

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

Joint Committee on Foreign Affairs and
Defence

NAMIBIA

(August 1982)

Australian Government Publishing Service, Canberra 1982

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ISBN 0 642 06034 7

Printed by C. J. Thompson, Commonwealth Government Printer, Canberra



Members of the Sub-Committee on Middle Eastern and African Affairs—The members and staff of the Sub-Committee (from left to right) are: Ms. Maureen Weeks (Research Officer), Mr. A. C. Holding, M.P., Mr. K. C. Beazley, M.P., Mr. John Vander Wyk (Secretary), the Hon. J. D. M. Dobie, M.P. (Chairman), Senator K. W. Sibraa (Deputy Chairman), Mr. D. F. Jull, M.P., and Senator R. Hill. Inset: Mr. R. M. McLean, M.P.

Terms of reference

On 4 December 1980, at its first meeting during the present Parliament, the Joint Committee on Foreign Affairs and Defence combined the Sub-Committee on Southern Africa and the Sub-Committee on the Middle East into a new Sub-Committee on Southern Africa and the Middle East. The terms of reference for the new Sub-Committee were:

- That the Sub-Committee consider, investigate and report to the full Committee on the significance of events in Southern Africa, with particular reference to the economic, political, social and strategic implications for Australia.
- Monitor the political, economic and strategic situation in the Middle East and peripheral countries, and report on any significant events and their possible effects on Australia.

On 8 September 1981, the Sub-Committee's title was altered to the Sub-Committee on Middle Eastern and African Affairs, and its terms of reference were altered to read as follows:

Monitor the Middle East and peripheral countries, Africa, and the Indian Ocean, and report to the full Committee from time to time on significant developments.

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(*Mr Coleman joined the Committee on 18 August 1982, succeeding the Hon. J. J. Carlton, M.P., who resigned upon his appointment to the Ministry.)

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Preface

The Sub-Committee finalised its Report at a time when negotiations leading to a settlement of the Namibia question appeared on the verge of a breakthrough. Over the years there have been other occasions when a settlement has appeared imminent, only for hopes to be dashed at the last minute. If success is achieved in 1982, and Namibia proceeds to independence early in 1983, then will end one of the longest-running international disputes to have occupied the attentions of the United Nations since its inception in 1945.

The Sub-Committee decided to report on the Namibia situation when there were indications early this year that the latest Contact Group proposals for negotiations had met with an encouraging response from all the parties involved. Events in Namibia have been monitored in some detail by the Joint Committee since May 1978, when it established a Sub-Committee specifically to consider events in the southern Africa region. That Sub-Committee produced a report, entitled *Zimbabwe*, in May 1980, and had commenced a report on Namibia when, in December 1980, it was merged with the Sub-Committee on the Middle East to become the Sub-Committee on Middle Eastern and African Affairs. The new Sub-Committee produced a report on the Middle East part of its reference, entitled *The Gulf and Australia*, in May of this year. In this Report the Sub-Committee on Middle Eastern and African Affairs completes the work on Namibia begun and largely undertaken by its predecessor committee.

In preparing this Report on Namibia, the Sub-Committee has been assisted by submissions received since 1978 (see Appendix 6), by public and *in camera* evidence taken over the period and, while drafting was underway, by correspondence with several Departments.

As with previous reports, the Sub-Committee was advantaged in its deliberations by visits to the region by some of its members. The Chairman and at least one member of the Sub-Committee have visited Namibia. However, these visits were private and members have not visited Namibia as representatives of the Sub-Committee *per se*.

The Report has nine chapters. Chapter 1 provides a brief overview of the history of the Namibia dispute and then discusses the issue which appears to be the key to the success or failure of current negotiations. Chapter 2 provides general background on Namibia while Chapters 3 and 4 deal with the history of the Namibia dispute in some detail. Chapter 5 examines the Walvis Bay issue, Chapter 6 looks at Australian interest in and involvement with Namibia, while Chapters 7, 8 and 9 discuss black nationalism and the guerilla war, discrimination and social conditions, and the Namibian economy.

The Sub-Committee would like to thank all those who have assisted it to date, either by presenting oral and/or written evidence or providing documentary source material. It would particularly like to thank: the staff of the Parliamentary Library for their assistance in locating and obtaining resource material; the Parliamentary Reporting Staff for providing transcripts of evidence; officers of Government Departments who provided the Sub-Committee with up-to-date information and intelligence; and in particular its Secretariat (Mr John Vander Wyk, Acting Secretary, Ms Maureen Weeks, Research Officer, Mrs Maureen Rockey, Steno-Secretary, and Miss Linda Rutter and the Word Processing Unit) for their outstanding efforts and assistance. The work of Mr Ron Wiber, permanent Secretary of the Sub-Committee, is also appreciated.

The Report of the Sub-Committee on Middle Eastern and African Affairs was examined and adopted by the full Committee at a meeting on 19 August 1982.

19 August 1982

A handwritten signature in dark ink, appearing to read "Don Dobie". The signature is written in a cursive, flowing style.

Don Dobie, M.P.

Chairman of the Sub-Committee on Middle Eastern and African Affairs

An overview

Introduction

Namibia has proved to be one of the most intractable issues at the United Nations since its inception in 1945. The past 37 years have seen continuous—and at times acrimonious—debate between the UN and one of its founding members, South Africa, over the status of Namibia and the treatment of its population. The ‘Namibia problem’ was prominent in 1981 and continues to be a leading African issue in 1982. Apart from the United Nations, the major Western powers and a number of African countries are actively involved in seeking a solution.

The Namibia issue is of concern to Australia for several reasons: Australia’s attitude to South Africa and its role in southern Africa; Australia’s relations with the ‘Third World’ countries of Africa and the Non-Aligned Movement; the strategic importance of the southern Africa region and the effects of instability there on relations between the major powers; Australia’s role in the United Nations; and, specifically, Australia’s commitment to contribute to a UN peacekeeping force in Namibia should a negotiated settlement be achieved.

In addition, Australian opposition to apartheid and its support for the right of colonised peoples to determine their own future have been key factors in recent Australian diplomacy concerning southern Africa, as evidenced by the Australian role at the 1979 CHOGM Conference at Lusaka in helping open the way to a settlement of the then ‘Rhodesia problem’.

For these reasons, and the fact that a solution appears closer than it has for some time, the Committee considers it important that the Namibia issue is well understood in Australia.

Background

Namibia became a German colony in the late 19th century and continued as such until the First World War, when it was occupied by South African forces. At the end of the First World War, South Africa was granted a mandate to administer the territory for the purpose of promoting ‘to the utmost’ the ‘material and moral well-being and the social progress’ of its inhabitants. The mandate allowed South Africa to administer the territory, then known as South West Africa, as ‘an integral portion’ of the then Union of South Africa.

After the Second World War, and with the demise of the League of Nations, the mandate system was superseded by the newly-established United Nations trusteeship system. However, alone among the mandatory powers, South Africa refused to submit a trusteeship agreement for its mandated territory to the General Assembly. South Africa requested incorporation of the territory into the Union but this was rejected.

South Africa argued that the mandate had expired with the demise of the League of Nations and therefore its sovereignty over the territory was unrestricted but, in the absence of international agreement on the status of the territory, it would continue to administer it 'in the spirit' of the mandate, to maintain the *status quo*. The UN, backed by a series of opinions from the International Court of Justice, argued that South Africa did not have the power to alter unilaterally the legal status of the territory, and again called on South Africa to place the territory under a trusteeship agreement.

The resulting impasse continued until 1966 when the General Assembly adopted a resolution deciding to terminate the South African mandate and place the territory under direct UN responsibility. This responsibility was vested in a new body, the UN Council for South West Africa (later the UN Council for Namibia). The legality of this decision was questioned by South Africa (and some other members of the UN) but an opinion of the International Court of Justice in 1971 supported the UN by declaring that the mandate was validly terminated and that the continued presence of South Africa in Namibia was illegal.

South Africa rejected the Court's opinion and has continued to administer the territory. From 1969 to 1977 it administered the territory as an integral part of the Republic of South Africa, with control over all facets of Namibian life based in Pretoria. From 1977 to the present it has been devolving administrative power back to Namibia. The UN Council for Namibia has been unable to establish a presence in the territory and has been able to do little more than monitor developments from a distance.

The South African move away from *de facto* incorporation began in the early 1970s during continuing negotiations with UN representatives. Under growing international pressure South Africa, for the first time, acknowledged in 1975 the territory's separate international status and that it had an obligation to consult Namibians about their future.

These consultations took place in the period 1975-77 and took the form of a gathering of representatives (mainly non-elected) of the various ethnic groups whose purpose it was to draw up a draft constitution for an interim period prior to independence. The conference (which became known as the Turnhalle Conference) produced a draft constitution providing for a National Assembly based on representation of ethnic groups. The draft was endorsed in a referendum of white voters only but was rejected by the UN and the major black political party, the South West Africa People's Organisation (SWAPO).

SWAPO, which had its origins in the black labour movements of the 1950s, was formed in 1960 to work towards Namibian independence. Initially it concentrated on representing black opinion at international forums such as the United Nations, but by the mid-1960s had decided to become a 'national liberation movement' to fight for independence after it became apparent that the UN would not overcome South African intransigence and because of continuing South African repression of blacks. The UN recognised SWAPO as the 'authentic representative' of the people of Namibia in 1973 and as 'the sole and authentic representative' in 1976. The sole recognition granted by the UN to SWAPO is resented by other black political parties within Namibia and has been a stumbling block in subsequent negotiations with South Africa, particularly in the past two years.

When it became apparent to South Africa in 1977 that the Turnhalle proposals would not gain international acceptance it abandoned them and instead appointed an Administrator-General to administer the territory until elections for a constituent assembly could be held. These took place in December 1978—despite strong UN opposition.

The elections were won by the newly-formed Democratic Turnhalle Alliance (DTA), which took 41 of the 50 seats in the assembly. The elections were boycotted by SWAPO (which, despite its guerilla war against South Africa, has never been formally banned within the territory), SWAPO-Democrats (SWAPO-D) and the Namibia National Front (NNF). The DTA, led by a white, Mr Dirk Mudge, is an alliance of parties from each of the ethnic groups in Namibia. It seeks independence essentially on an ethnic basis. SWAPO-D and the NNF broadly occupy the middle ground—they are opposed to any ethnically-based solution but at the same time are opposed to SWAPO's use of violence to achieve independence.

It has become apparent since 1978 that South Africa would prefer to see Namibia become independent under a DTA government. Since the elections South Africa has been grooming the DTA for such a role. In 1979 the constituent assembly became a National Assembly and 12 DTA members became an Advisory Council to the Administrator-General. This became the Council of Ministers in 1980 and was given a number of executive responsibilities. Over the same period South Africa transferred most administrative functions back to Namibia.

Externally, South Africa set about to weaken SWAPO as an effective force by a series of raids on SWAPO bases in Angola and Zambia. South Africa continued to participate in negotiations towards independence but in the hope that the DTA could, in the meantime, establish itself as a viable political force which would be able to match SWAPO in an election. This 'double strategy' has come unstuck lately by the defection of major components of the DTA, leaving it in some disarray, and by demonstrations of SWAPO's ability to keep going despite South African raids.

In the past five years the chief negotiator and intermediary between the UN, South Africa and SWAPO has been a group of five nations usually known as the Contact Group. It comprises the five Western members of the Security Council in 1977 who initially got together to advise South Africa that the Turnhalle proposals were unacceptable to the West. The group was concerned that prospects for a peaceful settlement were being eroded by South Africa's seeming determination to impose an internal settlement. The members are France, Canada, West Germany, the UK and the USA.

After extensive Contact Group negotiations South Africa agreed to a visit by a UN Special Representative, Mr Martti Ahtisaari, in 1978 to report on the best means of achieving Namibian independence. The UN Secretary-General subsequently reported to the Security Council on Mr Ahtisaari's proposals and his report was adopted by the Security Council in resolution 435 of 29 September 1978. This resolution has formed the basis of all subsequent UN and Contact Group negotiations.

The Secretary-General proposed the establishment of a ceasefire, the holding of free elections for an assembly to draft a new constitution and further elections for a parliament to lead Namibia to independence. The whole process would be supervised by a United Nations Transition Assistance Group (UNTAG). Australia has agreed to contribute to the military component of UNTAG.

South Africa had accepted a Contact Group plan which formed the basis of the UNTAG proposals but rejected substantial parts of the proposals themselves, claiming they were not in accord with the Contact Group plan. SWAPO accepted both the Contact Group plan and the UNTAG proposals. Negotiations since have been aimed mainly at refining the UNTAG proposals so that they will be acceptable to all parties, and have included discussion of a demilitarised zone on the border with Angola and Zambia.

Current issues

The current approach by the Contact Group is to break the negotiations up into three phases: (1) agreement on constitutional principles, including electoral procedures; (2) settlement of the role and composition of UNTAG and the question of UN impartiality; and (3) discussion of implementation of the procedures leading to independence.

Qualified agreement has been reached on phase 1, but South Africa is attempting to link acceptance of phase 2 and discussion of phase 3 proposals to the question of a withdrawal of Cuban troops from Angola—a move rejected by SWAPO.¹ The linking of a Cuban troop withdrawal from Angola with a Namibian settlement was first raised by the newly-elected Reagan Administration in 1981 during its reappraisal of US policy towards southern Africa. A major concern of the US was to reduce Soviet influence in the region. However, the linking of the two issues was criticised by other Contact Group members.

The Committee considers that such a linkage is counter-productive and will serve to further delay Namibian independence.

In seven years of independence Angola has not known peace: on the one hand there is the continuing conflict between the Angolan MPLA Government and the National Union for the Total Independence of Angola (UNITA); on the other the South African cross-border raids on SWAPO bases and refugee camps. Angola has been unable to develop its economy—potentially one of the richest in black Africa—because of the war situation in its southern regions and massive expenditure on defence. According to some experts, defence absorbs more than half the total Angolan budget.²

The Angolan MPLA Government maintains the Cuban presence—of up to 20 000 troops—both to contain UNITA and as security against another South African incursion in support of UNITA. The MPLA Government originally requested Cuban military assistance in late 1975 to counter such an incursion. South African forces were withdrawn in early 1976, but South African support for UNITA has continued. Some argue that South African raids into Angola over the past two to three years are aimed as much at destabilising Angola as at weakening SWAPO.³ The Angolan Government has lost control of much of southern Angola because of the raids and South African-supported UNITA activity. The cost of maintaining the Cuban presence continues to be a considerable drain on Angolan resources.

Press reports earlier this year indicated that the Angolan Government under President Jose Eduardo dos Santos was rethinking its close ties with the USSR and Cuba—which have produced little in the way of development assistance—with a view to improving relations with the West.⁴ One sign of this was a meeting in Paris in January 1982 between the US Assistant Secretary of State for African Affairs, Mr Chester Crocker, and the Angolan Foreign Minister, Mr Paulo Jorge. The talks followed other meetings at the UN and in Luanda in September and October 1981.

Angola has declared that Cuban troops will be withdrawn once Namibia becomes independent and South African attacks into Angola cease.⁵ President dos Santos stated in February 1982 that Cuban troops would go 'as soon as all signs of possible invasion' from South Africa had stopped.⁶ There have even been hints of a possible rapprochement between the MPLA and UNITA once the Namibia issue is settled⁷, although a reported large-scale Cuban offensive against UNITA in late July 1982 casts some doubt on this. Reports at the end of July quoted a UNITA communique stating that 8 500 Cuban troops, aided by Soviet advisers, were taking part in widespread attacks on UNITA in central and southern Angola.⁸ Other sources indicated that

Angola might have been building up its forces in the southern region in anticipation of another South African incursion.

In the Committee's view the South African insistence that a Cuban troop withdrawal from Angola be part of a Namibia settlement could well further delay a settlement. Angola has suffered repeated South African attacks on its territory but there is no evidence before the Committee that Cuban troops have invaded Namibia, let alone pose a threat to South Africa itself. The South African demand broadens the Namibia issue considerably and may make a solution more difficult to achieve.

South Africa appears to fear that an independent Namibia under SWAPO may, like Angola, establish a relationship, possibly a treaty relationship, with the USSR or other members of the Soviet bloc. This could lead to the presence in Namibia of Soviet personnel or other bloc members such as the Cubans. South Africa is apprehensive about being isolated by a belt of 'Marxist' States to its north and west.

However, the post-independence development of South Africa's two socialist neighbours, Zimbabwe and Mozambique, has seen the Mugabe Government in Zimbabwe noticeably cooling towards the USSR. Mr Mugabe has worked to minimise the influence of the Chinese, who supported him during the pre-independence liberation struggle, and has actively sought to maintain, and expand, Western investment and trade ties. He has continued economic links with South Africa.

In the case of Mozambique that country, despite a treaty relationship with the USSR, has also maintained close economic links with South Africa, on which it depends for a considerable part of its foreign exchange earnings. Lately Mozambique has begun to retreat from the Soviet model and has openly sought Western capital investment. South Africa has little to fear from either country militarily and would appear to have lost little of its economic influence.

Angola is in a somewhat different position in that it is further removed from South Africa and does not depend on it economically. Angola has sufficient natural resources, particularly oil, to make it a potentially wealthy country. Were it to realise its potential, Angola could eventually become an alternative economic centre for neighbouring black States, thus lessening their dependence on South Africa.

African socialism is generally of a fairly pragmatic type and few African socialist countries have allowed Soviet influence to dominate them long after independence. Those that have followed the Soviet development model, such as Mozambique and Angola, by and large are showing disillusionment.⁹ According to a 1981 report by the conservative London-based Institute for the Study of Conflict, Soviet military aid for independence struggles has nowhere been followed through with satisfactory post-independence relationships. Soviet development aid is inadequate and often fails to meet the real needs of a country. African trade with the Soviet bloc has frequently resulted in major deficits for the African countries concerned.

Namibia's future relations with South Africa are likely to parallel those of Zimbabwe and Mozambique. If a SWAPO Government came to power, it is likely that it would try to reduce Namibian dependence on South Africa by seeking new markets, new sources of capital and expertise and new sources of imports. In the short-term, however, it is likely to allow existing foreign enterprises to continue—most probably under renegotiated conditions—and to continue to import from South Africa. It may even decide, for a time, to remain part of the Rand monetary area.

Should South Africa continue to delay Namibian independence or should it opt for an 'internal settlement', possibly under DTA leadership,¹⁰ then SWAPO is likely to respond by stepping up the guerilla war and seeking increased support from the Soviet bloc. Other black States might feel constrained to give SWAPO support by, for

example, providing troops to guard SWAPO bases—a development already under discussion in the case of Zimbabwe.¹¹ Thus regional tensions would continue to grow. South African policies of delay are more likely to encourage Soviet influence in the region than counter it.

This point has been reiterated in statements by Australian spokesmen. The then Minister for Foreign Affairs, Mr Peacock, said in a statement to the House of Representatives on 8 May 1978:

attempts to thwart black African aspirations can only play into the hands of extremists and those from outside the region who would exploit them for their own purposes.¹²

The Department of Foreign Affairs, in evidence to the Sub-Committee on Southern Africa, said:

so far from holding the line against radical ideologies, the policies of the South African Government are in fact contributing to the opportunities for increased external communist involvement in the region.¹³

The Committee agrees with both comments.

What is probably behind South African long-term thinking is that Namibia, as well as other border countries such as Zimbabwe, will become bases for the operation of South African guerilla movements, in much the same way that Angola is a base for SWAPO and Zambia and Mozambique were bases for Zimbabwe guerilla forces. South Africa is probably correct. If it continues its apartheid policies and continues to subjugate blacks, it must expect ever-increasing guerilla activity. However, in practical terms it is likely to be some time before neighbouring States will grant such facilities—at least willingly.

South Africa has shown in both Angola and Mozambique a propensity to invade other countries to strike at guerilla bases. Were such bases to be established in Namibia—even despite the fact that the border areas are mainly inhospitable desert—raids from South African forces could be anticipated. The Mugabe Government refuses to allow Zimbabwean territory to be used to launch guerilla attacks on South Africa. It is anticipated that an independent Namibia, with its much smaller population and, initially, greater dependence on South Africa, will most likely follow the Zimbabwean precedent.

Progress towards a Namibian settlement depends on a change in South African attitudes, both to SWAPO and to the extent of Soviet influence in the region.¹⁴ This is not to say that South Africa is the only party showing intransigence. SWAPO, too, has shown intransigence in matters such as recognition of the internal parties and their right to participate in negotiations.

In the foregoing the Committee has tried to show that there are no valid grounds for South Africa to continue to delay a settlement leading to Namibian independence. Nor are there grounds for seeking to link a withdrawal of Cuban troops from Angola with a settlement. The Committee is of the view that current negotiations are sufficiently advanced to enable the transition to Namibian independence to begin before the end of the year. These negotiations appear to offer the best chance yet of a settlement and it would be a great pity if new conditions were to abort the negotiating process at this stage.

In subsequent chapters the Committee examines the history of the Namibia issue in some detail and then goes on to consider the question of Walvis Bay. Australian attitudes to and involvement in the Namibia debate are canvassed in Chapter 6, and subsequent chapters deal with black nationalism and the guerilla war, discrimination and social conditions, and the economy.

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3. Basil Davidson, 'Recent History of Angola', *Africa South of the Sahara 1981–82* (Europa Publications Ltd, London, 1981), p. 148; David Goldsworthy, *The International Politics of the Namibian Dispute* (Commonwealth Parliamentary Library, Legislative Research Service, Discussion Paper No. 3, 1982), pp. 32–3.
4. *The Economist*, 30 January 1982, p. 59; *Guardian Weekly*, 10 January 1982; *Time*, 22 February 1982, pp. 24–5.
5. *The Economist*, 30 January 1982, p. 59.
6. *Time*, 22 February 1982, p. 24.
7. *The Economist*, 30 January 1982, p. 59; South Africa, *Sunday Times*, 13 December 1981.
8. *Sydney Morning Herald*, 29 July 1982.
9. See *Soviet-African Trade: the Western Business Response* (Institute for the Study of Conflict, London, 1981); Robert H. Donaldson (ed.), *The Soviet Union in the Third World: Successes and Failures* (Westview Press, Boulder, Colorado, 1981).
10. The DTA appears to show some prescience in this regard. According to a report in the *South African Digest*, 9 July 1982, the DTA leader, Mr Dirk Mudge, was quoted as saying that if South Africa and the Western Five could not reach agreement on a settlement the DTA should take the initiative to prevent an election which excluded SWAPO. In such an event the DTA would invite other political parties, including SWAPO, to discuss an election in which all could take part. (p. 5)
11. Goldsworthy, p. 36.
12. Department of Foreign Affairs, *Statements on Foreign Policy*, p. 2.
13. *Evidence*, p. 213.
14. The other main factors which might be prompting South African delay are internal domestic considerations. The end of South African administration of Namibia might be seen by some white South Africans as a 'surrender'—particularly if SWAPO came to power. The National Party could lose further support to the hard-line right and South African black morale might receive a boost. In this respect it should be pointed out that South Africa has seen independence and socialism come to other countries on or near its borders—Zimbabwe, Mozambique and Angola—without damaging internal consequences. Despite significant defections in the April 1981 elections the National Party remains in power; the hard-line right wing parties failed to win a seat.

Namibia—Background

Physical features

Namibia is a large territory of 823 145 square kilometres set on the Atlantic seaboard of south-west Africa.¹ It is bounded by Angola and Zambia to the north, Botswana to the east and South Africa to the south and south-east. Its southern boundary is formed by the Orange River and parts of its northern boundary by the Kunene, Okavango and Zambezi rivers. If Walvis Bay were included, the area of Namibia would increase by 1 124 square kilometres.

In the north-east of Namibia is the Caprivi Strip, a narrow finger of land stretching some 400 km east to Zimbabwe. The Caprivi Strip runs between Angola and Zambia to the north and Botswana to the south. It was named after Count von Caprivi, the German Chancellor who in 1890 obtained its cession from Britain in order to give the then German colony of South West Africa access to the Zambezi River. Remote and neglected for many years, this geographic-political corridor increased in strategic significance with the coming to independence of neighbouring black countries and a growth in guerilla activities of the South West Africa People's Organisation (SWAPO).

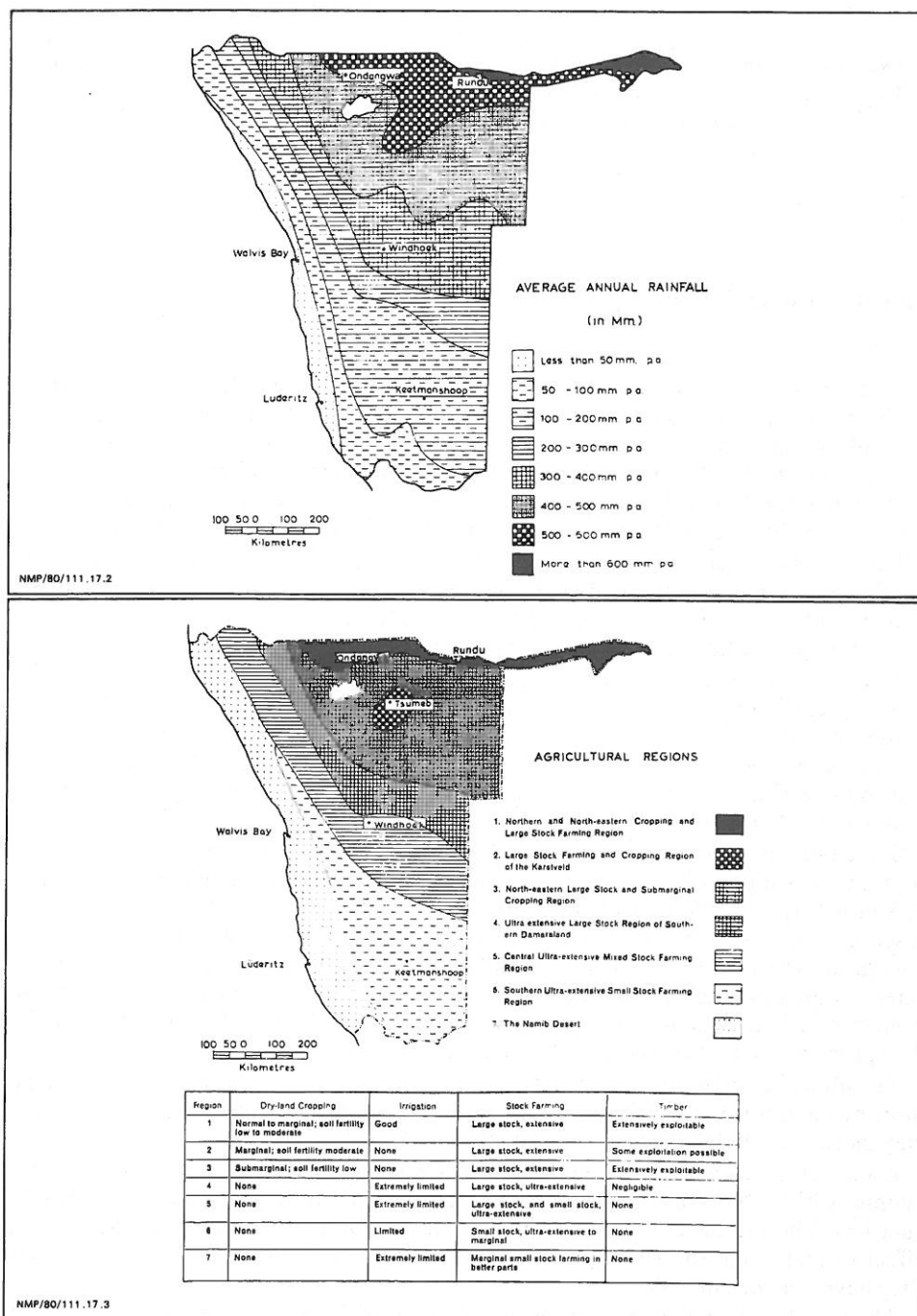
Namibia may be divided into four geographical regions—two of them deserts. These are the Namib Desert, which runs the length of Namibia's coastline, is between 80 and 120 km wide and covers about 15 per cent of the area of Namibia, and the Kalahari Desert, which extends from Botswana into the north-east and south-east of the territory. Between the two deserts is the Central Plateau, a semi-arid mountainous plateau, varying in altitude from 1000 to 2000 metres and comprising more than half of Namibia. To the north and north-east of the Central Plateau (beyond the Etosha Pan) lie bush-covered plains, including the high-rainfall areas of Kavango and East Caprivi. More than half the population lives in this northern area.

The only perennial rivers are the Orange on the southern boundary and stretches of the Kunene, Okavango and Zambezi where they form part of the northern border. These rivers are not commercially navigable. Rivers that have a seasonal flow include the Great Fish, Kuiseb, Swakop and Omaruru. Most of these rivers rise in the highlands around the capital, Windhoek.

In the south and west of Namibia the rainfall averages less than 100 mm a year. In the central area the rainfall is between 200 and 400 mm a year, and only in the north and north-east is there a rainfall of more than 400 mm a year. Rainfall in the northern areas occurs mainly in the late summer months of January and February, is irregular, often torrential, and its effectiveness is further reduced by a high rate of evaporation (or absorption in sand-veld areas). Because of the variability of the rainfall, droughts can follow floods or vice versa with no cyclical regularity.

Agriculture and industry in Namibia are seriously hampered by a lack of water. As a result of the low and erratic rainfall, only about two per cent of the area of Namibia is suitable for dry-land cropping. Most of the area outside the deserts is semi-arid pastureland, suitable only for extensive grazing. Patterns of average annual rainfall and the major agricultural regions are shown in Figure 2.1.

FIGURE 2.1: RAINFALL AND AGRICULTURAL REGIONS—



Source: E. Leistner, P. Esterhuysen and T. Malan, *Namibia/SWA Prospectus* (Africa Institute of South Africa, 1980), p. 3.

The major city of Namibia, and its capital, is Windhoek, with a population, including refugees, estimated at about 100 000. Walvis Bay is the second major city in the region, and other important centres include Tsumeb, Keetmanshoop, Oranjemund, Otjiwarongo, Luderitz, Swakopmund, Rehoboth and Mariental. These centres are connected by reasonably good road and rail links. However Namibia has few road links and no rail links with neighbouring Angola or Botswana; Namibia's major road, rail and air links are with South Africa.

Population and ethnic groups

With the exception of Botswana, Namibia has the lowest population density in Africa south of the Sahara—about one person per square kilometre (Nigeria, for example, with only a slightly larger area had a 1979 population density in excess of 80 persons per square kilometre). The population density in some areas of Namibia, however, is in marked contrast to that for the territory as a whole—the Owambo region has a population density in excess of 50 per square kilometre and East Caprivi in excess of 20.

The Namibian population at the time of the most recent published census, in 1970, was 761 562. This was estimated by the South African Department of Statistics to have increased to about 973 600 in 1979. The 1980 population is estimated at 989 100 and the current population at more than one million.

A census was conducted by the Namibian internal administration in 1981 but, at the time of preparation of this Report, no details were available either on the extent of the census or its results. The Committee has received advice that the 1981 census will show a considerable increase in the size of the black population, with the numbers for some groups increasing quite dramatically. In the absence of published data the Committee is unable to verify this advice.

Some estimates, notably those by the United Nations and SWAPO, put the current population as high as 1.5 million.² They claim that the censuses conducted in Namibia by South Africa in 1960 and 1970 were underenumerated, and that subsequent estimates based on those censuses need to be increased. There is some evidence that not all the population was counted in the two censuses, but in the absence of reliable data on the extent of underenumeration the Committee in this Report will utilise the official figures from the 1970 census and subsequent estimates based thereon, bearing in mind that they probably understate the actual population.³

The official growth rate for Namibia is 2.7 per cent overall, whereas a growth rate of three per cent for non-whites and two per cent for whites, or about 2.9 per cent overall, may more accurately reflect the position.⁴

An accurate assessment of the population is difficult because of the movement of people within Namibia and across-border movements by refugees and SWAPO guerrillas. The inclusion of South African security forces in Namibia would have the effect of increasing the white population figures quite significantly, although to date they have not been included.

The population of Namibia comprises a number of distinct, mainly ethnic, groups. In terms of the division of the population into blacks, coloureds (persons of mixed descent) and whites, as was used by South African authorities for administrative purposes, about 78 per cent of the population are blacks, 10 per cent coloureds and 11 per cent whites. Details are provided in Table 2.1.

Under Proclamation AG 8, of April 1980 (intended as an 'interim constitution' for the territory), 11 ethnic groups were identified within Namibia's population: White, Ovambo, Damara, Herero, Baster, Caprivian, Coloured, Nama, Kavango, Bushman and Tswana (Kaokolanders were included with Hereros). A range of government functions have become the responsibility of representative authorities for each population or ethnic group, including health, social welfare and pensions, housing and education. All Namibians are required to register according to their population or ethnic group.

Table 2.1: Main population groups, 1921-80

	1921	1960	1970	1979	1980	Percentage 1980
<i>Whites</i>	19 714	73 464	89 917	109 600	112 700	11.4
Afrikaans-speaking			62 290	77 000	76 700	7.8
German-speaking			15 955	19 100	20 000	2.0
English-speaking			8 345	9 800	16 000	1.6
Other (mainly Portuguese)			3 327	3 700		
<i>Blacks</i>	173 326	393 769	593 482	763 200	771 400	78.0
Ovambo	91 500	239 363	352 640	454 700	455 700	46.1
Damara	20 883	44 353	66 277	85 500	88 200	8.9
Herero	31 063(a)	35 354	50 609	64 800	63 600	6.4
Kavango	20 000	27 871	50 103	64 000	67 300	6.8
East Caprivian	4 249	15 840	25 583	32 700	34 300	3.5
Bushmen	3 931	11 762	22 786	29 100	30 200	3.1
Kaokolander	1 500	9 234	6 566	8 400	12 700	1.3
Tswana (b)			3 830	4 700		
Other	200	9 992	15 088	19 300	19 400	2.0
<i>Coloureds</i>	30 125	58 771	78 163	100 800	105 000	10.6
Nama (c)	20 968	34 806	33 007	42 500	44 200	4.5
Coloured	3 438	12 708	28 510	36 800	37 700	3.8
Rehoboth Baster	5 719	11 257	16 646	21 500	23 100	2.3
Total	223 165	526 004(d)	761 562	973 600	989 100	100.00

Notes:

(a) Officially believed to be an over-estimate.

(b) Until 1970 included under 'Other'.

(c) Namas, or Hottentots, were classified by South Africa for administrative purposes as 'coloureds' or 'browns', as the majority now are mixed race.

(d) The 1960 census figures, particularly for Ovambos, Kavangos and Bushmen, may have been underenumerated.

Sources: South Africa, *Report of the Commission of Enquiry into South West Africa Affairs 1962-63* (R.P. 12/1964), p. 37 (1921, 1960 figures); South Africa, Department of Statistics (1970 revised census figures, 1979 estimates); *Africa South of the Sahara 1981-82* (Europa Publications Ltd), p. 732 (1980 estimates).

Although the Committee would prefer not to categorise population groups on the basis of colour or membership of ethnic groups it cannot avoid doing so in order to highlight differences in political, social and economic circumstance based on colour or membership of ethnic groups. It should be noted, however, that Namibians are not ethnically divided in the clear-cut sense suggested by the figures in Table 2.1. Many are of mixed descent, a number of ethnic groups are closely related and some live in close proximity to or occupy the same areas as other groups. Urbanisation has also reduced ethnic differences.

The dominant group in Namibia and numerically the second largest are the whites. The white group can be divided into three main sub-groups which, based on language, are Afrikaans-speakers (about 68 per cent of whites), German-speakers (about 18 per cent) and English-speakers (about 10 per cent). There is also a small group of Portuguese-speakers, the majority of whom came from Angola in or about 1975, upon Angola's independence from Portugal.

Not all of the whites in Namibia are permanent residents. Thomas claims that of his estimate of some 105 000 whites in Namibia in 1977, 15 000 were temporary residents permanently domiciled in South Africa and only 90 000 were permanent residents.⁵ The Committee understands that currently up to 20 000 whites are South African civil servants, many or most of whom will return to South Africa upon Namibian independence. Of the permanent residents Thomas estimated that 55 000 were Afrikaans-speakers, 20 000 German-speakers and 15 000 English and Portuguese-speakers. Thomas quoted 'recent estimates' by the German Government of about 6500 German citizens in Namibia and another 1500 holding dual nationality.⁶

The majority group in Namibia are the blacks. At the time of the 1970 census about two-thirds of the total black population lived in Owambo, Kavango, East Caprivi and Kaokoland, situated north, north-east and north-west of the Etosha Pan—each region identified with the predominant tribe in its area. The Damara and Herero occupied regions to the west, south and south-east of the Etosha Pan, while the main concentrations of Nama, Rehoboth Basters and Tswana were south of Windhoek. The Bushmen, a nomadic people who subsisted by hunting and gathering and who were among the earliest inhabitants of Namibia, originally roamed over much of Namibia, but by 1970 were to be found mainly in the south and north-east.

The largest of the black groups—and the largest ethnic group in Namibia—is the Ovambo, a group of seven tribes which has two written languages (Oshidonga and Oshikwanyama). The Ovambo comprise about 46 per cent of the Namibian population, according to official estimates for 1980, and up to 50 per cent if claims that they were underenumerated in the censuses of 1960 and 1970 are correct. Some 300 years ago they settled the Owambo region, with its large flat grass-covered plains intersected by a network of dry water-courses feeding into the Etosha Pan in the south, and a number of forest areas in the north.

The Ovambo were one of several Bantu groups which settled the better-watered and wooded north and north-east of Namibia—the other Bantu-descended groups being the Kavango, Herero, East Caprivians, Kaokolanders (a Herero off-shoot) and the Tswana. The Bantu groups were pastoralists and agriculturalists and their contacts were mainly with related groups in what are now Angola, Zambia and Botswana. Apart from the Herero and Tswana, these groups showed little interest in the central and southern parts of Namibia prior to the coming of the whites.

The Kavango are a group of five tribes occupying the area between Owambo and the Caprivi Strip, with the languages of two of the tribes, the Kwangari and Mbukushu, being the most commonly used. The Kavango region is similar to Owambo in that it also has extensive grassy areas and forests, but it is better supplied with water.

The East Caprivians are of Bantu origin but, like the Herero, are distinct from the Ovambo and Kavango. The East Caprivians are related to the Lozi of Zambia, and their main language is Silozi. East Caprivi is largely isolated from the rest of Namibia by large swamp areas during the rainy season. The western Caprivi is occupied mainly by wandering bands of Bushmen.

Another distinct Bantu group, the Herero, were exclusively pastoral nomads and for a considerable period occupied the Kaokoland area of north-west Namibia. Towards the end of the 18th century the majority migrated southwards and to the south-east,

leaving behind some of their number who in time came to form a distinct group, the Kaokolandiers.

The Tswana are related to the Tswana of Botswana and live mainly in the eastern part of Namibia.

The major non-Bantu groups are the Damara, Nama and Bushmen. The Damara (also referred to as Dama or Bergdama) differ from both the Bantu and Nama. They originally practised a primitive hunting and gathering economy. Many were enslaved by the Nama and Herero, whose languages they adopted to the loss of their own.

The Nama (also referred to as Namaqua or Hottentots) and the Bushmen are Khoisan peoples. Nama and Bushmen languages have certain similarities but differ entirely from Bantu languages. The Nama were mainly nomadic pastoralists but, like the Bushmen, were also hunters and gatherers. During an early migration some Nama tribes settled in the southern parts of Namibia and others in Cape Colony. At the commencement of the 19th century a number of the Cape Colony Nama, who had adopted the name Orlams, migrated to Namibia. By that time the Nama in Namibia had largely enslaved, exterminated or driven the Damara and Bushmen out of their areas. However, they soon faced a threat to their ascendancy from the southward migrating and cattle-rich Herero. From about 1820 to the end of the 19th century there was almost continual fighting between the Herero and Nama, with the Nama being greatly strengthened by the Orlams from Cape Colony, who had acquired horses and learnt to use firearms.

The Rehoboth Basters are a closely-knit coloured community who left Cape Colony and adjoining areas and settled in the Rehoboth area in about 1870. They were generally more Europeanised than the Orlams, spoke mainly Afrikaans and retained the surnames of their European fathers. The group officially described as coloureds are the descendants of coloured immigrants from Cape Colony other than the Rehoboth Basters. They too speak mainly Afrikaans, and are to be found principally in the towns of Windhoek, Walvis Bay, Luderitz and Keetmanshoop. Many coloureds emigrated from Cape Province in the 1960s.

The distinctness of ethnic groups in the Namibian population loses some significance once account is taken of the regional distribution of such groups, as is indicated in Table 2.2. The table shows that the Windhoek district, centre of the 'white area' in 1970, contained representatives from virtually all the major groups, and whites in fact comprised only 40 per cent of the total. The number of Ovambo in Windhoek was comparatively low because dependants of migrant workers were generally not allowed to live in urban areas. If dependants had been allowed, the population of the Windhoek district in 1970 might have been 85-90 000, of which the white share would have been about a third.⁷ If dependants of black migrant workers had been able to live in all urban areas in 1970 the Ovambo share in the 'all urban areas' column of Table 2.2 would have increased to about 19 per cent, with the white share dropping to about 31 per cent.

An examination of population distribution with reference to the homelands recommended by the Commission of Enquiry into South West Africa Affairs of 1962-1963 (the Odendaal Report—see Chapter 3) shows that in 1970 the northern ethnic groups resided predominantly in areas designated as their homelands. About 99 per cent of East Caprivians, 97 per cent of Kaokolandiers, 96 per cent of Kavangos and 85 per cent of Ovambos were estimated to be living in their respective homeland areas in 1970.⁸ The figure for Rehoboth Basters was about 73 per cent. For other groups the figures were considerably less: 54 per cent for Hereros, 31 per cent for Bushmen, 23 per cent for Tswanas and 12 per cent for Damaras.⁹

The Namibian population is reasonably highly urbanised compared to a number of African countries: in 1979 the degree of urbanisation was estimated to be 26 per cent,

with about 23 per cent of the population living in the 10 largest towns.¹⁰ In 1970, according to census figures, 25 per cent of the population was urbanised, with just under 20 per cent living in the 10 largest towns, as shown in Table 2.3.

Table 2.2: Ethnic distribution of population in selected areas, 1970

Group	Windhoek district	All urban areas	Rehoboth area
	%	%	%
Ovambo	13.3	17.1	5.3
White	39.7	36.0	5.2
Damara	18.7	14.4	16.2
Kavango	0.5	1.2	0.2
Herero	8.2	6.1	0.3
Nama	3.9	5.3	17.7
Coloured	8.4	10.8	2.7
Rehoboth Baster	3.7	4.1	52.2
Tswana	1.0	0.6	—
Other	2.6	4.3	0.2
	100.0	100.0	100.0
Total population	75 026	186 018	23 233

Source: Wolfgang H. Thomas, *Economic Development in Namibia* (Kaiser-Grunewald, 1978), p. 20 (calculated from 1970 census data).

Table 2.3 Distribution of urban population, 1970

Town	White	Black	Coloured	Other	Total
Windhoek	27 420	22 408	9 986	1 446	61 260
Walvis Bay(a)	7 353	8 635	3 947	1 790	21 725
Tsumeb	4 588	6 069	156	1 525	12 338
Keetmanshoop	3 260	1 423	5 496	118	10 297
Oranjemund	2 971	4 542	626	604	8 743
Otjiwarongo	2 554	4 901	475	88	8 018
Luderitz	1 716	1 635	2 712	579	6 642
Swakopmund	2 404	2 586	565	126	5 681
Rehoboth	101	1 146	4 114	2	5 363
Mariental	1 312	1 389	1 858	70	4 629
Total 10 towns	53 679	54 734	29 935	6 348	144 696
Total urban	67 099	73 958	37 685	7 276	186 018
Total rural	23 559	489 354	39 917	7 480	560 310
Total Namibia	90 658	563 312	77 602	14 756	746 328(b)

Notes:

(a) Republic of South Africa.

(b) The 1970 total was revised subsequent to the figures in this table being issued—see Table 2.1.

Source: Based on figures issued by the South African Department of Statistics, reproduced in Erich Leistner, Pieter Esterhuysen and Theo Malan, *Namibia/SWA Prospectus* (Africa Institute of South Africa, 1980), pp. 52, 54.

Table 2.3 shows that whites are the most highly urbanised group in Namibia—74 per cent in 1970 overall, with 60 per cent living in the 10 largest towns. About 49 per cent of

coloureds were living in urban areas in 1970, but only 13 per cent of blacks (an overall urbanisation rate for non-whites of 18 per cent). Slightly more than eight per cent of the total 1970 population lived in the capital, Windhoek.

Of the 18 towns with a population of 2000 or more in the 1970 census only three were located in homeland areas—two in the northern region where more than half the Namibian population is located (Oshakati—pop. 2831; Oluno—pop. 2614) and one in Rehoboth (Rehoboth Town—pop. 5363). Virtually all urban development as at 1970 was in areas designated 'white' under the Odendaal Plan.

The trend to urbanisation is increasing in Namibia as more and more blacks move to the larger centres to escape the guerilla war in the north, poverty, widespread unemployment and the effects of drought. The abolition of influx controls in 1977 also increased the trend to black urbanisation. Black townships outside the larger towns have, as a result, become more overcrowded and living conditions have deteriorated. According to official statistics there were 25 000 people living in Katutura, the black township outside Windhoek, in August 1981. By January 1982 the official population had risen to 35 000, although the actual population was estimated by the Deputy Director of Katutura to be closer to 50 000 or 60 000. A number of squatter camps have also arisen outside Windhoek and other centres.

Acute housing shortages have resulted. The total number of houses in Katutura at the beginning of 1982 was 5756. Even in September 1979 at least 1000 people were on the waiting list for accommodation. One estimate is that Windhoek will have a population of 250 000 by the year 2000, out of an estimated population of 1.7 million—and the overall degree of urbanisation by then could be 50 per cent.¹¹

In 1979 the number of persons of working age (15–65 years) was estimated to be about 500 240 or 52 per cent of the population. The number of children under 15 was estimated at about 43 per cent. Of the total 500 240 of working age in 1979, some 332 800 were estimated to be economically active (44 400 whites, 37 000 coloureds and 251 400 blacks)—34 per cent of the total population and 67 per cent of persons of working age. According to one source, about one-third of the economically active are involved in subsistence agriculture (virtually all blacks) and about two-thirds in the wage sector—almost the reverse of the situation in Zimbabwe.¹² However, unemployment among black workers in the wage sector is high. According to estimates published in August 1981, nearly one-third of the labour force is unemployed or underemployed.

Religion

At least 80 per cent of the population belongs to one or other of the Christian churches in Namibia. About 40 per cent of the population belongs to the United Evangelical Lutheran Church (UELC; usually referred to by the Afrikaans language acronym VELKSWA—United Evangelical Lutheran Church of South West Africa). The next largest is the Roman Catholic Church, followed by the Dutch Reformed Church and the Anglican Church. Details, based on the 1970 census, are shown in Table 2.4.

Table 2.4: Religious affiliations, 1970

	<i>Lutheran</i>	<i>Roman Catholic</i>	<i>Dutch Reformed</i>	<i>Other Christian (a)</i>	<i>Total Christian</i>	<i>Tribal and non-Christian</i>
Whites	13 473	5 472	53 786	13 974	86 705	2 864
Ovambo	154 578	52 759	324	74 791	282 452	72 387
Damara	51 775	10 633	162	1 980	64 550	2 227
Herero	18 857	5 631	227	15 699	40 414	10 195
Kavango	6 245	26 543	198	1 314	34 300	15 803
East Caprivian	114	5 505	521	6 903	13 043	12 540
Bushmen	5 888	3 142	644	369	10 043	12 743
Kaokolander	111	62	34	165	372	6 121
Tswana	480	2 616	39	274	3 409	341
Nama	17 282	7 604	517	7 075	32 478	505
Coloured	8 276	8 449	4 415	6 644	27 784	726
Rehoboth Baster	10 707	2 037	1 437	2 327	16 508	138
Others	2 984	7 311	188	1 940	12 423	2 665
Total adherents	290 771	137 764	62 492	133 696	624 723	138 834
Percentage of total population	38.1	18.0	8.2	17.5	81.8	18.2

Note:

(a) Including Anglican Church with 29 000 adherents (3.8 per cent).

Source: Erich Leistner, Pieter Esterhuysen and Theo Malan, *Namibia/SWA Prospectus* (Africa Institute of South Africa, 1980), p. 58.

The UELC is composed of three churches linked in a federal structure—two black and one mainly white:

- The Evangelical Lutheran Ovambo-Kavango Church (ELOK), with about 250 000 members in 1978, predominantly from the Ovambo and to a lesser extent the Kavango tribal groups. This church originated from the activities of the Finnish Mission in Owambo.
- The Evangelical Lutheran Church (ELK), with about 120 000 members in 1978 drawn from a broader range of tribal groups. This church grew out of the activities of the Rhenish Missionary Society.
- The German Evangelical Lutheran Church (DELK), mainly white, with about 15 000 members in 1978.

These three Lutheran churches joined with the Anglican Church, the Congregational Church and the African Methodist Episcopal Church on 18 October 1978 to form the Council of Churches in Namibia. The Roman Catholic Church and the Evangelical Reformed Church in Africa were granted observer status. The high degree of Christianisation of the Namibian population is due to the effective work of a number of missions in Namibia in the 19th and 20th centuries.

The churches took little active interest in the political development of Namibia until about the 1950s. There were exceptions, but by and large the churches played a fairly inactive role in the early black struggle for freedom. Some black leaders of the time considered the churches paternalistic and white-centred. The position began to change from the 1950s as the churches became Africanised and as South Africa increasingly imposed its apartheid policies on Namibia. In time the churches became an important forum of opposition to South African policies. With the exception of elements of the Dutch Reformed Church, the major churches began to speak out strongly against

apartheid. They opposed the setting up of homelands and the relocation of population groups, and were generally critical of attempts to emphasise ethnic and tribal differences.

In 1971 the two black Lutheran churches sent an open letter to the then South African Prime Minister, Mr Vorster, condemning his Government's treatment of Namibian blacks and urging him to accept the 1971 International Court of Justice opinion and give Namibia its independence as a unitary state. They demanded the total abolition of apartheid. The letter was supported by the Anglican and Roman Catholic churches.

Since the open letter the major churches have increasingly spoken out against violations of human rights in Namibia. The churches, particularly the black Lutheran and Anglican churches, identified with the nationwide strike by black, mainly Ovambo, workers in 1971-72, and this resulted in the expulsion from Namibia of the Anglican Bishop, Colin Winter, in 1972. A number of black clergymen were arrested for opposing the Owambo elections in 1973. In 1973-75 the churches took legal action to stop the public flogging in Owambo of hundreds of Namibians accused of being SWAPO members and supporters. Opposition to these floggings led to the expulsion of the new Anglican Bishop, Richard Wood, in 1975.

