

NAMIBIA - INDEPENDENCE*

Namibia - as South West Africa (SWA) has been known since 1968 - achieved independence on 21 March 1990. Its name is derived from the Nama-Damara word "namib" meaning enclosure, which also gives its name to the coastal desert stretching from the Angolan border in the north to the Orange River on the southern border. Annexed by Germany in 1884, SWA was occupied by South Africa on behalf of the Allies in 1915; and, after Germany renounced title to her foreign possessions under the 1919 Treaty of Versailles, the League of Nations allocated South Africa a mandate in 1920 to administer it under South African laws as an integral part of South Africa.

At the end of the Second World War the United Nations, as successor to the League of Nations, replaced the mandate system with a new system of international tutelage, the Trusteeship System. But South Africa refused to enter into a trusteeship agreement for SWA. Instead, in December 1946, she tried but failed to get the UN to agree to the incorporation of SWA as the fifth province of South Africa. In 1947, she declared unilaterally that she would continue to administer SWA "... in the spirit of the mandate". Much political and legal argument ensued in the UN system, and between 1950 and 1971 the International Court of Justice delivered various Advisory Opinions on the subject.

Meanwhile, the General Assembly withdrew the mandate in 1966 and vested responsibility for SWA's administration in a UN Council for SWA/Namibia. But South Africa refused to allow the Council into the territory to perform its duties.

In 1977, the Western members of the Security Council (UK, USA, France, Canada and FRG) formed a Contact Group to facilitate negotiations between the UN and South Africa. By 1978, the Contact Group had formulated a proposal for the settlement of the Namibia question, to which South Africa gave her qualified acceptance in April 1978. The Security Council endorsed the Western proposal in September 1978 by Resolution 435. The proposal provided for a transitional period of up to 12 months, during which, inter alia, elections would be held for a Constituent Assembly which would draft the independence Constitution - the whole transition process to be monitored by a UN mixed military and civilian force, UNTAG.

[This note on Namibian independence, and the accompanying chronology are extracted from a briefing paper of the Foreign and Commonwealth Office, London. It is not and should not be construed or quoted as an expression of British government policy]

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South Africa's condition for agreeing to Namibian independence was the bringing about of Cuban troop withdrawal from Angola, a "linkage" suggested by the Americans following the failure of a pre-implementation meeting held in Geneva in early 1981. From then, the USA negotiated with Angola to try to achieve this.

It was not until 1988 that sufficient common purpose was established by the principal parties in the Namibia/Angola linkage issue to allow them to seek a regional solution. From May to November 1988, the USA (with the blessing of the USSR) mediated a series of direct talks between South Africa, Angola and Cuba; and on 22 December 1988, two agreements were signed creating the conditions for the implementation of the UN Plan - tripartite, between South Africa, Angola and Cuba, and bilateral between Angola and Cuba, setting out a timetable for the staged and total withdrawal of Cuban troops by July 1991. The Security Council endorsed the two agreements, and on 16 February 1989 passed the Enabling Resolution, establishing UNTAG and setting the date for the beginning of the transition at 1 April 1989.

The UN settlement Plan did not address the question of Walvis Bay, an enclave of 969 square kilometres containing the only deep water port in the area, because it was agreed that it would be dealt with bilaterally by South Africa and an independent, elected Namibian Government. Occupied by the British in 1878, and annexed to Cape Province in 1884, the enclave had become an integral part of the Union of South Africa in 1910. Although administered from Windhoek from 1922, its administration transferred back to Cape Province in 1977.

