



Namibia is neither geographically nor politically an island or otherwise isolated, but rather an integral part of the southern African region, an active member of the African Union, and a sovereign member state within the international community. Namibia has always been embedded in social, historic, economic and political relations and interactions with its neighbours in the region and beyond. Due to the small size of its population and its economy, Namibia has always depended on its vital bonds with other countries in the region, but also in the global community. Namibia's foreign relations and their prudent formulation and management determine the sustainability of the country and the economic perspectives of its people. Foreign affairs have an impact on every person's life.

After more than two decades of statehood, and given the transformations of the geopolitical order since then, but also considering the grave impact of the globalisation dynamics on the degree of political and economic interdependencies and vulnerabilities, it is relevant to ask how Namibia has been managing these foreign and international relations. Such an assessment is essential for reflecting on the country's foreign relations and adjusting them, where necessary, in order to gain a perspective of prosperity for the 21st Century.

In 20 chapters, Namibia's main bilateral and multilateral relationships, the historic and normative foundations of those bonds, their strategic objectives and interests, and their interface with other policy fields are critically discussed. The collective effort of this book brings together, for the first time, academicians, diplomats and policymakers from within and beyond Namibia with the purpose of offering a systematic understanding of some of the most significant dimensions of the country's foreign relations.

It is envisaged that this scholarly publication will deepen the understanding of Namibia's international and foreign relations, stimulate research, and open up the broad public discourse in order to promote Namibia's contribution to the global common good and the country's role in the world.



**Konrad
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Namibia's Foreign Relations

Edited by Anton Bösl, André du Pisani and Dennis U Zaire



Namibia's Foreign Relations

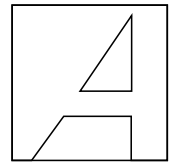
Historic contexts, current dimensions,
and perspectives for the 21st Century



Edited by Anton Bösl, André du Pisani and Dennis U Zaire

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Please note that the views expressed herein are not necessarily those of the Konrad Adenauer Foundation or of the editors.



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2014

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List of abbreviations

ACP	African, Caribbean and Pacific (countries)
AGOA	African Growth and Opportunity Act
ANC	African National Congress
APRM	African Peer Review Mechanism
APSA	African Peace and Security Architecture
AU	African Union
BCLME	Benguela Current Large Marine Ecosystem
BLNS	Botswana, Lesotho, Namibia, Swaziland
CARMMA	Campaign on Accelerated Reduction of Maternal Mortality in Africa
CBNRM	community-based natural resource management
CET	common external tariff
CIF	Construction Industries Federation of Namibia
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CPC	Communist Party of China
DRC	Democratic Republic of the Congo
EDF	European Development Fund
EEAS	European External Action Service
EPA	Economic Partnership Agreement
EU	European Union
FAPLA	Forças Armadas Populares de Libertação de Angola (People's Armed Forces for the Liberation of Angola)
FATF	Financial Action Task Force
FDI	foreign direct investment
FLS	Frontline States
FNLA	Frente Nacional de Libertação de Angola (National Front for the Liberation of Angola)
FOCAC	Forum on China–Africa Cooperation
FTA	Free Trade Area
GATT	General Agreement on Tariffs and Trade
HOSEB	Heads of State Economic Bilateral Meeting
ICC	International Criminal Court
ICJ	International Court of Justice
ISRI	Instituto Superior de Relações Internacionais (Higher Institute for International Relations)
JCC	Joint Commission of Cooperation
JTC	Joint Technical Commission
MCA	Millennium Challenge Account
MDG	Millennium Development Goal
MFN	most favoured nation

MOU	Memorandum of Understanding
MPLA	Movimento Popular para la Liberação de Angola (Popular Movement for the Liberation of Angola)
NAM	Non-aligned Movement
NATO	North Atlantic Treaty Organization
NDF	Namibian Defence Force
NEPAD	New Partnership for Africa's Development
NGSIP	Namibian–German Special Initiative Programme
NPC	National Planning Commission
OAU	Organisation of African Unity
ODA	official development assistance/aid
OPDS	Organ on Politics, Defence and Security Cooperation
PEPFAR	President's Emergency Plan for AIDS Relief
PRC	People's Republic of China
PSC	Peace and Security Council
REC	regional economic community
RPRP	Rural Poverty Reduction Programme
SADC	Southern African Development Community
SACU	Southern African Customs Union
SPTTP	Special Preferential Tariff Treatment Programme
SWANU	South West African National Union
SWAPO	South West Africa People's Organisation
TDCA	Trade, Development and Cooperation Agreement
TEU	Treaty of European Union
UN	United Nations
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UNITA	União Nacional para a Independência Total de Angola (National Union for the Total Independence of Angola)
UNSC	United Nations Security Council
US(A)	United States (of America)
USSR	Union of Soviet Socialist Republics
WTO	World Trade Organization
WWII	World War II/Second World War

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INTRODUCTION

Namibia's foreign relations in a changing world – An appraisal

*Anton Bösl**

If a man does not know to what port he is steering, no wind is favourable to him.¹

Seneca

This introductory appraisal discusses, in its first part, the concepts of *foreign affairs* and *international relations* and their changing environment in general, but also specifically as regards Namibia. The appraisal informs the reader about historic contexts that have shaped and the current dimensions that continue to mould Namibia's foreign relations, and outlines some perspectives and recommendations for the way forward.

In its second part, the appraisal provides abstracts of the 20 chapters of the publication at hand.

Introduction

Namibia is neither geographically nor politically an island or otherwise isolated, but rather an integral part of the southern African region, an active member of the African Union, and a sovereign member state within the international community. Namibia has always been embedded in social, historic, economic and political relations and interactions with its neighbours in the region and beyond. Due to the small size of its population and its economy, Namibia has always depended on its vital bonds with other countries in the region, but also in the global community. Namibia's foreign relations and their prudent formulation and management determine the sustainability of the country and the economic perspectives of its people. Foreign affairs have an impact on every person's life.

After more than two decades of statehood, and given the transformations of the geopolitical order since then but also considering the grave impact of the globalisation dynamics on the degree of political and economic interdependencies and vulnerabilities, it is relevant to ask how Namibia has been managing these foreign and international relations. Such an assessment is essential for reflecting on the country's foreign relations and adjusting them, where necessary, in order to gain a perspective of prosperity for the 21st Century.

* Former Resident Representative for Namibia and Angola, Konrad Adenauer Foundation, Windhoek (2006–2011).

¹ Seneca, Lucius Annaeus. *Epistulae morales ad Lucilium*, VIII, LXXI, 3.

This publication intends to inform the reader about the history, the status and the management of Namibia's foreign affairs and international relations, its norms and values, its national interests, and its strategic objectives. The implicit key premise is the concept of a *nation state*, represented by a government with authority over a territory and its population, with the capacity to enter into and maintain relations with other sovereign states and supranational organisations aiming to pursue the realisation of the interests of its people.² Another key premise is the existence of an international order that was mainly shaped after World War II, with rules and institutions that have developed since 1945 in a quest to ensure countries enjoy peaceful relations among themselves.

Based on these premises, the 20 chapters in this volume provide relevant information about several facets of Namibia's foreign relations. Although they are part of a unified anthology, the chapters differ in academic approach, methodology, style, genre and semantics. Due to the lack of distinct and internationally agreed definitions, the concepts and phrases of *foreign affairs* and *international relations* are often used synonymously – not only colloquially, but also, at times, by the scholars in this publication. Hence, it is appropriate to briefly refer to the terms' commonalities, similarities and differences.

There is a broad consensus in academia, particularly among political scientists, that the concepts of *foreign affairs* and *international relations* share the fact that they define the role of the actors, interests, strategies and transboundary activities on a bi- or multilateral level, based on international law.

The term *foreign affairs*, on the other hand, which is also used as a synonym of *foreign policy*, describes the relationships between and among states or countries and their national governments as well as supranational organisations. The term *international relations*, however, also takes into account the heterogeneous interactions of the peoples of different states and countries from a bird's eye view. Due to the increasing political importance of international and non-governmental organisations (NGOs), of multinational corporations and of informal political processes, their role is at times also considered part of what constitutes *foreign affairs*.³ Although both dimensions – foreign relations and international relations – are discussed in an interdisciplinary manner in the contributions to this publication, *foreign relations* has deliberately been chosen for its title for the sake of brevity.

The publication does not and cannot cover all facets of Namibia's foreign relations and, in this respect, therefore, is not comprehensive. The selection of contributions for this publication follows the criteria of relevance of content and of the availability of authors at hand. Thus, only five countries in respect of which Namibia maintains bilateral relations are available; in alphabetical order, these are Angola, China, Germany, South

2 Krasner (1993:235–264).

3 Mingst (2007).

Africa and the United States of America, whereas the publication covers Namibia's most important multilateral relations. In the six remaining chapters, several obvious interfaces with other policy fields – beyond the classic foreign affairs' distinction between *bilateral* and *multilateral* relations – are discussed.

Historic contexts

Namibia's foreign relations, and the principles, policies and formulations on which those relations depend, have been shaped significantly by the diplomatic and the armed liberation struggle to achieve independence.⁴ The experience of the struggle was also indisputably formative in respect of the country's post-independence foreign relations, and is very obvious in Namibia: some aspects are immediately visible by way of physical structures, e.g. official state buildings (e.g. the new State House, the Independence Memorial Museum) as well as various buildings for its executive branch, legislative branch (e.g. the National Council) and judiciary (e.g. Supreme Court). These buildings not only display the architectonic style and quality of construction of countries like China and North Korea, who provided assistance during the struggle, but also symbolise an ongoing – albeit not always transparent – political influence: they are a metaphor for solidarity politics and for the comradeship of the like-minded.

The diplomatic and armed liberation struggle contributed to the national identity of Namibia and is – after more than two decades – still a perceptible element of political continuity and an influential element of the country's post-colonial international relations. It should be emphasised, however, that during the struggle era and after Namibia's independence in 1990, grave geopolitical changes have taken place that have significantly influenced its foreign relations.

The détente between East and West, the fall of the Berlin Wall, the end of the Cold War with its bipolar rivalry, and the dissolution of the Warsaw Pact made it necessary for many states to reflect the changing geopolitical realities in their foreign policies. In particular, African states that had enjoyed and cherished relations with Warsaw Pact states had to reconfigure their foreign relations accordingly. Namibia's being freed from colonial oppression at a time of rapid political transformations and on the eve of a new multipolar world order influenced the Constituent Assembly's drafting of the Namibian Constitution and its foreign relations principles.⁵

The ideological and political vacuum resulting from the end of this bipolar rivalry for global hegemony after 1990 enabled China, as a leading international player, to increase

4 Several chapters in this publication highlight this connection, e.g. Chris Saunders' "Namibia's diplomacy before Independence", and Peter Katjavivi's "Namibia's bilateral relations with Germany: A crucial relationship".

5 See also Bösl et al. (2010).

its influence on the African continent, prompting many African – including Namibian – leaders to ‘look East’ by opening up and redirecting their foreign policies towards the Asian superpower.⁶

The geopolitical caesura of the 1990s and Namibia’s independence also changed the country’s strategic environment significantly. For the southern African region, it heralded the imminent demise of the era of apartheid and confrontation, and paved the way for more or, in some cases, nascent political and economic cooperation. It renewed scholarly interest in the concept of *region* and the political concern regarding regional multilateralism emerging as building block of a new international economic order.

Namibia gained its sovereignty during a global epoch when hardly any challenge could be resolved anymore by countries acting unilaterally. The political and economic interdependencies between and among countries – especially in the case of Namibia – run very deep, while new dependencies are becoming visible. Cognisant of this fact, Namibia has always actively cooperated with many multilateral and international institutions.

Current dimensions

Like any other country in the world, Namibia is also currently influenced strongly by the inevitable and dynamic process of globalisation.⁷ This process is causing an unprecedented degree of interdependence, with profound consequences for nation states as regards not only their economies, but also their foreign relations, foreign policies, and the role of diplomacy and diplomats.⁸

The political, economic and social networks that globalisation has generated span the planet. They have created individual liberties and political space and have opened up unexpected opportunities for growth, cooperation and development; but they have also led to several challenges and windows of vulnerability.⁹

The globalisation process has both revolutionised global trade and commerce and expedited it by way of major technical innovation, especially in the communications

6 See André du Pisani’s chapter entitled “Namibia and China: Profile and appraisal of a relationship” in this publication.

7 With his critique of globalisation and the negative impacts which he identifies, especially for developing countries, Nobel laureate Joseph E Stiglitz has provoked very controversial responses; see e.g. Stiglitz (2003, 2006). The impact of the globalisation process on foreign and security relations is exemplarily discussed for the case of Germany in SWP & GMF (2013).

8 As a consequence of the globalisation process, the new role of diplomacy and of diplomats is discussed by Slaughter (2009) for the context of the USA, and by Bagger (2013) in the case of Germany.

9 Goldstein & Keohane (1993:3–30).

sector. However, new technologies and the rapid digitisation of communications have an ambivalent impact on interpersonal relations and on state power. Previously isolated societies are now immediately connected with global markets, rural villagers with their urban relatives. New technologies not only imbue state executives with new capabilities, they also potentially empower and equip violent non-state actors, and abet the leaking and distribution of confidential information affecting international relations.

Triggered by the accelerated process of globalisation and digitisation, the diffusion of power and authority within and between states has progressed.¹⁰ This diffusion has diminished the role of sovereign states and of the existing international order and, consequently, has transformed the role of foreign relations and their stakeholders. New actors and international NGOs are gaining worldwide publicity and, hence, political importance. They inform discourses about and influence the national and international shaping of global governance policies and regimes.¹¹ Foreign relations are also influenced by the electronic transfers of huge volumes of money within milliseconds and by foreign direct investments, increasing the interdependency and vulnerability of countries and economies. Decision-makers in trade, industry and the banking sector also influence – willy-nilly – international relations.

Having pegged its national currency to South Africa's legal tender, Namibia is a model of how vulnerable and susceptible one economy can be to the effects of disturbances of its large neighbour's economy. Receiving a large part of the national budget from the Southern African Customs Union (SACU) revenue pool adds yet another significant aspect of Namibia's economic interdependency.

Economic interdependency increases the relevance of economic diplomacy as part of foreign relations conduct.¹² Economic diplomacy is cognisant of a country's strategic economic environment, of the rules and regulations of regional economic communities, and of the world trade order. Economic diplomacy also acknowledges the importance of globalised markets and investment destinies, and applies the appropriate rhetoric aiming to attract investors to explore the potential of economic cooperation with a country. In the case of Namibia, its economic diplomacy must always be guided by the constitutional objective of "securing growth, prosperity and a life of human dignity for all Namibians".¹³ However, public statements by decision-makers about economic emancipation can easily be misunderstood if they are conducted in the spirit and rhetoric of an unfinished struggle for the total – now economic – liberation of a country. Given the global interdependencies

10 See Nye (2011), who describes the changing nature of power and denotes the current, diffused form of power as 'soft power'.

11 See McGuire (2013).

12 See Keohane & Nye (2011), who, in their landmark publication, analyse the complex forms of power politics and interdependence, and the economic interests of state and non-state actors.

13 Article 98, Namibian Constitution.

of economies and of international and national investment protection treaties, insensitive statements on economic emancipation may have unforeseeable negative consequences on a country and the majority of people.

Considering Namibia's strong dependency on the export of few resources, raw materials and goods, and given the significant fluctuation of their demand and prices on world markets – with immediate effects also on domestic prices, economic diplomacy has become the cornerstone of Namibia's foreign relations. Namibia, being one of the richest sources of uranium in the world, is significantly dependent on the export of uranium oxide and, hence, on the effects of unforeseeable global events like the disaster of Fukushima in 2011. This event has been sensitising or shifting the opinion of many in the world on uranium, evoking an increasing number of calls for a ban on nuclear plants and even causing the drastic revision of Germany's national politics on nuclear energy supply. Unpredictable events like the one in Fukushima or the global financial and economic crisis of 2007/8 and their economic shocks¹⁴ can only be cushioned by diversifying the country's economy, trade and industry and venturing into smart economic cooperation aiming to minimise dependencies.

International relations are influenced by local politics since politicians always consider the concerns of those who vote them into office. The prosperity of the citizen and the economic welfare of the country are imperative, therefore, also for the management of a state's foreign relations. The citizens, civil societies and media of a country should not only be well informed, but should also increasingly play the role of a critical watchdog – including as regards the realm of international politics. Debates about country's foreign affairs can, hence, not be restricted to parliaments or particular committees or expert circles. Neither should the increasing interest from all corners of society as regards public participation be underestimated; the same can be said for the potential of digital technology and media to swiftly organise mass events with unforeseeable consequences to national governments and regional stability – as exemplarily seen in the Arab world since the end of 2010. Governments should, therefore, adequately communicate their foreign policy goals and concerns – not only to convince their own citizens at home, but also to influence the perceptions and opinions of the international public.

Perspectives for the 21st Century

Geopolitical orders have never been static: they have undergone constant processes of transformation and reform. The current dynamics of globalisation and technical innovation are affecting states and their policies. Indeed, policies that are designed to manage a country's international relations with other states and international organisations are particularly exposed to these dynamics. Namibia and its foreign relations are no exception in this regard.

14 See Greenspan (2013).

Times of transition and great change often lead to individual and collective uncertainties; nonetheless, they usually evoke discourses on the foundations of our individual and common good; on the principles, norms and values that not only guide us as individuals, but also govern our ideological and political framework as well as our constitutions; and on effective conducting of our foreign relations. Although Namibia's foreign relations principles, as embodied in Article 96 of the Namibian Constitution, have remained as originally prescribed, the interests, norms and values they represented may by now have been transformed.

More than two decades after the Constitution was drafted, an assessment of the new strategic environment governing the principles, norms and values and formulations of Namibia's foreign relations is warranted. A decade after the first – and, so far, only – comprehensive account of Namibia's foreign policy and diplomacy management,¹⁵ a reconsideration of its important findings is justified in order to adjust them to the contemporary environment.

Identifying the strategic interests that will guide foreign relations in a changing global environment is a complex effort; nonetheless, it is also a prerequisite for defining the strategic relevance of partners and relations – and a sufficient condition for possibly reorienting foreign policy.

The appraisal and reorientation of Namibia's foreign relations has to be guided by the paramount strategic goal to ensure that the international order remains peaceful, free, rule-based and cooperative as laid down in the Charter of the United Nations.¹⁶ The principles of democracy, the rule of law and justice for all,¹⁷ upon which Namibia's Constitution is founded and on which its legitimacy is based, are not negotiable. As a member of multilateral organisations and as a signatory to their numerous international conventions, treaties and legal instruments, Namibia is embedded within their normative and political networks, resulting in several obligations and also shaping its foreign relations as a result.

Within this given framework Namibia can – as a true child of the United Nations – advocate for reforming the institutions of the international order, and contribute ideas for and assist in making the UN system more effective and legitimate. The increasing importance of global public goods paves the way for the rising paradigm of global governance aiming to solve international or global problems by integrating transnational stakeholders. New global fora with informal governance structures subsequently affect the architecture of the international order. Having benefited from the solidarity, sympathy and support of the international community, Namibia can now contribute towards the

15 Republic of Namibia (2004).

16 See Article 1, Chapter 1, Charter of the United Nations.

17 Article 1, Namibian Constitution.

adaptation and regulation of international conventions and protocols in general, and to protecting the global common good in particular.

Namibia has the potential of a strategic and important player. This role is not the sole domain of hegemonic, regional or emerging powers, but can also be assumed by small and less powerful countries.¹⁸ Namibia could achieve further strategic importance by enhancing its ability and strengthening its determination to bring – via its foreign relations – political, economic or cultural influence to bear on strategic markets and at regional or global fora. This requires a realistic self-assessment and the determination to assume leadership in reaching common goals with others, and to shape global and regional affairs – at least in specific sectors.¹⁹ Given the positive experiences of over two decades in respect of multilateral cooperation on an international and regional level, and having achieved an outstanding reputation in climate change and global environmental governance matters, Namibia might be well advised to strengthen its multilateral relations respectively, and play a model role.

Consequently, since 1990, Namibia has intensified and diversified its bilateral relations. Whilst the country has generally proved to be a reliable and predictable partner, there are cases when many of its citizens have not supported the conduct of relations with some countries. Indeed, as information about government officials' being found guilty of conflicts of interest becomes increasingly more public, there has been a concomitant rise in the number of citizens questioning their country's management of relations with specific countries. Thus, nation states always need to consider the opportunity costs and potential compromises to their reputation in their conduct of international relations.

Bilateral relations are never a one-way street: they are based on mutual benefits and/or dependencies. Indeed, Namibia's international partners have an interest in multi-dimensional relations, which include goods, investments, technology transfer, training, and resolving regional conflicts. If Namibia further explores and uses its potential and collaborates with like-minded, strategic partners and neighbours, it can develop sustainable long-term partnerships and credible foreign relations, contributing to peace, freedom, security and prosperity in the world. To this end, Namibia has still to live up to its potential.

A critical review of foreign affairs, and the values, interests, objectives and strategies associated with such international bonds, requires a steadfast commitment on the part

18 The difficulties experienced by less-important countries striving for influence are identified by Kahler (2013).

19 Three factors inhibiting a country's ability to translate its international ambitions into foreign policy achievements are identified – for the case of South Africa – by Alden & Schoeman (2013). These factors are the unresolved issue of identity, a host of domestic constraints linked to material capabilities and internal politics, and the divisive continental reaction to South African leadership.

of policymakers to allow inspirational ideas to flow freely. Such process is ideally also informed by –

- a society's broad understanding of itself and of the values and ideals that drive it
- opinion polls that explore and collate interesting information about the attitudes and aspirations of a country's citizens, and
- comparative studies that learn from the debates in and experiences of other countries.

Thus, the critical review contained in this publication, *Namibia's foreign relations: Historic contexts, current dimensions, and perspectives for the 21st Century*, is presented with the intention of informing and inspiring the discourse on the strategic outlook of the country's international relations. The abstracts that follow portray each of 20 selected authors' views on these aspects.

Abstracts of the chapters

Section I: Historic and normative aspects of Namibia's foreign relations

The first Section of this publication outlines the historic and normative context of Namibia's foreign relations. It informs the reader about the international and domestic diplomacy leading to Namibia's independence, and discusses the principles, policies, key stakeholders and institutions of Namibia's foreign relations.

In his chapter entitled “**Namibian diplomacy before Independence**”, Chris Saunders, a widely published South African historian, sketches key aspects of pre-Independence diplomacy, focusing on formal diplomatic activity by Namibians between 1945 until Independence in 1990. Saunders also reminds the reader of petitioning by Namibian traditional leaders before 1945 at the League of Nations, the forerunner to the United Nations (UN), in Geneva. After the establishment of the UN in 1945, the Herero Chief Council drafted the first petition by Namibia to the UN, followed by petitions from the liberation movements the South West Africa National Union (SWANU) and the Ovamboland People's Organisation, the forerunner of the South West Africa People's Organisation (SWAPO). In the end, SWAPO overtook SWANU in the competition for recognition as sole and authentic representation of the Namibian people by foreign governments and multilateral organisations – mainly the UN. SWAPO's intensive lobbying led the UN General Assembly to adopt resolutions to put the Namibia issue on the international agenda as far back as 1966. By opening offices in different countries and establishing political relations with governments of the West as well as with socialist countries, SWAPO managed the delicate balance of interacting with the opposing sides during the Cold War era. The persistent diplomatic efforts by SWAPO leaders finally led to the adoption of UN Security Council Resolution 435 in 1978, which, through the United Nations Transition Assistance Group (UNTAG), paved the way to Namibia's independence in 1990. Saunders concludes that pre-Independence diplomacy was

formative for Namibia's foreign policy as well as for foreign relations in the post-Independence period, by providing an identity, an element of political continuity, and a firm foundation for its international standing.

The chapter "**Namibia and the United Nations until 1990**" is contributed by Dennis U Zaire, a Namibian lawyer working at the Konrad Adenauer Foundation's Namibia Office. His chapter covers the time of the struggle for liberation from South Africa's occupation and from the apartheid system. The author sketches the international community's involvement in Namibia's attainment of independence, and focuses on the UN General Assembly, the UN Security Council, and various other stakeholders. The chapter provides an overview of the various means deployed by the UN to help the Namibian people to achieve self-determination, which include the persistent consultation of the International Court of Justice (ICJ) and the opportunity for citizens to file petitions. The UN petitioners and the UN's support for them, as well as the 1966 ICJ judgment on Namibia and its implications, are elaborated. The author argues that, with the fateful 1966 ICJ verdict, a turning point in the struggle was reached, since it made SWAPO recognise that, besides the UN, they would need to deploy their own means as well, for example establishing a military wing. Hence, the chapter concludes that the goal of independence would not have been reached without the UN and the international community, but that the UN was not solely responsible for it. The period of 44 years in which the UN was involved, which includes the time of the struggle as well as its engagement in the transition to independence by way of UNTAG, constitutes the foundation for the multifaceted collaboration and friendly relationship between the UN and Namibia that we find today.

In his address entitled "**Germany's role in Namibia's independence**", Hans-Dietrich Genscher, Germany's long-term Foreign Minister (1974–1992), describes not only Germany's role but also his personal contribution to Namibia's transition to independence. He first sketches the framework conditions of German foreign politics (the Western Alliance, the North Atlantic Treaty Organization/NATO, the Eastern Policy, the Hallstein Doctrine) and of international politics (anti-colonialism and the Non-aligned Movement). He critiques that, whilst the issue of self-determination and human rights in Europe (Helsinki Final Act) and in Germany (German Unification) was intensively debated, many Western countries took an indifferent attitude towards the decolonisation process and towards apartheid. Genscher explains the formation and joint efforts of the Group of Five – the five Western states represented in the UN Security Council in 1976, and highlights a dinner with the five Foreign Ministers and then President PW Botha of South Africa, which Genscher remembers as "one of the most interesting moments of my time as foreign minister". Genscher argues that the process leading to Namibia's independence was influenced not only by the developments in South Africa, but also by the changing conditions in the East/West divide. For Genscher, Namibia's process to independence became a model case of new thinking. Based on a lesson he draws from Germany's history, he argues that a stable and fair order can only be created if 'big' and 'little' people (and countries) negotiate at eye level.

Peya Mushelenga, serving as Namibia's Deputy Minister of Foreign Affairs at the time of this publication going to print, in his chapter on "**Principles and principals of Namibia's foreign relations**" sets out the five fundamental beliefs governing Namibia's foreign relations as enshrined in Article 96 of the Constitution. Thus, Namibia should strive to –

- adopt and maintain a policy of non-alignment
- promote international cooperation, peace and security
- create and maintain just and mutually beneficial relations among nations
- foster respect for international law treaty obligations, and
- encourage the settlement of international disputes by peaceful means.

The author presents not only the Constituent Assembly's reasoning for drafting these five principles, but also portrays the impact they have since had in respect of foreign policy. Furthermore, the chapter discusses the key drivers of Namibia's foreign relations and the different political styles espoused in implementing and augmenting Namibia's foreign affairs principles, namely by Namibia's Presidents, Sam Nujoma and Hifikepunye Pohamba, but also her Ministers of Foreign Affairs: Theo-Ben Gurirab (1990–2002), Hidipo Hamutenya (2002–2004), Marco Hausiku (2004–2010), and Utoni Nujoma (2010–2012).²⁰ The author also refers to the role of the Deputy Ministers and institutions involved in foreign policy formulation, primarily the Ministry of Foreign Affairs, whose White Paper entitled *Namibia's Foreign Policy and Diplomacy Management* was published in 2004. The author concludes that neither the Parliament's Standing Committee on Foreign Affairs, Defence and Security nor the opposition parties or civil society have had a significant impact on foreign policy formulation to date.

Section II: Namibia's bilateral relations

This section explores Namibia's bilateral relations with some selected countries, namely – in alphabetical order – Angola, China, Germany, South Africa and the United States of America.

Hidipo Hamutenya, former Namibian Minister of Foreign Affairs (2002–2004), in his chapter entitled "**Namibia and Angola: Analysis of a symbiotic relationship**", describes the historic, political and economic ties between the two neighbouring countries. The chapter explains the interwoven process leading to the independence of both countries. It elaborates why the Namibian liberation movement, SWAPO, in the beginning had strong ties with the Angolan liberation movement, UNITA (União Nacional para a Independência Total de Angola/National Union for the Total Independence of Angola) and only after Angola's independence in 1975 became an ally of the MPLA

20 The incumbent Foreign Minister, Netumbo Nandi-Ndaitwah (2012 to date), is not included in the discussion since her appointment occurred after the content of the text had been finalised for the editing and publishing process.

(Movimento Popular para la Libertação de Angola/Popular Movement for the Liberation of Angola), which has ruled the country since then. The chapter informs the reader about the important role played by Cuba and the Soviet Union in favour of the MPLA, and the UN's role in the withdrawal of Cuban troops from Angola. The discussion includes the civil war between UNITA and the forces of the MPLA Government after Namibia's independence in 1990, which delayed the normalisation and formalisation of relations between the two countries. Therefore, the Angolan–Namibian Joint Commission of Co-operation (ANJCC), which was established in 1990, could only conclude bilateral agreements after the end of warfare in Angola in 2002. Thus, in 2003, the Agreement on Reciprocal Protection and Promotion of Investment was concluded, and in 2004, the Agreement on Trade and Economic Cooperation. Other bilateral agreements that have been signed and the challenges especially on trade are mentioned. The chapter informs the reader about international cooperation frameworks such as the Benguela Current Commission, the collaboration on establishing the Trans-Cunene Corridor as a road and rail network between the two countries' main ports, and the joint management – and silent tensions – entailed by the shared Okavango and Cunene River Basins. Hamutenya also discusses the issue of Angolan refugees in Namibia and their repatriation. He concludes that relations have generally been steady and cordial, trade ties have been growing, and the symbiotic connection has been very positive overall.

The chapter **“Namibia and China: Profile and appraisal of a relationship”** explores the genesis of the Afro-Sino relationship and the historic relations between Namibia (and the SWAPO Party) and the People's Republic of China (and its Communist Party). The author, André du Pisani, Professor of Politics at the University of Namibia, sheds light on the political contexts of and ideological rationale for the relationship from both points of view – especially until the end of the Cold War. The chapter informs the reader about the cornerstones of China's policy on Africa and the fora of cooperation between China and Africa (especially the Forum on China–Africa Cooperation/FOCAC, and the Africa–China Young Leaders Forum/ACYLF) as well as Chinese commitments regarding preferential loans, development aid, investment, and scholarships to different African countries, including Namibia. For the author, China appears to see globalisation as a way to establish more cooperative forms of state-based as well as non-state relations with a growing number of African countries. He sketches the political and diplomatic relations between Namibia and China and their key areas of cooperation: trade, investment, construction (especially of politically and symbolically important public buildings), education (including scholarships for children of Namibia's ruling elite), culture, development assistance, defence and security. The chapter elaborates that China's interest in Namibia is mainly based on its growing appetite for natural resources. It concludes with the critical comment that the perpetuation of the historic pattern of commodity extraction and the utilisation of Namibia as a 'dumping ground' for lower-quality consumer goods would neither be adequate nor – in the long run – acceptable to Namibians. Given China's global economic importance, with its new-mercantilist and developmental approach, its relationship with Namibia needs to be strategically managed in the long-term interest of both countries.

Peter Katjavivi, who served as Namibia's Ambassador to the Federal Republic of Germany (2006–2008), in his essay entitled “**Namibia's bilateral relations with Germany**”, describes what he calls “a crucial relationship” since the establishment of diplomatic ties between the two countries in 1990. The author emphasises that the genesis of Namibia's foreign policy was essentially influenced by the country's struggle to free itself from the bondage of apartheid and colonialism. He refers to the close cooperation between the SWAPO leadership in exile and politicians from the Federal Republic of Germany before Namibia's independence. The close bonds with the former German Democratic Republic (GDR), however, are not the subject of the chapter. Katjavivi appreciates the role of Federal Germany as a member of the Western Contact Group and of Hans-Dietrich Genscher, Federal Germany's Foreign Minister at the time, in paving the way for Namibia's independence. The author informs the reader about the Resolution in the German Bundestag (Parliament) in 1989 that acknowledged a “special responsibility” for Namibia and its citizens, leading to the use of the term *special relations* – as expressed by both Presidents Sam Nujoma and Roman Herzog during the Namibian premier's first state visit to Germany in 1996. The chapter offers a list of important reciprocal visits by government officials and parliamentarians, and comments that the high-level visits in evidence by Germany since Namibia's Independence have dwindled in recent years. For the author, the reasons appear to be the expected acknowledgement of atrocities committed during the German colonial era as *genocide*, and the quest for associated reparations. The chapter also lists profiles of German NGOs providing assistance to Namibia, informs the reader about the official development cooperation between the two countries as well as other non-official collaboration, and critiques the increasingly unbalanced ratio of loans vis-à-vis grants by the German Government in development aid to Namibia. The chapter then discusses the official apology by German Minister Wieczorek-Zeul during her visit to Namibia in 2004 and the subsequently introduced Special Initiative, which has caused several challenges. The author discusses a motion in Namibia's Parliament in 2005 and its unanimously adopted associated resolution in 2007 which Namibia's Prime Minister transmitted to the German Foreign Minister, reinforcing the demand for reparations from the German Government. The author also provides his views on the highly disputed repatriation of skulls in 2011 of Namibian ancestors who had been victims of German atrocities. Katjavivi expresses his hope that the Namibian–German Parliamentary Friendship Group formed in 2012 will promote well-structured dialogue in helping Germany to deal openly with the unresolved issues relating to its colonial past in Namibia.