In May 1978 a letter was sent to the then Administrator-General, Mr Justice Steyn, expressing dissatisfaction with the manner in which police investigations were conducted and with the attitude of the Administrator-General in refusing to appoint a court of inquiry into 'well-documented cases of torture'. The letter also opposed the introduction of Proclamation AG 26 of 19 April 1978 (the 'Provision for the Detention of Persons in Order to prevent Political Violence and Intimidation') and called for the release of political prisoners. The signatories were the Rev. E. Morrow, Vicar-General of the Anglican Church; Father H. Hunke, of the Roman Catholic Church; Pastor P. Gowaseb, of the Evangelical Lutheran Church; the Rev. S.J. Titus, of the Congregational Church; Pastor K. Dumeni, of the Evangelical Lutheran Ovambo-Kavango Church; and Rev. B.G. Karuaera, of the Afrikaans Methodist Episcopal Church. Two months later deportation orders were served on the first two signatories, the Rev. E. Morrow and Father Hunke, the former a South African and the latter a West German.¹³

Although several churches, particularly the black Lutheran and the Anglican churches, have been accused of sympathising with SWAPO and of actively supporting it, the churches claim they do not support any particular political party. This is the official policy of the UELC, although one of its member churches, ELOK, (together with the Anglican Church) is perhaps the church most closely identified with SWAPO. The churches in the main refuse to condone violence as a means of achieving social justice and independence; nevertheless a few Namibian theologians have argued that violent rebellion can be justified in certain circumstances.

The Committee is not in a position to assess the degree of church support for SWAPO or any other political party. It does recognise, though, that in recent years the churches have become a strong voice in support of independence for a unitary Namibia. The churches have actively campaigned for human rights and, with one or two exceptions, have strongly opposed attempts to create a political future for Namibia based on ethnicity, whether through the creation of homelands or of ethnically-based political parties.

Early settlement

The Bushmen and Nama were among the earliest inhabitants of Namibia, with the next group to arrive being the Damara. From the 16th to the 18th centuries the northern parts of Namibia (and southern Angola) were settled by the Ovambo and Kavango tribes, and another Bantu tribe, the Herero, moved into areas west and south of the Etosha Pan.

A severe drought in 1829–30 forced the Herero, mainly cattle-breeders, further southward to the Okahandja and Windhoek areas. Disputes over grazing land erupted with the northward-moving Nama and, although the Herero were initially victorious, they were soon conquered by the Orlam Nama. For some three decades the Herero became subject to the Nama. The Herero, under their leader Maherero, staged a successful revolt from 1861 and became the strongest force in the central regions of the territory until the turn of the century, although intermittent warfare with the Nama continued.

Rich deposits of guano had been discovered on islands off the coast of Namibia in 1828 and exploitation of these deposits commenced from 1842. The British Governor of Cape Colony annexed the guano islands in 1866. Walvis Bay was annexed to the Colony of the Cape of Good Hope in 1884.

English and German missionary societies and explorers had been active in Namibia since about 1800, but neither the British nor German governments showed much interest in the territory (apart from the British interest in Walvis Bay and the guano islands) until a German merchant, Adolf Luderitz, began purchasing areas of southern Namibia including Angra Pequena (now Luderitz) from a Nama chief for a trading post and possible colony in 1882. He hoisted the German flag and asked for German protection. Germany formally declared a protectorate over 'Luderitzland' in April 1884, and gradually extended its control until the present borders were agreed with Portugal in 1886 and Britain (with the exception of the borders of Walvis Bay) in 1890.

The encroachment of white settlers and continued feuding between the Namas and Hereros led to several uprisings. At the end of 1903 a Nama group in the south, the Bondelswarts, rose up against the Germans but, to avoid total defeat, signed a peace treaty in 1904. The Herero rebellion in the central areas began in January 1904 while the majority of German troops in Namibia were fighting the Bondelswarts. The Germans determined to assert their superiority once and for all and, after reinforcements were sent from Germany under the command of General von Trotha, a major battle took place in the Waterberg mountains in August 1904. Large numbers of Herero were killed, some surrendered and others managed to flee into desert areas towards Botswana. An estimated 65 000 Herero died in the battle, subsequently in captivity, or of thirst in the desert.¹⁴ Only some 15 000 Herero survived, and the Herero population is believed to be still smaller now than what it was at the turn of the century. While the Germans were 'mopping up' in Hereroland, the Namas, under Hendrick Witbooi, again rebelled, beginning in October 1904, and their opposition continued into the next year, although not on the scale of the Herero rebellion. The Nama attacks were more isolated and eventually petered out in 1906 as German control extended.

The tribal lands of those who had rebelled were confiscated, surveyed and sold to white settlers, particularly on the more fertile Central Plateau. The settlers, then mainly Germans, were assisted by government subsidies and in 10 years the white population had reached 12 000. The defeated blacks were relocated, and the remaining Herero were forbidden to own any cattle—the pivot of their lives.

The copper deposits at Tsumeb had been opened up and diamonds were discovered in 1908 in the desert area near Luderitz. Namibia could now become independent of financial support from Germany. German authority was concentrated in what was known as the Police Zone, the area south of the Etosha Pan, and German authority over the northern tribes in Kaokoland, Owambo, Kavango and the Caprivi Strip was largely nominal.

The First World War saw the end of German rule. In 1915 South African troops occupied Namibia at the request of the Allied Powers, and German troops in the territory formally surrendered in July 1915. For the remainder of the war Namibia was administered under military occupation by South African forces, although a civilian Administrator and officials were also appointed. The South African administration allowed the Herero to return to some of their traditional lands and also allowed them to recommence cattle ownership.

With the end of the First World War the Allied Forces were faced with claims by a number of States for the annexation of former German colonies occupied by them, including South Africa which pressed for the annexation of Namibia. Other States called for some form of international control of ex-German colonies. The Allied Powers decided that the former colonies should not be treated as spoils of war but should form a 'sacred trust of civilisation' under the League of Nations, to be brought to independence under the supervision of mandatory states. On 17 December 1920 South Africa, because of its contiguity with Namibia and because it was the occupying power, was appointed the mandatory over Namibia.

NOTES AND REFERENCES

1. The area of Namibia is slightly greater than that of New South Wales and about a tenth of the area of Australia.
2. The UN publication, *Namibia: A Unique UN Responsibility* (UN Dept of Public Info., DPI/631), p. 2, for example, gave the 1979 population as 'approximately 1.5 million'.
3. An independent researcher, Wolfgang H. Thomas, argues that on the basis of labour force statistics and a 'more realistic' annual average growth rate the population figures should be higher—but not to the extent estimated by the UN. In his book, *Economic Development in Namibia* (Kaiser-Grunewald, 1978), Thomas utilises a figure of 955 000 for the Namibian population in 1977—a figure which would increase to 1 040 000 in 1980 on the basis of a three per cent growth rate for non-whites and a two per cent growth rate for whites (see pp. 17–19, 307). Thomas, a development economist, was Director of the Institute of Social Development at the University of Western Cape, South Africa, until deported in March 1977. Prior to his deportation he was a member of the Committee of Financial Experts responsible to the Turnhalle Conference.
4. See Thomas, p. 19. The officially estimated growth rates between 1970 and 1979 were 2.7 per cent for blacks, 2.8 per cent for coloureds and 2.2 per cent for whites.
5. Thomas, p. 20.
6. Thomas, note 14, p. 284.
7. Thomas, p. 21.
8. South Africa, Bantu Investment Corporation and other Corporations, *Homelands—The Role of the Corporations* (Chris van Rensburg Publications (Pty) Ltd, 1974), p. 32.
9. Bantu Investment Corporation and other Corporations, *Homelands—The Role of the Corporations*, p. 32. Thomas, p. 21, gives a number of different figures for 1970: 36 per cent for Hereros, about 10 per cent for Damaras and 2 per cent for Bushmen. Gail-Maryse Cockram, *South West African Mandate* (Juta and Co. Ltd, Cape Town, 1976), p. 308, states that at the time the Odendaal Report was published (1964), implementation of the homelands plan would have meant the movement of approximately 74 per cent of Hereros, 87 per cent of Namas, 94 per cent of Damaras and 95 per cent of Bushmen. The movement of population groups began from about the mid-1960s.
10. Erich Leistner, Pieter Esterhuysen and Theo Malan, *Namibia/SWA Prospectus* (Africa Institute of South Africa, 1980), p. 2.
11. Thomas, pp. 170–1, 307. Figures on the population of Katutura were obtained from International Defence and Aid Fund for Southern Africa, *Briefing Paper No. 4: Apartheid in Namibia Today*, March 1982.

12. Leistner and others, p. 2. For Zimbabwe figures see the Committee's report, *Zimbabwe* (Australian Government Publishing Service, Canberra, 1980), pp. 207, 209.
13. The deportation orders were served on 14 July 1978. An Anglican churchworker, Mr Justin Ellis, who wrote a report critical of voter registration methods for the 1978 elections which was circulated as a UN document, was served with a deportation order on 29 November 1978. All the deportation orders were issued in terms of the Undesirable Persons Removal Proclamation, amended by Proclamation AG 50.
14. Ruth First, 'Namibia—Recent History', *Africa South of the Sahara 1979–80* (Europa Publications Ltd, London, 1979), p. 693; Olga Levinson, *Story of Namibia* (Tafelberg, Cape Town, 1978), pp. 46–7. Cockram, in *South West African Mandate*, states that German authorities estimated the number of Herero dead after the battle at between 12 000 and 15 000, with most of the remainder dying in German captivity after their surrender or in their flight across the desert to Bechuanaland (now Botswana). A British Government report of the time concluded that in 1905 only about 15 000 Herero survived out of a population before the rebellion of between 80 000 and 90 000. The war cost the Germans about 600 million marks (30 million pounds), 800 Germans killed and 700 dead from disease. (Cockram, pp. 11–12).

The Namibia dispute to 1977

Introduction

South African direct involvement in South West Africa dates from July 1915 when South African armed forces occupied what had been since 1884 a German colony. South Africa established an administration and in 1920 became the administering power under a League of Nations mandate. The terms of the mandate allowed South Africa to administer the territory as an integral part of the Union of South Africa.

The mandate period lasted until the end of the Second World War, when the League of Nations was dissolved. During this time South Africa extended the system of land segregation begun by the Germans and entrenched political, social and economic discrimination in favour of white (especially Afrikaner) settlers.

After the Second World War the League's mandate system was superseded by the United Nations trusteeship system. All former mandatory powers entered into trusteeship agreements with the United Nations except South Africa. Thus began the dispute between the United Nations and South Africa over the status and independence of Namibia which has continued to this day.

South Africa argued that the mandate system had expired with the demise of the League of Nations—its sovereignty over the territory was unrestricted and it was under no obligations to the United Nations. South Africa did undertake, however, to continue administering the territory in 'the spirit' of the mandate. The United Nations argued that South Africa was not competent to alter unilaterally the legal status of the territory—a view reinforced by advisory opinions from the International Court of Justice in the 1950s.

In 1967 the United Nations General Assembly established a new body, the Council for South West Africa (later renamed the Council for Namibia) to administer the territory until independence and to prepare it for independence. The Council was not able, however, to establish a presence in Namibia. Establishment of the Council followed a General Assembly decision in 1966 to terminate the mandate and assume direct responsibility for the territory. The United Nations position was reinforced by a 1971 advisory opinion from the International Court of Justice that South Africa's continued presence in Namibia was illegal and South Africa should withdraw its administration from the territory immediately.

Two years earlier—in 1969—however, South Africa had legislated for the administrative incorporation of the territory. The police and military forces were integrated with those of the Republic and South Africa proceeded to extend to the territory most of its security and apartheid laws. South Africa also proceeded to implement recommendations of the Odendaal Commission (which had reported in 1964) relating to the establishment of homelands and the relocation of blacks and coloureds

into those homelands. Namibia was given limited, white, representation in the South African Parliament.

In 1966 the more militant of the black nationalist movements, the South West Africa People's Organisation (SWAPO), had announced it would launch an armed struggle for liberation and from about 1972 there has been increasing guerilla warfare between SWAPO and South African security forces. In 1973 the General Assembly recognised SWAPO as the 'authentic representative' of the people of Namibia, and this was extended in 1976 to recognition of SWAPO as the 'sole and authentic' representative of the people of Namibia. The General Assembly also expressed support for the armed struggle led by SWAPO. The United Nations mood was becoming more militant in the face of South African intransigence.

South Africa had, in 1974, acknowledged for the first time the territory's separate international status and further acknowledged an obligation to consult the territory's people on their future. These consultations began in 1975 by means of the Turnhalle Constitutional Conference, set up to draft a constitution for an interim government prior to independence. The Conference comprised representatives of the various ethnic groups, most of them non-elected; representatives of political parties such as SWAPO were excluded.

The draft constitution, produced in March 1977, largely reflected the composition of the Conference. The draft recommended a central government comprising representatives of the ethnic groups, with a second tier of government based on homeland governments. The proposals were short-lived: South Africa, concerned at major international opposition, announced shortly after that it would not proceed to implement them, and instead appointed an Administrator-General to guide the territory towards independence.

Over the period South Africa had moved from a position of seeking incorporation of the territory into the South African Republic to one of acknowledging its eventual independence. In working out the form of independence it first toyed with the idea of granting independence or quasi-independence to a number of homelands but, in the face of international pressure, eventually agreed that the territory should achieve independence as a unitary state. However, it was still hopeful that the government of the unitary state would be an ethnically-based one—in which no single group, particularly SWAPO, would be able to dominate.

The League of Nations mandate 1919–46

Between the two World Wars, South Africa controlled South West Africa under a League of Nations mandate established by Article 22 of the League Covenant.¹ Article 22 was approved in its final form on 28 April 1919 and, as part of the Covenant, was incorporated into the Peace Treaty of Versailles signed on 28 June 1919.

Under the terms of the Peace Treaty, Germany relinquished all its subject territories, including South West Africa. The territories were handed over to the Principal Allied and Associated Powers. It was the Supreme Council of the Allied Powers, and not the League of Nations, which selected the mandatory powers, and South Africa was designated the mandatory power for South West Africa by the Supreme Council on 7 May 1919. However, it was the League which, by means of a series of legal instruments, specified the degree of authority, supervision or administration to be exercised by the selected mandatory powers, and it was the Council of the League of Nations which

confirmed the mandates. The mandate for South West Africa was confirmed on 17 December 1920.

The mandate was a 'C' class mandate in terms of Article 22 of the League Covenant. This class of mandate was applied to territories which 'owing to the sparseness of their population or their small size, or their remoteness from the centers of civilization, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory', subject to certain safeguards.²

The mandate for South West Africa was conferred on 'His Britannic Majesty for and on behalf of the Government of the Union of South Africa'. South Africa was chosen because of its geographical contiguity and because it was then the occupying power. Article 2 of the mandate provided as follows:

The Mandatory shall have full power of administration and legislation over the territory subject to the present Mandate as an integral portion of the Union of South Africa, and may apply the laws of the Union of South Africa to the territory subject to such local modifications as circumstances may require.

The Mandatory shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of the Territory subject to the present Mandate.

The mandate laid down certain conditions, among which was a requirement that the Union of South Africa, as the mandatory power, make an annual report to the Council of the League of Nations 'containing full information with regard to the territory', and indicating measures taken to carry out obligations assumed. Under Article 22, the annual reports were to be received and examined by a Permanent Mandates Commission, which was also to supervise the administration of mandates on behalf of the Council. Until the outbreak of the Second World War, when meetings of the Permanent Mandates Commission ceased, South Africa did submit regular reports on its administration of South West Africa.

The mandate period lasted until the end of the Second World War, when the United Nations Organisation came into being. From the commencement of its mandate, South Africa was concerned mainly with the interests of the white inhabitants of South West Africa. It actively promoted immigration from the Union of South Africa, it extended the system of land allocation and segregation begun by the Germans prior to the First World War and continued to entrench discrimination against blacks within the legal framework. It was more concerned with encouraging harmonious relations between white South African and German settlers than between whites and non-whites. The inadequacy of its efforts to advance the well-being of non-whites was, for example, referred to by the South West Africa Commission, chaired by Mr Justice van Zyl, in its report of 1936, and was a contributing factor to the Bondelswarts Rebellion of 1922.³

South Africa gave the whites of South West Africa some limited control over their affairs when a constitution and a very restricted form of self-government were granted in 1925. In that year the Parliament of the Union of South Africa passed the South West Africa Constitution Act, which established an Executive Committee and a Legislative Assembly. The Assembly could pass ordinances for the territory, but the South African Government retained over-riding legislative and administrative authority, including control of such key matters as currency, customs and excise, immigration, native affairs, foreign affairs and defence. The Administrator's assent was necessary for all ordinances. The Executive Committee comprised the Administrator and four other members elected by the Legislative Assembly from among its own members. It administered matters on which the Legislative Assembly passed ordinances. There was also an Administrator's Advisory Council.

When the mandate system was being discussed at the end of the First World War, South Africa had pressed for the annexation of occupied territories by those powers already occupying them, but a policy of 'no annexation' was adopted by the League of Nations. In 1933 the South African Government again raised the issue by seeking to have South West Africa totally incorporated into South Africa, but the Council of the League of Nations would not accede to such a move. The Permanent Mandates Commission was critical of South Africa's administration of the territory in a number of areas, but had no power to enforce its strictures.⁴

The trusteeship issue 1945–49

The League of Nations met for the last time on 18 April 1946. It had been superseded by the United Nations Organisation, whose Charter had come into force on 24 October 1945. In a resolution passed on 18 April, the League Assembly noted that its functions with respect to mandated territories would come to an end and also noted that Chapters XI, XII and XIII of the UN Charter 'embody principles corresponding to those declared in Article 22 of the Covenant of the League'. The resolution continued:

[The League Assembly] takes note of the expressed intentions of the members of the League now administering territories under mandate to continue to administer them for the well-being and development of the peoples concerned in accordance with the obligations contained in the respective mandates, until other arrangements have been agreed between the United Nations and the respective mandatory Powers.

The resolution did not expressly provide for the transfer of mandates to the United Nations and, from the outset of discussions with the United Nations, South Africa made it clear that it was not prepared to place the mandated territory of South West Africa under a trusteeship agreement pursuant to Chapter XII of the UN Charter (see Appendix 2 for Chapters XI–XIII of the Charter). South Africa wished to annex the territory.

South Africa did not accept that the UN was the successor body to the League of Nations; nor did it accept that the trusteeship system automatically succeeded the mandate system. South Africa took the view that only it could decide whether South West Africa became a trust territory; it also took the view that the UN did not have the power to end South Africa's continued administration of the territory.

It argued that it had been governing South West Africa as an integral part of its own territory and had been promoting the material and moral well-being and social progress of its people; that the territory was geographically and strategically part of South Africa and was heavily dependent economically on South Africa; that the population groups were similar; and that the territory could never survive as a separate state. South Africa rejected criticism of its administration of South West Africa and questioned whether the UN had the right to inquire into, or seek to control, its administration of the territory.

South Africa formally proposed that South West Africa be integrated into the Union of South Africa, backing its proposal with the results of a 'referendum' which it claimed indicated the territory inhabitants' wishes for the territory to become part of the Union. The UN General Assembly considered the request but resolved on 14 December 1946 (res. 65(I)) not to accede to the incorporation of the territory. Instead the General Assembly recommended that South West Africa be placed under the international

trusteeship system, and invited South Africa to propose a trusteeship agreement for the General Assembly's consideration.

The principle of self-determination was a powerful ideological force at this time. Many members of the UN considered that the incorporation of South West Africa into South Africa would be detrimental to the well-being of the territory's people. They objected to South Africa's apartheid policies and to South Africa strengthening itself by the acquisition of South West Africa's land and mineral wealth. After 1946, the UN continued regularly to invite South Africa to place South West Africa under the trusteeship system, but to no avail.

When the UN refused to allow South Africa to incorporate South West Africa, the South African Prime Minister, General Smuts, informed the General Assembly in 1947 that South Africa would continue to administer the territory as an 'integral portion' of South Africa, as it had done under the mandate system. However, South Africa would not proceed with the incorporation of the territory—it would maintain the *status quo* and continue to administer the territory in the spirit of the mandate.

Initially South Africa was prepared to submit annual reports on the territory's progress, for the information of the United Nations, but without any legal obligation. One such report was presented in September 1947. However, South Africa's administration was severely criticised by members of the UN when considering the report and on 11 July 1949 the newly-elected National Party Government in South Africa refused to make further reports or transmit petitions to the United Nations.

Also in 1949 the National Party Government passed the South West Africa Affairs Amendment Act, which deleted all references to a mandate in the territorial constitution and which provided for the territory to be more closely associated with South Africa. This was done by giving the territory direct representation in the South African Parliament, similar to that enjoyed by the South African provinces. Under the provisions of the Act, whites in South West Africa were able to elect six representatives to the South African House of Assembly. In addition, four Senators were to represent the territory in the South African Senate—two elected by the South West African representatives in the South African House of Assembly and two appointed by the South African Governor-General (from 1961 the State President). South West African members continued to be elected to the South African Parliament until 1977 when South West African representation in the South African Parliament was abolished. The Act also provided for the direct election of all members of the South West African Legislative Assembly and broadened its powers.

International Court of Justice

The 1950 advisory opinion

When it became apparent that the South African Government was not prepared to change its position and agree to South West Africa coming under the trusteeship system, the United Nations approached the International Court of Justice at The Hague for an advisory opinion on the status of the territory in international law. On 6 December 1949, the General Assembly adopted resolution 338 (IV), which submitted the following questions to the International Court of Justice:

What is the international status of the Territory of South West Africa and what are the international obligations of the Union of South Africa arising therefrom, in particular:

- (a) Does the Union of South Africa continue to have international obligations under the Mandate for South West Africa and, if so, what are those obligations?
- (b) Are the provisions of Chapter XII of the Charter applicable and, if so, in what manner, to the Territory of South West Africa?
- (c) Has the Union of South Africa the competence to modify the international status of the Territory of South West Africa, or, in the event of a negative reply, where does competence rest to determine and modify the international status of the Territory?

The opinion of the Court, given on 11 July 1950, was to the effect that, while South Africa was not bound to enter into a trusteeship agreement, the mandate remained in force and South Africa continued to have the international obligations set out in the League of Nations Covenant and in the mandate, including the submission of reports on the territory. The supervisory functions over the mandate were to be exercised by the United Nations. The opinion was as follows:

On the General Question:

that South West Africa is a territory under the international Mandate assumed by the Union of South Africa on December 17th, 1920 (*unanimously*):

On Question (a):

that the Union of South Africa continues to have the international obligations stated in Article 22 of the Covenant of the League of Nations and in the Mandate for South West Africa as well as the obligation to transmit petitions from the inhabitants of that Territory, the supervisory functions to be exercised by the United Nations, to which the annual reports and the petitions are to be submitted, and the reference to the Permanent Court of International Justice to be replaced by a reference to the International Court of Justice, in accordance with Article 7 of the Mandate and Article 37 of the Statute of the Court (*by 12 votes to two*);

On Question (b):

that the provisions of Chapter XII of the Charter are applicable to the Territory of South West Africa in the sense that they provide a means by which the Territory may be brought under the Trusteeship System (*unanimously*);
and that the provisions of Chapter XII of the Charter do not impose on the Union of South Africa a legal obligation to place the Territory under the Trusteeship System (*by eight votes to six*);

On Question (c):

that the Union of South Africa acting alone has not the competence to modify the international status of the Territory of South West Africa, and that the competence to determine and modify the international status of the Territory rests with the Union of South Africa acting with consent of the United Nations (*unanimously*).⁵

South Africa refused to accept the Courts' opinion on the grounds that vital information had not been put before the Court. This information related to the dissolution of the mandate system and the adoption of the League of Nations' final resolution of 18 April 1946. The South African view was that it had no further obligations to the international community.

UN attempts to implement Court's opinion

In resolution 449A(V) of 13 December 1950 the UN General Assembly accepted the Court's opinion, despite the fact that the Court had rejected the Assembly's main contention that South Africa was obliged to place South West Africa under trusteeship. At the same time, in resolution 449B(V), the General Assembly reiterated its call for the territory to be placed under trusteeship. The General Assembly also established an *Ad Hoc* Committee to confer with South Africa on measures to implement the opinion. During 1951 the *Ad Hoc* Committee endeavoured to reach agreement with the South

African Government but, with the Committee obliged to negotiate on the basis of the 1950 advisory opinion and South Africa unwilling to accept the authority of the United Nations over South West Africa, no agreement was reached. The *Ad Hoc* Committee was re-established in 1952 and 1953 but the deadlock remained.

The 1955 advisory opinion

When the *Ad Hoc* Committee failed to resolve the conflict with South Africa, a permanent Committee on South West Africa was established in its stead by General Assembly resolution 749A (VIII) of 28 November 1953. The terms of reference of the Committee were to prepare a report on the territory for the General Assembly, to propose a procedure for the presentation of such reports and to continue negotiations with the Union of South Africa in order to implement fully the advisory opinion of the International Court of Justice. The Committee continued in existence until 1961. It, too, was unsuccessful in negotiations with South Africa, but it did prepare an 860-page report on the territory in 1954.

The General Assembly decided that decisions arising from the report and subsequent reports constituted important questions within the meaning of Article 18(2) of the UN Charter, requiring a two-thirds majority vote. South Africa opposed this decision arguing that this constituted a greater degree of supervision than had occurred in the League of Nations, where a unanimous vote (including that of the mandatory) was required for any resolution affecting a mandatory state.

To resolve the matter the General Assembly, by resolution 904 (IX) of 23 December 1954, requested the International Court of Justice to give an advisory opinion on the following questions:

- (a) Is the following rule on the voting procedure to be followed by the General Assembly a correct interpretation of the advisory opinion of the International Court of Justice of 11 July 1950: 'Decisions of the General Assembly on questions relating to reports and petitions concerning the Territory of South West Africa shall be regarded as important questions within the meaning of Article 18, paragraph 2, of the Charter of the United Nations'?
- (b) If this interpretation of the advisory opinion of the Court is not correct, what voting procedure should be followed by the General Assembly in taking decisions on questions relating to reports and petitions concerning the Territory of South West Africa?

The Court presented its opinion on 7 June 1955. It took the view (unanimously) that the rule did not in any way conflict with the Court's 1950 advisory opinion that the degree of supervision to be exercised by the General Assembly should not exceed that which applied under the mandates system. The General Assembly's interpretation of the advisory opinion was correct.⁶

The 1956 advisory opinion

As a result of South Africa's refusal to submit annual reports or forward information to the Committee on South West Africa the General Assembly considered it necessary to obtain information by other means, including oral hearings. The Permanent Mandates Commission had not permitted such hearings. By resolution 942 (X) of 3 December 1955 the General Assembly decided to ask the International Court of Justice for an advisory opinion on the following question:

Is it consistent with the advisory opinion of the International Court of Justice of 11 July 1950 for the Committee on South West Africa, established by General Assembly resolution 749A (VIII) of 28 November 1953, to grant oral hearings to petitioners on matters relating to the Territory of South West Africa?

The Court's opinion was given on 1 June 1956. By eight votes to five, it held 'that the grant of oral hearings to petitioners by the Committee on South West Africa would be consistent with the Advisory Opinion of the Court of 11 July 1950'.⁷

The overall tenor of the opinions of the International Court of Justice relating to the territory of South West Africa given in 1950, 1955 and 1956 was that South Africa was not legally obligated to place the territory of South West Africa under a United Nations trusteeship, that both South Africa and the United Nations had obligations to the territory, and that South Africa could not unilaterally alter the status of the territory. South Africa did not participate in the proceedings of 1955 and 1956.

The new mood in the United Nations

Committee on South West Africa—possible legal action

In 1957 the General Assembly considered means of compelling South Africa to submit to its authority on the trusteeship question. One possible course was legal action. The three advisory opinions of the International Court of Justice were not binding, but if legal action could be instituted in the Court to produce a binding decision, this could be enforced by the Security Council under Article 94 of the Charter. In resolution 1060 (XI), of 26 February 1957, the General Assembly referred the following question to the Committee on South West Africa:

What legal action is open to the organs of the United Nations, or to the Members of the United Nations, or to the former Members of the League of Nations, acting either individually or jointly, to ensure that the Union of South Africa fulfils the obligations assumed by it under the Mandate, pending the placing of the Territory of South West Africa under the International Trusteeship system?

The Committee submitted a special report which was approved by the General Assembly in resolution 1142 (XII) of 25 October 1957. In its report the Committee favoured legal proceedings being brought by former members of the League of Nations which had become members of the United Nations. The United Nations itself could only request non-binding advisory opinions and it was doubtful whether member states of the United Nations which had not been members of the League of Nations were competent to bring an action in contentious proceedings.

In June 1960, Ethiopia and Liberia announced at the Second Conference of Independent African States, held in Addis Ababa, that they, as former members of the League of Nations, intended instituting legal proceedings in the International Court of Justice against South Africa over South West Africa. Ethiopia and Liberia were commended on their decision by the General Assembly.

Good Offices Committee

The *Ad Hoc* Committee and the Committee on South West Africa both having failed to produce a solution, the General Assembly in 1957 established a Good Offices Committee on South West Africa, consisting of the USA, the UK and Brazil, for the purpose of discussing 'with the Government of the Union of South Africa a basis for an agreement which would continue to accord to the Territory of South West Africa an international status'.

The Committee reported that South Africa was prepared to consider only two proposals: an agreement with the remaining Principal Allied and Associated Powers or the partitioning of the territory—with the southern portion being incorporated into South

Africa and the northern portion being placed under South African trusteeship. The General Assembly rejected both proposals and, in resolution 1243(XIII), of 30 October 1958, asked the Good Offices Committee to hold further discussions with South Africa. These, too, proved unproductive.

The new UN mood of the 1960s

By the 1960s a new, more militant mood towards South Africa prevailed in the United Nations—particularly after the admission of 16 newly-independent African States, bringing the Afro-Asian bloc to a total of 46 out of the 99 member States. The Sharpeville incident in March 1960 forced the Security Council to recognise the racial situation in South Africa for the first time. Then in May 1961 South Africa became a Republic and withdrew from the Commonwealth of Nations—thereby losing some of the support it had formerly enjoyed from members of the Commonwealth.

The new mood was particularly evident in two General Assembly resolutions passed in 1960 and 1961. The first of these was resolution 1514 (XV), of 14 December 1960, entitled 'Declaration on the Granting of Independence to Colonial Countries and Peoples'. South West Africa was clearly included, being a territory which had not yet achieved independence. The second resolution was 1596 (XV), of 7 April 1961, which requested the Committee on South West Africa to visit South West Africa with or without the permission of the South African Government. The resolution condemned the extension of apartheid policies to South West Africa and saw the continuance of the situation in South West Africa as 'likely to endanger international peace and security'. As South Africa would not let the Committee enter South West Africa, the Committee had to content itself with visiting nearby African countries and receiving evidence from petitioners.

The Committee reported that in the interests of all concerned and of international peace and security the General Assembly should undertake an urgent study of ways and means of terminating South African administration of the territory and having that administration assumed directly or indirectly by the United Nations.

The South African Government condemned the report and, in November 1961, offered to invite three past-Presidents of the General Assembly to visit the territory and see whether the situation there constituted a threat to international peace. The General Assembly rejected this proposal. Instead, on 19 December 1961, it dissolved the Committee on South West Africa (res. 1704 (XVI)) and set up a Special Committee on South West Africa to prepare the territory for independence—from then on viewed as the major goal instead of a trusteeship agreement.

The Special Committee was itself dissolved on 14 December 1962 with little to show for its one-year existence—most of which was taken up with a dispute which occurred after the Chairman and Vice-Chairman visited South West Africa in May 1962, at the invitation of South Africa.⁸

Special Committee of 24

Upon dissolving the Special Committee the General Assembly transferred the question of South West Africa to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (known subsequently as the Special Committee of 24), by resolution 1805 (XVII). The first report of the Special Committee of 24 on South West Africa led to the General Assembly passing resolution 1899 (XVIII), of 13 November 1963, urging an arms and petroleum embargo on South Africa. The Assembly also requested the

Security Council to consider the South West Africa situation (res. 1979 (XVIII), of 17 December 1963).

The Special Committee of 24 had been formed on 27 November 1961 to examine progress made in the implementation of General Assembly resolution 1514 (XV). The Committee began its work in 1962 and has aimed to promote self-determination and equal rights for all, and also to promote human rights and fundamental freedoms. The Committee originally had 17 members but in 1962 it was expanded to 24, and in 1979 to 25.

International Court of Justice—1960–66

Meanwhile, on 4 November 1960, Ethiopia and Liberia, the only two African members of the United Nations which had also been members of the League of Nations, invoked the compulsory jurisdiction of the International Court of Justice, an action which received the support of the General Assembly on 18 December 1960 (res. 1565 (XV)).

In their submission to the Court Ethiopia and Liberia claimed that South Africa was obliged to submit to the supervision and control of the UN General Assembly in exercising its mandate, and to submit an annual report on the territory and transmit petitions. They also claimed that South Africa had unlawfully modified the terms of the mandate without United Nations consent, had failed to promote to the utmost the material and moral well-being and social progress of the inhabitants of the territory, had practiced apartheid in violation of the mandate, had enacted legislation which was arbitrary, unreasonable, unjust and detrimental to human dignity and which suppressed the rights and liberties of the inhabitants of the territory, and had thwarted the orderly development of self-government in the territory.

The principal issues on which Ethiopia and Liberia sought declarations were whether the mandate continued in force, whether the UN General Assembly was legally qualified to exercise the supervisory functions previously exercised by the League of Nations, and whether the practice of apartheid violated Article 2 of the mandate, which imposed a duty to promote to the utmost the well-being of the inhabitants of the territory. The case was before the Court for six years.

On 21 December 1962 the Court held, by eight votes to seven, that it had jurisdiction to adjudicate upon the merits of the dispute (between Ethiopia and Liberia on the one hand and South Africa on the other).⁹

The decision on the second phase of the case, brought down on 18 July 1966, proved to be a most controversial one. The proceedings after the 1962 decision had been directed towards the merits of the dispute, but instead of making a judgment on these the Court returned to the question of the legal standing of the applicant States and, in effect, reversed the 1962 decision by finding:

that the Applicants cannot be considered to have established any legal right or interest appertaining to them in the subject matter of the present claims, and that, accordingly, the Court must decline to give effect to them.¹⁰

On the casting vote of the President (Sir Percy Spender—Australia), the Court accordingly decided 'to reject the claims of the Empire of Ethiopia and the Republic of Liberia', and consequently the Court did not pronounce on the substantive accusations made by Ethiopia and Liberia. The decision was a consequence of changes in the composition of the Court which had resulted in the minority of 1962 becoming the majority.

Developments to 1971

Revocation of the mandate

While the 1966 judgement by the International Court of Justice pleased South Africa, it astounded black Africa and disrupted the United Nations program for change in South West Africa. The General Assembly found itself without the support of the judicial determination it had been expecting. The Assembly had hoped that the Court's decision would be against South Africa and enforceable under Article 94 of the United Nations Charter.

South Africa hailed the decision as a 'victory' and conducted a skilful propaganda campaign. South West African black political leaders began to move away from reliance on an international solution and towards revolution as a means of change. Shortly after the judgment Jariretundu Kozonguizi, former president of the South West Africa National Union (SWANU), stated:

In fact, the decision of the International Court of Justice has had one positive result: It has underlined, for the people of South West Africa, that a direct confrontation with the government of South Africa may be inevitable. Unless the South West Africans are prepared to work from within, to rely primarily upon themselves, to mobilize their own physical and moral resources, it is difficult to see how, in the foreseeable future, South Africa can be uprooted from its entrenched position within the Territory. Since experience has taught Africans that external intervention in a struggle for liberation has never proved decisive against an organised internal force like that of South Africa, final victory in South West Africa can be guaranteed only by a disciplined resistance movement, above or underground, within the country itself.¹¹

The President of the South West Africa People's Organisation (SWAPO), Mr Sam Nujoma, declared that SWAPO was preparing for an armed struggle.

The United Nations response, on 27 October 1966, was to terminate the mandate for South West Africa. By 114 votes to two (South Africa and Portugal), and three abstentions (France, Malawi and the United Kingdom), the General Assembly adopted resolution 2145 (XXI). Because of the importance of this resolution in the history of the dispute between the UN and South Africa, the Committee has reproduced it in full:

The General Assembly,

Reaffirming the inalienable right of the people of South West Africa to freedom and independence in accordance with the Charter of the United Nations, General Assembly resolution 1514 (XV) of 14 December 1960 and earlier Assembly resolutions concerning the Mandated Territory of South West Africa,

Recalling the advisory opinion of the International Court of Justice of 11 July 1950, accepted by the General Assembly in its resolution 449 A (V) of 13 December 1950, and the advisory opinions of 7 June 1955 and 1 June 1956 as well as the judgement of 21 December 1962, which have established the fact that South Africa continues to have obligations under the Mandate which was entrusted to it on 17 December 1920 and that the United Nations as the successor to the League of Nations has supervisory powers in respect of South West Africa,

Gravely concerned at the situation in the Mandated Territory, which has seriously deteriorated following the judgement of the International Court of Justice of 18 July 1966,

Having studied the reports of the various committees which had been established to exercise the supervisory functions of the United Nations over the administration of the Mandated Territory of South West Africa,

Convinced that the administration of the Mandated Territory by South Africa has been conducted in a manner contrary to the Mandate, the Charter of the United Nations and the Universal Declaration of Human Rights,

Reaffirming its resolution 2074 (XX) of 17 December 1965, in particular paragraph 4 thereof which condemned the policies of apartheid and racial discrimination practised by the Government of South Africa in South West Africa as constituting a crime against humanity,

Emphasizing that the problem of South West Africa is an issue falling within the terms of General Assembly resolution 1514 (XV),

Considering that all the efforts of the United Nations to induce the Government of South Africa to fulfil its obligations in respect of the administration of the Mandated Territory and to ensure the well-being and security of the indigenous inhabitants have been of no avail,

Mindful of the obligations of the United Nations towards the people of South West Africa,

Noting with deep concern the explosive situation which exists in the southern region of Africa,

Affirming its right to take appropriate action in the matter, including the right to revert to itself the administration of the Mandated Territory,

1. *Reaffirms* that the provisions of General Assembly resolution 1514 (XV) are fully applicable to the people of the Mandated Territory of South West Africa and that, therefore, the people of South West Africa have the inalienable right to self-determination, freedom and independence in accordance with the Charter of the United Nations;
2. *Reaffirms further* that South West Africa is a territory having international status and that it shall maintain this status until it achieves independence;
3. *Declares* that South Africa has failed to fulfil its obligations in respect of the administration of the Mandated Territory and to ensure the moral and material well-being and security of the indigenous inhabitants of South West Africa and has, in fact, disavowed the Mandate;
4. *Decides* that the Mandate conferred upon His Britannic Majesty to be exercised on his behalf by the Government of the Union of South Africa is therefore terminated, that South Africa has no other right to administer the Territory and that henceforth South West Africa comes under the direct responsibility of the United Nations;
5. *Resolves* that in these circumstances the United Nations must discharge those responsibilities with respect of South West Africa;
6. *Establishes* an *Ad Hoc* Committee for South West Africa—composed of fourteen Member States to be designated by the President of the General Assembly—to recommend practical means by which South West Africa should be administered, so as to enable the people of the Territory to exercise the right of self-determination and to achieve independence, and to report to the General Assembly at a special session as soon as possible and in any event not later than April 1967;
7. *Calls upon* the Government of South Africa forthwith to refrain and desist from any action, constitutional, administrative, political or otherwise, which will in any manner whatsoever alter or tend to alter the present international status of South West Africa;
8. *Calls the attention* of the Security Council to the present resolution;
9. *Requests* all States to extend their whole-hearted co-operation and to render assistance in the implementation of the present resolution;
10. *Requests* the Secretary-General to provide all the assistance necessary to implement the present resolution and to enable the *Ad Hoc* Committee for South West Africa to perform its duties.

A recommendation that, unless South Africa complied with United Nations resolutions on South West Africa, the General Assembly terminate the mandate, had been made four years earlier, on 3 November 1962, by the Special Committee on South West Africa. No action was taken subsequently because of the case then before the International Court of Justice. Similarly, when the Report of the Odendaal Commission of Enquiry into South West Africa Affairs was presented in January 1964, the response of the United Nations was hostile and condemnatory (e.g. res. 2074(XX)). Because of the

litigation in the International Court of Justice, however, the United Nations did not seek then to terminate the mandate. South Africa delayed implementation of the Odenaal Report for the same reason, although it had accepted its proposals in principle.

United Nations Council for South West Africa

Arising out of the recommendations of the *Ad Hoc* Committee established by resolution 2145, the General Assembly, on 19 May 1967, adopted resolution 2248(S-V), which established the United Nations Council for South West Africa.

The Council, to comprise 11 members, was to administer the territory until independence, to promulgate such laws as were necessary until a legislative assembly was established, to draw up proposals for the establishment of a constituent assembly, to take all measures necessary for the maintenance of law and order, and to transfer all powers to the people of the territory upon its independence. The Council was empowered to delegate such executive and administrative tasks as it deemed necessary to a United Nations Commissioner for South West Africa. The Council, which was to be based in South West Africa, was requested to proceed there to take over the administration of the territory and ensure the withdrawal of South African police, military forces and other personnel.

The South African Government regarded the resolution as invalid and would not recognise the Council nor allow its members to enter the territory. Since then the Council has continued to function as best it could without being able to enter South West Africa.

The General Assembly strengthened and redefined the Council's activities by resolution 147 (XXXI), of 20 December 1976, as follows:

- (a) As an organ of the United Nations, it shall:
 - (i) Review annually the political, military, economic and social conditions affecting the struggle of the Namibian people for self-determination, freedom and independence in a united Namibia, and submit reports on the above with appropriate recommendations for consideration and action by the General Assembly;
 - (ii) Represent Namibia to ensure that the rights and interests of Namibia are protected, as appropriate, in all intergovernmental and non-governmental organisations, bodies and conferences;
 - (iii) Consult with Member States to encourage compliance with United Nations resolutions on Namibia;
 - (iv) Co-ordinate aid for Namibia provided by United Nations agencies and other bodies within the United Nations system;
 - (v) Act as trustee of the United Nations Fund for Namibia and in this capacity administer and manage the Fund;
- (b) As Administering Authority for Namibia, it shall:
 - (i) Examine periodically the deleterious consequences of the illegal South African administration in Namibia;
 - (ii) Formulate projects and programmes of assistance to Namibians;
 - (iii) Consult with the South West Africa People's Organisation, as appropriate, in the formulation and implementation of its programme of work;
 - (iv) Propose to the United Nations Development Programme projects of assistance to Namibians in accordance with the resources made available through the indicative planning figure for Namibia;
 - (v) Review and approve the annual budget of the United Nations Institute for Namibia at Lusaka, to be submitted to the Council by the Senate of the Institute, and make recommendations on the general direction of its work;
 - (vi) Formulate a policy of intensive dissemination of information on Namibia, in consultation with the Office of Public Information of the Secretariat.

The Council was expanded from the original 11 members to 18 in 1972, 25 in 1974 (when Australia joined) and 31 in 1978.

United Nations proclaims Namibia, 1968

On 12 June 1968 the General Assembly again condemned South Africa's action in refusing to allow the Council to enter the territory, by resolution 2372 (XXII). This resolution also proclaimed that henceforth South West Africa would be known as Namibia. The United Nations Council for South West Africa was renamed the United Nations Council for Namibia and the United Nations Commissioner for South West Africa became the United Nations Commissioner for Namibia.

The Odendaal Commission Report

In September 1962 the South African Government had appointed a Commission of Enquiry into South West Africa, under the Chairmanship of Mr F.H. Odendaal, Administrator of the Transvaal. Although the Commission was given the task of investigating means of advancing the well-being of the non-white population in Namibia, the terms of reference were fairly circumscribed in suggesting a policy of separate development for ethnic groups, and left little scope for the consideration of alternatives. The terms of reference were, *inter alia*:

- (1) Having regard to what has already been planned and put into practice, to enquire thoroughly into further promoting the material and moral welfare and the social progress of the inhabitants of South West Africa, and more particularly its non-White inhabitants, and to submit a report with recommendations on a comprehensive five-year plan for the accelerated development of the various non-White groups of South West Africa, inside as well as outside their own territories, and for the further development and building up of such Native territories in South West Africa.
- (2) With a view to this investigation, the attention of the Commission is particularly directed to the task of ascertaining—while fully taking into consideration the background, traditions and habits of the Native inhabitants—how further provision should be made for their social and economic advancement, effective health services, suitable education and training, sufficient opportunities for employment, proper agricultural, industrial and mining development in respect of their territories, and for the best form of participation by the Natives in the administration and management of their own interests. The Commission is empowered to investigate any other matter which in its opinion may be of importance in this connection, including the financial implications and the manner in which any appropriation of funds should take place.¹²

The Commission's report, entitled *The Report of the Commission of Enquiry into South West Africa Affairs 1962–1963* (the 'Odendaal Report'), was tabled in the South African Parliament on 27 January 1964. The 557-page report, with its 493 detailed recommendations, became the National Party Government's blueprint for separate development in Namibia.

The Commission made detailed proposals for constitutional changes based on the principle of self-determination and self-development of ethnic groups. It ruled out a central authority elected on a one-man-one-vote basis, arguing that this would be a source of continuing friction between population groups which would constrain the development of the territory. The Commission also made a large number of recommendations concerning economic development.

The Commission's report was summarised by Ellison Kahn, in the 1964 *Annual Survey of South African Law* (pp. 41–43), as follows:

If implemented its recommendations would mean the enlargement of non-White areas from about 26 to nearly 40 per cent of the territory, through accretions partly from adjoining

White farms (White areas at present are 48 per cent of the territory) but mainly from Government land and game reserves.

The total population of 526 004 in 1960 was found to fall into twelve ethnic groups: Whites: 73 464; Coloureds: 12 708, treated separately from the Basters (11 257) despite similarities of language and culture and a common 'Caucasian strain'; Ovambos: 239 363; Hereros: 35 354, treated separately from the Kaokovelders (9234) despite close relation in 'origin', language and culture; Okavangos: 27 871; Damaras: 44 353; East Caprivians: 15 840; Tswanas: 9992; Bushmen: 11 762; Namas: 34 806.

The creation of ten homelands for the non-White groups other than Coloureds is recommended. The government of the remainder of the territory would remain fundamentally as at present, but a 'large range of functions' would be transferred to the South African Government.

The proposed Rehoboth Gebiet of the Basters and Namaland of the Hottentots, both situate in the middle of the southern part of the territory, would be administered by the [South African] Department of Coloured Affairs, the other homelands (all situate in the north, except for tiny Tswanaland, on the mid-Eastern border) by the [South African] Department of Bantu Administration and Development. 'Diplomatic' links between the homelands and the Republican Government should be through one or perhaps two commissioners-general.

Forms of home rule, varying in details but not in principles are proposed for Ovamboland, Okavangoland, Koakoveld, Damaraland, Hereroland, East Caprivi and Namaland. Typical is the plan for Ovamboland. There would be a Legislative Council with limited powers, composed of a majority of *ex officio* chiefs and headmen and a minority of elected members. It would elect an Executive Council. The franchise would be granted to all Ovambos in South West Africa over 18 years of age. 'Citizenship' of Ovamboland, to be created by legislation, would be granted to all Ovambos.

The Tswanas, whose numbers are limited, would initially be placed under a 'community authority' consisting of a headman and two councillors.

The politically innocent Bushmen would be placed 'under the guidance and protection' of a Commissioner as 'there is no conceivable form of self-government' in which they could participate.

The Basters at Rehoboth would be granted a form of self-government 'in terms of a constitution arrived at through consultation between the Baster community and the Government of South Africa'.

The Coloured would have no territorially distinct homeland, only a Coloured Council on the Republican model.

Where their numbers warranted it, the various non-White groups (Bantu, Coloureds, Basters and Namas) would have their own separate townships in White urban areas, with their own councils.

It has been calculated that the creation of the homelands, on 1960 population figures, would involve the movement of 130 000 non-Whites, amounting to nearly 29 per cent of the non-White population and 25 per cent of the total population. They would be mainly Hereros, Damaras, Namas and Bushmen.

The Commission recommended a five-year economic development plan involving an expenditure by the Republican Government of R156 million, followed by a second five-year plan involving such expenditure of some R91 million, during which stage surveys would be made for a suggested third five-year plan.¹³

In ruling out one central government and recommending the creation of a homeland for each ethnic group, the Commission stated:

The numerical strengths of the various population groups vary so much that if, say, a system of one man one vote were to be introduced for the Territory, with one central authority, the result would be that one group, the Ovambo, representing almost half the population, would completely dominate the other groups . . . one central authority, with all groups represented therein, must be ruled out and that as far as practicable a homeland must be created for each population group, in which it alone would have residential, political and language rights to the exclusion of other population groups, so that each group would be

able to develop towards self-determination without any group dominating or being dominated by another.¹⁴

The locations of the homeland territories as recommended by the Odendaal Commission are shown in the map at the front of this Report.

Implementation of the Odendaal Report

In a White Paper tabled on 29 April 1964 the South African Government accepted the report in principle, and announced that it would proceed to implement some of its recommendations relating to social and economic matters, but would not give effect to proposals concerning homelands at that stage because of the case then before the International Court of Justice.

After the Court's decision in 1966 and subsequent developments in the United Nations, South Africa began to implement the remaining Odendaal Commission recommendations. In 1968 the South African Parliament passed the Development of Self-government for Native Nations in South West Africa Act. This Act, in the words of a Government memorandum explaining its objectives, 'is designed to enable the different groups in South West Africa to exist in every respect as nations proper, each with its own area and its own political system . . . the Government is taking an irrevocable first step in the direction of conferring self-government on such nations'.

The Act defines six areas for the following 'native nations': Damaraland, Hereroland, Kaokoland, Okavangoland (renamed Kavango in 1972), East Caprivi and Ovamboland (renamed Owambo in 1972). Further areas could be set apart for 'native nations' by proclamation. The Act provided for the establishment of legislative councils for each homeland, to be responsible for such matters as education, welfare services and clinics, control of business and trading undertakings, roads, bridges, dams, water and sanitation, soil erosion, farming, afforestation, administration of justice (particularly in accordance with tribal laws and customs), labour bureaux, registration of members of the 'native nation', direct taxes on members of the 'native nation', and any matter assigned by resolution of the South African Senate and House of Assembly. A legislative council was empowered to make enactments on all such matters and, subject to the approval of the State President, to enforce any such enactment against members of the 'native nation' outside the homeland but within South West Africa. Overriding powers to make laws and the power of veto were given to the State President.

Executive government in each homeland was vested in an executive council drawn from members of the legislative council and proclaimed by the State President. The executive council could establish administrative departments to assist it. The State President could also establish tribal, community and regional authorities, as required.