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NAMIBIA: CHRONOLOGY, OCTOBER 1989 - INDEPENDENCE**1989**

- 6 October UN Secretary-General presented a further Report on Namibia to the Security Council, describing progress to date and highlighting outstanding problems of implementation of the UN Plan, which included finalisation of the legislation relating to election procedures and the role of the Constituent Assembly.
- 9 October Special Representative of the UN Secretary-General, Mr Martti Ahtisaari, and the Administrator-General (AG), Mr Louis Pienaar, expressed concern at the outbreak of inter-party violence in the north the previous weekend. The AG's spokesman called on the South West Africa People's Organisation (SWAPO) and the Democratic Turnhalle Alliance (DTA), as the two main parties, to "join hands" to set an example and stop the violence.
- 10 October In announcing that elections to the Constituent Assembly would take place from 7-11 November, the AG's office indicated that the Chief Electoral Officer would head a team of 2,790 electoral officials of whom 596 would act solely as counting officers, and that there would be 194 fixed and 155 mobile polling stations.
- 11 October Mr Ahtisaari made public the report of the UN Mission on SWAPO Detainees (which had visited Angola and Zambia in September). He said the whereabouts of "a substantial number" of the 1,100 or more reported missing or detained had been determined; but 315 could not be accounted for (the search would continue).
- 13 October Promulgation of the Election Laws detailing election procedures. Election Director of UN Transitional Assistance Group (UNTAG) said some 1,700 UNTAG election monitors were expected to arrive by the end of October.
- Additional 105 foreign police arrived, bringing total number of police under UN auspices to 1,100 officers from 20 countries.
- 17 October UNTAG spokesman confirmed that 1,094 Koevoet (a para-military counter-insurgency force) members had been demobilised.

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- 19 October UNTAG spokesman confirmed again that the UN Plan included agreements and understandings reached since the adoption of Security Council Resolution 435, including the Text of the Constitutional Principles (agreed in 1982, and intended to guide the Constituent Assembly with drafting the independence Constitution), and that these agreements remained binding.
- Representatives of all 10 registered political parties issued a joint statement condemning inter-party violence, and called on the people of Namibia to commit themselves to a peaceful independence process.
- South African Foreign Minister, Mr R F ("Pik") Botha, paid a one-day visit to Windhoek during which he met representatives of all 10 parties. He told a Press conference he had come to explain the importance of addressing the many complex aspects of relations between Namibia and South Africa well before independence to avoid a hiatus thereafter. Issues discussed included the use of the Rand and banking arrangements, the judicial system, the Southern African Customs Union (SACU), border controls, communications and trade relations. Asked if South Africa would accept a SWAPO government, Pik Botha said she was committed to accept the results of the election providing it was certified as free and fair.
- 24 October Parties to the election published their lists of candidates.
- 30 October AG's office confirmed that the remaining ex-Koevoet members serving in the South West Africa Police Force (SWAPOL) had been demobilised under the supervision of UNTAG monitors.
- 1 November UN Security Council adopted Resolution 643 demanding strict compliance with the UN independence Plan.
- 6 November Publication of the Constituent Assembly Proclamation giving the Assembly power to draw up a Constitution, to adopt that Constitution by a two-thirds majority, to declare Namibia to be an independent State on a date to be determined, and to convert itself into the first government on independence.
- 7-11 November Election took place with 96.4 per cent of the registered electorate voting - some 676,220 voters out of a registered total of 701,433.
- 14 November Election results announced. On the basis of proportional representation, SWAPO gained 41 seats out of the 72 in the Constituent Assembly (with 57.33 per cent of the vote), the DTA 21 seats (with 28.55 per cent), the United Democratic Front (UDF) 4 seats (with 5.65 per cent), Action Christian National (ACN) 3 seats (with 3.54 per cent), National Patriotic Front of Namibia (NPF) one seat (with 1.59 per cent), Federal Convention of Namibia (FCN) one seat (with 1.56 per cent), Namibia National Front (NNF) one seat (with 0.80 per cent). The remaining three parties - Christian Democratic Action (CDA), SWAPO Democrats (SWAPO (D)) and Namibia National Democratic Party (NNDP) did not get sufficient votes to gain any seats (the quota required to secure a seat being 9,317 votes).

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Special Representative certified that the electoral process at each stage had been free and fair and conducted to his satisfaction.

South African President, Mr F W de Klerk, said that he was "grateful that the election proceeded peacefully", that South Africa accepted the outcome, and that it was clear the process had been free and fair. He promised that South Africa would cooperate with an independent Namibia in "a spirit of good neighbourliness".

