoted by the development of primary and/or secondary monetary markets, as undertaken recently on a limited scale initially in Botswana, which established the Botswana Share Market (BSM) in mid-1989. At the end of its first year of operations, total market capitalization had almost doubled to R327 million, although only six companies were listed and the volume of traded transactions remained low. Significantly, 16% of the turnover was accounted for by nonresident investors.

A proposal for the establishment of a Namibian securities market has been prepared by the private financial sector and is currently being considered by the government. This would also have the benefit of opening up new investment opportunities and potentially widening share ownership.

At present, apart from a few companies listed on the Johannesburg Stock Exchange (JSE), most companies in the private sector are family or one person owned businesses or in the case of larger industrial concerns, such as mining companies, share capital is exclusively held at present by corporate shareholders.

Chapter 9

# Debt and External Financing

## 9.1 Existing External Debt

The debt burden inherited by Namibia at independence is by the standards of most developing countries relatively modest, although debt servicing requirements accounted for a sizeable proportion of central government outgoings in the late 1980s and will remain a fiscal constraint for the next three to four years. Most of the debt was contracted by the pre-independence "interim government" to finance anticipated budget shortfalls arising from higher levels of expenditure caused by an expansion in the range of services provided and funded by the central administration in Windhoek.

According to World Bank calculations, the overall debt of the central government rose from 14% of GDP as of March 1982 to a peak of 35% three years later. Thereafter it gradually declined to 19.8% by March 1989 and 13.2% by March 1990, when total debt outstanding amounted to R714 million. However, debt servicing and other costs rose from 1.3% of GDP in the 1981/82 fiscal year to 7.9% in 1989/90 or R426 million, reflecting large amortization payments made in that year and foreign exchange losses due to the rand's depreciation against major currencies. Payments were equivalent to 14.7% of Namibia's exports of goods and services in 1989/90, but were projected by the Bank as reducing to 8.5% in 1990/91 and 3.2% in 1991/92 on the basis of no additional debt being contracted.

The 1990/91 budget, introduced in July 1990, provided for total debt servicing of R296 million, or 11.5% of estimated expenditure. This was made up of R163 million in amortization, R96 million in interest payments and R37 million in other costs, mainly currency revaluation costs. An Amortization Fund had been established several years prior to independence to make provision for the repayment of loans and in 1990/91 R78 million was drawn from this source.

A key characteristic of the country's debt structure is that while most loans were contracted from commercial banks at high interest rates and with short repayment periods, most of it is denominated in rand and owed to creditors within the Common Monetary Area (CMA) rather than overseas institutions. Although the bulk of the debt is "external" in the sense of being owed to South African banks, only a relatively small proportion is denominated in foreign currencies and owing to non-CMA banks. The World Bank estimated that at independence over 75% of the debt was in the form of local paper, 5% comprised a direct South African government loan and only some 10% constituted loans from overseas commercial banks. The remainder comprised loans from domestic institutions and short term bonds. The overall maturity structure is rather short term, with all overseas loans repayable by 1993 and most of the remaining loans by the end of this decade. There is a prospect that the government may be able to negotiate less onerous repayment terms.

Given Namibia's continued membership of the CMA, the Bank considers that only non-rand denominated debt can really be classified as external in the conventional sense. Although the available data indicates that most of the debt is "foreign" in that it is held by non-Namibian institutions within the CMA. This would change with the introduction by Namibia of its own currency. At present therefore, Namibia's external debt defined as above, is relatively modest but a significant constraint in a tight budgetary situation. From 10% of GDP in March 1985, it has fallen to only 1.3% at independence, around 10% of total government public debt.

**9.2 External Debt Management**

The government has made it clear it will avoid increasing Namibia's external indebtedness in the short term and will not seek commercial loans to finance either the fiscal deficit or development projects. In his 1990 budget statement, Dr Herrigel, Minister of Finance, said the government would pay "particular attention" to the problem of high debt servicing obligations, given the importance attached to keeping the government's own finances "on an even keel". For this reason, the government has in its negotiations with external aid agencies, stressed its preference for assistance in grant form and sought to obtain least-developed country (LDC) status with multilateral donor organizations.

To date, Namibia has been granted LDC status as an ACP member of the Lomé Convention by the EC, but not by the World Bank, as Namibia's average GDP per capita is above $1,000 per annum. The government's case for LDC status is based on the fact that income-levels in Namibia are highly skewed, with the vast majority of the population earnings well under $500 per annum. Even lending on concessional terms contains a price tag in the government's view, given the depreciating character of the rand which would make repayment obligations on foreign-currency-denominated loans more costly in the future.

The government is also indicating to potential foreign investors its wish for direct equity investment rather than commercial loan financing, particularly in regard to joint venture partnerships with the local private or public sector. While investors are entirely free to arrange their own financial packages, local banks or financial institutions elsewhere within the CMA are seen as having adequate liquidity levels to finance a good proportion of new projects. The main exceptions would be large infrastructure projects and developments with potential export earnings to help mitigate the impact of exchange losses on foreign currency denominated loans.

The government's general fiscal approach indicates that the country's current external debt should remain manageable in the short term at least. As a member of the IMF since September, Namibia gained access to drawing rights for the first time, and has a quota of SDR70 million, then equivalent to $100 million. The Finance Minister stated, however, that Namibia would not be borrowing " in the foreseeable future", and in any case not before it introduced its own currency. At that point, borrowing might take place, if Namibia experienced short term balance of payments difficulties.

Another positive element is the fact that parastatal debt in Namibia is presently low to negligible. Most of the main state-owned concerns, including the transport company TransNamib and the electricity and water utility SWAWEK, have positive cash balances and intend to finance most of their capital requirements out of internally-generated resources.

**Total Public Debt**
(R mn)

| | 1986[a] | 1987 | 1988 | 1989 | 1990 |
|---|---|---|---|---|---|
| Total debt outstanding | 840.3 | 795.0 | 800.4 | 891.5 | 714.1 |
| of which: | | | | | |
| CMA institutions | 613.6 | 604.5 | 596.7 | 549.5 | 549.5 |
| Non-CMA institutions | 198.7 | 168.0 | 160.4 | 141.1 | 71.0 |
| South African government | - | - | 52.0 | 45.5 | 39.0 |
| Local institutions | 28.0 | 22.4 | 16.8 | 41.2 | 35.6 |
| Other[b] | 0.1 | 0.1 | 1.5 | 114.2 | 19.0 |
| Debt service[c] | 208.8 | 163.3 | 173.7 | 232.9 | 426.0 |
| of which: | | | | | |
| principal | 88.6 | 45.4 | 61.2 | 97.8 | 251.3 |
| Interest | 118.9 | 113.3 | 109.3 | 114.3 | 89.8 |
| Debt outstanding/GDP (%) | 29.5 | 24.6 | 22.2 | 19.8 | 13.2 |

a Years ending March 31.
b Including term bonds.
c Including domestic debt servicing.

*Source: World Bank/Ministry of Finance.*

### 9.3 Foreign Aid

Since independence, Namibia's full membership of most relevant international donor agencies, including the main sources and channels of aid to sub-Saharan Africa, has resulted in the implementation of a comprehensive assistance program. Namibia is a member of the World Bank and the International Finance Corporation (IFC) but is not eligible for International Development Association (IDA) funds pending its classification as an LDC. The country's membership of the Lomé Convention became effective in December 1990 and its indicative program under Lomé IV has been set at $72 million, while an initial $24 million in grant aid was allocated for 1990. The UN family of agencies, including the UN Development Program (UNDP), are playing a major role in providing assistance to the government in formulating priorities, and UNDP completed a series of sectoral studies and recommendations prior to independence.

Bilateral donors are also contributing sizeable amounts of aid, including Germany, the Scandinavian countries and the USA, much of it in grant form. Aid agreements have been concluded with Finland, Norway, Sweden and Germany.

The government presented its national development strategy and external aid proposals to a donor roundtable held in New York from June 20-21 1990, for which it received assistance from the UNDP and the Bank. Aid pledges covered the four year period 1990-93, much of them for the first year and in grant form, as requested by the government to help meet short-term budgetary needs with the ending of South African budget assistance. Pledges totalling $696 million were made, $220 million being provided for 1990, including $140-150 million in grant form and $50-80 million in concessional lending. Bilateral assistance pledges amount to $531 million over the period, of which $168 million was for 1990. The largest pledges were made by Germany, $186 million of which $69 million was for 1990, while the Scandinavian countries, excluding Iceland, pledged $184 million, of which $46 million was for 1990. It was estimated that over half the amounts pledged in respect of longer-term socio-economic projects would require project formulation and approval through subsequent bilateral negotiations before disbursement.

The government's aid program is being coordinated by the National Planning Commission (NPC) director general, Dr Ngavirue, with interministerial steering committees established in respect of sectoral aid allocations. The government's priorities cover aid for education, health, housing, agriculture, rural development and social infrastructure such as rural water supplies, training and manpower development. The UNDP is currently formulating its country program for Namibia which is expected to focus on these areas.

**Aid Pledges, June 1990**[a]
**($ mn)**

| | 1990 | 1991 | 1992 | 1993 | Total |
|---|---|---|---|---|---|
| Bilateral assistance | 168.0 | 124.5 | 122.5 | 116.3 | 531.3 |
| Non-UN multilateral | 36.0 | 29.0 | 29.0 | 29.0 | 123.0 |
| UN agencies | 15.5 | 15.5 | 6.5 | 4.5 | 42.0 |
| Totals | 219.5 | 169.0 | 158.0 | 149.8 | 696.3 |

[a] Includes both firm pledges, mainly for 1990, and estimates of future assistance, but does not cover possible credits or loans from multinational development banks.

*Source: UNDP/NPC.*

### 9.4 US Assistance

The US government has taken a number of actions designed to facilitate the establishment of mutually-beneficial commercial and economic relations with Namibia since independence. At the June 1990 donor's conference the US pledged an initial $10 million in economic assistance on a grant basis "to meet Namibia's high-priority budget support needs". This amount was included in the 1991 fiscal year foreign aid bill signed into law by President Bush in November 1990 and is expected to go mainly on education, health and agriculture and direct support of the government budget. This economic assistance program is being managed by the USAID office in Windhoek, opened in January 1991.

The US administration is expected to maintain at least this level of support in subsequent years, while Namibia should also benefit from the minimum $50 million earmarked to support activities backed by SADCC from the $800 million approved for assistance to sub-Saharan Africa in the 1991 fiscal year.

In May 1990 the Export-Import Bank (Eximbank) began making available short and medium term financing support for US exports to Namibia. In announcing the move, Eximbank president John D Macomber stated "We are enthusiastic about supporting applications for Namibia in the light of the country's substantial resources and potential for economic growth". This was followed by the signing of a bilateral agreement in June extending investment benefits to Namibia via the Overseas Private Investment Corporation (OPIC). OPIC's purpose is to promote economic growth in developing countries by encouraging US private investment through the provision of the US government backed financing and risk assurances.

Trade benefits have also been extended to Namibia, as described in Chapter 5.

Chapter 10

# Foreign Investment

## 10.1 Extent of Foreign Investment

The magnitude of foreign investment in the productive sector of the Namibian economy is difficult to assess quantitatively, given the absence of official data. Most investment in the mining and fishing sectors is foreign in the sense of being non-Namibian, but the parent companies are mainly South African-owned or based, rather than of overseas parentage. A number of multinationals present in Namibia do so via their South African affiliates or subsidiaries. Multi-national firms handle most oil distribution - BP, Caltex and Shell. Large industrial groups present in Namibia, either directly or through South African affiliates include Atlas Copco, Blackwood Hodge, British Oxygen, Hoechst, Siemens, Plessey etc. US truck manufacturers are represented locally by Nantrac.

A large number of the major South African industrial groups are involved in the mining, manufacturing, food processing and retail sectors including Anglo American Corporation (diamond and gold mining, exploration, construction, polythene pipes), Anglovaal (mineral exploration, non-ferrous casting), Barlow Rand (gold mining, paints, fish processing), Federale Foods (fish processing), Gencor (uranium, base metals, wire ropes), Pepkor (PEP clothing retailers), Premier Group (food processing), Rembrandt Group (tobacco, beverages, financial services), South African Druggists (pharmaceuticals).

The main overseas company with a major direct foreign investment prior to independence was RTZ Corporation, with its 46.5% equity interest in Rossing Uranium, for which it also provides management, technical and overseas marketing services. Smaller stakes are held by France's Total group and Germany's Metallgesellschaft, which is also a minority partner, via a Canadian affiliate in the Navachab gold mine.

Overseas interests used to be more strongly represented in the mining industry which over the past decade, with the exception of Rossing, has become more South African owned. Amax and Newmont Mining were partners in Tsumeb Corporation, originally a German-owned concern which they purchased from the Custodonian of Enemy Property in 1947, and subsequently invested in the mine's integrated copper smelter/lead refinery. During the 1970s the Gold Fields group of South Africa started building up its stake, eventually buying out both the US partners. Falconbridge of Canada operated the Oamites copper mine which closed down in the early 1980s but currently has no operating interests.

The mining industry is a major purchaser of overseas manufactured equipment and vehicles and the huge ore haulage fleet at Rossing largely comprises Wabco trucks.

Foreign firms have very little representation at present in the agriculture, banking, financial services and tourism sectors, in which local and South African firms predominate.

### 10.2 Profitability

Profit levels in the mining and fishing sectors have generally been high. RTZ and its partners enjoyed high after tax income from the Rossing mine until the late 1980s when profitability was affected by lower prices and sales. RTZ's share of net attributable profits from Rossing peaked at £38 million in 1982, equivalent to 11% of the group's total net profit in that year but have subsequently fallen, amounting to £16 million in 1989. The $380 million capital cost of developing the mine was recouped within four years of the mine achieving its full rated output.

Until the 1970s, the alluvial diamonds mined by CDM were a major source of overall profitability for De Beers due to the exceptionally high gem content, contributing at times of strong demand 40% of total net income for the group. This is no longer the case, due to falling output levels, and the greater value of Botswana's diamond production. The Tsumeb mine also generated high profits during periods of high metal prices although overall profitability has generally been on a downward curve since the mid-1970s.

The Walvis Bay-based fish processing companies proved especially good generators of income for their mainly South African parent companies, until the retrenchments caused by the overfishing of pilchards in the latter 1960s. Profitability levels have subsequently been lower and white fish plants now have the best prospects. The South African-owned fish cartel which has dominated inshore fishing for the past forty years is gradually disappearing with the sale of its Namibian onshore assets to foreign investors and locally based entrepreneurs.