In their chapter entitled “**Uneven but intertwined: Namibia's bilateral relationship with South Africa**”, the respectively Namibian and South African academics Tjiurimo Alfredo Hengari and Chris Saunders analyse the relations between their two countries since 1990. They identify two dominant facts, one being that Namibia's large neighbour had ruled it as a colonised territory for 75 years (1915–1990), and had left behind an extensive legacy in many respects. The second fact identified Namibia having remained intertwined with South Africa economically as well as in many other ways – leading to a sense of ambivalence in the relations between the two countries since Namibia's

independence in 1990. These relations are categorised into three distinct phases. The first (1990–1994) represents an interregnum: the transition from apartheid to democracy in South Africa. For the authors, this first phase – subtitled “Engaging the former colonial oppressor”, is characterised by an emancipatory foreign policy on Namibia’s part, one that was based on the desire for territorial integrity and, hence, the reintegration of Walvis Bay and the Offshore Islands which South Africa had not relinquished when it loosed its colonial grip in 1990. Other characteristics of this first phase are the prevailing optimism as regards the prospects of a majority-ruled South Africa, and economic pragmatism resulting from decades of dependency. The first decade of South Africa’s democratisation (1994–2005) is delineated as a second phase of Namibian-South African relations, described by the subheading “Fraternal engagement, economic dependence, differences on regional policy”. A defining element of this phase was the unrest that erupted in the DRC (1998–2002): since South Africa preferred a diplomatic solution, Namibia’s military intervention in the DRC led to tensions and sporadic acrimony in the neighbourly relations. A third phase, spanning from 2005 to the time of printing, is marked by the Pohamba presidency and closer relations with South Africa, especially since President Zuma took office in 2009. The authors argue that whilst South Africa’s hegemonic attitude in the Southern African region and in Africa under the Mbeki Administration was not always welcomed by the Namibian Government, bilateral relations were strengthened after Zuma became president in 2009. More reciprocal visits by state officials – including by the heads of state; common positions on, for example, the suspension of the Southern African Development Community (SADC) Tribunal; and increased cooperation in bi-national commissions are evidence of this closer bond. The chapter concludes with the future prospect of inequality in the bilateral ties, and a shift in both countries’ geostrategic positions as Angola’s importance in the region increases.

In his chapter, “**From confrontation to pragmatic cooperation: United States of America–Namibia relations**”, Bill Lindeke, an American academic with a long history in Namibia, provides a historic perspective of the relationship between the two unequal partners, and discusses their current cooperation. During the early stages of Namibia’s diplomatic activity, the USA was not an important actor, considering the case of Namibia rather an international, not an American issue. Only Kennedy’s presidency (1961–1963) turned the perception of Namibia’s strive for independence. Later, in 1966 the USA supported the UN General Assembly Resolution (2145) to strip South Africa of the Mandate over Namibia. However, the Cold War with the Soviet Union and US hegemonic politics under the influence of Henry Kissinger dominated the US African policy, including a tilt towards Southern Africa’s white regimes as a bulwark against Soviet expansion. Lindeke argues that the emergence of Afro-Marxist regimes and the deployment of Cuban troops to Angola and Ethiopia in the 1970s sharpened the US’s security focus on regional conflict zones in Africa, and economic concerns took second place. Carter’s presidency (1977–1981) created a short window of opportunity for negotiations, and the success of the Western Contact Group. Lindeke also elaborates on the US policy of “constructive engagement”. He considers how the Reagan Administration (1981–1989) delayed the

Namibian solution by introducing a “linkage” with the withdrawal of Cuban troops from Angola, and explains the turning points of US politics towards Namibia on the road to independence. The author also informs the reader about the US’s cooperation with Namibia after Independence, focusing on development assistance, the African Growth and Opportunity Act, the security sector cooperation and the Millennium Challenge Account. Despite good official government relations, Lindeke notes that older Namibians still harbour some suspicion as regards the US’s intentions, as America was perceived by them as an imperialist superpower that supported South Africa’s apartheid system. In contrast to this pre-Independence and partly current attitude, recent surveys show a very positive attitude towards America, since a pragmatic convergence of cooperation has emerged as the dominant post-Independence interaction.

Section III: Namibia’s multilateral relations

This Section discusses Namibia’s participation in international fora and multilateral institutions since Independence, such as the Southern African Customs Union (SACU), the Southern African Development Community (SADC), the African Union (AU), the European Union (EU) and the UN – with all the respective repercussions of such participation evidenced in the country’s foreign relations.

The chapter “**Namibia and the Southern African Customs Union**” by Gerhard Erasmus introduces SACU as a very specific regional organisation. The author – a Namibian citizen, Law Professor Emeritus at Stellenbosch University, and an internationally renowned specialist on SACU – explains the basic features of the world’s oldest customs union (established 1910). He also sheds light on the 1910 and 1969 Agreements with their colonial origins and historic development, in-built economic asymmetry, and operational difficulties. Erasmus reflects the adoption of the 2002 SACU Agreement as a response to the regional political and economic changes during the 1990s and the unsuccessful attempt to limit the dominance of South Africa’s institutions which characterised the functioning of SACU under the 1969 Agreement. The chapter provides an insight into SACU’s technical and formal aspects as well as the problems it has experienced, and informs the reader about the establishment of a Summit of Heads of State and Government as a new and permanent SACU institution. The author also relates that SACU’s new institutional framework provides for a Tariff Board and an Ad Hoc Tribunal, and explains their need for additional legal instruments in order to become operational. Whilst the new SACU Agreement provides for the development of common policies concerning industrial development, agriculture, competition and unfair trade practices for the five SACU member countries, the vague language in the Agreement does not offer essential guidelines and contents for enforcement. The chapter identifies the inconsistencies of the 2002 SACU Agreement and SACU architecture, and explains why, in many important aspects, SACU currently does not function as a common mechanism. Erasmus explains the Common Revenue Pool as a central aspect of SACU, and notes that Namibia’s share amounted to 26.6% of the country’s total

revenue in 2011/12. This indicates that trade diplomacy is a very important foreign policy dimension, especially for members of a customs union. Hence, Namibia's membership in SACU has also shaped its bilateral relationship with South Africa – an economically and politically dominant SACU member, whilst the fact that Namibia was integral part of South Africa for seven decades had lasting effects on Namibia's economy and currency. The chapter also mentions Namibia's economic diplomacy regarding the conclusion of the SADC Economic Partnership Agreement with the EU, the negotiations for which, for practical purposes, were conducted via SACU. The author also feels the SADC integration record is rather unimpressive, he points out that SACU still has to unlock its potential to establish effective and sound common governance. Instead, the SACU member states have demonstrated little preparedness to grant regional institutions more independent powers and jurisdiction for fear of losing sovereign policy space. For Erasmus, however, Namibia needs to reinforce its regional and multilateral efforts in order to develop further. As a smaller nation, Namibia benefits from strong regional bodies like SACU, which have already generated a high degree of stability in the region. To further this course of stability, Namibia should champion the cause of strengthening SACU and deepening regional integration.

Kaire Mbuende, former SADC Secretary General (1994–1999), understands the relationship between **“Namibia and the Southern African Development Community”**, on the basis not only of SADC's history and trajectories, but also of Namibia's developmental objectives. For Mbuende, Namibia's participation in SADC contributes positively to regional integration and shapes the country's policies, especially in foreign affairs, defence and security matters (e.g. the DRC and Zimbabwe). The author reasons that, besides hosting the SADC Parliamentary Forum in Windhoek since its establishment in 1997, Namibia was also instrumental in setting up the Forum as an inter-parliamentary body and autonomous SADC institution. Mbuende argues that, for small countries like Namibia, regional integration is not optional but crucial. He singles out eight sectors to underscore the importance of functional SADC cooperation to Namibia: fisheries and marine resources, legal affairs, transport, communication, agriculture, natural resources, shared watercourses, and energy. For Mbuende, regional integration needs strong institutions and drivers; nonetheless, SADC continues to be challenged by political instabilities in various countries.

In her chapter on **“Namibia and the African Union”**, Bience Gawanas, former Commissioner for Social Affairs at the AU (2003–2012), describes Namibia's relationship with the multilateral body OAU/AU as multifaceted. She first looks at the historic dimensions of Namibia's pre-Independence relationship with the OAU and the support that the country and its liberation movement SWAPO received before 1990. She then highlights Namibia's role in the founding and in the institutional outlook of the AU. Gawanas also informs the reader about the four pillars of the AU's Strategic Plan, namely peace and security; development, integration, cooperation; shared values; and institution- and capacity-building. The chapter mentions Namibia's participation in the AU Commission's Secretariat, the Pan-African Parliament, the Anti-Corruption

Advisory Board, the Peace and Security Council, the Committee of Intelligence Services in Africa, and the Committee on UN Reform. The author elaborates on the AU Peace and Security Council and its new principle of non-indifference, which supersedes the OAU principle of non-intervention and paves the way for AU-mandated peace support operations and Namibia's participation in them. Gawanas then addresses the AU's shared values – governance, gender, culture and civil society – and points out Namibia's low rate of signing and ratifying AU legal instruments. The chapter describes Namibia's lack of conviction as regards the effectiveness of the AU's development programme, the New Partnership for Africa's Development (NEPAD), but mentions NEPAD's contribution to strengthen the capacity of the AU to achieve regional integration on, and the economic independence of, the continent. By promoting the pan-African spirit through the adoption and display of AU symbols and celebrating Africa Day as a public holiday, Namibia sets an example for other AU member states to follow. The chapter concludes with a critical look at the future of the AU and the changing roles of its members – particularly Namibia's.

In his chapter, “**The European Union: Relations with Namibia**”, Raúl Fuentes Milani, currently serving as Head of the Delegation of the European Union to the Republic of Namibia, describes the three complementary angles of the relationship between the EU and Namibia – political, trade and development cooperation – from an EU perspective. In his first part (political relations), the author informs the reader about the legal and institutional framework of the relationship: namely the Cotonou Agreement (2000) and the EU–ACP (Africa, Caribbean, Pacific) Partnership, the Treaty of Lisbon (2007), the establishment of the position of High Representative of the Union for Foreign Affairs and Security Policy (2009) and of the European External Action Service (2010). Whilst the EU delegations abroad assume the representation of the EU as supranational organisation, its 28 member states retain full capacity to run their bilateral affairs. For the EU, Namibia is a very important partner and a reference for good governance in the SADC region. In the second part, the author sketches trade relations between the two entities, and describes the ongoing negotiations on a comprehensive and mutually beneficial Economic Partnership Agreement. In the third part, the chapter sketches the extent of development cooperation with Namibia under the ACP–EU Partnership and its consecutive and multi-annual European Development Funds. The EU and its member states have provided around 70% of the total development assistance to Namibia to date, mainly in the areas of rural development and education, tourism, trade and investment, human resource development, and governance. The European Investment Bank has provided soft loans to Namibia, and has contributed to the Global Fund to fight HIV and AIDS, tuberculosis and malaria. For the author, the relations between the EU and Namibia are deep and strong, and breathe the spirit of mutual respect. He also postulates that EU cooperation with Namibia as an upper-middle-income country may shift to new sectors linked to productivity, jobs and growth.

In her chapter headed “**The United Nations and Namibia since 1990**”, Kari Egge, who was the United Nations Resident Coordinator in Namibia (2009–2011) at the time of

its writing, reminds us of the sustained UN support during Namibia's fight for freedom, and calls the country "a child of the UN". Egge outlines Namibia's involvement in the three pillars of the UN system – peace and security, development, and human rights – by which the country demonstrates its commitment to international stability. Regarding the pillar of peace and security, the chapter gives an overview of Namibia's engagement in UN peacekeeping missions and informs the reader about its domestic policy decisions on peacekeeping and security. With respect to the development pillar, the author discusses mutual involvement, i.e. Namibia's contribution to the current UN Development Assistance Framework and the Millennium Development Goals (MDGs), but also the UN's multifaceted engagement in Namibia. As regards the human rights pillar, the chapter informs the reader about Namibia having signed and ratified most of the core international human rights treaties, although it faces considerable challenges with respect to their domestic implementation and the reporting obligations associated with them. The author concludes with an outlook on the UN's future role, also in Namibia, in facilitating, advising and assisting governments to fill the three UN pillars with life worldwide. Since the author submitted her manuscript in 2011 when she left Namibia and the UN, the chapter does not cover the influential developments in 2013 around the United Nations Partnership Framework (UNPAF) signed with Namibia for the period 2014–2018.

Section IV: Namibia's foreign relations in perspective

The last Section of the publication captures some of the interfaces of foreign relations and several other important policy areas, and their mutual influence. This section is rather inconclusive, but it portrays the legal, parliamentary, security and economic dimensions of foreign relations and discusses Namibia's pan-Africanism as well as its involvement in global governance matters.

Sacky Shanghala, Chairman of Namibia's Law Reform and Development Commission, in his chapter entitled "**The legal dimension of Namibia's foreign relations**", argues that the interaction between and among states is defined by the rules of international law, and that the policies of state that drive the interests of one state as it relates to others is *foreign policy*. International law and foreign relations are inextricably intertwined, however. Since international law and agreements are binding on Namibia under Article 144 of its Constitution, and since the UN, AU and SADC continuously produce new or revised legal instruments, international law affects not only Namibia's domestic laws and their implementation, but also its foreign policy. For Shanghala, Namibia's interactions in the international sphere and the attainment of its political, trade and economic interests are inevitably linked. As a constitutional democracy, Namibia's international actions ought to be justifiable in law; state action is obliged to be sound in law, although it will always remain politics.

André du Pisani, Professor of Politics at the University of Namibia, in his chapter titled **“Namibia’s foreign relations and security policy: Exploration of a critical nexus”**, explores the interface between the complex but crucial interface of Namibia’s foreign relations and security policy since the country’s Independence in 1990. Select case studies such as the reintegration of Walvis Bay and the offshore islands, participation in various peacekeeping operations in the SADC region and beyond, the peaceful resolution of disputes, Namibia’s military engagement in the DRC (1998–2001), and accession to various international legal instruments on aspects of political life with security implications are evidence that Namibia values the primacy of different forms of security, both classic (state-based) and new forms of human security, and their relationship to foreign policy and national development. The chapter shows that Namibia’s foreign policy has at times not been consistent where aspects of human rights and security have been threatened (e.g. in the conflicts in the DRC and Zimbabwe) and rather reflected older forms of solidarity politics, undermining the constitutional ‘peace through law’ approach. For Du Pisani, Namibia’s positive record in Africa is enviable in respect of new forms of security such as the environment, inclusive of the marine environment; the safeguarding of biodiversity; measures taken to address global warming; and other forms of security, such as peacekeeping or maintaining Africa as a nuclear-free continent. Du Pisani pleads that Namibia should reignite its role as ‘norm entrepreneur’ in SADC and beyond, and for additional policy-focused research on the country’s foreign relations, particularly since these are often poorly communicated to the public.

In his chapter, **“Beyond economic diplomacy: The interface of Namibia’s foreign relations and economic cooperation”**, Lesley Blaauw, political scientist at the University of Namibia, argues that the end of the Cold War and its bipolar rivalry in globalisation processes reduced the importance of sovereign states in foreign policy formulation and, consequently, led to a growing importance of ‘regions’ and ‘economic regionalism’, besides opening up new space for the participation of non-state actors in international affairs. Blaauw’s *new regionalism* acknowledges that engagement with the world economy is unavoidable, but makes a case for *developmental regionalism* in respect of building new regional economic capacity, focusing on national developmental needs and the engagement of the international community. Blaauw demands a developmental foreign policy for Namibia, articulating a clear developmental macroeconomic framework that aims to restore the economic sovereignty of Namibia and of the developing world. Nora Schimming-Chase, a semi-retired Namibian diplomat and former Member of Namibia’s National Assembly, in her chapter entitled **“The parliamentary role of Namibia’s foreign relations”** discusses the roles defined for Parliament under the Namibian Constitution and the White Paper on Foreign Policy, Defence and Security. She informs the reader about Parliament’s oversight function in respect of foreign relations by explaining the role of the Standing Committee on Foreign Relations, Defence and Security. The author also analyses Parliament’s legislative role by illustrating how international agreements are ratified. The chapter outlines the role of Namibia’s

Parliament and/or its members in regional (SADC Parliamentary Forum), continental (Pan-African Parliament) and international parliamentary bodies (Inter-parliamentary Union, ACP–EU Joint Parliamentary Assembly) and refers to some policy statements by Parliament on current issues and crises. The special role of former Foreign Minister Theo-Ben Gurirab as former President of the UN General Assembly (1999–2000) and as President of the Inter-parliamentary Union (2008–2010) is also elaborated. The author concludes with critical comments on the question of whether Namibia’s Parliament indeed plays its designated role, or has, de facto, very little – if any – say on foreign policy in general or in particular.

“Namibia’s attitudes towards pan-Africanism” is the title of an exploration of this theme by Joseph Diescho, a widely published intellectual and currently the Chief Executive Officer of the Namibia Institute of Public Administration and Management. For Diescho, pan-Africanism is the intellectual preoccupation of individuals concerned about Africa and her inhabitants in the context of what was inflicted on them by other nations. Due to Namibia’s disdain for intellectual thought, neither pan-Africanism nor the country’s diplomatic services could thrive – although Namibia is a child of pan-Africanism and of internationalism. As the first success story born of the international community, Namibia has turned out to be more a member rather than an active participant of its fora, in Diescho’s view, and Namibia’s foreign policy towards the international community (and Africa) has been more reactive than proactive. Diescho also explores some areas of influence for Namibia in relation to pan-Africanism, namely human rights, national interest, regional integration, peaceful conflict resolution, national reconciliation, internationalism, race relations, corruption, and the land question. Diescho critiques that Namibia is a member of the – albeit questionable – Pan-African Parliament, and yet refuses to participate in the African Peer Review Mechanism (APRM), which is considered as the jewel of NEPAD. For Diescho, the Pan-African Centre of Namibia (PACON), despite the noble intentions evident at its establishment in 1999, has become a mini-cultural mouthpiece of the ruling party instead of a true pan-Africanist movement.

In his contribution titled **“Namibia: Global governance matters”**, Henning Melber, internationally published expert on African politics, argues that a country’s international credibility relies on a trustworthy foreign policy that is in line with the global normative frameworks adopted by UN member states. Although civil society and NGOs play a critical role in the general understanding and conceptualisation of global governance, Melber deliberately homes in on the government as an actor through its state policy. The chapter elaborates on the decisive impact made by the UN as a multi-level broker in Namibia’s decolonisation process, e.g. its Resolutions on Namibia, the creation of the UN Council for Namibia, the UN Institute for Namibia, and UNTAG. The author questions whether, in return, the country has consistently complied with the normative frameworks, the values and the principles relating to global and good governance as spearheaded by the UN. The chapter reminds the reader that Namibia has not only gained international respect with regard to combating climate change, its environmental policies, and its

protection of the common global good. Namibia is also a signatory to most international conventions and agreements, and Namibian presidents and top officials have on several occasions repeated their commitment to the principles of democracy and the rule of law. Against this background, Melber mentions official initiatives which seem to indicate a divergent thinking, such as Nujoma's state visit to Nigeria's former President Abacha in 1995, the state visit by Indonesia's former President Suharto to Namibia in 1997, the lasting friendship with Zimbabwe's incumbent President Robert Mugabe, Namibia's defence of the former Milošević regime, and Namibia's military intervention in the DRC (1998–2001). At the AU Summit in 2009, Namibia also endorsed the dismissal of the extradition order by the International Criminal Court (ICC) for Sudan's President Al-Bashir, despite having ratified the Treaty of Rome which established the ICC. In 2011, President Pohamba criticised NATO's intervention in Libya, which was sanctioned by the UN Security Council. Moreover, contrary to its constitutional commitment to the rule of law, Namibia played an active role in the suspension of the SADC Tribunal. In the case of the Caprivi treason trial, Melber argues that Namibia delays and, hence, denies justice to the accused, who have been waiting for a verdict for more than 12 years now. The chapter concludes that Namibia has squandered its chances to establish a lasting international reputation, and could have done better in upholding global governance matters.

Conclusion

The collective effort of this publication with its 20 chapters brings together academicians, diplomats and policymakers both from within and beyond Namibia, with the purpose of offering a systematic understanding of some of the most significant dimensions of the country's foreign relations. The book does not claim to be comprehensive, but intends to provide a systematic understanding of Namibia's international and foreign relations. If it deepens understanding, stimulates research and a broad public discourse, and guides the shaping of the country's foreign relations formulation and management, then the publication will have served its envisaged, noble purpose.

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SECTION I
HISTORIC AND NORMATIVE ASPECTS

Namibian diplomacy before Independence

*Chris Saunders**

Before a country gains its independence, it cannot have a foreign policy of its own. Under South African occupation from 1915 to March 1990, Namibia featured prominently in the foreign policy of the occupying power, South Africa, and many South African diplomats and Ministers of Foreign Affairs spent much of their time in diplomatic activity relating to the question of the future of South West Africa/Namibia. Namibia was RF (Pik) Botha's prime diplomatic preoccupation from when he became South Africa's Minister of Foreign Affairs in 1977 until Namibia's Independence 13 years later.¹ At the United Nations (UN) in New York, more time was spent on the Namibian issue than on any other in the 1970s and 1980s. Not surprisingly, therefore, there is now a large volume of literature on international diplomacy concerning Namibia in those decades.² This chapter is not, however, concerned with either international or specifically South African diplomacy relating to Namibia, but instead with diplomacy engaged in by Namibians before the country gained its independence from South Africa. Too many of the accounts of international diplomacy on the issue of Namibia play down – if not altogether ignore – the role played by Namibians themselves.

There is a long history of such diplomacy by Namibians. People living in what is now Namibia engaged in forms of diplomacy among themselves and with others before German colonisation began in 1884,³ and once the Germans had arrived, Hendrik Witbooi, the leader of the Nama, and others engaged them diplomatically as well as militarily.⁴ Then, from soon after South African occupation, people in Namibia began engaging in international diplomacy by sending petitions to the League of Nations in Geneva, for from 1920 South West Africa was a mandate under the League and the mandatory power, South Africa, was supposed to be concerned with the interests of the indigenous people. The Rehoboth Basters in particular complained to the League about the nature of South African rule, and it has recently been argued that their petitioning had some marginal success in alleviating a few of the harsher effects of that rule.⁵

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1 See e.g. Wolvaardt et al. (2010:Ch. 14): one of the most influential South African diplomats to be stationed in Namibia was Sean Cleary, who was Chief Director in Windhoek from 1983 to 1985.

2 For example, the Western Contact Group's diplomacy in the late 1970s has been the subject of a number of books and articles, including, say, Karns (1987:93–123).

3 See e.g. Lau (1987).

4 Though the title of his classic book emphasised armed resistance, there are brilliant passages about Witbooi's diplomacy in the second chapter of Drechsler (1986).

5 Dederling (2009:785–801).

The rest of this chapter will be concerned with diplomatic activity by Namibians after the Second World War (WWII), and the focus will be on formal diplomatic activity, rather than on, say, the contacts that took place between Namibians within the country and those in exile, which, it could be argued, were a form of diplomacy for those on both sides of the divide that existed at that time.⁶ The more formal diplomatic activity in which Namibians engaged in the years of the struggle for independence – the subject of this chapter – is a topic that remains under-researched. We can expect to learn much about it when the memoirs are published of one of the key figures in that diplomacy, Theo-Ben Gurirab, who was the leading diplomat for the South West Africa People's Organisation (SWAPO) at the UN from 1972 to 1986, as well as SWAPO's Secretary of Foreign Affairs and Namibia's first Minister of Foreign Affairs at Independence. This chapter sketches some aspects of pre-Independence diplomacy.⁷

From Chiefs to organised diplomacy

After WWII, it was the Herero who took the lead in petitioning the newly established UN against the territory's incorporation into South Africa. When Chief Frederick Maherero met the Reverend Michael Scott in what is now Botswana in 1947, he suggested that Scott visit Chief Hosea Kutako in South West Africa. There, Scott helped members of the Herero Chiefs' Council draft a petition to be presented to the UN, calling for the territory to become a UN trust territory.⁸ A decade later, in 1957, Chief Kutako asked Mburumba Kerina, then a student at Lincoln University in the United States of America (USA), to lobby at the UN in New York for the termination of South Africa's mandate over South West Africa. Kerina duly appeared before the relevant sub-committee of the General Assembly, and towards the end of the 1950s he pressed for a case to be brought before the International Court of Justice (ICJ) on whether South Africa was violating the spirit of the mandate through applying apartheid policies in South West Africa. Those who sent petitions to the UN in the late 1950s from the territory included Hermann (Andimba) Toivo ya Toivo, a leading figure in the Ovamboland People's Organisation, the forerunner of SWAPO. In 1958, Toivo asked the UN to terminate the mandate and take over the administration of the territory. When Kerina asked the Herero Chiefs' Council to send another representative to join him in New York, Fanuel Jariretundu Kozonguizi went; and while Kozonguizi was at the UN, he was elected President of the newly established

6 For example, the Stockholm meeting organised by Anton Lubowski in June 1988, which brought together leading white Namibians and the SWAPO leadership.

7 There is, unfortunately, no equivalent yet for Namibia of Scott Thomas's (1996) book on the diplomacy of the African National Congress in South Africa. In a sense, the book that comes closest to it is Founding President Sam Nujoma's (2001) memoir, *Where others wavered*. The present chapter draws heavily on the fullest scholarly study to date, namely Mushelenga (2008). See also Wa Nyembo (2002).

8 Saunders (2007:25–40); see also Chapter 10, "The Herero connection", in Yates & Chester (2006).

South West African National Union (SWANU). After the establishment of SWAPO the following year, its founder-President, Sam Nujoma, travelled to New York to appear before the UN, as did a number of other Namibians – members of both SWANU and SWAPO.⁹

In the early 1960s, both SWANU and SWAPO, through their diplomatic activity, “contributed to the further internationalization of the South West Africa issue”.¹⁰ Once SWAPO’s provisional headquarters were established in Dar es Salaam, Tanganyika (now Tanzania), SWAPO began to place representatives in a number of other countries. In 1962, it opened a mission in Cairo, Egypt, with the Egyptian Government assisting with the costs. SWANU was then part of the South African United Front, which also opened an office in Cairo. When the Front collapsed, SWANU kept an office there on its own, also receiving funding for it from the Egyptian Government. But SWAPO took its international diplomacy more seriously than did SWANU, and gradually won out in the competition between the two for recognition by foreign governments. SWAPO was able to establish itself as the dominant Namibian nationalist organisation because SWANU did not launch an armed struggle, and began to fall apart in exile, but also because of the support that SWAPO’s diplomats received at the UN and from the Organisation of African Unity (OAU).¹¹

SWAPO’s international diplomacy

In 1964, the SWAPO leadership appointed Hage Geingob to be its Chief Representative to the Americas and the UN. Theo-Ben Gurirab, Hidipo Hamutenya and Geingob, all then studying at American universities, took time off from their studies to petition at the UN, where the informal Africa Group of ambassadors helped introduce them to the ways of the organisation. Thanks in part to the work of the Namibians, the UN General Assembly in 1966 adopted Resolution 2145 of 1966, which terminated the mandate. The General Assembly then established, in 1967, a Council for South West Africa to administer the territory and make the necessary arrangements for a transition to independence. From 1974, the UN provided SWAPO with funding for its New York office. SWAPO gained the coveted status of Permanent Observer, the first liberation movement in southern Africa to acquire it.¹² With that status, SWAPO was able to participate in key discussions at the UN, where leading members of the international community converged in September each year for the annual General Assembly sessions.

9 See Nujoma (2001:102–103, 113, 118–119).

10 Du Pisani (1985:159).

11 For two very useful accounts of the way in which support swung from SWANU to SWAPO in the international community, see Sellström (1999:262ff) and Shubin (2008:Ch. 15).

12 The Palestine Liberation Organisation led the way in this. SWAPO first gained such status from the Committee of Twenty-four in 1972 (Thomas 1996:118, 123).

SWAPO meanwhile opened offices in Algeria in 1963 and in Zambia the following year, after that country became independent. In 1965, Nickey Iyambo, then studying in Finland, was appointed SWAPO's Chief Representative to the Nordic countries. He and later representatives to those countries, such as Ben Amathila in Sweden, had some difficulty in justifying SWAPO's adoption of the armed struggle to people not sympathetic to the use of violence. But in the Nordic countries, and in Sweden in particular, Namibian representatives found widespread support for the campaign to oust South Africa from South West Africa, and they were given opportunities to speak to a wide range of people, from Prime Ministers to factory workers, about the situation in Namibia.¹³ In 1968, SWAPO opened a mission in London, where Peter Katjavivi was appointed the first Chief Representative, and this became one of the organisation's most important missions: leading SWAPO personnel often passed through London and, although successive British Governments were not sympathetic to SWAPO, Britain was home to what became the largest and most effective Namibian solidarity organisation, with which a succession of SWAPO diplomats and other personnel interacted in a variety of ways.¹⁴ After SWAPO established its Department of Foreign Affairs, more missions were opened in Africa and Europe in order to gain further support in the international community for Namibia's liberation struggle. In the context of the Cold War, SWAPO had to pull off an intricate balancing act with respect to its interactions with those in the West and in the socialist countries, and it was remarkably successful in doing so. It meant playing a skilful diplomatic game and not alienating either camp. While the SWAPO delegation that visited Beijing in June 1973 could not persuade the Chinese that SWAPO were not pro-Soviet,¹⁵ the liberation movement was able to maintain missions in both the Federal Republic of Germany and the German Democratic Republic at the same time. SWAPO developed close ties with the Communist Party of the Soviet Union, and Nujoma frequently visited Moscow; but SWAPO – perhaps to avoid alienating the USA before the Cold War began to wind down – only opened a diplomatic mission there in 1987.¹⁶

SWAPO also established relations with the Commonwealth, which indicated as early as 1975, at its meeting in Kingston, Jamaica, that Namibia would be welcome to join it after its independence, even though it was not a former British colony. The Commonwealth Heads of Government meeting in Kuala Lumpur in 1989 confirmed the invitation, when independence finally seemed imminent.¹⁷ The Indian Government supported SWAPO

13 The definitive account of this for Sweden is to be found in two volumes by Sellström (1999, 2002).

14 These interactions were not always positive; see especially Saunders (2009:437–454).

15 Shubin (2008:209).

16 (ibid.) for details of Nujoma's visits. Oddly, Shubin does not write about the SWAPO mission.

17 Anyaoku (2004:84–85). By the time independence came, over 8,500 Namibians had been trained under Commonwealth programmes (ibid.:85). For example, in 1984, Nahas Angula went on a Commonwealth mission to India and Sri Lanka to see training facilities there; cf. "J Houston to E Reddy, 20 July 1984", *ES Reddy Papers*, University of Cape Town Library.

long before a mission was opened in New Delhi in 1982, which, three years later, was accorded full diplomatic status. This meant that SWAPO enjoyed all the privileges accorded to diplomatic missions of independent sovereign states to India, its Chief Representative was called *Ambassador*, and Nujoma was accorded an official state visit to India in May 1986.¹⁸ By then, SWAPO's standing internationally had grown to such an extent that some regarded it as virtually a government-in-exile.

Participating actively in international organisations was an important aspect of SWAPO's diplomacy in the years in which it sought to build support in the international community for Namibian independence. In 1961, Nujoma was at the founding of the Non-aligned Movement (NAM) in Belgrade, Yugoslavia, and after that he regularly attended NAM meetings. At its fourth summit in Algiers in 1973, NAM recognised SWAPO as the legitimate representative of the Namibian people.¹⁹ SWAPO became a full member of NAM in 1978. Nujoma was present at the OAU's inaugural meeting in Addis Ababa, Ethiopia, in 1963, and he attended many later annual OAU summits, while SWAPO was given invaluable financial and material support by the OAU's Liberation Committee.²⁰ Issues that SWAPO wanted to bring to the attention of the international community were often first discussed at OAU and NAM Foreign Ministers' meetings before being raised in the UN General Assembly, in order to gain the maximum possible support.