On 2 October 1968 the State President granted recognition to the seven tribal authorities of Ovamboland, stating that they should continue to function according to tribal law and custom. On the same day, a legislative council was established to consist of not more than six members designated by each of the tribal areas. In nearly all legislative council proceedings voting was by tribal delegation, each delegation having one vote. The executive council consisted of seven councillors—one nominated by each tribal group. From these seven a chief councillor was elected by members of the legislative council. Thus the legislative and executive councils operated on a federal non-elective basis. The first session of the Ovamboland Legislative Council began on 17 October 1968.

Legislative and executive councils were created for Okavangoland in 1970 and East Caprivi in 1972. Damaraland was first given an interim administrative body, the Damara Council, in August 1971 and was granted its legislative council only on 28 July 1979. The Damara Council was an elected body, as the positions of headmen were not

hereditary, and all 33 councillors were elected by secret ballot. The Rehoboth Basters were granted a legislative council on 24 March 1976 and the Nama on 9 July 1977.

In 1973 Owambo (1 May 1973) and Kavango (9 May 1973) were granted self-governing status, under the terms of the Development of Self-government for Native Nations in South West Africa Amendment Act 1973. This meant they were able to have a Cabinet of Ministers, their own flag and national anthem and a high court. The Owambo Legislative Council became a 56-seat body, with 21 filled by adult suffrage, while the Kavango Legislative Council became a 30-seat body with 15 seats filled by election. East Caprivi became the third self-governing territory on 1 April 1976 with a legislative council of two chiefs, 18 members designated by the two tribal authorities and 12 elected members. The Herero refused to participate in the homelands policy.

While the blacks were being given limited powers in their homelands, the powers of the white Legislative Assembly were being correspondingly reduced. The South West Africa Constitution Act of 1925 was replaced by a new consolidating measure, the South West Africa Constitution Act of 1968, and in 1969 the South West Africa Affairs Act was passed. When introducing the latter, the Minister for the Interior said that South Africa would continue to administer the territory in the spirit of the mandate and the Bill was designed to facilitate such administration. The Act provided for tighter control of Namibia's administration, with South Africa assuming direct control of a number of functions previously performed by the South West Africa Legislative Assembly. The scope of this body was limited to those matters normally handled by a provincial administration in South Africa. The Act also enabled the President, on the advice of the South African Cabinet, to apply any South African law to Namibia, amended in any way, without parliamentary review.

A number of points can be made about the Odendaal Commission plan and its implementation. The new governing bodies were in the main closely linked to traditional institutions and/or were dominated by traditional or relatively conservative leaders (tribal chiefs, headmen). Many of the leaders were poorly educated, with little administrative experience. These factors, plus a strong element of paternalistic control by the South African Department of Bantu Administration and Development and the Department of Coloured, Nama and Rehoboth Relations, resulted in the steady development of the homelands policy. However, at the same time large numbers of younger, better educated blacks were being alienated by a combination of the emphasis on separate development and the poor performance and seeming acquiescence of traditional leaders to white control. Their exclusion from the political process caused a considerable degree of polarisation among blacks and assisted the growth of organisations such as SWAPO.

South African implementation of the Odendaal Commission plan was vigorously condemned in the United Nations. Further condemnation was drawn by another event which occurred in the same period. This was the 'Terrorism Trial' of 1967-68.

The 'Terrorism Trial'

The discovery of 'terrorist groups' in South West Africa in 1966 and early 1967 caused the Government of South Africa to pass the Terrorism Act of 1967, which was declared applicable to South West Africa. The Act provided the death penalty for a number of offences and was made retrospective to June 1962. The Act also reversed the onus of proof. A number of persons had been detained without trial in 1966 and 1967, including the political leaders of SWAPO, and 37 were brought to trial in Pretoria on 11 September 1967 (*State v Tuhadeleni and others*)¹⁵, charged with having participated in a conspiracy to overthrow the Government of South West Africa. One of those charged was Herman Toivo ja Toivo, a leader of SWAPO. Upon his conviction and sentence to

20 years' imprisonment, Herman ja Toivo made an impassioned plea to the Court on behalf of his country. The text of this speech is reproduced in Appendix 3.

On 26 January 1968 the Court found 30 of the accused guilty of offences under the Terrorism Act and three of offences under the Suppression of Communism Act. Of the remaining four, one died, one was too ill to attend court and two were discharged. Of those convicted, 19 were sentenced to life imprisonment, nine to 20 years' imprisonment and two to five years' imprisonment (five of the life sentences were reduced to 20 years on appeal).

International response to the trial was swift. The General Assembly, on 16 December 1967, during the course of the trial, adopted resolution 2324 (XXII), which condemned the illegal arrest, deportation and trial in Pretoria of the 37 as 'a flagrant violation by the Government of South Africa of their rights [and] of the international status of the Territory'.

The 'Terrorism Trial' caused the Security Council to take a stand on South West Africa for the first time. On the eve of the verdict, the Security Council passed resolution 245, which unanimously condemned the trial as illegal. On 14 March 1968, the Security Council passed another unanimous resolution, no. 246, which censured South Africa for defying resolution 245 and demanded that the convicted prisoners be released immediately.

The main result of the trial internationally was that it brought the 20-year old dispute over Namibia before the Security Council which, by the wording of its resolutions, appeared to indicate support for the General Assembly decision to terminate the South African mandate—for only if the mandate had been terminated could the trial be declared to be illegal. But while the 'Terrorism Trial' may have weakened South Africa's position internationally, it strengthened it domestically with the South African courts confirming South Africa's power to legislate for the territory, even if such legislation were in conflict with guarantees in the mandate agreement.¹⁶

Further Security Council action

The Security Council responded further on 20 March 1969 when it adopted resolution 264 by 13 votes to none with two abstentions (France and the United Kingdom). The resolution specifically recognised the General Assembly's termination of the mandate of South Africa over Namibia and its assumption of direct responsibility for the territory, considered the continued presence of South Africa in Namibia as illegal and called on South Africa to immediately withdraw. It declared that the action of South Africa in setting up 'Bantustans' was contrary to the United Nations Charter and that South Africa had no right to enact the South West Africa Affairs Act. The resolution also condemned South Africa for failing to comply with previous General Assembly and Security Council resolutions.

South Africa responded on 30 April, rejecting the resolution on the grounds that there was no legal basis for either the Security Council or the Council for Namibia to intervene. The Security Council responded on 12 August by deciding (res. 269) that South Africa's continued presence in Namibia 'constitutes an aggressive encroachment on the authority of the United Nations, a violation of the territorial integrity and a denial of the political sovereignty of the people of Namibia'. The Security Council called upon South Africa to 'withdraw its administration from the territory immediately and in any case before 4 October 1969'. South Africa refused to withdraw, setting out its

reasons in a letter and 115-page memorandum, which challenged the legal bases of UN actions.

On 30 January 1970 the Security Council adopted resolution 276 in which it strongly condemned South Africa, again declared South Africa's presence in the territory as illegal, and called upon all States, particularly those with economic and other interests in Namibia, to refrain from any dealings with the Government of South Africa inconsistent with the terms of the resolution. The resolution also established an *Ad Hoc* Sub-Committee of the Security Council to consider ways and means of effectively implementing the Council's resolutions on Namibia.

The *Ad Hoc* Sub-Committee recommended a variety of political, economic, legal and military actions which might be pursued, and also suggested that a further advisory opinion be obtained from the International Court of Justice. When the Security Council next considered the matter it adopted two resolutions. In resolution 283, of 29 July 1970, it requested all States to refrain from any relations with South Africa which implied recognition of the authority of the South African Government over the territory of Namibia. In resolution 284, also of 29 July 1970, the Security Council noted the recommendation of the *Ad Hoc* Sub-Committee on the possibility of requesting an advisory opinion and decided to submit the following question to the International Court of Justice:

What are the legal consequences for States of the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (1970)?

This was the first time in the history of the Security Council that it had asked the International Court of Justice for an advisory opinion.

International Court of Justice—1971 advisory opinion

The International Court of Justice gave its decision on 21 June 1971, as follows:

- (1) that, the continued presence of South Africa in Namibia being illegal, South Africa is under obligation to withdraw its administration from Namibia immediately and thus put an end to its occupation of the territory (13 votes to 2);
- (2) that States Members of the United Nations are under obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf of or concerning Namibia, and to refrain from any acts and in particular any dealings with the Government of South Africa implying recognition of the legality of, or lending support or assistance to, such presence and administration (11 votes to 4);
- (3) that it is incumbent upon States which are not Members of the United Nations to give assistance, within the scope of subparagraph (2) above, in the action which has been taken by the United Nations with regard to Namibia (11 votes to 4).¹⁷

The Court held that the mandate had been validly revoked and that South Africa was illegally in the territory. The Court decided that the mandate did not lapse with the demise of the League of Nations, that the League's supervisory functions over mandates were transferred to the United Nations as the successor of the League, that because the General Assembly was the supervisor of the transferred mandate it was entitled to revoke it in 1966 and that subsequent Security Council resolutions were binding on United Nations members. The majority opinion contained matters of far-reaching significance, which are still under debate today, concerning the powers both of the General Assembly and the Security Council.

In the course of the proceedings, South Africa requested that a plebiscite be held of the inhabitants of the territory, under the supervision of the Court and of the Government of South Africa, to determine whether they wished South Africa to continue administering the territory or whether it should be administered by the United Nations. The Court refused the request on 17 May 1971.

South Africa responded on the same day that the Court's opinion was delivered. The South African Prime Minister, Mr Vorster, made a statement in which he rejected the Court's decision on the grounds that it was not based on true legal reasoning and that double standards were evident—especially in regard to the Court's reasoning on the right of peoples to self-determination. Mr Vorster also saw the decision as being politically motivated. He concluded his statement by saying:

It is our duty to administer South West Africa so as to promote the well-being and progress of its inhabitants. We will carry out this duty with a view to self-determination for all population groups.¹⁸

The Security Council met on 25 September 1971 to consider the opinion and, on 20 October, accepted it. The acceptance resolution, no. 301, called once again on South Africa to withdraw from the territory and also called upon all States to observe the obligations set out in the Court's opinion. The 1971 opinion was the last on the Namibia issue to be given by the International Court of Justice.

UN-South Africa discussions

During a special meeting on African problems in Addis Ababa on 4 February 1972, the Security Council authorised the Secretary-General, Dr Kurt Waldheim, to enter into discussions 'with all parties concerned' on the future of Namibia (res. 309).

The Security Council also passed a resolution (310) condemning 'recent repressive measures against the African labourers in Namibia'—a reference to measures taken by the authorities during the General Strike by mainly Ovambo workers against the contract labour system and influx control measures in December 1971—January 1972. The Security Council called on South Africa 'to end immediately these repressive measures and to abolish any system of labour which may be in conflict with basic provisions of the Universal Declaration of Human Rights'. States were urged to ensure that their nationals and corporations conformed in their policies of hiring Namibian workers to the basic provisions of the Declaration.

Against this background, Dr Waldheim visited South Africa and Namibia on 6 to 10 March 1972. Little progress was made, but the talks were continued by the Secretary-General's personal representative, Dr A.M. Escher, a retired Swiss diplomat, from 8 October to 3 November 1972. Dr Escher reported later in November that the South African Prime Minister, Mr Vorster, in the course of the discussions had said he would be prepared to establish a multi-racial advisory council and also to remove some 'restrictive' legislation.

The South African Government proceeded with the establishment of the proposed multi-racial advisory council during 1973 and the first formal session was held on 23 March 1973. The first move on the question of easing restrictive legislation came in May 1975 when the influx control measures that had existed since 1936 were eased. Residents of the territory were able to visit anywhere, but still needed a 'service contract' if they were going to work or remain.

Dr Waldheim finally reported back to the Security Council in April 1973. He concluded that South Africa's policies for Namibia were 'still far from coinciding with that established in the resolutions of the United Nations concerning Namibia'. The Secretary-General queried whether he should continue his efforts.¹⁹ On 11 December 1973 the Security Council unanimously voted to end the attempt to establish meaningful talks with the South African Government over Namibia's future (res. 342).

Recognition of SWAPO

In June 1973 in Lusaka, Zambia, the United Nations Council for Namibia adopted a policy statement which became known as the Lusaka Declaration. In the Declaration the Council stated that it was determined to give all the support it could muster to the people of Namibia, under the leadership of the South West Africa People's Organisation (SWAPO) which, it said, was leading the legitimate armed struggle for the freedom and independence of Namibia.

On 12 December 1973 the General Assembly, by resolution 3111 (XXVIII) recognised SWAPO as 'the authentic representative of the Namibian people' and supported 'the efforts of the movement to strengthen national unity'. A year later, on 13 December 1974, the General Assembly, by resolution 3295 (XXIX), reiterated that the national liberation movement of Namibia, SWAPO, was 'the authentic representative' of the Namibian people. The Assembly also authorised the financing of a SWAPO office in New York to ensure the 'proper representation of the people of Namibia through the South West Africa People's Organisation at the United Nations', and reaffirmed 'the legitimacy of the struggle of the Namibian people by all means at their disposal against the illegal occupation of their country by South Africa'. Resolution 3399 (XX), of 26 November, again described SWAPO as the authentic representative of the Namibian people.

Then, on 20 December 1976, the General Assembly, by resolution 31/146, recognised SWAPO as 'the sole and authentic representative' of the Namibian people, declared its support of 'the armed struggle of the Namibian people, led by the South West Africa People's Organization, to achieve self-determination, freedom and national independence in a united Namibia', appealed to all member States to grant 'all necessary support and assistance' to SWAPO, and decided that any independence talks regarding Namibia 'must be between the representatives of South Africa and the South West Africa People's Organisation, under the auspices of the United Nations, for the sole purpose of discussing the modalities for the transfer of power to the people of Namibia'. The General Assembly also urged the Security Council to impose a mandatory arms embargo against South Africa because of its failure to comply with Security Council demands on Namibia.

By resolution 31/152 the General Assembly invited SWAPO to participate in the capacity of observer in the sessions and work of the Assembly and in all international conferences convened under the auspices of the Assembly.

The negotiations of the early 1970s had given way to a more militant stand, with sole recognition being given to the major resistance movement in Namibia. The hardening of the United Nations' attitude was evidenced also by the General Assembly decision in September 1974 to reject South Africa's credentials and, when France, the UK and the USA vetoed a move in the Security Council to expel South Africa, the decision of the

General Assembly on 12 November to suspend South Africa from further participation in its 1974 proceedings. Australia was one of 22 countries which opposed this move.

The Turnhalle period 1974–77

South Africa's views on Namibia's political future began to undergo a major change in the early 1970s. A combination of increasing opposition within Namibia to its plans for the creation of independent homelands and external opposition centred on the United Nations (with the possibility of direct Security Council action) caused South Africa to change tack. The South African rethink was reinforced by the coming to independence of Angola in 1975 under a revolutionary regime. South Africa began to talk of self-government and independence for the territory as a whole rather than for individual homelands—but with a central government based on ethnic groups rather than one-man-one-vote.

South West Africa Advisory Council

A first step towards eventual self-government for the territory was the formation of the Prime Minister's Advisory Council for South West Africa in March 1973. The Prime Minister, Mr Vorster, saw the Council as a body which could 'discuss matters of broad mutual concern to promote understanding between the various "groups", and to create a forum whereby they could gain experience in self-government'.²⁰ Each population group, including the white, was invited to nominate two representatives, except the Bushmen and Tswana, which were allowed one each. The first formal session was held on 23 March 1973. The representatives were mainly tribal chiefs and headmen. The Nama, Rehoboth Basters and Koakolanders refused to nominate representatives and Chief Clemens Kapuuo, the Herero chief, refused to sit on the Council. Although the Council failed as a representative body and had no real power, it was noteworthy as being the first major multi-racial institution created by a South African National Party Government in Namibia.

The Turnhalle Constitutional Conference

After discussions with his Advisory Council Mr Vorster announced on 27 September 1974 that the Council had unanimously endorsed a decision to hold constitutional talks leading to independence.

On 27 May 1975 South Africa formally advised the United Nations that it recognised the international status of the territory and that it was its intention to undertake a process of constitutional consultation to determine the wishes of the Namibian people regarding their future. South Africa again advised that it did not intend to withdraw from the territory during negotiations for independence. The Security Council, by resolution 366 of 17 December 1974, had demanded South Africa's withdrawal, but to no avail.

The constitutional talks referred to by Mr Vorster began on 1 September 1975 in the form of a conference of representatives of the various Namibian ethnic groups at the Turnhalle—a former German gymnastics hall built in 1913. Political parties were excluded. A number of the black political parties held a rival constitutional conference at Okahandja. The Okahandja National Unity Conference, as it was called, produced a draft constitution for a non-racial, democratic and independent government, and called on South Africa to stop implementing its homelands scheme.

The Turnhalle Conference reached agreement on 18 March 1977 on a draft constitution for an interim government prior to independence, after a number of negotiating sessions spread over nearly two years. The target date for independence was set as 31 December 1978. The draft constitution provided for an interim three-tier system of government—a central National Assembly composed of members designated or elected by the various ethnic groups, a regional second tier of existing homeland governments, and a third tier of local government bodies. South Africa was left in charge of defence, internal security, foreign affairs, communications, transport, customs and excise, and currency during the interim period. A declaration of rights was also included.

The first tier of government was to comprise a President as ceremonial Head of State, a legislature (the National Assembly), and an executive (the Council of Ministers). The National Assembly was to comprise 60 members, with the 11 ethnic groups represented on a sliding scale according to numerical strength, as follows: Ovambos—12; whites—six; Damaras, Hereros, Kavangos, Namas, coloureds, and East Caprivians—five each; Bushmen, Rehoboth Basters, and Tswanas—four each. The National Assembly could also provide for other groups to be represented, in defined circumstances. The Council of Ministers was to comprise a Chairman appointed by the National Assembly plus 11 Ministers—one from each ethnic group. Discussions were to be by consensus or majority vote. The actual drafting of the independence constitution would be carried out by the Council of Ministers, for approval by the Assembly. On 16 May 1977 a referendum was held to determine whether whites in Namibia supported the proposals. White voters were asked:

Are you in favour of the establishment of an interim government and independence for the territory of South West Africa in accordance with the principles accepted by the constitutional conference?

A majority of the white electorate endorsed the plan—32 029 voted 'yes' (95 per cent of valid votes cast) and only 1700 voted 'no'.²¹

However, the Turnhalle proposals were rejected by the international community on a number of grounds: the Turnhalle Conference had been held outside United Nations auspices, SWAPO and other political parties had not been represented, and the recommendations were based on a continuation of ethnic divisions with whites retaining indirect *de facto* control. SWAPO announced that it would not participate in any pre-independence elections unless they were held on non-ethnic lines and were controlled by the United Nations, unless South Africa abandoned its plan to establish an ethnic-based interim government, and unless South African security forces were withdrawn before the elections so that the people might express themselves freely.²²

The 'Group of Five'

On 7 April 1977 the then Western members of the Security Council—France, West Germany, Canada, the United States of America and the United Kingdom—informed the South African Government that the Turnhalle proposals were unacceptable to the West and would not gain approval. The five called on South Africa to implement Security Council resolution 385, of 30 January 1976.

In this resolution, passed while the Turnhalle Conference was under way, the Security Council had called on South Africa to end its policy of establishing homelands 'aimed at violating the national unity and the territorial integrity of Namibia'. The resolution declared that, in order to enable the people of Namibia freely to determine their

own future, it was imperative that free elections under the supervision and control of the United Nations be held 'for the whole of Namibia as one political entity' and that, in determining the timetable and modalities for such elections, there should be adequate time, to be decided upon by the Security Council, for the purpose of 'enabling the United Nations to establish the necessary machinery within Namibia to supervise and control such elections, as well as to enable the people of Namibia to organise politically for the purpose of the elections'. The Security Council demanded that South Africa make a solemn declaration accepting these provisions. South Africa was again called on to end its administration of the territory, release all political prisoners, allow the return of Namibian exiles and remove all racially discriminatory laws and practices.

After discussions with the Western five South Africa announced on 10 June 1977 that the Turnhalle proposals for an interim government would be set aside and that an Administrator-General would be appointed to administer the territory until a constituent assembly was elected. Mr Justice M.T. Steyn was appointed and took office on 1 September 1977.

Mandatory arms embargo

On 20 December 1976 the General Assembly, in resolution 31/146, requested all States to 'cease and prevent' the supply of arms and ammunition to South Africa and the supply of aircraft, vehicles or other military equipment, including spares, for the use of armed forces, paramilitary or police organisations in South Africa. The request for a voluntary embargo was included in the resolution recognising SWAPO as 'the sole and authentic representative' of the people of Namibia.

A year later, on 4 November 1977, the Security Council, by resolution 418, imposed a mandatory arms embargo against South Africa. This was the first time in the history of the United Nations that action had been taken against a Member State under Chapter VII of the Charter, which is concerned with action in respect of threats to the peace, breaches of the peace and acts of aggression.

The Council determined that South Africa's acquisition of arms and related materiel constituted 'a threat to the maintenance of international peace and security', and decided that all States 'shall cease forthwith any provision to South Africa of arms and related materiel of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, paramilitary police equipment, and spare parts'. The Council also called upon all States to refrain from co-operation with South Africa in the development and manufacture of nuclear weapons.

The resolution, adopted unanimously, was not taken in the specific context of Namibia, but rather in the context of action against apartheid, South African Government repression of opponents of its apartheid policies and South African 'attacks against neighbouring independent States'.

Conclusion

Namibia has been in dispute between South Africa and the United Nations since that organisation was formed in 1945. When the South African Government refused to

enter into a trusteeship agreement in 1946 after the dissolution of the League of Nations, persistent UN efforts to persuade South Africa to change its mind continued until 1966 when the General Assembly voted to terminate South Africa's mandate and assume control of the territory itself.

The UN move was largely a symbolic one. Although supported by a subsequent International Court of Justice opinion, the UN decision did not result in any real change in the status of the territory. In the face of South Africa's refusal to give up its administration and withdraw from the territory the UN was powerless to act short of Security Council decisions to impose sanctions or to use force. The latter was not a viable option and the former has only been used to a limited extent so far, namely in the imposition of a mandatory arms embargo.

The last decade has, however, seen a shift in the South African attitude—a shift away from incorporation of the territory into the Republic and towards granting the territory independence. This has resulted in no small part from persistent and increasing pressure from the UN, as well as from other factors such as the increasing intensity of the guerilla war involving SWAPO and the coming to independence of Angola and Mozambique.

Since about 1975 South Africa has sought a solution which would best meet demands for independence for the territory while causing the least disruption to South Africa's strategic, political and economic interests. Its preferred solution, as at 1977, was the establishment of a stable, ethnically-based and friendly government which would allow Namibia to remain a buffer against external attack by nationalist forces and which would permit continuing South African domination of the Namibian economy. Even this goal, as the next chapter will show, appears now to be becoming increasingly elusive.

NOTES AND REFERENCES

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Towards independence— 1977–82

Introduction

The aim of negotiations on Namibia in the past six years has been to find a formula for Namibian independence acceptable both to South Africa and SWAPO—the major protagonists in the dispute over the territory. The role of ‘honest broker’ between the two has been filled by a group of five Western countries—Canada, France, West Germany, the United States of America and the United Kingdom, known variously as the Contact Group, the Western Group of Five or simply as the Five. The negotiations have involved not only the two main protagonists but have included groups such as the internal political parties in Namibia on the one hand and the Front-Line States and Organisation of African Unity on the other. Overseer and final arbiter in the whole process is the United Nations.

The Contact Group came into being in 1977 when its members—then the five Western members of the Security Council—got together to advise South Africa that the Turnhalle proposals for independence were unacceptable to the West and would not gain approval. The Group intervened partly to try and forestall a UN mandatory arms embargo on South Africa, then being called for by African States. The embargo was subsequently imposed but the work of the Contact Group continued.

After its initial approach to South Africa in April 1977, the Contact Group continued to negotiate various proposals and refinements over the next five years. The negotiations are outlined in this chapter. The more important events in the period were the proximity talks of February 1978; the UN implementation plan, with its UNTAG proposals, of August–September 1978; internal elections in Namibia in December 1978, despite UN opposition; the establishment of an internal National Assembly in May 1979; negotiations on a demilitarised zone, including ‘simultaneous discussions’ in Geneva in late 1979; the pre-implementation meeting in Geneva in January 1981; and the three-phase settlement proposals of 1982.

Over the period there have been numerous United Nations resolutions on Namibia. Since 1978 most of these have been directed at encouraging South African compliance with Security Council resolution 435, of 29 September 1978. This resolution approved a comprehensive plan by the Secretary-General for the implementation of a settlement under UN supervision and control. Resolution 435 has been the basis of all subsequent Contact Group and UN negotiations.

The past five years have also seen a number of internal developments, including South African attempts to create a viable DTA-led government in Namibia with greater control over most aspects of Namibian administration, further removal of racially discriminatory provisions in legislation, and the reversion of Walvis Bay to direct South African administration (see next chapter). Early this year there were signs of a possible break-up of the DTA with the defection of two of its member parties.

South West Africa Constitution Amendment Act

The appointment of an Administrator-General for South West Africa, referred to in the previous chapter, was preceded by the enactment of the South West Africa Constitution Amendment Act of 1977. This amended the 1968 principal Act to enable the State President, by proclamation in the *Gazette*, to make laws for the territory of South West Africa 'with a view to the eventual attainment of independence by the said territory'.

The President was empowered to repeal or amend any legal provision, including the Constitution Amendment Act itself (except for provisions requiring that proclamations be tabled in the South African Parliament), and any other Act of Parliament insofar as it related to or applied to the territory. The office of Administrator-General itself was established on 19 August 1977, and Proclamation 181 of the same date empowered the Administrator-General to make laws for the territory by proclamation in the *Official Gazette* of the territory. Subject to the provisions of the Constitution Amendment Act the Administrator-General was also empowered to repeal or amend any legal provision, including any Act of Parliament, insofar as it related to or applied to the territory.

Proclamation R202 of 31 August 1977 provided for Walvis Bay to be administered as part of the Province of the Cape of Good Hope, rather than as part of the territory of South West Africa, as from 1 September. Representation of Namibia in the South African House of Assembly was abolished by Proclamation R249 of 28 September 1977.

The Administrator-General, Mr Justice M.T. Steyn, began his administration by lifting or easing a number of apartheid measures. In October 1977 he repealed all laws prohibiting sex and marriage across the colour line and also relaxed the pass laws (except in the diamond area, areas in which military operations were being conducted and the Angolan border area). Blacks still had, however, to obtain permission to seek work and be employed in urban areas. He also allowed the internal wing of SWAPO to hold a meeting in Owambo on 9 October, relaxing a ban on such meetings which had been in force since 1972.¹

In November 1977, a number of emergency regulations were relaxed, and the separate Bantu education curriculum was abolished. In the following year Mr Justice Steyn announced there would be equal pay for equal qualifications and work in the territory's administration and public service, and blacks would no longer be banned from trade union membership. The Administrator-General also assumed control over a number of functions previously administered directly by South Africa.

It was against this background of a relaxation of some aspects of South Africa's administration, particularly the apartheid laws, that negotiations continued towards possible independence for Namibia.

Initial Contact Group negotiations

After their initial approach to South Africa in April, the Contact Group, for the remainder of 1977, continued discussions with South Africa and also with SWAPO, various groups inside Namibia, the United Nations and the Front-Line States (Angola, Botswana, Mozambique, Tanzania and Zambia, and joined in 1980 by Zimbabwe). Their aim was to establish a common ground between the parties which could lead to

negotiations for Namibian independence, based on Security Council resolution 385 of 30 January 1976.

At the request of the Contact Group, a second round of talks was held with South Africa in Cape Town, on 8 to 10 June 1977. During these talks, South Africa consulted with representatives of the Turnhalle Conference, and it was only after these consultations that South Africa announced it would abandon proposals to implement the draft interim constitution and instead appoint an Administrator-General. The Administrator-General would act as an impartial interim authority in the territory until elections could be held and a government installed in terms of a constitution to be adopted by an elected constituent assembly.²

South Africa and the Contact Group agreed in principle on a number of issues, including territory-wide elections by secret ballot on the basis of universal adult suffrage; freedom of speech, press and assembly; repeal of discriminatory and restrictive laws; release of Namibian detainees by South Africa, provided Namibians detained in other countries were also released; and the free return of all Namibians outside the territory. Agreement was also reached for a Special Representative of the Secretary-General, together with supporting personnel, to go to Namibia at the earliest possible stage in the transitional period. The question of Walvis Bay was excluded from the negotiations.

A number of differences remained, however, and a key difference not resolved was the timing of independence. South Africa stated that it was committed to the Turnhalle-nominated date of 31 December 1978 for independence, and suggested that the process of electing the constituent assembly be completed by 31 December 1977. The Contact Group argued that considerable time would be needed to prepare adequately for the election of a constituent assembly, its deliberations and subsequent elections for a national government.

‘Proximity talks’ and the ‘final proposal’

Subsequent efforts of the Contact Group were directed at obtaining agreement for ‘proximity talks’ (separate but simultaneous talks) to be held with South Africa and SWAPO, at which final differences could be discussed. The Contact Group continued discussions with all interested parties, including a third round of talks with South Africa in September and a fourth round in December.

The issue of the timing of independence was raised again when, on 15 January 1978, the South African Foreign Minister, Mr R.F. Botha, commenting on the failure of the parties to agree on a date for proposed talks, warned that South Africa might go ahead with an internal settlement if efforts to achieve an internationally acceptable independence formula were delayed. Agreement was finally reached for proximity talks to be held in New York on 11 and 12 February 1978, at Foreign Minister level.

The main sticking points to emerge from the proximity talks were the questions of law and order, the level of South African military involvement in Namibia in the transitional period, the role, composition and functions of the UN force, and the future of Walvis Bay. After further consultations with the South African Government, SWAPO, political and church groups in Namibia and the Front-Line States, the Contact Group submitted a modified ‘final’ proposal for independence to the parties on 28 to 30 March 1978 and to the Security Council on 10 April. The proposal envisaged:

- free elections for the whole of Namibia as one political entity, under UN supervision and control, for the purpose of electing a constituent assembly to draw up and adopt a constitution for an independent Namibia;
- the appointment of a Special Representative by the UN Secretary-General to ensure the transition was carried out according to the agreed conditions;
- the establishment of a UN Transition Assistance Group (UNTAG), comprising both civil and military personnel, to assist the Special Representative (civilian component) and to ensure that the provisions of the agreed solution were observed by all parties (military component);
- the repeal of all remaining discriminatory or restrictive laws;
- the release of all Namibian political prisoners or detainees held by the South African authorities;
- the establishment of conditions allowing the return of all Namibians outside the territory;
- the cessation of all hostile acts by all parties, and the restriction of South African and SWAPO armed forces to established bases under UN supervision;
- the phased withdrawal of all but 1 500 South African troops;
- the demobilization of all citizen, commando and ethnic forces;
- the return of SWAPO personnel outside the territory through designated entry points; and
- primary responsibility for the maintenance of law and order during the transition period to rest with the existing police forces, supported by UN personnel.

The Special Representative was to work with the Administrator-General to ensure an orderly transition to independence. Neighbouring countries were requested to co-operate where possible. The Contact Group's settlement proposal stated that the implementation of the electoral process, including the proper registration of voters, would have to be conducted to the satisfaction of the Special Representative. The proposal omitted any reference to the present or future status of Walvis Bay. The date for independence was still 31 December 1978.

On 25 April 1978 South Africa announced its acceptance of the proposal. In doing so, the South African Prime Minister stressed that South Africa's acceptance came after his Government had received certain assurances. These included that South Africa would be guided by the constituent assembly in regard to the withdrawal of the 1500 remaining South African troops one week after certification of the elections (as provided in the proposal), that the Administrator-General would head the administrative structure of the territory and that the UN Special Representative would work with him, that there should be a complete cessation of hostilities before any reduction of South African forces took place, that the primary responsibility for maintaining law and order would rest with the existing police forces, and that the issue of Walvis Bay was not included.

Acceptance was also based on assurances by the Contact Group that their proposal was in a final and definitive form and that the five Western Powers were giving the proposal their unreserved backing.

SWAPO, during the Contact Group's initial discussions with South Africa, had rejected the Western initiative, declaring that the only body entitled to negotiate with South Africa was itself.³

SWAPO also claimed that South Africa had no legal right to appoint an Administrator-General. When the final proposal was announced SWAPO delayed its reaction and sought further clarification on the future of Walvis Bay, the proposed reduction of South African troops, South Africa's role during the transitional period and the maintenance of law and order. SWAPO wanted Walvis Bay to be part of Namibia,

the reduction of South African troops to apply to the Walvis Bay area as well, and for the UN to play the major role during the transition period rather than South Africa.⁴

Then, on 4 May 1978, South African forces attacked a SWAPO camp and refugee centre at the mining town of Cassinga in Angola, 250 kilometres north of the Namibian border. It was claimed that more than 600 people were killed, many of them refugee women and children, while at least 300-400 others were wounded.⁵ The UN Security Council held an urgent meeting on 6 May in response to a complaint from Angola and unanimously condemned South Africa's actions (res. 428). As a result of the raid, SWAPO announced it was withdrawing from new talks with the Contact Group due to begin on 8 May.

United Nations Declaration on Namibia

Earlier, on 24 April 1978, the UN General Assembly had begun its ninth special session, convened to discuss the question of Namibia. The session continued until 3 May, and on the last day the General Assembly adopted resolution S-9/2, which contained a Declaration on Namibia and a Programme of Action in Support of Self-Determination and National Independence for Namibia.

In the Declaration on Namibia, the Assembly stressed its commitment to end South Africa's illegal occupation of Namibia by ensuring its complete and unconditional withdrawal to enable the Namibian people, under the leadership of SWAPO, to exercise freely their right to self-determination and independence, and it strongly condemned South Africa for its defiance of repeated demands by the Assembly and the Security Council to withdraw. The Assembly reiterated that South Africa's decision to 'annex' Walvis Bay was illegal, null and void and an 'act of aggression' against the Namibian people, and declared that the existence of South African military bases in Walvis Bay was a threat to the national security of Namibia.

The Assembly expressed its full support for the armed liberation struggle of the Namibian people under the leadership of SWAPO, their 'sole and authentic' representative.

In the Programme of Action in Support of Self-Determination and National Independence for Namibia, the Assembly appealed to all Member States to render 'increased and sustained support and assistance' to SWAPO to enable it to 'intensify its struggle' for the liberation of Namibia. It also urged all States:

- to do their utmost to compel South Africa to renounce its 'spurious claims' to Walvis Bay, to respect the territorial integrity of Namibia and to withdraw immediately from the entire Namibian territory;
- to cease and desist from any form of direct or indirect military consultation, co-operation or collaboration with South Africa and to refrain from any collaboration with South Africa in the nuclear field, including the production and development of nuclear weapons;
- to take effective measures to prevent the recruitment of mercenaries for service in Namibia or South Africa; and
- to take steps to ensure the termination of all arms-licensing agreements with South Africa and to prohibit the transfer to it of all information relating to arms and armaments.

Subsequent events

SWAPO was persuaded to resume talks on an independence settlement after a meeting on 11 June 1978 with the five Front-Line States. SWAPO announced that, while it would resume discussions with the Contact Group, it would also intensify its armed struggle to achieve independence. The talks sought to reach agreement on aspects of the Contact Group proposal about which both SWAPO and the Front-Line States had reservations.

On 20 June 1978 the Administrator-General, Mr Justice Steyn, proclaimed that a registration of voters for the election of a constituent assembly would take place between 26 June and 26 September. Both the South African Government and Mr Justice Steyn claimed the registration was a neutral preparatory act necessary for any elections. The decision was criticised both inside and outside Namibia but the registration proceeded nevertheless. Later, the registration period was extended to 20 October. Some 412 635 voters registered, representing 93 per cent of those estimated as eligible to register.

The registration announcement caused further problems with SWAPO but eventually, during a meeting with the Contact Group in Luanda on 12 July, SWAPO agreed that the Western proposal should be submitted to the Security Council for approval.

The Security Council met on 27 July and, after debating the proposal, adopted two resolutions. The first, resolution 431 (1978), requested the UN Secretary-General to:

- (a) appoint a Special Representative for Namibia to ensure early independence through free elections under UN control, and
- (b) submit a report as soon as possible on recommendations for implementing the proposal for a settlement in accordance with the Security Council resolution 385 (1976).

The Secretary-General informed the Council that he intended to appoint Mr Martti Ahtisaari as his Special Representative and that Mr Ahtisaari would lead a mission to Namibia within a week.

The second resolution, 432, adopted unanimously, concerned Walvis Bay. It declared that the 'territorial integrity and unity of Namibia must be assured through the reintegration of Walvis Bay within its territory'. The Council was prepared to 'lend its full support to the initiation of steps necessary to ensure an early reintegration of Walvis Bay into Namibia'. The resolution further declared that South Africa should not use Walvis Bay in any way prejudicial to Namibia's independence or economy.

South Africa responded to the first resolution by agreeing to a visit to the territory by Mr Ahtisaari and to await his report on the implementation of the proposal. However, it rejected the second resolution. South Africa was particularly annoyed at Western support for the Walvis Bay resolution, which it took to be a shift away from earlier Western assurances that the status of Walvis Bay would be left for negotiation between South Africa and an independent Namibia.

Mr Ahtisaari arrived in Namibia on 6 August 1978 and stayed for 17 days. He was accompanied by a team of 46 advisers. Discussions took place with Mr Justice Steyn, South African military and police commanders, local authorities, representatives of political parties, church groups and the business community, and tribal groups and individuals. When Mr Ahtisaari returned to New York on 22 August, he left about half his staff behind to continue gathering information and to be ready to implement any resolutions of the Security Council. This was the first time a UN presence continued in Namibia since the dispute between South Africa and the UN had begun more than 30 years earlier.

The UN implementation plan

On 29 August 1978 the Secretary-General presented a report⁶ to the Security Council based on Mr Ahtisaari's findings, setting out his recommendations for implementation of the Contact Group proposal (see Appendix 4). The Secretary-General reported that implementation of the proposal would require the establishment of a UN Transition Assistance Group (UNTAG) in the territory, comprising a civilian component and a military component.

The civilian component would comprise about 1200 personnel, mainly to supervise the elections but also to ensure the release of political prisoners and detainees, to investigate complaints of intimidation, to inform the electorate and to advise on the repeal of discriminatory and restrictive laws. In addition, the civilian component would include about 360 experienced police officers to act against intimidation or interference with the electoral process and to ensure the good conduct of existing police forces, accompanying them when appropriate. The two elements of the civilian component would be answerable to the Special Representative.

The military component would comprise about 7500 personnel—approximately 5000 troops, 200 monitors and 2300 command, communications, engineer, logistic and air support elements. The military component would be under the command of the UN, vested in the Secretary-General, with command in the field to be exercised by a Commander appointed by the Secretary-General. The Commander would report through the Special Representative. The functions of the military component would be to monitor the ceasefire and the restriction of South African and SWAPO forces to their bases, monitor the phased withdrawal of all except the specified number of South African forces, prevent the infiltration as well as surveillance of the territory's borders, and monitor the demobilisation of citizen and ethnic forces.

The Secretary-General estimated that if the transition period took a year, the total costs of UNTAG could be as high as \$US300 million, with about \$US33 million of this being required to finance the return of refugees and exiles. He said that implementation of the plan, and thus the work of UNTAG, would have to proceed in several stages, which he summarised as:

- (a) Cessation of all hostile acts by all parties and the withdrawal, restriction or demobilisation of the various armed forces;
- (b) Conduct of free and fair elections to the Constituent Assembly, for which the pre-conditions include the repeal of discriminatory or restrictive laws, regulations or administrative measures, the release of political prisoners and detainees and voluntary return of exiles, the establishment of effective monitoring by the United Nations and an adequate period for electoral campaigning;
- (c) The formulation and adoption of a constitution for Namibia by the Constituent Assembly;
- (d) The entry into force of the constitution and the consequent achievement of independence of Namibia.

The Secretary-General reported that delays in reaching agreement on the Contact Group plan meant that the completion of these stages would not be possible by 31 December 1978, as originally agreed. The timetable set out in the original Contact Group proposal would take about seven months, and he recommended that the holding of elections be rescheduled for a time approximately seven months from the adoption of his report by the Security Council.

The Security Council approved the Secretary-General's report on the implementation of the settlement plan in resolution 435 of 29 September 1978. The Security Council agreed in the resolution to establish, under its authority, an UNTAG force in

accordance with the Secretary-General's report, for a period of up to 12 months. It welcomed the preparedness of SWAPO to co-operate in the implementation of the report, including its expressed readiness to sign and observe the ceasefire provisions, and called upon South Africa to also co-operate in implementing the settlement. The President of SWAPO, Mr Sam Nujoma, had accepted the plan in a letter to the Secretary-General dated 8 September 1978.

The South African Government objected to the plan. In a letter to the Secretary-General and SWAPO, dated 6 September, the South African Foreign Minister, Mr R.F. Botha, said that the new plan deviated from the final Western proposals as agreed by South Africa on 25 April 1978 in several respects: the size of the proposed military contingent, on the grounds that a force of the size proposed was inconsistent with a peaceful transition and the primary responsibility of South Africa to maintain law and order; the introduction of a United Nations civil police component, which South Africa had not specifically agreed to and which, he claimed, was inconsistent with South African police maintaining their role in the transition period; lack of adequate consultation between the UN and the Administrator-General, and the postponement of the independence date beyond 31 December 1978. South Africa subsequently made it clear that because the Secretary-General's report deviated from the proposals it had accepted in negotiations with the Contact Group, it no longer considered itself bound to the agreement reached with the Contact Group.⁷

Apart from the Secretary-General's implementation report, with its much closer UN supervision of South African administration in the transition period than was envisaged and its breaching of the 31 December 1978 deadline, other factors contributing to the negative South African attitude included: Western support for the Walvis Bay resolution (S/432), the tensions generated within the South African National Party by the unfolding 'Muldergate scandal', and the continued General Assembly and Security Council practice of appearing to favour SWAPO by condemning South African raids while ignoring SWAPO military activities (including a major SWAPO attack on a South African army base after SWAPO had just committed itself to the UN plan).⁸

On 20 September 1978, nine days before the Security Council adopted resolution 435, the South African Prime Minister, Mr Vorster, announced his resignation effective from 28 September. On 28 September the National Party caucus elected the former Defence Minister, Mr P.W. Botha, as the new Prime Minister.

Mr Vorster, in his resignation speech, blamed 'SWAPO's intransigence' for the long delay before the Contact Group proposal was referred to the Security Council, a delay which made the target date for independence as originally agreed impossible to achieve. He also condemned deviations in the independence plan as contained in the Secretary-General's report from those agreed to by South Africa on 25 April.

Mr Vorster said the impasse resulting could not be allowed to continue indefinitely and as a consequence South Africa had decided to organise elections for a constituent assembly unilaterally, without UN approval, before the end of 1978. Mr Vorster said that all options would remain open to the assembly: it could draw up a constitution or postpone the drafting thereof, it could decide to proceed with the implementation of the Contact Group proposal, it could decide to accept the Secretary-General's report.

Although South Africa indicated that it did not wish to close doors, and the Contact Group began further discussions, the decision to proceed with internal elections was in effect a rejection of the UN plan as it stood.

On the same day as Mr Vorster's announcement the Administrator-General decreed that the elections would be held in the period 20 to 24 November 1978. A few days later the elections were postponed to 4 to 8 December 1978.

The internal elections

South Africa's announcement was condemned by most UN members. Members of the Contact Group—particularly those with major economic interests in South Africa—became concerned not only that the Western initiative might fail, but that the UN might seek to implement calls by the Afro-Asian bloc for economic sanctions against South Africa. From 15 to 18 October the Foreign Ministers of the Contact Group members (the Deputy Foreign Minister in the case of France) held discussions with their South African counterpart.

The meeting ended with a compromise in which South Africa stated that the elections were to be regarded as an internal process 'to elect leaders' rather than to elect a constituent assembly; UN-supervised elections would be held at a later date.⁹

The Security Council, on 13 November 1978, in resolution 439, condemned South Africa's decision to proceed unilaterally with elections in defiance of the UN, and declared the elections and their results as null and void. On 21 December 1978, after the elections, the General Assembly passed a resolution in similar terms (res. 33/182), and proclaimed 1979 as the International Year of Solidarity with the People of Namibia.

During November South Africa indicated its willingness to continue discussions on outstanding differences, which then concerned the number of UN troops to be allowed in the territory, the composition of UNTAG, the establishment of a firm election date in 1979, and the situation if SWAPO continued its acts of violence. According to a report by the Secretary-General to the Security Council on 2 December South Africa: reiterated its willingness to co-operate in the implementation of resolution 435; indicated its willingness to conclude consultations with the parties concerned on the principles of resolution 435 during December and communicate the results to the Secretary-General; reaffirmed that it would retain authority in Namibia pending the implementation of the Western proposal, and would continue efforts to resolve outstanding issues.

During the elections on 4 to 8 December 1978, some 375 polling stations, including mobile booths, were open at about 1094 voting points. The elections were witnessed by 65 official observers invited by the Administrator-General. The observers came from a number of countries, including Australia, Canada, Bolivia, Uruguay, South Korea, Japan, Italy, the United States, the United Kingdom, Singapore, France and West Germany. Some 235 journalists also covered the elections.

An Australian observer, Dr J.R.V. Prescott, Reader in Political Geography, University of Melbourne, stated in evidence to the Sub-Committee on Southern Africa that the elections were 'very fair and free'.¹⁰ He said the voting system was technically excellent, it worked well, and no irregularities were discovered by party officials, electoral officers, observers or journalists.¹¹

The elections were contested by five parties, which were:

- *Democratic Turnhalle Alliance* (DTA)—formed at the time of the last meeting of the Turnhalle Conference on 7 November 1977 by an amalgamation of Mr Dirk Mudge's Republican Party and the 10 black and coloured Turnhalle delegations. The basis of its policy was the amended Turnhalle constitution providing for an ethnically-based central government.
- *Action Front for the Retention of Turnhalle Principles* (AKTUR)—an alliance formed in December 1977 and consisting of members of the former South West Africa National Party and other conservative groups. It, too, wanted to achieve

an ethnically-based government but in accord with the original Turnhalle proposals. It was more conservative or 'right wing' in its outlook than the DTA.

- *Herstigte Nasionale Party* (HNP)—an ultra-conservative white 'right wing' group, whose policy was the incorporation of Namibia into South Africa.
- *Namibia Christian Democratic Party* (NCDP)—a small party drawing most of its support from the coloured group. Formed in 1978, it supported capitalism and condemned racial discrimination.
- *Rehoboth Liberation Front* (LF)—a Baster faction which supported the partition of Namibia along ethnic lines.

SWAPO boycotted the elections, as did the moderate, anti-South African internal parties—the Namibia National Front (NNF) and SWAPO-Democrats (SWAPO-D). The NNF was formed in 1977 as a multi-racial umbrella organisation drawing together various groups opposed to both SWAPO's violent 'liberation struggle' and the Turnhalle proposals for a system of government based strictly on ethnic differentiation—broadly speaking, it was a moderate, 'centre' grouping. SWAPO-D was formed in mid-1978 by a group of SWAPO members dissatisfied with Mr Nujoma's leadership and the emphasis in SWAPO on Marxism. Its aims were similar to those of the NNF and, at one stage, an alliance between the two was contemplated. Both groups were opposed to the internal elections because of their commitment to the Western proposal for one-man-one-vote elections under UN supervision.

Table 4.1: Results of December 1978 elections

<i>Parties</i>	<i>Votes</i>	<i>Seats</i>	<i>% of valid votes</i>
Democratic Turnhalle Alliance	268 130	41	82.2
AKTUR	38 716	6	11.9
Namibia Christian Democratic Party	9 073	1	2.8
Herstigte Nasionale Party	5 781	1	1.7
Rehoboth Liberation Front	4 564	1	1.4
Informal	4 091		
Total	330 355	50	100.0
Number of registered voters	412 635		
Estimated eligible voters	444 000		

Source: South West Africa Government Notice No. AG83, of 19 December 1978; and Dr J. R. V. Prescott, *Evidence*, p. 1317.

The DTA won 41 of the 50 seats, gaining 82 per cent of the total valid votes cast. AKTUR won six seats, with 12 per cent of the valid votes, and the NCDP, HNP and LF won one seat each. For details, see Table 4.1. Although regional voting figures were not published, the *Namibia/SWA Prospectus* issued by the Africa Institute of South Africa in 1980 made the following observations:

The highest individual percentage polls (more than 90 per cent) were recorded in Karasburg/Warmbad, Hereroland West, Gobabis, Otjiwarongo and Caprivi. The lower percentages were recorded mostly in industrialised areas such as Swakopmund and also in the Rehoboth Gebiet. In the northern areas, where nearly all SWAPO terrorist activity had been taking place and where SWAPO claimed to have most of its influence, the percentage polls were consistently high.¹²

The overall poll was 77.84 per cent of registered voters. Walvis Bay, as part of the Cape Province of South Africa, did not take part in the elections.

Further negotiations

The newly-elected Constituent Assembly met for the first time on 20 December 1978 and elected as its first President a Damara, Mr Johannes Skrywer. One of the first acts of the Constituent Assembly was to pass a motion informing the South African Government of its decision to co-operate in the expeditious implementation of Security Council resolution 435, provided certain matters of concern were satisfactorily resolved.

The South African Government notified the UN Secretary-General on 22 December 1978 that, following consultations with the newly-elected leaders of the Constituent Assembly, it had decided to co-operate in implementing the UN settlement plan with a view to elections this time under UN supervision being held no later than 30 September 1979. The response, however, was hedged with reservations concerning such matters as the role of the South African police in maintaining law and order, the composition, administration and deployment of UNTAG, and monitoring of SWAPO bases in countries on the borders of Namibia. South Africa also expressed its concern and the concern of the Constituent Assembly over UN recognition of and financial support for SWAPO.

During January and February 1979, the UN Special Representative for Namibia, Mr Ahtisaari, made a second visit to the region, visiting Namibia, South Africa, the Front-Line States and Nigeria to discuss the establishment of a UN presence in Namibia and the holding of UN-supervised elections. Discussions were also held with SWAPO. The discussions with South Africa included the possible composition of the UNTAG force.

On 26 February 1979 the Secretary-General presented a report to the Security Council on the implementation of Security Council resolutions 435 and 439 on the question of Namibia.¹³ The report proposed the confinement of the South African Defence Force (SADF) and SWAPO forces in Namibia to bases inside Namibia, with a phased withdrawal for SADF forces occurring as previously agreed in the Contact Group proposal. SWAPO forces outside Namibia were also to be confined to bases but there was no provision for these to be monitored by the UN. Instead the neighbouring countries, Angola and Zambia, had undertaken to ensure to the best of their ability that SWAPO observed the settlement provisions. The report suggested the ceasefire commence on 15 March 1979.

These proposals were rejected by South Africa on the grounds that the report contained 'serious deviations' from the plan accepted by South Africa. South Africa firmly opposed the creation of permanent SWAPO bases in Namibia and considered it imperative that UNTAG should monitor SWAPO forces outside the territory. South Africa also accused the Western Contact Group of duplicity for having misled South Africa on the contents of negotiations with the other parties involved. Further discussions between the interested parties continued, including another round of 'proximity talks' in New York in March 1979, but little progress was made.