- 16 November Referring to the Walvis Bay enclave, de Klerk said it would remain part of South Africa but that South Africa was "willing to negotiate over the use of the facilities there" with the government of independent Namibia.
- Justice Bryan O'Linn confirmed the end of the work of the Commission into Intimidation and Election Malpractices (established in June) which he had chaired. During its five-month existence, 215 cases had been brought before it and judgments reached on 128.
- 21 November At the opening session of the Constituent Assembly, Mr Hage Geingob, hitherto SWAPO's Director of Elections, was elected Chairman. One of the Assembly's first decisions was the unanimous adoption of the 1982 UN Constitutional Principles.
- 24 November UNTAG spokesman announced that the remaining 1,500 members of the South African Defence Force (SADF), confined to bases at Oshivelo and Grootfontein, had returned to South Africa.
- 27 November UNTAG spokesman confirmed that the remaining bases of the People's Liberation Army of Namibia (PLAN) (SWAPO's military wing) in Angola had been closed three days earlier and that approximately 300 PLAN fighters had been demobilised to return to Namibia as civilians.
- 30 November Constituent Assembly agreed that parties should submit constitutional proposals or ideas for consideration by 4 December.
- 6 December President-designate, Mr Sam Nujoma, requested help from Britain with military training for the new Namibian army and, as part of a Commonwealth effort, with police training.
- 8 December In a statement issued in Windhoek, SWAPO said it was concerned at the rapid deterioration and exploitation of marine resources in Namibian territorial waters. On independence, SWAPO would not regard itself bound by concessions which, at present, allocated fishing resources to member countries of the International Commission of South-East Atlantic Fisheries (ICSEAF).
- 13 December South Africa opened an "interests office" in Windhoek to provide a full range of consular services.

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- 19 December On a visit to Walvis Bay, the South African Deputy Defence Minister, Mr Wynand Breytenbach, said there was no question of either a build-up or a withdrawal of the SADF in the enclave.
- 21 December SWAPO announced appointments to a "shadow Cabinet", which would take over the government on independence, consisting of 16 Ministers-designate, in addition to Nujoma and Prime Minister-designate, Mr Hage Geingob. Ministerial appointees included Mr Theo-Ben Gurirab to Foreign Affairs, Mr Hifikepunye Pohambe to Home Affairs, Mr Peter Mueshange as Defence Minister, Mr Hipido Hamutenya to Information, Dr Otto Herrigel to Finance, Mr Ngarikutuke Tjiriange to Justice, Dr Libertine Amathila to Local Government and Housing, Mr Ben Amathila to Trade and Industry, Mr Nahas Angula to Education, Dr Nicky Iyambo to Health, Mr Hendrik Witbooi to Labour, Mr Andimba Toivo ya Toivo to Mines and Energy, Mr Richard Kapelwa to Works and Transport, and Mr Marco Hausiku to the Ministry of Lands.
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- 11 January UNTAG's military component began its withdrawal, an operation to be completed by mid-April.
- 15 January British Ministry of Defence Advisory Team arrived in Windhoek to assess Namibia's military training requirements.
- 23 January In an interview, Nujoma confirmed that he had no intention of allowing African National Congress (ANC) bases to be established in Namibia.
- 26 January Pik Botha, on a visit to Windhoek, met Nujoma for talks which included discussions on Namibian membership of the SACU, civil aviation and border matters. At a Press conference, he said South Africa looked forward to "realistic, constructive and friendly" relations with Namibia, adding that the question of Walvis Bay could be amicably settled.
- 28 January British police advisory team arrived to assess the need for police training following a request from Nujoma.
- 31 January Provision in the draft Constitution, providing for detention without trial, scrapped by the Constituent Assembly, which had earlier abolished the death penalty clause.
- UNTAG spokesman announced that the Secretary-General had agreed that the bulk of UNTAG's equipment, including a sizeable number of vehicles, would be donated to the new Namibian Government.
- 2 February SWAPO announced the appointment of Mr Gert Hanekom to the Agriculture portfolio, which would also include Water Affairs, Fisheries and Rural Development.
- 6 February West German Government spokesman announced that West Germany had set aside some \$60 million for development aid to Namibia on independence.