From the early 1970s, a series of international conferences was held on the question of Namibia's independence, and SWAPO personnel played key roles in most of these.²¹ After SWANU's President Kozonguizi criticised African leaders as puppets of imperialist countries in 1966 at the Afro-Asian-Latin American People's Solidarity Conference,²² the OAU withdrew its recognition of SWANU, and an OAU summit in 1972 in Rabat, Morocco, recognised SWAPO as the sole authentic representative of the people of Namibia.²³ In 1975, the OAU Council of Ministers passed a resolution reaffirming this, and the following year the UN General Assembly in turn recognised SWAPO as "the sole and authentic representative of the Namibian people". This recognition for SWAPO, claims Nujoma, —²⁴

18 See e.g. *SWAPO Information Bulletin*, June 1986.

19 Singham & Hune (1986:22).

20 On this, see Dube (1967) and Neidhardt [n.d.].

21 They included the International Conference on Namibia held in Brussels in May 1972 and a number of conferences held in Paris in the early and mid-1980s. One of the most important was that which commemorated a hundred years of colonial rule of Namibia: held in London in 1984, and organised by the Namibia Support Committee, it was the only conference of its kind to produce a very substantial volume of papers (Wood 1988).

22 Emmett (1999:335).

23 Mushelenga (2008:52). Only two other liberation movements received such recognition: *Frente de Libertação de Moçambique* (FRELIMO, Mozambique Liberation Front) and the *Partido Africano da Independência da Guiné e Cabo Verde* (PAIGC, African Party for the Independence of Guinea and Cape Verde).

24 Nujoma (2001:257).

... raised the status of Namibian representatives at every international conference as well as at national level.

From 1975, SWAPO worked closely with the *Movimento Popular para la Liberação de Angola* (MPLA, Popular Movement for the Liberation of Angola),²⁵ and later in that decade, moved its headquarters from Lusaka, Zambia, to Luanda. Over the years, SWAPO forged close ties with a number of other liberation movements, including the *Frente de Libertação de Moçambique* (FRELIMO, the Mozambique Liberation Front), the African National Congress (ANC), and the Palestine Liberation Organization (PLO), drawing strength from the knowledge that others were engaged in similar struggles elsewhere.²⁶

Diplomacy in the Cold War era

In 1971 and on a number of later occasions, Nujoma was invited to address the UN Security Council when the issue of Namibia came before it. In 1976, SWAPO's lobbying at the UN helped persuade the Security Council to adopt, unanimously, Resolution 385, which called for a UN presence to lead Namibia to independence. In September that year, Nujoma met Henry Kissinger, the US Secretary of State, in New York, more than a decade before the President of the ANC had his first meeting with a Secretary of State (then George Schultz). In 1977 and 1978, Nujoma led the SWAPO diplomatic team in the negotiations with the Western Contact Group, made up of the five countries which then had seats in the UN Security Council. After SWAPO accepted the Western Plan for a transition to independence in July 1978, the Plan was embodied in UN Security Council Resolution 435 of September 1978, which provided for the establishment of a UN Transition Assistance Group for Namibia.

Nujoma attended key meetings of the Frontline States (FLS) in 1978 and, subsequently, meetings that coordinated policy against South Africa. It was the FLS that persuaded SWAPO to accept the Western Plan, despite what SWAPO saw to be its many limitations. Nujoma led the SWAPO delegation to the abortive UN 'pre-implementation' meeting in Geneva in 1981, and in 1984, he held discussions in Lusaka, Zambia, with representatives of the South African Government and leaders of internal parties in Namibia. Various internal groupings, including the Multi-party Conference and then, from 1985, the Transitional Government of National Unity, engaged in their own forms of diplomatic activity in the 1980s, almost all of it effectively fruitless, for they tried to persuade the outside world that they were not puppets of the South African Government and should receive international support. No significant support was forthcoming.²⁷

25 SWAPO previously had ties to the *União Nacional para a Independência Total de Angola* (UNITA, National Union for the Total Independence of Angola).

26 The PLO Chair, Yassar Arafat, was to be a special guest at Namibia's Independence celebrations.

27 In 1984, for example, Dirk Mudge and other members of the Multi-party Conference visited

In the 1980s, SWAPO diplomats spent much of their time challenging the Reagan Administration's policy on Namibia, promoted especially by Chester Crocker, the Assistant Secretary of State for African Affairs. From 1981, the US argued that Namibian independence should be linked to the total withdrawal of Cuban troops from Angola. Naturally, SWAPO responded that the two issues should not be linked, and that the Reagan Administration, by arguing for linkage, was in effect supporting South Africa in its desire to continue occupying the territory and refusing to allow the UN to organise an election and lead the country to independence. Crocker would never agree to meet SWAPO, but the organisation continued to increase its international support, even as some of its diplomats began to be questioned about the reports that SWAPO members had disappeared in dungeons in Angola. In February 1986, Gurirab and Hamutenya had to call a press conference to admit that 100 people had been detained under suspicion of being spies of the South African Government.²⁸ Though SWAPO was excluded from the 1988 negotiations – mediated by Crocker – between the Governments of Angola, Cuba and South Africa, its diplomats were active on the fringes of the negotiations.²⁹ By then, SWAPO had diplomatic representation in almost 30 countries, with 12 missions in Africa,³⁰ 14 in Europe,³¹ 2 in Asia,³² 2 in the Americas,³³ and 1 in Australia, besides its representation at the UN.

The collapse of the communist regimes in Eastern Europe in late 1989 came as a shock to SWAPO, and its personnel had to be evacuated from the German Democratic Republic, along with a number of Namibian children being educated there, and from Romania. But the overall success of SWAPO's diplomacy in the 1970s and 1980s was symbolised during the Independence ceremonies at the Windhoek Stadium on 21 March 1990, when Javier Perez de Cuellar, the UN Secretary-General, administered the presidential oath to Nujoma before a gathering of diplomats and politicians representing a large proportion of the countries of the world.³⁴ After Independence, the new government could build on the diplomacy of the pre-Independence period. Namibian involvement in such organisations as the UN and the NAM continued, and the newly independent country joined the Commonwealth, the Southern African Development Coordination Conference

28 Europe and the US to put their case to the international community; see e.g. Van Wyk (1999).
The Namibian, 21 February 1986. For the Swedish reaction, see Sellström (2002:336–337). On the so-called spy scandal, see especially Trehwela (2009).

29 See Crocker (1992).

30 In Algeria, Angola, Botswana, Congo (Brazzaville), Egypt, Ethiopia, Libya, Nigeria, Senegal, Tanzania, Zambia and Zimbabwe.

31 In the Federal Republic of Germany, Finland, France, the German Democratic Republic, Romania, Sweden, the United Kingdom, the Union of Soviet Socialist Republics, and Yugoslavia.

32 In India and Iran.

33 In Cuba and the USA.

34 See e.g. Perez de Cuellar (1997:Ch. 11).

– soon to be transformed into the Southern African Development Community – and other international organisations, and extended its diplomatic activity in other new directions.

Conclusion

That diplomatic efforts by Namibians can be traced to well before the more active and formal diplomacy of the 1970s and 1980s may have had some impact on the diplomacy of those decades, but it cannot begin to explain the successes achieved. Hardly any of the Namibians active in those decades had any formal training in diplomacy,³⁵ but a number proved to be highly skilled at it, and were able to make significant contributions to, say, SWAPO's recognition as the sole and authentic representative of the Namibian people, and obtaining Permanent Observer status at the UN. These achievements boosted SWAPO's image in the international community – and the much older and more established ANC was never able to acquire similar recognition. Some international diplomats were to remain scornful of Sam Nujoma's diplomatic skills,³⁶ but his tireless travelling from meeting to meeting³⁷ and his presence at numerous key international events put SWAPO and Namibia on the international map. He was, of course, assisted by other diplomats and members of SWAPO's Central Committee and Politburo on delegations to the UN and at the many international conferences that were held to discuss the independence of Namibia. Theo-Ben Gurirab at the UN and Peter Katjavivi in London both did much to boost SWAPO's credibility in international circles, for they combined shrewd intelligence with an ability to present themselves well in international diplomatic circles. Hage Geingob, the Director of the United Nations Institute for Namibia (UNIN) in Lusaka, acted in a diplomatic capacity on many occasions, meeting foreign dignitaries at UNIN and participating in international meetings. As we have noted, SWAPO was able in the 1970s and 1980s to engage both sides of the Cold War, which enabled it to acquire military training and equipment, including weapons, from socialist countries, along with humanitarian assistance and other forms of educational and training support from Scandinavian and other Western countries.

SWAPO's diplomatic activity in the 1970s and 1980s was, then, a substantial achievement. Though in part the product of skilful diplomacy, this achievement was also, of course, due to Namibia's international status and the growing consensus in the international community that South Africa should withdraw from the territory and grant Namibia its independence. Nonetheless, although SWAPO was much helped by the fact that Namibia

35 Gurirab was the only one to do advanced studies in international relations, namely at Temple University.

36 For example, in the memoirs of two UN officials, namely Brian Urquhart (Urquhart 1987) and Marrack Goulding (Goulding 2002).

37 In a few weeks in May and June 1986, for example, in one whirlwind trip, Nujoma visited Denmark, Sweden, Finland, Norway, India, Iran, China, Korea, Ethiopia, Kenya, Congo (Brazzaville) and Gabon; *SWAPO Information Bulletin*, June 1986.

came to be seen as a UN responsibility, its diplomacy was arguably more successful than that of the ANC and at least as important as the armed struggle that SWAPO waged in the decades leading to independence.³⁸ The diplomatic successes of Namibians before Independence boded well for the country's foreign relations after Independence, for they could build on what had already been achieved.

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Namibia and the United Nations until 1990

*Dennis U Zaire**

Introduction

The United Nations (UN) has for many years established and maintained a relationship with Namibia, both as a colonised and occupied (mandated) territory and an independent country. This relationship grew into a strong bond that extended over many decades, and entails much in terms of content, events and the agenda of issues that defined and drove it over the years. The passing of time may have changed the agenda to reflect the needs of either party, but what has certainly not changed, especially after Namibia's Independence, is the endurance of the relationship, with a renewed emphasis on stronger ties and cooperation on many issues of mutual interest. This is crucial for the UN as a body dedicated to the maintenance of world peace and security. It is equally important to Namibia as a country that sought and achieved its independence through the UN. This may partly explain Namibia's strong positive record of contributing to UN peace and security efforts, a trend set since Independence. Moreover, the country cooperates closely with the UN on a number of developmental and other strategic areas 22 years since Independence, which bears testimony of a flourishing relationship.

However, the UN–Namibia relationship prior to Independence, which is the primary focus of this article, was at times complex because of the difficulty in dealing adequately with a host of issues on the question of Namibia. The difficult interaction between the UN, Namibia and South Africa and other role players was the main contributor to this complexity. Nonetheless, the relationship was also exciting, because it was built on the premise of hope – and that hope was turned into real freedom in 1990.

Reviewing such a relationship is a delicate task. Firstly, it covers important events over the years, all of which compete for attention. Secondly, the question of Namibia was one of the most long-standing and difficult issues on the UN agenda. Finally and unfortunately, time and space do not allow for a deeper and critical investigation of all important issues flowing from that as this paper constitutes a small addition only.¹

This article provides a short overview of the Namibia–UN relationship prior to independence from five angles. After the introduction and brief background, the paper first looks at Namibia as a UN petitioner, and then at UN support to petitioners. Thirdly,

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1 A publication on this subject by the speaker of the Namibian Parliament, Hon. Dr Theo-Ben Gurirab, is forthcoming.

it considers the role of the International Court of Justice (ICJ), its important judgement on Namibia from 1966, and the implications of that judgement. Fourthly, it highlights the involvement and intensified efforts of the UN General Assembly (UNGA) and UN Security Council (UNSC) in the final push for independence. And lastly, the article concludes with a section on independence being a destination within reach.

A brief background

South Africa's mandate to rule Namibia stems from the terms of Article 22 of the Covenant of the League of Nations and a mandate² agreement by the League's Council. The League's authority on the question of South West Africa which Part 1 of Article 22 of the Treaty of Versailles articulates is a result of marathon negotiations that ended with the signing of the Treaty of Versailles – a peace settlement agreed on after the First World War (WWI) had ended.³ The mandate under this treaty governed by the League allowed South Africa to officially take over the administration of the then South West Africa on 17 December 1920. With the supersession of the League by the United Nations in 1946, South Africa refused to surrender its earlier mandate to be replaced by a UN trusteeship agreement requiring closer international monitoring of the territory's administration. Kerina reports on this as follows:⁴

In view of the wishes of the majority of European inhabitants of South West Africa, [South Africa] could not act in accordance with the recommendation that South West Africa be placed under international trusteeship; nor did it consider itself under any legal obligation to propose a trusteeship agreement.

Furthermore, on numerous occasions, South Africa asserted that the League of Nations mandate had lapsed upon that body's dissolution, meaning that it no longer had any international obligations in regard to South West Africa. From that point forward, South Africa administered Namibia as a de facto fifth province, but failed to officially incorporate it. Under this arrangement, the white minority were represented in the whites-only Parliament of South Africa, and could elect their own local administration – the South West Africa Legislative Assembly. South Africa also appointed an Administrator of SWA with extensive power. In 1949, South Africa made constitutional changes, which included the quasi-incorporation of South West Africa.

By UNGA Resolution 338 (IV), the ICJ was requested to give an opinion on the current international status of South West Africa. The request for advisory opinion was submitted

2 A League of Nations mandate was a legal status for certain territories to be transferred from the control of one country to another after WWI; see "Legal consequences for the state of continued presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)", available at <http://www.icj-cij.org/docket/files/55/5595.pdf>; last accessed 9 August 2011.

3 Signed at the Palace of Versailles near Paris on 28 June 1919.

4 Kerina (1981:116).

on 27 December 1949.⁵ At the same time, Reverend Michael Scott⁶ petitioned the ICJ in support of the UNGA submission in order to lend more weight to the arguments before the court on the question of Namibia.

In July 1950, the ICJ found that the old League of Nations mandate was still in force.⁷ Subsequently, the UNGA repeated its application that the territory should fall under UN trusteeship. In October 1966, the UNGA resolved to revoke South Africa's mandate, declaring as follows:⁸

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.

However, South Africa opposed and ignored this Resolution and continued to rule South West Africa. Therefore, the controversy surrounding South Africa's refusal to allow Namibia to be placed under UN trusteeship brought the UN and Namibia closer, and marked the beginning of Namibia's long ties with the international body.

The UN petitioners

The refusal by South Africa in 1946 to allow Namibia to be placed under UN trusteeship sparked a wave of petitions from the international community and Namibians alike, declaring that Namibians preferred to be placed under UN trusteeship rather than be incorporated into the Union of South Africa. The late Herero Chief, Hosea Kutako, through Rev. Michael Scott, petitioned the UN in 1946,⁹ becoming one of the first Namibians to do so. In one such petition, he made the following declaration:¹⁰

We shall be destroyed if we are incorporated. We shall never want the Union Government.

5 Available at <http://www.icj-cij.org/docket/index.php?p1=3&p2=4&k=30&case=10&code=sswa&p3=0>; last accessed 8 August 2011.

6 Michael Scott was a Scottish Anglican cleric and anti-racism activist who worked in South Africa and lobbied for a free South West Africa. He was mandated by the indigenous people of South West Africa to speak on their behalf at the UN. He petitioned the UN in his personal capacity as a cleric and as an authentic representative of native South West Africans.

7 "International Status of South West Africa, Advisory Opinion", ICJ Reports (1950).

8 General Assembly Resolution 2145 (XXI) of 1966, adopted at the 1454th Plenary Meeting of the General Assembly on 27 October 1966; available at: <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/004/48/IMG/NR000448.pdf?OpenElement>; last accessed 9 August 2011.

9 For extracts of statements and petitions from various African leaders in Namibia, see Kerina (1981:79–97).

10 (ibid.).

Others subsequently petitioned the UNGA, although Rev. Scott campaigned fiercely during those early years to petition both the UN and the ICJ. His efforts yielded a historic breakthrough in 1949, when the UN Trusteeship Committee allowed him to speak on behalf of the “tribes” of South West Africa. This was also the first time that petitioning from Namibians received prominence at the UN.

The main purpose of the petitions was to alert the UN – and the world – about the desperate plight and ill-treatment of the black majority by the apartheid South African regime. Besides highlighting these gross human rights violations, the petitions also conveyed the Namibian people’s genuine desire for independence, and served to strengthen support for those – including the South West Africa People’s Organisation, SWAPO¹¹ – involved in the military struggle and in diplomatic and lobbying efforts to advance the case for Namibia at the UN and beyond.

The petitions, diplomacy and lobbying bore fruit in that Namibian leaders were invited to advance their cause to the UNGA in 1951. This significant achievement offered a rare window of opportunity to Namibian leaders to address the UN and world leaders from a vital platform. In November 1953, the UNGA¹² established a Committee on South West Africa. Three years later, in 1956, the ICJ advised the UNGA on how to deal with the case of South West Africa, and reaffirmed the UNGA’s capacity to adopt resolutions and to hear petitions on the mandated territory.¹³

Also in 1956, Mburumba Kerina was sent to New York to petition the UNGA on behalf of the Herero Chiefs’ Council. He was followed in 1959 by Hans Beukes and Jariretundu Kozonguizi, also sent by the Herero Chiefs’ Council, with the aim of becoming representatives of the future independent Namibia at the UN. In 1960, they were joined by Sam Nujoma, who had gone into exile through Bechuanaland (today’s Botswana) on 1 March 1960 as a response to the December 1959 massacre in the so-called Old Location¹⁴ and who, in June 1960 became the first person to petition the Subcommittee of the Fourth Committee of the UNGA. Until 1960, various petitioners acted on behalf of the Namibian people, all united by a single factor: the desire to be freed from the Union Government and its discriminatory and racist policies. The petitioners included Chief Hosea Kutako, accompanied by the leader of the Nama, Hendrik Samuel Witbooi, and

11 Today, the ruling SWAPO Party of Namibia.

12 Resolution 749 A (VIII) of 28 November 1953.

13 ICJ Pleadings, South West Africa (Hearing of Petitioners), Vol. 152; available at <http://www.icj-cij.org/docket/files/31/9099.pdf>; last accessed 9 August 2011.

14 More than 11 people died when the police opened fire indiscriminately against protestors who opposed their forced removal from their ‘location’ – or racially segregated residential area (the suburb of Hochland Park today) to Katutura, some 15 km away. *Katutura* is an *Otjiherero* word meaning “we have no place of our own”.

his nephew, Hendrik Witbooi, in 1958; Andimba Toivo ya Toivo¹⁵ in December 1958; and Simon Kaukungua in 1959.

For the petitioners, the UN was one of the few alternatives that offered some hope of salvation from the Union Government. Nonetheless, South Africa refused to bow to the pressure being exerted by a combined international and domestic effort to place the issue of South West Africa under UN trusteeship. This fight continued for many years.

UN support for the petitioners

In 1960, with the independence of a number of colonies, the UNGA adopted Resolution 1514, namely the Declaration on the Granting of Independence to Colonial Countries and Peoples,¹⁶ which held as follows:

All states shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration on the basis of equality, non-interference in the internal affairs of all states, and respect for the sovereign right of all peoples and their territorial integrity.

This Resolution enabled the petitioners to plead their cause through means other than petitions. The UNGA also endorsed and accepted the ICJ opinion of June 1956,¹⁷ which concerned the admissibility of hearings of petitioners by the Committee on South West Africa, and authorised the said Committee to grant them oral hearing.

In 1961, shortly after the Declaration on the Granting of Independence to Colonial Countries and People, the UNGA declared that the situation in South West Africa was a threat to international peace. Both Namibian parties – SWAPO and the South West Africa National Union, SWANU – demanded that the UN urge South Africa to leave South West Africa. By way of Resolution 1702, the UNGA established the UN Special Committee for South West Africa, which became the UN Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and People, and reiterated its commitment to the independence of South West Africa, which was also mentioned in Resolution 1514.

The petitioners worked under extremely difficult circumstances, including having to endure censorship and spying by the South African Government. They were also not allowed to leave the country, so their only way out was to escape. Despite these hardships,

15 Founding member of the Ovamboland People's Congress (OPC) in 1957, a forerunner of the Ovamboland People's Organisation (OPO) and, ultimately, SWAPO.

16 Resolution adopted on 14 December 1960; see <http://www.un.org/documents/ga/res/15/ares15.htm> and <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/152/88/IMG/NR015288.pdf?OpenElement>; last accessed 10 August 2011.

17 See ICJ Reports (1956:23).

they kept the home fire burning by ensuring the UN continued to be informed about developments in the country and by soliciting the UN's support. At times, they were faced with hostile conditions and receptions at the UN as well. This was the case especially during the UN's early days and when they began petitioning. Among the reasons was that the UN was still in its infancy, and petitioning was a new tool. Furthermore, there was only a small representation of African countries at the UN, namely Egypt, Ethiopia and Liberia. The latter two independent African states later engaged the ICJ by virtue of Article 66 of the Statute of the International Court of Justice which allows entitled states to request an advisory opinion.¹⁸ The two countries argued, among other things, that South Africa had violated its mandate by adopting and practising the repressive racial policy of apartheid that violated the human rights of the territory's inhabitants. Another reason for the difficulties experienced by petitioners in the early days was that certain permanent members of the UNSC, who had veto powers, were South Africa's trading partners and allies: they protected their ally's interests both in the UNGA and UNSC.

In subsequent years of engagement on the question of Namibia, more African countries had become UN members and offered the petitioners their support through, for example, the Africa Group. In addition, African countries and sympathisers lobbied for and provided advice and diplomatic assistance to the petitioners.

Thus, the increase in UN members had an immediate impact that was felt and appreciated by the petitioners. The new members had also opened up the UNGA from a very narrow base of representation to reflect more accurately the cultural diversity of the world community at large. Furthermore, despite the challenges they encountered, especially in the early days, the petitioners persevered and became pioneers and heroes who contributed significantly to the liberation of Namibia. The UN's support through the UNGA and UNSC immensely helped their cause. Indeed, those who began as petitioners ended up as UN diplomats – an achievement of note.

In addition, the question of Namibia was considered by the UNSC each year, such that, by the time of independence in 1990, more than 40 years of petitioning by Namibians and the international community had passed, along with 20 UN Resolutions on the issue.

The 1966 ICJ judgement on Namibia and its implications

In December 1962, the ICJ decided against South Africa's claims, and pronounced that the latter had no jurisdiction over South West Africa. The case submitted by Ethiopia and Liberia, which demanded that the ICJ rule against South Africa on the grounds that they had constantly violated the regulations of the mandate, was still pending at that stage. In

18 For the court statute, see http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0#CHAPTER_IV; last accessed 12 August 2011.

1965, Sam Nujoma, Jacob Kuhangua, and Emil Appolus gained observer status at the ICJ. A year later, on 18 July 1966, the ICJ delivered an important decision that would have profound implications for Namibia.

The ICJ President, Sir Percy Spender, cast the deciding vote and declared that the applicants, Liberia and Ethiopia, could not be considered to have established any legal right or interest appertaining to them in the subject matter before it.¹⁹ Although the two countries were parties to the Covenant of the League of Nations under which the mandate had been established, they were not parties to the mandate agreement struck between the Union of South Africa and the League. The court's statement read as follows:²⁰

To generate legal rights and obligations, it [interest in sacred trust] must be given judicial expression and be clothed in legal form.

In addition, the ICJ condoned South Africa's mandate. This decision came as a surprise to many. A victory would possibly have allowed an appeal to the UN that may have resulted in sanctions being imposed on South Africa; but this decision was a severe setback for those who had campaigned and lobbied for Namibia's independence. Furthermore, the decision shook SWAPO's trust and confidence in the UN. From that point on, SWAPO began to doubt whether the UN system alone was enough to achieve its ultimate goal of independence. Soon after the court decision, SWAPO decided to take up its armed struggle in addition to other liberation strategies, such as diplomacy, the education front, and political mobilisation at home. This decision marked the birth of SWAPO's military wing, the People's Liberation Army of Namibia (PLAN). The first clash took place at Omugulugwombashe on 26 August 1968, marking the beginning of a new chapter in the struggle for Namibia's independence.

Diplomatic efforts and engagements continued, but were slow in yielding results. Furthermore, for many years, diplomacy had been ineffective in the face of South Africa's intransigence. Among the reasons for these setbacks was that South Africa was a big trading partner of many Western countries, especially the United States of America. Secondly, these trading partners were also members of the UNGA and UNSC, and employed specific tactics to delay or derail the discussions and resolutions on the question of Namibia. Thirdly, they would also cause the UN to delay its response to the Namibians' plight. Thus, South Africa's trading partners in the West ensured that its interests were preserved, and this contributed to the late achievement of Namibia's independence. However, this does not in any way imply that diplomacy, as a method, was a failure; in fact, the contrary is true.

19 See <http://www.icj-cij.org/docket/files/46/4931.pdf>; last accessed 12 August 2011. Cases cited as *South-West Africa Cases (Ethiopia v South Africa; Liberia v South Africa)*; *Second Phase, International Court of Justice (ICJ)*, 18 July 1966, also available at <http://www.unhcr.org/refworld/docid/4023a9414.html>; last accessed 12 August 2011.

20 (*ibid.*:34).

Moreover, in its Resolution 2145 (1966),²¹ the UN stated that South West Africa had a right to nationhood and independence. In the same year, in Resolution 2145 (XXI), the UN revoked South Africa's mandate. The following year, 1967, saw a confirmation of the Resolution, with the UNGA discussing steps on the way to independence and sovereignty for 1968.

The UNGA's Resolutions are testimony to the fact that the UN also constantly engaged the ICJ on the issue of Namibia. Over the years, the UN engaged the ICJ on six different occasions for both advisory and binding decisions. Interestingly, the UN's engagement with the ICJ on this question and the controversy emanating from the latter's decisions encouraged scholarly writings and kept academics and other analysts engaged with the implications of the court's decision on the question of Namibia in particular, and on international law in general. A significant amount of jurisprudence emanated from this, and now serves as good reference and case study materials for other countries.

The above account indicates that the UN had significant internal weaknesses. These included South African's power in lobbying its allies and being able to undermine the UN system from within, which frustrated and undermined diplomacy and resulted in slow progress. The 1966 ICJ decision was, therefore, a wake-up call for SWAPO to review its strategy and find ways to complement its diplomatic and other approaches in campaigning for Namibia's independence. The battle for Namibia was now fought on two complementary fronts, with SWAPO employing diplomatic strategies as well as the military route through armed struggle. Thus, the 1966 ICJ decision marked a turning point in the fight for the freedom of Namibia, and had prompted SWAPO to rethink its strategy.

The involvement of the UNGA and UNSC

By the late 1960s, a new international actor had begun to get involved in Namibia's struggle for independence. With Resolution 245 of 1968,²² the UNSC made its first statement regarding the issue of South West Africa. In the following years, various Resolutions followed, with the UNSC becoming deeply involved and playing a sizeable role in Namibia's struggle for independence. Also, in 1968, the UN officially changed its policy in order to enable South West Africa to be referred to as *Namibia* from then on. Despite this, the South African Government continued to refer to the country as *South West Africa*. Furthermore, also in 1968, for the first time the UN acknowledged as legitimate the fight of oppressed Namibians against the illegal occupation of their country. In 1969, the UNSC adopted UNGA Resolution 2145,²³ with UNSC Resolution

21 See <http://www.un.org/documents/ga/res/21/ares21.htm>; last accessed 11 August 2011.

22 Adopted on 25 January 1968.

23 Adopted on 27 October 1966; see <http://www.un.org/documents/ga/res/21/ares21.htm>; last accessed 11 August 2011.

264 calling on South Africa to leave Namibia before October 1969. The UNSC reiterated its request by way of Resolution 269²⁴ in August 1968, which –²⁵

... condemn[ed] the Government of South Africa for its refusal to comply with resolution 264 (1969) and for its persistent defiance of the authority of the United Nations;

With South Africa not having left, as Resolution 264 demanded, the UNSC reiterated through Resolution 276²⁶ that –²⁷

[t]he continued presence of the South African authorities in Namibia is illegal.

In 1970, in Resolution 284²⁸ the UNSC asked the ICJ for legal advice on the issue of Namibia. The ICJ ruled in 1971 that South Africa's continued presence in Namibia was illegal.²⁹ The ICJ also declared that adherence to the decision would make a great contribution –³⁰

To the course of international peace and security and, more, to the course of friendly relations amongst not only the nations but amongst all men.

The UNSC stayed tuned to the case of Namibia, declaring it had a right to independence. In 1973, the UNSC broke off all negotiations with the South African Government and the UNGA acknowledged SWAPO by Resolution 3111³¹ as the authentic representative of the Namibian people. This led to the withdrawal of South Africa from the UN Trusteeship Committee in protest.

In 1976, three years after the acknowledgement, the UNGA confirmed SWAPO as “the sole and authentic representative of the Namibian people”.³² This recognition is unsurprising as, by this time, newly independent African and Asian countries were being

24 Adopted on 12 August 1969; see <http://www.un.org/documents/sc/res/1969/scres69.htm>; last accessed 12 August 2011.

25 See <http://www.unhcr.org/refworld/publisher,UNSC,RESOLUTION,NAM,3b00f2322b,0.html>; last accessed 13 August 2011.

26 Adopted on 30 January 1970; see <http://www.un.org/documents/sc/res/1970/scres70.htm>; last accessed 13 August 2011.

27 See <http://www.unhcr.org/refworld/publisher,UNSC,,NAM,3b00f2112b,0.html>; last accessed 13 August 2011.

28 Adopted on 29 July 1970; see <http://www.un.org/documents/sc/res/1970/scres70.htm>; last accessed 13 August 2011.

29 See <http://www.icj-cij.org/docket/files/53/5595.pdf>; last accessed 12 August 2011. Case cited as *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1070), Advisory Opinion*, ICJ Reports (1971:16).

30 (*ibid.*:66).

31 Passed on 12 December 1973.

32 UNGA Resolution 146 (XXXI).

represented at the UN. The same year, UNSC Resolution 385³³ was passed, reiterating the UNSC's demand that South Africa take the necessary steps to affect withdrawal and transfer power to the people of Namibia with the assistance of the UN by 1976. Once again, the appeal fell on deaf ears.

In March 1977, the Turnhalle Conference adopted an Interim Constitution for what was then termed *South West Africa/Namibia*. The document was roundly rejected by the wider international community, including the UN Council for Namibia. The UN continued to pressurise South Africa to adhere to UN Resolutions on Namibia. The year 1977 also marked the opening of the UN Institute for Namibia (UNIN) in Lusaka, whose main purpose was to train Namibians to administer the country once it gained independence. The UNIN was initiated by Sean McBride, the UN Commissioner for Namibia, and was headed by Hage Geingob³⁴ as its first Director.

The UNSC eventually passed a Resolution³⁵ in November 1977 which provided for a mandatory and extensive arms embargo against South Africa. The delay in passing this resolution and other sanctions on South Africa was a result of inside work done by South Africa's allies in the UN. Nonetheless, the combined efforts of the UNGA and UNSC, no matter how slow their response, had added great impetus to the question of Namibia and helped to keep it in the UN and international community's spotlight.

Intensified UNSC efforts in the final push for independence

Negotiations between SWAPO and South Africa in the UNSC began in April 1978.³⁶ A month later, following South Africa's invasion of Angola in May and its attack on Cassinga, SWAPO broke off all negotiations. In July that year, SWAPO accepted the proposals by the Five Western Powers,³⁷ which the UNSC had ratified in its Resolution 431. That same month, the UNSC adopted Resolution 432, declaring that the territorial integrity and unity of Namibia had to be assured through the reintegration of Walvis Bay, and that, pending the attainment of this objective, South Africa was not permitted to use Walvis Bay in any manner prejudicial to Namibia.

In September 1978, the UNSC passed Resolution 435. This Resolution, which replaced its Resolutions 385 (1976), 431 (1978) and 432 (1978) and was based on the so-called

33 Adopted on 30 January 1976 at the UNSC's 1885th Meeting; see <http://www.unhcr.org/refworld/type,RESOLUTION,,NAM,3b00f1732c,0.html>; last accessed 13 August 2011.

34 He later became the first Prime Minister of an independent Namibia.

35 UNSC Resolution 418; see <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0297/01/IMG/NR029701.pdf?OpenElement>; last accessed 13 August 2011.

36 For their proposal, see UNSC S/12363.

37 Canada, England, France, Germany, and the United States of America; also referred to as the *Western Contact Group*.

Waldheim Plan, demanded that free elections pave the way to Namibia's independence. The Plan included an honourable settlement designed to ensure that the people of Namibia would exercise their right to self-determination and independence. It provided for free and fair elections under the joint supervision and control of the UN and South Africa.

The Settlement Proposal, as it became known, was a result of intensive negotiations and collaborations between SWAPO, South Africa, the Western Contact Group, the Frontline States³⁸ and UN officials. Later on, South Africa used the removal of Cuban troops from Angola as a precondition for the implementation of Resolution 435. In its Resolution 539, the UNSC Council condemned South Africa's obstruction of the implementation of Resolution 435.

In 1981, the UN intensified its efforts to achieve independence for Namibia and organised negotiations between SWAPO, the South African Government, and the Western Contact Group. Negotiations failed because South Africa declined to sign a declaration of intent. Instead, it continued its military advance into Angola. A year later, the Western Contact Group established the principles for a Constituent Assembly and Constitution for an independent Namibia. The constitutional guarantees included a multi-party democracy, a bill of rights, and an independent judiciary. By 1984, a ceasefire was reached in Angola. Angola guaranteed not to let SWAPO or Cuban troops enter Namibia. In return, all South African troops would leave Angola by April 1985.