### 10.3 Recent trends

A considerable amount of inward investment and some divestment (by South African firms) has taken place in the past two years. A number of investors appear to have looked for strategic stakes in anticipation of independence and overall the number of companies registered locally increased in 1988-90. This may partly have been influenced by the perception that sanctions against Namibia- particularly those applied by the US under the 1986 Comprehensive Anti-Apartheid Act would be lifted at independence and that by setting up local firms would be well-placed to tap trade with South Africa. Data published by the Registrar of Companies in Windhoek showed that in the first seven months of 1989 a total of 318 companies were registered, 43 more than for the whole of 1988. There was an even more striking increase in the value of nominal capital registered, which rose from only R7.8 million in 1988 to R65.4 million for the period January-July 1989.

Investors can register either as a locally-incorporated company or an external company incorporated elsewhere. External companies were registered with a nominal capital worth R59.9 million in January-July 1989 compared to only R2.0 million in 1988. Since independence a number of new foreign investments or projects have been announced, mainly in agro-industry, manufacturing, fishing and energy. A number of mining developments are in the pipeline and are likely to be announced shortly. There have also been some significant changes in the financial sector, mainly affecting commercial banks, while several South African groups have divested from the fishing sector in favor of overseas investors or foreign-owned locally operating concerns. These changes are summarized below by sector.

### 10.3.1 Agro-industry

* Lonrho announced in March 1990 plans to invest $150 million in development of a sugar plantation and refinery with an initial capacity of 60,000 tons per annum rising to 100,000 tons eventually, with a view to supplying the domestic market and producing an exportable surplus. Feasibility studies on the scheme, to be located in the Caprivi, are still underway, although pilot seed plantings took place at the end of 1990. The financing structure has yet to be determined. Lonrho has opened a local office to investigate other business opportunities in the country.

* Unilever, through its South African affiliate Lever Brothers and the latter's subsidiary Lever Brothers Namibia, acquired a 70% equity stake in the Namswa Oil plant at Omaruru with effect from April 1990. The stake was acquired from the FNDC parastatal and the local group Taeuber & Corssen remains the minority partner. Namswa produces and markets edible oils and margarine with an intake capacity of 25 tons/day of oilseed and an expansion program is planned. Unilever previously had a marketing and technical services agreement and is now providing full access to its international food technology as well as trade mark and patent usage.

### 10.3.2 Manufacturing

* The Guinness beer division of Guinness Brewing Worldwide signed a licensing agreement in March 1990 with South West (now Namibia) Breweries for production of foreign extra stout for the domestic market. The company is a subsidiary of the local industrial group Ohlthaver & List Trust Co and produces a range of beers of high quality for the domestic market. It has started exports to Australia, using German production standards (ie no chemical additives).

* The leading French car manufacturer, Citroen, is investigating the feasibility of establishing a car assembly plant at Gobabis in the east. This would provide direct access, via the Trans-Kalahari highway through Botswana, to the South African market.

Construction may start this year. Volvo of Sweden plans to set up a small Scania assembly plant at Witvlei, just to the west of Gobabis, producing 30-50 trucks a year. Both investments are costed at some R100 million.

### 10.3.3 Fishing

* Pescanova of Spain announced in mid-1990 it had started building a new white fish processing plant at Luderitz. This will cost an estimated R65 million, employ some 500 people and produce fish for both export and the domestic market. Pescanova has had a long-established local presence but this would be its first major investment in onshore facilities.

* In September 1990, Oceana Fishing Group, a subsidiary of Barlow Rand, sold out its majority holding in Namibian Sea Products (Namsea) and Willem Barendz to UK-based Arun Holdings owned by Norwegian investors. Namsea is one of the biggest firms operating in both the inshore pelagic fishery and rock lobster industries with a significant stake in the UFE fish processing consortium.

* Federale Foods, part of the South African group Volksbeleggings, sold its Marine Products fishing arm interests in Namibia in October 1990. The buyer was a Spanish/local joint venture Bay Fish through a newly formed company Namib Fisheries Holdings. It has acquired a canning/fishmeal plant and white fish processing factory in Walvis Bay. The company intends to broaden its ownerhsip by inviting local investors to subscribe for shares.

### 10.3.4 Oil

* Overseas Petroleum Investment Corporation of Taiwan is conducting oil exploration activities within a 250,000 square kilometers area of northern Namibia under a leasing agreement with Etosha Petroleum, a subsidiary of Brilund of the USA. Operations began in September 1989 and has cost $9 million in its first year of activity. When the Etosha lease expires in 1992 the corporation maybe invited by the government to form a joint venture partnership (see Chapter 2). A number of European and US oil companies are interested in bidding for offshore oil acreage and have attended overseas briefings on seismic information organised by Exploration Consultants of the UK on behalf of Nakor, the government hydrocarbons agency, formerly known as Swakor.

### 10.3.5 Banks

* The French/Belgian/German consortium SFOM acquired a 70% stake in Commercial Bank of Namibia, one of the four principal commercial banks, in May 1990. The German financial investment company DEG had previously obtained a 10% stake, its first

investment in Namibia. This move has a wider significance in that acceptable investment conditions in the host country are a prerequisite for DEG commitments in terms of its government-prescribed statutes. SFOM has interests in 14 banks in 12 African states.

* In mid-1990 a fourth large local bank was established by a merger of the existing Bank Windhoek with the Namibian operations of the Boland, Trust and Volkskas banks of South Africa.

* Nedbank of South Africa reconstituted its operations in Namibia as the Namibian Banking Corporation at the end of 1990.

### 10.4 Local firms

Local partners are readily available and the Namibian private sector is keen to increase its capacity to serve the domestic market and develop greater export potential. There is a group of well established local firms which is particularly strong in the food processing, beverages, bakery, wholesale and retail, local agency, light manufacturing and service sector (restaurants and hotels). Relatively large concerns include Ohlthaver & List, Metje & Ziegler, Taeuber & Corssen, Mindeco (trade, distribution, brewing , manufacturing, food processing), Namib Mills, Namib-Sun Hotels, SWE (steel fabrication, mechanical and electrical engineering), Swameat Corporation and there are a number of specialist single product companies.

There are also a number of black owned businesses and entrepreneurs, one of the largest of which is Oshakati-based Continental group, who are seeking to expand their activities outside retail trade, distribution and small-scale mining.

### 10.5 Chambers of Commerce

There are two main chambers of commerce, the Namibian Chamber of Commerce & Industries (NCCI) and the Namibia National Chamber of Commerce & Industry (NNCCI). The former comprises most of the larger established companies while NNCCI's membership is drawn mainly from smaller scale private and cooperative concerns, and black entrepreneurs. It has 13 regional associations, mainly in the north, east and west, and is aiming to provide training and other forms of assistance to aspirant as well as existing entrepreneurs.

Chapter 11

# The Regulation of Foreign Investment

## 11.1 Government Attitude to Foreign Investment

The government has from the outset adopted a positive attitude towards foreign investment in the Namibian economy within the framework of reviving overall economic activity, increasing employment opportunities for Namibians and diversifying the country's economic base to reduce inherited structural distortions. Investors looking for a soft touch are likely to be disappointed as the government and its advisors from the international donor agencies, together with the local private sector and civil service, are critically aware of the pitfalls of allowing external assistance to replace rather than enhance domestic efforts.

The constitution forms the framework of the government's approach to economic issues and states that Namibia's economic system "is to be based on the principles of a mixed economy with the objective of securing economic growth, prosperity and a life of human dignity for all Namibians". Various forms of ownership - including public, private, joint venture and cooperative - would all be allowed, with foreign investment to be encouraged through the adoption of investment and employment codes by parliament. These objectives have been adhered to with the adoption in December 1990 of a Foreign Investment Act and the publication of a consultative document on the draft labor code which is expected to be tabled in parliament soon. (Chapter 6).

The accompanying institutional structures have been slower to emerge and there is no doubt this has caused frustration to some investors new to Namibia who are keen to get down to specifics. Two comments can be made here - first it has inevitably taken some time for the National Planning Commission (NPC) to gear up in terms of its operating structure and personnel as a newly-created body. Second, the government wish to evaluate the future role of the First National Development Corporation (FNDC), which prior to independence was the only national domestic financing and implementation agency, has led to some uncertainty as to the appropriate channel for investors (see Chapter 3).

It should also be borne in mind that the government has been conscious of the need to get the policy-mix right from the start. For this reason it has taken care to seek expert advice in the formulation of policies for specific sectors, such as mining and fishing. Legislation on both these sectors is now at an advanced stage of preparation and likely to be enacted by parliament in the very near future. These laws are being designed to dovetail with the overall investment strategy.

The General Policy Statement on The Reconstruction and Development of Namibia issued by the government in May 1990 for the donor conference of June 1990 held in New York gives priority to the resumption of economic growth and private sector investment. In his introduction, President Nujoma said "We welcome public and private foreign investments, and assistance which will allow us, through our programs, to emphasize the restructuring of our skewed economy, reconciliation and peace".

The document itself stated "While a strong and democratic state is necessary to initiate economic growth and development, foster social justice, and establish security for the Namibian people, a dynamic private sector and well functioning markets are, on the other hand, engines of income generation and safeguards against stagnation. It is of vital importance that the wealth creating sector is in appropriate balance with the wealth distributing sector". Broadly, the government's approach could be summarized as while growth alone is not equated with development, Namibia will not achieve development without growth.

In respect of financing inward investment, the government has stated that it will not look favorably at the use of external aid funds, as opposed to other financial packages. At a development management seminar organised by the Namibia Economic Policy Research Unit (NEPRU) held in Windhoek in August 1990, the NPC director-general, Dr Zedekia Ngavirue, stated: "Namibia welcomes development assistance and cooperative efforts between local and external private sectors. In this field there are some clear pitfalls that must be avoided. First, soft loans and grants should not be allowed to flow to the private sector unless they can be properly justified and are of a temporary character. Second, the establishment of external firms should be avoided if they are heavily aid-supported. There are several examples of Third World companies which have been squeezed out of their home market by firms which have been able to tap Northern aid sources".

### 11.2 The Foreign Investments Act of 1990

The Act was passed in December 1990 without amendment and broadly follows along the lines of the draft investment code circulated at the donors' conference the previous June. It provides for the establishment of an Investment Center within the Ministry of Trade and Industry to assist in the administration of the act. This is intended to act as a "one-stop" investment office and its functions comprise:

- the initiation and coordination of investment promotion and provision of information about investment opportunities;
- to coordinate activities of the ministries involved in appraising proposals for investment;
- to investigate and recommend special investment incentives in specific areas and to advise investors of their options.

The Act lays down a clear set of guarantees for foreign investors, including equal treatment with Namibian firms, fair compensation in the event of expropriation, international arbitration of disputes between the investors and the government, the right to remit profits and access to foreign exchange. Foreign nationals may invest in any activity which any Namibian firm may undertake and receive equal treatment in respect of tax regulations and other laws.

There are no obligatory joint venture or localization requirements, either with local public or private sector concerns, with the caveat that it may be a condition of grants of rights in respect of natural resources that the government "shall be entitled to or may acquire an interest in" any enterprise to be formed for the exploitation of such rights. The Minister may also specify sectors of business activity in which foreign nationals shall not be allowed to engage on the grounds that the production of goods or services involved can be adequately provided by Namibian businesses (Section 3 of the Act, see Appendix II).

With these qualifications, the code in general provides for a liberal regime with minimal constraints, and when presenting the act, the Minister of Trade and Industry, Mr Ben Amathila, stressed the government was "irrevocably committed" to a mixed economy, in which the foreign investor has a critical role to play, although not at the expense of Namibian business persons. He said he believed it would cover three main concerns indicated by prospective investors - the risk of expropriation, the ease with which they could repatriate profits, dividends and other remittances legitimately accrued on their investments, and recourse to a credible forum in the event of a dispute.

The provisions on expropriation and arbitration could perhaps have been more clearly spelt out. Article 11 of the Act states that no expropriation shall take place except in accordance with article 16(2) of the Constitution, and where expropriation takes place, the government shall pay "just compensation...without undue delay and in freely convertible currency". The issue of how much compensation is just and how much delay is undue is left undefined and in this respect the Act falls short of guaranteeing prompt and adequate compensation. However, it would appear not to have been the government's intention to couch the expropriation guarantees in any ambiguous form and the political will expressed by the relevant ministers is clearly that the guarantees will operate fairly from the point of view of the investor.

In the case of any dispute, investors will have the right to apply for arbitration, either by a competent court in Namibia, or in an overseas jurisdiction in accordance with the rules of the UN Commission on International Trade Law. A confidence factor here could be a decision by Namibia to sign the International Convention on Settlement of Investment Disputes.

## 11.3 Status Investments

A major provision of the Act is the creation of a special category of investor, holders of certificate of status investment. There is no obligation on potential investors to register their proposed activities as status investments or suggestion that those choosing not do so will not be permitted to operate. The government views the issuing of certificates as a means of ensuring due attention to economically important investments and ensuring they contribute towards Namibia's overall development objectives. Officials also expressed the view that while certain criteria are laid down for the granting of these certificates, these were outweighed by the positive benefits involved and that specific conditions were very open for negotiation.

In essence, while a screening process might disturb some potential investors, it has the value from the government's point of view of enabling it to monitor investment proposals in the light of its national development priorities and iron out difficulties at an early stage. The test will be of course whether the mechanism proves overly bureaucratic and subject to lengthy delays. On the evidence to date, this does not appear in danger of becoming a major factor, provided the institutional structure is emplaced and is able to function effectively in the near future.

An investment qualifies as eligible for certification as a status investment provided it involves a minimum value to be specified periodically in the government Gazette. The amount is not stipulated in the act but according to the preceding draft code an "approved investment" would be one not less than $200,000 in value. Reinvestments by a foreign national from the profits generated or proceeds of sale in respect of status investments have no minimum value requirement. A further eligibility condition is that where the investment involves acquisition of shares of a Namibian registered company, the foreign investor must have or intend to acquire a minimum 10% equity stake and be actively involved in its management. The same criteria apply in respect of acquisition of a participation in an unincorporated joint venture.

Factors to be taken account of in applications to the Minister include:

i) the extent to which the proposed investment contributes to Namibia's economic development;

ii) will utilize Namibian human and natural resources - thereby increasing local employment, providing for training of Namibians, earning or saving foreign exchange and generating development in the less developed areas of the country;

iii) will contribute to the advancement of those previously disadvantaged by past discriminatory laws or facilitate redressment of social, economic, educational imbalances;

iv) will make provision for equal opportunities for women, and the likely environmental impact.

An investor granted a certificate will need to implement the activities proposed in the application for it to remain valid and in the event of the Minister determining this not to be the case 30 days written notice of cancellation shall be given. In the event of the cancellation, this does not affect the investor's right to refer the dispute to local or international arbitration.