Establishment of National Assembly

On 2 May 1979 the DTA introduced a motion in the Constituent Assembly providing for the establishment of a National Assembly comprising the 50 members of the Constituent Assembly, with power to increase membership to 65 to accommodate other '*bona fide* democratic political parties' not then represented (a reference mainly to the

NNF and SWAPO-D). The National Assembly would be the supreme legislative authority in the territory. It would be able to make laws for the territory and repeal or amend any legal provision including any Act of the South African Parliament which related to or applied to the territory. The resolution stated, in part:

. . . the doors for further talks between South Africa and the Western States on the basis of the original Western proposals should be kept open, but . . . such negotiations should not be permitted further to delay internal political, economic and social development.

The motion was passed by 37 votes to nine.

On 14 May the Administrator-General issued Proclamation AG 21/1979 formally constituting the National Assembly as from 21 May. At the first sitting on 21 May Mr Skrywer, the President of the former Constituent Assembly, was elected President of the National Assembly. The Assembly's term of office was limited to one year, with the Administrator-General having the power to extend the term six months at a time. The right to finally approve all laws was transferred from the South African Government to the Administrator-General.

South Africa had agreed to the formation of the National Assembly but made it clear to the Western Five and the UN that the Assembly would not have the right to change the international status of the territory. The formation of the Assembly was endorsed by the South African State President on 13 August (Proclamation 172/1979).

The new National Assembly moved quickly to begin dismantling some remaining legal forms of racial discrimination. On 29 June 1979 the Abolition of Racial Discrimination (Urban Residential Areas and Public Amenities) Act was passed, and it became law from 12 July. The Act provided for the opening of white residential areas to all races and the opening to people of all races of all public hotels, holiday farms and resorts, restaurants, cinemas, recreation areas, nature reserves and rest camps.

The move to abolish racial discrimination produced a strong white backlash and led to the formation of several white protest organisations. The Nederduitse Gereformeerde Kerk sent a telegram of protest against the Act to the South African Prime Minister. AKTUR withdrew from the National Assembly on 30 July (after its only coloured member of the Assembly, Mr Andrew Kloppers, had resigned from the party because of its opposition to the move). AKTUR later lost its seats after its members were absent for more than the 10 days permitted by the proclamation establishing the Assembly. Not all discrimination was removed loopholes remained which enabled segregation in hospitals and schools in major white areas to continue (by means of devolving responsibility for education, health, etc. to ethnic group 'governments').

On 1 August 1979 the South African Prime Minister announced that the Rector of the Rand Afrikaans University, Professor Gerrit Viljoen, would succeed Mr Justice Steyn as Administrator-General. Professor Viljoen held office until 6 October 1980 when he was succeeded by Mr Danie Hough, a Transvaal Provincial Councillor.

Since the December 1978 elections the South African Government has proceeded to give greater power to the internal administration. In November 1979 an Administrator-General's Advisory Council was established, comprising 12 DTA representatives. This Council was replaced by a 12-member Council of Ministers in July 1980. The new Council functioned much like a Cabinet, and its Chairman, Mr Dirk Mudge, in effect became the unofficial Prime Minister of the territory.

Resumed session of the General Assembly

The continuing impasse in the negotiations between South Africa and the Contact Group led to the reconvening of the Thirty-third Session of the United Nations General Assembly on 23 May 1979, 'to consider fully the question of Namibia and the implications of South Africa's continued defiance of the resolutions of the Assembly and the Security Council'. South Africa sent a delegation for the first time since its suspension in 1974 but its credentials were again rejected.

At the conclusion of the Session, on 31 May, the General Assembly adopted resolution 33/206 which was highly critical of South Africa, condemned the internal elections, reaffirmed the direct responsibility of the UN for Namibia, and declared that the parties to the conflict in Namibia were South Africa on the one hand and 'the Namibian people, under the leadership of the South West Africa People's Organisation' on the other. The General Assembly called on the Security Council to take enforcement measures against South Africa, as provided for in Chapter VII of the Charter, in order to ensure South Africa's compliance with UN decisions and resolutions on Namibia.

Proposals for a demilitarised zone

The impasse in negotiations was broken when President Neto of Angola in discussions with the UN Secretary-General, Dr Waldheim, in July 1979 (two months before Dr Neto's death) proposed the establishment of an UNTAG-monitored demilitarised zone (DMZ) 50 kilometres on either side of the Namibia-Angola and Namibia-Zambia borders for the duration of the transition period. Apart from endeavouring to meet South African security concerns—the zone would limit SWAPO infiltration into Namibia—it would also assist Angola by cutting off UNITA's supply lines to South Africa.

South Africa initially expressed strong reservations and negotiations continued. On 12 to 16 November 1979, following an invitation from the Secretary-General, 'simultaneous consultations' were held in Geneva on the technical aspects of the demilitarised zone proposal. The consultations were attended by SWAPO, the Contact Group, the Front-Line States, South Africa, and the internal parties in Namibia (who had been invited as a precondition of South Africa's attendance).

On 5 December 1979 South Africa advised the Secretary-General that it accepted the concept of a demilitarised zone provided agreement was reached in further discussions on the following:

- (1) The number of South African bases remaining in the DMZ.
- (2) Acceptable arrangements regarding the disarmament of SWAPO personnel on the closure of bases, i.e., 7 days after certification of the elections.
- (3) The deployment of an acceptable percentage of UNTAG inside the DMZ in the light of practical requirements.
- (4) Agreement on practical arrangements between the UNTAG military commander and the South African military authorities.
- (5) Confirmation that the settlement proposal (S/12636) accepted by South Africa on 25 April 1978 remains unchanged.

- (6) Confirmation that the claim for SWAPO bases inside South West Africa/Namibia, which is in any case not provided for in the settlement proposal, will not be revived.¹⁴

Angola and Zambia, the two Front-Line States directly involved, consented to the DMZ proposals in principle. SWAPO reserved its judgment.

In January 1980 the Secretary-General appointed Lieutenant-General D. Prem Chand, of India, as Commander-designate of the military component of UNTAG. General Prem Chand visited Namibia, South Africa and the Front-Line States in February and March 1980 for discussions with all parties on technical aspects of the demilitarised zone proposal.

South Africa presented its views on proposals put by General Prem Chand in a letter from the South African Foreign Minister to the Secretary-General on 12 May 1980.¹⁵ South Africa reaffirmed its preparedness to work for an internationally acceptable solution to the problem of Namibia and to co-operate in implementing Security Council resolution 435. It also gave a commitment to the implementation of the demilitarised zone proposal subject to the resolution of a number of outstanding issues. South Africa sought confirmation that it would be able to retain 20 bases in the zone and that acceptable arrangements would be made for increasing the effectiveness of UNTAG in the zone. The letter raised the issue of the standing of UNITA and sought assurances that all parties to the negotiations would be placed on an equal footing.

The South African Foreign Minister also asked the Secretary-General to advise whether he and the UN Secretariat would refrain from giving effect to General Assembly resolutions which recognised SWAPO as the 'sole and authentic' representative of the people of Namibia, which provided funds for SWAPO and which otherwise gave SWAPO preferential treatment.

The Secretary-General replied on 20 June.¹⁶ He said SWAPO and the Front-Line States had agreed to South Africa retaining 20 bases in the Namibian sector of the demilitarised zone and that the Governments of Angola and Zambia had reassured him that no infiltration of armed SWAPO personnel would take place from their territory into Namibia after the ceasefire. The Secretary-General assured South Africa that UNTAG would carry out its responsibilities impartially, as would the UN Secretariat. All parties would be treated equally—this was a prerequisite for the holding of free and fair elections and a central element of the settlement plan. On the matter of General Assembly resolutions granting sole recognition and funds to SWAPO, the Secretary-General responded only that the settlement proposal was being implemented under the terms of Security Council resolution 435 (in which there is no reference to, or recognition of, SWAPO as the 'sole and authentic' representative of the people of Namibia).

Meanwhile, in May and June 1980, a series of raids were undertaken by the South African Defence Force against SWAPO bases in Namibia. In one raid in May South Africa attacked a base about 65 kilometres into Angola which it claimed was the operational command headquarters of SWAPO's military wing (the People's Liberation Army of Namibia—PLAN). South Africa claimed that more than 200 SWAPO guerillas were killed, as well as 16 South African soldiers. This was the first major strike into Angola to be confirmed by South Africa since the raid on Cassinga nearly two years earlier. South Africa claimed that PLAN had been gearing up for an intensified campaign in Namibia.

Angola protested to the Security Council about the South African raid. On 27 June the Security Council considered the protest and adopted resolution 475, which was highly critical of South Africa and threatened economic sanctions. The United Kingdom, France and the United States abstained in the vote on the resolution. Other South African raids into Angola took place in August and October—the August raid involved a clash with Angolan troops.

Internal developments

During November 1979 the National Assembly had accepted proposals by the Administrator-General for the creation of second tier authorities for those ethnic groups that wanted them. The authorities would be responsible for matters such as land tenure, agriculture, education, health, social welfare and pensions. A year later, in mid-November 1980, elections were held for the authorities. Not all the ethnic groups took part—the Ovambo didn't because of the war (the existing council remained in office), the Rehoboth Basters had elected their assembly only a year earlier and the Bushmen were still not deemed to be 'ready' for their own governing body.

In the eight elections held, DTA-member parties won majorities in six (the Herero, Kavango, Nama (unopposed), coloured, East Caprivian (unopposed) and Tswana (unopposed)). The South West African National Party, a major part of AKTUR, won a majority of seats in the white elections (11 against seven for Mr Dirk Mudge's Republican Party)—an indication that there was still considerable white opposition to the DTA measures to remove racial discrimination which had come into effect only a few months earlier. The Damara Council, part of the NNF, won the Damara elections. The elections were boycotted by SWAPO-D and SWANU, as well as the internal wing of SWAPO.

A year later, in September 1981, South Africa announced that the Council of Ministers in Namibia had been granted all the effective powers of an ordinary government except for control of constitutional affairs, security and foreign affairs. The Administrator-General remained the formal head of the executive, with a status equivalent to that of the State President. The National Assembly was enlarged to 72 members, with the additional 22 comprising two representatives from each of the 11 ethnic 'second tier' governments.

A 'double strategy'

These internal developments were part of a 'double strategy' being pursued by South Africa. This strategy consisted of consolidating Namibia's internal government machinery on the one hand, and of continuing to negotiate—but at a slower pace and with less progress—with the UN and the Contact Group on the other. The object appeared to be one of keeping both options open: should an internationally acceptable settlement prove impossible, an internal government would be ready to assume full control of the territory to the exclusion of SWAPO; if negotiations did produce a settlement then the moderate internal parties would be in a better position to participate in elections against SWAPO.

The slowdown in negotiations in 1980 was due in part also to the success of Mr Robert Mugabe's Zimbabwe African National Union (ZANU) in the Zimbabwean independence elections in February 1980. The extent of the ZANU win, if not the win itself, had been unexpected, and indicated that SWAPO might win a general election in Namibia by a similarly large margin. South Africa wanted time not only to improve the standing of the internal parties, particularly the DTA, to present them as a viable alternative to SWAPO, but also to assess the consequences of the ZANU victory in Zimbabwe.

South Africa also saw benefit, during the first half of 1981, in a slowdown while it waited to see whether the newly-elected Reagan Administration in the United States would come up with an African policy more sympathetic to South Africa. There was uncertainty about the US commitment to Security Council resolution 435, and talk of changes to it. In particular, the US showed interest in the idea of a constitution being drafted before any elections, a so-called 'Lancaster House' solution. The US was a key member of the Contact Group and a change in its policies would have had considerable effect on the work of the Group. According to evidence from the Department of Foreign Affairs, the suggestion of changes to resolution 435 worried a number of African States, and concern was expressed by the Front-Line States, meeting in Luanda on 15 April 1981.¹⁷

The South African elections in April 1981 were also an important factor in the South African strategy of delay. The National Party, worried by right-wing defections in particular, did not want to be accused of a Namibian 'sell-out'; nor did it want negotiations to end.

The pre-implementation meeting (PIM)

On 29 August 1980 the South African Foreign Minister, Mr R.F. Botha, responded to the Secretary-General's letter of 20 June and again stressed that impartiality was essential if the UN/Western plan for the transition to independence was to succeed. Preferential treatment of SWAPO by the United Nations had to stop. The question of UN partiality towards SWAPO was to become increasingly prominent as an issue delaying implementation of the plan and was raised a number of times subsequently. Mr Botha also stated that South Africa was ready to discuss the composition of UNTAG and the implementation of resolution 435 once the Secretary-General had confirmed a number of 'assumptions'.

In a reply on 19 September 1980 the Secretary-General proposed that a UN delegation go to Pretoria to discuss the time-frame for a ceasefire and the implementation of the independence plan. The purpose of the delegation was also to convince the South African Government that the UN would be impartial in supervising the transition to Namibian independence. The UN delegation, which visited South Africa in October, was led by Mr Brian Urquhart, Under-Secretary-General for Special Political Affairs, and included Mr Martti Ahtisaari and General Prem Chand. The South African Government's representatives were headed by Dr B.G. Fourie, Director-General of Foreign Affairs.

The South African Government said the time-frame could not be finalised without resolving the remaining issues. In particular the questions of impartiality and equal treatment of the Namibian parties needed to be settled. The talks were inconclusive but there was discussion about a possible pre-implementation meeting to resolve outstanding issues.

On 24 November 1980 the Secretary-General reported to the Security Council on the United Nations mission to South Africa. He proposed a pre-implementation meeting involving the parties concerned in the future elections as a means of facilitating agreement and creating a climate of confidence and understanding. The purpose of the meeting would be to resolve difficulties caused by distrust and to begin a process intended to lead to the independence of Namibia by the end of 1981.

The pre-implementation meeting was scheduled for 7 to 14 January 1981 in Geneva, under the auspices and chairmanship of the UN. Attending would be delegations from South Africa, SWAPO and the UN, and observers from the Contact Group, the Front-Line States, Nigeria and the Organisation of African Unity (OAU). On 26 November 1980 the South African Foreign Minister announced that although South Africa would be represented, the South African Government would not play an active part in the negotiations. Instead the internal Namibian parties would participate as independent negotiators, led by the new Administrator-General, Mr Danie Hough. SWAPO stated that it was prepared to participate only if the internal parties were not regarded as being represented separately.

When the conference began the SWAPO delegation, led by Mr Sam Nujoma, sat on one side of the conference table. The internal Namibian parties, led by the Administrator-General, sat on the other side. South African representatives at the conference acted as advisers to the Administrator-General's delegation.

The Secretary-General opened the conference on 7 January 1981, urging the participants to set the UN settlement plan in motion by agreeing on a date for a ceasefire in March. He called for delegates to overcome the bitter legacy of past distrust. SWAPO stated that, once a ceasefire was agreed, it was prepared to give up the special status awarded it by the UN General Assembly and to fight an election on an equal footing with other groups. The UN delegation sought a firm commitment to a date for implementing Security Council resolution 435, suggesting 30 March for a ceasefire with independence by the end of 1981.

Mr Dirk Mudge, leader of the DTA delegation, played a prominent role. Supported by the Administrator-General, he questioned the UN's impartiality, and called for more time before the UN plan was implemented. In a major speech on 13 January he called for revision of certain of the arrangements for security during the transition, and guarantees for the continuation of basic human rights and democracy after independence. He ruled out any possibility of signing a ceasefire during the conference. He said that more time was necessary to create a climate of confidence in the ability of the UN to supervise an election in Namibia in an impartial manner. Not only would the UN have to rescind its special recognition of SWAPO, it would also have to demonstrate its impartiality over a considerable period of time by mounting a publicity campaign to restore the equality of the parties which would fight the election. The Administrator-General supported this and said it would be 'premature' to decide then a date for a ceasefire and the implementation of resolution 435. One of the obstacles to peace was distrust and lack of confidence, and this had not been removed. With these statements the meeting ended in failure.

In reporting back to the Security Council the Secretary-General, Dr Waldheim, appealed to South Africa to reconsider its refusal to sign a ceasefire agreement. Commenting on Dr Waldheim's report, the South African Foreign Minister, Mr R.F. Botha, again criticised the UN's lack of impartiality.

After the pre-implementation meeting

In the following two months new external pressures, particularly from the OAU States, were applied. The OAU called for a Security Council meeting to be held by mid-April to impose sanctions on South Africa. On 2 to 6 March 1981 the UN General Assembly in an extended session held a debate on Namibia. For the third time since its suspension

in 1974, South Africa tried to take its seat in the General Assembly, but was prevented from doing so when the Assembly rejected its credentials by 112 votes to 22, with six abstentions. After rejecting the South African delegation's credentials, the Assembly passed 10 resolutions (35/227A-J) condemning South African policies on Namibia and calling on the Security Council to convene urgently to impose comprehensive mandatory sanctions. The South African Foreign Minister denounced the Assembly's rejection of South Africa's credentials and said it was further proof the UN was not impartial.

The Security Council debated Namibia from 21 to 30 April 1981. On 30 April the three Western Permanent Members (the UK, France and the USA) vetoed four resolutions tabled by the African Group. These resolutions called for comprehensive economic sanctions against South Africa, an oil embargo and a strengthened arms embargo.

Elections held in South Africa in April 1981 resulted in the return of the National Party, though with defections to the extreme-right *Herstigte Nasionale Party* and the more liberal *Progressive Federal Party*. On 14 to 16 May the Foreign Minister, Mr R.F. Botha, visited Washington for a series of high-level meetings. These took place only a month after a fact-finding visit to Africa by the US Assistant Secretary of State for African Affairs, Dr Chester Crocker.

The US stressed that the UN plan was still the basic framework on which an internationally recognised settlement for Namibia should be structured. The US put a number of proposals, including guarantees of property rights and constitutional guarantees for minorities in an independent Namibia, as a means of overcoming specific South African objections. South Africa questioned the presence of UNTAG during the election phase, but the US said it considered the UN force to be a key element in a settlement. After Mr Botha's visit the US spoke of a new policy of 'constructive engagement' with South Africa.¹⁸

In May 1981 an International Conference on Sanctions against South Africa, organized by the UN in co-operation with the OAU, was held in Paris. The conference issued a Declaration (the 'Paris Declaration') which called for sanctions against South Africa, *inter alia*, to force it to end its illegal occupation of Namibia. The Declaration put pressure on members of the Contact Group by its call for the major powers to heed the views of the international community. Australia attended the conference as an observer.

The UN Council for Namibia met in Panama on 2 to 5 June 1981 to assess the 'critical' situation in Namibia and to recommend appropriate action to the General Assembly. At the conclusion of the meeting the Council adopted a Declaration and a Programme of Action on Namibia (the 'Panama Declaration'). The Declaration was critical of 'certain Western countries' for increasing political, economic, diplomatic and military support for South Africa, and specifically criticised the US, UK and France for their veto of Security Council resolutions on economic sanctions in April 1981.

The Contact Group was less active after the failure of the Geneva pre-implementation meeting, partly because of the settling-in period of the Reagan Administration and the run-up to the South African elections. Doubts about the future course of US policy were not settled until the US, at a meeting of Contact Group Foreign Ministers in Ottawa on 22 July 1981 and after extensive consultations in Africa, reaffirmed that Namibian independence should be in accord with resolution 435. The work of the Contact Group was reactivated. As a first step it began to examine the possibility of incorporating a number of constitutional guarantees or principles in a settlement agreement in an attempt to meet some of South Africa's objections.

It also became evident at this time that, despite reports to the contrary, the United States had not made the withdrawal of Cuban troops from Angola a pre-condition for a

Namibian settlement, although clearly the US continued to regard the Cuban presence in Angola as a problem and to believe that a solution to the Namibia question should be accompanied by a Cuban withdrawal from Angola.

In August 1981 South Africa made several major raids into Angola. This was a considerable brake on moves to restore momentum to the negotiations. The incursions into Angola were the subject of a Security Council resolution condemning South Africa on 31 August, but the US vetoed the resolution, France supported it and the UK abstained. This was the first time the US had broken ranks with its Western allies since the Contact Group was formed. The disparate voting made the work of the Contact Group more difficult, and the US veto diminished Washington's credit with African countries.

An Emergency Special Session of the UN General Assembly to discuss Namibia was held on 3 to 14 September 1981. South Africa's credentials were again rejected. The Special Session called for implementation of resolution 435 by not later than December 1981 and again urged the Security Council to impose sanctions against South Africa. Western countries, including members of the Contact Group, abstained in the vote on the resolution.

Front-Line States meeting in Lagos on 11 September 1981 reaffirmed their faith in resolution 435 and rejected any attempt to revise, delete or add to the resolution.

Commonwealth Heads of Government at their meeting in Melbourne in September–October 1981 discussed Namibia and expressed concern in the communique issued at the end of the meeting that there had been no progress towards independence. They urged the Contact Group as a matter of particular urgency to secure the implementation of resolution 435, without modification or dilution, as early as possible in 1982.

The 'three-phase settlement' package

Then, at a meeting of the Contact Group Foreign Ministers in New York on 24 September 1981, the Ministers announced that their consultations with all parties concerned had enabled them to develop proposals for a timetable for further and final negotiations with the objective of implementation of resolution 435 in 1982. They said they had completed their consideration of possible constitutional principles for the constituent assembly and that these proposals were likely to secure the confidence of all concerned. Discussion of these, as well as a timetable, would start in October.

The proposals were made public on 26 October 1981, when Contact Group representatives embarked on a tour of 10 African countries, including Namibia, South Africa, the Front-Line States and Nigeria. The Contact Group hoped to renew negotiations by means of a three-stage or three-phase settlement package:

- *phase 1*—the effort to reach agreement on constitutional principles including electoral procedures;
- *phase 2*—settlement of the questions of the role of UNTAG and UN impartiality;
- *phase 3*—discussion on implementation of procedures leading to independence.

The results of the African visit gave rise to some optimism. Foreign Ministers of the Contact Group, in Brussels for a NATO meeting on 10 December 1981, said they were encouraged by the constructive results of the mission to Africa, and noted that the ground appeared to have been prepared for achieving final agreement on the phase 1 constitutional principles.

The Contact Group phase 1 proposals, entitled 'Principles concerning the Constituent Assembly and the Constitution for an Independent Namibia', were that Namibia

should be 'a unitary, sovereign and democratic State' under a constitution to be adopted by a two-thirds majority of a constituent assembly. The assembly would be elected 'so as to ensure fair representation in that body to different political groups representing the people of Namibia'. Once adopted, the constitution would be 'the supreme law of the State' and could be amended 'only by a designated process of either the Legislature or the votes cast in a popular referendum'.

The proposed constitution would provide for a system of government with three branches: 'an elected Executive Branch which will be responsible to the Legislative Branch; a Legislative Branch to be elected by universal and equal suffrage which will be responsible for the passage of all laws; and an independent Judicial Branch which will be responsible for the interpretation of the Constitution and for ensuring its supremacy and the authority of the law'. The executive and legislative branches would be 'constituted by periodic and genuine elections which will be held by secret vote'.

The electoral system would ensure 'fair representation in the Legislature to different political groups representing the people of Namibia, for example, by proportional representation or by appropriate determination of constituencies or by a combination of both'.

The constitution would also contain a Declaration of Fundamental Rights, enforceable by the courts.

Under the Contact Group strategy the above were the proposals to be agreed in phase 1. Then would follow the phase 2 negotiations, based on the propositions endorsed in Security Council resolution 435 plus any amendments agreed subsequently by the parties involved. Only after the proposals in phases 1 and 2 were agreed would negotiations commence on phase 3.

The initial reaction from African nations to the phase 1 proposals was positive, although a number of sometimes conflicting criticisms of the 'fair representation' principle were expressed by South Africa, the internal parties and SWAPO.

After further consultations the Contact Group issued revised constitutional guidelines on 17 December 1981. The main changes were a much more specific and detailed section on the election of the constituent assembly, a provision that the electoral system under the constitution would be 'consistent with the principles' detailed in the section on the election of the constituent assembly, and the addition to the provision for equal access by all to recruitment to the public service of a provision for 'the balanced structuring' of the public service, police service and defence forces.

Under the revised electoral procedures half the seats in the constituent assembly would be elected by proportional representation, with parties being represented in exact proportion to the number of votes they received, and the other half on the basis of single-member constituencies containing as nearly equal a number of inhabitants as was reasonably practicable. In an accompanying explanatory memorandum the Contact Group said the revised proposals meant that each voter would have two votes, 'one to be counted on the level of a single national constituency, the other on the basis of his local constituency' (a model not dissimilar to that of West Germany). The memorandum also stated that there was no intention to reserve seats in the assembly for ethnic groups. For the revised principles, see Appendix 5.

According to a commentary in *The Times* (London), of 18 December 1981, the revised voting proposal was 'highly ingenious'. It met the black African demand for one-man-one-vote elections but could deny SWAPO the two-thirds majority of assembly seats required for the adoption of Namibia's constitution. According to *The Times*, many observers believed SWAPO could win up to 70 per cent of votes cast. If the number of seats in the constituent assembly was 50, SWAPO could expect to win 17 or

18 of the 25 seats elected by proportional representation. To achieve a two-thirds majority, SWAPO would then need to win 16 or 17 of the remaining 25 single-member constituency seats. This could be difficult, according to *The Times*, as SWAPO's chief support came from the Ovambo, who constituted only about 47 to 50 per cent of the population and were concentrated in the north. The result could be that the DTA and smaller parties between them might win more than a third of the assembly seats and would thus be able to have a meaningful say in formulating the constitution.

In January 1982 the question of UN impartiality resurfaced following public statements by the newly-elected UN Secretary-General, Mr Perez de Cuellar, on UN support for SWAPO and criticising South Africa for delaying a Namibia settlement. The South African Foreign Minister, Mr R.F. Botha, in a series of three letters to the Secretary-General, called on the UN to demonstrate its impartiality, but expressed some scepticism that it would do so.

After prolonged discussion, the South African Cabinet agreed towards the end of January to accept the revised constitutional principles. However the Front-Line States and SWAPO, meeting in Lusaka on 23 January 1982, rejected the proposed electoral system and expressed their preference for a system of proportional representation. They argued the 'one-man two-vote' system was unduly complicated, especially for first-time, unsophisticated voters.

The Contact Group said on 26 January that issues raised by SWAPO and the Front-Line States required further consideration in order to complete phase 1 at the earliest possible date. Modifications of the electoral proposal were put to the Front-Line States and SWAPO by the Contact Group in March 1982. A SWAPO leader, Dr Meroro, stated in London on 11 March that SWAPO was prepared to accept either one or other of the electoral systems proposed, but not a combination of both. He spoke of collusion between South Africa and the Contact Group in order to deny SWAPO electoral victory, a charge repeated elsewhere by SWAPO.

In mid-March the Contact Group reaffirmed that their objective was to begin implementation of the UN settlement plan in 1982.

On 25 March 1982 the UN Secretary-General announced his intention to appoint Mr Brajesh Chandra Mishra, an Indian career diplomat and former Permanent Representative of India to the United Nations, as UN Commissioner for Namibia.

The US Assistant Secretary of State for African Affairs, Dr Chester Crocker, who had been prominent in many of the Contact Group negotiations in 1981-82, visited Luanda at the beginning of April to discuss with SWAPO a further modification of the electoral system, proposing 'one vote counted twice'. However, on 4 May 1982, a meeting of the Front-Line States Foreign Ministers in Dar es Salaam endorsed SWAPO's rejection of the electoral system, and supported SWAPO's proposal that the phase-by-phase approach to a settlement be abandoned in favour of discussions on a comprehensive solution. Such discussions should ideally—but not necessarily—take the form of a 'Geneva-type' conference under UN auspices.

In reacting to the SWAPO decision, the Contact Group announced on 13 May that further proposals were being prepared and these would later be put to the parties concerned. Contact Group Foreign Ministers said on 17 May that they wanted outstanding issues promptly resolved with a view to implementing resolution 435 during 1982. They indicated they expected to present proposals in the near future on impartiality and UNTAG (i.e. phase 2 issues).

During a visit to West Germany at the beginning of June 1982, the SWAPO leader, Mr Sam Nujoma, reaffirmed his opinion that an all-party conference was the best way of speeding up independence for Namibia. However, after talks with the West German Foreign Minister, Mr H.-D. Genscher, and Dr Crocker, Mr Nujoma said he could

change his views if the Contact Group made certain (unspecified) concessions. He again criticised the voting system, saying it was too complicated and would give the white minority too much power in the constituent assembly.

Other developments

On 4 February 1982, the South African Minister of Internal Affairs, Mr J.C. Heunis, announced that Walvis Bay would become a separate parliamentary constituency of the Cape Province 'as an interim measure and for as long as it will be necessary'. He also announced the position of Director of Walvis Bay would be abolished (the Director had administered Walvis Bay since 1977, when the decision was made that it should no longer come under the Administrator-General of South West Africa). Walvis Bay, as a separate constituency, has only about 3000 voters compared with an average of 12 000 in Cape Province constituencies.¹⁹

On 15 February 1982 the DTA suffered a serious set-back with the resignation of its President, Mr Peter Kalangula, and the withdrawal of his National Democratic Party from the DTA. Mr Kalangula said he resigned because he believed the DTA was too closely controlled by South Africa, and that its basis as an alliance of ethnic parties was giving it the image of a neo-apartheid movement—an image which would cause its defeat in an election against SWAPO. He was opposed to a constitution based on ethnic groups and wanted the DTA to become a single party free of ethnic divisions.²⁰ Mr Kalangula's party represented the Ovambo (some 47 to 50 per cent of Namibia's population) in the DTA. The Alliance could ill-afford to lose its already limited Ovambo support. A further setback was the expulsion from the DTA on 25 March of the Labour Party (the dominant coloured party).

On 30 April 1982 President Kaunda of Zambia met the South African Prime Minister, Mr P.W. Botha, on the South Africa-Botswana border. The meeting, held at President Kaunda's initiative, was believed to have discussed the situation in South Africa and also the Namibia negotiations.

In the months to June 1982 there has again been an upsurge in military activity in the region. In March South Africa made a raid into Angola, attacking a SWAPO base some 22 kilometres north of the border, while in April SWAPO forces launched a major operation into northern Namibia.

Speaking to the National Assembly on 3 June 1982, Mr Dirk Mudge said the DTA was embarking on an election campaign, and he called for a date for an election—with or without SWAPO—to be fixed not later than March 1983. In response, the South African Prime Minister, Mr Botha, said later the same day that his Government would like to be freed from the financial burden of Namibia (quoted in the *Economist* of 1 May 1982 as some 550 million pounds a year). He said:

The South African Government is carrying a great financial burden with respect to South West Africa and would like to see the people of South West Africa, in their own interests, put their house in order, and show greater unity in an effort to bring about stability in that Territory.

He also noted that the results of the 1978 election in Namibia—boycotted by SWAPO—had not been accepted by the international community. He reaffirmed South Africa's continued support for an international solution and said negotiations with the Contact Group had brought an understanding nearer than ever before.

On 12 July 1982 the Contact Group advised the UN Secretary-General that the first phase of the negotiations for a Namibian settlement in accordance with resolution 435 had been brought to a 'successful conclusion'. The Contact Group statement said that the Secretary-General had been advised that 'all parties to the negotiations now accept the principles concerning the constituent assembly and the constitution for an independent Namibia which the Five put forward at the end of last year'. However, a decision on the method to be employed to elect the constituent assembly was to be the subject of further consultations. The statement concluded: 'In the meantime, we are in consultation with all concerned to obtain the resolution of any other outstanding issues and to allow us to move ahead to implementation of the settlement plan in the very near future'.

Conclusion

One of the most difficult problems the United Nations has had to face since its inception has been to satisfactorily resolve 'the Namibia question', i.e. to ensure a withdrawal of South Africa from the territory and to supervise its transition to an independent nation. There has been no easy solution. On several occasions a settlement acceptable to all parties seemed imminent but, as the chapter has shown, on each occasion there was a hitch and the promising breakthrough proved illusory.

The Contact Group negotiations of the past five years have succeeded in narrowing the areas of difference between the major parties involved, and the current 'three-phase' negotiations offer the best chance yet of achieving a solution. But problems remain. South Africa remains sceptical of UN impartiality in supervising any transition to independence; it also wishes to maximise the chances of the internal parties—hence the delaying tactics to give the DTA (and, to a lesser extent, the NNF and similar parties) time to develop. South Africa has also sought to hedge its bets by building up an internal administration which can assume full responsibility for Namibia should an internationally-acceptable settlement not eventuate. SWAPO, for its part, is suspicious of South African proposals which imply any sort of recognition of, or equal status for, the internal parties in negotiations.

Whether and when a solution is achieved depends also on a number of external factors, for example: the degree of pressure the UN and Western countries are able to exert on South Africa on the one hand and, on the other, the degree of urgency which Angola and Zambia—in particular of the Front-Line States—see in the need for a settlement in order to end the economic and other problems caused for their countries by support for SWAPO. The question of the Cuban troop presence in Angola is also important.

The longer a settlement is delayed, the greater the costs in terms of lives and money, not only for South Africa and SWAPO, but for Namibia and Namibians in general.

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Walvis Bay and the Penguin Islands

Introduction

The future of Walvis Bay and the Penguin Islands off the coast of Namibia has been one of the more contentious issues during negotiations over Namibia's independence. South Africa claims that Walvis Bay and the Penguin Islands are historically and legally part of the Cape Province of South Africa. SWAPO and the United Nations assert that politically the territory is an integral part of Namibia, as evidenced by South African administration of Walvis Bay and the islands as part of Namibia for 55 years (from 1922 until 1977).

The Contact Group has deliberately avoided the issue of the present and future status of Walvis Bay and the Penguin Islands in its negotiations with South Africa and SWAPO because of their diametrically opposed views on the matter. Its view—and that of South Africa—is that the future of Walvis Bay is a matter for negotiation between South Africa and an independent Namibia. SWAPO would prefer to see the issue resolved as part of an independence package. Both the latest Contact Group proposals and the UN implementation plan avoid reference to the issue.

Description

Walvis Bay

Walvis Bay (Bay of Whales) is an 1124-square kilometre area consisting of a small city (1977 population about 27 000) and a number of outlying settlements including the South African military base of Rooikop. Walvis Bay is the only deepwater port along the Namibian coast; indeed it is the only deepwater harbour between Mocamedes in Angola and Cape Town in South Africa, two ports which are 2300 kilometres apart. Walvis Bay is 600 kilometres north of the South African border.

The port is the fifth most important controlled by the South African Railways and Harbours Administration. The harbour is far larger and more favourably endowed than that of Luderitz, the only other Namibian port, which is partly silted, has poor communication lines and handles much less trade. Walvis Bay is an excellent port: it is large and sheltered with a wide mouth; it has a sandy bottom which is easily dredged, and it has some 1400 metres of wharves for commercial shipping, serviced by electric cranes and backed by considerable storage facilities. The port's eight deepwater berths can accommodate large commercial vessels and tankers.

Walvis Bay is the western terminus of the Namibian railway system. The railway connects with Swakopmund, Tsumeb and Grootfontein to the north, Windhoek and

Gobabis to the east and Keetmanshoop and Luderitz to the south. The railway continues south via Karasburg into South Africa. The two major roads into Walvis Bay are from Swakopmund and Windhoek. About two million tonnes of cargo are handled in the port each year, and over 90 per cent of Namibia's export trade, including minerals, fish and agricultural produce, passes through Walvis Bay.

Walvis Bay is important to Namibia economically: the port handles most of Namibia's imports and exports and it is also the base for a once-lucrative fishing industry based on pelagic and white fish. The pelagic fishing areas off Walvis Bay were among the richest in the world, but over-exploitation in the 1970s seriously depleted stocks and it will be some years before the industry fully recovers. Fish processing factories in Walvis Bay have been hard hit, but limited processing continues. Although its major industry was the fishing industry, Walvis Bay still remains the second major centre for general industrial manufacturing activity after the Namibian capital of Windhoek.

Apart from its economic importance for Namibia, Walvis Bay is of potential importance to Botswana, Zimbabwe and Zambia. An extension of the Walvis Bay-Windhoek railway line 500 kilometres beyond its present eastern terminus at Gobabis would enable it to link with the railway systems of those three countries and make it possible for them to use Walvis Bay. Such a link would give Botswana, in particular, greater independence from South Africa.

Walvis Bay has strategic significance in addition to its being the only deepwater port between Angola and South Africa. It is important militarily for South Africa in the current Namibian situation: the Rooikop military base is used for training in desert warfare techniques, as a communications centre and as a staging base. If Walvis Bay remained under South African control once Namibia became independent, it would give South Africa major influence over Namibia, both politically and economically. As put in a paper prepared for the UN Council for Namibia: 'to a large extent, control of Walvis Bay represents economic control of Namibia'.¹

Penguin Islands

The Penguin Islands are 12 guano-rich islands off the Namibian coast—namely Hollams Bird (Hollandsbird), Mercury, Ichaboe, Seal, Penguin, Halifax, Long, Possession, Albatross Rocks, Pomona, Plum Pudding and Sinclair (Sinclair's). Their locations are shown in Figure 5.1. Guano is regularly deposited on the islands by penguins and migratory birds and subsequently harvested for fertilizer. There are off-shore diamond fields on some of the islands, particularly on Pomona.

Historical²

The Penguin Islands were probably first visited by whalers and, later, sealers in the 17th and 18th centuries. An early visitor to Ichaboe Island in 1828 noted that it was rich in guano, and these deposits were exploited only a few years later. However, it was not until 21 June 1861 that possession was taken of Ichaboe Island in the name of Queen Victoria, and it was not until 5 May 1866 that possession was formally taken of the other 11 islands. On 16 July 1866 the Governor of the Cape of Good Hope proclaimed British ownership over the 12 guano islands and their annexation to the Colony of the Cape of Good Hope.

To remove doubts about the legality of this proclamation, Letters Patent were issued on 27 February 1867 appointing the Governor of the Cape of Good Hope to be Governor of the islands, and authorising the Colony's Legislative Council and House of Assembly to request the Governor to transfer the islands to the Colony. This took place on 6 July 1874 by means of the *Ichaboe and Penguin Islands Act* 1874. From that date, the 12 islands formed part of the Colony of the Cape of Good Hope.

Walvis Bay did not become part of the Colony of the Cape of Good Hope until 10 years later. The first formal claim to the bay was made in 1793 by the captain of a Dutch ship. When Dutch rule at the Cape of Good Hope was superseded by British rule in 1795, a Captain Alexander, commander of the British frigate, *Star*, claimed Walvis Bay for the British. However, no formal annexation took place. It was not until 12 March 1878 that Captain R.C. Dyer, commander of the *Industry*, formally claimed 'Walfisch Bay' for the British. He proclaimed the boundaries to be:

. . . on the south by a line from a point on the coast 15 miles south of Pelican Point to Scheppmansdorp; on the east by a line from Scheppmansdorp to the Rooibank, including the Plateau and thence to 10 miles from the mouth of the Swakop River; on the north by the last 10 miles of the course of the said Swakop River.³

On 14 December 1878 British Letters Patent were issued for the annexation of the area to the Colony of the Cape of Good Hope. On 7 August 1884 the Governor of the Cape of Good Hope acting under the authority of the Letters Patent and the *Walfish Bay and St. John's River Territories Annexation Act* 1884, assented to on 22 July 1884, annexed Walvis Bay to the Colony of the Cape of Good Hope.

The incorporation of Walvis Bay was completed only three weeks before Germany proclaimed a protectorate over the Namibian coast and hinterland, a claim which was extended shortly thereafter (on 8 September 1884) to include most of what is now Namibia (with the exception of the Caprivi Strip). Walvis Bay was excluded from the claim. There ensued a dispute over the precise boundaries of Walvis Bay which continued until 23 May 1911 when it was finally resolved in favour of Britain.

The Colonies of the Cape of Good Hope, Natal, Transvaal and Orange Free State became original provinces of the Union of South Africa by the South Africa Act of 1909, which came into operation on 31 May 1910. The Act declared that the original provinces would have the same limits as the respective colonies. Thus Walvis Bay and the Penguin Islands, as part of the Colony of the Cape of Good Hope, became part of the Union of South Africa. The Union of South Africa became a sovereign state by the enactment of the Statute of Westminster in May 1931, and on 31 May 1961 South Africa became a republic.

For administrative convenience, South Africa decided in 1922 to administer Walvis Bay as part of Namibia, after it was granted a mandate over the territory on 17 December 1920. The mandate allowed South Africa to administer the territory 'as an integral portion of the Union of South Africa' (see Chapter 3). The South West Africa Affairs Act of 1922 provided that 'the port and settlement of Walvis Bay which forms part of the Province of the Cape of Good Hope shall be administered as if it were part of the mandated territory'.

On 15 September 1922, by Proclamation 145 of 1922, the Governor-General of South Africa declared that Walvis Bay would be administered as if it were part of the mandated territory, with effect from 1 October 1922. This was acknowledged by the Administrator of the territory in Proclamation 30 of 2 October 1922 which stated, in part: 'The said port and settlement of Walvis Bay shall be deemed to form portion of the District of Swakopmund . . . '.

Walvis Bay continued to be administered as part of Namibia until this arrangement was cancelled by South African Proclamation R202 of 31 August 1977. The Proclamation reiterated the legal position and declared that it was 'expedient and desirable again to administer and legislate for the port and settlement' of Walvis Bay as part of the Province of the Cape of Good Hope. The Proclamation declared that as from 1 September 1977:

Walvis Bay shall cease to be administered as if it were part of the territory and as if inhabitants thereof were inhabitants of the territory and shall again be administered as part of the Province [of the Cape of Good Hope].

The Proclamation repealed the South West Africa Affairs Act, and provided that, for electoral purposes, Walvis Bay would be part of the Cape electoral division of Namakwaland (Namaqualand).

The Walvis Bay controversy

The South African action in transferring Walvis Bay back to the Province of the Cape of Good Hope caused considerable controversy inside and outside Namibia. The South African position was that legally and historically it had sovereignty over Walvis Bay. The boundaries of Namibia had been fixed since colonial times and did not include Walvis Bay. Walvis Bay had never formed part of the German protectorate or of the territory mandated by the League of Nations.

The South African attitude is that if there is to be any change in the status of Walvis Bay or the Penguin Islands, that will be a matter for South Africa to decide, voluntarily, in consultation with the government of an independent Namibia.⁴

In 1980 the South African Prime Minister, Mr P.W. Botha, stated:

What we have stated in the past, and that is still the present position, is that we will be prepared to discuss the use of the port, the making available of the port to a democratically elected Government of South West Africa/Namibia and that position has not yet been reached.⁵

Within Namibia, the attitude of most parties is also that the status of Walvis Bay and the Penguin Islands should be a matter for negotiation after independence. The Democratic Turnhalle Alliance (DTA), although it agrees that South Africa has title to Walvis Bay and the Penguin Islands, would prefer to see them become part of Namibia. However, it recognises that this will need to be a matter for negotiation after independence. SWAPO-Democrats (SWAPO-D) and the Namibia National Front (NNF) agree with SWAPO that both Walvis Bay and the Penguin Islands continue to be integral parts of the territory, but do not want negotiations on the two to block or delay independence and so are prepared to leave the question until independence, if there is no alternative. AKTUR and the Herstigte Nasionale Party (HNP) would prefer to see Walvis Bay continue in South African hands because of the port's strategic significance, and as this would be in the 'best interests of the West'.⁶

SWAPO denies South African sovereignty over Walvis Bay and the Penguin Islands and argues that they are and have always been integral portions of Namibia. SWAPO's information secretary, Mr Peter Katjavivi, said in September 1977 that SWAPO regarded the port as an 'integral part of Namibia' and that the South African move was 'an attempt by South Africa to put herself in a position where she could continue to control events after independence'.⁷ The SWAPO view has been expressed on many

other occasions. For example, on 8 September 1977 Mr Moses Garoeb, the party's administrative secretary in Lusaka, said that SWAPO would fight 'to the bitter end' to prevent South Africa's 'annexation' of Walvis Bay.⁸ Earlier, on 1 September, Mr Daniel Tjongarero, deputy chairman of SWAPO, declared that Namibians could not be bound by colonial treaties of the 1880s, that South Africa's claim to Walvis Bay was of an expansionist nature, and that it could be used against a Namibia under SWAPO leadership.⁹ On 28 April 1978 SWAPO's written response to the United Nations dealing with the Western proposal included the statement that Walvis Bay was a non-negotiable part of South West Africa.¹⁰

The SWAPO view is generally endorsed by organisations such as the United Nations, the Front-Line States and the Organisation of African Unity. The UN Council for Namibia issued a statement on 7 September 1977, condemning 'in the strongest terms this unilateral attempt by South Africa to destroy the territorial integrity and unity of Namibia'. The Council stated that Walvis Bay had always been an integral part of Namibia and that South Africa had no right to change its status or to appropriate it as part of its own territory; its decision was illegal. 'The independence of Namibia,' the Council stated, 'cannot be complete without the recovery of Walvis Bay from South African control'. It said it expected the Security Council to take measures to maintain the status of Walvis Bay as part of the international territory of Namibia.¹¹

The UN General Assembly, on 4 November 1977, by resolution 32/9D, declared South Africa's decision to 'annex' Walvis Bay as 'illegal, null and void', and an act of colonial expansion in violation of the Charter and of the Declaration on decolonisation. The resolution declared Walvis Bay to be 'an integral part of Namibia with which it is inextricably linked in geographical, historical, economic, cultural and ethnic bonds'. In the resolution the General Assembly condemned South Africa for its decision to 'annex' the Bay, 'thereby attempting to undermine the territorial integrity and unity of Namibia'.

In March 1978 the UN Council for Namibia declared that South Africa's decision to 'annex' Walvis Bay was 'an act of aggression against the Namibian people. . . . This illegal annexation of Walvis Bay is a deliberate attempt to deprive Namibia of its main port and vital economic avenues and retain a strategic military base in this part of Namibia . . .'.¹²

The Security Council, in resolution 432 of 27 July 1978 took note of General Assembly resolution 32/9D and declared 'that the territorial integrity and unity of Namibia must be assured through the reintegration of Walvis Bay within its territory'. The resolution, adopted unanimously by all 15 members, further declared that 'South Africa must not use Walvis Bay in any manner prejudicial to the independence of Namibia or the viability of its economy'.

The OAU, at the 31st ordinary session of its Liberation Committee, stipulated that Walvis Bay was a non-negotiable, integral part of Namibia.¹³ Heads of State of the Front-Line States, after a meeting in Luanda on 11 June 1978, issued a final communique in which they requested the Security Council to reaffirm that Walvis Bay was part of Namibia and to take appropriate measures for the early return of Walvis Bay to Namibia.¹⁴ The US Administration described the South African move as 'untimely and unhelpful'.¹⁵

Because of the opposing views of South Africa and SWAPO on the question, the Contact Group has avoided reference to the issue in its various proposals, leaving the question to be resolved between South Africa and an independent Namibia.

Some issues

The South African argument on Walvis Bay and the Penguin Islands is based within both the British system of constitutional law and traditional international law. However, new doctrines of international law are arising, based on decisions both of the United Nations and the International Court of Justice, and involving the right of self-determination and decolonisation processes, which would tend to support the SWAPO/UN view.¹⁶ These doctrines have not yet been fully tested and at the current stage of development of international law, the South African case would appear still to be the stronger.

Territorial claims usually involve not only legal arguments but also arguments based on considerations of geography, history, economics, politics, ethnology and morality.¹⁷ The SWAPO/UN view is based as much on these sorts of grounds as on strictly legal grounds, and on such grounds the Committee considers that there is an overwhelming case for Walvis Bay and the Penguin Islands to become part of an independent Namibia.

Continued South African control over Walvis Bay after Namibian independence could, in a 'worst case' situation, leave Namibia threatened politically and economically. Walvis Bay is Namibia's main access to the outside world. Most of Namibia's exports and a considerable proportion of its imports pass through Walvis Bay. Control of the port would give South Africa a great deal of leverage over an independent Namibia. This leverage could be increased by continuing to station armed forces at Walvis Bay.

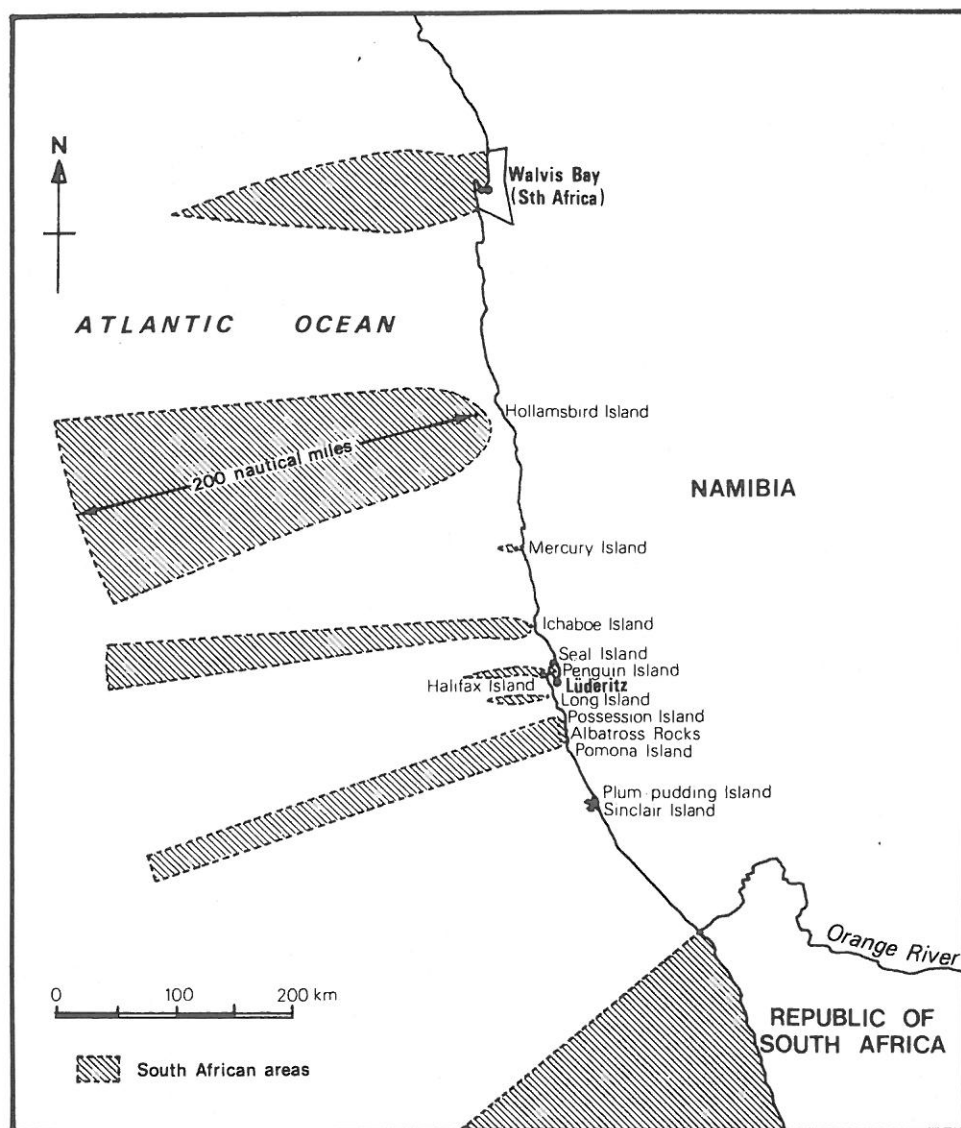
Walvis Bay is also the centre of the Namibian fishing industry—both as a processing centre and home-port for fishing trawlers. Both have been considerable employers of Namibian labour.