In January 1989, the first group of 450 Cuban troops withdrew from Angola, and, by 1 March 1989, the UNGA had accepted the Namibia Peace Plan. On 19 March 1989, the ceasefire agreement was signed. On 1 April 1989, the implementation of UNSC Resolution 435 commenced, initiating the holding of UN-supervised free and fair elections for a Constituent Assembly. On that date, the ceasefire between SWAPO and South Africa also came into effect. Finally, with the help of the UN, the international community and all stakeholders, independence for Namibia had finally become a destination within reach.

Independence: A destination within reach

The United Nations Transition Assistance Group

The final days of preparing for independence were marked by an atmosphere of political uncertainty in the country. Accusations by the South African Government and SWAPO were rife, with each claiming the other was violating the ceasefire agreement. Tensions were high – and so was the level of expectation and excitement. Namibia was at a crossroads: the fight for its independence had taken many years and many lives. The UN

38 Angola, Botswana, Mozambique, Tanzania, Zambia and Zimbabwe.

had been occupied by the question of Namibia for decades. The international community was concerned and could not allow the process of independence to fail: too much was at stake. For this reason, the United Nations Transition Assistance Group (UNTAG) was sanctioned to rescue the process of independence from either derailing or collapsing, to restore some dignity to it by ensuring that peace in the country prevailed, and to ensure its successful conclusion.

UNTAG was a political creation given a wide mandate to specifically ensure that an atmosphere that was conducive to free and fair election campaigning could prevail and that free and fair elections could take place. UNTAG also had to monitor the reduction and final exit of the South African Defence Force in Namibia. Most importantly, UNTAG was responsible for overseeing the full implementation of the Namibia Peace Plan. With the uncertain political atmosphere in the country at the time, UNTAG operated under extremely difficult conditions. This was in addition to its own internal challenges, such as logistical shortages and delays, a lack of human resources, and a lack of consensus between South Africa and the UN on technicalities.

Despite all the challenges and shortcomings, however, one needs to acknowledge that UNTAG did a fairly good job under difficult circumstances in preserving an atmosphere that allowed Namibians to, freely and willingly, go to the polls, for many for the first time in their lives, to elect their leaders in a democratic fashion. Apart from a brief border incident between SWAPO and South African forces at the beginning of the mission, the UNTAG mission was flawless. This was indeed an achievement for the UN and other stakeholders in respect of driving the process of independence to a successful conclusion.

The partners and friends of Namibia, the international community, SWAPO and other Namibian political parties inside and outside the country as well as other stakeholders involved in the fight for the independence of Namibia must feel pride and should share the joy of that achievement. In fact, Namibia has been hailed as one of the success stories of the UN, and rightly so.

However, some may not be happy that, in the end, the UN was widely acknowledged and praised for its role in helping Namibia achieve its independence. However, one needs to be realistic and acknowledge the UN for its role, despite the shortcomings that may have existed, especially with those who closely worked with the body and who may not always have agreed on important points. It should also be said that every relationship has its shortcoming, and UN–Namibia had its fair share. Moreover, SWAPO, being one of the organisations that worked closely with the UN for many years, was happy with the UN receiving “global recognition and encouragement for its peacemaking and peacekeeping efforts”.³⁹ Collectively, the various approaches and strategies employed

39 Gurirab (2010:114).

by all those involved in the fight for Namibia's independence contributed in some way, no matter how small, to its successful achievement.

Conclusions

On 21 March 1990, Namibia became a free country after many years of warfare and armed struggle, and exactly 44 years since the UN's inception in 1946. No one could rightly predict that, when Namibians started petitioning the UN for independence back in the mid-1940s, the then South West Africa would one day become a free country called *Namibia*. Neither could anyone predict that the UN relationship with Namibia in those difficult times could extend over so many years until the country became a free nation. The two events together are tremendous achievements for Namibians who paid the ultimate price for freedom, and for the UN as a body striving for world peace and security. Indeed, with Namibia's independence, one problem issue on the UN agenda could finally be struck off. Significantly, Namibia's independence also foretold the demise of the apartheid South African Government. Four years down the line, in 1994, South Africa, too, became a free and democratic nation. With the end of apartheid, the world is certainly a better place – especially for the inhabitants of Namibia and South Africa.

Truth be told, independence would not have been possible without the solidarity and support of the international community, the people of Namibia who were determined to gain independence, and of course, the UN through its agencies and the Security Council together with the General Assembly who kept the question of Namibia for years on their agendas until its successful conclusion. However, it is important to acknowledge that the UN had not been solely responsible for the success in attaining Namibia's independence. However, it was instrumental and facilitated the processes that led to the ultimate achievement of that goal. Hence, the work done by the Western Contact Group, by negotiating with SWAPO and South Africa, and also by coming up with a constitutional framework must be commented and applauded. The intervention of this group and others stakeholders while the UN facilitated, ensured success to the process in the end. Thus, it is in order to state that the UN involvement in the independence of Namibia was significant but the intervention of players gave those momentum real opportunities to succeed.

The most poignant of undertakings to Namibia was the personal delivery of an oath by the then UN Secretary-General, Perez de Cuellar, to Sam Nujoma, Namibia's first elected President. With that, the Secretary-General successfully closed the chapter on Namibia's struggle for independence, and opened another on the way forward with the new nation, still as a partner, but now as a fully-fledged member of the world body.

Today, the UN collaborates with Namibia on a number of crucial issues, including HIV and AIDS, poverty reduction, gender equality, human rights campaigns and capacity-

building for national development, to mention but a few. In return, Namibia has on many occasions responded positively to various UN requests, from peace and security issues to the provisions of highly skilled personnel. The Namibia–UN relationship looks set for many fruitful years of cooperation.

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Germany's role in Namibia's independence

*Hans-Dietrich Genscher**

This contribution is a translated transcript of an oral presentation made by Hans-Dietrich Genscher on 13 April 2010 at the Humboldt University of Berlin.¹

My personal relationship to Namibia was and is explicitly manifold: It was my concern to help Namibia on her way to independence. I have my birthday on the same day as Namibia, on March 21st. My sympathy for Namibia is so immense that I would have wished Namibia to be born in the same year as I – instead of 1990.

Framework conditions of German foreign politics

On May 16th, 1974 I became the federal foreign minister and, hence, also responsible for Germany's Africa politics. In order to understand the framework conditions of politics then, especially foreign politics, one has to recall that time.

Retrospectively, one can say that German post-World War II foreign politics were divided into several time components. The first 20 years were mainly dedicated to the integration of the Federal Republic of Germany into the western communities. We belonged to the founding members of the European Community, we became a member of North Atlantic Treaty Organization (NATO) and of the European Council. We were fully concentrating on the Western Alliance, whilst having a deferring and critical position towards the development taking place east of us. The West had developed a real guarantee concept for its security against the threat coming from the East, but it had no concept to deal with the East.

This is why individual events in the power sphere of the Soviet Union were criticised, for example, suppression of the rebellion in the German Democratic Republic (GDR) in 1953, in Hungary in 1956, in Czechoslovakia in 1968 and permanent repression measures in Poland. However, a political concept of the West towards the East was missing with the aim ... – well, with which aim, actually? It was our objective as Germans, as envisaged in our constitution, the Basic Law, to reach a stage which enabled peaceful reunification.

In 1967, at the end of these initial 20 years, NATO finally developed a political concept under the chairmanship of Belgian foreign minister Pierre Harmel, with the intention to

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1 Translation by Margaretha Rumpf, Windhoek. The translation is presented in its approved original form.

strengthen NATO as a permanent peace factor in Europe and securing defence through adequate military strength and as a foundation for the creation of permanent relations with the East in order to solve fundamental political issues. Military security and a policy of détente were no contradiction in the so-called Harmel Report, but mutually complementary. Security was understood as the sum of defence and détente. I wish NATO would have such a political concept of cooperation today with the aim of ensuring a blueprint for peace everywhere in Europe. The main obstacle of this blueprint for peace continued to be the division of Germany.

Based on this fundamental concept, the German contract policy of the Brandt/Scheel government was developed, and of which I was part insofar as it could be envisaged that the Eastern Treaties (*Ostverträge*) of the CDU/CSU opposition were focusing on the creation of German unity because of the issue of compatibility, especially in the Preamble of our Basic Law to be submitted to the federal constitutional court. In my capacity as minister of the interior and, hence, constitutional minister, I had to monitor that this process would not be lost.

What was the link of this to Africa and German African politics? The answer is clear: During the time until the creation of Eastern Policy (*Ostpolitik*) no Africa politics in an actual sense had been developed because German foreign politics were caught up in what came to be called the Hallstein Doctrine. Since 1955, the Federal Republic of Germany had insisted in the following: Those who have relations with the GDR, cannot be a partner for us. Politics towards the entire Developing World aimed at encouraging countries which had existing relations with the GDR, to cancel them, and to discourage countries, which had no relations with the GDR yet, from forging them. This should be mentioned since countries outside Europe were no spectators but victims of the East-West-Conflict. This East-West-Conflict was not limited to Europe, but affecting the whole world. Africa, too, was a victim in this power struggle for zones of influence.

In 1961, German foreign politics had created a new instrument of cooperation with states in the Developing World: The newly founded federal ministry for economic cooperation and development. The first development minister was Walter Scheel who later became the foreign minister and federal president. He had experience as a German parliamentarian and member of the Bundestag, and as a member of the European Parliament which was vested with very few rights then. He was the Chairperson of the Committee on Overseas Territories, which dealt with the overseas areas of member states of the European community, i.e. Africa, the Pacific and Caribbean, in short, where the former colonial powers still had their relations.

The anti-colonialism of the non-aligned movement

When I became foreign minister in 1974, I was free of all burdens of the Hallstein

Doctrine. At this point in time, the Eastern Treaties (*Ostverträge*) had been concluded as well as the Basic Treaty with the GDR. Our political activity in Africa, hence, did not have to focus any longer on inhibiting countries to maintain or assume relations with the GDR. Moreover, we could interact normally with African states and other parts of the Developing World. This opened up chances for new cooperation partners. Another possibility of influence was our admission to the United Nations, enabled by the Basic Treaty. We could take part in shaping international relations as a UN member and, of course, also in our neighbouring continent Africa.

There was an additional third phenomenon in which Germany played a very active role: The relationship to the non-aligned movement. Reading newspapers of the 1960s and early 1970s, one realizes that the non-aligned movement was mainly regarded as Moscow's fifth pillar. One suspected that this group of states was acting directly or indirectly under Moscow's influence. However, one had not understood that the non-aligned movement had, in reality, been formed as an anti-colonialist movement acting in favour of independence and participation of developing countries. It was important for us as Europeans that, with former Yugoslav president Tito, a European was part of this non-aligned movement and that it could not be perceived as an anti-European movement neither by itself. I really tried very hard then to enter into discussions with non-aligned states and I gradually succeeded.

Indifference towards the last decolonization movements and apartheid

Moreover, Europe including the Federal Republic of Germany, took an indifferent attitude towards the decolonization process, especially, towards the remaining four decolonization tasks in southern Africa. On the one hand, there were the direct independence movements in the colonies of Portugal, which had to finally accept Mozambique's and Angola's independence. On the other hand there were quasi-decolonization developments in Southern Rhodesia (later Zimbabwe) and South West Africa/Namibia. I use the word "quasi" because the colonial powers there were not European powers which had received these colonies. It was mainly South Africa raising domination claims under non-transparent pretexts.

Indifference was also the position taken in many western states on apartheid in South Africa. This led to a situation in which many resolutions taken by the United Nations were only supported by the Warsaw Pact States. This is how the false image of the anti-apartheid movement being a socialist movement was created. In reality, it had completely different objectives, namely the principles of human rights and self-determination.

Here in Europe these issues of peoples' self-determination and human rights were the theme of a current Europe-wide discussion forum - the consultations on the Helsinki

Final Act – signed in Helsinki on August 1, 1975. In addition to questions regarding the peaceful shift of borders also issues of human rights and the right of self-determination were central points of discussion with the Soviet Union and her partners. In the end, a concept reached the final act of which one can say today that it had a system-changing and even a system-overcoming function regarding Europe.

In domestic political discussions on Namibia's independence and on overcoming apartheid in the Republic of South Africa I could make use of arguments we had used in the dispute and discussion with the Soviet Union. We claimed the right of self-determination for us Germans in order to reunite peacefully. How could we have denied the right of self-determination to the Namibian people? Many opponents of Eastern Policy (*Ostpolitik*) as well as our newly developed Africa politics got into vivid argumentation trouble.

The “Group of the Five”

In 1974, I spoke at the United Nations for the first time, underlining the need of change in politics in Africa. Later, I severely criticised South Africa's apartheid politics and dealt with Namibia's decolonization.

Then and today, Germany was no permanent member of the UN Security Council (this will also not be the case in future even though some people in Germany believe that it would be necessary. In the future, I rather see a European base than a German base, and it would be closer to reality.) In 1976, the Federal Republic of Germany was elected as a non-permanent member of the Security Council for two years. Five western states were represented in the Security Council at the time: beside the permanent members, the United States of America, France and the United Kingdom, it was Canada and the Federal Republic of Germany.

We were thinking alike regarding Namibia's independence. Based on this accord and the close cooperation of the staff at our UN missions, the “Group of the Five” was consolidated, called the “*gang of the five*”, named after the “*gang of the four*” in China.

The Preamble of our constitution/the Basic Law committed us Germans “to serve the peace in the world” and the same applied to the United Nations Charter. This is why we had and wanted to take this position in Africa, jointly with our partners. Cooperation in the “Group of the Five” unfolded in an extraordinarily positive way. However, it found no broad-based support in political bodies, neither in the Federal Republic nor in the global public. We had emphasised very soon that the question of Namibia's independence was not only a claim for national independence, but also a demand to overcome apartheid.

The reason why South Africa was against Namibia's independence as much as possible was because an independent Namibia was perceived as a danger where people would live together peacefully and regardless of their skin colour as citizens of that state. This

freedom could have had a contagious effect on the Republic of South Africa. Insofar, also on our side, there was an inseparable link between the refusal and denial of apartheid and the claim of self-determination for the Namibian people.

We tried step-by-step to overcome the mistrust of our partner states in Africa. Germany had a particular handicap in this: Many years ago already, the Federal Republic of Germany had opened a consulate in Windhoek with the explanation that the Germans living in Namibia needed consular support. This consulate, however, could only be implemented under the prerequisite - according to the conditions imposed by the Pretoria government - that it would be part of the German embassy in the Republic of South Africa. Pretoria saw this position as a confirmation that the Federal Republic of Germany would consider Namibia as being under the sphere of influence of South Africa. In reality, it was interpreted as the acknowledgement of ongoing South African dominion in Namibia.

This is why it was urgently necessary to take courageous steps to dissolve this consulate. The decision on its closure was taken at the end of October 1977 by the SPD and FDP coalition. At this point I would like to mention that in this question and with all resistance existing in my own party and in the SPD, I had a fantastic co-fighter from the ranks of the social democrats: former development minister Hans-Jürgen Wischniewski, who had been state minister of foreign affairs from 1974 to 1976. With his support we could in the end reach a decision with the federal government - with muttering in government circles and very strong resistance in the opposition. Closure of the German consulate in Windhoek in 1977 was a decisive step in German Africa politics and mainly in its credibility vis-à-vis states still waiting for their independence and the abolition of apartheid.

Germany's role in Namibia's independence

How does one interact with independence movements?

Closure of the consulate was one step and another one was the question: How does one interact with liberation movements? In almost all my speeches at the United Nations I claimed freedom for Nelson Mandela, and I discovered that I was enormously misunderstood and criticised. People who had otherwise fully supported my foreign politics always said: "I agree to everything you do, but this matter will not be possible." And also: "*One man, One vote- will never work*".

Whenever I have to talk about these issues I think of the short-story "*Kassandra*" by Christa Wolf, which has deeply impressed me. Christa Wolf states: "One knows exactly when war starts. But when will the pre-war start?" And one can add a question to this, namely: WHERE does the pre-war start? It starts in the heart of people, in their heads, where the poison of prejudice, the poison of imagined self-supremacy and higher

intelligence poisons people's thinking. We all know what this means in German history. This is why it was extraordinarily important for me to tell these peoples that persons who advocate their freedom are our respected and accepted discussion partners.

On an Africa trip which took me to Zambia in 1975 I spoke to President Kenneth Kaunda and I had first contacts with a SWAPO representative there. Later, I made contact with Sam Nujoma, first at the United Nations and then in official talks in Bonn.

These changes and formulations of Germany's Africa politics had a positive impact on the position of African states and efforts of the "Group of the Five". Of course, it was helpful that American President Jimmy Carter had nominated a UN ambassador who had been a co-fighter of Martin Luther King who embodied a very particular affection for Africa and in whom we had found a great promoter of our efforts: Andrew Young.

However, things became very difficult during Ronald Reagan's term of government. The Reagan Administration suddenly made a link between progress in the Namibia issue and civil war in Angola where, in addition to the Angolans themselves, also Cuban military units and camouflaged military units of the Republic of South Africa were opposed to one another. The Reagan Administration said that only Cuba's withdrawal from Angola could free the way for Namibia's independence. Otherwise, the South Africans at Namibia's northern border would have to defend South Africa's independence which, in reality, also meant that they were operating from there.

Looking back, today one can say that eight precious years were lost that way for Namibia's independence. As important as Ronald Reagan's later contribution to nuclear disarmament and middle distance agreement may have been, as regards Namibia, the United States' involvement was inhibitive.

South Africa's pursuit of an "internal solution"

In 1979 and in a critical phase of our negotiations, I suggested to my four colleagues to go on a trip together to the Republic of South Africa. These four colleagues were Jimmy Carter's foreign minister Cyrus Vance, British foreign minister David Owen of the Labour Party, a permanent secretary from France as well as Canadian foreign minister Don Jamieson, a liberal like myself.

The memories of this visit are one of the most interesting moments of my time as foreign minister. There was a dinner, and only prime minister and later president P.W. Botha² and foreign minister Pik Botha, not related - only having the same name - were at the same table as well as we, the four foreign ministers and a French permanent secretary. P.W.

2 South Africa only introduced a strong executive presidential office in a constitutional reform in 1984, which was held by P.W. Botha until 1989.

Botha started his welcoming speech at the table as follows: "Gentlemen, I am delighted that you have come here, but there is no point in talking to you since all your governments will be voted out in very short time." I have to say that the man was right in four out of five cases. It was really like that: Jimmy Carter was not re-elected in America, the labour government of James Callaghan was voted out and replaced by Margaret Thatcher, there was a government change in Canada and later also in France.

Thank goodness P.W. Botha picked me last in his table speech which was linked to the fact that he had close relations to a rather regionally active party in Germany, which had developed a true human image of me. When he addressed me I said: "Before you continue to talk, I would like to inform you that I have decided to stay in office for as long as you are in office. I want to survive you politically." This ended the matter for me and I stood up and went outside. Both Bothas followed me saying: "This is not what it was intended to mean. Do return to the table." I said: "No. But if you want to sit with me now, we can talk about the matter." This finally led to a factual discussion in which I had the feeling that foreign minister Pik Botha had read the signs of the times much better than his Prime Minister P.W. Botha had.

South Africa could feel that something had to happen and one tried now to achieve something called the "internal solution". This meant that one wanted to enter into discussion with groups inside Namibia and to show-case SWAPO outside. SWAPO was considered as a group acting from outside and one did not want to involve SWAPO inside. This was the meaning of the term "internal solution". This "internal solution" could be taken back step-by-step and in the end it was still possible for Namibia to reach its independence from South Africa – albeit years after that dinner.

The question is: Has over-coming of the East-West-Conflict played a role in this respect? Yes, I think so. Détente between West and East in the northern hemisphere and, in particular, the appearance of Mikhail Gorbachev and Eduard Shevardnadze enabled that disturbing influences were no longer feared.

It is symbolic for me that the first substantial discussion on the preparation of the Two-Plus-Four Talks at the beginning of February 1990, which dealt with external aspects of German reunification, between Eduard Shevardnadze and myself, took place in Windhoek. We were also both in Windhoek on the occasion of Namibia's independence day. In the middle of the German embassy's garden there was an umbrella and we were sitting under it. However, we did not talk about Namibia, but about Germany. This shows how deeply integrated the history of our peoples is.

Namibia's independence process as a model case

It is worth studying the historical process leading to Namibia's independence in detail. I will spare you that at this point, but you can take one thing with you politically and

historically: You can only solve issues if you approach them with the willingness to solve them peacefully. You can only solve them if you take your contracting partner, whom you can also call your negotiation partner, seriously and if you get a picture of the situation and of what moves this man or this woman? What are their motives? To which constraints are they exposed? The third matter is that their approach to their basic attitude is not selective, in other words, that they don't say to the Soviet Union: "You must introduce human rights in your sphere of power!", but close both eyes when human rights in the Republic of South Africa are violated. You cannot claim independence and self-determination for Germans if you look at the issue of self-determination of Namibia's people only with a twinkle in your eye. You must acknowledge that politics that aims solely at creating zones of influence cannot last forever.

We have experienced wars in Europe over centuries and always around the question: Who is the strongest? Who is the number one in Europe? Until World War I. Hitler's war of extermination was of a completely different quality, but previously it was like that in the classic European war scene and war motivation. Europeans have drawn lessons from that and they have learnt that a stable order, which is perceived as fair, can only be created if "Big" and "Small" people can negotiate at eye level. It may be a mood of history, a gift given to us by history, but founding of the European Community by six countries was originally based on a community of three larger countries - Italy, France and Germany - and three smaller countries - Luxembourg, Belgium and the Netherlands. "Big people" have learnt what it meant to deal equally with partners. This also includes our thinking on the new world order of today.

Matters regarding Namibia then also meant the protection of vested rights for many countries in the northern hemisphere. If one has a look today at how the G8 is composed and how some refuse to include other parts of the world - not the German federal government, also other member states - then one can see that this protection of vested rights of the North has not been overcome yet. We can learn a lot from the European unification process after World War II and from having overcome the East-West Divide. The message for Europe is: We have to try and put ourselves in the shoes of others.

Why did liberation movements in Africa rather go to Moscow than any other capital in the West? It was because the West was not on their side, because the West had not said in absolute clarity: Africans are entitled to independence as much as we are!

Only when we had shown with regard to Namibia that it was a matter of self-determination and human rights, saying at the same time that this must and will have an effect on South Africa, only then did we find the broad-based support and trust needed.

I believe that Namibia's process leading towards independence became a model case of new thinking. One could also say: for a new culture of conviviality in the world. For this reason it is so important that we remember it. A good method always calls for imitation, and much still has to be done also here before we achieve a world based on equal rights

Principles and principals of Namibia's foreign relations

*Peya Mushelenga**

Introduction

Countries formulate and adopt policies that govern their relations with other states and/or within multilateral institutions. Policies are adopted through a process of consultations, debates and consensus. Addressing the Constituent Assembly that drafted the Namibian Constitution, the then Minister-Designate of Foreign Affairs, Theo-Ben Gurirab, made the following statement:¹

I would expect the formulation of the foreign policy of our country to be the product of a process that will involve the executive and the legislature, indeed the public out there, all branches of the government and the public.

The process of foreign policy formulation needs to be driven, in most cases, by the custodians of the given policies to be pursued, such as the chief foreign policymaker, who is a head of state and/or government, and the minister(s) responsible for foreign relations. Foreign policies, by their very nature, are motivated by trends, both national and international, and seek to maximise the interests of their respective countries. Foreign policies are not static – they respond to issues in the global political system. Nevertheless, it is important that there should be ground rules on which a foreign policy of a country on a given issue will be conceived.

Namibia's foreign relations are governed primarily by the principles enshrined in Article 96 of the Constitution. These serve as guiding values and an operational framework not only for those who are tasked with the formulation of the country's foreign policy, but also diplomats, who are tasked with implementing such policy. This chapter looks at Namibia's foreign relations in the context of its policies and their underlying fundamentals. The chapter will further discuss the principals who are catalysts of Namibia's foreign policy.

The historiography of foreign policy formulation in Namibia: An international perspective

The founding of a Namibian state has a long history of international solidarity for the struggle of the Namibian people. Following the partitioning of African countries among the European powers at the Berlin Conference of 1884, Namibia was given to Germany

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¹ Republic of Namibia (1990a:315).

and became known as *German South West Africa*. Following the outbreak of the First World War (WWI), Germany was defeated by the Allied Powers and subsequently lost her colonies which she obtained from the Berlin Conference. German South West Africa became *South West Africa* and was given to His Britannic Majesty to be administered as a “C” Mandate territory of the newly formed League of Nations. Britain entrusted the administration of the territory to South Africa, which violated the terms of the mandate by introducing discriminatory and oppressive laws in the territory.²

The League of Nations was founded to prevent future war and maintain world peace. This follows a presentation by the United States (US) President, Woodrow Wilson, to the Conference of Versailles in 1919 calling for disarmament and an end to secretive diplomacy. President Wilson advocated a community of nations based on the values of democracy and cooperation in order to preserve peace within the international community.³ Thus, the League of Nations, which he helped to found, anchored its aims and objectives in liberalism as a theory of international relations. This theory developed after WWI, advocating that human nature is not inherently war-inclined, but that –⁴

... people and the countries that represent them are capable of finding mutual interests and cooperating to achieve them, at least in part by working through international organizations and according to international law.

Almost 100 years after the formation of the League of Nations, its values and liberalist perspectives in general would be fundamental to the foreign policy of an independent Namibia, as will be discussed later in this Chapter.

The outbreak of the Second World War (WWII) in 1939 led to the collapse of the League of Nations. It was succeeded by a new organisation, the United Nations (UN), founded in 1945, to –⁵

... maintain international peace and security ... [and to] settle international disputes by peaceful means.

The UN assumed the responsibility of the League of Nations and, hence, the administration of South West Africa fell under the UN’s Trusteeship Council. South Africa informed the UN that she had been administering the territory of South West Africa on behalf of the League of Nations, which had collapsed, and that, therefore, South Africa would not recognise the UN’s authority over South West Africa.⁶ The South West Africa People’s

2 Geingob (2004:33–35); Mbuende (1986:69–72).

3 Rourke (2008:23).

4 (ibid.:22).

5 Charter of the United Nations, 1945, p 3. Available at <http://treaties.un.org/doc/Publication/CTC/uncharter.pdf>; last accessed 15 November 2013.

6 Geingob (2004:41).

Organisation (SWAPO) was formed in 1960,⁷ and from that date on, its leaders petitioned the UN on the question of South West Africa's – later, Namibia's – independence. In 1966, the UN General Assembly passed Resolution 2145, terminating South Africa's mandate over the territory.⁸ In 1973, the UN General Assembly passed Resolution 3111, stating *inter alia* that it –⁹

[r]ecognizes that the national liberation movement of Namibia, the South West Africa People's Organization, is the authentic representative of the Namibian people, and supports the efforts of the movement to strengthen national unity;

In 1976 by way of Resolution 31/152, the UN General Assembly reiterated the recognition of SWAPO as the authentic representative of the Namibian people, and granted SWAPO Observer status in the UN General Assembly.¹⁰

Thus, the struggle for Namibia's liberation has been a matter of international solidarity and support. Accordingly, the UN's aims and objectives cited earlier in this Chapter have had, and continue to have, an impact on the formulation of Namibia's foreign policy. The disjuncture between the UN objectives stated in the UN Charter and Namibia's foreign policy principles embodied in Article 96 of the Namibian Constitution are illustrated by the values of striving for international peace and security.¹¹

The UN's preoccupation with Namibia's independence resulted in the adoption of Resolution 385 of 1976 condemning South Africa's illegal occupation of Namibia. The next years witnessed UN-led talks and negotiations culminating in the implementation of the UN Security Council's Resolution 435 of 1978,¹² which provided a peaceful transition to Namibia's independence through free and fair elections supervised by the UN.¹³ Thus, when the Namibian Constitution was drafted, the foreign policy principles were largely influenced by the values and principles of the UN as embodied in its Charter.

7 Its precursor, the Ovamboland People's Congress (OPC), was formed in 1957, and renamed the Ovamboland People's Organisation (OPO) in 1959.

8 Text available at <http://www.un.org/Depts/dhl/resguide/gares1.htm>; last accessed 7 February 2011.

9 UN General Assembly Resolution 3111 (XXVIII) of 12 December 1973. Available at <http://www.un.org/documents/ga/res/28/ares28.htm>; last accessed 15 November 2013

10 UN General Assembly Resolution A/RES/31/152 of 20 December 1976. Available at <http://www.un.org/documents/ga/res/28/ares28.htm>; last accessed 15 November 2013.

11 UN Charter, 1945, p 3 (available at <http://treaties.un.org/doc/Publication/CTC/uncharter.pdf>; last accessed 15 November 2013); Republic of Namibia (1990b:52–53).

12 Available at http://www.un.org/Docs/sc/unsc_resolutions.html; last accessed 15 November 2013.

13 Available at http://www.un.org/Docs/sc/unsc_resolutions.html; last accessed 15 November 2013. See also Resolution 385 of 1976 (available at http://www.un.org/Docs/sc/unsc_resolutions.html; last accessed 7 February 2011).

In 1963, in the formative years of Namibia's liberation struggle, independent African states founded the Organisation of African Unity (OAU). Its principles are, among others,¹⁴ to promote –

- the peaceful settlement of disputes by negotiation, mediation, conciliation or arbitration, and
- the affirmation of a policy of non-alignment with regard to all blocs.

The OAU's aims included the eradication of colonialism in Africa and the fostering of economic cooperation.¹⁵ SWAPO had attended OAU Summits before Namibia's Independence; indeed, it was at an OAU Heads of State Summit that the resolution was taken in 1972 to recognise SWAPO as the sole and authentic representative of the Namibian people.¹⁶ This paved the way for the UN's similar recognition, as stated earlier. At Namibia's independence, the OAU's principles and purposes cited above would become evident in the foreign policy principles embodied in the Namibian Constitution, as will be discussed in the next sections.

In 1961, the Non-Aligned Movement (NAM) was founded in Belgrade, Yugoslavia. SWAPO was admitted as one of its members in 1978. NAM was formed to guard against the polarisation of the international political system, namely the Eastern Bloc led by the Union of Soviet Socialist Republics v the Western Bloc led by the US. In the history of world politics, this polarisation came to be known as the *Cold War*. Therefore, the preparatory meeting held in Egypt at the beginning of 1961, which preceded the formation of NAM, adopted the following shared values:¹⁷

- Commitment to the coexistence of states with different political or social systems
- Support for movements fighting for independence
- Non-membership of the multilateral military alliance concluded under the framework of conflicts between the Great Powers
- In the event of bilateral military agreements and regional defence pacts, such agreements should not be for the purposes of conflicts between the Great Powers, and
- No conceding of military bases to a foreign power for the purpose of advancing conflicts between the Great Powers.

Regional organisations such as the Southern African Development Coordination

14 OAU Charter, 1963, p 4. Available at http://www.africa-union.org/root/au/Documents/Treaties/text/OAU_Charter_1963.pdf; last accessed 7 February 2011.

15 (ibid.:3).

16 The available resolutions for the OAU Summit in 1972 show nothing on the recognition of SWAPO, but Resolution 433 of 1975 “reaffirms that SWAPO is the sole representative of the people of Namibia”. The word *reaffirms* points out that there was an earlier decision to that effect. Furthermore, former SWAPO Secretary for Foreign Affairs, Theo-Ben Gurirab, recounts that the 1972 Summit in Rabat, Morocco, resolved to recognise SWAPO (Mushelenga 2008:52).

17 Republic of South Africa (2001).

Conference (SADCC) – later the Southern African Development Community (SADC) – have also played a role in Namibia's independence, e.g. through the Frontline States. In 1977, five Western countries who were members of the UN Security Council initiated negotiations for Namibia's independence. When President Ronald Reagan assumed power in 1981, he resolved to discuss the Namibian question with states and not liberation movements such as SWAPO. As a result, SWAPO entrusted the Frontline States and Nigeria with the negotiations for Namibia's independence with the Western Contact Group.¹⁸ Furthermore, since SADCC's formation in 1980, SWAPO had been invited to its Heads of State Summits and other conferences as an Observer.¹⁹

Foreign policy principles

Overview of the principles

Namibia's foreign policy principles, as embodied in Article 96 of the Namibian Constitution, are that the country should strive to –

- adopt and maintain a policy of non-alignment
- promote international cooperation, peace and security
- create and maintain just and mutually beneficial relations among nations
- foster respect for international law and treaty obligations, and
- encourage the settlement of international disputes by peaceful means.

During the drafting of the Namibian Constitution, members of the Constituent Assembly debated the non-alignment principle at length. In fact, it was the only foreign policy principle that was a subject of discussion. The essence of the principle was that Namibia should stand above conflict and intense disagreement among states within the international political system. Such differences mostly come as a result of political competition and ideological differences and, in some instances, can escalate to a level of war.