The certificate holder benefits from a series of specified rights, including:

* access to foreign exchange for use without restrictions to repay loan capital raised overseas and any taxes, interest or service charges arising under a schedule agreed with the central bank;

* convertible foreign exchange will also be available to pay licence fees and royalties to nonresidents under agreements approved in respect of technology transfer, for the repatriation of profits or payment of head office remittances to a foreign company, for dividend repatriation and the transfer of sale proceeds of a certified company to a foreign purchaser;

* the right to export-generated funds abroad under exemption from the normal foreign exchange controls. In the case of the sale or reduction in share capital of a local company the central bank may make the foreign currency required available in instalments if it determines that the result would have a "significant adverse effect" on Namibia's balance of payments. Under the Act only certificate holders are guaranteed just compensation for expropriation and have the option of using international arbitration for the settlement of disputes.

The distinction between two categories of investors - certificate and non-certificate holders- would be less of a factor if the minimum amount was lowered, while in practice it is likely that the majority of foreign as opposed to local investments will be above the $200,000 mark. It is the case that international comparisons would suggest that equal status, rights and obligations for all investors, irrespective of the amounts involved, is more generally welcome to investors.

Another criticism, voiced by opposition parties, who nevertheless gave the Act a general welcome, relates to specific incentives. The United Democratic Front (UDF) MP, Eric Biwa, said incentives should be provided on a regional basis for those investing in less-developed, communal farming areas (ie northern Namibia), while the National Patriotic

Front (NPF) leader, Moses Katjioungua, suggested tax holidays should be introduced to encourage small business investment in particular. The government says that specific incentives were not addressed by the Act since these were felt to require further study, but consideration of various options for an incentive package is currently underway, with a view to introducing it by the end of 1991.

### 11.4 Registration of Companies

The Act does not affect the existing regulations for the registration of companies, although a new act to replace the South African Companies Act of 1973 will be brought in at some stage. The basic requirement is registration with the Registrar of Companies, according to a schedule of fees related to share capital. As of 1989 this comprised R5 per R12,000 with a minimum of R95 per company; the amount is also payable where a foreign company maintains only a local share register and transfer office. Foreign investors may register a local company incorporated in Namibia or an external company incorporated elsewhere. After registration an external company is currently recognised as an incorporated company in Namibia with the same rights as a local company to own immovable property in the country.

### 11.5 The Private Sector Investment Conference

The government held a Private Sector Investment Conference (PSIC) in Windhoek from February 3-6, 1991 with the aim of providing investors with a detailed briefing on Namibia's policy towards private investment. The conference was organised by an inter-ministerial committee under the auspices of the Ministry of Trade and Industry with assistance in securing overseas participation by the Industry Council for Development (ICD) of the USA and Morgan Grenfell of the UK. Participation was by invitation only and these were structured so as to ensure full participation of the local private sector as well as overseas investors. In the event, some 300 representatives of local firms took part, alongside 75 overseas investors and 60 companies from South Africa, the latter including a number of South African affiliates of leading Japanese firms. In his opening address to the conference, President Nujoma stated "we have shed our political and economic isolation. It is time to form an alliance with the international investment community".

As well as providing a forum for ministers to present detailed submissions, the conference also provided the opportunity for a detailed review of investment opportunities and the relevant regulatory and fiscal frameworks for particular sectors for the economy. Sectoral workshops were held on mining, energy, fishing, manufacturing, agriculture and tourism.

During the conference, an outline of the new minerals act, oil exploration and taxation laws, fisheries' policy, manufacturing and agricultural priorities was provided.

Chapter 12

# Foreign Exchange Control

Prior to independence foreign exchange control and exchange rates, together with other financial instruments such as interest rates, liquidity and other controls over the commercial banking system, were determined by the South African government, acting through the South African Reserve Bank (SARB - central bank). The SARB branches in Namibia subsequently operated on an agency basis for the Namibian government until they were absorbed by the Bank of Namibia, the country's central bank, which was established with effect from August 1, 1990.

The central bank now has formal authority over Namibia's foreign exchange dealings, but so long as Namibia continues to use the rand as its currency and remains a member of the Common Monetary Area (CMA), its freedom of action in this policy area is circumscribed by the need to conform with South Africa's foreign exchange system. In practice this means that Namibia maintains the same foreign exchange controls as does the SARB. According to the central bank governor, Dr Wouter Benard, in practice while the Bank of Namibia can apply the controls more rigidly it does not have lattitude to apply them more leniently due to the impact this might have on the external dealings in the rand.

The government has indicated that it would prefer a more liberal foreign exchange regime as this would better suit the open export-orientated nature of Namibia's economy, but this will only become possible once Namibia has established its own currency - currently expected to take place sometime in 1992. Work on preparing an exchange control act to accompany the introduction of a new currency is under way together with other financial instruments in consultation with the SARB.

Namibia became an effective member of the CMA under a bilateral financial agreement with South Africa at independence and its formal membership is due to be ratified on a multilateral basis ie with the agreement of Lesotho and Swaziland, the other CMA members, during February-March 1991. This multilateral framework, making Namibia full member of the CMA in a legal and formal sense, will then supercede the bilateral agreement with South Africa.

## 12.1 Current regime

The government has delegated responsibility for operation of exchange control to the Bank of Namibia and has established an exchange control committee. Although the rand is a freely-convertible currency, a benefit to Namibia, its management reflects mainly South

African domestic economic concerns. In 1983 exchange controls on capital movements by nonresidents had been entirely removed but were reimposed again in 1985 as a result of South Africa's external debt crisis and growing levels of divestment from the economy.

### 12.1.1 The Financial and Commercial Rand

Nonresidents remain free to bring capital into South Africa and Namibia, but are restricted in their ability to take it out again by the dual exchange rate mechanism adopted in 1979, creating the "commercial" rand and the "financial" rand. Most inward nonresident capital movements take place in the financial rand. These are created when a nonresident sells South African or Namibian assets and can then be bought by any other nonresidents to use for most new investment purposes. The price of financial rands varies independently of the commercial rand value but has maintained a discount to the commercial rand. During 1989 the discount widened to around 40% of the value of the commercial rand although is eased back towards 25% in early 1990 with the release of the ANC leader Nelson Mandela and expectations of rapid political reform of the apartheid system. The gap had subsequently widened to around 35% with the increase in political violence, as of the end of 1990.

From Namibia's point of view the main influence of the financial rand is to provide an incentive for inward investment since it provides the investor with more rand for their foreign currency than does the commercial rand. The system is fairly complex but in essence financial rand can be used for new fixed investments and purchasing share capital in new companies. Within the rules, Namibia's exchange control committee uses its discretion to favor applications for financial rand which would increase economic activity and local employment. Applications for the buying of shares in existing local companies are not viewed favorably at present. Repatriated profits arising from new investments are remittable at the prevailing commercial rand rate.

Given the prospect that South Africa itself may abolish the financial rand in the not to distant future there could be a considerable incentive for potential investors to act now while it is still possible to take advantage of the substantial discount against the commercial rand rate. Another important point to bear in mind is that transactions between all member countries of the CMA are not subject to exchange control which means that at present there would be no restriction on investors relocating from South Africa to Namibia or using resources generated from South African assets for investments in Namibia (and vice versa).

The day to day administration of exchange control in Namibia is conducted by authorized dealers who are generally the commercial banks. Subject to the provisions of the parallel exchange rates described above and the authorization of the central bank, there are no restrictions on remittances of investment capital, interest or dividends.

## 12.2 National Currency Implications

The introduction of Namibia's own currency will involve change in foreign exchange control in about two years. However, this is extremely unlikely to be to the disadvantage of investors given the priority attached to attracting an inward flow of capital. Even with the introduction of a Namibian currency the country will remain a member of the CMA for at least a transitional period, and there will be a period during which both the new currency and the rand will be legal tender.

The intention is that an exchange control act introduced at the time of the new currency will provide a less restrictive regime more adapted to the export-orientated character of the Namibian economy, while the country will gain from not being subject to exchange rate fluctuations determined largely by South African domestic economic trends. Subsequent developments will clearly depend on Namibia's external payments situation, but given the prospects that this should remain favorable in the near to medium term, the likelihood is that restrictions on capital movements will not need to be imposed.

However, in the event of balance of payments pressures, Namibia might be more likely to use its SDR drawing rights for short-term support rather than impose rigid exchange controls.

It is likely that Namibia may choose ultimately to unlink the currency from the rand and free exchange controls in a similar fashion to Botswana. However, at present all options remain open. Changes are to be introduced gradually to minimize any disruptive effects on the economy and Namibia's foreign trade position. Overall, the prospect is that any changes consequent on the introduction of Namibia's own currency may be in the direction of less exchange control rather than more. Namibia is likely to apply the provisions of the IMF's article VIII which prescribes a liberal exchange regime for current transactions.

Chapter 13

# Price Controls and Inflation

## 13.1 Price Controls

Price controls have been applied to certain goods in Namibia under the provisions of South Africa's 1964 Price Control Act. This remains in force for the time being and controls are administered by the trade inspectorate within the Ministry of Trade and Industry. The main commodities covered are yellow margarine, fertiliser, steel, petroleum products and firearms. There is no present intention to widen price controls but the present list may be modified in due course under Namibia's own legislation. Should inflation remain at high levels it is possible that the prices of certain basic food commodities, such as bread or other staples, might be controlled or that the government would seek to lower prices by reducing or abolishing the general sales tax (GST) which the government acknowledges is regressive in character. (see Chapter 14 on Taxation).

A fuel levy is currently applied in conformity with measures introduced in South Africa in 1984 and in 1990/91 contributed R160 million to total government revenue. Under the Petroleum Products and Energy Act, approved in August 1990, the government has broad powers to regulate the procurement and distribution of oil products, including setting price levels. The then Mines and Energy Deputy Minister, Mr Helmut Angula, stated that these powers would be used "with circumspection" when presenting the bill.

The government is encouraging private sector oil marketing and distributing companies to source their supplies outside South Africa, with the aim of obtaining half the country's refined petroleum requirements from non-South African sources in the future. It is likely that these will prove cheaper while South Africa remains subject to international sanctions, but the government will use savings initially to top-up the oil equalization fund. This is used to cushion sharp fluctuations in the cost of oil procurement.

Retail prices have been adjusted in line with market conditions and in common with most oil-importing states, produced a temporary upward trend.

## 13.2 Agronomic Board

There is a substantial influence on certain food prices through the operation of controlled prices by the Agronomic Board. Controlled products comprise white and yellow maize, wheat and sunflower seed. The Board fixes prices paid to producers (applicable to deliveries at the point of intake) and the selling price to processors, meaning there is a system of price control up to the mill door in respect of the domestic crop. The general aim is to maintain import-parity, with prices buttressed by the Board's control over the issuing of import licenses. Thus in respect of maize meal the Namibian milling industry is normally required to process the domestic crop prior to gaining import permits. Currently there is sufficient competition among the mainly private sector milling firms to ensure that retail market prices are not determined by monopolistic interests. However, white maize processing capacity is presently about double the domestic market size of 60,000 tons annually with the prospect that competition could be reduced through rationalisation of the sector. These might produce a need for greater government intervention and controls to protect consumer interests.

White maize production in Namibia normally meets about half the normal demand, with the balance imported primarily from South Africa and Zimbabwe. With the maize crops in both those countries currently adversely affected by lower rainfall, import costs to Namibia were projected to rise in 1991. However, the World Bank concluded in its recent agriculture sector study that the degree of protection received by Namibian commercial maize producers was not particularly high, allowing for internal transportation and handling costs.

On the producer side the Agronomic Board pools its marketing costs with the aim of paying a uniform farmgate price, in effect providing cross-subsidies in respect of farmers situated further from the point of delivery. Namibia produces only about 15% of its wheat consumption but Namibian firms have a 50% market share which they meet by importing wheat for processing into flour, with South African firms supplying the other 50% market segment. At present, domestic wheat price increases are said to have remained largely below prevailing inflation rates due to competition between local processors and the South African wheat milling industry.

## 13.3 Inflation

The annual inflation rate, as recorded by the Windhoek consumer price index averaged 12-13% during 1985-88 but has subsequently risen due to imported inflationary pressures from South Africa. The 1989 rate of inflation was 15.1%, with a peak rate of 16.8% during the second quarter of that year.

Food prices, which have a relatively low weighting in the index, more closely reflect the cost of living for low-income Namibians, and have over the period 1986-89 recorded higher rates of increase. The average annual rate of increase rose from 13.5% in 1988 to 17.7% in the following year. During the 1990 first quarter overall inflation remained over 13%, but subsequently declined despite the Gulf factor. The year on year rate had fallen to 10.1% as of December with an average of 12% for 1990 as a whole.

South Africa reduced its inflation rate to 13.3% in the 12-month period ended July 1990, compared to 15.3% for calendar 1989. Inflation was expected to average out at 13-14% for calendar 1990.

The Namibian economy is particularly sensitive to increased fuel prices due to the long distances between population centers and the high transport costs involved in the shipment of bulk commodities. The fact that after the first few weeks of the Gulf crisis, oil prices declined is a major factor in Namibia's present somewhat reduced inflationary environment. It is likely, however, that during 1990 food prices continued to increase at faster rate than the general level of inflation.

**Indices of consumer and food prices**
**(1980=100; annual averages)**

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|---|
| Consumer price index | 162 | 181 | 206 | 232 | 261 | 301 |
| Change (%) | 9.1 | 12.0 | 13.4 | 12.6 | 12.9 | 15.1 |
| Food price index Windhoek | 187 | 198 | 227 | 267 | 303 | 356 |
| Change (%) | 10.7 | 6.0 | 14.7 | 17.4 | 13.5 | 17.7 |

*Source: Ministry of Finance, Statistical/Economic Review*

Chapter 14

# Taxation

## 14.1 Overview

Namibia has a fairly narrow tax base in the sense that due to the wide income differentials most personal taxes are derived from a small section of the population. There is a standard corporate income tax and various tax regimes for the different sectors of the mining industry, which have been subject to a review with changes likely to be announced in the near future. The other main taxes are a sales tax and a nonresident shareholders' tax. No tax increases were announced in the 1990/91 budget pending the outcome of the review of the mining tax regime carried out with the assistance of the Commonwealth Secretariat's Technical Assistance Group (TAG) and the UN Center on Transnational Corporations (UNCTC).

It is possible that the domestic tax base may be widened in order to raise additional revenue given the prospects for lower tax receipts from traditional sources in 1991/92. Although the government is fully conscious of the need not to create a less favorable tax climate than in neighboring states and overseas countries with whom Namibia is competing to attract investment capital. The government would rather achieve a broadening of the tax base and additional government revenue by improving income levels and employment opportunities for the bulk of Namibia's people. Higher standards of living and greater purchasing power would of themselves feed into higher tax receipts for the government as has been shown in recent years in the UK, USA and other countries where supply-side fiscal policies have been applied.

Since independence, all taxation, except customs and excise, falls under the jurisdiction of the state revenue department within the Ministry of Finance and the receiver of revenue in Windhoek is responsible for exercising the powers of the Minister regarding tax matters. Tax is payable on income derived from within Namibia and sources deemed to be within the country, with special provisions applicable to dividend income. There is currently no provision for the exclusion of any portion of income earned by employees of foreign employers not remitted to the employee within Namibia.