The extension by South Africa of the fishing zone outside Walvis Bay (and out from the Penguin Islands) from 12 to 200 nautical miles from 1 November 1977, and the proclamation of a similar fishing zone for Namibia on 1 November 1979 by the Administrator-General, has the potential to cause chaos in the granting of fishing rights and the regulation of fishing upon independence. If the fishing zones were worked out on the principle of equidistance (see Figure 5.1) fishing along the coast would be demarcated into a series of alternating zones, almost impossible to police. The implementation of fish conservation measures would also be difficult. Confrontation between Namibia and South Africa could arise if one tried to prohibit the other fishing in its zones.

The development of Luderitz or some other alternative port to Walvis Bay, should it prove feasible, would not be likely unless forced by some South African action concerning Walvis Bay—the costs of developing a new port and associated infrastructure for a small country such as Namibia would be considerable.

There has also been the compromise suggestion that Walvis Bay might become a 'free port', or be shared by means of a treaty arrangement—although ideas differ on what these mean in practice.

FIGURE 5.1. SEAS WHICH SOUTH AFRICA COULD CLAIM ACCORDING TO THE PRINCIPLE OF EQUIDISTANCE—



Source: Dr J. R. V. Prescott, *Evidence*, 17.2.81, p. 6.

The Committee does not anticipate an early resolution of the problem of Walvis Bay. Walvis Bay and the Penguin Islands are a trump card that South Africa will not play until the right moment, if at all. If South Africa were to negotiate for a transfer of Walvis Bay and the islands to Namibia during independence negotiations or after independence, it would be in a strong position to demand conditions, such as an ironclad guarantee for the demilitarisation of the port or a prohibition on its use by foreign warships. Such guarantees might be the price Namibia will need to pay for the integration of Walvis Bay. If integration does not take place and South Africa retains control of

Walvis Bay then an independent Namibia will be heavily dependent on South African goodwill—not only in terms of access to the deep-sea port on its coast but also in terms of the only railway line out of the territory.

Australia's policy

Australia's attitude towards Walvis Bay was determined by the then Minister for Foreign Affairs in late 1977 in the following terms: 'Because of the historical background, the legal aspects of Walvis Bay's status are complicated and contentious . . . however Australia considers that the critical question is not whether South Africa has a legal or historical right to administer Walvis Bay, but that, because of moral and pragmatic considerations, Walvis Bay should form part of a united and independent Namibia'.¹⁸ Australia's policy towards the Penguin Islands is based on the same considerations.

In a Press statement issued on 14 May 1980 by the UN Council for Namibia mission to Australia, the Australian view was reported as follows:

The Australian delegation and the mission of the Council discussed at length the importance of maintaining the territorial integrity and unity of Namibia, including Walvis Bay, and reaffirmed the concept of Namibia acceding to independence as a Unitary State. The Australian delegation reaffirmed that Walvis Bay should be an integral part of an independent Namibia.¹⁹

Australia considers that, despite the legal arguments South Africa may advance in support of its claim to Walvis Bay, the enclave is inextricably linked with Namibia. Australia believes that, on moral and political grounds, South Africa should not prevent Walvis Bay being included in an independent Namibia. Australia has supported calls in the United Nations for the integration of Walvis Bay into Namibia, and voted in favour of General Assembly resolution 32/9D, of 4 November 1977.²⁰

The Committee endorses the Australian position on Walvis Bay (and, by extension, the Penguin Islands). The Committee recommends:

(1) That the Government:

- (a) maintain its present position on the integration of Walvis Bay and the Penguin Islands;
- (b) undertake diplomatic initiatives with South Africa and other countries with a view to ensuring the integration of Walvis Bay and the Penguin Islands into Namibia;
- (c) advise South Africa, in any such initiative, that it acknowledges the legal argument presented by South Africa on its claims to Walvis Bay, but notes also shifting interpretations of international law in relation to such claims. However, in Australia's view, whatever the legal position might be, it should be subordinated to political, moral and other considerations based on geography, history, economics and ethnic origin; and
- (d) further advise the South African Government that it does not consider that South African concern at the unlikely possibility of a substantial Soviet base at Walvis Bay outweighs the value to the West of a resolution of disputes in the region.

(2) That Australia use its 'good offices' in the United Nations and on the UN Council for Namibia to promote a climate of reasonableness rather than confrontation in debate on the issue of Walvis Bay.

NOTES AND REFERENCES

1. United Nations, General Assembly, A/AC.131/L.73, of 28 March 1978.
2. The historical outline in this section is based to a large extent on a paper prepared for the Sub-Committee by Dr J. R. V. Prescott, Reader in Political Geography, University of Melbourne. See *Evidence*, 17 February 1981, pp. 3-50.
3. *Evidence*, 17 February 1981, p. 41.
4. See, for example, the speech on the issue by the South African Foreign Minister, Mr R. F. Botha, to the United Nations on 27 July 1978 (UN document S/PV.2082).
5. *Evidence*, 28 August 1980, p. 2249.
6. Olga Levinson, *Story of Namibia* (Tafelberg Publishers Ltd, 1978), p. 87.
7. *Africa Confidential*, vol. 18, no. 19, 23.9.77, p. 1.
8. *Keesing's Contemporary Archives*, vol. 24, 1978, p. 28791.
9. *Keesing's Contemporary Archives*, vol. 24, 1978, p. 28791.
10. *Africa Research Bulletin* (Political, Social and Cultural Series), vol. 15, 1978, p. 4830.
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12. United Nations Office of Public Information, *Walvis Bay—An Integral Part of Namibia*, Special Supplement No. 2, June 1978, p. 3.
13. *Africa Research Bulletin* (P, S and C Series), vol. 15, no. 6, 15 July 1978, p. 4874.
14. *Africa Research Bulletin* (P, S and C Series), vol. 15, no. 6, 15 July 1978, p. 4901.
15. International Defence and Aid Fund for Southern Africa, *Focus*, no. 13, November 1977, p. 15.
16. See, for example: (1) A paper prepared for a UN Council for Namibia Seminar on Legal Issues Concerning the Question of Namibia by Kader Asmal, Senior Lecturer in Law and Dean, Faculty of Arts, Trinity College, Dublin, entitled 'Walvis Bay: Self-determination and International Law' (UN A/AC.131/SLI/L.2), 27 January 1982; (2) 'Namibia, South Africa, and the Walvis Bay Dispute', *Notes*, Yale Law Journal, vol. 89, no. 5, April 1980, pp. 903-22.
17. Dr J. R. V. Prescott, *Evidence*, 17 February 1981, p. 5.
18. Department of Foreign Affairs, *Correspondence*, 5.7.82.
19. Reproduced in Department of Foreign Affairs, *Backgrounders*, no. 234, 14.5.80.
20. Department of Foreign Affairs, *Briefing Paper*, and *Correspondence*, 5.7.82.

Australia and Namibia

Development of Australian policy

Prior to 1972 Australia did not show particular interest in the Namibia question. In the United Nations Australia normally abstained in votes on resolutions relating to Namibia, although it did support General Assembly resolution 2145 (XXI), of 27 October 1966, terminating South Africa's mandate for South West Africa (see Chapter 3). Australia was also a founding member of the Special Committee of 24 (the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples), formed on 27 November 1961.

Australia began taking a greater interest in the southern Africa region, including Namibia, when the Labor Party came to power at the end of 1972. Australia became more active in the United Nations in supporting measures aimed at eliminating racism and colonialism and granting peoples in colonial territories the right to self-determination and independence.¹ Australia began a policy of developing closer ties with black Africa and loosening some of its links with South Africa. This policy was continued by the Liberal-National Country Party when it came to power at the end of 1975.

In the United Nations Australia supported all General Assembly resolutions relating to Namibia between the 27th session in 1972 and the Special Session on Namibia in 1978.² An early Labor Government initiative was the announcement on 13 December 1972 that during 1973 Australia would contribute \$A10 000 to the UN Educational and Training Program for Southern Africa and \$A5000 each to the UN Trust Fund for South Africa and the UN Fund for Namibia.³ The donations were small, but were significant because they were the first direct donations by an Australian government to activities bearing on southern Africa issues.⁴

In 1973 Australia refused to recognise South African representation of Namibia in consular dealings and also stopped official encouragement and promotion of economic relations with South Africa, including a ban on 4 October 1973 on official visits to Namibia by Australian Trade Commission staff in South Africa. On 27 August 1974 Australia formally decided to recognise travel and identity documents issued by the UN Council for Namibia for identification, visa and travel purposes.

On 25 January 1973, Australia rejoined the Special Committee of 24 (Australia had withdrawn from the Committee on 28 January 1969) and on 18 December 1974 Australia joined the UN Council for Namibia. As at 1980, Australia was still the only Western country which was a member both of the Council for Namibia and the Special Committee of 24.

The Australian role in the UN was increased for a two-year period from 1 January 1973 when Australia was a member of the Security Council. While a member of the Security Council, Australia voted on 30 October 1974 for the expulsion of South Africa from the United Nations, but the resolution was vetoed by France, the United Kingdom and the United States of America. One of the grounds for Australia's vote was

South Africa's repeated failure to comply with UN requests on Namibia.⁵ However, while Australia voted in the Security Council for South Africa's expulsion, it subsequently voted against the suspension of South Africa from the General Assembly on 30 November 1974, on the basis that its vote then was a non-political vote on a legal issue.

Also in 1974 Australia budgeted \$A150 000 for humanitarian assistance to African liberation movements. The money was subsequently given to a United Nations Children's Fund (UNICEF) project in Zambia for the provision of schools, health clinics and agricultural training for refugees from Rhodesia, Namibia, South Africa and Angola. Australia has at all times refused to provide military assistance to SWAPO or any other African liberation movement.

The Liberal-National Country Party Government in general continued the policies of its predecessor. However, it stopped aid of any kind going specifically to national liberation movements and it also expressed a different policy on South African membership of the UN. The then Minister for Foreign Affairs, Mr Andrew Peacock, in an Address-in-Reply speech in the House of Representatives on 4 March 1976, stated the new policy in the following terms:

We will also oppose moves to expel or suspend South Africa from the United Nations or other international bodies, since this would run counter to the principle of universality of membership and remove South Africa from exposure to the critical views of other United Nations members.⁶

The Australian position on southern Africa generally was reiterated in a foreign policy statement by Mr Peacock on 9 May 1978:

We support all attempts to find peaceful solutions based on the principle of majority rule and human rights for all.

On Namibia, the present Government's policy has been to consistently support efforts to achieve a peaceful transition to independence.

Support for UN resolutions

In the United Nations Australia supported General Assembly resolution 31/146 of 20 December 1976 which recognised SWAPO as the 'sole and authentic representative of the Namibian people' and which supported 'the armed struggle of the Namibian people, led by the South West Africa People's Organisation, to achieve self-determination, freedom and national independence', although the Australian Representative did express reservations about aspects of the resolution. These reservations had been expressed by the Australian delegate at a meeting of the Special Committee of 24 six months earlier (on 17 June 1976) when he said Australia 'could not support the position that SWAPO was the only representative of the people of Namibia'.⁷

Since 1978 Australia has not supported UN resolutions or parts of resolutions containing the more extreme statements on Namibia. At the General Assembly's 1978 Special Session on Namibia Australia was unable to support resolution S-9/2, containing the Declaration on Namibia and a Programme of Action in Support of Self-Determination and National Independence for Namibia. Nor did Australia support resolution 33/182, Parts A and B, of 21 December 1978, and resolution 34/92, Part G, of 12 December 1979.

The Australian position in not supporting these resolutions was put by the Department of Foreign Affairs in evidence as follows:

Our inability to support these resolutions was based on several considerations, among which were the following:

- (a) reference to the South West Africa People's Organisation (SWAPO) as the 'sole and authentic representative of the Namibian people'. Australia does not accept this description of SWAPO, although we acknowledge SWAPO to be a major and authentic representative of Namibian opinion.
- (b) reference to United Nations support for the 'armed struggle of the Namibian people'. Australia has consistently opposed the use of force as a means of resolving international conflicts. We support fully the United Nations plan for a peaceful solution to the problem of Namibia as outlined in Security Council resolution 435 (1978).
- (c) Australia does not accept that all foreign economic activity in Namibia necessarily contributes to the maintenance of South Africa's illegal occupation of Namibia.
- (d) Australia does not consider it to be the proper function of the General Assembly to demand that the Security Council impose mandatory economic sanctions, including an oil embargo, against South Africa. This is a matter solely for the Security Council.⁸

This attitude has been maintained in voting on subsequent resolutions.

Australian attitude to SWAPO

The Australian attitude to SWAPO, summed up in the previous quotation, was referred to by the then Minister for Foreign Affairs, Mr Peacock, on 17 April 1977 thus:

The Australian Government considers that SWAPO is a major and authentic representative of political opinion in Namibia. It does not, however, regard it as the sole authentic representative of the Namibian people. The Government believes that the representatives of indigenous political forces in Namibia other than SWAPO should be included in the process of negotiation to determine Namibia's constitutional future.⁹

Australia has not made any direct contribution to SWAPO since the organisation was formed, apart from the \$150 000 contribution to UNICEF in 1974 for humanitarian and educational aid to refugees connected with a number of African liberation movements, one of which was SWAPO. Australian policy has been to contribute to funds administered by the United Nations or the Commonwealth which provide assistance to all Namibians without regard to political affiliation.

Australian support for UNTAG

When South Africa announced on 20 September 1978 that it would proceed unilaterally with elections in Namibia for a constituent assembly, Australia expressed strong disapproval. In a submission to the Sub-Committee on Southern Africa in October 1978 the Department of Foreign Affairs stated that the Australian Government:

... regrets the announced South African decision to proceed unilaterally and has expressed the hope that the South African Government will reconsider its decision. The Government believes that any independence resulting from South Africa's action would not be accepted internationally; would lead to an intensification of hostilities in the area, and would play into the hands of those who are seeking to frustrate Western efforts to bring about a peaceful and internationally acceptable solution.¹⁰

Australia wished to see an international solution, preferably under UN auspices.

Such a solution had been proposed on 29 August 1978, a month before the South African announcement, in the form of a report by the UN Secretary-General recommending the establishment of a UN Transition Group (UNTAG) to oversee Namibia's transition to independence (see Chapter 4). The recommendations in the report were approved by the Security Council in resolution 435, of 29 September 1978. UNTAG was to provide both military and civilian supervision during the transition to independence. Since 1977 Australia had been sounded out several times on the possibility of contributing to a peacekeeping force such as UNTAG. The Australian position on possible involvement was canvassed by the then Minister for Foreign Affairs, Mr Peacock, in a statement to Parliament on 23 August 1978. He said:

The question . . . arises whether Namibia is an appropriate place for Australia to contemplate a significant military involvement . . . in an increasingly interdependent world the problems of southern Africa are important and we have consistently supported the need to find peaceful and negotiated solutions to them. Basic questions of human rights and majority rule are involved. Continuing instability, resulting from conflicts which stem from racial inequality, creates the very conditions in which extremist influences can thrive.

The only beneficiary of such instability can be forces hostile to the West.

It is in the West's interests for there to be a peaceful settlement in Namibia, the consequences of which would extend far beyond Namibia's borders. It would not of itself resolve the other problems of southern Africa but it would help to arrest the growing trend towards military solutions.¹¹

The Prime Minister, Mr Fraser, on 20 February 1979, announced that Australia would be prepared, if requested, to offer 'an engineer contingent of 250 officers and men, together with a national headquarters and support element of 50' a total contribution of 300.¹² Mr Fraser stated that, if accepted, the unit would be responsible for providing 'a variety of engineering services in support of the operational battalions', for a period of 12 months. Australia reaffirmed its willingness to provide a military engineering component of 300 men to an UNTAG force in June 1980.¹³ Mr Fraser, on 15 September 1981, stated that although the Government had not examined its commitment to a peacekeeping force in Namibia in recent times, there was no reason to assume the commitment would not stand if the troops were still welcome.¹⁴ The Australian offer is still current.¹⁵

Australia at present participates in several international peacekeeping forces, the most recent being the Australian Contingent to the Sinai Multinational Force and Observers (MFO)—a commitment of 109, mainly RAAF, personnel. Despite its other commitments, Australia would still be able to participate in UNTAG on the basis originally proposed, according to the Department of Defence.¹⁶ If Australia was asked to participate, the precise composition of the Australian contingent would depend on the particular request received.

The current position

Australia welcomed the proposal for a demilitarised zone initiated by the late President Neto of Angola in July 1979, and generally has been a strong supporter of the various Contact Group initiatives, including the current 'three-phase' negotiations.

The current Australian position was made clear, for example, in a statement by Australia's Ambassador to the UN on 10 September 1981 at an Emergency Special Session of the General Assembly on Namibia. The Ambassador, Mr David Anderson, stated:

. . . we have given full support to the efforts of the Western Contact Group and our support will continue.¹⁷

Mr Anderson stressed Australia's overriding commitment to the implementation of Security Council resolution 435 and Australia's opposition to any moves to impose an 'internal settlement', and was strongly critical of South African 'obduracy' and 'inflexibility'. He said:

At every turn, when there has seemed to be the prospect of a breakthrough on Namibia, the South African Government has thrown up roadblocks—it has prevaricated, offering flimsy pretexts for evading the implementation of resolution 435. It is no wonder that South Africa's international isolation has increased and that its statements are almost universally regarded with deep distrust.¹⁸

Australia is still a member of the UN Council for Namibia. In 1979-80 Australia was a Vice-President of the Council and Chairman and Rapporteur of the Council's Committee on the UN Fund for Namibia. Within the Council Australia has endeavoured to be a moderating influence, and was instrumental in gaining the Council's approval of the early Contact Group proposals for a settlement.¹⁹ Australia is also a member of the Senate of the Institute for Namibia.

Australian aid to Namibia

Most international aid for Namibia has had to be channelled outside the territory because of the continuing exclusion of UN and other agencies by the South African administration. Most development assistance has consisted of training Namibians outside the territory, in areas and skills that will be of benefit on independence.

Australia has contributed to a number of aid programs for Namibians over the past 10 years. Some programs are concerned solely with Namibia and others have wider objectives but include Namibians among their beneficiaries. The cumulative total of Australian aid for Namibia as at 30 June 1981 was estimated by the Department of Foreign Affairs to be in excess of \$A500 000, made up as follows:²⁰

Specific:

UN Fund for Namibia	\$A173 000
SCAAP Awards to Namibians	\$A56 000
Commonwealth Special Fund for Namibia	\$A200 000
Sub-Total	\$A429 000

General:

Contributions to other bodies

Total—In excess of	\$A500 000
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Australia has been a regular contributor to the UN Fund for Namibia since 1972. Australia was one of the first countries to make a contribution to the Fund, which was established in December 1970 by the UN General Assembly to assist and prepare the people of Namibia for independence. One of its activities has been to contribute to the establishment of the Institute for Namibia in Lusaka, which provides training in administrative and technical fields. Australia's assistance to the Fund began with a contribution of \$A5000 in 1972-73. The figure for 1980-81 was \$A28 000, and Australia's total contribution to the Fund for Namibia as at 30 June 1981 was \$A173 000.

Australia has also contributed to UN organisations which, *inter alia*, benefit Namibians. These include, in particular, the UN Trust Fund for South Africa, to which Australia had contributed a total of \$A132 000 as at 30 June 1981, and the UN Educational and Training Program for Southern Africa, to which Australia's total contribution as at 30 June 1981 was \$A208 000. Following the independence of the Portuguese colonies and Zimbabwe, these two organisations now only apply to people from South Africa and Namibia. Australian contributions to major UN agencies, such as UNICEF, have also aided Namibians.

Outside the UN and its agencies, Australian assistance to Namibians has been predominantly through Commonwealth channels. In 1977-78 Australia began a modest program of awards to train Namibians in Australia under the Special Commonwealth African Assistance Plan (SCAAP). Australia contributed \$A56 000 to the program up to 1980-81. There are currently five Namibians in Australia on SCAAP awards—four taking undergraduate courses in Business Administration and one pursuing a post-graduate Diploma in Social Work.

In 1979 Australia made an earmarked contribution of \$A200 000 to the Commonwealth Special Fund for Namibia of the Commonwealth Program for Namibia—an education and training program coming under the Commonwealth Fund for Technical Co-operation (CFTC). Apart from this once-only contribution to the Special Fund, Australia regularly contributes to the CFTC as a whole, and Namibia is one of a number of beneficiaries of this. The CFTC seeks to complement aid schemes of bilateral and multilateral agencies in Commonwealth countries in the fields of technical assistance. Australia has contributed in excess of \$A8 million to the CFTC since 1972-73.

The amount of Australian aid specifically directed to Namibia is small in the context of Australia's total overseas aid program but, although small, it is significant: Australia has, for example, consistently been among the top six or so donors to the UN Fund for Namibia—it was the second largest donor in 1976 and the third largest in 1977 and 1978. Approaching nationhood for Namibia could be an impetus for an increase in Australian contributions, to ensure that an independent Namibia has the skills and expertise to progress and be as self-sufficient as possible.

Immigration and refugees

Namibia is an area of low interest to Australia in a migration context. Most of the applications for immigration to Australia from Namibia are believed to be from expatriates; few, if any, are from blacks.²¹ In the year 1980-81 some 35 visas were issued to Namibian residents for migrant entry to Australia; the figure for July 1981 to April 1982 was 41. The number of actual arrivals in Australia from Namibia each year was slightly less—30 in 1980-81 and 37 in the period July 1981 to March 1982. Details are shown in Table 6.1.

The number of Australians emigrating to Namibia, if any, is not known. A total of 304 residents of Australia left permanently in 1980-81 for Africa. Of these 215 went to South Africa. Any persons migrating to Namibia would be included in the South African figure.

Applications from Namibians seeking to emigrate to Australia are processed by Department of Immigration and Ethnic Affairs officers in South Africa. Namibians in

Table 6.1: Migrant entry statistics—Residents of Namibia

	<i>Enquiries</i>		<i>Applications</i>		<i>Approvals</i>		<i>Visa issues</i>	<i>Arrivals</i>
	<i>(cases)</i>	<i>(persons)</i>	<i>(cases)</i>	<i>(persons)</i>	<i>(cases)</i>	<i>(persons)</i>		
1976-77	20	38	14	5	2	5		n.a.
1977-78	21	47	16	16	6	14		18
1978-79	25	86	22	28	9	30		22
1979-80	21	(b) 37	17	10	5	9		27
1980-81	(a) 32	90	29	31	9	35		30
1981-82 (July-April)	49	56	26	14	4	41	(c) 37	

(a) Jan.-June 1981 only;

(b) July 1979-May 1980 only;

(c) July 1981-March 1982 only.

Note: All figures are estimates except those for 1979-80 on. All arrival figures are also estimates.

Source: Department of Immigration and Ethnic Affairs.

countries such as Angola or Zambia would need to apply to an Australian High Commission or immigration office in a black country such as Zimbabwe or Kenya, should they be unable or unwilling to apply at the Australian immigration post in Cape Town. The Committee considers that the Department of Immigration and Ethnic Affairs should bear in mind the logistical difficulties facing black Namibian refugees wishing to apply to immigrate and make every effort to facilitate applications when they are received. Blacks—and whites—within Namibia would be assisted if a departmental officer were to visit the territory at least annually to cater for enquiries and conduct interviews relating to applications.

Should the lack of a settlement on Namibia and an intensification of the guerilla war lead to a dramatic increase in the number of Namibian refugees, the evidence is that comparatively few would wish to come to Australia. According to the Department of Immigration and Ethnic Affairs, experience in other African countries, most recently in Zimbabwe, has shown that in general most black Africans prefer to move to a nearby country until such time as the situation in their own country enables them to return.²² Few blacks, other than well-educated ones, have opted to settle in Europe, or other Western countries such as Australia. In the case of Namibia the majority of black refugees forced to flee their country have sought refuge in neighbouring Angola and Zambia, and also Tanzania.

Should an escalation of the guerilla war or independence under SWAPO lead to an exodus of a large part of the white population of Namibia, the Department of Immigration and Ethnic Affairs is again of the opinion that comparatively few would seek to come to Australia.²³ As pointed out in Chapter 2, about 68 per cent of whites are of Africaner origin, about 18 per cent of German origin and about 10 per cent of English origin, and there is a small percentage of Portuguese origin. It is thought most of those of Africaner origin and some of German origin would, in a deteriorating situation, seek resettlement in South Africa; those more likely to seek resettlement in Australia and similar countries would in all probability be a small proportion of the 10 000 to 11 000 of English origin.

In the case of Zimbabwe, of those whites who left, nearly all did so voluntarily as migrants, and the great majority resettled in South Africa. Comparatively few emigrated to Australia, and virtually none—black or white—came as refugees.²⁴

Australia does not have a refugee resettlement program for Africa as such, but any refugees from Namibia would be eligible for consideration under Australia's Special Humanitarian Program.²⁵ The Committee considers that where the prospects of return

to their own country are slight, Australia should accept those refugees wishing to come—thus maintaining the good record Australia has in accepting refugees.

However, in a context where most refugees prefer to 'wait and see' in neighbouring countries, or else seek resettlement in neighbouring countries, Australia could best assist by providing material help. In the case of Namibia, such help or assistance would be to ensure that the black States of southern Africa—particularly the Front-Line States—can continue to accept and support refugees without imposing intolerable strains on their already fragile economies.

Again, this is an area in which Australia has a good record: since 1980 Australia has contributed approximately \$A20 million in cash and food aid for African refugees. This has included \$A1 million in assistance to Zimbabwean 'returnees' and \$A3.9 million in food aid to Ethiopia. According to the Department of Immigration and Ethnic Affairs the latter contribution will constitute virtually all the basic food requirements for a United Nations High Commissioner for Refugees (UNHCR) program for the return of 150 000 refugees to Ethiopia.²⁶

Trade and resources

Existing Australian Government policy precludes the promotion of trade and investment in South Africa and, while South Africa administers Namibia, in Namibia as well. Accordingly the Australian Trade Commissioner located at Johannesburg, whose territory includes Namibia, has not visited Namibia since 1970.

Australian trade with Namibia is minimal. For the past three years it has totalled less than \$50 000 each year. Most Australian exports have been in the category of machinery and tools, although occasionally there have been exports in areas such as heating and lighting fixtures, sanitary and plumbing equipment, and wooden railway sleepers. The only time in the past five years that Australian exports to Namibia have exceeded \$100 000 was in 1978–79 when Australia exported \$A3.6 million worth of copper concentrates and copper matte as a special order to enable a company in Namibia to meet export contracts. Details of exports are shown in Table 6.2.

Imports from Namibia have not exceeded \$10 000 in any of the past five years, and comprise mainly precious and semi-precious stones and karakul pelts. The last imports of fish and fish products occurred in 1978–79. For details of imports see Table 6.2.

Neither the Australian Bureau of Statistics nor the Department of Trade and Resources were aware of any Australian firms with investment interests in Namibia. The Department of Trade and Resources has not had any trade enquiries from Namibia.

Trade between Australia and Namibia is unlikely ever to be substantial, given the size of Namibia's population, its proximity to South Africa and its distance from Australia, and the fact that both Australia and Namibia export a number of similar commodities, particularly minerals. Australian exports of mining machinery, pumping equipment, etc, could increase were Namibia to become independent and adopt a policy of diversifying purchases away from its present main supplier, South Africa. Nevertheless, the Committee does not anticipate any dramatic expansion of trade between the two.

For Australia and Namibia the major interest is not in the amount of trade between the two but in potential competition for export markets for certain major mineral commodities, namely diamonds and uranium and, to a lesser extent, base metals such as copper.

Table 6.2: Australian trade with Namibia
(SA'000)

Category	1977/78	1978/79	1979/80	1980/81	1981/82 (provisional to February)
<i>Exports</i>					
Mechanical handling equipment and parts thereof	69	—	—	—	—
Machinery for specialised industries and parts thereof	—	—	—	23	—
Tools for use by hand or in machines	2	—	2	—	3
Wood, simply worked (incl. rail sleepers)	1	—	4	—	—
Pumps and compressors, centrifuges, fans and blowers etc.	1	—	—	—	1
Lead ores and concentrates	—	—	—	—	—
Copper ores and concentrates	—	1 994	—	—	—
Copper matte, etc.	—	1 640	—	—	—
Sanitary, plumbing, heating and light fixtures	—	—	—	20	—
Total exports*	76	3 634	6	43	13
<i>Imports</i>					
Natural abrasives (incl. industrial diamonds)	2	—	—	—	—
Furskins tanned or dressed	—	—	—	—	1
Pearls and semi-precious stones	—	—	1	—	—
Fish, dried, salted or in brine, smoked fish	—	1	—	—	—
Leather	—	—	—	1	—
Floor coverings, etc.	—	—	—	—	6
Total imports*	2	1	1	1	8

* including minor amounts in other categories not shown.

Source: Department of Trade and Resources.

Diamonds

By 1985 Australia could be producing more gem diamonds than Namibia. The Australian quantity will be even greater if near-gem diamonds are sold as gems.²⁷ According to the Australian Bureau of Mineral Resources, Geology and Geophysics, this must have a substantial effect on the market as it relates to Namibian output, although the

effect could be somewhat ameliorated if the Central Selling Organisation (CSO), which already markets Namibian and most other southern African gem diamonds, obtains the franchise to market Australian gems.²⁸

Namibia currently produces about 1.5 million carats of gem-quality diamonds a year, compared to South Africa with about 4.8 million carats a year and Botswana with about 2.4 million carats a year (the main producer of gem-quality diamonds among the Centrally Planned Economies is the USSR, which produces about 3.5 million carats a year). The Ashton Joint Venture at Argyle is expected to be producing 1.5 million carats of gem and 2.25 million carats of near-gem diamonds by 1985 and double those quantities by 1990. For details, see Table 6.3.

The Ashton figures are based on an expected gem count of 10 per cent of total production and near-gem count of 15 per cent of total production, with industrial diamonds accounting for the remaining 75 per cent.²⁹ The major production of Ashton will be industrial diamonds, and Australia may well become one of the largest suppliers of natural industrial diamonds in the world. Production of industrial diamonds at Ashton is expected to reach 11.25 million carats a year by 1985—a volume which will dominate both Namibian (0.16 million carats) and South African (4.0 million carats) production, and equal the current production of the main Western world producer, Zaire (11 million carats). (The major CPE producer, the USSR, produced about 8 million carats in 1980).

Table 6.4 shows diamond production and reserves for Australia and Namibia, and gives percentages of world production.

In summary:

- the projected level of output of diamonds from the Ashton Joint Venture (AJV) at Argyle is of world rank;
- the effect of the AJV production of gem diamonds on Namibian output is potentially substantial although joint marketing of Namibian and Australian gem diamond production by the same international body (CSO) may avoid direct competition on the open market; and
- the effect of the large output of industrial diamonds from the AJV project on Namibian production will be minimal given that more than 90 per cent of Namibian production is gem-quality stones.

Table 6.3: Forecast Australian diamond production
(million carats)

<i>Year</i>	<i>Gem</i>	<i>Near-gem</i>	<i>Industrial</i>	<i>Production source</i>
1982	0.20	0.30	1.5	Alluvials at Smoke Creek, Limestone Creek
1983	0.20	0.30	1.5	Alluvials at Smoke Creek, Limestone Creek
1984	0.20	0.30	1.5	Alluvials at Smoke Creek, Limestone Creek
1985	1.5	2.25	11.25	Alluvials/pipe at Argyle
1990	3.0	4.5	22.5	Argyle pipe/Ellendale pipe(s)

Source: Bureau of Mineral Resources, Geology and Geophysics estimate, based on Ashton Joint Venture 1981 Annual Report.

Table 6.4: Diamond production and reserves
(million carats)

	<i>Production</i>				<i>Reserves</i>	
	<i>1980</i>		<i>1981</i>			
	<i>% World</i>		<i>% World</i>		<i>% World</i>	
<i>Gem diamonds</i>						
South Africa	4.5	26.2	(e) 4.6	26.7	(c) 72+50	41
Namibia	(e) 1.40	8.1	1.13	6.3	(c) 15+20	12
Australia	—	—	—	—	(b) 75	25
Total World (f)	17.12		18.00		(d) 300	100
<i>Industrial diamonds</i>						
South Africa	4.0	13.3	(a) 4.2	13.1	50	5
Namibia	(e) 0.16	0.5	0.12	0.4	minimal	
Australia	—	—	—	—	(b) 425	43
Total World (f)	30.00		32.00		980	

Notes:

- (a) BMR estimate from De Beers Consolidated Mines Ltd, 1981 Report.
- (b) BMR estimate based on Ashton Joint Venture, 1981 Report.
- (c) USGS estimate (1975) of Measured plus Inferred.
- (d) BMR estimate, Measured plus Inferred.
- (e) BMR estimate based on average 90 % gem content of Namibian production.
- (f) Includes USSR.

Source: Bureau of Mineral Resources, Geology and Geophysics.

Uranium

Another area of potential competition between Australia and Namibia is in the supply of uranium. Namibia currently has the edge as it is already a major supplier with assured supply contracts to the year 2000. Developments in Australia could make it a major competitor. The extent to which Australia becomes a major competitor depends upon domestic political developments, as the industry does not have bipartisan support.

There are currently three operating uranium mines in Australia—Mary Kathleen Ltd (MKU) in Queensland, and Nabarlek and Ranger in the Northern Territory. MKU will close towards the end of 1982 after having exhausted its economically recoverable uranium resources.

Other projects with Government approval for development include Yeelirrie and Lake Way in Western Australia and Honeymoon in South Australia. The timing of their development depends in part on the negotiation of satisfactory marketing arrangements for the yellowcake and the demonstration of the financial viability of the projects.

Rossing, Namibia's only uranium mine, is the largest single producer in the world, with an average output of about 4700 tonnes of uranium oxide (U_3O_8) a year. In spite of the low grade ore (0.03–0.04 per cent U) relative to other uranium mines around the world, it is still a low-cost producer because of its relatively large throughput. Also, since it has been established for more than four years, much of the development cost has now been amortized, enabling the mine to operate in times of low profitability without having to face major debt repayments.³⁰

If low current levels of demand for uranium persist it will be increasingly difficult to commission new mine capacity anywhere in the world, and established mines will have

an edge on potential competitors, in terms of market penetration, by expanding their existing capacity. Australian uranium projects, both current and planned, are low-cost producers by world standards. While their effects on established uranium mines such as Rossing should be negligible, the development of Australian low-cost mines could adversely affect the economic viability of other Namibian uranium prospects and potential mines, such as those at Langer Heinrich and Trekkopje.

If Australia and Namibia should become competitors, a potential area of difference between the two, which could affect competitiveness, is the policy of each on nuclear safeguards. Australia would not be able, for example, to sell to Spain, an existing customer of the Rossing mine, as Spain has not acceded to the Treaty on the Non-Proliferation of Nuclear Weapons. Whatever the effect on competition, the Committee recommends that Australia does not relax its safeguards policy.

Details of uranium production and resources for Australia and Namibia are shown in Tables 6.5 and 6.6. Australian uranium production, actual and planned, is shown in Table 6.7.

Table 6.5: Uranium production
(tonnes)

Country	1980		1981	
	Production tU	% Western World	Production tU	% Western World
South Africa	6 146	14	6 134	n.a.
Namibia	4 039	9	4 000(e)	n.a.
Australia	1 561	4	2860	n.a.
Western World	44 078	—	n.a.	—

n.a. not available

(e) estimate

Source: Bureau of Mineral Resources, Geology and Geophysics.

Table 6.6: Uranium resources (as at 1.1.81)
('000 tU)

Country	Cost range to US\$80/kg U (US\$30/lb U ₃ O ₈)				Cost range from US\$80-130/kg U (US\$30-50/lb U ₃ O ₈)			
	% Western World		% Western World		% Western World		% Western World	
	RAR	EAR	RAR	EAR	RAR	EAR	RAR	EAR
South Africa	247	84	5	109	20	91	8	115
Namibia	119	30	2	16	3	23	2	115
Australia	294	264	16	23	4	21	2	115
Western World	1 747	1 605	100	546	—	1 115	100	—

RAR reasonably assured resources.

EAR estimated additional resources.

Source: Bureau of Mineral Resources, Geology and Geophysics, based on OECD-NEA/IAEA 1982.

Table 6.7: Australian uranium production

Year	Uranium Oxide
	(tonnes)
1980	1 561 (a)
1981	2 860 (a)
1982	4 500 (b)
1985	6 700 (c)
1990	12 000 (c)

Notes:

(a) Actual.

(b) Estimates by BMR.

(c) Production capacity of projects approved to date (compiled in BMR).

Source: Bureau of Mineral Resources, Geology and Geophysics.**Base metals**

Namibia and Australia are both producers of copper, lead, zinc and tin. Weak prices for these commodities have had adverse effects on base metal producers and several mines in both countries have closed or scaled-down production. Neither country is a major producer in world terms—Australia and South Africa/Namibia each supply about three per cent of world copper production, for example—but Australia's stronger position with respect to known economic resources could give it a slight edge in the longer term.

A constraint on minerals processing in Namibia *vis a vis* Australia is its lack of high-grade coal deposits and also a scarcity of water.

The Committee makes no specific recommendations in the area of trade and resources, other than that relating to the maintenance of Australia's nuclear safeguards policy. It points out, however, that the Namibian mining sector—particularly in the mining and sale of diamonds and uranium—contributes about half the territory's GDP. Increased competition in the export of diamonds and uranium from Australia could have an adverse impact on the Namibian economy.

Strategic

Australia has little strategic interest in Namibia itself. Australia considers the struggle for Namibian independence important on moral and political grounds, but strategically Namibia is important only in the broader context of the southern Africa region.

Australia's direct strategic interest in the region is limited to trade using the Cape of Good Hope route—or which would use that route if the Suez Canal were unavailable. Australian trade with southern Africa itself is less than one per cent of its total trade and, although some strategically important mineral commodities (e.g. ferrochrome) are imported from southern Africa, the quantities involved are small and could be replaced elsewhere or from within Australia.

Of greater importance to Australia is the indirect effect of instability in the region. Events in southern Africa—particularly the struggle for Namibian independence from

South Africa and, within South Africa, the struggle by blacks for the right to self-determination and equality with whites and an end to racial discrimination—are affecting a whole range of relations between nations, both at the United Nations and elsewhere. Events in southern Africa are affecting relations between the major powers, between the West and the Third World, and between races. The area provides yet another arena for big power rivalry. The potential for a conflict which will involve the major powers and allied countries such as Australia is ever-present in southern Africa. It is in Australia's interests to promote conditions in the region 'which will bring about stability and so contribute to security in the widest sense'.³¹

Conclusion

The Committee considers that Australia does have a role to play in attempts to achieve a Namibian settlement, even if that role is not a major one. It endorses the policies of the present Government on Namibia where they seek to involve Australia, wherever possible, in negotiations to produce an independent, democratic and non-racist Namibia.

The Committee sees merit in the reported SWAPO offer at the pre-implementation meeting in 1981 to give up its UN-assigned status as 'sole and authentic' representative of the Namibian people during the transition period prior to independence, in the event that agreement is reached on the transition period itself.³² A revival of the offer at this stage would enable the UN to give undertakings to South Africa about its impartiality without the problems with SWAPO that a unilateral withdrawal of its special status might cause.

The Committee recommends that Australia continue its endeavours to be a moderating influence at the United Nations, particularly in the forthcoming session of the General Assembly at which the Namibia issue will figure prominently. With the Contact Group seeming close to obtaining agreement in its current 'three-phase' negotiations, a conciliatory rather than a confrontationalist mood at the UN could mean the difference between the success or failure of these negotiations.

NOTES AND REFERENCES

1. Minister for Foreign Affairs, Senator the Hon. D.R. Willesee, address to UN General Assembly, 7 October 1974, reproduced in Department of Foreign Affairs, *A selection of extracts from statements on foreign affairs by the Australian Prime Minister, Mr E.G. Whitlam, and the Minister for Foreign Affairs, Senator D.R. Willesee*, February 1974–June 1975, p. 132.
2. *Evidence*, 28 August 1980, p. 2263.
3. Department of Foreign Affairs, *Current Notes on International Affairs*, vol. 43, no. 12, December 1972, p. 626.
4. Australia had voted for a General Assembly resolution in 1970 establishing the UN Fund for Namibia but, up to the time of the Australian elections in 1972, had not made a contribution.
5. Senate, *Hansard*, 29 October 1974, p. 2028.
6. Quoted in Department of Foreign Affairs, *Statements on Foreign Policy*, December 1975–June 1976, p. 73.
7. Quoted in V.J. Belfiglio, 'The Issue of Namibian Independence', *African Affairs*, vol. 78, no. 313, October 1979, p. 507.
8. *Evidence*, 28 August 1980, pp. 2263–4.

9. House of Representatives, Answer to Question on Notice, *Hansard*, 19.4.77, p. 979.
10. *Evidence*, p. 244.
11. House of Representatives, *Hansard*, 23.8.78, p. 619.
12. House of Representatives, *Hansard*, 20.2.79, p. 21.
13. *Evidence*, 28 August 1980, p. 2271.
14. House of Representatives, *Hansard*, 15.9.81, p. 1289.
15. Department of Defence, *Correspondence*, dated 22.6.82.
16. Department of Defence, *Correspondence*, dated 22.6.82.
17. Department of Foreign Affairs, *Backgrounders*, no. 301, 16.9.81, p. A5.
18. Department of Foreign Affairs, *Backgrounders*, no. 301, 16.9.81, p. A4.
19. *Evidence*, 28 August 1980, pp. 2266–7.
20. Department of Foreign Affairs, *Correspondence*, dated 5.7.82.
21. Department of Immigration and Ethnic Affairs, *Correspondence*, July 1982. This comment is based on the experience of Departmental officers—actual figures on ethnic origin of Namibian settlers are not available.
22. *Evidence*, pp. 42–3; Department of Immigration and Ethnic Affairs, *Correspondence*, July 1982.
23. *Evidence*, p. 45.
24. See Chapter 9 of the Committee's Report, *Zimbabwe* (Australian Government Publishing Service, Canberra, 1980).
25. Department of Immigration and Ethnic Affairs, *Correspondence*, July 1982.
26. Department of Immigration and Ethnic Affairs, *Correspondence*, July 1982.
27. Bureau of Mineral Resources, Geology and Geophysics, *Correspondence*, 17 June 1982. Diamonds are generally classified into three categories:
 - Industrial—diamonds which are too friable or too small to be cut. They account for about 40 per cent by weight of world production but only five per cent by value.
 - Gem—diamonds which are usually large, well-shaped stones with particular features of colour and clarity. They account for about 20 per cent by weight of world production but nearly 80 per cent by value.
 - Near-gem—diamonds which are 'in-between' account for the remaining 40 per cent by weight and 15 per cent by value. These are utilised as either industrial or gem depending on demand. Because of competition from synthetic industrial diamonds and a dramatic increase in gem values in the 1970s, about 75 per cent of near-gem material has been processed into gems during the past decade. This proportion could diminish because of the current over-supply of gem diamonds and the low level of demand.
28. BMR, *Correspondence*, 17 June 1982.
29. Announcement by Ashton Joint Venture partners, according to BMR, *Correspondence*, 17 June 1982.
30. BMR, *Correspondence*, 17 June 1982.
31. Prime Minister, Mr Fraser, Ministerial Statement, House of Representatives, *Hansard*, 20.2.79, p. 20.
32. *Evidence*, 11 June 1982, p. 82.

Black nationalism and the guerilla war

Black nationalism

In an earlier report on Zimbabwe the Committee quoted the following as a definition of nationalism: 'self-identity and self-assertion by a people living within a defined territorial framework, combined with their desire for self-rule as a group'.¹ The Committee stated that 'black' nationalism had an additional dimension: the assertion by blacks of their racial identity in the struggle for equality with whites.² In general, these definitions are true of Namibia.

The Namibian situation is complicated somewhat by the greater number of ethnic groups. This is shown in the fact that there are more than 45 political parties in Namibia, many of them based on tribes or factions of tribes—the South African policy of establishing homelands with tribal 'governments' encouraged the differentiation of ethnic groups and the fragmentation of political activity. It is only in recent years that broad national groupings have emerged which have sought to overcome ethnic differences and political fragmentation.

The major forces within black nationalism in Namibia today are the Democratic Turnhalle Alliance (DTA), the Namibia National Front (NNF) and likeminded groups such as SWAPO-Democrats (SWAPO-D) and the South West Africa People's Organisation (SWAPO). Each expresses a facet of black nationalism: the DTA is the conservative, conciliatory and ethnically-based movement and is closest to the South African administration; the NNF and SWAPO-D occupy the moderate middle-ground, seeking to achieve a non-ethnic state by peaceful means; and SWAPO is the more aggressive and radical movement, prosecuting a guerilla war while at the same time trying to negotiate—at the international level—a peaceful transfer to independence. The DTA and NNF are capitalist oriented; SWAPO is socialist, and receives material support from several socialist countries, particularly the USSR. SWAPO-D is also socialist, but does not approve of SWAPO's ties with the Soviet bloc and its non-democratic internal organisation.

The DTA, NNF and SWAPO-D have no official UN standing or recognition, although lately they have begun participating in UN negotiations on Namibia; SWAPO is recognised by the UN General Assembly as 'the sole and authentic representative' of the Namibian people.

The Committee will examine each movement in the following, before considering the guerilla war.

Democratic Turnhalle Alliance (DTA)

The Democratic Turnhalle Alliance (DTA) arose out of the Turnhalle constitutional talks. In the last days of the Turnhalle Conference in November 1977 the 10 black and coloured ethnic delegations and the newly-created white Republican Party formed an alliance to work towards independence on the basis of the amended Turnhalle constitutional proposals—a three-tier system of a National Assembly and regional and local governments based on ethnic groups, with representation in the National Assembly proportionate to ethnic group size, and with second-tier ethnic governments responsible for functions such as education, health services, social welfare, land tenure, etc. (i.e. areas where racial friction was most likely to arise if controlled at the national level).

The members of the DTA were the white Republican Party, the Ovambo-based National Democratic Party, the main coloured party, the Labour Party, and the following: National Union Democratic Organization (Herero-based), Caprivi Alliance (Caprivi), Bushman Alliance (Bushman), Kavango Alliance (Kavango), Namibian Democratic Turnhalle Party (Nama), Rehoboth Baster Union (Baster), South West Africa People's Democratic United Front (Damara) and the Tswana Alliance (Tswana).

The Republican Party split from the National Party in Namibia in September 1977, its main supporters being those whites who supported the revised Turnhalle proposals and the ending of most forms of racial discrimination (except at the second-tier level in education and hospitals, in particular). Its leader, Mr Dirk Mudge, became chairman of the DTA and the leader of the Herero-based NUDO, Chief Clemens Kapuuo, became president (Chief Kapuuo was assassinated a year later).

Support for the DTA, always variable among the blacks, began to erode early this year. In February 1982 Mr Peter Kalangula resigned as president of the DTA and withdrew his National Democratic Party from the Alliance. Mr Kalangula believed the DTA was too closely controlled by South Africa and that its basis as an alliance of ethnic parties was giving it the 'fatal' image of a neo-apartheid movement, which would cause it to lose an election against SWAPO.³ He wanted the DTA to become a single party free of ethnic divisions.

The loss of the NDP was a major blow to the DTA as it was the DTA's link with the Ovambo—the dominant ethnic group comprising about half the Namibian population. The DTA suffered another set-back in March when it expelled the Labour Party, which drew most of its support from coloureds. The loss of most of its Ovambo and coloured support robs the DTA of much of its authenticity as an alliance of all the ethnic groups.

In May 1982 Mr Kalangula announced the formation of a new party, the Christian Democratic Action for Social Justice, which he hoped would become a national party overcoming ethnic divisions.⁴ However, its initial support is coming mainly from Ovambo NDP supporters, and whether it becomes a truly non-ethnic movement remains to be seen. If it does become the focus of the middle-ground parties, either as a single party or an umbrella organisation, it may eclipse the DTA as the main opposition to SWAPO in any election.

Although the DTA won the 1978 elections for a constituent assembly, this cannot be used as a measure of its internal support as those elections were boycotted by the middle-ground parties (the NNF and SWAPO-D), and none of the internal parties has contested an election against SWAPO. The DTA's main advantage is that, up to the time of preparation of this Report, it has enjoyed South Africa's moral and physical

support. Whether South African patronage would be an asset in an election against SWAPO is another matter.

The 'middle-ground' parties

The two major 'middle-ground' groups are the Namibia National Front (NNF) and SWAPO-Democrats. Mr Kalangula's recently-formed Christian Democratic Action for Social Justice also occupies the 'middle-ground'.

Namibia National Front (NNF)

The NNF began as a coalition of some seven parties which rejected regionalism based on ethnic groupings, which also rejected the radical stance of SWAPO, and which wanted to see Namibia become independent as a democratic and non-racial state. It advocated a three-tiered, but non-racial, system of government and included in its objectives the establishment of a free, universal and non-discriminatory system of education. The NNF refused to participate in the December 1978 elections for a constituent assembly because the elections were held under South African, and not UN, supervision.

An original member of the NNF was SWANU, founded in 1959 by Jariretundu Kozonguizi and based mainly on Herero support. SWANU aimed to form a national front to struggle for independence and self-determination. Unlike SWAPO, it believed it should work peacefully within Namibia and advocated the holding of a constitutional convention under UN auspices to determine Namibia's political future.

SWANU's first major attempt to forge a national front occurred in 1972 when it joined the Namibia National Convention—a loose alliance of parties and organisations which also included SWAPO. The NNC was opposed to continued South African rule, apartheid and the establishment of ethnic governments. However, the NNC was beset by dissension—while most of its member organisations refused to participate in the Turnhalle constitutional talks in 1975 and 1976, three did defect to the talks. When SWAPO left the NNC several other groups also left and merged with it and, by December 1976, the only parties of any influence remaining in the NNC were SWANU and the Damara Tribal Executive.