Namibia's upholding of the principle of maintaining international peace is manifested in her contribution to peacekeeping operations and missions. This started with her contribution to the UN peacekeeping mission in Cambodia in 1993. The principle is aimed to ensure that peace prevails in the region – as argued by liberalism as a theory of international relations when it states that countries' foreign policy should be formulated to embody the values of cooperation.²⁰

Namibia's efforts to contribute to peace in the southern African region are commendable. Former President Sam Nujoma took it upon himself to campaign for a peaceful

18 Mushelenga (2008:52).

19 Republic of Namibia (1999a:3).

20 Rourke (2008:24).

and democratic South Africa and made this issue a trademark of his speeches at all international fora that he attended as well as during his bilateral engagements with foreign dignitaries.²¹ Namibia further campaigned for peace to come to Angola. In 1993, Namibia's Foreign Minister Theo-Ben Gurirab joined his Angolan and Zimbabwean counterparts and addressed the UN Security Council on the question of Angola, urging the UN to continue playing a meaningful role in respect of re-establishing peace in Angola. In 2001, Namibia's Deputy Head of Mission to the UN, Gerhard Theron, expressed concern over countries that assisted the União Nacional para a Independência Total de Angola (UNITA, National Union for the Total Independence of Angola) during the Security Council discussions on the sanctions against the rebel movement.²² The Namibian Government further extended an invitation to the UNITA leader, Jonas Savimbi, to visit Namibia for discussions aimed at promoting a peaceful settlement to the Angolan conflict.²³

The maintenance of mutual beneficial relations is required so that both Namibia and her friends and allies benefit gainfully from their respective relations. For example, if Namibia has a commodity which another country does not have, then the two countries could exchange resources and skills. Namibia does not want her resources to be exploited for nothing in return. Similarly, she does not want to be dependent on other states. Thus, during the luncheon hosted by the Spanish Prime Minister, Jose Maria Azar, in 1996, the then Namibian President, Sam Nujoma, stated that Namibia could not depend on aid over the long term. He further stressed the importance of using Namibian resources to generate the required number of jobs by processing more fish onshore as opposed to on board factory ships.²⁴

The foreign policy principle of fostering respect for international law and treaty obligations is boosted by Article 144 of the Namibian Constitution, which makes international law and agreements binding on Namibia and part of Namibian law. Namibia is the only country in SADC to have such a provision in its Constitution. As a country that has codified international laws, it is appropriate that Namibia should make the respect of such laws a policy principle engraved in the country's Supreme Law.

It is common for neighbouring countries, for example, to have disputes over territory or the use of resources found at their borders. Stansfield,²⁵ for example, writes that President Nasser of Egypt nationalised the Suez Canal, leading to conflicts with Israel, France and the US in 1956. If the four countries involved in the Suez Canal crisis had subscribed to the principle of settling disputes by peaceful means, the situation would

21 Mushelenga (2008:178).

22 UN (2001).

23 Ministry of Foreign Affairs (1994).

24 Republic of Namibia (1999b:141).

25 Stansfield (2008:288).

not have been exacerbated to the level of conflict that it has reached. The principle of peaceful settlement of international disputes therefore safeguards Namibia against war with other countries.

There are reasons why Namibia adopted the afore-mentioned foreign policy principles. The first principle, for example, should be understood in the context of both historical and contemporary trends in world politics that were unfolding at the time of SWAPO, which was the majority party in the Constituent Assembly, had been a member of the Non-aligned Movement (NAM).

The founding fathers and mothers of the Namibian Constitution wanted their country to stand above the global conflicts, because they need to interact with all states and institutions in the world. Thus, the principles in the Constitution are meant to ensure that Namibia does not provoke anyone in the international community, so that she does not endure any consequences of global conflicts. Thus, there were even proposals to add to the principle the words “permanent neutrality and peaceful co-existence”.²⁶

Furthermore, the non-alignment principle is also a principle espoused by the OAU. The SWAPO Party of Namibia, as it became known at Independence, was the majority party in the Constituent Assembly, which drafted and adopted the Namibian Constitution. The Party had participated in OAU meetings and summits since the formation of the continental body, and was conversant with the latter’s principles – which it had also come to appreciate over the years. Also, the new Namibian state needed to win new friends in addition to its old ones. This is conceivably attainable when a state remains above ideological divisions within the international political system.

Namibia has a moral obligation to promote international peace and security, particularly since her own independence was brought about through international peace efforts. By adopting the policy of promoting international cooperation, peace and security, Namibia wanted to consolidate her own peace and ensure her security. She further wanted to cooperate with other states in ensuring that peace came to areas where there were conflicts, just as other states had strived for independence and peace to come to Namibia.

The principle of mutually beneficial relations was formulated to serve the pursuance of economic diplomacy. This was stated by the first Deputy Minister of Foreign Affairs, who told Parliament in 1993 that –²⁷

[s]ince its inception, the Ministry of Foreign Affairs has committed itself to practise economic diplomacy, and therefore the principle of preoccupation of our diplomacy is to increase mutually beneficial cooperation with the international community[,] especially in the fields of investment, trade, tourism and development co-operation.

26 Republic of Namibia (1990a:314).

27 Republic of Namibia (1992:33).

The period of foreign policy formulation coincided with a turning point in world history, namely the end of the Cold War, and this boosted the issue of economic diplomacy as the driver of the principle on mutually beneficial relations. Since —²⁸

Namibia's foreign policy was conceived in an environment where the bipolarity of the international political structure ceased to exist[,] ...

it became imperative for the country to reach out to both old and new friends in an effort to augment its economic development. Namibia's first Minister of Foreign Affairs, Theo-Ben Gurirab, stated that Namibia's foreign policy should target smart partnerships and business deals that yielded benefits to both Namibia and the outside world.²⁹

Also according to the Minister, Namibia's foreign policy was inspired by, *inter alia*, a North–South partnership.³⁰ Countries of the South such as Namibia realised that the North had skills and exploited the South's resources for its exclusive benefit. The South had subsequently insisted that the partnership be mutually beneficial. Thus, Namibia wanted its resources to be traded by way of joint ventures and technology transfer. This was aimed at boosting value addition and would change the country from being an exporter of raw materials to an exporter of added value, and would create employment at home and in other countries.

Namibia adopted a policy that advocates respect of international law and treaty obligations because she is a small state. Theories regarding small states suggest that such states have a high level of the international legal system.³¹ It should further be noted that the domestic principle of Namibia, embodied in the Constitution, advocates respect for the rule of law, since that is also the foundation of the Namibian state.³² Small states tend to benefit more from multilateralism. The then Minister of Education, Nahas Angula, told Parliament in 1990 that Namibia stands to benefit from membership of multilateral organisations such as the United Nations Education and Scientific Organisation (UNESCO), the Commonwealth Secretariat, and the Commonwealth of Learning. He cautioned that, if Namibia were to isolate itself, it would not profit from the benefits that could be yielded from the international community.³³ It follows logic that, when small states embrace international institutions, they should simultaneously embrace treaties and laws that govern such institutions.

The principle of settling international disputes by peaceful means is inspired by the Preamble to the Namibian Constitution, which declares the “unity and integrity of a

28 Mushelenga (2008:34).

29 Gurirab (1998:2).

30 (*ibid.*:4).

31 McCraw (1994:7–8).

32 Constitution of the Republic of Namibia, 1990.

33 Republic of Namibia (1990b:224).

nation in association with other nations of the world". There can be no unity with other nations if the Namibian nation is not inclined to resolving disputes with others through peaceful means. Secondly, the principle is also inspired by the OAU. Article III therein states that the organisation will be committed to the principle of peaceful settlement of disputes. This will be done through mediation, conciliation, arbitration and negotiation.³⁴ SWAPO's ties with the OAU before independence, as discussed earlier, led to the principles of the latter inspiring the movement's orientation and, ultimately, those of the Namibian Constitution, in whose drafting SWAPO played a major part.

Impacts of the principles on formulating foreign policy

The principle of non-alignment impacted on Namibia's formulation of her foreign policy in respect of South-South cooperation. South-South cooperation is one the major themes of Namibia's foreign policy.³⁵ The White Paper on Foreign Policy and Diplomacy Management,³⁶ too, places a special emphasis on the South-South cooperation issue. Accordingly, Namibia forges strong ties with the countries of Latin America and Asia, particularly Brazil, China, Cuba and India. This is significant because countries like India have been actively involved in NAM. Developing countries unite through NAM and support each other on the positions that they take in international organisations. Namibia benefits from this solidarity as well as from technology transfer.

The impact of the principle of promoting peace, cooperation and security is evident from Namibia's participation in a number of peacekeeping missions. Within two decades of her independence, Namibia's contingent has served in eight UN peacekeeping and/or observer missions in the following countries: Angola, Burundi, Cambodia, the Democratic Republic of the Congo (DRC), Eritrea, Ivory Coast, Liberia, and Sudan (two missions). Furthermore, Namibia served in one AU peacekeeping mission in Sudan (Darfur). This is arguably quite an achievement for a small and young state.³⁷

The principle of mutually beneficial relations has an impact on Namibia's negotiations in the Economic Partnership Agreements (EPAs) with the European Union (EU). Namibia does not want her products to be traded in the international market without any meaningful benefit to the country. She wants the origin of such products to be clearly marked so that buyers will know that they are buying Namibian products. She also wants her products to be processed at home, as the value addition will create jobs among unemployed Namibians. Furthermore, Namibia wants to trade with each of her partners independently, without pegging any customer to the trade packages of others.³⁸

34 OAU Charter, 1963, p 4. Available at http://www.africa-union.org/root/au/Documents/Treaties/text/OAU_Charter_1963.pdf; last accessed 7 February 2011.

35 Mushelenga (2008:86-87).

36 Ministry of Foreign Affairs (2004:72,78,81).

37 Mushelenga (2008:220).

38 Ministry of Trade and Industry (2009).

Evidence of how the principle of respecting international law and treaty obligations impacts the formulation of foreign policy in Namibia is apparent in the manner in which the country complies with such obligations. A case in point was when the UN Security Council passed Resolution 1929 of 2010 prohibiting other states from, among other things, enabling Iran to acquire commercial interests in uranium mining or from buying nuclear materials or technology. Iran has interests in the Namibian mine, Rössing Uranium Limited. Namibia reported to the UN that she had complied with the provisions of the Resolution, namely that Iran would not acquire further shares.³⁹ The transparent manner in which Namibia has dealt with and continues to deal with the UN in this case, such as seeking clarification on the Resolution in order to comply rigorously with it, attests to the fact that the country upholds the foreign policy principles provided in her Constitution.

The principle of peaceful settlement of international disputes was realised during the disputes between Namibia and Botswana over Kasikili Island (called *Sedudu Island* in Botswana). Each of the two countries claimed ownership of the island and resolved to place the matter before the International Court of Justice (ICJ) for adjudication. The ICJ ruled in favour of Botswana, and Namibia abided by this decision. In a similar scenario, Nigeria and Cameroon had a dispute over ownership of the Bakasi Peninsula. In 1994, the Cameroonian Government filed a case at the ICJ in this regard.⁴⁰ In 2002, the ICJ ruled in favour of Cameroon. Nigeria did not easily accept the verdict and the UN had to convene Summits in 2002 and 2004 with the Presidents of Nigeria and Cameroon to underline the significance of the ICJ's decision. It was only in 2006 that Nigeria started withdrawing her troops from the Peninsula.⁴¹

Principals

Individuals

There is a universal consensus that the chief formulator of foreign policy in any given country is the head of state, and in the case of ceremonial heads of state, the chief formulator of such policy is the head of government. Hill⁴² states that, in many instances, the level of interest that a particular head of state and/or government has as regards

39 Republic of Namibia (2010).

40 *Application instituting proceedings, land and maritime boundary between Cameroon and Nigeria (Cameroon v Nigeria)* (available at <http://www.icj-cij.org/docket/files/94/7201.pdf>; last accessed 7 February 2011); *Case concerning land and maritime boundary between Cameroon and Nigeria (Cameroon v Nigeria: Equatorial Guinea intervening)* (available at <http://www.icj-cij.org/docket/files/94/7453.pdf>; last accessed 7 February 2011).

41 ICJ (1994,2002); Mushelenga (2008:116,164).

42 Hill (2003:53).

foreign policy issues determines his/her role in formulating foreign policy. Barston⁴³ states that, when a head of state is stronger on foreign policy, his/her influence can easily be observed. Some heads of state become more involved by adopting what is called *personal diplomacy*, i.e. making use of personal emissaries in the conduct of diplomacy.

Namibia's first President, Sam Nujoma, was a key formulator of foreign policy as SWAPO's President prior to the country's independence. He represented the organisation at numerous international meetings of multilateral institutions such as NAM, SADC, the OAU and the UN. After Independence, President Nujoma continued to be the chief formulator of foreign policy. He and the then Minister of Foreign Affairs, Theo-Ben Gurirab enjoyed mutual respect of and confidence in each other. The Minister was naturally mindful of the fact that the Head of State simultaneously served as the chief of foreign relations. He, therefore, consulted the President and kept him abreast of important international issues. At the same time, the President had recognised his Minister's skills and abilities, and allowed him ample latitude in handling foreign affairs.⁴⁴ In the following statement, Minister Gurirab highlighted the prime importance of the President in making foreign policy:⁴⁵

[I]t is the head of state, the President of the Republic of Namibia, who is empowered to negotiate and sign international agreements and to delegate such power, and in this instance, to the Foreign Minister. The President ... is also the one who welcomes foreign envoys and receives their letters of credence.

The roles of the President and Foreign Minister in formulating foreign policy are illustrated in the White Paper on Foreign Policy and Diplomacy Management. The White Paper states that President Nujoma set Namibia's foreign policy objectives in 1990, namely the preservation of the national security interest and the promotion of social and economic progress. The Foreign Minister, Theo-Ben Gurirab, echoed these sentiments, affirming the linkage between foreign policy and domestic policy and, thus, the realisation of the aspirations of national priorities, which are, among others, national and security interests.⁴⁶

Discussing the agency/structure debate, Carlsnaes states that there are structures that impact decisively on the actors in the foreign policy decision-making process.⁴⁷ In the case of President Nujoma, however, he was an agent who influenced institutions, rather than the other way around. He is a persistent maker of foreign policy who is decisive in his actions, providing leadership during predicaments. For example, it was his decision to deploy the Namibian Defence Force (NDF) to the DRC. He was subsequently criticised

43 Barston (2006:9,17).

44 Mushelenga (2008:174).

45 Republic of Namibia (1990b:202).

46 Ministry of Foreign Affairs (2004:44–45).

47 Carlsnaes (2008:86).

by the opposition and media for taking a unilateral decision. President Nujoma defended his decision that emergency situations need decisive actions and he accordingly took one.⁴⁸ He did not shy away from responsibility, but firmly stated his case to guide the public and its structures.

President Nujoma also took the lead in shaping Namibia's foreign policy on pan-Africanism. In 1998, at a public meeting, he issued a directive that the OAU anthem would be sung together with the Namibian national anthem, and that the OAU flag would be hoisted alongside Namibia's. These two practices have become an entrenched culture of pan-Africanism in the country ever since, and President Nujoma also adopted this doctrine in his foreign policy.⁴⁹

President Nujoma's successor, Hifikepunye Pohamba, has a different approach to formulating foreign policy. Arguably, President Pohamba's foreign policy trademark is reservation and hesitation.⁵⁰ In the agency/structure debate, President Pohamba would be an actor whose actions are guided by the relevant structures. For example, he would consult the Ministry of Foreign Affairs for advice on issues related to international relations, and usually prefers Cabinet consensus before government takes a position on a major foreign policy issue. Thus, President Pohamba matches the description of a *single group* policymaker when it comes to Namibia's foreign relations.⁵¹ *Single group* refers to a scenario where there is no single leader capable of exclusively taking a decision on a particular foreign issue. Leaders will be reluctant to take positions, unless all those who matter agree. This state of affairs sometimes presents a predicament for officers in the foreign service, especially in times when the government needs to pronounce itself expediently on a given issue.

The foreign policy principles enshrined in Article 96 of the Namibian Constitution and the White Paper on Foreign Policy and Diplomacy Management are major guidelines to the formulation of foreign policy. Thus, there should not be too much of a time lapse before the government pronounces itself on the events unfolding in the international political system. While the government took positions on issues with clarity and guidance in its formative years by way of the adopted foreign policy principles, in later years it has been criticised for waiting in the wings while other countries or regional and continental organisations take positions for it to follow.

Ministers of foreign affairs are generally second only to heads of state in the formulation of foreign policy. They are also the custodians of foreign policy: they, more than any other government leader, argue, articulate and defend the country's foreign policy both at home

48 Republic of Namibia (1999b:416).

49 Mushelenga (2008:176–177).

50 (ibid.:209).

51 Hermann et al. (1991:313–318).

and abroad. The Foreign Minister advises the head of state and the entire government on the position that a country should take on given regional and international issues. These Ministers coordinate with other ministries, often taking the lead in pursuing given policies that have an impact on international relations.⁵²

Foreign Minister Theo-Ben Gurirab was at the helm of Namibia's foreign relations, driving the country's foreign policy with a sterling stewardship. Minister Gurirab is a respected guru of international relations who spent more than two decades walking the corridors of the UN headquarters and articulating the Namibian cause in its boardrooms. He served as Associate Representative and Petitioner to the UN from 1964 to 1972, and as Chief Representative from 1972 to 1986, when he became SWAPO Secretary for Foreign Affairs. It was during Gurirab's tenure at the UN and as a result of his diplomatic efforts that the OAU recognised SWAPO in 1972 as the sole and authentic representative of the Namibian people. The UN took a similar position in 1976, after which Gurirab became Permanent Observer to the UN, as SWAPO had Observer status in the UN General Assembly.⁵³

Gurirab's successor as Foreign Minister, Hidipo Hamutenya, too, was in charge of the Foreign Ministry. He tabled the White Paper on Foreign Policy and Diplomacy Management in Parliament, underscoring the importance of economic diplomacy. The concept was first introduced by the first Deputy Minister of Foreign Affairs, Netumbo Nandi-Ndaitwah,⁵⁴ and articulated by Minister Gurirab when he addressed the Instituto Superior de Relações Internacionais (ISRI, Higher Institute for International Relations).⁵⁵

Namibia's third Minister of Foreign Affairs was Marco Hausiku. He took a reserved approach to foreign policy. Like President Pohamba, he did not publicly pronounce himself on some foreign relations issues, leading to criticism from different quarters about the dormancy of Namibian foreign policy. Hausiku defended this state of affairs, arguing that his personality was such that he operated quietly and did not like generating publicity about his government work.⁵⁶

Minister Hausiku's successor, Utoni Nujoma, endeavoured to stamp his authority on foreign policy formulation within the first year of his tenure. He undertook a number of bilateral visits to Asia, Europe, and countries in the SADC region. He also addressed

52 This information can be vouched for by the author, who has served both as an official and as Deputy Minister in the Ministry of Foreign Affairs. It should be noted that the incumbent Foreign Minister, Netumbo Nandi-Ndaitwah (2012 to date), is not included in the discussion since her appointment occurred after the content of the text had been finalised for the editing and publishing process.

53 Mushelenga (2008:52).

54 Republic of Namibia (1992:33).

55 Gurirab (1998).

56 Mushelenga (2008:205).

Parliament to state the government's position on topical issues such as the post-elections impasse in the Ivory Coast and the popular uprisings in the Middle East. Minister Nujoma recognises the authority of the President on foreign policy, and regularly consults him before making pronouncements on issues pertaining to foreign and international relations.

The President and Foreign Minister are assisted by the government bureaucracy in shaping and implementing Namibia's foreign policy. Officials that are mostly involved in foreign policy formulation at the Ministry of Foreign Affairs headquarters are those in the Departments of Bilateral and Multilateral Affairs headed by their respective Under-Secretaries. Having worked in the Ministry of Foreign Affairs both as a Foreign Relations Officer (also referred to as *Desk Officer*) and Deputy Minister, the researcher of this chapter recounts that Desk Officers receive information, analyse it and draft a write-up on it for the Minister and Deputy Minister's consumption. Write-ups are delivered through the Permanent Secretary, who is the accounting officer of the Ministry and is responsible for the deployment of its staff. Desk Officers channel their work to the Permanent Secretary through their supervisors in the following ascending order: Deputy Director, Director, Under-Secretary and Deputy Permanent Secretary.

In diplomatic missions abroad, the duties of gathering and analysing information rest with the First Secretaries. They channel their work to the Head of Mission, who is the Ambassador or High Commissioner through their supervisors, namely the Counsellor and Minister-Counsellor. The full structure is usually only found in Namibia's diplomatic mission to the UN in New York. In other missions, where there are no Counsellors or Minister-Counsellors, the First Secretary reports directly to the Head of Mission. This is because the positions of Minister-Counsellors are customary filled by Directors. Thus, when persons below that rank are posted to missions, they occupy the positions of Counsellor or First Secretary. The Head of Mission reports to the Windhoek headquarters through the Permanent Secretary. When there are urgent and sensitive matters, they sometimes call the Minister or Deputy Minister, or even the Head of State directly, following up with the written communication later.

The personality and style of foreign policy agents have an impact on the foreign policy formulation process in the country. Where there are consultations, there is some form of domestic consensus on foreign policy. Domestic disagreement on foreign policy arises when the key policymakers do not accommodate public participation. Such a trend of hesitations may create a vacuum that many other stakeholders would try to fill. For example, during the xenophobic attacks in South Africa and in the absence of the Namibian Government's comment the youth wing of the ruling party made comments leading to a diplomatic fracas with a South African diplomat in Windhoek.⁵⁷

The first Minister of Foreign Affairs, Theo-Ben Gurirab, states the country's position on foreign policy when there is delay from the Namibian Government in commenting.

57 Maletsky (2008).

For example, in the case of the mass protests in Libya, he stated that Namibia would maintain relations with Libya, irrespective of the Libyan Government's response to the protesters in the form of the use of force.

Institutions

There are other actors that are involved in the process of making foreign policy. Hill⁵⁸ states that foreign ministers face encroachment from other government ministers in their line of duty. The essence and relevance of such 'encroachment' is recognised by many policymakers. Immediately after Namibia's independence in 1990, Foreign Minister Gurirab addressed Parliament during the Budget Debate regarding the actors involved in the process of making foreign policy, saying that –⁵⁹

[t]he formulation, interpretation, analysis, co-ordination and implementation of the foreign policy of the Republic of Namibia is the responsibility of the Presidency and the Foreign Ministry, but I recognize also – according to the Constitution again – that Article 63 of the Constitution empowers the Parliament with watchdog and oversee [sic] functions.

Later, Foreign Minister Hamutenya shared the view that the formulation of foreign policy was a process that involved a number of stakeholders. In his foreword to the White Paper on Foreign Policy and Diplomacy Management, he states that the exchange of ideas in the form of questions and debates on important issues in the Legislature is crucial to the making of foreign policy: it underscores the importance of Parliament in that process.⁶⁰

More recently, in a contribution to the 2010 Budget Debate in Parliament as Deputy Minister of Foreign Affairs, the author made the following statement:⁶¹

Yours truly does not subscribe to the trend of going solo in foreign relations and diplomatic undertakings ... The world is moving away from the traditional diplomacy of Ministries of Foreign Affairs being the exclusive domains of foreign policy-making. Many entities within states, both state and non-state actors alike, have something to offer to bilateral interactions, with a view to achieving economic rewards and other profitable harvests. There should, therefore, be a synergy of cooperation among stakeholders

The three positions expressed above correspond to pluralism as a perspective of International Relations studies, which asserts that public interest groups bring about decision-making in foreign policy.⁶² However, with regard to the issue of choices, the process of formulating foreign policy in Namibia departs from the one that is advocated by liberalism, namely that states have choices. Whilst other actors have a role to play, the ultimate decision and advice at the end of the act rests with the Foreign Ministry.

58 Hill (2003:53).

59 Republic of Namibia (1990b:202).

60 Ministry of Foreign Affairs (2004:iii).

61 Mushelenga (2010).

62 Mingst (2008:127–128).

Webber and Smith⁶³ also opine that, although the political leadership of a ministry of foreign affairs and its attendant bureaucracy constitute the machinery of foreign policy, this machinery does not dominate the domain exclusively: it is merely continuously involved in the formulation of foreign policy, whereas other stakeholders are involved ad hoc. In Namibia, for example, the Ministry of Trade and Industry plays an important role in such policymaking, as it is the focal point for Namibia's relations with and membership of major multilateral institutions such as SADC and the EU. Furthermore, the latter Ministry also plays a role in bilateral relations, especially in the area of economic diplomacy. Thus, whenever the President undertakes official visits abroad, or when he hosts other heads of state on official visits, the Minister or Deputy Minister of Trade and Industry is always part of the delegation. This is because political and economic diplomacy need to be coordinated together. Indeed, it would be inconceivable for Namibia to engage in bilateral relations with other countries if it excluded trade issues.

Other ministries, too, are involved on devising foreign policy, but on a more need-based, ad hoc basis. The Ministry of Defence, for instance, needs to be consulted on peacekeeping and security issues, as the Ministry of Environment and Tourism would be on issues related to climate change or the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). A number of institutions comprise the Namibian Government delegations that attend meetings of various Joint Commissions of Cooperation between Namibia and other countries. The author of this Chapter has led such delegations from time to time as the Deputy Minister of Foreign Affairs.

Similarly, Parliament is a stakeholder in shaping foreign policy, especially through its Standing Committee on Foreign Affairs, Defence and Security, on which the author of this Chapter served from 2005 to 2010. However, the role of Parliament is somewhat limited to the inspection of diplomatic missions and ratifying treaties. To date, Parliament has not made any major impacts on the process of devising foreign policy. Parliament has also not influenced the Namibian Government in terms of taking a stance on a given foreign policy issue, or in following a given voting trend at international forums. In this regard, there is perhaps a lack of interest or, rather, understanding by Members of Parliament on foreign policy issues, as only a few participate in the debates on foreign relations motions or policy documents such as the White Paper on Foreign Policy and Diplomacy Management.⁶⁴ Motions that were introduced by the opposition in Parliament on foreign policy issues were never taken into consideration as they were voted down by the ruling party. This is usually the only time when the opposition parties air their views on foreign affairs. Comparative analysis reveals that, in some other countries, parliaments do not play an effective role in making foreign policy. For example, Parliaments in China, India

63 Webber & Smith (2002:39).

64 Mushelenga (2008:119).

and Singapore play a minimal role and do not stamp their authority on their countries' foreign policy formulation process. It is only in countries like Japan where Parliament has a major impact on this process, as the legislative scrutiny is intensive.⁶⁵

Other agents in terms of shaping foreign policy generally comprise opposition parties, the media and civic organisations. These agents have been vocal on some foreign policy issues, such as the deployment of NDF personnel in the DRC war that began in 1998, and Namibia's 'quiet diplomacy' towards Zimbabwe in the face of reports of human rights abuses in that country. These opposing views had no effect, however, because the Namibian Government kept its defence personnel stationed in the DRC. It maintained its position that the DRC had been invaded by aggressors, and that its government had sought help from its neighbours.⁶⁶ The author recalls that, in 2007, on one of many occasions that the opposition parties voiced their concern on Zimbabwe, the ruling party opposed the motion put forward by opposition Member of Parliament, Ben Ulenga, before it was even motivated, arguing that, by allowing him to motivate the motion, it would pollute the minds of the listeners. The complaints and criticism of the opposition parties on Namibia's foreign policy are rendered irrelevant by the fact that foreign policy issues do not count in local politics, and do not impact on elections.

Conclusion

Namibia's foreign policy is anchored on the Constitution, the Supreme Law of the land. The White Paper on Foreign Policy and Diplomacy Management is another major policy document serving the formulation of foreign policy. Other documents that are relevant to this policymaking process include statements by government leaders. Such statements, too, are often based on the foreign policy principles laid down in the Namibian Constitution. Furthermore, the provision in the Constitution of the principles of state policy as regards foreign relations has a bearing on their adherence. Namibia has, over the years, lived up to the expectations of such policies and their objectives.

The makers of foreign policy in Namibia comprise the political leadership and bureaucracy. Government leaders exert much influence on this policymaking process. The style and approach of various agents in Namibia differs. The first President, Sam Nujoma, decisively pursued particular policies, taking a leading role and providing guidance to institutions and other government leaders. This corresponds to one scholarly view in the agency/structure debate in International Relations studies, which argues that actors are "the prime cause of policy actions".⁶⁷ President Nujoma's successor, President Hifikepunye Pohamba, adopted a different approach. For him, institutions prominently drive the process of foreign policy formulation. This is compatible with the opposing

65 Rana (2007:200).

66 Republic of Namibia (1999:245).

67 Carlsnaes (2008:96).

view in the agency/structure debate, namely that structures are the main cause for policy actions.⁶⁸

The Ministry of Foreign Affairs is responsible for coordinating the formulation of foreign policy in the country, but this is not its exclusive domain. Other government institutions, the opposition, the media and civic organisations play their parts as well. The role of the Legislature in this process has not been fully explored, and there is a need for this branch of government to play a greater part. The opposition and other groups outside the government structure have no significant impact on Namibia's foreign policy formulation.

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68 (ibid.:96).

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SECTION II

NAMIBIA'S BILATERAL RELATIONS

Namibia and Angola: Analysis of a symbiotic relationship

*Hidipo Hamutenya**

Introduction

Namibia and Angola have much in common, but, at the same time, they differ greatly. For example, both countries fought colonial oppression and are now independent; however, one went through civil war, while the other had no such experience. Other similarities include the fact that the former military groups (Angola's *Movimento Popular para la Liberação de Angola*, or MPLA, and Namibia's *South West Africa People's Organisation*, or SWAPO) are now in power in both countries. At one time, the two political movements shared a common ideological platform and lent each other support during their respective liberation struggles. The two countries are also neighbours, with a 1,376-km common border that extends from the Atlantic Ocean in the east to the Zambezi River in the west. Families and communities on both sides of the international boundary share resources, communicate, trade and engage in other types of exchange. All these facts point to a relationship between the two countries that goes back many decades, and continues strongly today. What defines this relationship and what are the crucial elements that keep it going?

Angola lies on the Atlantic coast of south-western Africa. It is richly endowed with natural resources and measures approximately 1,246,700 km² in land surface area. Populated with more than 14 million people, Angola was a former Portuguese colony. Portuguese explorers first came to Angola in 1483. Their conquest and exploitation became concrete when Paulo Dias de Novais erected a colonial settlement in Luanda in 1575. The Berlin West Africa Conference (1884–1885) apportioned Angola to Portugal, since the Portuguese had already established themselves there. The further entrenchment of Portuguese rule ultimately led to the destruction of traditional kingdoms. This was partly accomplished by the practice of divide and rule used various European powers in their conquest of Africa. As a consequence of the Berlin West Africa Conference, artificial borders were drawn up by colonial powers resulting in the fragmentation of most African societies – Angola being no exception.

The indigenous groups launched a brave resistance against the Portuguese from the 1500s to the 1900s, when the Portuguese finally gained full military control of the whole of Angola, thus effectively imposing and enforcing their colonial policy.¹

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1 Birmingham (1966); Heywood (1987); Malaquias (2007); Pitcher (2012).

Angola finally gained its independence in 1975, after 500 years of colonialism and 14 years of armed struggle between the Portuguese and three Angolan nationalist movements, namely the MPLA mentioned earlier, as well as the Frente Nacional para a Libertação de Angola (FNLA, or National Front for the Liberation of Angola) and the União Nacional para a Independência Total de Angola (UNITA, or National Union for the Total Independence of Angola). However, the three national movements could not reconcile their aspirations for national power, and plunged the country into war. Eventually, in the early 1990s, due to the end of the Cold War and the changing geopolitical landscape, the MPLA and UNITA signed a peace agreement that paved the way for the 1992 elections. Although the international observers pronounced the elections as generally free and fair, UNITA did not accept the results and launched a final but more destructive phase of the civil war. Only after their leader Jonas Savimbi died in combat in February 2002 did UNITA return to the peace process laid out in 1994 under the Lusaka Protocol. The war came to an official end in November 2002, after the Lusaka Protocol was fully implemented and UNITA was demilitarised. During the 27 years of civil strife, however, over a million people had been killed, and had generated extremely bad social and economic conditions.²

As regards Angola's relationship with Namibia, it has always been one of peace. Nonetheless, it needs to be noted that peacemaking is necessitated by conflict. Although economic ties have existed between Angola and Namibia, it does not mean a lack of communication about inherent corruption, illegal deals and other inconvenient events. Political and military cooperation between the two countries has always been there, but it existed alongside diplomatic misunderstandings and disagreements – especially during the Angolan civil war. This leads us to understand the position that prevails in the world today: that *conflict* has become a frequent word in most reports on contemporary challenges facing the African continent. Indeed, this is certainly the case for the Southern African Development Community (SADC) Region. Put differently, the SADC Region is no stranger to symbiotic relationships. The Region has witnessed conflicts of the worst kind, which have left negative footprints in the family and public life of its inhabitants. It is for the same reason that, when SADC was established in 1992 as a successor to the Southern African Development Coordinating Conference (SADCC), the promotion of peace was one of the key considerations in formulating its mandate.³

This paper constitutes a first attempt to construct the relationship between Namibia and Angola. It also acknowledges from the outset that many important issues that maintain this relationship happen outside the public realm. However, this will not frustrate our effort to do justice to the relationship. The paper argues that the bonds between Namibia and Angola are not being exploited effectively, i.e. in a way that can fully benefit the two parties in the longer term. The discussion further contends that the lack of initiative in

2 See Von Krosigk & Bösl (2006:29f).

3 Nathan (2006).

respect of taking the relationship to a new level frustrates its progress. As a result, cracks in some elements of the relationship, such as commerce and trade, are slowly becoming visible.