## 14.1 Personal Income Tax

Individuals are taxed separately although husbands and wives must submit joint returns of income, with special provision made for the standard tax payable on the income of a wife earned independently of her husband. Taxable income below R5,000 is subject to the minimum rate of 12%. The maximum marginal rate of tax is currently 42%, which is reached when the taxable amount (taxable income less income rebates) exceeds R40,000. Primary rebates deductable from the taxable income of individuals are R6,000 for married persons, R4,000 for single persons and an additional R500 for those aged over 65. Child rebates are from Rl,500 for one up to a maximum R3,000 for three, while individuals occupying their own home are entitled to a Rl,000 rebate.

Employees are subject to the PAYE system, introduced during the 1970s at the same time as South Africa, and are additionally taxed on cash and non-cash fringe benefits. Nonresident individuals are taxed on the portion of their income originating from within Namibia, but trading profits received by nonresidents from sources outside the country are not subject to tax.

## 14.2 Corporate Taxes

The standard tax rate for all non-mining companies is 42% and this rate also applies to non-diamond, gold and uranium mining concerns. There is no differentiation between local and foreign (externally-owned) companies as regards income tax and annuities because following local registration a foreign company has the status of an incorporated company in Namibia.

Taxable corporate income constitutes gross income (all that income originating within Namibia) less exempted income and allowable deductions. The latter comprise expenses incurred in the generation of income within the country. The main allowable deduction, which provides a considerable incentive in the establishment of new mining and farming enterprises, is the provision for a 100% write-off of certain assets in the first year of assessment. All machinery, office furniture and equipment, and non-passenger vehicles purchased by businesses or individual professionals in any sector also benefit from a 100% capital allowance. Companies are entitled to spread the write off over a number of years during which period they are required to make provision for deferred taxation in their accounts but do not actually pay tax. This meant that Rossing did not become fully liable for tax until several years after it began operating; while more recently, the development of additional diamond facilities by CDM in 1989-90 will lead to a reduced tax liability in 1991/92. Allowances in respect of newly built or extended buildings comprise 20% in the first year and 4% thereafter. There are currently no tax deductions in respect of regional location.

There is also an undistributed profit tax rate of 33.3%, which is calculated on the amount by which total net profits - less tax payable and an allowance of 55% - exceeds the value of dividends declared by the company in the period commencing six months prior to the fiscal year-end and ending six months after.

## 14.3 Mining taxes

### 14.3.1 Diamonds

The diamond mining industry has always had a special and complex tax regime, reflecting the circumstances under which the formerly German-owned concessions were acquired by Anglo American Corporation after World War I, and the subsequent tax arrangements negotiated with the colonial administration in Namibia. In view of the diamond sector's significance within the economy these arrangements have had a major bearing on government revenue and have been an extremely sensitive issue over the years.

The current main taxes include a diamond export duty of 10%, levied on the gross proceeds of sales from Namibia, a diamond profits tax of 15% and diamond income tax of 55% (raised from 50% in the mid-1980s). Profit tax payable on income from mining diamonds in Namibia is deducted from the amounts assessable for diamond income tax. De Beers states that the effective rate of tax is between 60-70% and is comparable to rates payable elsewhere.

There is also a special royalty provision whereby a subsidiary company is entitled to a payment on the proceeds of diamond mine as successor to the original German rights holders. This amounts to an average 5% of overall taxation liability and is separately recorded in the government's revenue and expenditure estimates. Some simplification of this tax structure is likely to be implemented to reflect more closely the earnings from diamond mining although it is not expected that overall tax levels will be raised.

### 14.3.2 Gold and Uranium

Gold and uranium mining (ie Rossing) is assessed on a sliding scale formulae similar to that applicable to the gold mining industry in South Africa whereby profitability is defined as profit, divided by income expressed as a percentage. Effective rates of taxation (excluding allowances) are also in the 60-70% range. It is not known at this stage whether the recommendations on a revised fiscal regime for mining incorporate changes to this system of assessment.

## 14.4 Nonresident Shareholders' Tax

This tax is payable at the rate of 15% on any dividends paid to several categories of shareholders:

* individuals not ordinarily resident or carrying on business in Namibia;
* any company not managed or controlled in Namibia;
* any company of which more than 50% of the issued share capital is held by or for the

benefit of companies not managed nor controlled in Namibia;
* every holder of bearer script;
* the estate of a deceased who was not ordinarily resident or carrying on business in Namibia at the time of death.

## 14.5 Sales Tax

A General Sales Tax (GST) of 10% on the taxable value of goods sold or imported and services rendered is levied at the point of final sale, or importation by consumers. This tax was introduced during the 1980s in line with South Africa. Sales and services to a registered vendor and exported goods are exempt from GST. As in South Africa, where the rate is currently 13%, GST has contributed an increased share of overall exchequer receipts, accounting for 16% of the total in 1989/90.

There is a long-term prospect that the GST might be replaced by VAT, which would widen the tax net and be less regressive. South Africa plans to replace its GST by VAT in 1991/92, but the move has been scheduled for the past couple of years and there is no guarantee that the change will take place this time either. Given the close trading links between the two countries it is probable that any change in South Africa would be a major factor in reviewing GST in Namibia.

## 14.6 Other Taxes

* A transfer duty on real estate is levied at the rate of 15% on the first R30,000 and 3% on the balance of the value of the property. For companies the rate is 5% of the purchase price.
* A low rate of stamp duty is levied on most legal documents.
* A 1% transfer tax is levied on every purchase of marketable securities (but where this applies no stamp duty is payable).
* Estate duty, capital gains and donation taxes are not currently levied in Namibia. A flat rate 15% capital transfer tax (CTT) is levied by South Africa on assets situated in South Africa at date of death. Assets of Namibian residents most commonly subject to CTT are insurance policies held with a South African company, securities quoted on the Johannesburg Stock Exchange (JSE) or other shares, fixed property. This is one area the government may look at in seeking to widen sources of revenue.

## 14.7 Government Position on Taxes

A statement on the government's view of taxation in Namibia was made by Dr Herrigel, the Finance Minister, in his 1990/91 budget speech. "Sales tax increases have been suggested, but as sales tax is regressive and affects the poorer sector more than the wealthier, it appears not to be the ideal tool for increasing revenue. Company tax is at present already at a high level and increases at this stage would not be conducive to the economic development and the investment climate that government tries to create and would in any case be counter-productive. Personal tax is also very high and the problem of 'fiscal drag' is making life difficult as it is. On the other hand, our public finance position neither allows us to decrease taxation as is so often suggested. Increased demands for finance by the new requirements of an independent country are difficult to reconcile with reduced revenues from taxation. The whole question of mining taxation is, however, under review and will hopefully lead to a more uniform taxation structure in the future. Apart from that, the undistributed profit tax is also under review with a view to investigating the consequences of the abolition of the tax", (6th July 1990).

With regard to direct taxation, he said the low level at which ordinary companies contributed was "a matter of concern". They contributed only 12% of total taxation revenue and the average company was paying tax at an effective rate of only 23% compared to the standard 42% corporate rate. With regard GST he said the government was not convinced that a VAT system would prove sufficiently superior to warrant its introduction at present, although appropriate measures for coexistence with a VAT system in South Africa would be developed. With respect to tax incentives, Dr Herrigel indicated that the existing write-off provisions for capital costs would be maintained, while the possibility of export incentives, which has been requested by firms involved in production and marketing, was being investigated.

## 14.8 Tax Payment Schedule

The government's fiscal year currently runs from April 1 to March 31, the same as South Africa. During 1989 and 1990, budgets were not announced until July, reflecting the exceptional circumstances of Namibia's decolonization and subsequent independence. On the pattern of preceding years a May-June date would be more normal, for companies interested in government contract work arising out of the ministerial capital spending programs. Tax is levied during the current financial year on the income and profits earned during the preceding financial year and for companies is normally payable in one installment.

## 14.9 Taxation Treaties

The UK is the only one of Namibia's major trading partners with which a tax treaty limiting liability to taxation in two fiscal regimes (double taxation) was concluded prior to independence. The rate of nonresident shareholders tax is reduced by two-thirds to 5% where the recipient is a UK company which controls more than 50% of the entire voting rights of the company paying the dividend. It is possible that similar arrangements might be looked at favorably by the government if it felt that this would encourage inward investment from a particular country or countries. The current rules as to the source of income and therefore Namibia's ability to tax such income are being reviewed. To give effect to this important principle, international double taxation agreements would "have to be entered into without delay", Dr Herrigel stated in February.

Chapter 15

# Intellectual Property Rights, Patents and Trademarks

There is no specific Namibian legislation covering these matters at present. Registration of patents, trademarks and designs is administered by the Registrar of Companies, Patents and Trademarks in Windhoek in terms of the applicable South African laws. These comprise the Trademarks Act of 1963, the Designs Act of 1967 and the Patents Act of 1978 whose provisions are generally in line with international norms.

The field is well understood by companies operating in Namibia and the local civil service, but is a new one for the government and one where it may feel changes are necessary in view of the complexities of intellectual property rights involved in technology transfer, franchises and royalties. It is likely that Namibia will become a signatory of the international convention for the Protection of Industrial Property as part of its general intention of becoming a signatory to all relevant international conventions.

There is no specific legislation governing manufacturing under licence in Namibia at present and the government is likely to wait until a clearer pattern of new investment has developed before making a decision on the need or otherwise for such legislation. Any major area of controversy is likely to be determined by the Ministry of Trade and Industry in concert with the Ministry of Finance so as to best understand the implications for Namibia of any proposed technology transfer arrangements, such as in the electronics sectors. However, there are unlikely to be any serious obstacles placed before investors given the government's overall priority of diversifying the economy and promoting value-added local activities. In particular, the export potential of such schemes to neighboring countries, mean that they are likely to be viewed favorably, especially if they create additional local and better-paid employment opportunities.

In general, outside of the specific patent and trademark laws applicable, the process of starting up operations for companies manufacturing under licence is identical to that for new investors.

# Appendices

**Appendix One**

**MINISTRY OF LABOR AND MANPOWER DEVELOPMENT**

**PROPOSED LABOR CODE**

## 1. Introduction

1.1 The purpose of this consultative document is to outline the Government's proposals for a Labor Code. Employers and their organisations, employees and trade unions, and members of the public are invited to submit their comments in writing to the Ministry of Labor and Manpower Development by no later than 30 September 1990. After the comments have been received and studied, the draft Code will be revised to take account of all the contributions made. The final version will then be put before the Cabinet for approval and then introduced in the National Assembly.

1.2 The draft Code is the starting point in the important process of national reconciliation in the field of labour relations. It is in this spirit that the Ministry calls upon employers not to take advantage of the lack of a fair and equitable system of labor law in Namibia at this time. National reconciliation is a two-way process and it is important that labor and management should regard one another as social partners engaged in building a strong economy that can provide for the needs of all. This must be done on the basis of recognition of the authority of the Government, respect for the Constitution and loyalty to Namibia. The Government is committed to economic growth, stability and justice. We see the Labour Code as providing a framework for increasing productivity, improving wages and working conditions, and settling and hopefully avoiding disputes wherever possible. We are committed to a system of free collective bargaining as the main vehicle to achieve these internationally accepted objectives. At the same time we must make a complete break with apartheid and our colonial past. Racial practices in employment must go. Economic exploitation must end. It is the Ministry's hope that, on the basis of this Code, employers and trade unions will work to eradicate these evils from our economy. On a more positive note, a great deal of energy must be expended in training and skilling our workforce.

1.3 The draft Code aims to provide a comprehensive framework of law governing the employment relationship and relations between employers and trade unions, and also organisations of rural workers. Most existing legislation in this field will be repealed, including the Wage and Industrial Conciliation Ordinance 1952 (No. 35 of 1952), the Conditions of Employment Act 1986 (No. 12 of 1986), and the National Labour Council Act 1986 (No. 9 of 1986). However, existing legislation on health, safety and welfare at work, such as the Factories, Machinery and Building Work Ordinance 1952 (No. 34 of 1952), the Machinery, Building, Demolition and Excavation Regulations 1957, and the Mines, Works and Minerals Ordinance 1968 (No. 20 of 1968), will remain in force until progressively replaced by new regulations covering all employments. The Ministry is seeking views as to whether the Apprenticeship Ordinance 1938 (No. 12 of 1938) is adequate for modern needs, or whether it should be modified or replaced when further legislation on training is introduced (see para. 1.5 below).

1.4 In making its proposals, the Ministry has paid careful attention to the recommendations of the Report of the Commission of Inquiry into Labour Relations in Namibia (Chaired by Professor N. Wiehahn) (February 1987). Many of those recommendations have been accepted, but the Government has taken account of the new situation in Namibia since Independence to go beyond that Report in various instances.

1.5 The draft code is divided into nine parts:

Part I: Preliminary

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|---|---|
| Part II: | Fundamental Principles |
| Part III: | Labor Administration |
| Part IV: | Labor Courts and Labor Arbitration |
| Part V: | Basic Conditions of Employment |
| Part VI: | Equality, Freedom from Discrimination and Affirmative Action |
| Part VII: | Health, Safety and Welfare at Work |
| Part VIII: | Collective Labor Relations |
| Part IX: | Miscellaneous, Transitional Provisions and Interpretation. |

Later legislation, after the adoption of the Code, will address the questions of vocational training, compensation for diseases and accidents at work, unemployment benefits and pensions.

**2. Preliminary: scope of application**

2.1 It is proposed that the Code should apply to <u>all</u> employees who ordinarily work in Namibia, including those employed in government service or by any public, regional or local authority or public corporation, other than the Defence Force and Police Force. For the first time farm workers and domestic workers and other neglected classes will enjoy a basic floor of legal rights. The Minister will have the power to exclude from the application of all or part of the Code any category of employees whose terms and conditions of employment are governed by special arrangements (an example might be the prison service), provided those arrangements afford protection that is not less favourable than the part of the Code from which that category is being excluded and that this is compatible with international labor conventions in force in Namibia.

2.2 It will not be possible to contract-out of the binding provisions of the Code to the detriment of an employee, or to preclude any person from presenting a complaint or enforcing any proceedings under the Code, unless this forms part of a registered agreement for the settlement of a dispute (see para. 9. below).

**3. Fundamental Principals**

3.1 The courts and all those administering the Code will be obliged to interpret and enforce the Code according to certain fundamental principles:

(a) the Code must be applied in conformity with the Constitution so as to give effect to the policies of economic growth, stability and justice and to provide a framework for increasing productivity, improving wages and working conditions and settling and avoiding disputes, by establishing basic conditions of employment and promoting a system of free collective bargaining;

(b) the standards laid down in the Code are the minimum legally obligatory standards and are without prejudice to the right of employees individually and collectively through their trade unions to request, to bargain for and to contract for higher standards which in turn then become the minimum standards applicable to the employees specified for the duration of the contract;

(c) the Code must be interpreted and applied so not to derogate from any international labor Convention which enters into force in Namibia;

(d) in the case of ambiguity the Code must be interpreted so as to conform to international labor standards, whether or not those have already been ratified by the Republic of Namibia.