After the failure of the NNC, SWANU sought to organise a new alliance with likeminded parties and the result was the establishment, in April 1977, of the Namibia National Front. Like its predecessor, the NNF has undergone a number of membership changes. Early in 1978 it expelled one of its more radical members, the Voice of the People (mainly Nama and Damara members), but gained a new member in the predominantly white Federal Party, led by Mr Bryan O'Linn. The Federal Party was a non-racial party which could not accept the ethnic basis on which the DTA was founded, nor the aims and methods of SWAPO. The Federal Party left the NNF in July 1979, as did the Damara Council in March 1982. SWANU was, and remains, the dominant force in the NNF. The other remaining members include the Mbanderu Council, the National Independence Party and the Namibia Progressive Party.

Although the NNF lacks adequate financial backing, its two major problems appear to be its lack of significant Ovambo support, and its constantly changing membership

which has tended to erode a significant degree of its support. The NNF remains committed to a course of moderation and UN-supervised elections. If it could gain significant Ovambo support and stabilise its membership, the NNF could attract much of the moderate black vote in an internationally-supervised election.

SWAPO-Democrats

The other important middle-ground force is SWAPO-Democrats. SWAPO-D was formed in June 1978 by a dissident member of SWAPO, Mr Andreas Shipanga. In 1976 Mr Shipanga, then SWAPO's information and publicity secretary, and a number of other senior SWAPO members, were arrested in Zambia after having challenged Mr Sam Nujoma's leadership. They were alleged to have accused Mr Nujoma, *inter alia*, of corruption and of being too dependent on Marxist aid. In May 1978 Mr Shipanga and 18 others were released from detention in Tanzania, to where they had been moved, and in June Mr Shipanga was expelled from SWAPO. He again criticised SWAPO under Mr Nujoma's leadership, claiming it had abandoned democratic principles and 'any peaceful and democratic solutions to the problems of our country'.⁵

He also claimed more than 1000 SWAPO dissidents were in 'concentration camps' in Zambia. Soon after he formed a break-away party, SWAPO-Democrats, based to a large extent on Ovambo support.

SWAPO-D initially sought to be included in the NNF alliance and actively supported it in its opposition to the Turnhalle proposals and the December 1978 elections. SWAPO-D's policies were similar to those of the NNF but, despite negotiations over nearly two years, a formal alliance was never realised. SWAPO-D continues as an independent party and its voice remains one of moderation. Mr Shipanga displayed cautious interest in combining with Mr Kalangula's NDP when it broke away from the DTA in February 1982 but, at the time of preparation of this Report, SWAPO-D remained a separate party.

If the moderate middle-ground parties could settle their differences and form a lasting alliance, they would probably prove a more formidable opponent to SWAPO in an election than the DTA in its present state. Split into a number of separate groups, however, it is unlikely that they would achieve nearly as much. The difficulties of negotiating an alliance or amalgamation are not inconsiderable, as Mr Shipanga pointed out in February 1982 after the NDP left the DTA: 'I tried it', he said, 'but I found nobody wants to give up the identity of his party or submit to the leadership of somebody else'.⁶ Should a settlement be reached, the reality of impending, internationally-supervised elections may succeed in forcing an alliance where negotiations based on a common cause have so far failed.

South West Africa People's Organisation (SWAPO)

The most radical and most influential movement in Namibia's progress towards independence is the South West Africa People's Party (SWAPO).

Origins

SWAPO grew out of the Ovamboland People's Organisation (OPO), established in 1957 by a group of Namibian contract workers and students in Cape Town. The most prominent founding member was Herman Toivo ja Toivo. The OPO was essentially a

black labour movement opposed to the system of contract labour and also to rule by South Africa. Herman ja Toivo was deported back to Namibia in 1958. There, with the help of others including Sam Nujoma, he organised support for the OPO among contract workers at Windhoek, Walvis Bay, Luderitz, the mining compounds at Tsumeb and at other localities. The OPO rapidly became a mass organisation. Most, but not all, of OPO's members and supporters belonged to the Ovambo tribe, as a large proportion of contract workers had always been recruited from the Ovambo.

During 1959 and early 1960 negotiations took place between the founders of SWANU and OPO on a possible merger. When the negotiations proved unsuccessful the OPO leaders decided it should become a mass organisation rather than a mainly Ovambo one, and so it was renamed the South West Africa People's Organisation to reflect its growing national appeal. Thus, from its earliest beginnings, 'Namibia's national liberation movement was . . . closely linked to the aspirations of workers and their grievances'.⁷

Membership

Although it began as a predominantly Ovambo organisation, SWAPO over the years has endeavoured to broaden its membership base. It has endeavoured to recruit non-Ovambo members in major towns and mining areas and has been assisted in this by the widespread use of contract labour in Namibia. SWAPO has also managed to attract a number of non-Ovambo parties and political groupings, including the Caprivi African National Union (CANU) in 1964 and several members of the NNC in 1976—the Rehoboth Volkspartei, the Namibian African People's Democratic Organisation (comprising mainly Damaras) and some Nama groups. The inclusion of these greatly strengthened SWAPO's presence in southern Namibia.

SWAPO suffered a setback in July 1980 when it expelled its then vice-president, Mr Mishake Muyongo, and eight other members on allegations that they were organising a secession of the eastern region of Namibia, including Caprivi. On 6 August Mr Muyongo announced he was reviving CANU as an independent organisation to fight for independence separately. He said CANU would be prepared to participate in UN-supervised elections.⁸ Mr Muyongo accused SWAPO of being Ovambo-dominated. Shortly afterwards Zambian authorities banned CANU from operating from Zambian territory, thus severely limiting CANU's effectiveness as a guerilla force.

Organisation

SWAPO has never been formally banned as an organisation in Namibia and so for most of its existence it has operated an internal wing as well as an external one—the latter, however, being the centre of most of its political and guerilla organisation. The external wing is based in Angola. SWAPO is well organised: apart from its military wing, the People's Liberation Army of Namibia (PLAN), SWAPO is structured as a government-in-exile with secretaries for foreign affairs, information, health and social welfare, and defence. There are SWAPO offices in a number of countries including Tanzania, Ghana, Sweden, East Germany, the UK and at the UN.

The internal wing for some years operated from offices in Windhoek. These were closed by SWAPO on 4 June 1979 following the arrest of most of the internal executive. The Deputy Chairman, Mr Daniel Tjongarero, announced that the office would be reopened when UN Security Council resolution 435 had been implemented. Meanwhile SWAPO would continue as 'a genuine people's movement without [a]

bureaucracy'.⁹ The internal wing was never an effective force as its members were subject to harassment and persecution, and to arrest, banishment or detention if too outspoken.

Aims and policies

SWAPO's overall goal is an independent, unitary Namibia. Its constitutional proposals include:

- the formation of a unified, classless and non-racial society based on socialism;
- a democratic people's government elected on a one-man-one-vote basis;
- a parliamentary system with a single chamber legislature;
- an independent judiciary;
- impartial civil service;
- citizenship to be granted to those born in Namibia and to those with five years' residence;
- a Bill of Rights; and
- Walvis Bay and the Caprivi Strip to be part of Namibia.

If elected to government SWAPO would aim to make Namibia self-sufficient by developing its agriculture and its processing industries. Land reform would be introduced, as would new forms of ownership such as co-operatives and state-owned ranches and crop farms. Free and universal education to tertiary level would be available to all Namibians regardless of race.

Despite the strong support SWAPO receives from communist countries and the socialist views held by many of its leaders, including Mr Sam Nujoma, SWAPO is considered to be first a nationalist organisation and second a socialist one. Non-socialist countries also support SWAPO, and it seeks assistance from all willing to help regardless of political system.

International support

SWAPO enjoys international support from three sources in particular—black African countries, Soviet bloc countries and the United Nations. It has also received aid, usually non-military, from a number of Western countries, from international agencies and from church groups.

The black African countries have provided SWAPO with both moral and material support, including bases outside Namibia. They have supported SWAPO in the United Nations and other international bodies, and throughout the independence negotiations. The Front-Line States have been particularly active in assisting SWAPO in negotiations for independence, and Angola, Zambia and to a lesser extent, Tanzania, have sheltered SWAPO guerillas and refugees. On the nature of Angola's support, Mr Sam Nujoma stated in an interview in January 1980:

We [SWAPO] enjoy the full diplomatic, economic and military support of the People's Republic of Angola. We do not expect the Angolan people to go and fight in Namibia. But we appreciate enormously their support of our cause and their sacrifices.¹⁰

The Organisation of African Unity has also been a major supporter of SWAPO.

Most of SWAPO's military training and equipment comes from Soviet bloc countries. In the early 1970s, SWAPO was receiving aid from both the Chinese and the Soviet bloc. Today, Chinese aid has virtually ceased and military aid is supplied mainly by the Soviet Union, East Germany and Cuba. American defence analysts estimated in 1981 that the Soviet Union had between 200 and 500 military personnel and a number

of economic advisers in Angola—some of whom would probably be assisting SWAPO. The analysts also estimated that there were between 2500 and 5000 East German troops and between 14 000 and 20 000 Cuban soldiers in Angola.¹¹ Some of these would also probably be involved in training SWAPO. A Department of Defence estimate of the number of Cubans in Angola was about 20 000 military personnel and up to 8500 civilian (administration, construction, medical and teachers).¹² Most of the SWAPO weapons which have been captured have come from Soviet bloc countries.

The third major source of SWAPO support is the United Nations. Its support is both financial and political. Apart from UN recognition of SWAPO as the representative of the Namibian people (detailed earlier and in previous chapters), SWAPO has received considerable financial assistance from various UN agencies—mainly for its political work and to assist refugees. SWAPO has been an active lobbyist at the UN since its formation in 1960, and in recent years has been granted observer status at the General Assembly and participation rights in all UN agencies (1976).

The guerilla war

In 1962, amidst a growing belief among SWAPO members that armed struggle was essential if power was to be gained in Namibia and South Africa was to be expelled, the first SWAPO cadre began military training.¹³ SWAPO's armed struggle was launched in 1966, after the International Court of Justice rejected the claims of Ethiopia and Liberia concerning South Africa's administration of Namibia, on the basis of their lack of a legal right or interest in the subject matter of the claim. SWAPO said the Court's decision was a gross betrayal of the South West African people, and that SWAPO was determined to continue the struggle for the liberation of Namibia 'with arms in hand'.¹⁴ The Court's decision reinforced SWAPO's frustration with the slow pace of international negotiations towards independence and the lack of any real progress therefrom. In the initial stages of the guerilla war, SWAPO attacks were small in scale and confined to northern Namibia but, in the next 16 years, the intensity of the war increased and its scope broadened.

The opponents in the guerilla war are the military wing of SWAPO—the People's Liberation Army of Namibia (PLAN), and the South African Defence Force (SADF), assisted in recent years first by some tribally-based black Namibian forces and more recently by the South West Africa Territorial Force.

PLAN has grown from a small group of fighters who launched the guerilla war in 1966 to an estimated 7000 to 8000 in 1981.¹⁵ Some estimates put the number of SWAPO guerillas as high as 15 000.¹⁶ PLAN forces are based predominantly in Angola, with a few in Zambia. A number of operational units operate clandestinely in Namibia.

South African forces in Namibia have also grown as the guerilla war has increased. The number in Namibia currently is usually estimated at between 20 000 and 25 000,¹⁷ but some estimates have gone as high as 50 000.¹⁸ As well as ground forces South Africa makes extensive use of its air force. The cost of maintaining SADF in Namibia has been estimated at from a million (US) dollars a day to about 550 million pounds (stg) a year.¹⁹ The South African forces comprise regular units (which include conscripts and Citizen Force members as well as regular soldiers) and 'counter-insurgency' forces—the latter believed to include mercenaries and members of UNITA, according to some sources.²⁰ South African forces are stationed at some 40 bases in Namibia.

There are indications—such as public statements by the South African Prime Minister, Mr P.W. Botha—that South Africa may be finding its military presence in Namibia increasingly costly. The costs in manpower also appear to be increasing: in March 1982 South Africa introduced regulations to extend compulsory Citizen Force service from 240 days over eight years to 720 days over 12 years, and for all able-bodied whites to be liable for military duties up to the age of 60.²¹ According to the *Rand Daily Mail*, 'a planned increase in South Africa's military presence in South West Africa over the next three years' is one of the major reasons behind the proposed changes.²²

Since late 1975 South Africa has created several tribally-based defence forces. The Ovambo and Kavango tribal authorities were the first to possess black forces in addition to tribal police and these were being deployed along the northern border by early 1976. By November 1977 Namas and Hereros were also being involved. Bushmen have been used as trackers.

As part of the process of devolving administrative control from Pretoria back to Namibia a South West African Territorial Force (SWATF) was established in September 1979. The various tribal security forces were absorbed into SWATF, and it was announced that the force would be under the authority of the Administrator-General but that the DTA-dominated Advisory Council (later Council of Ministers) would be consulted on their deployment. For 'practical reasons' overall command of SWATF would remain with the SADF command. This was followed in August 1980 by the establishment of a SWA Department of Defence to control all units in the SWATF.

Compulsory military service for all races in Namibia, with effect from 1 January 1981, was proclaimed by the Administrator-General in October 1980 in order to expand SWATF. All Namibian males between 16 and 25 were made liable for service. Previously military service had been mandatory only for whites, although use had been made of volunteers from other groups. The first intake occurred in March 1981.

The General Strike

SWAPO guerilla activity was limited in the period 1966 to 1972, and there were only a few clashes between guerillas and South African police. The catalyst for an increase in guerilla activity was the General Strike of 1971–72. It was the General Strike which brought the South African Defence Force to the territory, and it was the General Strike which caused considerable numbers of young men—some estimates were several thousand—to leave Namibia and join SWAPO.

The General Strike was the first major nation-wide illegal strike in Namibia. It effectively brought to a halt large sections of the territory's economy, and was the first major expression of black political aspirations, as well as being a protest against labour conditions. An impetus to the strike was the June 1971 International Court of Justice advisory opinion that South Africa's presence in Namibia was illegal. The strike, which involved some 13 000 to 20 000 workers—most of them contract workers, began on 13 December 1971 and continued until 20 January 1972.²³

The majority of the contract workers were Ovambo but workers from the Kavango, Herero and other tribes also supported the strike. The strike was well organised and led to the shutdown of the large Tsumeb smelter complex, plus diamond, copper, lead and zinc mines throughout Namibia—bringing the mining industry to a standstill. The railways, the fishing industry at Walvis Bay and Luderitz, and the construction industry in

Windhoek also came to a halt, and farming and commerce generally were seriously affected.

The strikers sought fundamental changes to the system of contract labour and influx control. Their specific demands included: the abolition of the contract labour system and the freedom for workers to choose their own employment and change it without police interference; the freedom to have their families with them or to visit them; equal pay for equal work; adequate pay in money, not goods; employment bureaux with free advertising so people could look for jobs of their own choice; the creation of more jobs in homeland areas; and the abolition of the pass system and its replacement by identification cards. Underlying these demands was a general dissatisfaction with South Africa's administration and its apartheid policies.

The strike did result in some changes, including the abolition of the South West Africa Native Labour Association (SWANLA); measures to make it easier for workers to change jobs; and employment 'agreements' arranged between employer and employee to replace 'contracts'. The 'agreement' was to contain details of wages, fringe benefits and conditions of service. Workers were supposed to be able to 'maintain contact' with their families. However, the changes proved to be mainly cosmetic. While in some cases workers received higher wages, these were usually offset by extra charges in areas such as bus and rail fares, and the end of clothing and food handouts. The effect of the changes, in practice, was not to end the migrant labour system but merely to modernise it.

The South African Government viewed the strike as a challenge to the social and economic *status quo* in Namibia and reacted accordingly. The alleged strike leaders were arrested and prosecuted; large police reinforcements were flown to Namibia from South Africa, to be followed shortly thereafter—on 26 January 1972—by SADF troops.

During the strike most of the Ovambo workers demanded to be repatriated to Owambo—a demand agreed to by the South African authorities as it avoided the threat of open confrontation in white industrial and residential areas. Once in Owambo the workers were ruthlessly suppressed. A state of emergency was declared, public meetings were forbidden and, after a news ban, there ensued a period of mass arrests and terror.²⁴ A number of Ovambos were killed or wounded by police rifle fire. Eventually most of the workers who had been repatriated to Owambo were compelled by the harsh conditions of the state of emergency and the need to support their families to return to contract work in the southern areas.

Black resentment at the lack of meaningful change and at South African use of force to break the strike provided SWAPO with numerous angry recruits, prepared to fight for their cause. The state of emergency declared in Owambo was retained so that its repressive measures could be used against SWAPO guerillas. The strike increased the militancy and self-confidence of blacks and also signalled to whites that further changes would have to follow.

Incursions into Angola

The number of SWAPO guerillas was further increased by a second exodus of Ovambos into Angola in 1974, following a wave of repression by government-appointed tribal chiefs. The number of guerilla attacks in Namibia gradually increased, and led to a major SADF counter-offensive in August 1975 when, for the first time, SADF units

moved into Angola. Ostensibly they went in to protect South African workers at the hydro-electric scheme dam at Calueque on the Kunene River, but mainly to act against SWAPO guerilla camps.

Late in October 1975 South Africa brought in major reinforcements and commenced a drive into Angola that took it to within 300 kilometres of the capital. Its incursion was in support of UNITA and the FNLA, and was aimed at toppling the Marxist MPLA Government which had largely won control in the Angolan civil war after the Portuguese withdrawal. The MPLA Government sought Cuban assistance to combat the invading force and its UNITA and FNLA partners. The assistance of Cuban regular troops began to turn the tide of battle and eventually South Africa withdrew. The last of its forces left Angolan territory in March 1976.

Angola's independence enabled SWAPO to transfer its main centre of operations from Zambia to the southern areas of Angola bordering on Namibia. SWAPO attacks and sabotage increased, and the SADF again responded by raids into Angola and Zambia. In May 1978 SADF ground and air units attacked the Cassinga refugee camp 250 kilometres inside Angola and two transit camps named Moscow and Vietnam: some 600 Namibians were killed and hundreds more wounded. The South African force took about 200 prisoners back to Namibia.²⁵ For a while guerilla activity declined, but in 1979 and 1980 South Africa was forced to undertake further raids.

In August 1981 South Africa launched 'Operation Protea'—its largest incursion yet into Angola against SWAPO bases. The Angolan Government estimated 11 000 South African troops were deployed.²⁶ Virtually all of Angola's Cunene Province was under South African occupation for almost three weeks. Contact was made with Angolan troops and a number were killed during the incursion. In the following month South African aircraft destroyed most Angolan radar and anti-aircraft sites within a 150 kilometre zone north of the Namibian border.²⁷ 'Operation Daisy' followed in November 1981 and involved a three-week advance 200 kilometres into Angola, and 'Operation Super' took place in March 1982. Each took its toll in SWAPO guerilla lives.

Although these raids have weakened SWAPO, they have not stopped it. On 16 November 1981, while 'Operation Daisy' was still underway, SWAPO guerillas attacked several strategic South African bases and installations, notably the Ruacana power station, for a while depriving Namibia of mains electricity.²⁸ In April 1982 following SWAPO's announcement of 'a general offensive' against the SADF in Namibia, SWAPO was described as carrying out its most aggressive operation in the 16 years of the guerilla war.²⁹ A SWAPO force of about 45 guerillas penetrated as far south as Tsumeb to lay a trail of land mines, and also ambushed an armoured personnel carrier. In less than a week 33 guerillas, eight soldiers and 19 civilians were dead as a result of the incursion and the South African response.³⁰

The South African incursions and their effects on SWAPO give strength to the argument that South Africa is trying to establish a buffer zone between Namibia and Angola through the occupation on a semi-permanent basis of huge tracts of southern Angola. Such a buffer zone would secure and strengthen South Africa's position in negotiations and in the event of a ceasefire.

Casualties and refugees

Accurate figures on casualties of the guerilla war and on the number of Namibian refugees outside Namibia are difficult to obtain. South African estimates of the number of

lives lost to the end of 1981 are in excess of 5000³¹—the great majority of them SWAPO guerillas, refugees or black civilians. SADF losses are believed to be in the hundreds.

The number of Namibian refugees in neighbouring countries such as Angola and Zambia is also difficult to ascertain. One report put the number in Angola at about 60 000, with some 4000 to 5000 in Zambia and a smaller number in Tanzania (and perhaps also in Zimbabwe).³²

Security legislation

The lives of nearly all black and coloured Namibians have been affected by legislation designed to suppress dissent, to isolate SWAPO and to enable wide-ranging police and military activity.

Proclamation R17, which was enforced in Owambo in February 1972 after the General Strike, imposed restrictions on political activity and on freedom of movement and speech. A dusk-to-dawn curfew was put into effect and the ability of the police and army to act without recourse to the courts was strengthened. These measures were extended in 1976 by Proclamation R89 to cover the entire northern section of Namibia, when Kavango and East Caprivi were also declared security districts. As a consequence, more than half of Namibia's population was placed under virtual martial law.

These proclamations were replaced by Security Districts Proclamation AG9 in November 1977, which eased the restrictions applying in Owambo, Kavango and East Caprivi, and the restrictions were further eased in January 1978. The easing of restrictions was short-lived for those in Owambo for, on 18 April 1978, the Administrator-General enacted Proclamation AG26, after weeks of violent incidents and clashes between SWAPO supporters and those of the DTA. By the proclamation the Administrator-General gave himself unqualified powers to detain, indefinitely and without charge, any persons whose actions were felt to 'promote violence or intimidation'. The proclamation also gave any police officer the power to arrest and, once the Administrator-General had issued a warrant, to detain a person for an indefinite period.

For those in other security districts the relaxation of restrictions ended in June 1978, with Proclamation AG34 (Security Districts Amendment). Under AG34, it was forbidden to drive or travel in a vehicle or to pick up passengers during the night without the written consent of a peace officer or an officer of the security forces.

In May 1979, under Security Districts Proclamation AG9, the state of emergency was extended southwards as far as Windhoek, putting 50 per cent of Namibia's territory and 80 per cent of its population under virtual martial law. The security forces were authorised to search people and premises without warrant, and to prohibit any public meeting held without the permission of a magistrate. Detainees could be held by the security forces for 30 days without recourse to a lawyer. In February 1980 an amendment to Proclamation AG9 further restricted movement in Owambo: travel on any road could be prohibited by the local SADF commanding officer. In November 1981, new amendments were proposed to Proclamation AG9, which would empower members of the security forces to interrogate detainees held longer than 30 days.

In addition to the restrictions on their movements, a number of Ovambos were forced to resettle. An area three kilometres wide along a 250-kilometre section of the Owambo-Angolan border was declared a 'no-go' area. Entire villages were razed and hospitals and community facilities closed down. By July 1976 when the strip had been cleared of people, nearly 50 000 civilians had been resettled in 'protective villages'. The

villages, ostensibly there to protect those inside, effectively isolated SWAPO from its support among the general population.

A range of South African legislation has been applied in Namibia over the years to combat SWAPO guerillas and minimise dissent. The legislation includes the Terrorism Act of 1967, made retrospective to 1962 (see Chapter 3), the Suppression of Communism Act of 1950, the Unlawful Organisations Act of 1960, the General Law Amendment Act of 1969, and the Internal Security Act of 1976. Reports early in 1982 indicated that new legislation, the Combating of Terrorism Bill, was to be introduced to replace most of the above.³³ While it maintains many of the provisions of earlier legislation—it remains an act of 'terror' to cripple, prejudice or interrupt any industry or undertaking, or the supply and distribution of food items, fuel and petroleum products, or public amenities, and it would continue to be a crime to engender feelings of hostility between members of different 'population groups', or to obstruct or threaten peaceful and orderly constitutional development—it does propose to replace the death penalty with a maximum sentence of 20 years' imprisonment.³⁴

Amnesty

An amnesty was offered to SWAPO guerillas on 5 December 1979 by the Administrator-General. Under the terms of the amnesty, anyone who had been involved in 'terrorist' activities—with the exception of those who had killed or seriously injured anyone—could give themselves up to the military, police or a government authority and they would be granted an indemnity certificate. They would, however, have to undergo up to 30 days' detention for identification and health checks and to undergo preparation for re-entry into civilian life. The amnesty offer met with little success, and by November 1980 only 12 persons were reported to have given themselves up.³⁵

Conclusion

Zimbabwean guerillas were more successful in prosecuting their guerilla war because there were more of them, they could operate on a number of fronts and throughout Zimbabwe, and they were fighting a small—if determined—white settler population. The Namibian guerillas do not have these advantages. They are smaller in number and are supported by a considerably smaller black population; they are operating basically on one front—the border with Angola and Zambia, and they face an occupying force—rather than a settler population—which can command far greater resources of men and weaponry.

A guerilla victory in Namibia is less likely than it would have been in Zimbabwe where whites were leaving in increasing numbers prior to the Lancaster House constitutional talks. If there is no settlement the Namibian guerilla war will probably become a war of attrition—that is, unless SWAPO forces are bolstered by armed forces from other countries. Should that happen the southern Africa region may be on the way to a race war which could well directly involve the major powers.

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Discrimination and social conditions

Throughout the 20th century the non-white population of Namibia has been disadvantaged by discriminatory treatment based on race. Segregation and land discrimination began under German rule prior to the First World War and was extended by South Africa after it was granted the mandate for South West Africa in 1920. Once the National Party came to power in South Africa in 1948 its policy of apartheid (separate development) was applied in Namibia as well as South Africa. The application of apartheid was particularly evident in the implementation of the Odendaal Plan (see Chapter 3).

United Nations resolutions have regularly condemned South Africa for its extension to Namibia of apartheid practices and for policies 'aimed at destroying the unity of the people and the territorial integrity of Namibia through the establishment of separate "homelands" based on racial and tribal distinctions'.¹ Since 1973 the UN has strongly condemned South Africa's 'brutal repression of the Namibian people and its persistent violation of their human rights'.² These and other UN resolutions have generally reflected international opposition to South Africa's extension to Namibia of its apartheid practices.

South Africa's policies have affected almost every facet of the lives of blacks and coloureds in Namibia. They have led to gross inequalities in economic and social conditions between blacks and whites and, until the late 1970s, to inequalities in political rights. For most of this century blacks have had little say in their own government, little freedom to choose employment and living areas, and little opportunity to improve their general economic and social conditions. Recent moves within Namibia have removed the legal basis for most discriminatory measures, but actual practices and white attitudes will take longer to change. The Committee believes that only when Namibia becomes an independent nation will blacks have real opportunities to improve their position and gain full equality with whites.

Political and constitutional rights

Until 1978 blacks did not have political rights at the national level, although there were varying degrees of political involvement at the ethnic group level—in some ethnic groups non-whites were able to choose their representatives in what were, in effect, local councils. It was not until the December 1978 internal elections that blacks and coloureds were able to vote at the national level. In 1980, non-whites voted in elections for newly-created second-tier authorities, based on ethnic groups. Both elections were boycotted by the non-ethnic middle-ground parties (NNF, SWAPO-D) and SWAPO. To the extent that black parties have never been officially banned in Namibia, freedom

of association exists. The South African administration has, however, effectively prevented strong opposition to its policies and the promotion of any radical alternative.

South Africa has encouraged the development of ethnically-based political parties and alliances of such parties at the national level. While truly national, non-ethnic parties such as SWAPO and SWANU are not banned, their development has not been encouraged, and the internal wing of the most outspoken of the national parties, SWAPO, has suffered regular harassment. The activity of national parties has been hampered by the ethnic basis of the existing governmental structure and restrictions on freedom of speech and assembly which apply particularly in Owambo—where nearly half the Namibian population is located.

Apart from security-related legislation used to control or prohibit meetings in the northern areas of Namibia, long-standing controls such as the Natives (Urban Areas) Proclamation of 1951 and the Native Administration Proclamation of 1928, which empower local authorities to supervise, control and prohibit meetings of blacks, have also been used.

Freedom of movement

Political activity in Namibia has also been restricted by a lack of freedom of movement for blacks under the system known as influx control, including the pass laws. Some relaxation of the system has occurred since 1977.

Legislation imposing influx controls has included the Native Labour Proclamation of 1919, the Vagrancy Proclamation of 1920, the Native Administration Proclamation No. 11 of 1922, the Native Passes (Rehoboth Gebiet) Proclamation of 1930, the Extra-Territorial and Northern Natives Control Proclamation of 1935, the Natives (Urban Areas) Proclamation of 1951, and the Aliens Control Act of 1963.

The effect of laws such as these was to severely restrict the movement of blacks and coloureds in Namibia. No black could leave his homeland without a valid pass. All blacks over 16 years were required to carry a pass at all times and produce it on request. Failure to do so could result in arrest, detention, imprisonment or a fine. Only black chiefs, headmen, teachers, policemen and clergy were exempted and then only if they carried a suitable certificate. Blacks seeking work were only allowed to remain in an urban area for 72 hours without official permission. Raids were made periodically by police or security guards to check on passes, residence permits and other documentation. The various pieces of influx control legislation provided ample scope for authorities to remove political 'undesirables' and 'repatriate' them to the homelands. Whites were prohibited from entering a homeland unless they had obtained a permit.

In October 1977, sections of a number of 'pass laws' were repealed by the Administrator-General, Mr Justice Steyn. The eight sections of the Native Administration Proclamation No. 11 of 1922 which obliged blacks to carry passes and to produce them on demand were rescinded. The sections of the Natives (Urban Areas) Proclamation of 1951 which had made it illegal for a black to be in an urban area for more than 72 hours without an official permit were also repealed. Whites, under certain circumstances, were allowed to enter homelands without official permits. These relaxations, however, have not resulted in complete freedom of movement for blacks, as some of the old legislation remains in force and has been reinforced by new security legislation. Restrictions on the movement of people in designated security districts

continues—curfews are applied, 'no-go' areas exist and, in Owambo, permission is required to travel by vehicle at night and to pick up passengers.

Passes were replaced from April 1980 by new identification cards which were issued to all residents 16 years and over, irrespective of nationality or ethnic origin. This was provided for under Proclamation AG63 (the Identification of Persons Act) which also stipulated that possession of the cards was compulsory and that they were to be presented on demand. Failure to do so could mean detention by members of the security forces and a fine of R500 or six months' imprisonment.

Law and order

In a society such as Namibia, in which the majority of the population is prevented from freely expressing their political views and are denied many fundamental human rights, the administration requires strict measures by which to maintain control. In the case of Namibia the South African administration extended many of its repressive security laws to the territory and enacted other laws for specific application in the territory. Most of those affected by the laws were blacks.

South African security laws extended to Namibia have included the Terrorism Act of 1967, the Internal Security Amendment Act of 1976 (and before it the Suppression of Communism Act) and the Riotous Assemblies Act of 1956, which was used in 1976 to ban, without recourse to the courts, assemblies or gatherings judged to be 'riotous' by the police. Certain discriminatory laws, such as the Group Areas Act, were not extended to the territory, but in practice most blacks and coloureds working in urban areas were forced to live in separate townships.

A number of security laws specifically enacted for the territory were detailed in Chapter 7.

Arrest and detention

Although the laws in Namibia apply equally to blacks, coloureds and whites, in practice they affect mainly blacks. This is particularly the case with security laws.

Under the Terrorism Act any high-ranking police officer can arrest, without charge, any person suspected of 'terrorism', or having aided a 'terrorist' or possessing information about 'terrorism'. Subject to certain conditions, detainees can be held indefinitely and incommunicado until they have 'satisfactorily' answered all their interrogators' questions. No court of law may pronounce upon the validity of the detention or order the release of any detainee.

Namibian state of emergency proclamations have given police and defence force personnel sweeping powers of arbitrary arrest and detention without trial in areas under martial law. At times it has been possible to legally detain a person for an indefinite period if that person is believed to have information about a crime. Use has also been made of indefinite preventive detention under section 10 of the Internal Security Act.

Many opponents of the South African administration have been arbitrarily arrested and detained for varying periods, sometimes for many months. The majority of detainees are eventually released without being charged. While detained they are often

held in solitary confinement, without access to lawyers or relatives. Most arrests and detentions occur in the northern 'operational areas'.

The number of detainees is difficult to ascertain as no figures are published and families are not usually informed of a detainee's arrest. However, it is believed that 303 people were detained in Owambo under Proclamation R17 in 1972, and in late 1975 over 200 members of SWAPO and the NNC were detained following the assassination of Philemon Elifas, Owambo's Chief Minister.³ In June 1979, some 75 persons, including all but one of the members of the executive committee of the internal wing of SWAPO, were detained. Nearly half were still in detention at the end of 1979.⁴

Torture

There have been numerous reports of the use of torture in Namibia by the police and security forces during interrogation of detainees. The severity of the torture differs from one case to another but all cases show a disregard for basic human values, and some of them involve racial prejudice. A number of deaths have resulted from the use of torture. Accounts of methods used include beatings, electric shock, deprivation of sleep, suspension by the hands, burial alive, water torture and prolonged exposure to heat and cold.⁵

Political prisoners are generally treated harshly and are allowed only limited contact with families—sometimes none.

The judicial process

A number of South African and Namibian security laws, while they do not deliberately reverse the onus of proof, in effect force an accused to prove his innocence. In the case of the Terrorism Act, for example, if a certain act is proved to have been committed, it is presumed that the accused's intention was to endanger the maintenance of law and order. To establish his innocence an accused has to prove beyond a reasonable doubt that he did not intend certain results which define the endangering of the maintenance of law and order.⁶

Until 1981 the Namibian judicial system was integrated with that of South Africa. The territory was divided into 18 magisterial districts with three detached assistant magistracies. Appeals from magistrates courts were to the Supreme Court of South Africa (South West Africa Division). This Court had jurisdiction over the whole territory. Namibians charged with crimes under security legislation could be tried anywhere in Namibia or South Africa by South African-appointed judges. This system prompted SWAPO leader Herman Toivo ja Toivo to say at his trial in Pretoria in 1968:

We find ourselves here in a foreign country, convicted under laws made by people whom we have always considered as foreigners. We find ourselves tried by a Judge who is not our countryman and who has not shared our background.⁷

One of the last occasions in which a death sentence was passed in Namibia occurred on 13 October 1980 when a black farm worker, Markus Kateka (40) was sentenced to death in the Windhoek Supreme Court on charges under the Terrorism Act of supplying SWAPO combatants with food and accommodation, assisting them to attack

the farm he was working on and urging them to kill the owner and members of his family. Mr Kateka's defence was that his actions were not premeditated and he had acted out of fear. He was illiterate and had not attended a political meeting. In passing sentence Justice Strydom said that SWAPO's objectives were 'detestable' in that it wanted a political order which 'promised no good for the country'.⁸ The sentence was later commuted to 17 years' imprisonment.

In 1981 a number of changes to the Namibian legal system were announced. A Supreme Court of South West Africa was to be established on 1 January 1982. The Council of Ministers was given the power to recommend the appointment of judges to the Administrator-General, who retained the final say in their selection. Two Bills introduced into the National Assembly in November 1981—the Criminal Procedure Bill and the Magistrate's Court Amendment Bill—were intended to give magistrates courts certain functions previously carried out by the regional courts abolished in 1980.⁹

Access to the civil service

The civil service in Namibia has long been dominated by whites. Although non-whites have been permitted entrance to the civil service, they have generally occupied positions in the lower ranks while whites have held most of the middle and nearly all the senior positions. In 1968, for example, the civil service consisted on 10 121 positions 4916 were for whites, 469 for coloureds and 4736 for blacks. Of the positions for blacks, more than half (2471) were for labourers, 1599 for teachers and the remainder were mainly low-level clerical positions (stores assistants, interpreter-clerks, etc.) and other semi-skilled and unskilled positions (drivers, handymen, telephone workmen, border guards and health assistants, etc.).¹⁰ In 1976, of the 20 000 people employed in government departments and agencies, 11 000 were non-whites.¹¹ Again, apart from teachers, most of the non-white positions were for low-level clerical, semi-skilled and unskilled positions.

According to Thomas (1977), about 20 per cent of whites in the civil service could be easily replaced by blacks if this were necessary, and another 35 per cent were 'replaceable' assuming sufficient black high-school leavers were available. The remaining whites would be much more difficult to replace under existing educational preconditions.¹²

The civil service is being 'opened up' to some extent by the current administration in Namibia but as yet—as far as the Committee is aware—there is no program of 'positive discrimination' or other 'affirmative action' to make up for years of ethnic discrimination. While much could be done immediately, to some extent black advancement in technical and senior areas may lag because of previously limited black access to higher education. Efforts should be made now to encourage black access to higher education to provide the skills necessary after Namibian independence and the return to South Africa of at least some of its expatriate administrators and skilled personnel.

Labour conditions and employment

Until 1977, the South African administration of Namibia effectively stifled the emergence of a free labour market. In addition to a wide array of discriminatory

laws and regulations, the lower economic and social position of blacks and the lack of equal education and training opportunities restricted their freedom to choose their work. On the whole only the lower categories of employment, particularly menial and unskilled manual jobs, were available to blacks, although a few were able to enter professional, semi-professional and technical occupations. Whites held the senior and best paid jobs, and coloureds some of the intermediate positions.

There were few employment opportunities in the homelands and most blacks were forced to leave their homes and families to seek jobs in white areas. Namibia in the 1970s had one of the highest percentages of migrant workers in its work force in the world (between 50-75 per cent)—most recruited under the system of contract labour which until 1972 was run by the South West African Native Labour Association (SWANLA), a government-sponsored recruitment agency. After the General Strike of 1971-72, SWANLA was replaced by employment or labour bureaux, and 'contracts' by 'agreements'. A person wishing to work had to go through the bureaux and accept what employment was offered. If a worker was blacklisted by a bureau he did not work. Contract workers provided most of the labour for the mining, manufacturing and fishing industries.

Black workers did not have the freedom to leave their employment, nor did they get annual or sick leave. They had no redress against harsh and unfair treatment by their employers. The contracts or agreements were usually for one to two years and were rarely renewed, thus preventing blacks developing skills and obtaining promotion. They had to return to their homelands when their contracts expired.

While working, most blacks were required to live in 'single-men' compounds or hostels where the standard of accommodation and food was poor and where they were under the constant supervision of their employers and the police. They were not permitted to have their families with them, except for the few who obtained rights of permanent residence in black townships or on farms in the white zone.

In the mid-1970s a few of the more progressive employers, particularly the larger companies such as Consolidated Diamond Mines, became critical of a number of aspects of the contract labour system and did their own recruiting in Owambo, letting prospective workers know in advance about conditions and opportunities. Some companies operated a system whereby employees who had proved satisfactory were given preference in re-employment.

Since 1977 many of the worst aspects of discrimination in work and employment have been eliminated—at least insofar as discriminatory legislation is concerned. Attitudes may take longer to change. In legal terms blacks are now free to seek work where they want, to choose the employer and job that they want and, in the public sector and major areas of private enterprise, are entitled to receive equal pay for equal work and qualifications, regardless of race.

However, there is still a considerable gulf between theory and practice and the equal pay principal, for example, is honoured more in the breach than in the observance. Legal job reservation ended in 1980 when the Mines and Works Ordinance—the mining industry was the last to have job reservation—was repealed.

Whites continue to dominate in most skilled areas because of shortages of qualified blacks. Some companies, such as Rossing Uranium Ltd, have recognised this and have introduced formal and on-the-job training schemes to equip blacks with the skills required.

Trade unions

Prior to 1978, although black trade unions were not illegal, they were ignored in most legal provisions and blacks were specifically excluded from the definition of 'employee' in legislation dealing with the settlement of industrial disputes, the registration of trade unions and conciliation procedures.¹³ Black unions were not able to apply for registration and hence were not recognised by the authorities. Attempts to organise blacks into trade unions were on occasion broken by the authorities by use of provisions in security legislation to harass, arrest, detain or deport organisers or 'agitators'.¹⁴ Blacks were forced to organise informally, usually to little effect.

In 1978 the legal situation, at any rate, changed. From July 1978 blacks were able to join registered trade unions when the section of the Wage and Industrial Conciliation Ordinance of 1952 which barred blacks from joining unions was abolished. Recognised unions still had to be registered, however, and new requirements were laid down which made it illegal for any trade union or employer organisation to affiliate with a political party or grant it financial assistance. Some suggest this provision was aimed primarily at the National Union of Namibian Workers (NUNW), a national union organisation affiliated to SWAPO—in fact, the organisation's trade union wing.¹⁵

Two of the four major white unions immediately applied to have black members. One of these was the SWA Municipal Staff Association (SWAMSA) with an all-white membership of 1000. However, to prevent white members being outvoted by a potential 2000 black recruits, the union at the same time proposed to amend its constitution so that new voting and electoral arrangements would provide for equal delegates from white and black branches.¹⁶ Unions could be all-white, all-black, or have both as members, but there was no specific requirement in the 1978 changes for unions to be non-racial.

Education and training

Racial discrimination in Namibia is clearly evident in education. The inequalities in the education received by whites, coloureds and blacks are marked and numerous.

Until 1961 government-funded schools were available only to whites—schools for blacks and coloureds were run by the missions, occasionally with government subsidies. From 1961 the South African administration began to provide schools for blacks and coloureds, but the funds were inadequate. From 1972 the South African Department of Coloured, Rehoboth and Nama Relations controlled coloured education and the South African Department of Bantu Education controlled black education. Control of education for all groups reverted back to Namibia in 1978.

Current educational arrangements are a product of the three-tier system of government introduced in Namibia in 1979. Education has become a responsibility of the second tier of government, i.e. regional ethnic governments, with each ethnic group responsible for education up to the level of primary school teacher training. This has enabled white schools to remain white and thus has perpetuated previously existing inequalities, because white teachers are generally better trained, white schools are better equipped and pupil-teacher ratios are much lower.

Expenditure on education reflects the degree of preference given to whites. In 1977-78 the allocation for whites was R20 million (R681 per pupil) compared to R6.8 million (R221 per pupil) for coloureds and R15.8 million (R104 per pupil) for blacks.¹⁷ Thus each white pupil received six times as much financial assistance as each black pupil and three times as much as each coloured pupil. An effort is being made to reduce the differentials, but the difficulty of the task is illustrated by the fact that if the average amount of R681 spent on each white pupil in 1977-78 were spent on each coloured and black pupil it would have used up more than half the total of government revenue raised in that year within Namibia.¹⁸ To have reduced the average class size for coloured and black children to the same level as for whites, based on enrolments then, would have required an additional 5300 teachers, compared to the then gross addition of 300 teachers a year.¹⁹

In 1979, there were approximately 22 000 white, 29 000 coloured and 173 000 black students attending school (see Table 8.1), but of the total of 224 800 only 22 900 pupils or 10 per cent were students at secondary level, and the majority of these were white. Approximately 55 per cent of black and coloured children of school age were receiving education in 1979, with 90 per cent of coloured children receiving some education.²⁰ Between 1970-79 the number of blacks receiving some education nearly doubled and the number of coloured increased by half, while the number of white students remained constant.

Table 8.1: Education in Namibia, 1970-79

	1970	1975	1977	1979
Total pupils and students	133 816	182 746	203 927	224 861
Black and Bushman	92 786	134 551	152 432	173 433
Brown	18 980	25 707	27 901	29 405
White	22 050	22 448	23 594	22 023
Total primary school pupils	123 110	166 747	181 678	198 077
Black and Bushman	90 282	129 927	143 139	160 786
Brown	17 785	22 187	23 715	24 408
White	15 043	14 633	14 824	12 883
Total secondary school pupils	9 789	14 562	19 986	22 886
Black and Bushman	1 943	3 654	8 388	11 609
Brown	1 195	3 520	4 186	4 659
White	6 651	7 388	7 412	6 618
Total teachers	3 899	5 269	6 039	6 787
Black and Bushman	2 042	3 142	3 829	4 596
Brown	679	890	977	1 039
White	1 178	1 237	1 233	1 152
Total schools	607	751	822	920
Black and Bushman	422	571	641	743
Brown	105	100	102	103
White	80	80	79	74

Source: Erich Leistner, Pieter Esterhuysen and Theo Malan, *Namibia/SWA Prospectus* (Africa Institute of South Africa, 1980), p. 57.

Most blacks have left school by the end of primary, having either dropped out voluntarily or been forced to terminate their schooling due to insufficient places in secondary schools. Until 1980, education was compulsory for white children between seven and

16 years but optional for non-white. At the end of 1980 education was made compulsory for all children, regardless of race, between six and 16 years. Provision was also made for a National Education Council and an independent examination board.

Separate syllabuses were used for each racial group until January 1978. In December 1977, after much agitation by blacks, it was announced that the system of separate education for blacks would be abolished and all racial groups would be educated under the same curriculum. Final year examinations are now uniform for all races. However in primary school, instruction is given in the pupil's mother tongue, whereas in secondary schools blacks are taught in one of the official languages. Blacks are therefore at a disadvantage compared to whites in that they have to change their medium of instruction between primary and secondary school.

Tertiary opportunities for non-whites in Namibia are limited. While white students can take courses at South African institutes and universities, black students, due to financial and other impediments, are generally unable to do this. Consequently, they depend largely on teacher training and trade training colleges in Namibia for tertiary education. In 1980 an Academy for Tertiary Training was opened in Namibia to offer courses generally of technical college or technikon level but also certain university courses, following the syllabus and written examinations of the University of South Africa in Pretoria.²¹ The Academy was open to students of all races.

Health

Prior to 1980, health services were organised directly on racial lines with facilities for whites, coloureds and blacks completely separate. Blacks were discriminated against in the distribution of funds and facilities for medical care, the majority of which went to white urban areas. Consequently, blacks in the homelands had limited medical attention and few preventative programs. The medical facilities provided in the homelands were generally run by the missions. The lack of health facilities in the homelands showed itself in a greater incidence of disease, particularly tuberculosis, venereal disease and addictive diseases, as well as a higher infant mortality rate, among blacks.²²

In 1980, health services became the responsibility of ethnic authorities. Thus medical services continued to be organised on a racial basis, and in fact were being further fragmented. Inequalities in the provision of medical facilities and finance continue. Of the 152 doctors practising in Namibia in 1981 only 20 per cent did so in the homelands, giving a doctor/patient ratio of one doctor per 17 000 people in the rural regions.²³ Of 16 dentists in the territory none practised in the homelands.

Annual per capita expenditure on health services in 1980-81 was estimated at R233.70 for whites, compared to R56.84 for people in Kavango, R37.06 in Caprivi, R24.85 in Owambo, R15.02 in Damaraland and R4.70 in Rehoboth. The imbalances in medical services and expenditure are reflected in mortality rates for children under the age of one, the rate for blacks was 163 children per 1000, for coloureds 143 per 1000 and for whites 21.6 per 1000; seven per 1000 of whites of all ages died every six months, compared to 18 per 1000 of blacks and 24 per 1000 of coloureds.²⁴

Housing

Housing conditions for blacks in Namibia are generally poor and facilities few—particularly in squatter camps on the outskirts of urban centres where overcrowding, bad lighting and drainage, dusty roads and few schools are the norm. Crime rates in the townships and squatter camps are rising. Overcrowding is being aggravated by an influx of refugees from rural areas—partly because of drought, partly because of widespread unemployment and partly because of the guerilla war.

The relaxation of influx controls in 1977 and the repeal in 1979 of legislation barring blacks from buying land in urban areas have also contributed to overcrowding in the townships. Although blacks, in theory, are now able to live where they wish, in practice homes in white suburbs are beyond the reach of most, either to rent or buy, and local government regulations may also be hindering integration. The result is that most blacks continue to live in the black townships. Official statistics in January 1982 put the population of Katutura, the major black township on the outskirts of Windhoek, at 35 000. Unofficial estimates put the figure closer to 50 000 or 60 000. The total number of houses in Katutura was 5756.

Access to public facilities

The Abolition of Racial Discrimination (Urban Residential Areas and Public Amenities) Bill of 1979 provided for the opening to all races of all types of public hotels, holiday farms and resorts, restaurants, cinemas, recreation areas, nature reserves and rest camps. It became illegal for anyone to intimate that a public amenity was reserved for a particular race. As from July 1980, any person infringing the legislation became liable, on conviction, to a maximum penalty of R300 or three months imprisonment.

Despite this legislation and amendments providing for the withdrawal of trading licences of owners of amenities refusing to admit all races, there are still loopholes which enable discrimination in access to continue. One such loophole results from the fact that amenities such as swimming pools and libraries have become the responsibility of local governments, and in the case of Windhoek, for example, the white local government has continued effective segregation by devices such as limiting access to persons who are registered property taxpayers. Few blacks are.

Immorality and mixed marriages

Until October 1977 several laws prohibited sex and marriage across the colour line, including the Immorality Proclamation of 1934, the Prohibition of Mixed Marriages Ordinance of 1953, the Immorality Amendment Ordinances of 1953 and 1954, and section 2 of the General Law Amendment Ordinance of 1956. On 14 October 1977 the Administrator-General repealed these laws.²⁵

Conclusion

The inequalities between the races in Namibia which have resulted both from the pre-1977 legal framework and racial prejudice will take a long time to overcome. South African policies in Namibia pre-1977 have left a legacy of under-developed and under-utilised human resources, the result of discrimination based on colour.

NOTES AND REFERENCES

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2. United Nations, General Assembly resolution 3111 (XXVIII), of 12 December 1973. See also resolutions 3295 (XXIX) of 13 December 1974, 3399 (XXX) of 26 November 1975, 31/146 of 20 December 1976, 32/9D of 4 November 1977, and 33/182 of 21 December 1978.
3. Amnesty International, *Namibia* (Russell Press Ltd, 1977), p. 10.
4. South African Institute of Race Relations, *Survey of Race Relations in South Africa 1980*, p. 650.
5. Numerous detailed accounts of the use of torture in Namibia may be found in the monthly issues of *Focus*, a publication by the International Defence and Aid Fund for Southern Africa, in various UN reports and publications, and special studies such as H. Hunke and J. Ellis, *Torture—A Cancer in our Society* (Catholic Institute for International Relations and British Council of Churches, 1978).
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21. South African Institute of Race Relations, *Survey of Race Relations in South Africa 1980*, p. 646.
22. International Defence and Aid Fund for Southern Africa, 'Apartheid in Namibia Today' (Briefing Paper No. 4), March 1982.
23. These and following health statistics are by Dr Kenneth Abrahams, quoted in IDAF, 'Apartheid in Namibia Today'.
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The economy

Introduction¹

Namibia has sufficient resources to form the basis of an independent and self-supporting economy. The territory will not reap the full benefit of those resources, however, until it is politically independent.

Namibia is endowed with considerable mineral resources, has a good agricultural base and, except in the north, a relatively well-developed infrastructure. Until the last couple of years it also had a flourishing fishing industry, based on Walvis Bay. There are a number of restraints on the economy, including its small population, large areas of desert and semi-desert grasslands, variable climatic conditions, and a scarcity of water. All fuel for power and transport has so far had to be imported. The mining industry is subject to the vagaries of international demand and prices, the livestock industry is limited by carrying capacity and the fishing industry is currently in the doldrums as a result of overfishing. All three industries, particularly mining, are subject to a considerable degree of foreign, particularly South African, ownership and control.

As with most African countries, the economy is a dual economy, with a modern wage sector superimposed on a traditional subsistence sector. The latter constitutes by far the major economic activity in the northern part of Namibia and in other homeland areas, and provides employment or subsistence income for nearly half the total labour force.²

This chapter will examine the main features of the Namibian economy, including its dependence on South Africa and the extent of foreign ownership in the territory, and consider the prospects for a viable economy after independence.