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- 8 February Minister of Finance-designate, Dr Otto Herrigel, told businessmen in Windhoek that Namibia would remain a member of SACU and the Rand monetary area for at least two years after independence, and that there would be no restrictions on the flow of capital between Namibia and South Africa. He spoke of the need to establish an independent central bank in due course, and announced that the incoming government would budget for a deficit of R500 million in the first year to meet exceptional and immediate needs.
- 9 February Constituent Assembly adopted the Constitution. It provides for a multi-party State and includes a Bill of Rights; a limitation on the tenure of the Presidency to two terms of five years; the establishment of an Upper House, the National Council, which would, inter alia, review legislation from the Lower House, or National Assembly; an independent judiciary and an Ombudsman; and Regional and Local Government Councils to be defined geographically without reference to race, colour or ethnic origin.
- 13 February UNTAG spokesman announced details of the withdrawal plan for UNTAG: all regional and district offices to be closed by 21 March; all civilian staff to leave by 30 March; UNTAG police units to be reduced by one-third by late February, with the remainder leaving between 26 March and 7 April; the remaining one-third of the military observers to depart by 30 March; UNTAG infantry personnel to begin to withdraw immediately after independence until 8 April; and Ahtisaari and the UNTAG force Commander, Gen Prem Chand, to leave one week after independence.
- 16 February Nujoma unanimously elected first President of an independent Namibia by the Constituent Assembly.
- 19 February British Ministry of Defence reconnaissance party arrived in Namibia to prepare the ground for the deployment of the full military training team.
- 6 March Announcement of the appointment of Gen Piet Fouche (latterly Commissioner of SWAPOL) as the first Inspector-General of the new police force.
- 13 March British Government announced that, in response to requests from Nujoma, it had agreed to help with military and police training. An advance party of the 50-strong British Military Advisory Training Team (BMATT) arrived, to be followed by the main body of the team shortly after independence. The team would train the new Namibian Defence Force and help establish a Defence Ministry.
- 21 March Namibia achieved independence.

NAMIBIA - ANGOLA, CUBA AND SOUTH AFRICA**TRIPARTITE AGREEMENT BETWEEN
ANGOLA, CUBA AND SOUTH AFRICA
NEW YORK, 22 DECEMBER 1988**

"The Government of the People's Republic of Angola, the Republic of Cuba and the Republic of South Africa, hereinafter designated as 'the Parties',

TAKING INTO ACCOUNT the 'Principles for a peaceful Settlement in Southwestern Africa', approved by the Parties on 20 July 1988, and the subsequent negotiations with respect to the implementation of these Principles, each of which is indispensable to a comprehensive settlement,

CONSIDERING the acceptance by the Parties of the implementation of United Nations Security Council Resolution 435 (1978), adopted on 29 September 1978, hereinafter designated as 'UNSCR 435/78',

CONSIDERING the conclusion of the bilateral agreement between the People's Republic of Angola and the Republic of Cuba providing for the redeployment toward the North and the staged and total withdrawal of Cuban troops from Angola,

RECOGNIZING the role of the United Nations Security Council in implementing UNSCR 435/78 and in supporting the implementation of the present agreement,

AFFIRMING the sovereignty, sovereign equality, and independence of all states of southwestern Africa,

AFFIRMING the principle of noninterference in the internal affairs of states,

AFFIRMING the principle of abstention from the threat or use of force against the territorial integrity or political independence of states,

REAFFIRMING the right of the peoples of the southwestern region of Africa to self-determination, independence, and equality of rights, and of states of southwestern Africa to peace, development, and social progress,

URGING African and international cooperation for the settlement of the problems of the development of the southwestern region of Africa,

EXPRESSING their appreciation for the mediating role of the Government of the United States of America,

DESIRING to contribute to the establishment of peace and security in southwestern Africa,

[Two agreements are published above. The first agreement was signed in New York on 22/12/1988. It was signed by the Foreign Ministers of South Africa, Mr. Pik Botha, Cuba, Mr. Isidora Malmeira-Peoli, and Angola, Mr. Alfonso van Dunem in New York. This is followed by the text of the agreement, with formal parts omitted, between Angola and Cuba on 22 December 1988]

AGREE to the provisions set forth below:

1. The Parties shall immediately request the Secretary General of the United Nations to seek authority from the Security Council to commence implementation of UNSCR 435/78 on 1 April 1989.