3.2 Three fundamental rights are spelt out in part II of the draft Code:

(a) the right to equality of treatment in employment and occupation : any distinction, exclusion or preference on the basis of sex, marital status, family responsibilities, sexual preferences, race, color, national extraction, ethnic origin, religion, social origin or disability will be outlawed, but this will not prevent affirmative action in accordance with article 23 of the Constitution;

(b) forced labor will be prohibited and anyone who exacts, imposes or permits forced labor for private gain will be liable, on conviction, to criminal penalties;

(c) freedom of association and the rights to organise and to bargain collectively will be guaranteed.

3.3 It is proposed to follow the practice of many countries and the ILO Convention on Labor Clauses in Public Contracts, by inserting a "fair terms and conditions of employment" clause in every contract for the supply of goods and services to government departments or to any public, regional or local authority. This clause will oblige the supplier

(a) to recognise and respect the freedom of employees of the supplier to belong to trade unions of their choice;

(b) to ensure that the employees of the supplier enjoy terms and conditions of employment not less favourable than those established for work of the same character in the trade or industry concerned in the district where the work is carried on.

The "established" terms for this purpose will be either those laid down in collective agreements between representative employers and unions, or by arbitration award or wages order in the industry and district where the work is carried on, or where no such agreement, award or order exists, then in the nearest appropriate district. In the absence of any agreement, award or order, the supplier will have to follow the general level observed in the trade or industry by employers whose general circumstances are similar to those of the supplier. A trade union or employers' organisation will be able to complain to the Labor Court of any breach of a "fair terms and conditions of employment" clause. The most important sanction is likely to be the removal of the guilty supplier from the list of government or public contractors. The use of the public sector's purchasing power in this way is well-established in other countries, and this clause will enable the government to deter unfair competition by those suppliers who resort to cheap labor, and at the same time to promote collective bargaining and fair standards.

The Government seeks views as to the inclusion of such a clause in public contracts.

**4. Labor Administration**

4.1 The Minister of Labor and Manpower Development will be responsible for making regulations to give effect to the Code and, to appoint the various officers who enforce the Code. In addition he or she will be able to issue guidelines on good labor relations practice, after consulting the Labor Advisory Council. Among the subjects of such Guidelines might be disciplinary and grievance procedures, model trade union rules on ballots, and the disclosure of information for purposes of collective bargaining.

4.2 It is proposed to replace the National Labor Council with a new Labor Advisory Council, consisting of four to six representatives of trade unions four to six representatives of employers, two nominees of the Minister and a chairperson appointed by the Minister. The function of the Council will be to advise the Minister on all labor matters, including the ratification of international labor Conventions, the adoption and amendment of legislation and the promotion of collective bargaining.

The Government seeks views as to the proposed Labor Advisory Council, its composition and functions.

4.3 There will be a new post created of Labor Commissioner, whose only function will be to promote the conciliation, mediation and settlement of disputes. It is expected that the Commissioner will be an independent person who is able to command the respect and support of both employers and unions.

4.4 The administration of some provisions, such as registration of unions and employers' organisations and of collective agreements, will be the responsibility of the Permanent Secretary of Labor and Manpower Development. The Secretary will also have power to collect from employers those basic labor statistics which are necessary to ascertain the social and economic condition of the workforce. The enforcement of basic conditions of employment will largely be undertaken by labor relations officers, replacing the inspectors under the existing Conditions of Employment Act 1986 and the Wages and Industrial Conciliation ordinance 1952. These officers will have similar power to those of the present inspectors. Inspectors appointed under the Factories Machinery and Building Work Ordinance 1952 and the Mines Works and Minerals Ordinance 1968 will continue to perform their functions. Victimisation of employees for reporting infringements or enforcing their rights will be a criminal offence, as under existing legislation.

## 5. The Labor Courts and Labor Arbitration

5.1 It is proposed to establish a Labor Court of Namibia, as a division of the High court, consisting of one or more judges one of whom will be appointed President of the Court by the Judge President. The presiding judge will be able to appoint assessors to advise the Court in the determination of any matter. If the judge decides to appoint assessors, one will be appointed from a labor panel, nominated by representative trade unions, and one from a management panel, nominated by representative employers' organisations. In addition, the judge may appoint an expert assessor (eg, an engineer in a case where specialist knowledge is required).

5.2 It is also proposed to establish a district labor court for each magisterial district, consisting of a magistrate specially designated by the Minister of Justice as a labor magistrate. This magistrate will also be able to appoint assessors in the same way as the judge does in the Labor Court. It is expected, however, that in straightforward cases the magistrate will sit alone.

5.3 The Labor Court and the district labor courts will have exclusive jurisdiction to determine any matter arising under the code, and any other dispute under any other legislation or the common law between employer and employee or, in the case of the court, between employers and trade unions. The district labor courts will have jurisdiction in respect of basic conditions of employment, including unfair dismissal. and health, safety and welfare issues, but will be able to transfer cases to the Labor Court. It is expected that this power will be exercised, for example, when a significant question of law arises or there are complex issues of fact, or the case may affect the interests of a wider class, such as the interpretation of a major collective agreement. The Labor Court will hear appeals from the district labor courts and its decision on such an appeal will be final, save that a constitutional issue may be reserved for the Supreme Court.

5.4 The Labor Court will also have an original jurisdiction to determine any matter under the Code, with the power to transfer a case, where appropriate, to a district labor court. It is expected that it would do so in any relatively straightforward case concerning basic conditions of employment or health and safety. Only the Labor Court will be able to hear cases relating to collective labor relations, including issues arising in strikes and lockouts, disputes regarding registration of organisations and agreements, recognition of trade unions for bargaining, unlawful discrimination and unfair labor practices. It is proposed that there should be an appeal, with leave and only on a question of law, from a decision of the Labor Court when exercising its original jurisdiction to the Full Bench of the Court, save for a constitutional issue which may be reserved for the Supreme Court.

5.5 It is also proposed to make provision for legally binding arbitration, as an alternative to determination of issues by the Court. The parties to a dispute will be able to refer a matter to a labor arbitrator, or the Labor Court itself may decide to do so. If the parties are unable to agree whom to nominate, the Court will be able to nominate someone with sufficient experience of labor relations or labor law. The arbitrator's decision will have the same force and effect as a judgement of the Labor Court. There will be a right of appeal from that decision to the Court unless the parties have agreed at any time prior to the arbitrator handing down a decision that it shall be final. It is expected that arbitration may prove to be an attractive alternative to adjudication by the Court in some cases, in particular where the parties believe that the arbitrator can settle the underlying dispute of interests between the parties for example on a wages or conditions of employment issue.

5.6 A decision of the Labor Court and of a labor arbitrator appointed in accordance with the Code will have the same force and effect as any decision or order of the High Court. An order of a district labor court will have the same effect and be enforced in the same way as any other order of a magistrates' court. However, only the Labor Court will be able to punish, by way of contempt proceedings, the breach of any order of the district labor court or a labor arbitrator directing the performance or non-performance of any act. For example, if a district labor court makes an order for the reinstatement of an unfairly dismissed employee, and the employer fails or refuses to obey the order without just case, the employee could return to the district labor court for an award of compensation, but the case would have to be transferred to the Labor Court before the employer could be sentenced to a fine or imprisonment for breach of the reinstatement order. Only the Labor Court would be able to grant interdicts to stop or prevent unlawful strikes and lockouts, and it would have the power to impose penalties for non-compliance.

5.7 The proceedings in both the Labor Court and the district labor court are intended to be just, informal and speedy. In particular these courts and a labor arbitrator will not be bound by the rules of evidence or procedure which apply in ordinary civil proceedings and may disregard any technical irregularity which does not or is not likely to result in a miscarriage of justice. Rules of procedure will be prescribed, after consultation with the Labor Advisory Council. No costs will be awarded, except against a party who has acted frivolously or vexatiously or with deliberate delay in bringing or defending any proceeding. In the Labor Court, any natural person will be able to represent himself or herself or be represented by a legal practitioner. In the district labor court or before a labor arbitrator, a natural person will be able to represent himself or herself or be represented by any other person authorised by the party.

The Government seeks views as to the composition, jurisdiction and procedure of the proposed Labor Court, district labor court and labor arbitration.

## 6. Basic Conditions of Employment

6.1 The terms and conditions of employment prescribed under Part V of the Code will be incorporated into the contract of employment of every employee. They will apply unless superseded by:

(a) a wages order;
(b) a registered collective agreement;
(c) any other enactment;
(d) a decision of the Court, or a district court or a labor arbitrator,

which in any case provides for terms and conditions of employment more favorable to the employee than any corresponding provision of the Code. An employer will remain free to agree to, or grant any more favorable terms or conditions. In other words, this Part of the Code is intended as a "safety net" or floor of rights below which no employee may fall. It will be the basis for improving conditions, in particular through collective bargaining.

6.2 Minimum wages. The Government has carefully considered the question whether the Code should prescribe a national minimum wage. At present the Government is of the view that the establishment of the Wages Commission to investigate and make recommendations on minimum wages for particular sectors of the economy is the best route for Namibia. This will allow the Ministry to devote its attention to setting a fair minimum wage in those sectors where it is most needed. It will also mean that the specific conditions of the different sectors will be taken into account, such as the viability of businesses, variations in the cost of living etc. The Code will, therefore, provide that the Minister may set up a Wages Commission. He or she will have to do so if a trade union, organisation of rural workers or employers' organisation requests him or her on reasonable grounds to do so. The Commission will be appointed by the Minister and after consultation with unions or rural workers' organisations within the Commission's terms of reference, and one chosen after consultation with employers' organisations representing employers within the terms of reference. The commission will report to the Minister, with recommendations. The Minister may then make a wage order which must be in accordance with the recommendation. If the Minister decides that it is not expedient to make a wage order, he or she will then be bound to table the report and recommendation of the Commission and the reasons for not making an order before the National Assembly. A wage order will be binding on all employers within its scope, unless an exemption has been granted by the Minister. Such an exemption will be granted only where the Minister has reason to believe that the terms and conditions of the exempted person or class of persons are substantially not less favorable than those prescribed in the wages order, or special circumstances exist which justify an exemption in the interests of such person or class of persons. A wage order will remain in force until superseded by a new or amending wage order or by registered collective agreement. A wage order will also lapse within six months of the registration of an industrial council in respect of the industry and area covered by the order. This reflects the Code's aim of promoting the development of collective bargaining in preference to state regulation of wages.

The Government seeks views as to the proposed Wages Commission, its composition and powers.

6.3 Working time. The Government accepts the recommendations of the Wiehahn Commission that the existing provisions of the Conditions of Employment Act 1986 should be retained, with the following changes :

(a) the present weekly maximum of 46 hours will be reduced to 45 hours;

(b) the daily maximum working hours will be reduced from 9 hours 15 minutes to 9 hours per day for employees working a five-day week as well as casual employees;

(c) in the case of a six-day week the daily working hours will be no longer than 8 hours per day (which would normally mean that an employee would work 8 hours Monday to Friday and 5 hours on Saturday);

(d) the rate of ordinary overtime payment will be adjusted from one and one-third to one and one-half times the ordinary rate of remuneration;

(e) the wording of the relevant part of the definition of "overtime" will be amended to ensure that an employee is entitled to overtime when working more than the usual number of hours per day;

(f) employees in domestic service in a private household or employed in connection with farming operations will be prohibited from performing work on a Sunday except for emergency work, or, in the case of farming operations, for essential work which has to be done on a 7-day-week basis such as certain tasks related to the care of livestock;

(g) employees who may be required to work on a Sunday will have to be compensated by being granted an equivalent amount of time off (a whole day or a number of hours as the case may be) in the succeeding week;

(h) all employees, except those exempted under existing legislation such as manager, senior administrative staff, professional personnel, property salespersons and travellers, will be entitled to leave on full pay on all public holidays.

6.4 Calculation of Wages and Payment of Remuneration. The Government accepts the recommendation of the Wiehahn Commission that the existing provisions of the Conditions of Employment Act 1986 should be retained, with the following changes:

(a) the maximum period allowed for the payment of wages after the completion of working hours on payday be increased from 15 minutes to one hour;

(b) it will be made clear that the employee may authorise a deduction from wages by the employer in respect of any amount due to a union of which the employee is a member, or which he due under a union security agreement (see para. 9.7 below).

6.5 Annual and Sick Leave. The Government accepts the recommendation of the Wiehahn Commission that the existing provisions of the Conditions of Employment Act 1986 should be retained, with the following changes:

(a) all employees will be entitled to 21 consecutive days paid leave per annum;

(b) regulation 258 of Part VI of the Regulations made under the Mines, Works and Minerals Ordinance No. 20 of 1968, which prescribes 30 days' leave in respect of each period of 312 shifts, will be repealed;

(c) the transitional provisions of the Code will stipulate that existing employees (including mine employees) who are currently entitled to more than 21 days' leave per annum will retain that right so long as they remain in their present employment.

6.6 Maternity Leave. The Government accepts the recommendation of the Wiehahn commission that all female employees who are employed for at least one year with an employer should be entitled to four weeks maternity leave prior to the expected date of confinement and eight weeks' maternity leave after the date of confinement. It will be unlawful to terminate the service of an employee on grounds of her pregnancy or confinement. The maternity leave will not prejudice any of the female employee's normal benefits and entitlements including her contractual and pension rights and her legitimate expectations to advancement and seniority. On the return to work she will be entitled to return to the same job unless the job has ceased to exist because of the economic, technical or organisational requirements of the undertaking, or she is incapable of continuing to perform that job. In either of these circumstances the employer will have to take reasonable steps to find her a suitable alternative job within the undertaking. If no suitable job exists, or if she unreasonably refuses the offer of such a job, the employer will be entitled to terminate her employment with notice, subject to the provisions for a severance payment (see para. 6.9 below). It is not proposed to make provision in the present code for maternity pay and allowances, since this is to form part of the later reform of social security legislation.

6.7 Child labor and minimum employment age. The Government accepts the proposal of the Wiehahn Commission that the existing provisions of the Conditions of Employment Act 1986 that no employer shall employ any person under the age of 15 years, and that of the Mines, Works and Minerals Ordinance 1968 that no person under the age of 16 years should be employed to perform work underground, should be retained. In addition, the Code will contain a general provision, based on article 15(2) of the Constitution, that no employer shall require or permit any employee under the age of 16 to perform work that is likely to be hazardous or to interfere with education, or to be harmful to his or her health or physical, mental, spiritual, moral or social development.