Gross Domestic Product

Total Gross Domestic Product (GDP) in 1979 was about R1.2 billion. The contribution of the various sectors to Namibia's GDP has fluctuated from year to year. In 1979 mining accounted for 49 per cent of GDP (almost R600 million) having declined from a record 51 per cent in 1978—mainly because of a drop in diamond earnings.³ The combined output of agriculture, forestry and fishing in 1979 accounted for only nine per cent (R111 million), and would have been less but for high beef prices. The proportion of GDP accounted for by fishing continued to contract—the value of production of fishing having declined 70 per cent between 1976 and 1979.⁴ Details of Namibia's GDP up to 1978 are presented in Table 9.1 (the 1977 and 1978 figures are estimates, some of which—e.g. mining—have since been revised).

Nearly 60 per cent of Namibia's GDP is dependent on exports, with virtually all products from the mining, livestock and fishing industries being exported. (By comparison, South African exports, including gold, constituted only about 28 per cent of its

Table 9.1: Gross Domestic Product, 1960-78(a)

	1960		1970		1975		1976		1977 (b)		1978 (b)	
	R m	%	R m	%	R m	%	R m	%	R m	%	R m	%
<i>GDP at current prices</i>												
Agriculture, forestry and fishing	20.5	14.5	49.7	14.3	118.0	17.6	128.6	16.6	115	13.2	113	11.0
Mining and quarrying	47.6	33.8	105.1	30.2	151.4	22.5	194.1	25.1	338	38.8	465	45.1
Manufacturing	12.7	9.0	30.2	8.7	71.8	10.7	81.9	10.6	106	12.2	109	10.5
Electricity, gas and water, and construction	5.7	4.0	19.0	5.5	45.9	6.8	51.0	6.6				
Wholesale and retail trade, catering and accommodation	17.2	12.2	45.6	13.1	89.1	13.3	99.0	12.8				
Transport, storage and communication	12.0	8.5	26.7	7.7	53.1	7.9	61.0	7.9	(c) 312	35.8	(c) 345	33.4
Finance and other services	12.3	8.7	32.9	9.4	65.8	9.8	70.8	9.2				
Sub-total	128.0	90.8	309.2	88.9	595.1	88.6	686.4	88.9				
General government	8.8	6.2	28.3	8.1	56.0	8.3	60.9	7.9				
Other producers (non-profit institutions and domestic servants)	4.1	2.9	10.5	3.0	20.8	3.1	25.1	3.2				
Total	140.9	100.0	348.0	100.0	671.9	100.0	772.4	100.0	871	100.0	1 032	100.0
<i>GDP per head</i>												
At current prices (R)	239		453		766		857		944		1 089	
At 1970 prices (R)	324		453		446		450		415		389	

Notes:

(a) Including Walvis Bay.

(b) Estimates.

(c) Tertiary industries.

Source: Erich Leistner, Pieter Esterhuysen, Theo Malan, *Namibia/SWA Prospectus* (Africa Institute of South Africa, 1980), p. 54.

GDP in 1978). About two-thirds of Namibia's major exports by value in recent years have been minerals, with livestock and fish products accounting for most of the remainder. Namibia's GDP, like that of a number of African countries, is somewhat unstable, due to the economy's export orientation and resulting dependence on world market prices and sales conditions.

The GDP per head is one of the highest in Africa after that of South Africa. However, the per head figure masks major inequalities between blacks and whites, which show up when per capita income figures are considered (see later in this chapter).

Mining

Namibia is one of the most important mining countries in Africa, ranking fourth in terms of output value after South Africa, Zaire and Zambia. However, the mining sector provides a relatively small proportion of employment opportunities. In 1977 only 22 500 people (blacks and whites) were employed in the industry—about eight per cent of the economically active population. Despite the comparatively small number of Namibians employed in mining, the sector accounts for about half the Namibian GDP and about two-thirds of export earnings.

Namibia's mineral production includes diamonds, uranium, arsenic, lead, cadmium, copper, silver and zinc—all produced in significant quantities by world standards. Other minerals mined include beryllium, bismuth, germanium, lithium, manganese, molybdenum, phosphates, salt, semi-precious stones, tantalum, tin, tungsten, vanadium and wolfram. There are also claimed to be deposits of natural gas/oil, coal, fluorspar, gold, iron ore and platinum. A deposit of power station-quality coal has been discovered near Aranos in the south-east, between the Nossob River and the Botswana border. It is not yet known whether the deposit is economically viable.

Although a wide range of minerals is mined in Namibia, only two—diamonds and uranium—are the major export earners. According to unofficial estimates, in 1979 mineral exports amounted to about R700 million, of which diamond sales accounted for R350 million and uranium about R280 million.⁵ Diamonds are also the main single source of revenue generated within the territory, and in 1980-81 diamond taxes contributed about R133 million (compared to R188 million in 1979-80).⁶ Rossing Uranium Ltd. will not start paying significant taxes until 1983 under an agreement by which it can first write off its R300 million capital investment.

Diamonds

Namibia is currently the fourth largest producer of gem-quality diamonds in the world—after South Africa, the USSR and Botswana. In excess of 90 per cent of Namibian diamond production is gem-quality diamonds, the remainder being industrial. The diamonds are mined by Consolidated Diamond Mines (CDM) which, since 1971, has enjoyed a diamond-mining monopoly through ownership of two concessions covering nearly 55 000 square kilometres—about 6.5 per cent of the area of Namibia—along the coastal strip running from the Orange River towards Walvis Bay.

The production of gem diamonds peaked at 2.0 million carats in 1977, and has been falling since—partly because of a reduction in grade (the number of carats recovered per 100 tonnes of material mined) but mainly because of a reduction in world demand and falling prices.⁷ The marketing company associated with CDM, the Central Selling Organisation (CSO) is currently stock-piling diamonds in an effort to maintain prices.⁸ Total CDM production in 1980 was estimated at 1.4 million carats—see Table 9.2, and refer also to Table 6.4.

Namibian diamond reserves were estimated at 35 million carats in 1978.⁹ According to one report the present reserves of alluvial stones along the coastal strip north of Oranjemund have an expected life of 10 to 15 years, although CDM's lease on the area does not expire until 2021.¹⁰ CDM is actively prospecting new areas and was reported to be spending R27 million on prospecting throughout Namibia in 1981, after spending R51 million on mineral exploration in the previous three years.¹¹ The major search for further diamond reserves is in the area south of the present workings and along the Orange River, as well as northwards along the Atlantic coast. Research is also continuing into off-shore mining of diamonds.

Table 9.2: Mineral production in Namibia
(⁰⁰⁰ metric tonnes)

<i>Major minerals</i>	1975	1976	1977	1978	1979	1980	1981
Gem diamonds (carats, million)	1.7	1.7	2.0	1.7	1.5	1.4	n.a.
Cadmium (tons)	100	83	88	79	81	70	n.a.
Copper: mine production	34.9	43.5	49.2	37.7	41.9	39.2	38.7
Copper: smelter production	36.4	36.1	53.4	45.9	42.7	40.0	38.7
Lead: mine production	53.1	46.4	41.2	38.6	41.0	47.7	48.0
Lead: refined production	44.3	39.6	42.7	39.5	41.7	42.7	42.0
Vanadium concentrates	0.6	0.7	0.7(e)	0.4(e)	n.a.	n.a.	n.a.
Zinc: mine production	37.7	26.9	38.3	36.6	29.0	25.4	39.6
Uranium oxide (U ₃ O ₈)	n.a.	0.6	2.8	3.2	4.5(p)	4.7(p)	n.a.

(p) preliminary, subject to revision.

(e) estimate.

(n.a.) not available.

Source: Department of Trade and Resources, June 1982.

Uranium

The only uranium mine in Namibia—and currently the largest single producer in the world—is the Rossing mine. The mine is run by Rossing Uranium Ltd, owned by a consortium of UK, South African, French and Canadian companies. The mine did not officially commence commercial production until January 1978, although test runs began in 1976. After initial setbacks caused by a fire in early 1978 and a number of technical problems, Rossing was operating at full capacity by 1979. During 1979 a total of 16.72 million tonnes of ore was milled, producing 4980 tonnes of yellowcake.¹²

From 1976 to the end of 1981 deliveries of yellowcake under existing supply contracts from the Rossing mine to its customers—including Spain, the UK, France, West Germany and Japan—are believed to have totalled at least 13 400 tonnes.¹³ These contracts commit Rossing to the export of at least 65 000 tonnes of yellowcake up to the year 2000—most of it to the UK and Japan.¹⁴

There are believed to be at least four other major deposits of uranium in Namibia in the region of the Rossing mine—and reasonably assured reserves are estimated to exceed 175 000 tonnes. Several companies, including Rossing, are continuing uranium exploration programs but new mines are unlikely until the Namibia dispute is settled or the market picks up markedly. Annual output at Rossing is expected to remain at about 5000 tonnes for the rest of this decade.¹⁵ Currently that is about one-sixth of total Western production.

Base metals

The major base metals mined are copper, lead, zinc, tin and cadmium. The base metals sector has been in decline for the past few years because of depressed world markets, and a number of small mines have closed. The sector is dominated by the Tsumeb Corporation Ltd, which accounts for some 80 per cent of base metal output in the territory and is the largest producer of copper. The biggest of the base metal mines, Tsumeb, is nearing the end of its productive life, having produced for some 70 years.

However, the Tsumeb Corporation in 1980 acquired a controlling interest in the Otjihase copper mine, then owned by Johannesburg Consolidated Investment Co. Ltd (JCI). This mine had been put on a care and maintenance basis only a year after it was brought into operation in 1976 because of large losses caused by the slump in copper prices. Otjihase will be the second largest base metal mine in Namibia after Tsumeb, producing, as well as copper, significant quantities of gold and silver.¹⁶ The Tsumeb smelter will be used to process Otjihase copper.

Production details for the major minerals are presented in Table 9.2.

Ownership

The Namibian mining industry is almost completely owned by foreign corporations—mainly South African, British and North American. The three largest mining companies—Consolidated Diamond Mines, Rossing and Tsumeb—which between them account for more than 90 per cent of mineral export earnings, are all foreign-owned and controlled.

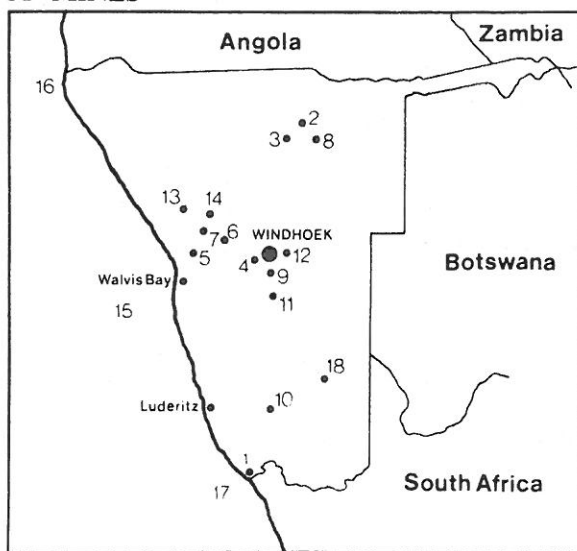
CDM is a wholly-owned subsidiary of the South African company, De Beers Consolidated Mines Ltd. De Beers also has *de facto* control over the Central Selling Organisation, through which Namibian—and most Western world—diamonds are marketed. De Beers itself is associated with the largest South African mining house, Anglo-American Corporation of South Africa Ltd.

Rossing Uranium Ltd is owned by a consortium the major shareholders in which are Rio Tinto Zinc Corporation Ltd, of the UK (about 46 per cent), and the Industrial Development Corporation of South Africa Ltd (about 13 per cent).¹⁷ Other shareholders are believed to include Rio Algom Ltd of Canada (an RTZ subsidiary), Total—Compagnie Minière et Nucleaire of France, and General Mining and Finance Corporation of South Africa Ltd.

The Tsumeb Corporation is controlled by two US companies—American Metal Climax Incorporated (AMAX) and Newmont Mining Corporation, and has British and South African ownership as well.

For the location of Namibian mines and mineral prospects and ownership as at 1978 see Figure 9.1.

FIGURE 9.1: LOCATION OF NAMIBIA'S MINERAL RESOURCES AND OWNERSHIP OF MINES



NMP/80/111.17.4

1.	Oranjemund	Diamonds	CDM/De Beers (<i>South Africa</i>)
2.	Tsumeb	Silver, copper, lead, zinc	Tsumeb Corporation (<i>USA, UK, South Africa</i>)
3.	Kombat/Asis West	Copper, lead, zinc	Tsumeb Corporation (<i>USA, UK, South Africa</i>)
4.	Matchless	Copper	Tsumeb Corporation (<i>USA, UK, South Africa</i>)
5.	Rossing	Uranium	RTZ/General Mining/Industrial Development Corporation/Total (<i>UK, South Africa, France</i>)
6.	Langer Heinrich	Uranium	General Mining (<i>South Africa</i>)
7.	Trekopje	Uranium	Gold Fields (<i>South Africa</i>)
8.	Berg Aukas	Lead, zinc, vanadium	Gold Fields/Anglo-American (<i>South Africa</i>)
9.	Oamites	Copper	Falconbridge/Industrial Development Corporation (<i>Canada, South Africa</i>)
10.	Rosh Pinah	Lead, zinc	ISCOR (<i>South Africa</i>)
11.	Klein Aub	Silver, copper	General Mining (<i>South Africa</i>)
12.	Otjihase	Copper	Johannesburg Consolidated Investments (<i>South Africa</i>)
13.	Brandberg West	Tin, wolfram	Gold Fields/Anglo-American (<i>South Africa</i>)
14.	Uis	Tin	ISCOR (<i>South Africa</i>)
15.	Walvis Bay	Offshore oil	Prospecting
16.	Kunene River Estuary	Offshore oil	Prospecting
17.	Orange River Estuary	Natural gas	Prospecting
18.	Huns Mountains	Diamonds	Prospecting

Source: *African Business*, October 1978, p. 13, in Gillian and Suzanne Cronje, *The Workers of Namibia* (International Defence and Aid Fund for Southern Africa, 1979), p. 29.

Exploration

Despite the guerilla war and market downturns for a number of major minerals, considerable exploration activity continues. More than 250 mineral prospecting licences were issued in 1981. Apart from its diamond prospecting, CDM is finalising a five-year geological and economic mineral survey, initiated at a cost of R5 million in 1977, of some 100 000 square kilometres in the remoter parts of the territory.¹⁸ The survey includes the remote Kaokoveld in the north-west, thought to contain large iron ore deposits, and areas near the Botswana border, where coal has been located. The discovery of iron ore and coal, if commercially exploitable, could transform Namibia's prospects for industrial development. Rossing Uranium in 1981 also began exploratory work in fields other than uranium.¹⁹

Agriculture

After mining, the next most important contributor to the Namibian economy is agriculture—beef cattle raising, karakul lamb farming, crop farming and forestry. The agricultural sector is the largest provider of employment, utilising about half the total labour force—more than 100 000 in traditional or subsistence agriculture and about 46 000 in modern, commercial agriculture. Roughly 73 per cent or 600 000 square kilometres of Namibia is used for agriculture, mainly extensive livestock farming.

About 6300 mainly white-owned and operated farms contribute some 80 per cent of commercial production, and virtually all commercial production (about 98 per cent in recent years) is from livestock.²⁰ The principal products are beef, karakul pelts, mutton and wool. About half the white-owned farms concentrate on cattle and about half on karakul lambs.

Details of agricultural production in the period 1960-78 are shown in Table 9.3, and Table 9.4 provides details of cattle and small stock sales and exports for the period 1973-78. The figures in Table 9.3 show that of a gross value of commercial agricultural production in 1978 of R130 million, more than half (52 per cent) was contributed by beef, 24 per cent by karakul pelts, nine per cent by mutton, two per cent by wool and 13 per cent by other products (milk products, poultry and game, and horticultural products).

Cattle and sheep stock figures have remained relatively constant in the 1970s, and are approaching present grazing capacity limits for the territory particularly in the case of sheep.²¹ Both commodities (beef and karakul pelts) depend heavily on the vagaries of export markets.

The export market for beef is mainly one country—South Africa. In 1979, about 54 per cent of the 426 000 head of cattle marketed in the territory were exported live to South Africa for domestic consumption or re-export; another 38 per cent were processed in the territory for direct export—again mainly to South Africa.²² The remaining eight per cent was consumed locally

In 1979 a move was made to reduce Namibia's almost total beef export ties with South Africa and allow the development of other export markets, particularly in Europe. Agreement was reached that from 1 January 1980 a maximum of 170 000 head of cattle and carcasses per annum—about 40 per cent of the territory's production—could be sent to South Africa.²³ The territory would have the right to market 80 000 head of cattle abroad without any further authorisation while the remainder might be exported by permit or sold to South Africa. An announcement was subsequently made that the First National Development Corporation (ENOK) had signed a contract with three French concerns to establish a new meat processing factory, with production planned to start in March 1982.²⁴

Table 9.3: Commercial agricultural production, 1960-78

	1960	1970	1975	1976	1977	1978
Gross value (R'000)						
Beef	17 665	33 185	54 676	62 985	58 716	67 723
Mutton	2 203	4 321	10 765	11 287	12 029	11 672
Karakul pelts	8 478	20 989	33 352	46 378	37 055	31 119
Wool	889	263	1 792	2 637	2 856	3 243
Other products	5 281	6 760	11 242	13 299	14 998	16 515
Total	34 516	65 518	111 827	136 586	125 654	130 272
Production						
Karakul pelts ('000)	1 976	3 594	3 031	2 787	2 866	2 663
Wool ('000 kg)	4 576	3 592	4 498	5 026	5 092	4 871
Maize (t)	6 318	9 820	12 292	12 163	8 594	..
Millet (t)	34 569	32 727	35 800	41 596	40 295	25 000
Hay crops (t)	3 066	..	30 371	28 767	30 000	30 000
National herds						
Cattle ('000)	2 440	2 934	2 413	2 566	2 824	2 900
Sheep ('000)						
Karakul	2 695	4 043	3 519	3 473	3 431	3 430
Other	437	657	684	783	819	818
Total	3 132	4 700	4 203	4 256	4 250	4 248
Goats ('000)	1 359	1 575	1 562	1 571	1 575	1 590
Farming area ('000 ha)	58 249	62 343	58 510	62 826	62 806	61 900

Source: Erich Leistner, Pieter Esterhuysen and Theo Malan, *Namibia/SWA Prospectus* (Africa Institute of South Africa, 1980), p. 55.

Table 9.4: Cattle and small stock sales and exports, 1973-78

	1973	1974	1975	1976	1977	1978
Cattle sold	507 196	275 769	326 064	389 248	348 734	396 952
Cattle exported on hoof	324 547	212 478	249 729	260 869	199 757	239 994
Local cattle slaughtering	182 649	63 291	76 335	128 379	148 977	156 958
Processing purposes (a)	149 286	33 845	48 823	93 214	115 175	123 545
Other	33 263	29 446	27 512	35 165	33 802	33 413
Small stock exported	167 002	217 363	314 335	290 948	275 951	252 757

(a) the figures are for the meat canning factories at Windhoek, Okahandja and Otavi. A fourth factory at Oshakati came into production in 1977-78 when about 20 000 head of cattle were slaughtered. The bulk of the processed meat produced by the factories is exported to South Africa.

Source: South West Africa Meat Control Board, *Annual reports*, quoted in Erich Leistner, Pieter Esterhuysen and Theo Malan, *Namibia/SWA Prospectus* (Africa Institute of South Africa, 1980), p. 55.

The Namibian karakul industry, in the late 1970s, was the largest in the world and provided nearly 50 per cent of the international market for karakul pelts. The market depends to a large extent on the dictates of fashion, and exports have fluctuated to some degree.

Both the beef and karakul pelt industries have been hard-hit in the past three years by the worst drought in Namibia for 30 years. Exports of karakul pelts dropped from

2.8 million in the first seven months of 1980 to 1.6 million in the first seven months of 1981.²⁵ A large-scale cattle slaughtering and export operation is being carried out to reduce cattle numbers. In one of the worst-affected areas Damaraland, the cattle population in 1981 fell from 50 000 to 10 000.²⁶ Six per cent (R54 million) of total government expenditure in the 1981-82 budget for Namibia was for drought relief measures.²⁷

In normal conditions the best cattle farming areas extend northward from the centrally situated Rehoboth, Windhoek and Gobabis districts, and there is potential for cattle farming also in the Owambo region. Karakul sheep do best in the arid conditions of the southern half of Namibia, below Rehoboth.

Namibia's only indigenous forests are the savannah woodlands of the moister areas of Kavango, Owambo and East Caprivi, where two species of tree are exploited for timber production on a limited scale. Research is being conducted on increased utilisation of indigenous trees and the possible establishment of plantations of exotic species to provide building materials. Areas of 25 000 and 35 000 hectares have been reserved in Owambo and Kavango for the establishment of plantations.²⁸

The main horticultural product is maize, followed by vegetables, fruit, wheat, tobacco, beans, sorghum, mohango, fodder and potatoes. All horticultural products, including maize, however, comprise less than two per cent of commercial production. Crop production has always been low, primarily because of a lack of water. Up to 50 per cent of food commodities apart from meat, fish and dairy products are imported. Namibia could become more self-sufficient if irrigation was developed and blacks were encouraged to replace subsistence farming with large-scale farming in the homelands, especially in the northern region.

After independence an initial decline in agricultural production can be expected if large numbers of white farmers leave the country. Should SWAPO form the government, the party proposes to try and make the country more self-sufficient by utilising peasants' co-operatives, state-owned ranches and crop farms. Land redistribution would also be carried out. If Zimbabwe can be taken as a guide, land redistribution would proceed slowly to avoid economic disruption and an exodus of white expertise.

Fishing²⁹

In the 1960s and 1970s the fishing grounds off the Namibian coast were considered among the best in the world. Those grounds are now seriously depleted. In the past three years the Namibian industry has been in serious decline because of over-fishing in earlier years. Its contribution to GDP has dropped from about 13 per cent in 1975 to about three per cent, and instead of employing about 7 500 Namibians as it did in 1975 the industry currently employs only several hundred.

The backbone of the industry was the catching of pelagic fish (pilchards, anchovies, mackerel, maasbanker, etc.) within the then 12 nautical mile zone off the coast, and the processing of the catch in a number of factories, primarily at Walvis Bay. The total catch in 1975 was 759 000 tonnes. Details are given in Table 9.5. The three main products produced were canned fish, fish meal and fish oil. About half Namibia's production of canned fish went to South Africa, with the remainder being exported to other countries. South Africa also took three-quarters of Namibia's fish meal and oil for its animal-feed industry—often at below export prices.³⁰

A small rock lobster industry is based on Luderitz. In 1975 the three factories at Luderitz processed about 2 000 tonnes valued at R1.6 million.³¹ Luderitz is also the

centre of a small sealing industry, with up to 50 000 allowed to be harvested each year for commercial purposes and to preserve pelagic fish stocks.

The extent of over-fishing in the 1960s and early 1970s was such that it has virtually destroyed the pelagic fish industry and it will be only after a number of years of strict management that the industry will recover, if at all. In 1969 the total catch of pelagic fish was 858 000 tonnes, of which pilchards comprised 676 000 tonnes (nearly 80 per cent). In 1980 the total pelagic fish catch was well below 200 000 tonnes with a pilchard catch of less than 4 000 tonnes. In March 1981 a total ban was placed on direct pilchard catching.³² The decline in the pilchard catch resulted in increased reliance on anchovy, which also began to show a rapid decline. Catching of anchovy has now also been curtailed.³³

Table 9.5: Fishing industry (quantities), 1969-79(a)

	1969	1975	1976	1977	1978	1979
Total catch ('000 t)	858	759	573	402	415	324
Pilchards	676	545	447	194	45	28
Anchovy	180	194	94	125	360	259
Red eye/Mackerel	2	11	11	1	..	13
Maasbanker	..	9	20	83	9	25
Processing:						
Fishmeal ('000 t)	203	147	106	75	160	79
Fish oil ('000 t)	45	28	19	13	28	28
Canned fish (b)	4 395	10 779	9 698	3 991	1 149	920

(a) including most of the catches of South African flag vessels landed at Walvis Bay and Luderitz.

(b) '000 cartons of approximately 18kg.

Source: South African Shipping News and Fishing Industry Review (STATS, December, 1979), quoted in Erich Leistner, Pieter Esterhuysen and Theo Malan, *Namibia/SWA Prospectus* (Africa Institute of South Africa, 1980), p. 56.

The collapse of the Namibian fishing industry may be attributed to three factors: (a) mismanagement on the part of government (i.e., South African) authorities; (b) inadequate understanding of, or disregard for, the life-cycle of pelagic fish, notably pilchards; and (c) over-fishing by uncontrolled South African and foreign trawlers. Initially there was little limitation on the tonnage of fish taken. When South African authorities began setting quotas in the early 1970s, these were unrealistically high and, until 1978, were never reached. The quotas were fixed with little regard for warnings by fisheries experts, and perhaps with inadequate knowledge (e.g., it was only realised in the mid-1970s that pilchard reproductive capacity may have been partly reduced by an overlapping of the catching and spawning seasons³⁴). Despite the profitability of the industry in the 1970s little was spent on research.

The collapse has meant the closure of eight of the nine processing factories at Walvis Bay, and the threatened closure of the ninth³⁵, leaving little on-shore employment for Namibians in the fishing industry.

The other important area of fishing activity is deep-sea fishing, mainly the catching of white fish. A number of trawlers previously engaged in pelagic fishing are now moving into this field, but the returns to Namibia have so far been limited. From 1971 fishing outside the then 12 nautical mile limit off the Namibian coast was subject to quotas set by the International Commission for the South-East Atlantic Fisheries (ICSEAF). ICSEAF quotas for 1978 are shown in Table 9.6.

Table 9.6: ICSEAF fishing quotas, 1978

	<i>White fish (hake, etc)</i>		<i>Pelagic fish (pilchards, etc.)</i>	
	t	%	t	%
Angola	18 500	3.85	3 100	2.28
Bulgaria	12 200	2.54	100	0.07
Cuba	25 400	5.29	—	—
France	5 000	1.04	—	—
East Germany	5 000	1.04	—	—
West Germany	8 600	1.80	—	—
Israel	7 000	1.46	—	—
Italy	7 800	1.62	—	—
Japan	10 000	2.08	—	—
Poland	30 000	6.25	5 600	4.12
Portugal	14 400	3.00	—	—
Romania	5 000	1.04	—	—
South Africa/Namibia	33 500	6.97	125 000	92.06
Spain	133 300	27.75	—	—
USSR	164 600	34.27	2 000	1.47
Total	480 300	100.00	135 800	100.00

Source: Erich Leistner, Pieter Esterhuysen, Theo Malan, *Namibia/SWA Prospectus* (Africa Institute of South Africa, 1980), p. 56.

The proclamation in 1979 of a 200 nautical mile Namibian fishing zone gives Namibia a direct stake in deep-sea fishing and conservation of resources. The proclamation gives Namibia the opportunity in its deep-sea zone to licence foreign vessels and benefit by way of royalties. It will also enable Namibia to implement conservation measures in a heavily-fished area. On one estimate the extension of the fishing zone to 200 miles could provide Namibia with white fish resources in excess of one million tonnes a year at the expense of ICSEAF countries and would allow the recovery of pelagic fish resources, under 'stringent scientific management', to an eventual catch of up to 1.5 million tonnes a year.³⁶ On another estimate the total value of the catch by all nations fishing within 200 nautical miles off the Namibian coast in the late 1970s was about R400 million a year.³⁷

For Namibia to reap the full benefit of the extension of the fishing zone it will need to regularly patrol the zone and strictly control foreign fishing under an enforced licensing scheme. The Committee has no evidence that this is currently occurring under South African control of the administration of Namibia. The viability of a Namibian fishing industry after independence will depend to some extent, too, on the then status of Walvis Bay. This is discussed in greater detail in Chapter 5.

Secondary and tertiary sectors

Manufacturing

Apart from mining-related manufacturing, the development of secondary industry in Namibia has been restricted mainly to fish and agricultural produce processing, the production of a small range of foods and beverages for local consumption, printing, and the

assembly of some consumer goods and equipment. There has also been a limited involvement in the processing of textiles and wood, and the manufacture of metal products, furniture and transport equipment, and maintenance work.

Some 250 manufacturing establishments in Namibia in 1979 were concentrated mainly in Windhoek and Walvis Bay, with some activity also taking place in towns adjacent to mines, such as Oranjemund, Swakopmund and Tsumeb, and regional towns such as Luderitz, Okahandja, and Grootfontein. Most of the firms are small, being locally-owned or subsidiaries of large South African enterprises. Employment in the manufacturing industry in 1976 was 12 128 (including about 4500 whites).

The gross value of output for all manufactured goods in 1976 was estimated at R200 million, with food, beverage and tobacco products contributing at least 70 per cent. The contribution of manufacturing to GDP in 1978 was R109 million (10.5 per cent).

There are few black industrialists, though development corporations in homeland areas have, to a limited extent, promoted the establishment of sawmills, grain mills, bakeries, etc. These corporations were amalgamated into the Namibia First National Development Corporation in September 1978. The aim of the Corporation is to promote the industrial and economic development of the territory as a whole, but particularly for blacks.

Although there is scope for the extension and development of manufacturing industry, particularly in the processing of minerals and agricultural products, there are also a number of obstacles, including a small and widely dispersed market, a narrow range of raw materials, high cost infrastructure (roads, railways, power, water, etc.) and distance from external markets (apart from South Africa). In recent years Namibia's uncertain political future has also been a factor, as has the degree of control exerted by foreign interests on local subsidiaries.

Tertiary sector

In 1975 an estimated 48 000 persons (about 16 per cent of the labour force) were employed in the service sector outside the homeland areas.³⁸ If employment in domestic service is added, overall employment in the tertiary sector in 1975 was about 68 000 persons (22.6 per cent of the labour force). The sector's estimated contribution to GDP in 1975 was 39 per cent. For the development of an independent Namibia and the proper functioning of its economy, future growth and structural change in this sector is of some importance, given its large share in employment and GDP.

Banking

Namibia is part of the Rand monetary area, and the South African Rand is used as its currency. Rand area countries have a common pool of gold and foreign exchange reserves, which is held and administered by the South African Reserve Bank. Banking and financial services in Namibia are provided mainly by subsidiaries of South African concerns. The only indigenous bank in Namibia is the Bank of South West Africa (Swabank), established in 1973.

Tourism

Namibia is a holiday centre for South Africans and has several major tourist attractions, not the least being the Namib Desert and several game parks. In 1979 the number of tourists totalled 319 510, of which 112 034 (35 per cent) came from South Africa and 31 193 (9.7 per cent) from other countries. Revenue accruing to the administration from game parks and tourist resorts totalled R2.6 million in 1978.³⁹ The revenue accruing in hotels, commercial enterprises, etc. would have been considerably more.

A comparatively new initiative in Namibia, with benefits both for tourism and livestock farming, is the granting to farmers of an ownership right in game on their property. While the system is open to abuse, if properly controlled it can make the management of game a paying proposition and has led to the establishment of several commercial game farms.

Once Namibia is independent and the guerilla war has stopped, tourism could be promoted more vigorously overseas and in neighbouring black countries, thereby attracting additional foreign exchange and providing further employment.

Infrastructure

Compared to many other countries in Africa, Namibia has a well-developed physical infrastructure, particularly when its small population and large area are taken into account. Namibia's water and energy supplies, transport and communications, and urban infrastructure have been considerably developed by the South African administration. However, the infrastructure is most developed in areas inhabited by whites. In the more heavily-populated but black areas, especially in the north, the infrastructure is inadequate—although the potential for development is good.

The impetus for the development that has occurred has come from several sources: the demands created by mining and an export-oriented agriculture; the deliberate fostering of transport links with South Africa (by rail and road via the Northern Cape, by air via Windhoek, by sea through Walvis Bay); the implementation of the Odendaal Plan in the 1960s and early 1970s which assisted in expanding infrastructural development into some homeland areas; and, more recently, the requirements of military operations against SWAPO in the north (development of roads, airfields, etc.)

The major components of Namibian infrastructure are outlined in the following sections.

Water

The availability of water is a crucial factor in Namibia's future prosperity and economic development. Not only are water resources limited but water is expensive to supply over the distances involved. Low rainfall and a high evaporation rate are a problem in much of the territory, and the only perennial rivers are parts of the Orange, Kavango and Kunene on the southern and northern boundaries.⁴⁰

Most of the water used in Namibia at present is tapped from boreholes, springs and underground reservoirs, or comes from storage dams. The total assured yield of both surface and underground resources is estimated at 500 million cubic metres a year—two-thirds of which is already being utilised for human, animal and industrial consumption and, on a limited scale, irrigation. Predicted population growth and development by the year 2000 suggests an annual demand then of at least 500 million cubic metres—the total of existing assured resources.⁴¹ The water supply will need to be increased to meet future demand, but in a territory such as Namibia water resource development is expensive. Figures from 1974 indicate that the development cost of surface water resources in Namibia then was an average of about R3 a cubic metre, although the development of underground resources might require less capital investment. By comparison, the capital cost of storage capacity in the Ord River Scheme in Western Australia was estimated in 1974 at R0.06 a cubic metre.⁴²

Up to 1974 the South African administration had spent just under R140 million on developing 177 domestic water supply schemes with a total capacity of some 40 million cubic metres. It also had drilled about 1 400 boreholes (average depth about 200 metres) and built about 500 small dams (capacities between 5 000 and 60 000 cubic metres) in black areas at a cost of about R12 million. Ground water resources, however, are limited, and on a long-term basis experts consider ground water exploitation should not exceed 150 million cubic metres a year.

Water resource development will need to be concentrated on surface water resources. Plans for such developments include large capacity storage dams across seasonal flow rivers, the use of sand storage techniques and water surface covers to minimise loss by evaporation, and the channelling of water from perennial rivers—particularly for irrigation and to major population centres. The channelling of water from the northern perennial rivers to areas requiring irrigation was estimated in 1979 to cost up to R600 per hectare per year in northern areas, and up to R1 400 per hectare per year in the central parts of Namibia.

One such scheme came into operation in December 1971. It involved the pumping of six cubic metres of water per second from the Kunene River at Calueque in Angola, across the border and into a 280 km canal system for distribution in Owambo. The scheme cost R6 million. A second scheme, costing R9 million, to pump water up the escarpment from below Ruacana Falls on the Kunene into the Owambo canal system, became operational in July 1978.⁴³

Energy

The main sources of energy in Namibia are oil and electricity. Electricity is generated mainly at coal-burning power stations and intermittently by the Ruacana hydro-electric scheme based on water from the Kunene River. Although some deposits of coal exist in Namibia, these have not yet been mined or assessed for viability, and all coal has to be imported from South Africa over long distances by sea and rail. Oil and petrol supplies likewise come from South Africa. The cost of energy in Namibia at present is comparatively high, and will continue to be so until the full potential of hydro-electricity can be utilised.

Namibia's demand for electricity in 1979 was about 200 megawatts. Nearly all of this was supplied from coal-fired power stations under the control of the South West African Water and Electricity Corporation (Pty) Ltd (SWAWEK), which was established in 1964 to supply and distribute electricity and assist in the supply of water. The major coal-fired stations under SWAWEK control are the Van Eck Power Station near Windhoek (original capacity of 90 megawatts, extended in 1977-78 to 220 megawatts), Windhoek Power Station (25 megawatts) and Walvis Bay Power Station (16 megawatts). Two additional power stations, one gas and one diesel-driven, were established at Walvis Bay in 1976 with a combined capacity of 50 megawatts.

The major part of Namibia's electricity was to have been generated by the Ruacana hydro-electric station. Agreements between South Africa and Portuguese authorities in Angola, signed in 1964 and 1968-69, provided for the development of the Ruacana Falls' potential for hydro-electricity and the construction of several dams on the Kunene River. Ruacana was planned to have a capacity of 240 megawatts. Up to 1980 the entire scheme (including the Calueque and other dams) had cost some R230 million. Since 1977 Angola has refused to divert water from the storage dam at Calueque on the Angolan side of the Kunene River to the hydro-electric power station at Ruacana 40 km away on the Namibian side, although generation has occurred at various times when dam levels have risen above the level of the intake pipe. On a

number of occasions when there has been generation (e.g., April 1980) there have been attacks on the power line between Ruacana and Windhoek by SWAPO guerillas.

Should the Ruacana scheme not be able to make its planned contribution to electricity supplies, Namibia may have to purchase electricity direct from South Africa by a link between its existing system and that of the Northern Cape. On the other hand, depending on political developments, the full operation of the hydro-electric scheme would obviate the need to purchase electricity from South Africa and could result in agreements by which Namibia might export electricity to southern Angola.

The supply of power and water in Namibia is closely interrelated. Electricity is extensively used to pump water and if all existing plans for further water supplies are put into effect then, on one estimate, in 1985 about half the total electricity consumed will be to pump water.⁴⁴

Namibia's consumption of oil and oil products was estimated in 1979 at roughly about 8000 barrels per day.⁴⁵ Since then consumption will undoubtedly have risen, due in part to the increasing intensity of the guerilla war and the build-up of South African forces in Namibia. All of Namibia's oil is supplied in refined form by tanker through the port of Walvis Bay. An oil embargo imposed on South Africa while it still administered Namibia could have serious repercussions for the territory. If Namibia, on independence, wished to obtain supplies elsewhere, it could do so from Angola, already an exporter of refined products, or Nigeria—to name two relatively close countries.

Transport

Namibia possesses an international airport at Windhoek and a number of lesser airports, 3500 km of tarred roads and 30 000 km of gravel roads, 2340 km of railway lines plus a 9000 km network of rail-bus services, and two harbours—a major one at Walvis Bay and a lesser one, for shallow-draught vessels, at Luderitz. Namibia has more kilometres of roads and railways per person than any other country in Africa.⁴⁶ Because of Namibia's size, low population and climatic and physical conditions, however, road and rail construction is costly. The railway system runs at a loss—some R26 million in 1978-79—despite carrying large quantities of freight.

Early in 1982 the Namibian administration, through the First National Development Corporation, bought a 51 per cent interest in Namib Air, the Namibian internal airline previously owned by Safmarine, the South African shipping line (which retained the other 49 per cent).⁴⁷ All its routes are within Namibia, except for flights between Windhoek and Cape Town. South African Airways (SAA) operates a number of international flights through Windhoek.

Communications and the Press

Like the railways, postal and telecommunications services are linked with those in South Africa. The services were administered by the South African Department of Posts and Telegraphs until 1 December 1979 when they became financially and organisationally independent, under the control of the Administrator-General. As with the railways, postal and telecommunications services run at a loss, which amounted to about R8.4 million in 1978-79. As at 1978 there were some 49 000 telephones in Namibia and about 100 post offices and agencies.

The South West African Broadcasting Corporation (SWABC), established early in 1979, broadcasts in Afrikaans, English and German, as well as in some of the indigenous languages. At least five daily or weekly newspapers are published in Windhoek and one in Walvis Bay.

Labour

Because of the lack of official statistics, estimates of the total labour force in Namibia vary markedly. Professor Wolfgang Thomas, a former Director of the Institute for Social Development at the University of the Western Cape in South Africa, estimated the total black labour force in 1977 as 272 000, out of a population then of some 822 000 blacks.⁴⁸ Of the total, he estimated 91 000 were subsistence farmers, 44 000 were employed in modern agriculture as farm labourers, 7000 were domestic workers and 94 000 were employed in various other categories, with some 36 000 being unemployed (or in unspecified categories).

A United Nations study for the same year gave a different picture.⁴⁹ The study estimated that 241 500 blacks were in paid employment—including 50 000 in modern agriculture but excluding another 240 000 'employed' in subsistence agriculture. The study also estimated a considerably larger number of blacks in domestic service. It gave the total black labour force as 481 500—based on an overall population estimate for 1977 of 1 250 000.

The Africa Institute of South Africa, in a study by E. Leistner, P. Esterhuysen and T. Malan, estimated an economically active population in 1977 of 315 600 out of an estimated total population of 920 000—39 per cent.⁵⁰ The economically active population comprised 42 500 whites, 238 000 blacks and 35 000 coloureds. The study, which claims to have had access to 'hitherto unpublished statistical and other material' from the South African Government and officials in Namibia, estimated there were about 90 000 blacks in subsistence agriculture, 41 000 in commercial agriculture and 20 000 in domestic service. The study does not mention the number of unemployed.

Thomas has estimated recently that in 1981 the number of unemployed had risen to about 75 000 with another 40 000 to 50 000 'under-employed'. Based on an estimated labour force of 415 000 for 1981, the figures correspond to an unemployment level of 18.1 per cent, or 27.7 per cent for both unemployed and 'under-employed'.⁵¹

Still different figures are quoted in other sources. As there is a degree of consistency between the figures used by Thomas and the Africa Institute of South Africa, the Committee will use those for the purposes of this Report.

The great majority of blacks in the wage sector are unskilled or semi-skilled. In 1975, according to a Manpower Survey by the South African Department of Labour, there were only 16 blacks in managerial or executive positions in Namibia, compared to 2164 whites.⁵² There were 3700 black teachers, 1600 black nurses and some 27 000 classed as labourers (the survey did not cover blacks in either subsistence or modern agriculture or in domestic service). Another 2434 were classed as artisans or apprentices, and 1320 as clerical workers.

A large number of black workers in Namibia are 'migrants', i.e. they leave their permanent home to work elsewhere in Namibia. In the 1970s they were employed for a fixed period on a contract, with the majority of such workers coming from the Ovambo tribe. Thomas estimated that of some 43 500 contract workers in the early 1970s, 12 000 or 28 per cent were employed in mining, 10 000 (23 per cent) in modern agriculture, 4500 in the SWA administration, 3500 each in construction and transport, 3000 each in commerce and fishing and 2000 each in industry and domestic service.⁵³

Green estimates that of the total black labour force in Namibia in 1977 only 5000 had secondary education or above and about 52 000 to 55 000 might have completed primary education.⁵⁴

Namibia will probably find difficulty in achieving full employment as its export income-producing sectors become increasingly mechanised and capital intensive (viz.

mining). The government of an independent Namibia may have to deliberately seek a return to labour intensive work in sectors such as mining and agriculture to minimise the social problems which usually result from increasing levels of unemployment. It has been estimated that the number of persons seeking to enter the Namibian workforce between 1977 and 1984 will be an average 9600 per year, and between 1984 and 1991 about 12 600 a year.⁵⁵ Difficulty will be experienced in finding work for all of them.

Another area of difficulty for an independent Namibia will be in reconciling the gross differentials in wages between blacks and whites—a problem which also faced Zimbabwe and which it found difficulty in resolving. Statistics presented to the Turnhalle Constitutional Conference on South West Africa in 1975 showed that average total earnings (cash earnings plus the value of fringe benefits) for blacks varied from 29 per cent to the occasional 76 per cent of white earnings, with blacks in unskilled and semi-skilled categories earning 38 and 42 per cent respectively of the wages and benefits of their white counterparts.⁵⁶ These statistics depended on the value computed to 'fringe benefits' and ignored problems caused by split families etc., in the case of migrant workers.

The cash wage differential is hard to ascertain because of the paucity of published information. A report by the UN Council for Namibia claimed that the average wage for blacks in 1978-79 was in the order of R1200 a year compared to about R7500 for semi-skilled whites and R10 000 plus for middle-level whites.⁵⁷ At Rossing, where wages are comparatively high, employees in 1978 were either hourly-paid or monthly-paid (salaried). The 2163 hourly-paid employees—the great majority of them blacks—were paid at rates equalling R146 to R559 a month, but only 23 were at the top grade, while the great majority—more than 84 per cent—earned only between R146 and R230 a month. There were 835 salaried staff—the great majority of them whites—who were paid at rates varying from a minimum of R280 a month to R1400 a month. Of the salaried staff, only 16 were on the minimum (and 43 on the maximum), while two-thirds were in the range R440—R930 a month.⁵⁸

Land

The creation of homelands and relocation of large numbers of blacks under the Odenaal Plan was regarded as 'land theft' by many Namibian blacks, and is seen by some of them as the root cause of present inequalities. For a lasting settlement between blacks and whites on independence, there will almost certainly need to be a revision of land ownership, and this revision will need to include agricultural and residential land and mineral rights. Per capita land holdings for whites are far greater than for blacks and overcrowding is evident in a number of homeland areas.

As in Zimbabwe, however, the question is not so much whether there should be land reform but how best to effect it—i.e., how best to ensure an equitable redistribution while at the same time trying to maintain overall agricultural production levels. In the case of Zimbabwe the Mugabe Government has moved slowly in the area of land reform in an effort to retain white expertise and maintain production levels—despite strong pressure from its black supporters for a radical reallocation. A similar cautious path might also be necessary in Namibia.

The Government of an independent Namibia might aim to assist all those Namibians capable of and interested in modern farming to acquire land without fragmenting farms into sub-economic units or unnecessarily evicting efficient and *bona fide* white farmers.

White farms which might be considered for reallocation initially could be those, for example, with absentee landlords, where the owner wished to sell, which were underutilised, or which were over-large. Other approaches, based on communal ownership or co-operatives are also possible.

Foreign ownership and control

The Namibian economy is dominated by foreign ownership and control—most of it South African as a result of that country's administration of the territory for some 50 years and also as a result of its being the dominant industrial power in the region and a neighbour of Namibia. A survey in 1973 of foreign companies investing in Namibia identified 88—35 South African, 25 British, 15 USA, eight West German, three French and two Canadian.⁵⁹ The number has grown since. Foreign ownership and control are evident in all the productive sectors:⁶⁰

- *mining*—South African shareholders or wholly-owned South African companies own at least 40 per cent of all the share capital in mining companies operating in Namibia. Partly-owned South African companies and British, French, German, US and Canadian firms own most of the remainder. Most of the capital goods, organisational and managerial staff and technical know-how comes from or is channelled through South Africa. The privileged position of the mining sector in Namibia in terms of taxation, labour supply, limited government regulation and relative autonomy to determine output, is the result of South African policies.
- *fishing*—most of the in-shore fishing fleet is South African, and is based either on Walvis Bay, a South African enclave, or in South Africa itself. Virtually all deep-sea fishing boats are foreign-owned and based. The processing companies operating in Walvis Bay were mainly South African-owned. The benefits for Namibia of the fishing industry—when it was a major industry—were limited mainly to the employment of labour.
- *agriculture*—a substantial portion of what was formerly the 'white' area is owned by South African individuals (including a number of civil servants) or companies. Virtually all the marketing of karakul pelts, cattle and wool is through South African marketing boards or agencies and South Africans have a major share in meat processing. Most technical know-how, research and loan capital are from South Africa, and most food products not produced in Namibia are imported from South Africa.
- *industry, construction, commerce and finance*—virtually all activities in these sectors are undertaken by branches of South African-owned or controlled enterprises. Local industrial and tertiary sector involvement has been limited.

This dominance by foreign companies in general and South African companies in particular has led to repeated charges of 'exploitation' and 'plunder' by the United Nations, SWAPO and numbers of blacks within Namibia.

The racial issue is tied up in the control and ownership question in that nearly all the managers and owners are whites and most of the workers are blacks or coloureds—thus the issue of white exploitation of blacks is intertwined in the issue of foreign exploitation of Namibians. A number of blacks argue that foreign corporations impede independence and majority black rule in that they have enabled the consolidation of white domination, and that, by co-operating with the South African administration, foreign companies are only prolonging South Africa's illegal occupation.

Accusations have been made that the major investments in Namibia, in particular in the extraction of minerals, have not benefitted Namibians because the big profits earned by foreign companies have not been reinvested in the territory to improve the economic, cultural and social conditions of the indigenous peoples. Instead those profits have remained in the hands of the exploiting minority of foreign settlers and are largely repatriated out of the country. The taxes paid by the companies serve mainly to pay for the maintenance of the illegal occupation of the territory.

South Africa's policy has been to attract foreign investment to Namibia by offering incentives such as lenient leasing arrangements, low taxes, generous scope to write off capital expenditure against current gross profits, no compulsory government participation in companies, and no pressure to process minerals locally. As an example, the agreement between the South African Government and Rossing Uranium Ltd was that no taxes would be paid until the mine's capital expenditure of R300 million had been written off.⁶¹

South African policy has also been to allow a more liberal policy on repatriation of profits from Namibia than it does within South Africa. A significant proportion of the profits of foreign companies, particularly the mining companies, have been regularly repatriated out of Namibia. For example, Consolidated Diamond Mines paid R30.2 million in dividends to shareholders outside Namibia out of R80.6 million in profits in 1974, according to one source.⁶² CDM's remittable surplus in 1978 was estimated at R140 million.⁶³ (CDM is a major contributor to the profits of its parent company, De Beers: in 1979, according to a UN working paper, CDM contributed \$US179 million to De Beers' total pre-tax profits of \$US993 million.⁶⁴ Estimates of the CDM contribution to De Beers have varied from 20 per cent to 40 per cent in recent years.)

It is difficult to gain an objective assessment of the extent of the flow of profits, dividends, interest, individual white remittances, etc., out of Namibia as the South African administration has not, since 1966, published detailed figures. The usual measure of outflows is the difference between GDP (the total value of goods and services produced in the territory) and Gross National Product (GNP—the total value after foreign payments). In the case of Namibia the GNP figures have usually had to be estimated as they have not been published in recent years. Estimates on the figures which are available put the net out-flow variously at between 25 and 40 per cent of GDP—most frequently at between one-quarter and one-third of GDP.⁶⁵

Another concern frequently expressed is that Namibia's natural resources are being exploited as quickly as possible to enable foreign entrepreneurs to extract maximum profits—with South African connivance—prior to independence. The argument is that South Africa is deliberately delaying independence until most of the profits have been made by its nationals and that little will be left when Namibia does gain independence.

In an attempt to dissuade foreign firms from exploiting Namibian natural resources the UN Council for Namibia, on 27 September 1974, adopted a 'Decree for the Protection of the Natural Resources of Namibia' (Decree No.1). The Decree was aimed at securing for Namibians 'adequate protection of the natural wealth and resources of the territory'. Under the Decree no person or entity could search for, take or distribute any natural resources found in Namibia without the permission of the Council for Namibia, and any person or entity contravening the Decree could be held liable for damages by the future government of an independent Namibia.

On 13 December 1974 the General Assembly approved the Decree and affirmed the right of the Namibian people to 'permanent sovereignty over their natural resources' (res. 3295 (XXIX)). The Assembly condemned the policies of 'those States which continue to support foreign economic and other interests engaged in exploiting the natural

and human resources of Namibia, in some cases to the point of foreseeing the exhaustion of such natural resources'. Australia voted for the resolution. The Council for Namibia has at times threatened litigation in respect of breaches of the Decree, to be conducted as test cases, but so far there has been little or no effective implementation of the Decree. The General Assembly, in subsequent resolutions such as 32/9D and G of 4 November 1977 and 34/92B of 12 December 1979, has reiterated calls for the withdrawal of foreign corporations from Namibia, but with little effect.