2. All military forces of the Republic of South Africa shall depart Namibia in accordance with UNSCR 435/78.

3. Consistent with the provisions of UNSCR 435/78, the Republic of South Africa and the People's Republic of Angola shall cooperate with the Secretary General to insure the independence of Namibia through free and fair elections and shall abstain from any action that could prevent the execution of UNSCR 435/78. The Parties shall respect the territorial integrity and inviolability of borders of Namibia and shall insure that their territories are not used by any state, organization, or person in connection with acts of war, aggression, or violence against the territorial integrity or inviolability of borders of Namibia or any other action which could prevent the execution of UNSCR 435/78.

4. The People's Republic of Angola and the Republic of Cuba shall implement the bilateral agreement, signed on the date of signature of this agreement, providing for the redeployment toward the North and staged and total withdrawal of Cuban troops from the territory of the People's Republic of Angola, and the arrangements made with the Security Council of the United Nations for the on-site verification of the withdrawal.

5. Consistent with their obligations under the Charter of the United Nations, the Parties shall refrain from the threats or use of force, and shall insure that their respective territories are not used by any state, organization, or person in connection with any acts of war, aggression, or violence, against the territorial integrity, inviolability of borders, or independence of any state of southwestern Africa.

6. The parties shall respect the principle of noninterference in the internal affairs of the states of southwestern Africa.

7. The Parties shall comply in good faith with all obligations undertaken in this agreement and shall resolve through negotiations and in a spirit of cooperation any disputes with respect to the interpretation of implementation thereof.

8. This agreement shall enter into force upon signature.

Signed at New York in triplicate in the Portuguese, Spanish and English Languages, each language being equally authentic, this 22nd day of December 1988."

BILATERAL AGREEMENT BETWEEN ANGOLA AND CUBA
22 DECEMBER 1988

“Article I – To begin a staged redeployment to the 15th and 13th parallels and the total withdrawal to Cuba of the contingent of approximately 50 000 troops which make up the Cuban forces in the People’s Republic of Angola, according to the paces and time frames established by the annexed calendar, which is an integral part of the present agreement. The total withdrawal will conclude on 1 July 1991.

Article II – The Governments of the People’s Republic of Angola and the Republic of Cuba reserve for themselves the right to modify or alter their obligations under Article I of this Agreement if blatant breach of the Tripartite Agreement occurs.

Article III – Both parties, through the Secretary General of the United Nations, ask the Security Council to set up verification of the redeployment and staged and total withdrawal of the Cuban troops from the territory of the People’s Republic of Angola. With this purpose the corresponding protocol shall be established.

Article IV – This Agreement shall come into force as of the signing of the Tripartite Agreement between the Governments of the People’s Republic of Angola, the Republic of Cuba and the Republic of South Africa.

Annex to the Agreement between the Government of the Republic of Cuba and the Government of the People’s Republic of Angola on the conclusion of the Internationalist Mission of the Cuban Military Contingent.

In fulfilment of Article I of the Agreement between the Government of the Republic of Cuba and the Government of the People’s Republic of Angola on the conclusion of the Internationalist Mission of the Cuban military contingent present in Angolan territory, both parties establish the following calendar for the withdrawal:

Before 1 April 1989 (date of implementation of Resolution 435): 3 000 troops

Total length of calendar as of 1 April 1989: 27 months.

Redeployment to the north:

To the 15th Parallel: 1 August, 1989.

To the 13th Parallel: 31 October, 1989.

Total Troops to be withdrawn:

By 1 November 1989: 25 000 (50%).

By 1 April 1990: 33 000 (66%).

By 1 October 1990: 38 000 (76%), 12 000 remain.

By 1 July 1991: 50 000 (100%).

The data base is a Cuban force of 50 000 troops.”