6.8 Employment of females underground and on night work. The Government believes that the provisions of the Mines, Works and Minerals Ordinance 1968 which provide that no female person may be employed underground in a mine and that no female person employed in connection with a mining operation may be required or permitted to perform night work are inconsistent with the provisions of article 10 of the Constitution which prohibits any discrimination on the grounds of sex. These provisions will be repealed.

6.9 Contracts of employment and termination of employment. The Government intends to introduce a new right to protect all employees from unfair dismissal. This will be in conformity with ILO Convention No. 158 and the accompanying Recommendation No. 166 (1982). The existing provisions of the Conditions of Employment Act 1986 concerning periods of notice will be revised, and provision will also be made for severance pay, and for consultation with workers' representatives in the event of termination for reasons of an economic, technological, structural or similar nature.

6.10 Notice of termination. Where a contract of employment makes no reference to limit of time, either party will be allowed to terminate the contract on giving the following notice:

(a) where the employee has been continuously employed for less than four weeks, one working day's notice;

(b) where the employee has been continuously employed for four weeks or more, but less than one year, one week's notice;

(c) where the employee has been continuously employed for one year or more one month's notice.

It will be noticed that these periods differ from those in the Conditions of Employment Act 1986, which prescribe a week's notice for a weekly-paid employee, a fortnight's notice for an employee paid fortnightly and a month's notice for a monthly-paid employee. In the Government's view the periods of one week or a fortnight are inadequate in the case of long-serving employees, and accordingly it is proposed to adjust the periods as above based on the period of continuous service rather than the pay periods. Transitional provisions will safeguard the rights of any existing employees entitled to longer terms of notice than those prescribed by the Code. The periods stipulated are minimum periods only, and nothing will prevent employer and employee from agreeing to longer periods of notice, or prevent an employee from accepting a payment in lieu of notice. The employer will be allowed to terminate the contract without notice where the reason for dismissal is serious misconduct of such a nature that it would be unreasonable to expect the employer to continue to employ the employee during the notice period. The employee will be able to terminate the contract without notice where the conduct of the employer has made the continuation of the employment relationship intolerable.

6.11 Unfair dismissal. The Code will provide that the employment of an employee shall not be terminated unless there is a valid reason for such termination connected with the capacity or conduct of the employee or based on the operational requirements of the undertaking, establishment or service. The following, inter alia, shall not constitute valid reasons for termination:

(a) union membership or participation in union activities outside working hours or, with the consent of the employer, within working hours;

(b) seeking office as, or acting or having acted in the capacity of a workplace representative;

(c) the filing of a complaint or the participation in proceedings against an employer involving alleged violation of the Code or other laws or regulations or recourse to competent administrative authorities;

(d) sex, marital status, family responsibilities, sexual preferences, race, colour, national extraction, ethnic origin, religion, social origin or disability;

(e) absence from work due to compulsory military service or other civic obligations;

(f) pregnancy or confinement of a female employee or absence from work during maternity leave.

(g) temporary absence from work because of illness or injury, subject to adequate medical certification being produced.

The Code will provide that the employment of an employee shall not be terminated for reasons related to the employee's conduct or performance before he or she is provided an opportunity to defend himself or herself against the allegations made, unless the employer cannot reasonably be expected to provide this opportunity. The court or labor arbitrator determining a complaint of unfair dismissal will be bound to have regard to any guidelines issued by the Minister, after consultation with the Labor Advisory Council, regarding fair disciplinary and grievance procedures. Breach of these guidelines will not in itself render the dismissal unfair, but may be a relevant factor in the court or arbitrator's decision as to whether or not the dismissal was unfair in all the circumstances. The Code will specifically require an employer to treat equitably two or more employees alleged to be involved in the same misconduct, that is not to treat them differently when their circumstances are comparable.

6.12 Severance payments. An employee who has completed more than one year of continuous employment with his or her employer will be entitled to receive (in addition to a period of notice or pay in lieu of notice) upon termination of his or her services, a severance payment equivalent to one week's wages for each completed year of continuous employment with the employer. An employee who has been fairly dismissed for misconduct will not be entitled to a severance payment. The Minister will be empowered to prescribe the maximum amount of a week's wages to be taken into account in calculating a severance payment and the maximum number of years of service on which a payment be based.

6.13 Certificate of employment and written statement of reasons for dismissal. An employee whose employment has been terminated for any reason will be entitled to receive a certificate from the employer specifying the dates of engagement and termination and the type or types of work on which he or she was employed, and the wages he or she was paid at the time of leaving. At the request of the employee, the employer may be required to provide a written statement of the reasons for termination, in a separate certificate.

6.14 Termination of employment for economic, technological or structural reasons. When an employer contemplates terminations for any of these or related reasons, the employer will be obliged:

(a) to provide the workplace representatives, and where a union is recognised as bargaining agent that union, in good time with relevant information including the reasons for the terminations contemplated, the number and categories likely to be affected and the period over which the terminations are intended to be carried out;

(b) to give the workplace representatives, or where a union is recognises as bargaining agent that union, as early as possible, an opportunity for consultation on measures to be taken to minimise the termination and measures to mitigate and adverse effects of any terminations on the employees concerned such as finding alternative employment;

(c) to notify the Ministry of Labor as early as possible giving relevant information, including a written statement of the reasons for the terminations, the number and categories of employees likely to be affected and the period over which the terminations are intended to be carried out.

Refusal or failure by an employer to comply with these requirements will constitute an unfair labor practice in respect of which the workplace representatives or a union or the Minister, as the case maybe, may institute proceedings in the Labor Court (below para. 9.10). In determining an issue the Court or an arbitrator may have regard to any guidelines issued by the Minister, after consultation with the Labor Advisory Council, on the handling of collective dismissals for economic, technological and structural reasons.

6.15 Transfer of undertakings. The Code will protect employees in the event of takeovers and other transfers, by providing that where an undertaking is transferred in whole or in part, the contracts of employment of all employees employed at the date of transfer shall be automatically transferred to the transferee, and all the rights and obligations between the employee and the transferor shall continue to apply as if they had been rights and obligations between the employee and the transferee. Moreover, the transfer will not affect the employee's continuity of employment, which will continue with the transferee as with the transferor.

6.16 Death or insolvency of employer. The Code will provide that when an employer's personal or legal position formed the basis of the employment relationship with an employee, the death of the employer shall cause the employment to terminate one month from the date of the death. The insolvency of winding-up of the employer's business will cause the employment to terminate one month from the date of the insolvency or winding-up, unless the business has been transferred to another employer within that period. An employee's claim for wages and other entitlements in the event of insolvency or winding-up will be governed by the law on insolvency and winding-up and not by the Code.

6.17 Enforcement and remedies. The Government accepts the Wiehahn Commission's recommendation that labor law transgressions should be decriminalised and should be dealt with as civil wrongs by a specialised court. Accordingly it is proposed that an employee or, with his or her written authority, a trade union or a rural workers' organisation or a labor relations officer, may institute proceedings in a district labor court or, where appropriate, the Labor Court, alleging an infringement of any of the rights contained in this part of the Code. Where the interests of a wider class of employees or employers may be affected, a trade union or rural workers' organisation or employers' organisation or a labor relations officer, will be allowed to intervene in the proceedings and to be heard by the court before it makes a decision. The court will be empowered to award any relief which is considers just and equitable in the circumstances including the performance or non-performance of any act, and the award of compensation. In the case of unfair dismissal the primary remedy will be the reinstatement of the employee either in the job from which he or she was unfairly dismissed, or, where this is not practicable, in some other suitable alternative job.

The Government seeks views as to all these proposed basic conditions of employment and their enforcement.

## 7. Equality, Freedom from Discrimination and Affirmative Action

7.1 The Code will give effect to the fundamental right set out above (para. 3.2) to equality of opportunity in employment and occupation. For this purpose "employment" and "occupation" include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment. Any distinction, exclusion or preference made by an employer or any other person on the basis of sex, marital status, family responsibilities, sexual preferences, race, colour, national extraction, ethnic origin, religion, social origin or disability which has the effect of impairing equality of opportunity or treatment will be unlawful. If the claimant proves that he or she has been differently treated than another person in comparable circumstances, the job, the burden of providing the reason for that differential treatment and that this reason was not an unlawful one will be placed on the respondent. This alteration of the ordinary burden of proof in civil proceedings is considered necessary because direct evidence is usually not available of the reasons for differential treatment, and the respondent should be in a position to explain his or her actions.

7.2 Specific provision will be made in respect of racial or sexual harassment which will also be unlawful.

7.3 The principle of equal pay and other terms and conditions of employment for men and women for work of equal value will be enshrined in the Code, and will be enforceable. For this purpose, "equal value" includes the same work, or different work where the jobs being compared have been rated as equal taking account of factors such as effort, skill, responsibility, etc.

7.4 The remedies for breach of these fundamental rights will be similar to those relating to basic conditions of employment (above para. 6.17). In view of the importance and complexity of most discrimination cases, all such proceedings will be brought in the Labor Court, unless they are purely incidental to some other matter being dealt with by a district labor court, such as unfair dismissal. The Labor Court will have the power to order remedial action in respect of the particular claimant whose rights are provided to have been infringed. In addition, a trade union or organisation of rural workers or employers' organisation or labor relations officer, will be empowered to bring the proceedings on behalf of a class of persons alleged to have been affected by a pattern of discriminatory conduct. If the Labor Court finds the allegation proven, it will be able to order remedial action on behalf of the affected class, and will have power to supervise the implementation of its order.

## 8. Health, Safety and Welfare at Work

8.1 Existing legislation on health, safety and welfare is limited in its coverage to those in specific industries, for example, under the Factories, Machinery and Building Work Ordinance 1952, the Machinery, Building, Demolition and Excavation Work Regulations 1957 and the Mines, Works and Minerals Ordinance 1968, and regulations made thereunder. The Government proposes to keep this legislation in force, including the relevant inspectorates. The aim of the Government is to ensure that all employees, and not only those covered by existing legislation, are adequately protected against risks to their health and safety. To this end, a general duty will be imposed on all employers to take reasonably care for the health and safety of employees and others who may be affected by their activities. This general duty will include the specific duties to provide a safe place of work, safe equipment and machinery, and to train and supervise fellow employees in safety matters. The Minister will have the power, after consultation with the Labor Advisory Council, to amend existing regulations and to make new ones for other industries.

8.2 Compensation for diseases and injuries at work is currently covered by the Workmen's Compensation

Act 1941. It is proposed to review and revise this legislation at a later stage, as part of the general review of social security.

The Government invites views as the scope and nature of the duty of care to be imposed on employers, and also on the nature of the sanctions or other remedial action which should be available for a breach of such duty.

**9. Collective Labor Relations**

9.1 In order to promote the development of collective bargaining, which is a central feature of the Government's labor policy, it will be necessary to replace the existing Wage and Industrial Conciliation Ordinance 1952, with a new statutory framework of rights and duties for employers, employees' organisations, trade unions and organisations of rural workers.

9.2 Freedom of association. The foundation of this statutory framework will be a series of detailed guarantees of the freedom of association of employees and employers. This will include the right of every employee to take part in the formation of any union or federation, to be a member, to take part in its lawful activities and to hold office, and the right to appoint and act as a workplace representative. Various acts by employers to victimise or deter employees from exercising these rights will be unlawful. Any person eligible under its constitution for membership will have the right to join or not to join that organisation. Discrimination and other oppressive or unjust actions by organisations will be prohibited. Every employer will, have the right to take part in the formation of an employers' organisation, to be a member, to take part in its activities and hold office. There will be right to form federations and to join international workers' or employers' organisations. There will be specific protection of the rights of rural workers and their organisations. Any complaint of infringement of the rights to freedom of association may be heard and determined by the Labor Court.

9.3 Registration, constitution and status of trade unions and employers' organisations. The rights and benefits conferred by the Code upon organisations and their members will be available only if those organisations are registered in accordance with the provisions of the Code. The Government accepts the Wiehahn Commission's recommendation that registration should be regarded as a right and entitlement for the applicant organisation on condition that it meets certain minimum requirements regarding the submission of an application and a constitution. These minimum requirements will be aimed at ensuring that the constitution is democratic and that there are adequate safeguards for members and officers, particularly in relation to the deposit of money and the auditing of accounts. Under the Code, the registering authority will no longer have discretion in respect of the applicant organisation's representativeness or areas of interest. There will be a right of appeal to the Labor Court against a refusal of registration. Existing registered organisations will be deemed to be registered under the Code, but the registering authority (the Permanent Secretary of Labor and Manpower Development) will be able to direct any organisation whose constitution does not comply with the Code or the Constitution of Namibia to rectify the matter. If the organisation fails to comply, the matter may be referred to the Labor Court.

9.4 Safeguards for members of organisations. A member of an organisation will be able to apply to the Court to prevent or stop a contravention of the organisation's constitution. A member, or the Minister, will also be able to ask the Court to declare an election for office null and void if there has been any attempt to affect the outcome of the election by fraud, threat, bribery or other improper means. No person will be allowed to hold office in an organisation if he or she has been convicted within five years prior to the date of election of a crime involving dishonesty, for which he or she was sentenced to imprisonment without the option of a fine. A member or officer will be able to complain to the Court in respect of irregularities in the accounts and funds of the organisation.

9.5 Promotion of Collective Bargaining. A registered union will be able to apply in writing to an employer or employers' organisation for recognition as the exclusive bargaining agent of the employees in a bargaining unit for the purpose of negotiating the terms of a collective agreement and other matters of mutual interest relating to employers and employees and their organisations. The union will have to demonstrate that the majority of employees in the bargaining unit are members of the union or wish to have the union recognised as their exclusive bargaining agent. The employer will have 30 days to respond to this request, and to grant recognition. If the employer refuses to grant recognition on the grounds that the bargaining unit identified by the unit is not appropriate, either party may refer the matter to the Court for determination. In its decision the Court will have to seek to promote over time a system of orderly and effective collective bargaining without fragmentation. If the employer refuses to grant recognition on the grounds of lack of representativeness, the Permanent Secretary may be asked to arrange and supervise a ballot unless the parties have agreed to an alternative method of determining representativeness. It will be possible to apply to Court for the withdrawal of recognition if for a period of more than three months in any calendar year support for the union has fallen below fifty percent. A union granted recognition will be under a duty to provide full and proper representation of the interests of all employees covered by the recognition agreement whether or not they are fully paid-up members of the union. The union's rights will not prevent an employer from consulting with employees who are not union members on matters of mutual interest provided that this is not done in a manner which is calculated to undermine the status of the recognised union. Nor will it prevent an employee from being assisted by a representative of his or her choice in a grievance or disciplinary matter. The authorised representative of a recognised union will be entitled to such access to the employer's premises as is reasonable and necessary for the lawful activities of the union. In addition, an unrecognised union or an organisation of rural workers will be entitled to ask the Court to grant an order permitting authorised representatives to enter any land or premises where employees or rural workers live for the purpose of recruiting workers or meeting with them. In granting any of these rights to access an employer, land owner or land occupier will be entitled to impose such restrictions as to time and place which are reasonable and necessary to avoid undue disruption of operations and in the interest of safety.