The Committee holds that, while there is some justification in charges of exploitation and excessive repatriation of profits by foreign companies, there is little or no justification for charges that South Africa is deliberately abetting such exploitation by unduly delaying independence. The delays that have occurred are based, in the Committee's view, on South African political considerations (which have been discussed in earlier chapters). Nevertheless, the effect of the continued administration by South Africa of Namibia unquestionably results in these trends, as South African policy is to permit them to continue.

There is considerable argument on whether the emergence of a modern, developed economy has benefited black Namibians, or whether it has mainly benefited whites inside and outside Namibia. There is also argument on whether South Africa's administration of Namibia has provided a sound basis for further development or not. Foreign companies can point to their major export earnings, their tax payments, their provision of employment opportunities as major pluses, and South Africa can point to the regular inflow of capital in the public sector to provide infrastructure and services, as well as its annual subsidisation of the Namibian budget (R200 million in the current budget⁶⁶).

In the Committee's view little purpose is served raking over a past which is the result of a 'complex process of interactions'.⁶⁷ There is little point in determining the balance of the arguments outlined above—if South Africa or some companies are found 'wanting' are they going to be asked to pay 'reparations'? It would be better if all concerned were to concentrate on ensuring a 'fair deal' in the present to provide a sound economic base for independence.

Economic prospects

What are Namibia's prospects on independence? The short answer, in the Committee's view, is that if a settlement is achieved which provides stability for Namibia, then its economic future appears promising. There are a number of uncertainties—the major one being the type of relationship, if any, which will develop between an independent Namibia and South Africa, both in the short-term and in the longer-term—but in general Namibia has the resources to sustain and further develop its economy.

The Committee does not intend to go into a detailed analysis of Namibia's prospects. This has been done at length elsewhere.⁶⁸ Figure 9.2 shows in summary form some of the development 'constraints' and 'assets' for Namibia. The Committee merely highlights some conclusions.

As an export-based economy, Namibia's fortunes will rise and fall with the international prices of its major products. Namibia is fortunate that, unlike a number of African countries dependent on the export of one or two commodities, it exports several minerals and items of agricultural produce. In all the major sectors there is still scope for expansion and development—new mineral reserves are being discovered, yields and some stock capacities can be improved in the agricultural sector, the fishing

sector shows considerable promise if allowed to recover, and there is scope for the further development of food and mineral processing industries and several import substitution industries.

There are a number of constraints to overcome, and further infrastructural development (particularly in the fields of water and energy) could be costly. Namibia will also need to ensure that on independence it does not suffer a major withdrawal of white capital and expertise, and that efforts are made to accelerate education and training for blacks in technical and management areas—to overcome years of neglect and denial of entry to responsible positions. In this, the experience of Zimbabwe could prove a useful guide.

An independent Namibia will assess to what extent it maintains links with South Africa. Namibia will diversify its markets, its sources of capital and its transportation links, so that it is not overly dependent on South Africa. But, as most southern African countries have found, South Africa is an economic fact of life, however distasteful and immoral its apartheid policies, and some links will be maintained—for a time at least. Possibly, initiatives such as the Southern African Development Co-ordination Conference (SADDC) will, in the longer term, lessen the dependence of all countries in the region on South Africa while it continues to maintain its present policies.

Figure 9.2: Development assets and constraints

DEVELOPMENT ASSETS		DEVELOPMENT CONSTRAINTS	
Natural Resources		Natural Resources	
Existing		Existing	
1. Minerals: diamonds, copper, uranium, zinc, etc.		21. Semi-desert nature of large parts of the country	
2. Agriculture: export cattle, karakul pelts, wool, game		22. Severe shortage of water; low rainfall and only two perennial rivers (Orange and Kunene/Kavango)	
3. Off-shore fishing		23. Lack of fuel resources (oil, coal, gas) and iron ore	
Potential		Potential	
4. Expansion of mining: more uranium, iron ore, oil, coal, etc.		24. Depletion of mineral resources: diamonds, copper, etc.	
5. Utilization of new water and energy resources (Ruacana; nuclear energy)		25. Depletion of fishing resources	
6. Intensive crop farming in Kavango, Caprivi and part of Ovamboland		26. Decline in agricultural potential due to erosion/over-exploitation	
Structural Factors		Structural Factors	
Existing		Existing	
7. Developed infrastructure: physical, administrative, social, financial, etc.		27. Low population density (dis-economies of small scale) and limited local markets	
8. Low overall population density		28. Long distances and high transport cost	
9. Balance of payments surplus		29. Extreme structural heterogeneity (ethnic and regional)	
10. Close link to a highly developed economy (RSA)		30. Inequality in the access to resources and the distribution of income and wealth	
11. Sophisticated modern sector in the local economy (skills, entrepreneurship, capital)		31. High degree of economic dependence on South Africa	
Potential		Conventional development problems:	
12. Scope for a widening of the economic base:		Extremely high export dependency of the economy	
developing agriculture and consumer oriented industries in the north		High rate of population growth and rapidly increasing unemployment	
processing raw materials		Bottlenecks in skilled black manpower and efficient management	
selective import substitution and protection		High dependency on 'foreign' development capital (RSA)	
tourism		Increased risk and uncertainty due to pending independence and political polarization	
utilizing new water and energy resources		Potential	
13. Economic advantage of an integration of the economy (debalkanisation)		34. Severe political instability during and after independence	
14. Potential for increased taxes from mining sector		35. Withdrawal of (white) capital, expertise, management, etc.	
15. Diversification of foreign aid and trade links		36. Unstable world market prices and demand for exports	
16. Scope for a selective expansion of economic cooperation in Southern Africa		37. Military conflict in Southern Africa	
17. Growth stimulation through an incomes policy and dynamic manpower development			

Source: Wolfgang H. Thomas, *Economic Development in Namibia* (Kaiser-Grünevald, 1978), pp. 34-5.

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24. United Nations, A/AC.109/604, 21 May 1980, p. 26; A/AC.131/L.224, 3 December 1981, p. 13.
25. *Africa Research Bulletin* (E, F and T Series), vol. 18, no. 9, 31 October 1981, p. 6172.
26. *Africa Research Bulletin* (E, F and T Series), vol. 18, no. 9, 31 October 1981, p. 6172.
27. *Africa Research Bulletin* (E, F and T Series), vol. 18, no. 6, 31 July 1981, p. 6080.
28. Leistner and others, p. 40.
29. For the purposes of this section, unless otherwise indicated, Walvis Bay is treated as part of Namibia: the figures in this section include all fish landed at Walvis Bay or Luderitz by South African vessels.
30. Leistner and others, p. 41; United Nations General Assembly, A/AC.131/L.73, 28 March 1978, p. 13.
31. *The Star* (Johannesburg), 6 November 1979.
32. *Africa Research Bulletin* (E, F and T Series), vol. 18, no. 3, 30 April 1981, p. 5880.
33. United Nations, A/AC.131/L.224, 3 December 1981, p. 14.
34. Thomas, p. 134.
35. *Africa Research Bulletin* (E, F and T Series), vol. 18, no. 3, 30 April 1981, p. 5880.
36. Leistner and others, p. 41.
37. *The Star* (Johannesburg), 6 November 1979.
38. Thomas, p. 149.
39. Leistner and others, p. 43.

40. The average rainfall over 70 per cent of the territory is below 400mm a year—the minimum for dry-land agriculture in a hot climate.
41. Leistner and others, p. 43. The territory's total potentially useable water resources of 500 million cubic metres a year are less than one-third those of Israel—a country one-fortieth the area of Namibia (South Africa, Department of Foreign Affairs, *South West African Survey 1974* (Capetown, 1975), p. 48).
42. *South West African Survey 1974*, p. 49.
43. The Ovambo depend entirely on surface water. They cannot use well water because of a 'salt sea' below their land.
44. Leistner and others, p. 44.
45. The figure of 8000 barrels per day was calculated by Martin Bailey in 'Oil Sanctions: South Africa's Weak Link', published as a UN document in April 1980 (Centre Against Apartheid, *Notes and Documents*, 15/80).
46. *South West African Survey 1974*, p. 52; Leistner and others, p. 45.
47. *Africa Research Bulletin* (E, F and T Series), vol. 19, no. 1, 28 February 1982, p. 6321.
48. Thomas, p. 197.
49. Prof. R.H. Green, *Towards Manpower Development for Namibia—Background Notes* (United Nations Institute for Namibia, 1978). Similar figures are given in Green's *Namibia: A Political Economic Survey* (Institute of Development Studies, University of Sussex, September 1979).
50. Leistner and others, pp. 54, 59.
51. Wolfgang Thomas, quoted in International Defence and Aid Fund for Southern Africa, *Briefing Paper No. 4*, March 1982.
52. South Africa, Department of Labour, *Manpower Survey 1975*, quoted in Thomas, p. 196.
53. Thomas, p. 287.
54. Green, *Namibia: A Political Economic Survey*, p. 21.
55. Leistner and others, p. 36.
56. South Africa, *Constitutional Conference of South West Africa* (Staatkundige Beraad, 1975), p. 62, as quoted in J. M. Mensah, 'Review of the economic conditions in Namibia and South Africa', a report prepared for the United Nations Conference on Trade and Development (UNCTAD), TD/B/869, 26 August 1981, p. 39.
57. United Nations, A/AC.131/L.224, 3 December 1981, p. 17.
58. RTZ *Fact Sheet No. 2*, May 1978, quoted in G. and S. Cronje, *The Workers of Namibia* (International Defence and Aid Fund for Southern Africa, London, 1979), p. 57.
59. Roger Murray and others, *The Role of Foreign Firms in Namibia* (Africa Publications Trust, 1974), p. 89, quoted in G. and S. Cronje, p. 15.
60. Thomas, pp. 80-1.
61. United Nations Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, *Namibia*, A/AC.109/L.1160, 13 May 1977, p. 24.
62. Murray and others, pp. 109-10, as quoted in G. and S. Cronje, p. 15.
63. Mensah, p. 22.
64. United Nations, A/AC.109/656, 12 May 1981, p. 5.
65. Thomas, p. 176; various United Nations reports cited in this chapter; G. and S. Cronje, p. 15.
66. *South African Digest*, 4 June 1982.
67. Thomas, p. 78.
68. E. G. Thomas (see particularly his conclusions, pp. 279-82). See also various UN and South African publications.

By order of the Committee

R. F. SHIPTON, M.P.
Chairman

19 August 1982

APPENDIX 1

UNITED NATIONS AND OTHER ORGANISATIONS INVOLVED IN NAMIBIA

United Nations organisations

The United Nations has, over the years, established a number of organisations to fulfil various roles relating to Namibia. Other United Nations organisations have as one of their aims the provision of assistance to Namibia. An outline of these organisations follows.

COUNCIL FOR NAMIBIA

The United Nations Council for Namibia was set up after the General Assembly decided in October 1966 to terminate the South African mandate over South West Africa and to assume control over the territory's administration itself. The Council was established on 19 May 1967 (res. 2248(S-V)) as the Council for South West Africa, and was renamed on 12 June 1968 as the Council for Namibia. The Council was established as the only legal authority to administer the territory until independence and it was also to prepare the territory for independence. It was to be based in Namibia. The Council's role and responsibilities were redefined and strengthened on 20 December 1976 (res. 147(XXI)—see Chapter 3).

The Council initially comprised 11 members. It was expanded to 18 in 1972, 25 in 1974 and 31 in 1978. Australia became a member in 1974. In May 1980 members of the Council for Namibia visited Australia and during their visit spoke with members of the Sub-Committee on Southern Africa.

The Council represents Namibia on a number of UN agencies it was admitted to associate membership of WHO in 1974, and full membership of FAO in 1977, ILO in 1978 and UNESCO in 1978.

SPECIAL COMMITTEE OF 24

Commonly referred to as the Special Committee of 24 on decolonisation, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples was established on 27 November 1961 (res. 1654(XVI)). Its then 17 members were charged with examining progress made in carrying out the provisions of the Declaration (res. 1514(XV) of 14 December 1960) and to make proposals for extending its application. The Committee was expanded to 24 in 1962, and to 25 in 1979. Australia is a member.

The Committee recognises the primacy of the Council for Namibia in any United Nations consideration of Namibia but for completeness includes on its agenda the question of Namibia.

UNITED NATIONS COMMISSIONER FOR NAMIBIA

In 1967 the General Assembly established the post of United Nations Commissioner for Namibia. Appointed annually by the General Assembly, his function is to carry out such executive and administrative tasks as are entrusted to him by the Council for Namibia. The first full-time Commissioner was Mr Sean McBride, who was appointed in December 1973. He was succeeded in December 1976 by Mr Martti Ahtisaari, then Ambassador of Finland to the United Republic of Tanzania. Mr Ahtisaari was reappointed annually until the end of 1981. He was succeeded on 1 April 1982 by Mr B.C. Mishra, former Permanent Representative of India to the United Nations. Mr Mishra was appointed initially for a nine-month period.

THE SPECIAL REPRESENTATIVE FOR NAMIBIA

In July 1978 the Security Council requested the Secretary-General by resolution 431 to appoint a Special Representative for Namibia, whose task it would be to ensure the early independence of Namibia through free and fair elections under the supervision and control of the United Nations. The Secretary-General appointed Mr Ahtisaari to the position, which he then continued to hold concurrently with his job as Commissioner until the end of 1981, when he relinquished the Commissioner's position to concentrate on the job of Special Representative.

UNITED NATIONS FUND FOR NAMIBIA

By resolution 2679 (XXV), of 9 December 1970, the General Assembly decided to establish a United Nations Fund for Namibia. The Assembly's decision to establish such a fund was taken after consideration of a request by the Security Council, contained in its resolution 283, of 29 July 1970, that a fund should be created 'to provide assistance to Namibians who had suffered from persecution, and to finance a comprehensive educational and training programme for Namibians, with particular regard to their future administrative responsibilities in the Territory'.

By resolution 2872 (XXVI), of 20 December 1971, the General Assembly decided to allocate a sum to the Fund from its regular budget, to authorise the Secretary-General to appeal to governments for voluntary contributions, and to request the Secretary-General to make the necessary arrangements for the administration of the Fund. By resolution 3112 (XXVIII), of 12 December 1973, the United Nations Council for Namibia was appointed as trustee of the Fund and on 13 December 1974 the General Assembly established guidelines for the operation of the Fund (res. 3296 (XXIX)).

Since the establishment of the Fund more than \$2 million has been contributed voluntarily by Member States and nearly the same sum has been allocated by the General Assembly in subventions from the regular budget of the United Nations.

The Fund has provided vocational and technical training for Namibians in Kenya, and has arranged for the general admission of qualified Namibians to institutions in Zambia. In addition it has provided humanitarian assistance to Namibians in refugee camps. It also supports the United Nations Institute for Namibia in Lusaka, Zambia.

UNITED NATIONS INSTITUTE FOR NAMIBIA

By resolution 3296 (XXIX), of 13 December 1974, the General Assembly endorsed the decision of the United Nations Council for Namibia to establish an Institute for Namibia in Lusaka to enable Namibians to undertake research, training, planning and related activities, with special reference to the struggle for the freedom of Namibia and the establishment of an independent state of Namibia.

The Institute for Namibia was formally inaugurated on 26 August 1976 with over 100 Namibian students. It is planned to transfer the Institute to Windhoek on independence.

UNITED NATIONS EDUCATIONAL AND TRAINING PROGRAM FOR SOUTHERN AFRICA

In 1967, by resolution 2349 (XXII), of 19 December 1967, the General Assembly decided to integrate the special educational and training programs for Namibia and for the territories under Portuguese administration and the educational and training program for South Africa, and to include in the new program assistance for eligible persons from Rhodesia. The integrated program was to be financed by a trust fund, supported by voluntary contributions, with a target of \$3 million for the period 1968-70.

In 1968 the administrative and financial consolidation of the programs was effected, and by 1 November 1978 the total income of the integrated program had reached \$15 247 284. As a transitional measure to ensure the continuity of the program until voluntary contributions were adequate the General Assembly allotted \$100 000 from the United Nations regular budget at every session in the period 1968-75. Australia has supported UNETPSA since 1974.

UNITED NATIONS TRUST FUND FOR SOUTH AFRICA

The United Nations Trust Fund for South Africa was established by General Assembly resolution 2054B (XX), of 15 December 1965, to provide—

- (a) legal assistance to persons persecuted under repressive and discriminatory legislation of South Africa;
- (b) relief and education for such persons and their dependents;
- (c) relief for refugees from South Africa;
- (d) relief and assistance to persons persecuted under repressive and discriminatory legislation in Namibia.

Australia also contributes to this Fund, which does not give grants directly to individuals, but instead gives them to voluntary organisations, governments hosting refugees and like bodies.

Other organisations

COMMONWEALTH PROGRAM FOR NAMIBIA

The Commonwealth Program for Namibia was established in 1975 to provide educational opportunities for suitably qualified Namibian refugees. Associated with the Program is the Commonwealth Special Fund for Namibia.

Commonwealth governments provide assistance to Namibian students on a bilateral basis and through contributions to the Commonwealth Fund for Technical Co-operation (CFTC), the UN and other agencies. The Program can also be utilised to finance technical assistance projects and to commission studies relevant to Namibia's post-independence development.

As at 30 June 1979 a total of 192 Namibians were undergoing training in 11 developing countries of the Commonwealth. The major fields of study were secondary (55), technical/vocational (69), secretarial (24) and para-medical (15).

SPECIAL COMMONWEALTH AFRICAN ASSISTANCE PLAN

Commonwealth countries, including Australia, have provided scholarships to Namibians under the Special Commonwealth African Assistance Plan since 1977-78. Candidates are nominated by the Commonwealth Secretariat, with nominations for Australia processed through the Australian High Commission, London.

APPENDIX 2

CHARTER OF THE UNITED NATIONS—EXCERPTS

Chapter XI—Declaration Regarding Non-Self-Governing Territories

Article 73

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

- (a) to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;
- (b) to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;
- (c) to further international peace and security;
- (d) to promote constructive measures of development, to encourage research, and to co-operate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and
- (e) to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

Article 74

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighbourliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

Chapter XII—International Trusteeship System

Article 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

Article 76

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

- (a) to further international peace and security;
- (b) to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;

- (c) to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
- (d) to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:

- (a) territories now held under mandate;
- (b) territories which may be detached from enemy states as a result of the Second World War; and
- (c) territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

Article 78

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

Article 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

Article 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79 and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

Article 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

Article 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

Article 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

Article 84

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defence and the maintenance of law and order within the trust territory.

Article 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

Chapter XIII—The Trusteeship Council

Composition

Article 86

1. The Trusteeship Council shall consist of the following Members of the United Nations:

- (a) those Members administering trust territories;
- (b) such of those Members mentioned by name in Article 23 as are not administering trust territories; and
- (c) as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

Functions and Powers

Article 87

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

- (a) consider reports submitted by the administering authority;
- (b) accept petitions and examine them in consultation with the administering authority;
- (c) provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and
- (d) take these and other actions in conformity with the terms of the trusteeship agreements.

Article 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

Voting

Article 89

1. Each member of the Trusteeship Council shall have one vote.
2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

Procedure

Article 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

Article 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

APPENDIX 3

STATEMENT TO THE COURT BY HERMAN TOIVO JA TOIVO (1968)

My Lord,

We find ourselves here in a foreign country, convicted under laws made by people whom we have always considered as foreigners. We find ourselves tried by a Judge who is not our countryman and who has not shared our background.

When this case started, Counsel tried to show that this Court had no jurisdiction to try us. What they had to say was of a technical and legal nature. The reasons may mean little to some of us, but it is the deep feeling of all of us that we should not be tried here in Pretoria.

You, my Lord, decided that you had the right to try us, because your Parliament gave you that right. That ruling has not and could not have changed our feelings. We are Namibians and not South Africans. We do not now, and will not in the future recognise your right to govern us; to make laws for us in which we had no say; to treat our country as if it were your property and use us as if you were our masters. We have always regarded South Africa as an intruder in our country. This is how we have always felt and this is how we feel now, and it is on this basis that we have faced this trial.

I speak of 'we' because I am trying to speak not only for myself, but for others as well, and especially for those of my fellow accused who have not had the benefit of any education. I think also that when I say 'we', the overwhelming majority of non-White people in South West Africa would like to be included.

We are far away from our homes; not a single member of our families has come to visit us, never mind be present at our trial. The Pretoria Gaol, the Police Headquarters at Compol, where we were interrogated and where statements were extracted from us, and this Court is all we have seen of Pretoria. We have been cut off from our people and the world. We all wondered whether the headmen would have repeated some of their lies if our people had been present in Court to hear them.

The South African Government has again shown its strength by detaining us for as long as it pleased; keeping some of us in solitary confinement for 300 to 400 days and bringing us to its Capital to try us. It has shown its strength by passing an Act especially for us and having it made retrospective. It has even chosen an ugly name to call us by. One's own are called patriots; or at least rebels; your opponents are called Terrorists.

A Court can only do justice in political cases if it understands the position of those that it has in front of it. The State has not only wanted to convict us, but also to justify the policy of the South African Government. We will not even try to present the other side of the picture, because we know that a Court that has not suffered in the same way as we have, can not understand us. This is perhaps why it is said that one should be tried by one's equals. We have felt from the very time of our arrest that we were not being tried by our equals but by our masters, and those who have brought us to trial very often do not even do us the courtesy of calling us by our surnames. Had we been tried by our equals, it would not have been necessary to have any discussion about our grievances. They would have been known to those set to judge us.

It suits the Government of South Africa to say that it is ruling South West Africa with the consent of its people. This is not true. Our organisation, S.W.A.P.O., is the largest political organisation in South West Africa. We considered ourselves a political party. We know that Whites do not think of Blacks as politicians—only as agitators. Many of our people, through no fault of their own, have had no education at all. This does not mean that they do not know what they want. A man does not have to be formally educated to know that he wants to live with his family where he wants to live, and not where an official chooses to tell him to live; to move about freely and not require a pass; to earn a decent wage; to be free to work for the person of his choice for as long as he wants; and finally, to be ruled by the people that he wants to be ruled by, and not those who rule him because they have more guns than he has.

Our grievances are called 'so-called' grievances. We do not believe South Africa is in South West Africa in order to provide facilities and work for non-Whites. It is there for its own selfish reasons. For the first forty years it did practically nothing to fulfil its 'sacred trust'. It only concerned itself with the welfare of the Whites.

Since 1962 because of the pressure from inside by the non-Whites and especially my organisation, and because of the limelight placed on our country by the world, South Africa has been trying to do a bit more. It rushed the Bantustan Report so that it would at least have something to say at the World Court.

Only one who is not White and has suffered the way we have can say whether our grievances are real or 'so-called'.

Those of us who have some education, together with our uneducated brethren, have always struggled to get freedom. The idea of our freedom is not liked by South Africa. It has tried in this Court to prove through the mouths of a couple of its paid Chiefs and a paid official that S.W.A.P.O. does not represent the people of South West Africa. If the Government of South Africa were sure that S.W.A.P.O. did not represent the innermost feelings of the people in South West Africa, it would not have taken the trouble to make it impossible for S.W.A.P.O. to advocate its peaceful policy.

South African officials want to believe that S.W.A.P.O. is an irresponsible organisation and that it is an organisation that resorts to the level of telling people not to get vaccinated. As much as White South Africans may want to believe this, this is not S.W.A.P.O. We sometimes feel that it is what the Government would like S.W.A.P.O. to be. It may be true that some member or even members of S.W.A.P.O. somewhere refused to do this. The reason for such refusal is that some people in our part of the world have lost confidence in the governors of our country and they are not prepared to accept even the good that they are trying to do.

Your Government, my Lord, undertook a very special responsibility when it was awarded the mandate over us after the First World War. It assumed a sacred trust to guide us towards independence and to prepare us to take our place among the nations of the world. We believe that South Africa has abused that trust because of its belief in racial supremacy (that White people have been chosen by God to rule the world) and apartheid. We believe that for fifty years South Africa has failed to promote the development of our people. Where are our trained men? The wealth of our country has been used to train your people for leadership and the sacred duty of preparing the indigenous people to take their place among the nations of the world has been ignored.

I know of no case in the last twenty years of a parent who did not want his child to go to school if the facilities were available, but even if, as it was said, a small percentage of parents wanted their children to look after cattle, I am sure that South Africa was strong enough to impose its will on this, as it has done in so many other respects. To us it has always seemed that our rulers wanted to keep us backward for their benefit.

1963 for us was to be the year of our freedom. From 1960 it looked as if South Africa could not oppose the world for ever. The world is important to us. In the same way as all laughed in Court when they heard that an old man tried to bring down a helicopter with a bow and arrow, we laughed when South Africa said that it would oppose the world. We knew that the world was divided, but as time went on it at least agreed that South Africa had no right to rule us.

I do not claim that it is easy for men of different races to live at peace with one another. I myself had no experience of this in my youth, and at first it surprised me that men of different races could live together in peace. But now I know it to be true and to be something for which we must strive. The South African Government creates hostility by separating people and emphasising their differences. We believe that by living together, people will learn to lose their fear of each other. We also believe that this fear which some of the Whites have of Africans is based on their desire to be superior and privileged and that when Whites see themselves as part of South West Africa, sharing with us all its hopes and troubles, then that fear will disappear. Separation is said to be a natural process. But why, then, is it imposed by force, and why then is it that Whites have the superiority?

Headmen are used to oppress us. This is not the first time that foreigners have tried to rule indirectly—we know that only those who are prepared to do what their masters tell them become headmen. Most of those who had some feeling for their people and who wanted independence have been intimidated into accepting the policy from above. Their guns and sticks are used to make people say they support them.

I have come to know that our people cannot expect progress as a gift from anyone, be it the United Nations or South Africa. Progress is something we shall have to struggle and work for.

And I believe that the only way in which we shall be able and fit to secure that progress is to learn from our own experience and mistakes.

Your Lordship emphasised in your Judgment the fact that our arms came from communist countries, and also that words commonly used by communists were to be found in our documents. But, my Lord, in the documents produced by the State there is another type of language. It appears even more often than the former. Many documents finish up with an appeal to the Almighty to guide us in our struggle for freedom. It is the wish of the South African Government that we should be discredited in the Western world. That is why it calls our struggle a communist plot; but this will not be believed by the world. The world knows that we are not interested in ideologies. We feel that the world as a whole has a special responsibility towards us. This is because the land of our fathers was handed over to South Africa by a world body. It is a divided world, but it is a matter of hope for us that it at least agrees about one thing that we are entitled to freedom and justice.

Other mandated territories have received their freedom. The judgment of the World Court was a bitter disappointment to us. We felt betrayed and we believed that South Africa would never fulfil its trust. Some felt that we would secure our freedom only by fighting for it. We knew that the power of South Africa is overwhelming, but we also knew that our case is a just one and our situation intolerable—why should we not also receive our freedom?

We are sure that the world's efforts to help us in our plight will continue, whatever South Africans may call us.

We do not expect that independence will end our troubles, but we do believe that our people are entitled—as are all peoples—to rule themselves. It is not really a question of whether South Africa treats us well or badly, but that South West Africa is our country and we wish to be our own masters.

There are some who will say that they are sympathetic with our aims, but that they condemn violence. I would answer that I am not by nature a man of violence and I believe that violence is a sin against God and my fellow men. S.W.A.P.O. itself was a non-violent organisation, but the South African Government is not truly interested in whether opposition is violent or non-violent. It does not wish to hear any opposition to apartheid. Since 1963, S.W.A.P.O. meetings have been banned. It is true that it is the Tribal Authorities who have done so, but they work with the South African Government, which has never lifted a finger in favour of political freedom. We have found ourselves voteless in our own country and deprived of the right to meet and state our own political opinions.

Is it surprising that in such times my countrymen have taken up arms? Violence is truly fear-some, but who would not defend his property and himself against a robber? And we believe that South Africa has robbed us of our country.

I have spent my life working in S.W.A.P.O., which is an ordinary political party like any other. Suddenly we in S.W.A.P.O. found that a war situation had risen and that our colleagues and South Africa were facing each other on the field of battle. Although I had not been responsible for organising my people militarily and although I believed we were unwise to fight the might of South Africa while we were so weak, I could not refuse to help them when the time came.

My Lord, you found it necessary to brand me a coward. During the Second World War, when it became evident that both my country and your country were threatened by the dark clouds of Nazism, I risked my life to defend both of them, wearing a uniform with orange bands on it.

But some of your countrymen when called to battle to defend civilisation resorted to sabotage against their own fatherland. I volunteered to face German bullets, and as a guard of military installations, both in South West Africa and the Republic, was prepared to be the victim of their sabotage. Today they are our masters and are considered the heroes, and I am called the coward.

When I consider my country, I am proud that my countrymen have taken up arms for their people and I believe that anyone who calls himself a man would not despise them.

In 1964 the A.N.C. and P.A.C. in South Africa were suppressed. This convinced me that we were too weak to face South Africa's force by waging battle. When some of my country's soldiers came back I foresaw the trouble there would be for S.W.A.P.O., my people and me personally. I tried to do what I could to prevent my people from going into the bush. In my attempts I became unpopular with some of my people, but this, too, I was prepared to endure. Decisions of this kind are not easy to make. My loyalty is to my country. My organisation could not work properly—it could not even hold meetings. I had no answer to the question 'Where has your non-violence got

us?' Whilst the World Court judgment was pending I at least had that to fall back on. When we failed, after years of waiting, I had no answer to give to my people.

Even though I did not agree that people should go into the bush, I could not refuse to help them when I knew that they were hungry. I even passed on the request for dynamite. It was not an easy decision. Another man might have been able to say 'I will have nothing to do with that sort of thing'. I was not, and I could not remain a spectator in the struggle of my people for their freedom.

I am a loyal Namibian and I could not betray my people to their enemies. I admit that I decided to assist those who had taken up arms. I know that the struggle will be long and bitter. I also know that my people will wage that struggle, whatever the cost.

Only when we are granted our independence will the struggle stop. Only when our human dignity is restored to us, as equals of the Whites, will there be peace between us.

We believe that South Africa has a choice—either to live at peace with us or to subdue us by force. If you choose to crush us and impose your will on us then you not only betray your trust, but you will live in security for only so long as your power is greater than ours. No South African will live at peace in South West Africa, for each will know that his security is based on force and that without force he will face rejection by the people of South West Africa.

My co-accused and I have suffered. We are not looking forward to our imprisonment. We do not, however, feel that our efforts and sacrifice have been wasted. We believe that human suffering has its effect even on those who impose it. We hope that what has happened will persuade the Whites of South Africa that we and the world may be right and they may be wrong. Only when White South Africans realise this and act on it, will it be possible for us to stop our struggle for freedom and justice in the land of our birth.

APPENDIX 4

UNITED NATIONS SECURITY COUNCIL

REPORT OF THE SECRETARY-GENERAL SUBMITTED PURSUANT TO PARAGRAPH 2 OF SECURITY COUNCIL RESOLUTION 431 (1978) CONCERNING THE SITUATION IN NAMIBIA

S/12827 (29.8.78)

Introduction

1. At its 2082nd meeting on 27 July 1978, the Security Council adopted resolution 431 (1978). By that resolution, the Council, recalling its resolution 385 (1976) and taking note of the proposal for a settlement of the Namibian situation contained in document S/12636 of 10 April 1978, requested me to appoint a Special Representative for Namibia in order to ensure the early independence of Namibia through free elections under the supervision and control of the United Nations. The full text of resolution 431 (1978) reads as follows:

The Security Council,

Recalling its resolution 385 (1976) of 30 January 1976, taking note of the proposal for a settlement of the Namibian situation contained in document S/12636 of 10 April 1978,

1. *Requests* the Secretary-General to appoint a Special Representative for Namibia in order to ensure the early independence of Namibia through free elections under the supervision and control of the United Nations;

2. *Further requests* the Secretary-General to submit at the earliest possible date a report containing his recommendations for the implementation of the proposal in accordance with Security Council resolution 385 (1976);

3. *Urges* all concerned to exert their best efforts towards the achievement of independence by Namibia at the earliest possible date.

2. Immediately following the decision of the Security Council, I appointed Mr Martti Ahtisaari, the United Nations Commissioner for Namibia, as my Special Representative for the purposes of the resolution.

3. Mindful of the Council's further request contained in paragraph 2, I requested my Special Representative to undertake, at the earliest possible date, a survey mission to Namibia for the purpose of gathering for me all the information necessary for the preparation of the present report. To assist him in this task, I placed at his disposal a team of United Nations officials and military advisers.

4. This report, which is based on the survey of my Special Representative, is submitted to the Security Council in accordance with paragraph 2 of resolution 431 (1978), in which the Council requested the Secretary-General 'to submit at the earliest possible date a report containing recommendations for the implementation of the proposal in accordance with Security Council resolution 385 (1976)'.

I. The survey mission

5. As stated above, my Special Representative, accompanied by a staff of United Nations officials and military advisers, visited Namibia from 6 to 22 August for the purpose of carrying out a survey of all matters relative to the implementation of resolution 431 (1978).

6. In addition to meetings with the Administrator-General of the Territory and his staff, as well as with the South African military and police commanders and local authorities, the Special Representative had the opportunity to consult extensively with representatives of political parties, churches, the business community and individuals. His consultations in this regard covered a

wide spectrum of public opinion within the Territory. In this connexion, the Special Representative and his staff, by travelling extensively within the Territory, were able to familiarize themselves with local conditions which would have relevance to the effective organization and operation of a United Nations Transition Assistance Group entrusted with the tasks set out in the proposal for a settlement of the Namibian situation contained in document S/12636.

7. In the course of his meetings and consultations, the Special Representative was able to obtain the views of not only the Administrator-General and his staff but the representatives of the Namibian people on a broad range of important topics relating to the necessary conditions for the holding of free and fair elections and to the role of the United Nations. Among the principal subjects discussed were the repeal of all the remaining discriminatory or restrictive laws, regulations or administrative measures which might abridge or inhibit the objective of free and fair elections; arrangements for ensuring the release of political prisoners and detainees, as well as the voluntary return of Namibians; the arrangements and dispositions required to ensure the cessation of all hostile acts; the electoral process; the composition and work of the Constituent Assembly; and the time-table for the accomplishment of the above stages. The military aspects of the operation, with special reference to the introduction and functioning of the military component of the United Nations Transition Assistance Group, were also fully discussed. In addition, the Special Representative also discussed with the Administrator-General the manner of ensuring the good conduct of the police and the arrangements necessary to assure the free and unrestricted discharge by the United Nations staff of the tasks assigned to them.

II. General guidelines

8. The implementation of the proposal in paragraph 2 of resolution 431 (1978) will require the establishment of a United Nations Transition Assistance Group (UNTAG) in the Territory, consisting of a civilian component and a military component. Because of the unique character of the operation and the need for close co-operation between them, both components will be under the overall direction of the Special Representative of the Secretary-General.

9. The Special Representative will report to me, keeping me informed and making such recommendations as he considers necessary with respect to the discharge of his responsibilities. The Secretary-General, in accordance with the mandate entrusted to him by the Security Council, will keep the Council fully informed of developments relating to the implementation of the proposal and to the functioning of UNTAG. All matters which might affect the nature or the continued effective functioning of UNTAG will be referred to the Council for its decision.

10. The deployment of both components of UNTAG must take into account the specific geographic, demographic, economic and social conditions prevailing in Namibia. These include, in particular, the vast distances and varied nature of topography and vegetation; the broad ranges of climatic conditions; the scarcity of water; the population distribution and existing communication network; the distribution and concentration of ethnic groups; and the lack of an adequate infrastructure in the north, such as roads and other communications and facilities. All these factors, when analysed, make it evident that sizable resources, both military and civilian, will be required to provide the close monitoring called for in document S/12636.

11. In performing its functions, UNTAG will act with complete impartiality. In order that the proposal may be effectively implemented, it is expected that the Administrator-General and all other officials from within the Territory will exhibit the same impartiality.

12. For UNTAG to carry out all its tasks effectively, three essential conditions must be met. First, it must, at all times, have the full support and backing of the Security Council. Second, it must operate with the full co-operation of all the parties concerned, particularly with regard to the comprehensive cessation of all hostile acts. Third, it must be able to operate as a combined United Nations operation, of which the military component will constitute an integrated, efficient formation within the wider framework of UNTAG.

13. To monitor the cessation of hostilities effectively, to maintain surveillance of the Territory's vast borders and to monitor the restriction to base of the armed forces of the parties concerned, the co-operation and support of the neighbouring countries will be necessary. Such co-operation will be most important, particularly during the early stages.

14. Implementation of the proposal, and thus the work of UNTAG, will have to proceed in successive stages. These stages, which are detailed in the annex to document S/12636, can be grouped as follows:

- (a) Cessation of all hostile acts by all parties and the withdrawal, restriction or demobilization of the various armed forces;
- (b) Conduct of free and fair elections to the Constituent Assembly, for which the pre-conditions include the repeal of discriminatory or restrictive laws, regulations or administrative measures, the release of political prisoners and detainees and voluntary return of exiles, the establishment of effective monitoring by the United Nations and an adequate period for electoral campaigning;
- (c) The formulation and adoption of a constitution for Namibia by the Constituent Assembly;
- (d) The entry into force of the constitution and the consequent achievement of independence of Namibia.

15. The length of time required for these stages is directly related to the complexity of the tasks to be performed and to the overriding consideration that certain steps are necessary before it can be said that elections have been held under free and fair conditions. It will be recalled that the proposal envisaged a series of successive stages, spaced so as to provide a sufficient lapse of time before the holding of the elections. This should permit, among other things, the release of political prisoners and detainees, the return and registration of all Namibians outside the Territory who may wish to participate in the electoral process, the deployment of United Nations military and civilian personnel and electoral campaigning by all parties in an atmosphere of tranquillity. The time-table set out in the proposal called for the lapse of approximately seven months from the date of the approval of the present report by the Security Council to the holding of the elections.

16. In his discussions with the Special Representative, the Administrator-General said that the South African authorities, having previously established 31 December 1978 as the date of independence, felt that they were committed thereto and that, consequently, the elections should take place as scheduled, regardless of the fact that it would necessitate substantially reducing the time-table necessary for completion of the preparatory plans. A majority of the political parties was of the opinion, however, that it was essential to maintain the orderly phasing of the preparatory stages and to allow sufficient time for electoral campaigning in order to ensure free and fair elections. Further, it was pointed out that the actual date of independence would fall within the competence of the Constituent Assembly.

17. It will be recalled, however, that at the time the proposal was first formulated, the date of 31 December 1978 was consistent with completion of these steps. The delay in reaching agreement among the parties now makes completion by this date impossible. It is therefore recommended that the transitional period begin on the date of approval of the present report by the Security Council and proceed in accordance with the steps outlined in document S/12636. Using the same time-table that earlier provided the 31 December 1978 date, an appropriate date for elections would be approximately seven months from the date of the approval of the present report.

18. Estimates of the periods of time required for completion of stages (a) and (b) of paragraph 14 above are included in the annex to document S/12636. In view of the fact that the periods required for stages (c) and (d) of paragraph 14 would be determined by the Constituent Assembly, it is expected that the duration of UNTAG would be one year, depending on the date of independence to be decided by the Constituent Assembly.

19. UNTAG will have to enjoy the freedom of movement and communication and other facilities that are necessary for the performance of its tasks. For this purpose UNTAG and its personnel must necessarily have all the relevant privileges and immunities provided for by the Convention on the Privileges and Immunities of the United Nations, as well as those especially required for the proposed operation.

20. The military component of UNTAG will not use force except in self-defence. Self-defence will include resistance to attempts to prevent it from discharging its duties, under the mandate of the Security Council. UNTAG will proceed on the assumption that all the parties concerned will

co-operate with it and take all the necessary steps for compliance with the decisions of the Security Council.

III. Establishment of UNTAG

A. Military component

21. The functions which will be performed by the military component of UNTAG are set out in paragraph 8 of document S/12636 and in the annex thereto. These include, in particular:

- (a) Monitoring the cessation of hostile acts by all parties, the restriction of South African and SWAPO armed forces to base, the phased withdrawal of all except the specified number of South African forces and the restriction of the remainder to specified locations;
- (b) Prevention of infiltration as well as surveillance of the borders of the Territory;
- (c) Monitoring the demobilisation of citizen forces, commandos and ethnic forces, and the dismantling of their command structure.

22. The military component will assist and support the civilian component of UNTAG in the discharge of its tasks.

23. The military component of UNTAG will be under the command of the United Nations, vested in the Secretary-General, under the authority of the Security Council. The command in the field will be exercised by a Commander appointed by the Secretary-General with the consent of the Security Council. The Commander will report through the Special Representative to the Secretary-General on all matters concerning the functioning of the military component of UNTAG.

24. The military component will be comprised of a number of contingents to be provided by member countries upon the request of the Secretary-General. The contingents will be selected in consultation with the Security Council and with the parties concerned, bearing in mind the accepted principle of equitable geographical representation. In addition, a body of selected officers to act as monitors will form an integral part of the military component.

25. The military component, including the monitors, will be provided with weapons of a defensive character, consistent with the guidelines set out in paragraph 20 above.

26. In order that the military component might fulfil its responsibilities, it is considered that it should have a strength of the order of seven infantry battalions, totalling approximately 5000, plus 200 monitors, and in addition, command, communications, engineer, logistic and air support elements totalling approximately 2300. The infantry battalions should be fully self-sufficient.

27. It will be essential to establish an adequate logistic and command system at the very outset of the operation. It will therefore be necessary to obtain urgently from Governments the elements of such a system. In this connection, it may well be necessary to use also the services of civilian contractors for some logistic functions, as appropriate. In the nature of the physical circumstances pertaining to this operation, UNTAG may have to rely to a considerable extent on existing military facilities and installations in Namibia.

B. Civilian component

28. The civilian component will consist of two elements. One of these elements will be the civil police, whose function will be to assist the Special Representative in implementing the tasks set out in paragraphs 9 and 10 of document S/12636.

29. The duties of the civil police element of UNTAG will include taking measures against any intimidation or interference with the electoral process from whatever quarter, accompanying the existing police forces, when appropriate, in the discharge of their duties and assisting in the realisation of the function to be discharged by the Administrator-General to the satisfaction of the Special Representative of ensuring the good conduct of the existing police forces.

30. In order that the UNTAG police may fulfil their responsibilities, as described above, it is considered, as a preliminary estimate, that approximately 360 experienced police officers will be required. It is hoped that police officers will be made available by Governments on a secondment basis, bearing in mind the accepted principle of equitable geographical representation, as well as the language and other requirements of the assignment.

31. The non-police element of the civilian component of UNTAG will have the function of assisting the Special Representative in implementing paragraphs 5 to 7 of document S/12636 and the relevant sections of the annex thereto. These tasks will consist, in particular, of the following:

- (a) Supervising and controlling all aspects of the electoral process, considering the fairness and appropriateness of the electoral procedures, monitoring the balloting and the counting of votes, in order to ensure that all procedures are strictly complied with, and receiving and investigating complaints of fraud or challenges relating to the electoral process;
- (b) Advising the Special Representative as to the repeal of discriminatory or restrictive laws, regulations or administrative measures which may abridge or inhibit the objective of free and fair elections;
- (c) Ensuring the absence of, or investigating complaints of, intimidation, coercion or restrictions on freedom of speech, movement or peaceful political assembly which may impede the objective of free and fair elections;
- (d) Assisting in the arrangements for the release of all Namibian political prisoners or detainees and for the peaceful, voluntary return of Namibian refugees or Namibians detained or otherwise outside the Territory;
- (e) Assisting in any arrangements which may be proposed by the Special Representative to the Administrator-General and implemented by the Administrator-General to the Special Representative's satisfaction intended to inform and instruct the electorate as to the significance of the election and the procedures for voting.

32. Bearing in mind the vast size of the Territory, the dispersal of the population and the lack of adequate communications, it is considered, as a preliminary estimate, that approximately 300 Professional officers, as well as the necessary supporting staff, will be required initially until the cessation of hostile acts has been achieved. Thereafter about 1000 Professional and 200 field service and General Service staff will be required during the electoral campaign and the period of balloting in order to cover all the polling stations. The staff will, among other duties, be required for 24 regional centres and more than 400 polling stations.

33. It is anticipated that some of these officials will be provided from among existing United Nations staff and that some will be persons appointed especially for this operation. In addition, it is my hope that a significant number of officials can be seconded or loaned by Governments. All such seconded or loaned personnel will be required to assume the responsibilities incumbent on United Nations officials.

34. It is also my intention to conduct consultations concerning the designation of a jurist of international standing whose appointment as legal adviser to the Special Representative is provided for in paragraph 7B of document S/12636.

IV. Proposed plan of action

35. Subject to the approval of the present report by the Security Council, it is my intention to initiate the operation as quickly as possible.

36. It is my intention to appoint as Commander of the military component of UNTAG Major-General Hannes Philipp, who has extensive experience of United Nations peace-keeping operations and is already familiar with the situation in Namibia.

37. Immediately following such a decision by the Security Council, the Special Representative, accompanied by the Commander of the military component, the key elements of their staffs, together with essential command and logistic elements, will proceed to Namibia in order to establish the headquarters of UNTAG and begin operations as quickly as possible.

38. A number of Governments have already expressed their interest in providing military contingents for UNTAG. Immediately upon the approval of the present report by the Security Council, it is my intention to consult the Council and the parties concerned on the composition of the military component, bearing in mind the principle of equitable geographical representation on the one hand, and the necessity of obtaining self-sufficient units, on the other. Every effort will be made to begin the deployment of the military component within 3 weeks and to bring it to its full strength within 12 weeks. For this to be achieved, it will be necessary to determine the composition of the military component at the earliest possible time.

39. It is also my intention to approach Governments to provide military personnel to serve as monitors. In the initial stages, given the urgency of deploying at least some of the monitors, it may be possible to draw upon officers already serving with other existing United Nations operations. This may also apply to key staff positions.

40. As regards civilian personnel, it is likewise my intention, as stated in paragraphs 30 and 33 above, to approach Governments to make available on secondment or loan experienced police officers to serve as police monitors and other experienced officials to serve in the civilian component of UNTAG. In recruiting civilian staff for UNTAG I shall bear in mind both the accepted principle of equitable geographical representation and the urgent need to deploy a large number of experienced staff within the shortest possible time.

V. Financial implications

41. At present there are too many unknown factors to permit an accurate assessment of the cost of UNTAG. Based on the numbers of personnel specified in this report and the envisaged duration of 12 months, and taking into account the magnitudes and elements of the financial requirements experienced in other peace-keeping operations, the indications are that the financial requirements for UNTAG could be as high as \$300 million. Of this, approximately \$33 million will be required to finance the return of refugees and exiles. In view of the nature of the operation, due regard should be given to the fact that some elements of the operation might be phased out before the end of the mandate and that alternative arrangements might be possible which could result in lower costs.

42. The costs of UNTAG shall be considered expenses of the Organisation to be borne by the Member States in accordance with Article 17, paragraph 2, of the Charter.

APPENDIX 5

THREE-PHASE SETTLEMENT PACKAGE—REVISED CONSTITUTIONAL PROPOSALS

Principles concerning the Constituent Assembly and the Constitution for an Independent Namibia

A. Constituent Assembly

1. In accordance with UNSCR 435, elections will be held to select a Constituent Assembly which will adopt a Constitution for an independent Namibia. The Constitution will determine the organisation and powers of all levels of government. Every adult Namibian will be eligible, without discrimination or fear of intimidation from any source, to vote, campaign and stand for election to the Constituent Assembly. Voting will be by secret ballot, with provisions made for those who cannot read or write. The date for the beginning of the electoral campaign, the date of elections, the electoral system, the preparation of voters' rolls and other aspects of electoral procedures will be promptly decided upon so as to give all political parties and interested persons, without regard to their political views, a full and fair opportunity to organise and participate in the electoral process. Full freedom of speech, assembly, movement and press shall be guaranteed. The electoral system will seek to ensure fair representation in the Constituent Assembly to political parties which gain substantial support in the election. To this end, half the members of the Constituent Assembly will be elected on a national basis by proportional representation and half on the basis of single member constituencies. These constituencies will be delimited so that they have as nearly equal a number of inhabitants as may be reasonably practicable.

2. The Constituent Assembly will formulate the Constitution for an independent Namibia in accordance with the principles in Part B below and will adopt the Constitution as a whole by a two-thirds majority of its total membership.

B. Principles for a Constitution for an Independent Namibia

1. Namibia will be a unitary, sovereign and democratic State.

2. The Constitution will be the supreme law of the State. It may be amended only by a designated process involving the Legislature and/or the votes cast in a popular referendum.

3. The Constitution will determine the organisation and powers of all levels of government. It will provide for a system of government with three Branches: an elected Executive Branch which will be responsible to the Legislative Branch; a Legislative Branch to be elected by universal and equal suffrage which will be responsible for the passage of all laws; and an independent Judicial Branch which will be responsible for the interpretation of the Constitution and for ensuring its supremacy and the authority of the law. The Executive and Legislative Branches will be constituted by periodic and genuine elections which will be held by secret vote.

4. The electoral system will be consistent with the principles in A1 above.

5. There will be a Declaration of Fundamental Rights, which will include the rights to life, personal liberty and freedom of movement; to freedom of conscience; to freedom of expression, including freedom of speech and a free press; to freedom of assembly and association, including political parties and trade unions; to due process and equality before the law; to protection from arbitrary deprivation of private property or deprivation of private property without just compensation; and to freedom from racial, ethnic, religious or sexual discrimination. The Declaration of Rights will be consistent with the provisions of the Universal Declaration of Human Rights. Aggrieved individuals will be entitled to have the courts adjudicate and enforce these rights.

6. It will be forbidden to create criminal offences with retrospective effect or to provide for increased penalties with retrospective effect.

7. Provision will be made for the balanced structuring of the Public Service, the Police Service and the Defence Services and for equal access by all to recruitment and to these Services. The fair administration of personnel policy in relation to these Services will be assured by appropriate independent bodies.

8. Provision will be made for the establishment of elected councils for local and/or regional administration.

APPENDIX 6

SUBMISSIONS

The Committee is grateful to all those who assisted the Sub-Committee with its inquiry, either by appearing before the Sub-Committee or providing written submissions, including:

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AUSTRALIAN COUNCIL OF CHURCHES
AUSTRALIA SOUTH AFRICA ASSOCIATION
BACK, Mr K.
BUREAU OF MINERAL RESOURCES, GEOLOGY AND GEOPHYSICS
CAMPAIGN AGAINST RACIAL EXPLOITATION (CARE)
CAMPBELL, Mr A.J.
CARLSON, D.R.
COMMUNITY AID ABROAD
COOPER, Dr N.K.
DEPARTMENT OF DEFENCE
DEPARTMENT OF FOREIGN AFFAIRS (including ADAB)
DEPARTMENT OF IMMIGRATION AND ETHNIC AFFAIRS
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