The paper's main focus is on bilateral and party-political cooperation. Firstly, the paper looks specifically at the pre-Independence relationship between SWAPO and Angolan political parties. Secondly, it considers the international environment, with particular emphasis on the situation in Angola and the efforts of the United Nations (UN). Thirdly, the paper elaborates on the post-Independence relationship with particular focus on trade matters. Fourthly, the challenges facing trade between Namibia and Angola are considered, after which alternative cooperation frameworks between the two countries are examined in a fifth section. A sixth section looks at Angolan refugees in Namibia who were recently repatriated, while a seventh and concluding section offers some recommendations on the way forward.

Historical ties

General

The political relationship between Namibia and Angola became very intense during the Angolan conflict. Namibia's peacemaking efforts in Angola underlined its belief that peacemaking was fundamental to maintaining security in the SADC Region. Indeed, for any regional community, peacemaking is a necessity, a common good, and an ingredient for maintaining, sustaining and guaranteeing security in such a community.⁴ Peacemaking is also a reactive measure that seeks to create an enabling environment for conflict settlement and post-conflict reconstruction.⁵ Studies on contemporary peacemaking call for a need to rethink and generate a proper understanding of the phenomenon and of peace processes because peacemaking is a means to an end and not an end in itself.⁶ Indeed, peacemaking needs to be studied and researched if rethinking and addressing current challenges is the focus.

Namibia itself suffered more than 100 years of brutal colonialism and apartheid. Thus, it is a post-conflict reconstruction society that is of interest to those concerned with issues of peace, conflict and post-conflict reconstruction. Founding President Sam Nujoma put it as follows:⁷

4 Nathan (2004).

5 Du Pisani (2010).

6 One example in Africa are the ongoing conflicts in the Great Lakes region, especially as regards the Democratic Republic of the Congo.

7 Nujoma (2009).

At the same time hundreds of Angolans were maimed by bombs and landmines, numerous others were displaced because of the war, but the Angolan people and the MPLA government were not cowed down by this brutality and stood firm in solidarity with Namibian political and military figures who fought for independence until final victory was achieved on 21st March 1990.

The above describes the extent of sacrifice by the Angolan people for their Namibian neighbours and Namibians' appreciation of the ultimate price that many Angolans paid in order for Namibia to gain its independence. This underlines the deep-rooted trust between the two nations.

The above statement also symbolises the spirit of African brotherhood that developed and prevailed strongly during most of the liberation years.⁸ This brotherhood and quest for independence was accelerated by Ghana's independence in 1957, as it broke the backbone of colonialism and galvanised Africa and others to realise that independence was near. Among these was Albert Einstein:⁹

Today we must abandon competition and secure cooperation. This must be the central fact in all our considerations of international affairs; otherwise we face certain disaster. Past thinking and methods did not prevent world wars. Future thinking must prevent wars ... The stakes are immense, the task colossal, the time is short. But we may hope – we must hope – that man's own creation, man's own genius, will not destroy him.

For Angola, the spirit of African brotherhood was realised when, after her independence in 1975, she offered to host the South West Africa People's Organisation (SWAPO),¹⁰ and allowed the movement – through its military wing, the People's Liberation Army of Namibia (PLAN) – to use Angola as a base from which to launch its guerrilla war against the apartheid¹¹ South African regime. This was in addition to the provision of political

8 Prominent African personalities concurred. These included Osagyefo Kwame Nkrumah, who made the following statement at the first conference of independent African states on 15 April 1958: "Today we are one. If the past the Sahara divided us, today it unites us and an injury to one is an injury to all" (see <http://libyadiary.files.wordpress.com/2011/09/46691356-axioms-kwame-nkrumah.pdf>, last accessed 14 November 2013). Similarly, Patrice Lumumba (1961:19–21), the late Prime Minister of the Congo (today's Democratic Republic of the Congo), said the following at the opening of the All-African conference in Leopoldville: "An independent and united Africa will make a positive contribution to world peace".

9 Albert Einstein (1879–1955), see http://www.refspace.com/quotes/The_New_York_Times, last accessed 16 February 2012.

10 SWAPO was a mass political movement that came into being on 19 April 1960. It took over from its forerunner, the Ovamboland People's Organisation (OPO) formed in 1958 by Andimba Toivo ya Toivo.

11 *Apartheid* is an Afrikaans word meaning "separateness" or "separation". A racist ideology underlay the apartheid policy introduced by the National Party-led government in South Africa in 1948. In 1966, via UN General Assembly Resolution 2202 A (XXI) of 16 December 1966, *apartheid* was defined as a crime against humanity. In 1984, the UN Security Council endorsed

and material support to SWAPO as assistance towards the attainment of Namibia's independence, which was finally achieved in 1990.

Furthermore, Angola and Namibia have deep-rooted cultural,¹² political,¹³ economic, social and historical ties dating back many years. Angola is geographically strategic to Namibia, and vice versa. The political parties in power in both countries are seen as long-time allies who, at one point, shared an ideological platform and approach to their respective liberation struggles. With Namibia finally gaining its independence in 1990, the two states established diplomatic representations and improved mutual relations. Emerging from decades of war, Angola is now the biggest market for any trade in southern Africa because of its reconstruction programmes, and offers Namibia many opportunities for export. Today, Angola makes up 10% of Namibia's total exports, although this figure is growing as more opportunities open up and the two governments improve areas of bilateral cooperation.¹⁴ Current agreements between Angola and Namibia include the areas of trade,¹⁵ health¹⁶ and crime prevention.¹⁷ Angola also registers as the third-largest export destination for Namibia after South Africa and the United Kingdom (UK).¹⁸

Moreover, Angola and Namibia are both members of the same regional and international bodies, such as SADC and the World Trade Organization (WTO). This demonstrates a vision of working together towards achieving common objectives via regional and global platforms. Such objectives includes the development of a better regional infrastructure –

the aforementioned declaration via Resolution 556 (1984) of 23 October 1984. Apartheid ended in 1994 when South Africa gained its freedom from white control and domination.

12 Some families and communities living on either side of the border share certain cultural and traditional practices.

13 SWAPO's alliances and cooperation with the MPLA and UNITA, respectively, will be discussed later herein.

14 Post-Independence Namibia has seen an increase in economic activities with Angola. By 2010, Angola represented 10% of Namibia's total exports (<http://www.trademarksa.org/node/1052>, last accessed 7 August 2013). Angola remains the third biggest export destination for Namibia's products, totalling N\$3 billion in 2012, after South Africa with N\$7 billion and the UK with N\$5 billion (*Annual Trade Statistics Bulletin 2012*, pp 10–11; available at http://www.nsa.org.na/files/downloads/9ae_Annual%20Trade%20Statistics%20Bulletin%202012.pdf, last accessed 6 August 2013).

15 Bilateral Agreement on Trade and Economics (BATE, 2005) and Bilateral Agreement on the Reciprocal Promotion and Protection of Investments (BARPPI, 2006).

16 Both countries are part of the subregional initiative to eliminate malaria (known as *Elimination 8*), as well as being part of the Trans-Kunene Malaria Initiative (TKMI). The initiative is an alliance between Namibia and Angola to work on malaria control along their common border

17 See the Angola–Namibia Joint Commission on Defence and Security. The Commission discusses matters that concern safety and security, the free movement of people across the border – especially border residents, and the prevention of crime.

18 See http://www.nsa.org.na/files/downloads/9ae_Annual%20Trade%20Statistics%20Bulletin%202012.pdf, last accessed 6 August 2013.

which Angola desperately needs; regional economic integration; and, most importantly, regional peace and security – if regional stability and economic growth are to be achieved. Hence, the relationship between the two countries is a strategically important one, characterised by friendship and cooperation.

The pre-Independence relationship between SWAPO and Angola's political parties

After SWAPO was founded in 1960, it used its first years to consolidate support within Namibian society and to strategise on how to gain independence for the country. This strategy soon contained four parts:

- Political mobilisation at home
- The diplomatic front
- The education front, and
- The military front.

The military front was the one that gave rise to most of Namibia's connections to Angola.¹⁹

In the beginning, SWAPO sent its combatants to Algeria, Egypt and Ghana to be trained. To gain further expertise, some combatants went to what was then the Soviet Union and to the People's Republic of China. Upon their return, the combatants trained others in turn in Tanzania. In 1966, the first military base was established in Namibia's north-west. In 1968, another was opened in the Caprivi in the east. However, due to the geopolitical position of the country, it was not possible to sustain the liberation struggle in north-western Namibia because it was cut off from all supply routes and was located between hostile and unliberated neighbours.

After the military coup in Portugal on 15 April 1974, which led to a Portuguese withdrawal from their colony, Angola, there was a fundamental shift in the realm of possibilities. Now Namibians could leave the country in significant numbers through Angola to join the movement there and in Zambia. Thus, it became possible not only to augment SWAPO's military operations, arms supplies and, most importantly, PLAN itself, but it also offered SWAPO members the opportunity of furthering their academic, military and professional training in China, Cuba, the Soviet Union, the UK, and the United States of America (USA).²⁰ Another consequence was that the Namibian liberation struggle and the civil war that broke out in Angola became closely interwoven and, in some senses, tangled.

19 SWAPO Party of Namibia ([n.d.]b).

20 (ibid.).

However, even before Angola's independence, SWAPO had established contact with UNITA, the main political movement fighting the Portuguese. Their relationship was described as fraternal, despite SWAPO having pro-Soviet tendencies. The bond was allegedly a natural one: rather than being based on political, social and economic aspects of a fundamental ideology, it rested on common regional and ethnic affinity, culture, and history. For example, some SWAPO members had also been part of the Union of the Peoples of Angola, which was the first political organisation established in that country, and vice versa, as their members were also part of SWAPO.

UNITA's former Secretary-General, Miguel N'Zau Puna, in 1996 described the bond between themselves and SWAPO as a tactical alliance between the two parties prior to 1976. Indeed, it was through SWAPO's assistance that Jonas Savimbi – UNITA's subsequent supreme leader – returned to Angola from Cairo, Egypt, in July 1968.²¹ In the late 1960s and 1970s, exiled Namibians in refugee camps were also heard singing songs about UNITA and Jonas Savimbi in a show of support. From time to time, SWAPO also helped UNITA receive weapons because, unlike SWAPO, Savimbi's movement was not recognised by the Organisation of African Unity (OAU) at the time. SWAPO veteran Helao Shityuwete remembered SWAPO's very close relationship with UNITA, recalling that, prior to the Namibians' armed struggle, UNITA members were accommodated by SWAPO in Tanzania, wore SWAPO military uniforms there, and underwent military training with them.²²

Retired Namibian Police Commissioner for Northern Namibia, Nghiyalasha Hauliyondjaba, declared in an interview that he was SWAPO's adviser to PLAN Commanders Matias Ndakolo and Fellep Nandenga, who operated from UNITA's headquarters in Moxico Province from 1973. At the time, SWAPO sent Hauliyondjaba with a small group of supporters to establish a new front in northern Namibia, through Angola. Cooperation between UNITA and SWAPO began because of their close proximity and, in 1974, Hauliyondjaba became SWAPO's representative in respect of communications with UNITA. During this time, PLAN members fought together with UNITA against the Portuguese, but not against the MPLA, because SWAPO's soldiers had been instructed not to interfere in the relations among the three Angolan rebel movements. However, SWAPO weapons were often stored at UNITA bases, so it is possible that UNITA troops made use of them²³ against the MPLA.²⁴

Upon Angola's independence in 1975, the situation changed radically. The Cold War era still reigned, and its participants lost no time in backing the different Angolan parties to

21 On his return to Angola, Savimbi was armed with a "Soviet-made Tokarev pistol given to [him] in Dar es Salaam by Sam Nujoma" (Brikland 1986:35). On Swedish contacts with UNITA and on Savimbi's return, see Sellström (2002:248).

22 Lush (2011a).

23 (ibid.).

24 Mietzner (2011).

pursue their own quests for power. Thus, UNITA began to be supported by SWAPO's adversary, South Africa's apartheid regime. By 1976, people like Hauluyondjaba, who were located at UNITA bases, gradually became aware of the life-threatening presence of UNITA's new ally. Still under the protection of Jonas Savimbi, the SWAPO group played one side against the other²⁵ and managed to escape to SWAPO bases in Angola's Cunene Province during 1976, after still having served as SWAPO representatives to UNITA despite their own increasing contacts with the MPLA. However, after UNITA attacked a SWAPO Land Rover near Ondjiva, the battle lines were drawn between these two movements as well.²⁶

It is also alleged that it was not only UNITA's alliance to South Africa that led to the breakdown of relationships, but also that, during the chaotic phase of transition in Angola before the MPLA's coming to power in November 1975, —²⁷

SWAPO hedged its bets at first. Its ultimate change of allegiance to the MPLA was not just a result of UNITA's siding with South Africa, but also the MPLA's rapid ascendancy once it received military backing from the Soviet Union and Cuba.

So the feeling of betrayal after 1976 was mutual, as SWAPO then sided with UNITA's foes, namely the MPLA, the Soviet Union and Cuba, and, thus, became UNITA's fourth enemy.²⁸

Even before SWAPO's shift in allegiance to the MPLA, however, the situation within Namibia's liberation party had itself become more complex. The young Namibians who had been going into exile since 1974 had a more socialist – even communist – attitude, since they had received military training in the Soviet Union; this was another reason why SWAPO began to favour the MPLA above UNITA.²⁹

In 1976, there were also mostly young PLAN fighters who demanded more democracy and accountability from the movement's leadership, and opposed its cooperation with UNITA. Their protests caused them to be detained or even killed. Ironically, this was the fate of those who had been first to call for an alliance with MPLA – a move which was in fact made soon afterwards. Today, even those who were young and, often, radicalised during the political unrest in Namibia claim that the current SWAPO leadership should occupy itself with and clarify these past events.

25 In other words, they were manipulated by their enemies and they started to compete against each other although they were 'friends'. This benefited their enemies, such as the South Africans and the MPLA.

26 Lush (2011b).

27 (ibid.).

28 (ibid.).

29 (ibid.).

In 1976, the OAU recognised Angola's new MPLA-led government. Zambia closed all UNITA bases on their soil, while SWAPO moved its headquarters from Lusaka to Luanda. There, SWAPO adopted the Marxist line of its new allies.³⁰

During the SWAPO–MPLA alliance, SWAPO was provided with material support and shelter as the Angolan Government had offered its protection. SWAPO's headquarters were in Luanda, but it also had some camps in southern Angola. PLAN maintained command centres in Luanda and Lubango, as well as training camps in the Benguela, Cuanza Sul and Uilah Provinces. During this time, the MPLA's military wing did not conduct pre-emptive attacks south of the Angolan border. South Africa, on the other hand, in order to ensure UNITA's success, combat SWAPO and prevent the influence of the Soviet Union and Cuba from driving further south, repeatedly invaded and intervened in Angola, e.g. by attacking SWAPO camps there.

SWAPO recruits were also provided with military training at Angolan and Cuban facilities, and were engaged in battle with UNITA and South Africa from bases in Angola and Namibia. In the late 1980s many exiled Namibians, being refugees in Angola, backed the MPLA's military wing and, later, its official defence force, namely the *Forças Armadas Populares de Libertação de Angola* (FAPLA, People's Armed Forces for the Liberation of Angola).

Thus, some of the non-ideological reasons for the MPLA's support of SWAPO were allegedly to gain a friendly next-door neighbour – not only to prevent UNITA from using Namibian territory for their purposes,³¹ but also to remove the threat of the South African apartheid regime at its southern border with Namibia.

The international environment

The situation in Angola

As stated previously, although South Africa's border war against SWAPO raged from 1966 to 1989, it was not until Angola's independence in 1975 which followed the military coup in Portugal and the resultant withdrawal of the colonising powers from Angola that a change in South African policies took place. The emergent chaos of three independence movements struggling for power – especially the discovery of Cuban forces in Angola, posing the threat of a communist neighbouring state – persuaded South Africa to take action against the MPLA and SWAPO and in collaboration with UNITA, the FNLA and

30 (ibid.).

31 (ibid.:195).

their allies, with the support of the USA.³² But there is also an argument to the contrary – at least in respect of the USA’s involvement:³³

Cuba decided to send troops to Angola on November 4, 1975, in response to the South African invasion of that country, rather than vice versa as the Ford administration persistently claimed. ... The first Cuban military advisers did not arrive in Angola until late August 1975, and the Cubans did not participate in the fighting until late October, after South Africa had invaded.

Although it was claimed that the Cubans just began arriving in 1975 to fight against South Africa, as far back as 1966, Angola had received instructions to continue fighting the South Africans because of an old relationship between the then leader of the MPLA, Agostinho Neto, and the then President of Cuba, Fidel Castro.³⁴ From 1975 to 1976, therefore, Cuba sent 30,000 of its nationals to Angola as military support.³⁵ In addition, Cuba supplied Angola with civilian workers for construction, agriculture, and industry, as well as several thousand teachers and physicians.³⁶ The two anti-MPLA movements received material and military support from their Western allies. Thus, UNITA was able to build a self-reliance structure that was unparalleled in Africa. Furthermore, South Africa acted as a conduit to the outside world for trade in Angola’s natural resources, including diamonds, ivory and timber. By the mid-1980s, South Africa’s military intelligence was already supporting UNITA by way of an annual budget of R400 million (roughly US\$200 million).³⁷

After the military coup in Portugal in 1974, the MPLA and the FNLA had an estimated 10,000 guerrillas each, and UNITA had about 2,000. By November 1975, the MPLA and the FNLA had increased their military numbers to 27,000 and 22,000, respectively, while UNITA had some 8,000 to 10,000 soldiers by then. Furthermore, some 2,000–3,000 Cubans had arrived in immediate support of the MPLA, while 4,000–5,000 South African troops had intervened on behalf of UNITA. After that, the MPLA was heavily supported, especially by the Soviet Union, Cuba and other socialist countries. Between 1982 and 1986, they delivered military equipment worth US\$4.9 billion in today’s terms, which represented 90% of Angola’s arms imports. Cuba’s assistance constituted mostly technical and human resources, such as pilots and engineers, but they also provided combat support and training advisory services. In addition, albeit only to a limited extent, after 1976 the Cuban nationals participated in ground and air combat, although most were deployed in the motorised infantry, air defence and artillery units rather than being engaged in direct combat.

32 See <http://www.saairforce.co.za/the-airforce/history/saaf/the-border-war>, last accessed 3 November 2011.

33 Kornbluh (2011).

34 Steenkamp (1989).

35 Kornbluh (2011).

36 Smaldone (1989:199).

37 Potgieter (2000:260); in today’s terms, this figure could be around US\$265 million.

Furthermore, Cuban experts also provided SWAPO and South Africa's African National Congress (ANC) with operational and technical support within Angola.³⁸

By 1982 there were 35,000 Cubans in Angola, of which about 27,000 were combat troops and the remainder advisers, instructors, and technicians. In 1985 their strength increased to 40,000, in 1986 to 45,000, and in 1988 to nearly 50,000. All told, more than 300,000 Cuban soldiers had served in Angola since 1975. Angola paid for the services of the Cubans at an estimated rate of US\$300 million to US\$600 million annually.³⁹

By mid-1988, one fifth of Cuba's entire military were deployed in Angola.⁴⁰

UN involvement

Before SWAPO's call to arms in 1966, the international community had already begun to engage itself with southern Africa. In 1966, the UN General Assembly had terminated South Africa's mandate over the territory, and had established the United Nations Council for South West Africa in 1967 (renamed *UN Council for Namibia* a year later), but South Africa refused to accept the UN decision. In 1970, the UN Security Council declared all actions taken by South Africa concerning Namibia after the termination of its mandate illegal and invalid, and demanded that elections be held for the territory in 1976. In that same year, the UN General Assembly also decided that all discussions were to be held with SWAPO, which the UN officially recognised as the sole and authentic representative of the people of Namibia. In 1978, a proposal was issued to the Security Council according to which elections for a Constituent Assembly under the auspices of the UN should take place. A decision was taken in this regard, recorded as Resolution 435, which also established a UN Transition Assistance Group (UNTAG) to aid Namibia in its eventual emergence as a fledgling democracy. At first, South Africa accepted the proposed plan and took part in a pre-implementation meeting in Geneva in 1981. However, South Africa did not agree to a ceasefire – which was one of the fundamental conditions imposed by the UN for the implementation of Resolution 435. On the other hand, the conditions set by South Africa were not accepted by the UN, especially those making the withdrawal of Cuban troops from Angola a prerequisite for Namibia's independence.⁴¹

With the rising pressure on South Africa to resolve the 'Namibian issue', a withdrawal from Angola and a possible independence were negotiated, and an initial ceasefire was set for 31 March 1984. However, because SWAPO and UNITA were not represented at the negotiations and had not signed any ceasefire agreement or truce, accusations of ceasefire violations against SWAPO and UNITA by South Africa and Angola remained.

38 Smaldone (1989:210, 224ff).

39 (ibid:226).

40 (ibid.).

41 UN (2011).

South Africa accused Angola of not being able to control UNITA, and Angola accused South Africa of not being able to control SWAPO. After two South African soldiers were killed and one was captured on 22 May 1985, negotiations on a troop withdrawal and Namibia's independence in terms of Resolution 435 were suspended. Nonetheless, by 1987, all the outstanding issues concerning the UN peace plan had been resolved – except for the troop withdrawal.⁴²

In November 1987, after South Africa's enormous renewed deployment of militarily-oriented infrastructure and logistics in northern Namibia, constituting the most ambitious offensive since 1975, Cuba decided to reinforce its troops in Angola to counter South Africa's commitment. The subsequent defeat of South African troops at the battle of Cuito Cuanavale in March 1988 led to a crisis within South Africa. By May 1988, Pretoria was back at the negotiation table in London, trying to cover up the retreat of their defeated troops in Angola, and showing itself willing to grant Namibia its independence under the terms of Resolution 435.⁴³ South Africa had finally begun to show it was serious about resolution of an intractable conflict.

In December 1988, a tripartite agreement between Angola, Cuba and South Africa was achieved, conciliated by the USA. Furthermore, Cuba also signed an agreement with Angola on the withdrawal of all its troops, a process which was controlled by the UN Angola Verification Mission (UNAVEM). These events opened the gates to peace and to Namibia's transition to independence through free and fair elections in March 1990.⁴⁴

The post-Independence relationship: A look at economic trends and cooperation

By the time of Namibia's independence in 1990, Angola was still at war. The civil war between UNITA and now MPLA government forces continued throughout the 1990s. It was not until 2002 that a real opportunity for peace arose in Angola. In February that year, when Jonas Savimbi, the leader of the UNITA movement, was killed, the war ended after more than 27 years, marking the beginning of political stability, peace and a return to normalcy for Angola. Since 2002, the country has been peaceful. In 2008, Angola held its first elections. The MPLA won, with 82% of the votes, with the rest going to opposition parties. UNITA's share of power was reduced to only 16 parliamentary seats – from the 70 seats it had won in the 2008 elections.⁴⁵

42 Potgieter (2000:260).

43 Brittain (1988:119–122).

44 UN (2011).

45 In the latest legislative elections in Angola, which took place on 31 August 2012, the MPLA won 71.84% of the vote (175 seats), and UNITA 18.66% (32 seats). As with the previous two elections in Angola's troubled history, at this one, too, observers raised their concerns about alleged irregularities; see <http://www.chathamhouse.org/research/africa/current-projects/>

The delay of peace in Angola for almost 12 years after Namibia's independence in 1990 also delayed the formalisation of relations between the two countries at the diplomatic, economic and social level. Nonetheless, in September 1990, steps had been taken to establish a Joint Commission of Cooperation (JCC) with the aim of looking at areas of economic interest to both countries. The JCC laid down the foundation for and considered instruments which later translated into joint agreements on trade and economic issues. The JCC's wide focus also resulted in formal bilateral cooperation on areas such as tourism and energy.

However, due to a number of factors, it took long to conclude and sign bilateral agreements after the JCC's establishment. These factors included the following:

- Angola was emerging from a long and devastating war and, therefore, faced competing priorities and challenges
- Economic and other challenges in Angola after the return of peace in 2002 demanded urgent attention, leaving little time to consider less pressing bilateral economic agreements
- A lack of infrastructure such as telecommunications in Angola posed significant challenges and caused delays in communication, and
- The language barrier and other technicalities played a part in prolonging the conclusion of bilateral agreements.

Despite these shortcomings, in May 2003, Namibia and Angola concluded an Agreement on Reciprocal Protection and Promotion of Investments, which was ratified in 2005. The Agreement seeks to protect investments, and create favourable conditions for businesses in both countries.

In March 2004, the two countries signed an Agreement on Trade and Economic Cooperation, also ratified in 2005. The agreement was necessitated by Namibia's membership of the Southern African Customs Union (SACU), whose 2002 Agreement prohibits its members from entering into bilateral trade agreements with third parties if such agreements have implications on SACU's common external tariff.⁴⁶ The bilateral agreement is a most-favoured-nation (MFN) type of cooperation, but it does not automatically grant any preferential treatment to products traded between the two countries.⁴⁷ The MFN clause affects the following:

- Customs duties and other charges or taxes of any kind imposed on or in connection with the importation or exportation of goods or the international transfer of payments in connection with such importation or exportation
- The methods of levying such duties, charges or taxes

angolas-2012-election, last accessed 20 August 2013.

46 Article 31, Agreement on Trade and Economic Cooperation.

47 Such treatment is to be negotiated and agreed among the parties within the context of their cooperation framework.

- Legal provisions pertaining to customs clearance, transit and storage
- Internal taxes and other levies of any kind applicable to imported goods
- Legal provisions pertaining to the sale, purchase, transport, distribution or use of goods in the domestic market, and
- Matters relating to the issue of import or export licences.

In the above matters, any advantage, concession or exemption granted by a contracting party to any product originating in, or destined for, any third country has to be accorded to a similar product originating in, or destined for, the territory of the other contracting party. Furthermore, Article 10 of the Agreement provides for the establishment of a Joint Trade Committee, with the primary objective of dealing with matters of mutual interest with regard to trade and investment. The Committee was officially inaugurated in December 2006 by the two countries' commerce, trade and industry Ministers, who also launched its terms of reference. The Committee meets twice a year on a rotational basis between the two countries. Its terms of reference are currently under review, following a request by Angola in 2008.

Moreover, the Namibia Investment Centre and the Angolan National Agency for Investment established a Joint Cooperation Agreement in 2008 and are working on giving it more substance. This Agreement will enable the two respective national investment arms to identify as well as implement joint programmes and projects.

In 2009, Namibia and Angola also concluded an Economic Partnership Agreement. This agreement will promote and facilitate bilateral cross-border trade. Furthermore, Namibia and Angola are working on a Memorandum of Understanding (MOU) on the promotion of small- and medium-scale enterprise development.

The objective of all of the above agreements and bodies is to ease trade between the two neighbours, but technical hitches and other problems that hamper progress on them are taking painfully long to address.

Challenges to trade between Namibia and Angola

Angola continues to be a significant trade partner for Namibia. However, Namibian products entering the Angolan market are subjected to tariff peaks as well as non-tariff barriers.⁴⁸ These barriers include undue administrative procedures at border points,

48 This goes against the spirit of trade liberalisation efforts in the SADC Region and negatively affects intra-SADC trade. Article 6 of the SADC Protocol on Trade stipulates that members are to adopt measures to eliminate non-tariff barriers and to refrain from imposing new ones. The same Article stipulates the following: "Except as provided for in this Protocol, Member States shall, in relation to intra-SADC trade: Adopt policies and implement measures to eliminate all existing non-tariff barriers and refrain from imposing any new non-tariff barriers".

the introduction of new trade measures, import bans, and other bottlenecks.⁴⁹ Also, in 2012, Angola introduced an import control measure on various goods which negatively affected Namibia's cement exports, among others, to Angola. The ban on cement imports took effect in June 2011 and caught the Namibian Government and many Namibian businesses by surprise.⁵⁰ The Namibia Chamber of Commerce and Industry referred to the Angolan Government's decisions as –⁵¹

... a step backward in the Southern Africa Development Community (SADC) push for regional integration.

Of concern is that Angola unilaterally introduces these measures which affect Namibia's products.

Furthermore, for Namibian companies, Angola is a tough market. For example, Telecom Namibia established a joint venture with an Angolan company, but pulled out of the agreement in mid-2011 after having made significant losses, i.e. close to N\$2.3 million in total during the period 2009–2010. This is not a unique case: many Namibian businesses in Angola complain about the difficulty of doing business there for the following reasons:

- Corruption is rife – especially at border posts, where officials demand whatever they please to clear goods
- Bribes are the order of the day for any progress in business matters
- Illegal businesses proliferate
- Inadequate infrastructure, such as poorly maintained roads and poor telecommunications
- Payment for completed work is slow or it never comes, and
- If one is not conversant in Portuguese, one encounters problems.

The above all have a negative effect on trade between the two countries. Moreover, some of the agreements and MOUs have not yet been signed, and where an agreement formed a Joint Commission, such Commissions have not been established. Hence, there is no formal structure that governs economic and social matters between Namibia and Angola. Moreover, on a bilateral level, Angola remains a difficult trading partner as it takes unilateral decisions that affect Namibia negatively. However, despite all the

49 For example, port clearance takes several months, and importers are faced with additional delays which result from capacity constraints at the Port of Luanda. Furthermore, importation on certain goods requires an import licence. Also, certain goods require specific authorisation from various government ministries, which often leads to bureaucratic bottlenecks.

50 The Angolan Government has now begun issuing licences to local companies to import cement from Namibia; see http://www.namibian.com.na/index.php?id=28&tx_ttnews%5Btt_news%5D=92356&no_cache=1, last accessed 25 November 2012.

51 <http://www.cemnet.com/News/story/127599/namibia-cement-sector-wants-protection.html>, last accessed 25 November 2012.

shortcomings highlighted here, Angola remains a crucial market for Namibian products, with exports totalling N\$3 billion in 2012.⁵²

Other cooperation frameworks

The Benguela Current Commission

The Benguela Current Commission is a tripartite body representing Angola, Namibia and South Africa. It is a multi-sectoral inter-governmental initiative aimed at promoting the integrated management, sustainable development and protection of the Benguela Current Large Marine Ecosystem (BCLME). The BCLME spans the continental shelf between the Angola Benguela frontal zone and the (South African) Agulhas Retroflexion Area, typically between 36°S and 37°S.

An Interim Agreement was signed in 2006 by four ministers from the Namibian and South African Governments. Angola signed the accord in early 2007. This cooperative arrangement between the three states was meant to be a forward-looking initiative that strove to avoid conflict between the parties insofar as the management of the BCLME resources were concerned. For example, Article 3 of the Interim Agreement applies to the BCLME insofar as it falls within the internal waters, territorial seas or exclusive economic zones of the contracting parties. It also applies to all human activities, aircraft and vessels under the jurisdiction or control of a contracting party to the extent that such activities or the operation of such aircraft or vessels result or are likely to result in adverse impacts on the marine ecology of the BCLME.

The underlying foreign policy position is that there should be no conflict between the states with respect to the BCLME marine resources – and, in the specific context of this paper, between Angola and Namibia in particular. As Article 4 of the Interim Agreement stipulates, the contracting parties are compelled to cooperate in good faith in its implementation, including cooperating in building the capacity of the Management Board, the Secretariat, the Ecosystem Advisory Committee, and any other subsidiary bodies established in accordance with the Interim Agreement. Secondly, the parties are required to cooperate in implementing a Strategic Action Programme and in negotiating, agreeing, and bringing into force a more comprehensive legal instrument, in accordance with Article 10. In terms of the latter Article, the contracting parties are enjoined to use their best endeavours to bring into force by no later than 31 December 2012 a binding legal instrument that will establish a comprehensive framework to facilitate their implementation of an ecosystem approach to the conservation and development of the

52 As stated earlier, Angola is Namibia's third largest trading partner after South Africa (N\$7 billion in 2012) and the UK (N\$5 billion in 2012) (*Annual Trade Statistics Bulletin 2012*, pp 10–11; available at http://www.nsa.org.na/files/downloads/9ae_Annual%20Trade%20Statistics%20Bulletin%202012.pdf, last accessed 6 August 2013).