9.6 Workplace representatives. In any undertaking in which there are ten or more members of a union, whether or not that union is recognised by an employer, those members will have the right to appoint a workplace representative to represent members in respect of:

(a) terms and conditions of employment;
(b) matters relating to discipline or termination of employment;
(c) grievances;
(d) any other matter of mutual interest between the parties.

The representatives will have the right to such facilities in the undertaking as may be appropriate in order to enable them to carry out their functions promptly and efficiently, taking into account the size and capabilities of the undertaking concerned. These facilities may include reasonable time off, with pay, for carrying out representation functions, provided that permission to take off such time has been granted by the employer, such permission not to be unreasonably withheld. The granting of such facilities is not to impair the efficient operation of the undertaking concerned. The rights of workplace representatives granted by the Code may be replaced, altered or modified by a registered collective agreement between a union recognised as exclusive bargaining agent relating to the appointment, rights and facilities to be afforded to workplace representatives.

9.7 Check-off and Union Security arrangements. A member of a recognised union will be able to request his or her employer to deduct union subscriptions from his or her wages. Where a union is recognised as exclusive bargaining agent, it will be permissible to provide in a collective agreement that all employees in the bargaining unit must:

(a) be members of that union or another designated union of their choice; or
(b) pay a contribution to that union or to the designated union in lieu of membership; or
(c) if the employee has a genuine conscientious objection to being a member or paying a contribution in lieu of membership, make a donation equivalent to a subscription to a charity specified in the agreement.

If, at any time, the number of employees in the bargaining unit who have authorised a deduction falls below half the total number of employees in that unit, the employer will have to give the union one month's notice to achieve the necessary support, failing which the union security agreement will lapse.

9.8 Collective agreements. A collective agreement will only become binding upon the parties to the agreement if it satisfies certain requirements and has been registered. The requirements will include effective procedures for the avoidance and settlement of disputes in the agreement unless the parties have in another agreement made provision for such procedures. Any affected party will be able to appeal to the Court against a refusal by the Permanent Secretary to register an agreement. Once registered the agreement will be binding on the members of any organisations party to the agreement, and also on employers and employees who are not party to the agrement who fall within the scope of the recognised bargaining unit. In addition, the parties to a registered agreement may request the Minister to make some or all of its provisions binding upon employers and employees in the industry not otherwise subject to the agrement, if the parties to the agreement are representative of employers and employees in the industry and area. The Minister may then extend the agreement. If the Minister decides not to do so an aggrieved party will be able to appeal to the Court. The Court will also be able to determine whether any employer or employee is covered by an agreement. An employer will be able to grant terms of employment more favorable to an employee than a corresponding provision of a collective agreement provided that this does not undermine the status of a union party to the agreement.

9.9 Industrial councils. The Government proposes to make it possible for representative employers, employers' organisations and unions to form industrial councils which may then obtain registration under the Code. Once the council is registered, any registered collective agreement concluded by a council will take precedence over any other collective agreement within its scope.

9.10 Disputes procedures. The government aims to streamline the existing provisions for conciliation, mediation and arbitration of disputes. The Government believes that the new procedures will be less formal than the existing conciliation board procedure and will make it possible to settle the vast majority of disputes speedily without recourse to strikes and lockouts. The right to strike and lockout should be regarded as a last resort when all attempts at conciliation have failed. To this end, the Code will provide that if a party intends to invoke the provisions of the Code in respect of a dispute, that party must report the dispute to the Labor Commissioner, within a reasonable period after the dispute first arises. The Commissioner will then have to endeavour to call a conciliation meeting within 21 days of the receipt of the report. The conciliation meeting will be chaired by any person agreed by the parties, or failing agreement by the Commissioner or a person nominated by the Commissioner. Any party who fails to attend a conciliation meeting will be barred from instituting or defending any legal proceedings in relation to the dispute. If the dispute is resolved, either before or after conciliation, the parties will be required to register their memorandum of agreement, whereupon it will have the same force and effect as a registered collective agreement. If the dispute remains unresolved, the next step will depend upon the nature of the dispute.

(a) If the issue concerns a dispute of "rights", it must be referred to the Court or a labor arbitrator for determination;

(b) If the issue concerns a dispute of "inteiests", the dispute may be referred by agreement of the parties to the Court or a labor arbitrator, or either or both the parties may give not less than 24 hours written notice that they intend to take action by way of strike or lock-out.

For this purpose a dispute of "rights" means one over the application to any employee of existing terms of employment, the interpretation and application of any statutory provision or collective agreement, or the denial of any right under the Code. All other disputes are treated as ones of "interest".

9.11 <u>Strikes and lockouts</u>. If there is an unresolved dispute of "interests" (as described above), either party will have the freedom to strike or lockout. Provided that the action takes place in conformity with the Code, the contract of employment of every employee or rural worker who goes on strike will be deemed not to have been breached, and a lawful striker will have the right to be reinstated in employment, unless material changes to the employer's operations have resulted in the abolition of such employment. It will be lawful for a person to refuse to do a lawful striker's work, and peaceful picketing in furtherance of a lawful strike by employees at or near their place of work will also be lawful. No civil legal proceedings will be permitted against any employee, employer, union or employers' organisation in respect of any lawful strike or lock-out, unless the wrongly act alleged is defamation or constitutes a criminal offence. There will be procedural safeguards to ensure that before any court grants an interdict the other party has been properly serviced with notice of the proceedings at least 48 hours' before the hearing of the application, and has been afforded a reasonable opportunity to be heard. The period of notice may be shorter if the court is satisfied that the acts in question may endanger the life, safety of health or any person. Strikes and lockouts will be prohibited in essential services. In these an unresolved dispute will have to go the Court or a labor arbitrator for determination. For this purpose an essential service will be defined as one in (a) water services; (b) electricity; (c) fire services: (d) health services; (e) sanitary services; (f) any other service; provided that the interruption or continued interruption of services would endanger the life, personal safety or health of the whole or part of the population.

9.12 <u>Other unfair acts</u>. The Labor Court will also have power to prevent and remedy a number of other specified unfair acts. These include: (a) any of which is subversive of orderly and proper collective bargaining; (b) any act which is designed to bring an employee organisation, under the domination or control of any employer or employers' organisation; (c) any unilateral change by an employer to terms and conditions of employment of employees represented by a recognised union without prior negotiations or compliance with the terms of a collective agreement; (d) a refusal or failure to bargain in good faith with a recognised union; (e) any complete or partial stoppage of work by employees designed to restrict the output of work which is not a strike as defined and is not taken in defence of legitimate employee or union interests.

The Government seeks views as to whether these proposals as to the fair conduct of collective labor relations are acceptable. In particular, the Government would value advice as to whether:

(a) any changes should be made in the proposed system of registration of organisation and collective agreements;
(b) the proposed procedure for recognition of any exclusive bargaining agent is fair;
(c) the provision for industrial councils would be helpful to the promotion of industry-wide collective bargaining where the parties want this;
(d) the provisions in regard to strikes and lockouts adequate protect the freedom to take such action while encouraging conciliation, mediation and arbitration in unresolved disputes.

## Appendix Two

## FOREIGN INVESTMENTS BILL

Arrangements of Sections



BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

Interpretation

1. (1) In this Act, unless the context otherwise indicates -

"Bank of Namibia" means the Bank of Namibia established by section 2 of the Bank of Namibia Act, 1990 (Act 8 of 1990);

"business activity" means any activity engaged in for gain or reward in any part of the economy of Namibia;

"Certificate" means a Certificate of Status Investment issued under this Act;

"enterprise" means the business or undertaking in which foreign assets are invested and in respect of which a Certificate has been issued;

"foreign assets" includes freely convertible foreign currency, and any currency, credits, rights, benefits or property, whether corporeal or incorporeal, obtained by the expenditure of foreign currency or, except as regards currency of Namibia which has not been obtained by the expenditure of foreign currency, belonging to a foreign national, and the returns derived from such credits, rights, benefits or property;

"foreign national" means -

(a) a person who is not a citizen of Namibia;

(b) a company incorporated under the laws of any country other than Namibia;

(c) a company incorporated within Namibia in which the majority of the issued share capital is beneficially owned by foreign nations within the meaning of this definition;

"Government" means the Government of Namibia and includes any body or institution established by or under any law;

"the Minister" means the Minister of Trade and Industry;

"Namibian" means a citizen of Namibia and includes a company incorporated under the laws of Namibia in which the majority of the share capital is owned by Namibians within the meaning of this definition.

(2) At any time before a currency for Namibia has been established under section 19 of the Bank of Namibia Act, 1990 (Act 8 of 1990), an investment in Namibia by a foreign national of rand in the currency of the Republic of South Africa shall be deemed to be an investment of foreign assets notwithstanding that rand will during that period also be the currency for Namibia.

## PART I ADMINISTRATION OF ACT AND PRINCIPLES REGARDING FOREIGN INVESTMENT

Administration Act

2. Subject to the laws governing the public service, there shall be

established in the Ministry of Trade and Industry a division, to be known as the Investment Centre, to assist the Minister in the administration of this Act.

Business activities of foreign nationals.

3. (1) Subject to the provisions of this section and compliance with any formalities or requirements prescribed by any law in relation to the relevant business activity, a foreign national may invest and engage in any business activity in Namibia, which any Namibian may undertake.

(2) For the purposes of any law governing the establishment and carrying on of any business activity or the taxation of the income, or any other aspect, of any business activity, a foreign national shall be in no different position than any Namibian, except as may be otherwise provided by this Act.

(3) No foreign national engaged in a business activity or intending to commence a business activity in Namibia shall be required to provide for the participation of the Government or any Namibian as shareholder or as partner in such business, or for the transfer of such business to the Government or any Namibian. Provided that it may be a condition of any licence or other authorization to or any agreement with a foreign national for the grant of rights over natural resources that the Government shall be entitled to or may acquire an interest in any enterprise to be formed for the exploitation of such rights.

(4) The Minister may, by notice in the *Gazette*, specify any business or category of business which, in the Minister's opinion, is engaged primarily in the provision of services or the production of goods which can be provided or produced adequately by Namibians, and, with effect from the date of such notice, no foreign national shall, subject to the provisions of section 7(3), through the investment of foreign assets, become engaged in or be permitted to become engaged in any business so specified or falling within any category of business so specified.

## PART II STATUS INVESTMENTS

### CERTIFICATE OF STATUS INVESTMENT

Minister's power to issue Certificate of Status investments.

4. If the investment of foreign assets in Namibia is an eligible investment as defined in section 5, the Minister may, subject to the provisions of the Act, issue a Certificate of Status Investment in respect thereof and the provisions of sections 8 to 13 shall apply in relation to the enterprise in respect of which the Certificate has been issued.

Investments eligible for Certificate of Status Investment

5. (1) For the purposes of this Act, an investment is an eligible investment -

(a) if it is an investment, or proposed investment, in Namibia by a foreign national or foreign assets of a value of not less than the amount which the Minister may determine from time to time by notice in the *Gazette* for this purpose;

(b) if it is a reinvestment, or proposed reinvestment, by a foreign national of the profit or proceeds of sales of an enterprise specified in a

Certificate, irrespective of the amount of such reinvestment.

(2) Where the investment is for the acquisition of shares in a company incorporated in Namibia, the investment shall, notwithstanding that the value thereof is equal to or exceeds the amount determined under subsection (1)(a), qualify as an eligible investment only if -

(a) not less than ten per cent of the share capital of the company is held or will, following the investment, be held by the foreign national making the investment; or

(b) the Minister is satisfied that the foreign national making the investment is or will be actively involved in the management of the company.

(3) Where the investment is for the acquisition of a participating share in an unincorporated joint venture, the investment shall, notwithstanding that the value thereof is equal to or exceeds the amount determined under subsection (1)(a), qualify as an eligible investment only if -

(a) not less than ten per cent of the participating share of the joint venture is held or will, following the investment, be held by the foreign national making the investment; or

(b) the Minister is satisfied that the foreign national making the investment is or will be actively involved in the management of the joint venture.

Application for a Certificate of Status Investment.

6.(1) A foreign national may apply to the Minister for a Certificate of Status Investment in respect of an investment which qualifies as an eligible investment in terms of section 5.

(2) An application for a Certificate of Status Investment shall be in the prescribed form, which shall require such information from the applicant as may be necessary to enable the Minister to consider applications in accordance with subsection (3).

(3) In considering an application for a Certificate of Status Investment, the Minister shall have special regard to -

(a) the extent to which the proposed investment is likely to contribute towards Namibia's development objectives;

(b) the extent to which the enterprise in which the proposed investment is to be made will utilize Namibian resources, including labor and natural resources so as to contribute to the economy, by, *inter alia* -

(i) increasing employment opportunities in Namibia;

(ii) providing for the training of Namibians'

(iii) earning or saving foreign exchange;

(iv) generating development in the less developed areas of Namibia;

(c) the extent to which the enterprise in which the proposed investment is to be made will contribute to the advancement of persons within Namibia who have been socially, economically or educationally disadvantaged by past discriminatory laws and practices or will facilitate the implementation of policies and programs aimed at redressing social, economic or educational imbalances in the Namibian society;

(d) the extent to which the enterprise in which the proposed investment is to be made will make provision for equal opportunities for women;

(e) the impact which the activities of the enterprise in which the proposed investment is to be made is likely to have on the environment and, where necessary, the measures proposed to deal with any adverse environmental consequences.

Grant of a Certificate of Status Investment

7. (1) If the Minister is satisfied that the investment in respect of which application for a Certificate is made will promote the interests of Namibia, the Minister may issue a Certificate in respect thereof.

(2) Every Certificate shall state -

(a) the name of the foreign national to whom it is granted;

(b) the name of, and give a description of, the enterprise in which the investment is or is to be made;

(c) the amount or value of. and give a description of, the foreign assets invested or to be invested and, if they have not yet been invested in the enterprise, the period or periods within which they shall be invested;

(d) the proportion of the foreign assets invested or to be invested to the total assets of the enterprise, and where the investment involves the acquisition of shares in a company, particulars of the shareholding;

(e) that the implementation of such of the proposals forming part of the application for the Certificate as are set out in the Certificate shall constitute an obligation of the holder of the Certificate and a condition of the continued validity of the Certificate; and

(f) such other matters as the Minister may deem necessary or expedient for the purposes of this Act.

(3) A notice by the Minister under section 3(4) shall not affect the

validity of any Certificate issued before the date of such notice in respect of any enterprise which is an enterprise specified in such notice or which falls in any category of business so specified, or any right, privilege or benefit accorded by this Act to the holder of such a Certificate.

## RIGHTS AND OBLIGATIONS OF HOLDERS OF CERTIFICATES

Availability of foreign currency for certain payment.

8. (1) Notwithstanding the provisions of any other law, the Bank of Namibia shall ensure that there is available for purchase by the holder of a Certificate, at the request of that holder, freely convertible foreign currency which the holder may use without any restriction -

(a) to repay, in accordance with a schedule approved by the Bank of Namibia, the principal sum of any loan in foreign currency, the proceeds of which formed part of the foreign assets invested in the enterprise, and to pay, subject to the prior payment or the retention of any tax which maybe due thereon, the interest and service charges on such a loan as they fall due;

(b) to pay licence fees and royalties to persons ordinarily resident outside Namibia in respect of any intellectual property which is employed in connection with the enterprise, where such payments are due under an agreement which has been approved under any law relating to the transfer of technology or under an agreement approved by the Minister, with the concurrence of the Bank of Namibia, and specified in the Certificate.

(2) The provisions of subsection (1) shall, until the date of publication of the notice referred to in subsection (2) of section 18, have effect subject to the provisions of subsection (1) of that section.

Availability of foreign currency for transfer of profits and proceeds of sale.

9. (1) Notwithstanding the provisions of any other law but subject to subsections (3) and (4) of this section, the Bank of Namibia shall ensure that there is available for purchase by the holder of a Certificate, at the request of that holder, convertible foreign currency which the holder may use without any restriction -

(a) for the transfer out of Namibia of the profits of the enterprise or, where the enterprise is carried on as a branch operation by a company which is a foreign national, for the payment to the head office of the company of remittances out of funds representing the branch profits, after deduction or retention in either case of any tax due;

(b) where an investment to which a Certificate relates is an investment in a company, for the payment to shareholders or stockholders ordinarily resident outside Namibia of dividends out of the profits of the enterprise, after deduction of any tax due;

(c) where the enterprise or any part of the undertaking carried on by the enterprise is sold to any person ordinarily resident in Namibia, for the transfer out of Namibia of the proceeds of such sale;

(d) where the enterprise is a company which has reduced its share capital in accordance with the provisions of the laws relating to companies, for the transfer out of Namibia of the sum by which the capital is so reduced.

(2) No provision of any law relating to exchange control shall apply to foreign currency which is the proceeds of the sale by the holder of a Certificate of the enterprise or any part of the undertaking carried on by the enterprise to a person not ordinarily resident in Namibia.

(3) Where, as evidenced by the Certificate, the foreign assets invested or to be invested in the enterprise constitute only a proportion of the total assets of the enterprise -

(a) the provisions of paragraphs (a), (c) and (d) of subsection (1) shall apply only to the like proportion of the profits, proceeds of sale or sum, as the case may be, referred to therein;

(b) the provisions of subsection (2) shall apply only to the like proportion of the proceeds of sale referred to therein.

(4) If, in the opinion of the Bank of Namibia, the amount of foreign currency required to give effect to paragraph (c) or (d) of subsection (1) in respect of any enterprise would have a significant adverse effect on the external payments liabilities of Namibia, the appropriate foreign currency may be made available by such number of instalments of such amounts and at such intervals as the Bank of Namibia may determine.

(5) The provisions of this section shall, until the date of publication of the notice referred to the subsection (2) of section 18, have effect to the provisions of subsection (1) of that section.

Retention of foreign currency obtained from sale of exported goods.

**10.** (1) A certificate may, on such terms and conditions as may be prescribed therein, provide for the retention outside Namibia by the holder of the Certificate of any payment, or a proportion of any payment, in foreign currency for goods produced by the enterprise or any undertaking carried on by the enterprise which are exported from Namibia.

(2) Where a provision as contemplated in subsection (1) is made, no requirements of any law for the repatriation of the proceeds of the sale of goods exported from Namibia or for persons to offer such foreign currency to the Bank of Namibia or the Government shall apply to the foreign currency representing any payment or proportion of any payment referred to in subsection (1).

Compensation in case of expropriation.

**11.** (1) No enterprise, or part of an undertaking carried on by an enterprise, or interest in or right over any property forming part of such undertaking shall be expropriated except in accordance with the provisions of Article 16(2) of the Namibian Constitution.

(2) Where an enterprise or any part of an undertaking carried on by an enterprise, or any interest in or right over any property forming part of such undertaking is expropriated, the Government shall pay to the holder of the Certificate just compensation of such expropriation without undue delay and in freely convertible currency.

Obligations of holder of Certificate

12. (1) The holder of a Certificate shall -

(a) bring to Namibia and invest in or apply for the benefit of the enterprise, the foreign assets to which the Certificate relates within the time or times provided in the Certificate;

(b) carry out the obligations agreed between the Minister and the holder and specified in the Certificate;

(c) carry out such other obligations of the holder as are specified in the Certificate;

(2) If the holder of the Certificate fails to carry out the obligations referred to in this section within the time or periods, if any, specified in the Certificate, the Certificate may be cancelled in accordance with the provisions of section 15.

Settlement of disputes in respect of Status Investments.

13. (1) If a person to whom a Certificate is to be issued under section 7 so elects, the Certificate shall provide that any dispute between the holder of the Certificate and the Government in respect of -

(a) any issue relating to the amount, or any other matter in connection with, any compensation payable in a case of an expropriation as provided in section 11;

(b) the validity or continued validity of the Certificate;

shall be referred for settlement by international arbitration.

(2) Where a Certificate provides for the settlement of disputes by international arbitration, arbitration shall be in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law in force at the time when the Certificate was issued, unless by agreement between the Minister and the foreign national to whom the Certificate is to be issued, another method of settling the dispute has been chosen and the Certificate so provides.

(3) A Certificate which makes provision for international arbitration shall constitute the consent of the holder of the Certificate and the Government to submit to arbitration in the manner provided in the Certificate, and any award rendered in any such arbitration shall be final and binding on the holder of the Certificate and the Government.

(4) Nothing in this section shall be construed -

(a) in a case where a Certificate does not make provision for the settlement of disputes by international arbitration, as impairing or limiting the right of the holder of such Certificate, in the event of a dispute, to any remedy available to the holder in any competent court in Namibia;

(b) in a case where a Certificate does make provision for the settlement of disputes by international arbitration, as precluding the holder and the Minister from agreeing that any particular dispute shall not, as provided in the Certificate, be referred to international arbitration, but be heard and finally determined by any competent court in Namibia.

## AMENDMENT, TRANSFER AND CANCELLATION OF CERTIFICATE

Amendment and transfer of a Certificate

**14.** The Minister may, with the consent, or on application, of the holder of a Certificate, as the case may be, amend a Certificate issued under this Act or transfer the Certificate to any other foreign national.

Cancellation of a Certificate.

**15.** (1) Where -

(a) the holder of a Certificate, or any person who acted on behalf of any applicant for a Certificate, is convicted of an offence under section 16 of this Act;

(b) it is established to the satisfaction of the Minister that a Certificate was issued in consequence of incorrect information supplied by the applicant, or a person who acted on behalf of an applicant for a Certificate; or

(c) the holder of a Certificate -

(i) fails or neglects to implement the proposals forming part of the application for the Certificate, as set out in the Certificate; or

(ii) fails or neglects to comply with any other obligation referred to in section 12,

the Minister may give the holder of the Certificate written notice to show cause, within thirty days or such longer period as may be specified in the notice, why the Certificate should not be cancelled.

(2) If a person to whom notice is given under this section fails to comply with the notice, or fails to satisfy the Minister as to why the Certificate should not be cancelled, or in a case referred to in paragraph (c) of subsection (1), fails to satisfy the Minister that any past failure was not due to his or her fault and that adequate steps are being taken to comply with the requirements of the Certificate, the Minister may cancel the Certificate, but such cancellation shall not affect the right of the holder of the Certificate to refer any dispute relating to such cancellation to international arbitration or to the courts of Namibia in accordance with section 13.

## PART III MISCELLANEOUS

Offences.

16. Any person who -

(a) in or in connection with an application for a Certificate under this Act; or

(b) for the purpose of obtaining or retaining any foreign currency as provided for in this Act,

makes any statement which he or she knows to be false or does not believe to be true, or knowingly furnishes any false information, shall be guilty of an offence and liable on conviction to a fine not exceeding R100,000 or to imprisonment for a term not exceeding ten years, or to both such fine and such imprisonment.

Regulations.

17. The Minister may make regulations prescribing -

(a) the form and manner in which applications for Certificates shall be made, the information which shall accompany such applications and any fee payable on such applications;

(b) the form and manner in which applications for or returns relating to foreign currency shall be made and the information which shall accompany such applications or returns;

(c) the circumstances in which reports shall be made on the progress made in implementing the obligations of the holder of a Certificate and the information to be furnished in such reports;

(d) such other matters as the Minister may deem necessary or expedient to prescribe for the purposes of this Act.

Temporary provision relating to foreign exchange.

18. (1) Until the date of publication of the notice referred to in subsection (2), the provisions of sections 8 and 9 shall be construed as though they had been amended or modified to the extent necessary to take account of the obligations of the Government.

(a) under the Bilateral Agreement between the Governments of the Republic of Namibia and the Republic of South Africa, dated 4 April 1990, and any amendment or modification thereof; and

(b) in the event of Namibia becoming a party to the Multilateral Monetary Agreement existing between the Governments of the Kingdom of Lesotho, the Kingdom of Swaziland and the Republic of South Africa, also under the agreement and any amendment or modification thereof.

(2) As soon as -

(a) a currency in Namibia has ben established under section 19 of the Bank of Namibia Act, 1990 (Act 8 of 1990); and

(b) the agreements referred to in subsection (1) has expired or have been terminated or are no longer in effect so as to impose on the Government of Namibia obligations relating to the management of foreign exchange transactions.

the Minister shall, by notice in the *Gazette*, declare that the provisions of subsection (1) of this section, subsection (2) of section 8 and subsection (5) of section 9 have expired and thereafter those provisions shall be of no further force or effect.

Application.

**19.** The provisions of this Act relating to Status Investments shall apply to any investment of foreign assets in Namibia, irrespective whether such investment was made before or after the commencement of this Act.

Short title and commencement.

**20.** (1) This Act shall be called the Foreign Investments Act, 1990 and shall come into operation on a date to be fixed by the President by Proclamation in the *Gazette*.

## Appendix Three

### Namibian Firms Seeking Joint Venture Partners

The following firms are drawn from a list compiled by the Namibian Chamber of Commerce and Industries from a country-wide survey. It represents firms actively expressing an interest in joint venture operations with overseas investors. It should be noted that the list is by no means exhaustive and represents mainly Windhoek-based companies.

### Companies and Activities

African Electric (Wholesale electrical goods), Agrivet (Veterinary consultants), Ark Trading (Building, industrial, hardware supplies), Brand Engineering (electrical/mechanical engineers), Burmeister, Van Niekerk & Partners (consulting engineers), Casalee Namibia (International trading), Commercial Investment Corp.(agents, wholesalers, manufacturers), Design & Planning International ((architects and planners), Eddo Transport (Building materials transport), Elso (Soap products manufacturer), Fibreglass Manufacturing (Moulding), Gudo Construction (building and civil contractors), Harmark (textile agent and distributor), Herma Bros (civil engineering contractors), Lund Consulting Engineers, Metje & Ziegler (general merchants, hardware, building materials), Midmacor (Industrial sales), Mindeco (construction/mining machinery), Omateko Agencies (Wholesalers, manufacturers' representatives), Pedaco Engineering (Trucks, tractors, construction equipment), Premier Equipment Namibia (Materials handling, earthmoving equipment), Profood Holdings (Food commodity brokers), Rocla (Concrete pipe manufacturers), Sonnex Investments (Vehicles, mining/farming equipment, paints), Taurus Chemicals Namibia (Processing and export of seaweed), Uhuru Namibia Enterprises (Import/export/general services), Wispeco Namibia (Steel windows, doorframe manufacturers), Woermann Brock & Co (Hardware, textiles, groceries), MKU Enterprises (Furniture manufacturing).

**Appendix Four**

**Acronyms**

| | |
|---|---|
| ACP | Asian Carribean and Pacific states |
| APT | Additional Profits Tax |
| BSM | Botswana Share Market |
| CAAA | Comprehensive Anti-Apartheid Act |
| CCN | Council of Churches of Namibia |
| CGT | Capital Gains tax |
| CMA | Common Monetary Area |
| CRF | Central Revenue Fund |
| CSO | Central Selling Office |
| DTA | Democratic Turnhalle Alliance |
| EC | European Community |
| ENWC | Eastern National Water Carrier |
| EPL | Exclusive Prospecting Licence |
| FNDC | First National Development Corporation |
| GATT | General Agreement on Tariff and Trade |
| GST | General Sales Tax |
| ICRC | International Committee of the Red Cross |
| IDC | Industrial Development Corporation |
| IKS | International Karakul Secretariat |
| ILO | International Labor Organisation |
| IMF | International Monetary Fund |
| ISCOR | Iron & Steel Corporation of South Africa |
| JSE | Johannesburg Stock Exchange |
| LME | London Metal Exchange |
| MANWU | Metal and Allied Workers Union |
| ML | Mining Licence |
| MRDL | Mineral Deposit Retention Licence |
| MUN | Mineworkers Union of Namibia |
| NAFAU | Namibian Food and Allied Workers' Union |
| Nakor | Namibian Oil Corporation |
| NAMSEA | Namibian Sea Products |
| NANTU | Namibian National Teachers Union |
| NAPWU | Namibian Public Workers Union |
| NATAU | Namibian Transport and Allied Union |
| NBIC | National Building and Investment Corporation |
| NBWU | Namibian Builders Workers Union |

| | |
|---|---|
| NCCI | Namibian Chamber of Commerce and Industries |
| NDAWU | Namibian Domestic and Allied Workers UNion |
| NEPRU | National Economic Policy Research Unit |
| NNCCI | Namibian National Chamber of Commerce and Industry |
| NUNW | National Union of Namibian Workers |
| NWRWU | Namibian Wholesale and Retail Workers Union |
| OPIC | Overseas Private Investment Corporation |
| PSC | Public Sector Commission |
| PSIC | Private Sector Investment Conference |
| PSUN | Public Service Union of Namibia |
| PTA | Preferential Trade Area |
| RL | Reconnaissance Licence |
| SACU | Southern African Customs Union |
| SADCC | Southern African Development Coordination Conference |
| SARB | South African Reserve Bank |
| Swapo | South West African People's Organization |
| SWAWEK | South West Africa Water and Electricity Corporation |
| TAG | Commonwealth Secretariat's Technical Assistance Group |
| UNCTC | United Nations Center on Transnational Corporations |
| UNDP | United Nations Development Program |
| UNDTCD | United Nations Department of Technical Co-operation for Development |
| UNHCR | United Nations High Commissioner for Refugees |
| UNIN | United Nations Institute for Namibia |
| VAT | Value Added Tax |
| ZESCO | Zambia Electricity Supply Corporation |