BCLME. Although the Interim Agreement is not yet in force, it is expected to augment the existing cooperative relations between Namibia and Angola.

Angola, Namibia and South Africa have also addressed transboundary issues by conducting a Transboundary Diagnostic Analysis⁵³ and implementing a Strategic Action Programme, both of which are aimed at promoting cooperation on the utilisation of natural resources and avoiding the so-called tragedy of the commons.

The Olubido Railway and the Trans-Cunene Corridor

In 1997, Namibia and Angola formally agreed to improve the transport system in the Trans-Cunene Corridor by building the Olubindo Railway. The new railway line between Tsumeb and Oshikango is an extension of the existing Namibian railway system, while the new line will allow Namibia to link up with the Angolan railway system near Cassinga/Chamutete in Angola. This inter-regional rail connectivity will promote trade among various countries within the SADC Region, but especially between Angola, Namibia and South Africa.

This railway line forms part of the Trans-Cunene Corridor, which is a transport route between Namibia and Angola aimed at promoting development, economic growth, poverty eradication and job creation possibilities in southern Angola and north-central Namibia. The Corridor links the Port of Walvis Bay with southern Angola up to Lubango – a distance of some 1,600 km. The road infrastructure of the Corridor is supported by the Northern Railway Line, which presently extends from the Port of Walvis Bay to the Nehale Station at Ondangwa. The construction of the line from Ondangwa to Oshikango was scheduled to be completed by 2008, but after some delays, the inauguration finally took place on 1 July 2012.

The Angolan Government has been rehabilitating the Lubango–Santa Clara leg of the Trans-Cunene Corridor road network in Angola with development assistance from the European Union (EU).⁵⁴ The border posts at Oshikango–Santa Clara serve as the principal conduit for road-based imports from Namibia and South Africa into Angola. Imports from outside the SADC Region come through Walvis Bay, then via the Trans-Cunene Corridor into Lubango, and then into southern Angola.⁵⁵

The Trans-Cunene Corridor has proved to be one of the busiest in the SADC Region, with volumes having increased by more than 76.7% during 2007/8 alone, because it

53 Bakun & Nelson (1991:1815–1834); Shannon (1985:105–182); Shelton & Hutchings (1990:323–338).

54 Tjønneland (2011:17).

55 (ibid.).

accommodates Angola's imports via the Port of Walvis Bay.⁵⁶ The growth in trade volumes has shown that interest in utilising the Corridor, especially in terms of transporting vehicles, can be ascribed to its being a more efficient alternative for importers as well as exporters through the Port of Walvis Bay.⁵⁷

Namibia and Angola still have to create a one-stop border post at Oshikango/Santa Clara. Planning is under way, but progress is slow. In 2007, for example, Japan funded a feasibility study for such a border post, but financial constraints have hampered its subsequent establishment.⁵⁸ SADC also identified this border post as a top priority, along with a railway line from Santa Clara, but not much has been done about it to date. It is probably reasonable to expect that domestic priorities in Angola – in particular the development of the Namib–Lubango Corridor – will take precedence and may, therefore, reduce the volume of goods coming through Walvis Bay. On the other hand, imports from Namibia and South Africa may increase, which would entail fewer trade restrictions and increased access to goods owing to more flexible transportation regulations. However, at the same time, local markets are threatened as they may not be as competitive as their South African counterparts.

Water cooperation

In the world in general, water arrangements, access to water, or the allocation of water to the citizenry have been a source of silent tensions within and among countries, a tool during conflicts that start for other reasons, and a target during wars.⁵⁹ In this respect, and as the following quotation shows, Namibia saw the imperative of concluding the above-mentioned cross-border water agreements because it wants to tap the Okavango River to meet the country's needs:⁶⁰

Demands on water and land in Namibia are increasing steadily as the population and the economy grow. Although only a few households can survive on subsistence agriculture alone, access to agricultural land remains central to livelihoods [sic] strategies particularly in the non-freehold or communal areas of Namibia. The importance of agriculture is not only likely to remain, but will increase to the extent that population growth continues to exceed the creation of employment opportunities.

56 WBCG (2012).

57 (ibid.).

58 The Namibian Cabinet approved the construction of a one-stop border post at Oshikango. See Cabinet Decision 26/26.10.10.005. At present, the Trans-Kalahari Mamuno border post with Botswana is being developed. Upon its completion, Angola and Namibia will move on to the construction of the next one-stop border post.

59 Gleick (1993:79).

60 Werner (2009:1).

Namibia's plan, which has already created some hydropolitics with Botswana, may be jeopardised by Angola's plans to develop massive irrigation projects in the watershed of the Okavango and Cunene Rivers.⁶¹ Angola has not developed the Okavango – or *Cubango*, as it is known in Angola – River and it is seen as a 'sleeping giant': if programmes to irrigate or build reservoirs are implemented, they will affect water flow downstream to Angola's two co-riparian neighbours, Botswana and Namibia.⁶²

The above situation shows potential conflict in the management of water resources in the Okavango and Kunene River Basins, which will, in turn, affect other cooperative arrangements between Angola, Botswana and Namibia. Being the most arid of the three countries connected to these two Basins, Namibia would be forced to ensure that a mechanism was instituted to minimise the potential of such conflict. Botswana, on the other hand, considering the negative impact on its ecology, would be encouraged to sign an agreement to bind the states concerned to consult each other whenever a water development project was proposed by one of the parties.⁶³ Angola would also be well advised to get to the negotiating table because not only may any water development downstream affect it negatively as an upstream riparian state, but it also foresees potential opposition to its long-term plans to develop the Cubango River within its territory. In other words, there is a need for hydrosolidarity among these nations, which will then create the need for water and environmental security.⁶⁴ This brief point will be clarified later herein.

The Okavango River Basin

A cooperation agreement between Angola, Botswana and Namibia also exists in regard to the utilisation of the Okavango River. In September 1994, the three parties signed an agreement to create a trilateral permanent water commission known as the Okavango River Basin Water Commission (OKACOM) in order to provide advice on the environmentally and socially sustainable development of Okavango River waters. OKACOM's role is to anticipate and reduce any unintended, unacceptable and, often, unnecessary impacts that occur due to uncoordinated resource development. To achieve these goals, OKACOM approach is to apply the principles of equitable allocation, sustainable utilisation, sound environmental management and the sharing of benefits.

The treaty, entitled *Agreement between the Governments of the Republic of Angola, the Republic of Botswana and the Republic of Namibia on the Establishment of a Permanent Okavango River Basin Water Commission (OKACOM Agreement)*, is very general. In its Preamble, it highlights the need for cooperation between and among its member

61 Mapaire [Forthcoming].

62 (ibid.).

63 (ibid.).

64 For an explanation of hydrosolidarity as water security, see, in general, Davidsen (2010).

states. It also calls into consideration the concept of the *equitable utilisation of shared watercourses* as a guiding principle in respect of the Okavango River Basin. Furthermore, it incorporates the principles applicable to shared watercourses as enshrined in the 1966 Helsinki Rules⁶⁵ as well as in Agenda 21⁶⁶ of the UN Conference on Environment and Development held in Rio de Janeiro (the so-called Earth Summit), June 1992. With this, it seems OKACOM may significantly enhance integrated regional sustainable development by facilitating the necessary coordination and mutually beneficial cooperation among Angola, Botswana and Namibia, which share the natural resources of the Okavango River Basin.

However, the OKACOM agreement evidently fails to recognise the institutional conflicts that exist among its members. Furthermore, the national institutions typically devote most of their attention to large-scale, centralised forms of supply management. Small-scale, decentralised or traditional options tend to be neglected or left to the communities.⁶⁷ Yet, as Hinz⁶⁸ asserts, these institutions and their customary laws have great implications for ecosystems.⁶⁹ This justifies an investigation on the extent to which the agreement recognises traditional water institutions in the Okavango River Basin, and what the implications are of that extent of recognition on the equitability of water allocation.

Since no research has been done to determine the successes or failures of OKACOM, it is difficult to ascertain its true value. In consideration of the available literature,⁷⁰ however, for such cooperation to be fruitful and to yield results, there is a need for adequate capacity and institutional strength. Traditionally, transboundary water equity remains dispersed and fragmented in most countries. As Brooks⁷¹ asserts, international agreements and, indeed, national institutions tend to be insensitive to indigenous practices, gender concerns, ethnic groups and the environmental impacts of institutional actions. Such organisations merely reflect the concerns of the governments that create them; hence, it is not surprising that the OKACOM agreement is oblivious to these social and environmental issues as well.

65 The Helsinki Rules on the Uses of the Waters of International Rivers offer an international guideline to regulate how rivers and their connected groundwaters that cross national boundaries may be used, The Rules were adopted by the International Law Association in Helsinki, Finland, in August 1966.

66 Agenda 21 is a non-binding, voluntarily implemented UN action plan with regard to sustainable development. It is a product of the UN Conference on Environment and Development held in Rio de Janeiro, Brazil, in 1992. It is an action agenda for the UN, other multilateral organisations and individual governments around the world that can be executed at local, national, and global levels. The “21” in Agenda 21 refers to the 21st Century. Agenda 21 has been affirmed and modified at subsequent UN conferences.

67 Brooks (2010).

68 Hinz (1995).

69 Hinz & Mapaire (2010:195–199).

70 (ibid.).

71 Brooks (2010).

OKACOM was not really able to make much progress in its first decade. Southern Angola, and the Okavango River Basin in particular, was fundamentally a war zone. In 2007, after the resumption of peace in Angola, OKACOM was able to establish a Secretariat in Maun, Botswana. However, this Secretariat is not fully functional because it is hampered by many constraints. These include personnel and finances, but also the underlying politics or diplomacy between the countries concerned. In the same vein, Angola seems not to be too involved – as evidenced by there being no major Angolan regional projects on the Okavango. Nonetheless, the World Bank is providing funding to a major Water Sector Institutional Development Project being implemented by the Angolan Ministry of Energy and Water. This is mainly focused on providing water and sanitation to major cities, but it also has major components on institutional strengthening and management, including management of the Okavango River.

The Kunene River Basin

A cooperative arrangement also exists between Angola and Namibia regarding the management of resources in the Kunene River Basin. The arrangement stems from historic agreements concluded by the administrative powers of the two former colonies before the two countries gained their independence. An agreement dating to 1969 initiated the construction of the proposed Kunene River Scheme. This agreement established a Permanent Joint Technical Commission and made provision for Namibia to abstract water at Calueque for diversion to the Cuvelai Basin in northern Namibia. The project included several water infrastructural developments, including the Gove and Calueque Dams. It also included the construction of a pump station for the diversion of water into Namibia, the Ruacana Weir for the diversion of water into the Ruacana Power Station, and the hydropower station itself. These projects were largely there to benefit Namibia, being the driest country south of the Sahara, whereas Angola is a country with a water surplus. However, of these infrastructure projects, the Calueque Dam was never completed due to the war in Angola at the time. The total development of the Kunene River includes the multi-purpose Hydropower and Irrigation Scheme at Matala, Angola. Today, Namibia diverts water from the Kunene River at Calueque across the catchment to the Cuvelai drainage basin for domestic water supply.

Contrary to the arrangement in the Okavango River Basin, the two riparian countries Angola and Namibia have not yet established any joint management structure for the Kunene River Basin, although, as mentioned previously, a Permanent Joint Technical Commission bringing together officials from both countries is in place. The Commission builds on three previous water usage agreements between South Africa and Portugal, entered into between 1926 and 1969. It seems that Namibia and Angola are happy with the arrangement and do not see the need for a new Commission based on a new agreement. Angola has been described as ‘the sleeping giant’ in the sense that water resources in that country are relatively unexploited. Future developments, however, could have serious

consequences to the availability of water for countries downstream in both the Okavango and the Kunene River Basins.⁷²

Angolan refugees in Namibia and their recent repatriation

The issue of refugees from Angola has remained a sensitive one to date. The majority are indeed Angolans who fled to Namibia as a result of the long years of war in that country. The next highest number is from the Great Lakes.

At the height of the Angolan crisis leading to the 2002 refugee crisis in Namibia, the UN High Commissioner for Refugees (UNHCR) and the Namibian Government were caring for approximately 25,000 refugees. Since then, there has been a significant decrease in these numbers through voluntary repatriation and ‘spontaneous settlement’ by Angolans, with the operation now at approximately 8,000 persons, including Angolans.

Refugees began coming to Namibia in the early 1990s. Most resided at Osire, a refugee camp whose establishment was necessitated as the number of asylum seekers grew. Osire is located in the Otjozondjupa Region and the nearest town, Otjiwarongo, is 120 km away. The population at the camp is now estimated at 8,550. Around 75% of these refugees come from Angola, while 19% constitute asylum seekers and refugees from the Democratic Republic of the Congo (DRC). The rest come from Burundi and Rwanda.⁷³ Most of the displaced persons from Angola left their homeland between 1992 and 2001. The year 1999 witnessed the highest number of new arrivals due to the intensified war in Angola. There were also a few individuals who arrived earlier than 1992. A survey done in 2007 showed that a total of 387 individuals (87%) said that none of their family members or relatives had returned to Angola.⁷⁴ Only 22 individuals (10 female, 12 male), representing 4% of the respondents in the survey,⁷⁵ indicated their willingness to return to Angola. Nine respondents indicated that they would return to Huambo; three said they would go back to Bie, while three would return to Cuando Cubango, two to Huila, and five to other Provinces. Five individuals (3 female, 2 male) indicated that they would return in 2009. Of the remaining respondents, an overwhelming 96% of them (421 in total, of which 231 were female and 190 male) indicated that they did not intend to return to Angola and planned to settle in Namibia either in or outside Osire – mainly in Rundu or Otjiwarongo.

The overall finding of the survey was that the majority of Angolans at Osire did not intend to return to Angola. Their unwillingness to return no longer appears to be linked

72 Pinheiro et al. (2003:105–118).

73 UNHCR Executive Committee, Conclusion on Local Integration, No. 104 (LVI) – 2005.

74 See Conteh et al. (2009).

75 (ibid.).

to the political divides that reigned before the resumption of peace in that country, but to Angola no longer being familiar to them: they said they felt they would no longer have a social support system in Angola due to their protracted stay in Namibia. As a result, most of them seemed to have established themselves at the camp with a – not necessarily family-related – social support system that gave them a sense of belonging. The main challenge, however, is that most of these refugees have not managed to establish a self-reliance mechanism, thereby making the majority of them dependent on humanitarian assistance. Thus, the dependency syndrome which characterises most refugees worldwide is also evident among Angolan refugees in Namibia.

Following the death of Jonas Savimbi in February 2002 and the establishment of peace and stability in Angola that followed, the number of new arrivals at Osire reportedly reduced significantly. In 2003–2004, a voluntary repatriation process was undertaken after the signing of the Tripartite Agreement between the UNHCR and the Namibian and Angolan Governments, in which 6,200 refugees and asylum seekers, inclusive of some non-Angolans, participated. Today, the Namibian Refugees Committee in the Namibian Government's Ministry of Home Affairs and Immigration (MHAI) is wholly responsible for refugee assistance domestically.⁷⁶ This Committee also has the mandate of granting refugee status, shelter, protection and other related services.

The Namibian Government has ratified the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol and made reservation to Article 26 of the Convention, which deals with the freedom of movement of refugees and asylum seekers within Namibia. Transgression of this provision can lead to the offender's arrest, detention and prosecution. As regards the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, although Namibia is not a signatory to it, its provisions have been incorporated into domestic legislation by way of the Refugee (Recognition and Control) Act, 1999 (No. 2 of 1999).

In early 2012, the UNHCR⁷⁷ recommended another process of voluntary repatriation for refugees.⁷⁸ The principal reason for this was that conditions in Angola had improved to such an extent that Angolans could no longer qualify as refugees. The Namibian Government then decreed that all Angolan refugees would lose their status as from 30

76 See Refugee (Recognition and Control) Act, 1999 (No. 2 of 1999).

77 Between November 2011 and 2 June 2012, the UNHCR had repatriated 14,000 Angolan refugees – including those from Namibia; see <http://www.unhcr.org/4fd1f16e9.html>, last accessed 12 January 2012.

78 According to Nkrumah Mushelenga, a Refugee Commissioner at the Ministry of Home Affairs in Namibia, 3,000 Angolan refugees returned to their homeland as part of the UNHCR voluntary repatriation programme from 30 June 2012, whereas 1,000 Angolan refugees opted for local integration. During January 2013, 30 more refugees returned home. The process for those who have opted for local integration is ongoing (pers. comm., 24 February 2013).

June 2012. The Angolan Government cooperated on the issue, and the UNHCR bore the mandate to carry out the repatriation. The UNHCR reported as follows in May 2012:⁷⁹

The convoy with 108 Angolan refugees on board departed from the Osire refugee settlement in Northern Namibia on Tuesday. Many of them had been living in Namibia for some 20 years. Some of the returnees had been born in Namibia and had never been to Angola before. They arrived in Angola yesterday, after travelling for three days.

The arrangement reportedly was that the UNHCR would provide repatriating refugees with a cash grant⁸⁰ before their departure from Namibia, while the World Food Programme allocated each individual with a three-month food ration. The Namibian Government also donated trucks to transport the repatriating refugees' belongings back to Angola. Once in their homeland, the returnees received identity documents and reintegration packages from the Angolan Government.

Regarding refugees in general, if the Commissioner in Namibia believes that there are reasonable grounds to believe that a person has ceased to be a refugee, such Commissioner is required to refer the matter to the Namibian Refugees Committee for consideration. 'Global cessations' are invoked for particular groups because reasons for granting them refugee status have ceased, especially with reference to certain nationals, such as those from Angola. Indeed, this is exactly what happened in the case of Angolan refugees – as described earlier herein.

Other existing and future multilateral cooperation

Angola, as a significant economic and political power in southern Africa, has committed itself to a number of regional and international engagements over the past few years. Since 1979, it has also been a member of the African Union and has had some steady economic growth: some have called it the "sleeping giant"⁸¹ because of its expected economic vitality. As an African country, it ranks amongst those with the highest amount of foreign direct investment (FDI); in 2009, for example, FDI in Angola totalled US\$13 billion.

Angola as a state has great significance in economic and military terms with respect to stability in the SADC Region – which also depends partly on stability in Namibia. In addition, Angola's commitment to the process of a united Africa has been demonstrated by the many treaties and charters it has already signed to this effect. However, although

79 See <http://www.news24.com/Africa/News/Angolan-refugees-return-to-unsure-future-20120626>, last accessed 14 November 2013.

80 The cash grant has since been increased to US\$350 (about N\$3,150, from a mere N\$100). This certainly served as an incentive. In addition, the Angolan Government gave the returnees a plot of land, 6-m sheets of corrugated iron and timber to build temporary houses for themselves.

81 Pinheiro et al. (2003:105–118).

Angola has ratified some international treaties on human rights, its ratification of other fundamental instruments for such rights is outstanding. Furthermore, it has signed the treaty establishing the African Economic Community and the African Union Convention on Preventing and Combating Corruption, for example, but has not ratified either.

In 1999, Angola became a full member of the Economic Community of Central African States (ECCAS), joining Burundi, Cameroon, the Central African Republic, Chad, the DRC, Equatorial Guinea, Gabon, the Republic of Congo, and São Tomé and Príncipe. Angola also signed the Mutual Assistance Pact between ECCAS Member States, proving its dedication to promoting regional economic cooperation in central Africa.

Furthermore, Angola is committed to regional integration. In 1980, together with Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe, Angola founded the Southern African Development Coordination Conference (SADCC), which, in 1992, became the Southern African Development Community (SADC). However, Angola still has to implement the 1996 SADC Trade Protocol to which it acceded in 2003. The Protocol calls for enhanced cooperation in cross-border trade, the elimination of all forms of non-tariff barriers, and forbids quantitative import restrictions. In August 2011, Namibia's President Hifikepunye Pohamba handed over the SADC Chair to Angola's President José Eduardo dos Santos for a year to discuss matters that included the implementation of SADC Protocols.

Conclusions

The relationship between Angola and Namibia has grown from the liberation struggle assistance and comradeship to bilateral cooperation, touching on several domains, which further include, water and energy, tourism, security and defence and transportation.⁸² These areas are important to both countries and show their willingness and political will to address matters of common interest. However, the relationship has a lot to improve on and leaves a lot to be desired, if the two countries are to build robust economic and social networks and systems that will lead to the achievement of Angola's Vision 2025 and Namibia's Vision 2030 and beyond.

This paper has covered how the relationship between Namibia and Angola has evolved. Specifically, the paper addressed the pre-Independence bonds between SWAPO and the Angolan political parties UNITA and the MPLA. The discussion also dealt with the international environment, with particular emphasis on the situation in Angola, but also on the UN's efforts and involvement in the military conflict that rocked Angola and affected Namibia's security. It interrogated the turns and twists in Angola to which

82 The Trans-Cunene Corridor, operated by the Walvis Bay Corridor Group, links the Port of Walvis Bay to southern Angola.

Namibia had to react; whether supporting the opposition or the ruling party and the see-saw of the SWAPO Party of Namibia has been shown and illuminated in the general understanding that Namibian politicians were at times somehow confused by the developments in Angola and their allies who also participated in the conflict.

This paper also elaborated on the Namibian post-Independence relationship with Angola and a special focus was put on matters related to trade between the two countries and references have also been made to other countries in the SADC region. In this regard, shortcomings negatively affecting trade between Namibia and Angola were covered but the general conclusion is that trade relations between the two countries have been steady and the relations on this aspect have been cordial and have seen the graph of trade volumes going up, especially after the civil war of Angola. The paper concluded with consideration of the other cooperative regimes, being the events in the Okavango and Cunene river Basins as well as the cooperation of the two countries in the war in DRC and the Angolan refugee situation in Namibia. The paper concludes that in general, the relationship has been very positive but largely symbiotic.

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Namibia and China: Profile and appraisal of a relationship

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Introduction

Any sound analysis of Namibia–China relations in both the pre- and post-Independence period needs to start with a brief historical exploration of how such relations evolved and transformed. It is also important to locate the analysis within the corset of older Sino-African relations that go back considerably longer, and that have proven to be remarkably resilient – at least since 1955, with the Bandung Conference and the birth of the Non-aligned Movement. Over the last decade in particular, it is impossible to discuss Namibia–China relations outside of an analysis of some salient aspect of globalisation, more particularly of new-mercantilist impulses that permeate globalisation.¹

Historically, the relationship between Africa and China is old, dating back several centuries.² In the 1960s and 1970s, the period of Africa’s First Development Decade,

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1 *New mercantilism* is characterised by government attempts to manipulate economic arrangements in order to maximise their own interests, whether or not this is at the expense of others. These interests may be related to domestic concerns (high employment and price stability, for example) or to foreign policy concerns (security and complex interdependence). Thus, the construct of *new mercantilism* is far broader than its 18th-century association with trade and the balance of payments surplus, and takes as a first priority the national economic and political objectives of the state over considerations of global economic competitiveness. Robert Gilpin (1992) argues that the new-mercantilist impulse supports the desire for a balance of payments surplus (based on a positive trade balance with other countries), the export of employment, inflation, or both, and the imposition of import and export controls to protect the home industry. Moreover, states will further the expansion of their world market share and stimulate advanced technology within the state. Gilpin (*ibid.*:293) opines as follows: “Each nation will pursue economic policies that reflect domestic economic needs and external political ambitions without much concern for the effects of these policies on other countries or on the international economic system as a whole”.

2 By the 1st century BC, Arab, Chinese, Indian and Indonesian mariners knew far more about tropical Africa than their counterparts in the West, from whom there is little further mention of the continent until the beginning of the Roman Empire. Merchants from China traded with the states along the east coast of Africa, particularly during the years of the Tang Dynasty (AD 618–907). In the 9th century, the scholar Tuan Ch’eng-Shih reported on the Masai of present-day Kenya and Tanzania. Chinese traders engaged with their African and Arab counterparts throughout the 11th and 12th centuries and, by 1500, Chinese and Indian merchants had extensive trade relations with the Bantu-speaking peoples along the east coast, namely

ideological considerations weighed heavily on Sino-African relations. Internationally, the bipolarity of the Cold War accorded an additional attraction to China, as that country offered an alternative development model for Africa to that of the West. By the late 1980s, the focus shifted more strongly to economic cooperation in areas of common concern – with China emerging as an active economic and development partner, as well as a political ally on major international issues such as trade, finance, development assistance, and the reform of the United Nations (UN).

Historically also, the relations between China and Africa had their ebb and flow. As will be argued shortly, the People's Republic of China (PRC)³ increasingly reasserted itself in Africa in the 1980s, and with the deepening of globalisation and the end of the Cold War in the 1990s, China became a formidable actor in the economic and political life of a select number of African countries, particularly those with sizeable energy and mineral economies. Thus, China perpetuated the history of commodity extraction from African countries with rich mineral endowments, even if Beijing provided other forms of economic and development assistance to such countries.

Today, given the global importance and size of its economy, China's relationship is powerfully anchored on commercial considerations – there are 1,600 Chinese companies doing business in Africa⁴ – with the objectives of sustaining rapid industrialisation and high economic growth rates in China and securing markets for that country's manufacturers.⁵ With its economic muscle, China is capable of backing its trade relations with Africa (and Namibia) with aid, development assistance, debt relief, scholarships for students and government officials, training for civil servants and the security sector (defence, public safety and security and intelligence personnel), construction, and technical support. At the time of writing, for example, China accounts for 8% of Africa's military hardware imports. In 2009, in terms of foreign direct investment (FDI), Chinese investments in Africa accounted for 3% of total FDI outflows.⁶

In the aftermath of considerable domestic dislocation resulting from the death in 1976 of Chairman Mao Zedong, Head of State of the PRC from 1949 to 1959 and Chairman of the Communist Party from 1935 to 1976, and the turmoil of his cultural revolution, the Chinese Government became decidedly more inward-looking; as a result, the Sino-African relationship lay dormant throughout much of the 1980s. By the late 1990s, PRC Premier Deng Xiaoping's gradualist market-driven socialism began to show results. The

Madagascar, Mozambique, Pemba, Reunion, Tanzania and Zanzibar. See Rotberg (1965:25–26); see also Freeman-Grenville (1960:34–35).

3 The full name – *People's Republic of China/PRC* (instead of just *China*) – will be used if there is a specific reference to the political administration after the proclamation of the PRC on 1 October 1949 by Mao Zedong.

4 Gu (2011).

5 Zhao (2007:35).

6 CCR (2007:12).

PRC has, since Xiaoping's carefully-controlled economic reforms, had an annualised economic growth rate of between 9% and 11%, as well as a 400% increase in real per capita income. Since then, the country has become the second largest economy in the world (after the United States of America/US), accounting for more than 12% of the world's gross domestic product, 8% of global manufacturing production, and 1.35 billion consumers. The PRC's state-capitalist economy has brought about transformations in trade and industry that have made it the largest energy consumer – even ahead of the US; and it needs, energy (oil), strategic minerals (cobalt, coltan, magnesium, platinum, iron ore, tin), food and agricultural inputs, and forestry resources to sustain its exceptionally high growth rate.⁷

Chinese trade and economic assistance to Africa accelerated markedly at the end of the Cold War and has grown exponentially over the 20-year period spanning 1990 to 2010. Sino-African trade increased from only US\$12 million in 1950 to US\$250 million in 1965. After several reforms and the PRC's 'Open Up' policy in the 1980s, Sino-African trade significantly increased. The trade volume exceeded US\$10 billion in 2000 for the first time. In 2006, it stood at US\$56 billion,⁸ and in 2008, it hit a record high of US\$106.8 billion.⁹ As a result, a number of resource-rich African economies such as Angola, Nigeria, Sudan, and Zambia have experienced balance of payment surpluses, notably due to their substantial oil and mineral resources.

Sino-African relations took a bold step forward with the founding of the Forum on China–Africa Cooperation (FOCAC) in 2000, with the first Ministerial Conference taking place that year in Beijing. FOCAC was China's largest-ever multilateral undertaking, with 44 African states, including Namibia, participating in it. Since then, FOCAC has been the locus of important policy developments, such as China's Special Preferential Tariff Treatment Programme (SPTTP), which removed import duties on 190 different items from 25 African countries when it was implemented in January 2005.¹⁰

In November 2006, FOCAC further consolidated Sino-African relations when China made additional far-reaching pledges to Africa with a development package that included the following:¹¹

7 Alden (2005); CCR (2007:12); Du Pisani (2008:8–9); Goldstein et al. (2006); Naidu (2010:25–38); Melber (2010:6).

8 Servant (2005).

9 See Brown & Chun (2009:4). Similar figures are provided by www.chinadaily.com.cn/china/2010-10/14/content_11412120.htm; last accessed 5 May 2011.

10 While not explicitly acknowledged by the Chinese at the time, the SPTTP was partly launched as an alternative to the US African Growth and Opportunity Act (AGOA) and other tariff reduction agreements between the African, Caribbean and Pacific (ACP) countries and the European Union (EU).

11 Hu (2006:6–10).

- US\$3 billion in preferential loans and US\$2 billion in preferential buyer's credits over the next three years (2007–2009)
- The doubling of China's 2006 aid assistance to Africa by 2009
- A China–Africa Development Fund of US\$5 billion to encourage Chinese companies to invest in Africa, increasing the preferential Zero-tariff Treatment Programme from 190 to more than 440 products
- The establishment of ten Chinese agricultural technology demonstration centres on the continent between 2006 and 2009, and
- An increase in the number of Chinese Government scholarships from 2,000 to 4,000 by 2009 enabling Africans to study in China.

Earlier, in 1996, the then Chinese President Jiang Zemin declared that the five cornerstones of China's Africa policy were "sincere friendship, unity and co-operation; common development, and looking to the future".¹² This articulation contained elements of new mercantilism, namely the promotion of mutual development and the primacy placed on political unity between Africa and China in international arenas.

This foundation was strengthened under the current Chinese President, Hu Jintao, in his "six pillars" of Sino-African relations:¹³

- Non-interference in the domestic affairs of African states
- African ownership in dealing with problems (African solutions for African problems)
- Mutual trust and cooperation
- The increase of economic assistance with limited political conditions
- Lobbying the international community to pay more attention to Africa, and
- The promotion of an international environment more conducive to Africa's development.

Not surprisingly, China's pre-eminent focus on commercial relations and economic development in Africa has been met with some concern by other states, notably the US and the European Union (EU). These sentiments were expressed more especially by France and the United Kingdom, both of whom have extensive and long-standing interests in Africa. Accordingly, the US and EU have had to recast their relations with the continent.

Namibia–China relations: Transcending old solidarities – building new relations

Historically, relations between Namibia and the PRC were spawned with the former liberation movement, the South West African People's Organisation (SWAPO) during

12 Holslag (2006:145).

13 (ibid.:146).

the protracted liberation struggle in the mid-1960s, which ran until the end of the 1980s. Notwithstanding the solidarity galvanised between the Communist Party of China (CPC) and SWAPO – a relationship that persists to the present day, it is instructive to note that SWAPO did not open a diplomatic mission in that country prior to Namibia's Independence.¹⁴ Throughout the liberation period, however, the PRC provided material assistance in the form of military hardware and political support. The then President of SWAPO, Sam Nujoma, also visited the PRC seven times in the 1970s and 1980s, with a further five official visits after he was sworn in as the first President of an independent Namibia.

A close reading of the evolving relations between China and Namibia shows that these largely mirror the pattern that has come to characterise that country's relations with other states in Africa and in the developing world in general. As in the case with many other African countries, the PRC entered into relations with Namibia a long time ago. As pointed out earlier, Namibia's liberation struggle afforded the opportunity for the PRC to cement complex relations with SWAPO. At the time, the PRC, taking its cue from the former Organisation of African Unity (OAU, the antecedent of the African Union/AU) and the UN General Assembly, recognised SWAPO as the "sole and authentic representative of the people of Namibia".¹⁵ This was done at the expense of the South West African National Union (SWANU), the country's oldest political party.¹⁶

Against the canvas of the Sino-Soviet split, the Afro-Asian Peoples' Solidarity Organisation itself split in the period 1964–1967. At its 1967, Nicosia conference, which the PRC boycotted, SWANU found itself expelled and SWAPO was admitted – largely with Soviet support.

In an article published in 1972, SWAPO leaders Hidipo Hamutenya and Hage Geingob claimed that it was SWAPO's decision to launch the armed struggle. The decision, they maintained, was taken in 1962 and put into effect in 1966, demonstrating the party's superior commitment to the liberation of Namibia, and distinguishing it from SWANU in the eyes of international supporters.¹⁷

Nonetheless, as Sherbourne (2007) puts it, –¹⁸

... there is no doubt that China consistently supported Namibia's claim for independence, and it was expressly thanked (along with many other countries and organisations) at SWAPO's watershed Tanga Conference in Tanzania in 1969 for the moral and material support it had given the movement.

14 See also the article by Chris Saunders on Namibian diplomacy before Independence in this volume.

15 (ibid.).

16 Sherbourne (2007:161).

17 Hamutenya & Geingob (1972:85–94); also quoted by Dobell (1998:181).

18 Sherbourne (2007:162).

By that stage, SWAPO had already been sending recruits to its camps to China for further military training.

Shortly after Namibia's Independence on 21 March 1990, formal diplomatic ties were established between the new democracy and China (PRC).¹⁹ By March 2005, when President Hifikepunye Pohamba assumed office, Namibia had established an embassy in China with concurrent accreditation for Cambodia, the Democratic People's Republic of Korea, the Republic of Korea, Laos, Mongolia, Pakistan and Vietnam. Visits by senior Namibian politicians and officials to China and by Chinese representatives to Namibia have taken place on a regular basis since 1990. Founding President Dr Nujoma visited China on five occasions: in 1992, 1996, 1999, 2000, and 2004. The current Namibian President has visited China three times since taking office in March 2005. The former Chinese President Jiang Zemin visited Namibia in 1996, while Chinese Foreign Minister Tang Jiaxuan visited in 2000. The former Chinese President Hu Jintao paid a two-day state visit to Namibia in February 2007 as part of a 12-day tour to eight African countries.²⁰

Coming in the wake of the formative 2006 FOCAC, the February 2007 visit to Namibia by Chinese President Hu Jintao was accompanied by high expectations on the Namibian side. For example, the then Permanent Secretary of the Ministry of Trade and Industry, Andrew Ndishishi, stated in an interview with local print media that Namibia was looking for market access for its products, especially to China. He was also of the view that the Chinese would benefit "from the highly developed infrastructure in Namibia, which makes doing business in the country relatively hassle-free".²¹ In the same interview, the Permanent Secretary referred to two agreements entered into between the two countries that would greatly facilitate bilateral trade, namely the Trade and Economic Development Agreement, and the Reciprocal Protection of Investments Agreement.

Based on these two bilateral agreements, a Joint Trade and Economic Development Committee was established, co-chaired by the Chinese and Namibian Ministers of Trade. An annex to one of the two trade agreements included a list of 12 products the Namibian Ministry was encouraging Namibian businesses to export to China.²²

19 Agreement on the Establishment of Diplomatic Relations between Namibia and China, signed on 22 March 1990.

20 See, among other sources, media reports in *New Era* (7 February 2007, p 10); *The Namibian* (6 February 2007, pp 1–2); *The Namibian* (7 February 2007, pp 1–2); and *New Era* (5 February 2007, pp 1–2).

21 Ngavirue (2007:1–2). For more critical readings of the relations between the two countries, see Melber (2008:6–7) and Hengari (2007:6).

22 The list details the following 12 products: Meat and meat products (beef, mutton, goat, game); leather and leather products (bovine, small stock, game); processed hides and skin; dairy and dairy products (ultra-high-temperature/UHT milk, cheese); beer and beverages; processed and semi-precious stones; processed marble, granite and other dimension stone; automotive parts

Subsequently, however, in 2008–2009, when Namibian meat producers wanted to export to China, particularly when that country hosted the Olympic Games, they found it very difficult to penetrate the market. Nonetheless, the Chinese Premier's 2007 visit resulted in the signing of various ancillary bilateral agreements with Namibia. In terms of one of these, China gave Namibia a N\$30-million grant for specific projects set out in the Third National Development Plan (NDP3), while the two states also agreed to an interest-free loan of a further N\$30 million for unspecified purposes.²³

Like his predecessor, President Pohamba has actively promoted cooperation between the two countries and, according to unconfirmed reports, bilateral trade in the first 11 months of 2006 reached US\$240 million (about N\$1.73 billion). This figure represented an increase of 103% over the previous year.

At the same visit in February 2007, the Namibian Ministry of Youth, National Service, Sport and Culture (YNSSC) also entered into a bilateral agreement with China in terms of which the latter would support, by means of a grant, the establishment of a youth centre at Berg Aukas, near Grootfontein. Apart from all the other bilateral agreements signed between the two states and the provision of grants from China, the solidarity seam was very much in evidence when President Pohamba lauded China's long-standing support for Namibia's liberation war. He was reported in the local media to have said the following:²⁴

We will always be grateful to China for the support extended to our struggle and for standing firmly with us in our current efforts towards economic and social development.

In October 2007, when the Chinese Ambassador to Namibia, Liang Yinzhong, left the country after his four-year term, he indicated his personal satisfaction with the progress made in the bilateral relations between the two countries in an interview with a *New Era* journalist. In a wide-ranging interview, the Ambassador highlighted as a key achievement the pledge by Chinese President Hu Jintao during his visit to Namibia in 2007 to deliver on the following:

- 1 billion Yuan (N\$1.7 billion) in concessionary loans
- US\$100 million (N\$107 million) in preferential export buyer's credit
- 30 million Yuan (N\$37 million) in grants
- 30 million Yuan (N\$37 million) in interest-free loans
- The building of two rural schools (a third was subsequently also built), and
- The building of a hospital.

and spares; table grapes; agro-processed goods; natural oils, and fish and fish products.

23 Weidlich (2007a:1–2).

24 Weidlich (2007a:2).

Apart from a rise in trade between the two countries, bilateral cooperation extended to judicial matters, education, health, cultural exchange, and tourism.²⁵

In the following sections of this chapter, the bilateral relations between the two states will be examined in respect of trade in the last decade, investment, construction, education and culture, development assistance, defence and security, and diplomacy and politics.

Trade in the last decade

Bilateral trade between Namibia and China is recorded by China Customs.²⁶ Its records for 2003 show that total trade in goods (not services) amounted to N\$74.6 million – up from N\$49.1 million the previous year. Trade has risen significantly since then. By 2004, it had doubled to N\$99.1 million, and in 2011 it had exceeded N\$130 million in total on annualised figures.²⁷

Since 2003, Chinese exports to Namibia have consisted almost entirely of manufactured goods, namely automobiles, machinery, electronic equipment, machine tools, information technology, and road-building and construction machinery. Namibia's exports to China, on the other hand, include processed food and live animals, fish, and metal products (primarily non-ferrous metals). In recent years, Namibia's exports to its bilateral partner have increased, particularly in the period 2004–2009, as high rates of growth in China and a vibrant and expanding manufacturing sector in that country have pushed up demands for raw materials. In 2006, for example, all the output of the Ongopolo Copper Mine in Tsumeb was exported to China.²⁸

The trade agreements with China referred to above confirm the Namibian Government's resolve to achieve meaningful market and product diversification. In this policy frame, China – in addition to deepening regional economic integration – is an important player. Since 1999, the country's international trade sector has grown exponentially from a mere N\$17 billion (1.1 x gross domestic product/GDP) to N\$77 billion by 2008 again representing almost 1.1 x GDP of N\$73 billion in the same year.²⁹ On a visit to Namibia at the time of writing, Chairperson of the Standing Committee of the Eleventh National

25 In accordance with a Memorandum of Understanding (MOU) on the implementation plan for organised group travel by Chinese citizens to Namibia, signed during Chinese President Jintao's February 2007 visit. The MOU was meant to be activated as of 15 October 2007, but it has not yet been. See Sibeene (2007:22–23).

26 See www.China-Customs.com; last accessed 8 May 2011.

27 Bilateral trade increased from US\$74.57 million in 2003, to US\$255.5 million in 2006. By the end of 2007, the value of bilateral trade had reached US\$400 million. While important for Namibia, this amounted to about 5% of China's global trade, which reached US\$2,000 billion in 2007. See Jauch & Iipumbu (2009:258), who cite a former Chinese diplomat to Namibia.

28 Sherbourne (2007:163).

29 Republic of Namibia (2010:226).

People's Congress of the PRC, Wu Bangguo, announced that bilateral trade between the two countries had increased from US\$11 million in 2000 to US\$730 million by 2011.

Despite growing local opposition to Chinese business practices in Namibia, the two countries' bilateral trade reached N\$2.7 billion in 2013, being a healthy increase of 33% compared with the same period in 2012. Namibian exports to China increased by 114% to N\$ 1.16 bn from February to August 2013.

According to the Chinese Ambassador to Namibia, Xin Shukang, Namibia exports both beef and fish to China. In response to unacceptable business practices by some Chinese firms in this country, the Chinese Business Chamber drafted a code of conduct for every Chinese businessperson in Namibia. At the same time, Namibia's revised Labour Act³⁰ has been translated into Chinese.

Investment

As pointed out above, a Joint Trade and Economic Development Committee was established between the two countries, and by June 2009, two sessions had been convened. This resulted in an increasing number of Chinese enterprises having invested in Namibia over the past decade.³¹ Most Chinese investments seem to involve setting up small retail outlets to sell relatively cheap consumer goods imported from China. Earlier, in 2007, the Chinese Embassy in Windhoek said there were 100 private Chinese enterprises in Namibia, with a total investment of about \$30 million in the areas of construction, manufacturing, food, health, and real estate. As Sherbourne remarked in 2007 –³²

[t]hey have given rise to a certain amount of concern among Namibians for the poor quality of the goods they sell and the low wages they pay their workers, issues that have prompted letters to newspapers.

Three recent studies,³³ in particular, have analysed the impact of Chinese entrepreneurs and investors, especially in the Export Processing Zones in Walvis Bay and Helao Nafidi (formerly Oshikango) along the border with Angola. Writing graphically on the Chinese presence in Helao Nafidi, Gregor Dobler says the following:³⁴

There is, for example, a Chinese firm producing duvets for export in the otherwise more or less manufacturing-deserted Oshikango Export Processing Zone (EPZ) park. Nothing could

30 Labour Act, 2007 (No. 11 of 2007).

31 Jauch & Ipumbu (2009:257).

32 Sherbourne (2007:164).

33 Dobler (2007); Jauch & Ipumbu (2009); Niikondo & Coetzee (2009).

34 Dobler (2007:105).

be more welcome to Namibia, even if the cotton, the textiles and the sewing machines are imported from China. I was at first puzzled why anyone should care to sew duvets in Namibia instead of importing them from China at lower costs. The answer, at least according to the general consensus of Chinese pavement radio, is simple: the main outcome of the venture is not duvets, but work permits. “With such a workshop, you will get work permits for maybe 20 or 30 technicians. Two or three of them actually work there, the rest is working somewhere in a shop.”

On the balance, Chinese investment in the Namibian retail sector, however, benefits the Namibian economy and Namibians. In the short run, the presence of Chinese shops makes some goods accessible to the average consumer. Clothing, blankets, mattresses, shoes, watches, cigarettes, and toys have become significantly cheaper. In addition, Chinese businesses create employment for Namibians, even if most are employed in unskilled and semi-skilled jobs. There have, though, been numerous complaints about the ill-treatment of Namibian workers.³⁵

‘China shops’ have become a permanent feature across Namibia. In 2009, there were more than 500 Chinese shops registered on the database of the Ministry of Trade and Industry. Some of these companies, such as LIN’s Investments and Rainbow Import and Export, both owned by the same person, have invested over N\$33.1 million (US\$3.3 million) in Namibia’s retail sector over the past seven years (2004–2010). These companies have employed about 150 Namibians in different towns and Grade 1 municipalities in the country.³⁶

Although Namibian exports rely heavily on primary sector commodities, direct Chinese investment in the mineral economy of the country has not been very significant till now. While Chinese firms enter into agreements with commodity exporters in many other African countries, no major contracts have been negotiated with Namibian producers yet. This is partly due to the regulation of Namibia’s mineral production through established distribution networks and long-term contracts.

As there are no confirmed oil reserves in Namibia, Chinese interests in this field have so far been confined to neighbouring Angola. One of the most significant Namibian exploration deals of recent years, however, included a Chinese contractor. In February 2005, Circle Oil (an oil company based in Limerick, Ireland, and listed on the London Stock Exchange Alternative Investment Market) announced an agreement by which China Shine HF, a Chinese state-owned company, was said to take over 72% of Circle Oil’s prospecting licence (later upgraded to an exploration licence), covering most of

35 (ibid.:106). See also Jauch & Iipumbu (2009:277–285) and Niikondo & Coetzee (2009).

36 Jauch & Iipumbu (2009:262).

northern Namibia. In terms of this deal, Circle Oil was to retain 18% and the Namibian Petroleum Corporation (Pty) Ltd (NAMCOR) 10%.³⁷

Construction

Construction is on par with retail in terms of important areas of Chinese investments in Namibia. The Construction Industries Federation of Namibia (CIF) estimated that 60–70% of the country's large construction projects were awarded to Chinese construction companies.³⁸ These included several major public construction projects. For instance, in Windhoek, China Jiansu International Namibia Ltd was responsible for the construction of the Supreme Court, a new police station and prison training college, as well as the Magistrate's Court in Katutura. The China Beijing Corporation for International Economic Co-operation built 102 houses in Katima Mulilo in the Caprivi Region in 1999. The Northern Tannery in Ondangwa in northern Namibia was built by China Nanjing International Namibian Construction.³⁹

The private Chinese firm New Era Investment was responsible for, among other public projects, the new Town Council building in Helao Nafidi. The most symbolic and political public construction project with Chinese involvement to date has been the palatial State House that nestles in the undulating hills of the Auasblick suburb of the capital city. As with Heroes' Acre, the main contractors were North Korean firms, but China also became involved in its construction following a Chinese Government donation of N\$55 million to this end in 2002. A Chinese company was given a share in the prestigious project, apparently without public tender.⁴⁰ In April 2006, during the budget debate in Parliament, it surfaced that the presidential residence adjacent to State House was to be wholly donated by the Chinese Government and built by Chinese companies. It was also announced that the Chinese Government would tender for the construction in China.⁴¹

While Chinese construction companies entered the Namibian market late by tendering for public projects often underwritten by Chinese Government money, they have since entered the private sector and are making life difficult for local contractors. According

37 High expectations were dampened when it became apparent that China Shine would pay its share not in cash but by drilling at least three wells and acquiring seismic data. The company's budget was said to be in excess of \$1 billion, and 2,000 workers were expected to start work in late 2005. At the time of writing, however, the deal had not been finalised and no jobs have been created. See Dobler (2007:98).

38 Jauch & Iipumbu (2009:265).

39 Dobler (2007:100). The Northern Tannery is no longer a going concern. Chinese companies also built the National Council building in Windhoek, and two Regional Council buildings in Outapi and Rundu, respectively. In the period 2009–2010, a Chinese company constructed the new Engineering Faculty of the University of Namibia (UNAM) in Ongwediva.

40 Dobler (2007:100–101).

41 *The Namibian*, 21 April 2006, p 1.

to one report, Chinese companies' market share is estimated to be "anywhere between a third and two thirds of the construction market",⁴² and is growing.

Local construction companies have accused the more than 30 Chinese-Government-owned firms in the country of unfair competition. Industry representatives such as the CIF have claimed that Chinese firms have profited from preferential treatment in the allocation of tenders, and that the Namibian Government was reluctant to force such firms to comply with local labour laws. All in all, –⁴³

[w]hile Chinese competition makes life difficult for the Namibian construction industry, such competition seems to have had a favourable effect on productivity and efficiency in the sector, and has lowered construction costs in the country.

However, some claim that this achievement was made at the expense of quality – as can be seen in the substandard construction of several buildings in the country, notably extensions to existing hospitals or the construction of new ones, such as those at Rundu in the Kavango West Region, and Ononjokwe in the Omusati Region.

Education and culture

Education and culture is another field in which the two countries cooperate. Since 2007, the Chinese Government has provided five full scholarships a year to Namibian students, and sends Chinese academics to teach at higher education institutions in Namibia. In 2009, it was disclosed that Chinese scholarships had benefitted the children of government ministers, including President Pohamba's daughter and relatives of Namibia's Founding Father, former President Dr Sam Nujoma. Since these scholarships were not awarded in the usual transparent manner via the Ministry of Education, it resulted in public criticism within Namibia⁴⁴ and was even reported in the *New York Times*.⁴⁵ The University of Namibia has been offering courses in Mandarin since 2006, and the PRC has been supporting the Faculties of Science and Engineering by way of scientific equipment and lecturing staff. In addition, according to an agreement entered into between the Chinese and Namibian Governments, the Namibian Broadcasting Corporation (nbc) has been transmitting the English-language programmes of China Central Television (CCTV)

42 "Solving a Chinese puzzle: Chinese companies are changing the face of the Namibian construction industry but are they doing anything wrong?"; *Insight Namibia*, April:19-20; see also Amupadhi (2009:16–18).

43 Dobler (2007:101).

44 "More questions than answers on bursaries"; *The Namibian*, 27 October 2009; available at http://www.namibian.com.na/index.php?id=28&tx_ttnews%5Btt_news%5D=61073&no_cache=1; last accessed 8 May 2011.

45 "Uneasy engagement: China helps the powerful in Namibia"; *New York Times*, 19 November 2009; available at <http://www.nytimes.com/2009/11/20/world/asia/20namibia.html>; last accessed 8 May 2011.

three times a week. Each broadcast lasts an hour. For some time the NBC has broadcast a Chinese cooking programme.

In 1999, the Shanghai Municipal People's Government donated a pavilion in Windhoek's Zoo Park. Twinning agreements have been signed between Chinese and Namibian towns and cities, among these being Windhoek (with Shanghai), Mariental (with Zhengzhou) and Okahandja (with Maqiao). The Chinese-language edition of Founding President Dr Nujoma's autobiography *Where others wavered* was published in Beijing in July 2004 and launched shortly afterwards, while President Nujoma was on a state visit there.

In the field of sport, former national soccer player for the Brave Warriors, Eliphaz 'Safille' Shivute, signed a lucrative three-year contract with Chinese First Division champions Dalian Wanda Football Club in February 1999. More recently, Chinese acrobats and kung fu wrestling teams have visited Namibia. In May 2011, Namibia hosted the China–Africa Youth Forum (CAYF), an event attended by 60 young people from China and 18 from African countries such as Angola, Ethiopia, South Africa, Sudan, Zambia, and Zimbabwe.

Development assistance

By any standards, the PRC's aid programme to Namibia is modest. According to figures taken from the development cooperation database at the National Planning Commission, the total disbursement to Namibia by China amounted to N\$66 million between 1998 and 2003, placing China 15th in terms of total disbursements to Namibia, i.e. 5%, which is significantly below the EU, the US, individual European countries, and Egypt. In terms of development assistance, China ranked 15th in 2003 – below Iceland – contributing less than 1% of total commitments in aid.⁴⁶

In 1999, China extended an N\$8.6 million interest-free loan to the National Housing Enterprise, which was used to construct 102 houses in Katima Mulilo in the Caprivi Region. At the time, the former Chinese Ambassador to Namibia said that China had built and handed over 663 low-cost housing units in Namibia.⁴⁷

Chinese medical personnel have been working at the Katutura State Hospital under a health cooperation agreement between the two countries since 2005.

Since then, however, Chinese aid to Namibia has been elevated to a new level. Apart from the 2002 interest-free loan of N\$55 million for building the new State House (as stated earlier), in June 2005, the then Minister of Works and Transport, Joel Kaapanda,

46 Sherbourne (2007:166).

47 (ibid.).

announced that the Chinese would foot the entire bill for the new State House, but he declined to give figures.⁴⁸

According to local media reports, a further 20-year loan of N\$21.5 million was agreed to by the Namibian Government in March 2005. This loan was not reflected in national budget documents. By September 2009, Namibia had received more than N\$2 billion in so-called soft loans from China.⁴⁹

China has also been involved in upgrading the country's railway network and rolling stock. To this end, it sent six experts to work with TransNamib in early 2004. TransNamib went on to take delivery of four diesel locomotives and 30 oil tankers built by China South Locomotive and Rolling Stock Industry Corporation, at a total estimated cost of N\$36.6 million. The delivery of a luxury train from China followed in February 2005. TransNamib has admitted that the new locomotives have proven to be unreliable. Government subsequently announced that it would borrow N\$204 million from the Export-Import Bank of China to finance the purchase of 16 Chinese locomotives for TransNamib.⁵⁰

Defence and security

During the liberation struggle, SWAPO enjoyed diplomatic, material and political support from the PRC, especially after SWANU fell out of favour with the Afro-Asian Peoples' Solidarity Organisation (AAPSO). The 5 July 2003 issue of *The Windhoek Observer*, a local weekly, reported the arrival of 2,600 tons of military material at the Port of Walvis Bay on board the *An Shun Jiang*. The material was ostensibly destined for Zimbabwe. The local media were quick to dub the Chinese vessel the 'ship of shame' for being willing to contravene the UN sanctions imposed on Zimbabwe in this respect since 2008.⁵¹ Under considerable pressure from organised labour in South Africa and a number of civil society actors in the Southern African Development (SADC) Region, the *An Shun Jiang* was unable to offload its lethal cargo at Walvis Bay in Namibia or Luanda in Angola. Unconfirmed reports had it that the cargo was eventually flown to and offloaded in the Democratic Republic of the Congo, from where it made its way to Zimbabwe – albeit not necessarily for a defence and security application in the classic sense.

A more recent set of events underlined the risks associated with soft loans from the PRC. When a Chinese company was awarded the task of constructing the railway line between Ondangwa and Helao Nafidi in northern Namibia. A Namibian company, Teko Trading – a local company owned by Teckla Nandjila Lameck (a member of the Public Service Commission) and Kongo Mokaxwa – was hired by the Chinese to influence the awarding

48 *The Namibian*, 22 June 2005, p 1.

49 Amupadhi (2009:16).

50 Weidlich (2005:1–2).

51 Maletsky (2008).

of the tender. Based on the initial price quotation for the contract by China National Machinery and Equipment Import (CMEG), Teko Trading could have earned N\$100 million for supposedly influencing the Namibian Government to ensure CMEG was awarded the tender. CMEG has since dropped the price from more than N\$1 billion to N\$750 million and, finally, to N\$450 million, after the Ministry of Works and Transport questioned why the price was that high for a 60-km track. In 2006, the Ministry had completed a 250-km track from Tsumeb to Ondangwa for about N\$860 million.⁵²

At the same time, an agreement was struck between the Teko Trading and Nucotech, a Chinese state-owned company supplying Chinese-made X-ray scanners for use by Namibian customs and excise officers at key local airports and border/customs posts. Teko Trading was to be paid a commission that was reported to be more than 20% (US\$12 million) of the scanners' purchase price of US\$55 million.⁵³

In August 2009, the then Permanent Secretary in the Ministry of Finance, Calle Schlettwein, warned that Namibia should insist on conditions that benefited its development agenda when dealing with development partners such as China. "If not," he said, "the country should have the courage to say no." Using the example of the multimillion Namibia Dollar scanner transaction between the Namibian Government and Nucotech, Schlettwein was reported as having said that the incident could have been avoided if government had demanded that the deal be put out on tender.⁵⁴

Since Independence, Namibia has procured military equipment in the form of light fighter aircraft (K-8s) from China. Senior officers of the Namibia Defence Force (NDF) underwent advanced professional training at a military academy in Shanghai, and Chinese contractors built a Military Museum in Okahandja in central Namibia. They will also construct a new Military Academy for the NDF in Okahandja. On the African continent, Namibian peacekeepers have served on missions under a UN mandate in Sudan (African Union–United Nations Mission in Darfur/UNAMID) and elsewhere, together with troops from China. In 2007, the UN appointed the first Chinese special envoy, Liu Guijin, to Darfur. Some Chinese companies are building an 85-km water project in South Darfur, and 315 Chinese engineers were deployed to Darfur in October 2007 to take part in UNAMID.⁵⁵

At the international level, even if it largely amounted to 'a dialogue of the deaf', the PRC has been supporting the AU – and, by extension, Namibia – in its efforts to reform the UN Security Council, as well as in the Non-aligned Movement.⁵⁶

52 Amupadhi (2009:16).

53 What is not yet clear is whether Lameck or Mokaxwa, who were arrested with their Chinese partner Yang Fan, actually did influence the Namibian Government to take up the Chinese soft loan. Namibia received a N\$350-million soft loan for the X-ray scanning equipment.

54 Duddy (2009:1–2).

55 Assogbavi (2010:194–212).

56 Adebajo & Scanlon (2006).

Diplomacy and politics

FOCAC's 2006 Beijing Declaration was not only formative for bilateral relations between China and Namibia, but has since shaped the contours of China's international profile, particularly in Africa. The Declaration, among other issues, spoke of "the dawn of a new century", but equally recognised the "economic and social factors at the root of political instability in Africa". The text continued as follows:⁵⁷

Moreover, the scourge of HIV/AIDS, malaria, TB and other communicable diseases is taking a heavy toll on the human and economic resources of African countries, and the aggravated poverty is seriously hindering the development of Africa.

The Declaration also reiterated that the primacy of –⁵⁸

... the Five Principles of Peaceful Coexistence and other universally recognised principles governing relations among States must be respected. All countries should have the right to participate in international affairs, on an equal footing. No country or group of countries has the right to impose its will on others, to interfere, under whatever pretext, in other countries' internal affairs, or to impose unilateral coercive economic measures on others. The North and the South should strengthen their dialogue and co-operation on the basis of equality.

The Declaration called for recognition of "the legitimate place due to Africa in the Security Council and the organisations and specialised agencies of the United Nations system". Similarly, the rise of subregional cooperation in Africa and the establishment of the AU were welcomed and supported by China. The Declaration concluded with the resolve to –⁵⁹

... further consolidate and expand China–Africa cooperation at all levels and in all fields and to establish, within the framework of South–South co-operation, a new type of long-term and stable relationship based on equality and mutual benefit. We will deepen dialogue, broaden consensus, continue to harmonise our positions on international affairs (in multilateral fora) and enhance mutual support so as to uphold the legitimate rights and interests of China and African countries and to expand and deepen this new type of partnership between China and African countries.

The China–Africa policy, however, notwithstanding its redeeming features, is characterised by several ambiguities. On the analysis of Melber (2009) and others, –⁶⁰

... in theory, too, favourable market conditions and the Chinese arrival should work to the benefit of ordinary African people. However, that presumes that the African elites benefiting from unequal structures of trade and investment are willing to put the public interest before

57 Beijing Declaration of the Forum on China–Africa Cooperation, 2006; full text published in *Die Republikein*, 7 November 2006, pp 6–7.

58 (ibid.).

59 Melber (2009:73); see also Mbaye (2010:39–54).

60 Melber (2009:75).

their own. Yet it is here that the moral and political thrust of Chinese policy falls down, for the foundation of Chinese foreign policy in Africa is one that emphasises the sovereignty of governments and commits Beijing to non-interference. It was precisely the abandonment of such principles that characterised the evolution of the OAU into the AU, pointing the way towards an era of greater democracy, transparency and accountability by rulers. In contrast, however, the reality is that the Chinese gospel of non-interventionism is warmly welcomed by the autocratic leaders and oligarchies that continue to rule the roost in the majority of African countries, especially those in possession of vast natural resources.

Even if, in the words of Pendukeni Iivula-Ithana, former Minister of Justice and Secretary-General of the SWAPO Party of Namibia, China is a “super-friend of Africa”,⁶¹ and even if it offers an alternative to the ‘Washington Consensus’, it is debatable whether such engagement by China is antithetical to Africa’s long-term interests.⁶² China’s ability to compete effectively with other extra-regional actors certainly provides new opportunities and options for African governments; but to take advantage of these will require significant changes in the African style of governance, including much-improved institutional and economic management on the part of its leadership.⁶³

Most of those who speak strongly in support of Namibia’s long-standing relations with the PRC do so from an instrumental perspective, arguing that such a relationship significantly benefits Namibia in terms of soft loans with minimal conditions attached to them, provides Namibia with a large market for its raw materials and renders political support to Namibia and Africa in multinational fora. Moreover, Chinese investment in the local economy creates employment and reduces the cost of some consumer goods.⁶⁴ The youth, too, stand to learn much from the discipline and work ethic of the Chinese.⁶⁵

The most recent political collaboration between the two countries came in May 2011 in the form of the Africa–China Young Leaders Forum (ACYLF), which was jointly hosted by the SWAPO Party of Namibia and the Communist Party of China. The Forum took place in Windhoek and was attended by 60 young (and not so young) leaders from China, an equal number from Namibia, and youth leaders from 18 other African countries. The Forum was opened by Namibia’s President Pohamba. At its conclusion, a statement was released that emphasised the importance of cooperation between African and Chinese youth in the domains of education, health, peace, security, business, and human development. The Forum also called on the governments of Africa and China to institutionalise the Forum and to hold regular meetings, particularly before the FOCAC – the most important policy framing meeting on Sino-African relations.⁶⁶

61 See Smit (2011).

62 Thompson (2005); see also Mbaye (2010:39–54); Tjonneland et al. (2006:48).

63 McLaughlin (2005).

64 KASHUUPULWA (2008:12).

65 Ngurare (2011:4).

66 The Declaration of the ACYLF was covered live on nbc TV and radio on 22 May 2011. Most of the proceedings were also covered on nbc TV and radio.

A Chinese delegation under the leadership of Abulaiti Abudurexiti, Vice-President of the Chinese Political Advisory Conference (CPPCC) and President of the China–Africa Friendship Association, visited Namibia in April 2011 at the invitation of the Minister of Regional and Local Government, Housing and Rural Development. The purpose of the visit was to deliberate on the theme of “Improved Cities through Cooperation”. The Chinese delegation also paid a visit to former President Dr Sam Nujoma.

China and Namibia also signed a Memorandum of Understanding (MOU) in May 2011 for further Chinese assistance to Namibia. The MOU was signed by the Director-General of the National Planning Commission, Tom Alweendo, and the Chinese Vice-Minister of Commerce, Fu Ziyong. At the same occasion, the Chinese Government donated electronic office equipment worth N\$1.1 million to the Namibian Parliament. The Chinese Government has further agreed to provide Namibia with medical equipment and materials, and to sponsor an economic seminar to be held for Namibian Government officials in China later in 2011. In addition, the Chinese Government donated US\$500,000 (N\$3.5 million) towards flood relief efforts in northern Namibia in the first half of 2011.⁶⁷

Conclusions

China’s advance from the economic periphery into the core group of the global economy means that, in virtue of its economic size and dynamism, its foreign policy has little choice but to assume an ever greater role in shaping the course of current world events. We are witnessing a shift towards a more flexible, differentiated and proactive foreign policy, also on Africa in general and on Namibia in particular. It is evident in China’s diverse spectrum of interests, ranging from energy, trade, investment, education, culture, peace and security to the transformation of global multilateral institutions.

In common with other global economies, China’s foreign relations, supported by a vibrant economy, show dynastic tendencies,⁶⁸ but these are based on ‘soft’ as opposed to ‘hard’ power.⁶⁹ China uses a combination of diplomacy, soft loans, credit, development support, trade, investment and political support in its relations with Africa overall and Namibia in particular.

67 *New Era*, 24 May 2011, p 6.

68 In terms of historical precedent, Africa is to China today what Australia and Argentina were to the United States and Continental Europe in the late 19th century: a resource-rich region supplying a resource-short region going through its most resource-intensive stage of economic development, namely industrialisation and the massive urbanisation associated with it. Africa, whose own dynasty of economic development is far closer to that of China, now has a unique opportunity “to hitch its resource-rich wagon to that rising eastern star” (Stephan et al. 2006:27).

69 The construct of *soft power* comes from the work of Keohane (1984), and was developed in his seminal study titled *After hegemony: Cooperation and discord in the world political economy*.

One of China's key foreign policy objectives is to service the needs of its dramatic economic modernisation and industrialisation, and its economy's growing appetite for natural resources and access to export markets. As far as Namibia is concerned, the local retail market and political support in multilateral arenas outweigh China's engagement in the mineral economy of the country. For political and infrastructural reasons, Namibia offers China access to the much larger SADC regional economy. Energy security, in particular, has emerged as a key element in the modernisation and industrialisation of China. For now, China has not invested much in the Namibian energy sector, but may do so once the country becomes one of the most significant uranium producers in the world.⁷⁰

While the US's hegemony and how to manage it has remained an overriding concern for Beijing, China sees globalisation as a way of transforming great power politics and establish more cooperative forms of state- and non-state-based relations with a growing number of African states, inclusive of Namibia. Consequently, Africa occupies an increasingly important space in China's foreign relations. As pointed out earlier in this contribution, in January 2006, China made public its first major policy document on its relations with Africa. It lists 30 initiatives in the political field; in the economic field; in education, science, culture, health and social development; and in peace and security. This policy frame also emphasises cooperation within a multilateral framework, calls for UN reform, and appeals to the international community to accord more attention to Africa and to peace and development on the continent. Chinese support for regional bodies such as SADC is also highlighted.

Since 2000, when China initiated FOCAC, the Forum emerged as the principal mechanism for dialogue and cooperation between Africa (specifically Namibia) and China. Since 2006, with the comprehensive FOCAC policy framing on Africa, relations between Namibia and China – although these have a longer lineage – mirrored this policy framing.

Consistent with the objectives and undertakings provided for in the 2006 FOCAC policy statement, China has also emerged as a significant development partner for Namibia. Chinese assistance worldwide is concentrated on three principal areas:

- The provision of physical infrastructure such as telecommunications, roads and railways
- Capacity-building in the social sector, especially related to health, science, education and culture, and management training for the public service, and
- Funding for the construction of politically and symbolically important public buildings such as stadiums, state houses, buildings housing parliaments, court buildings, and military infrastructure.

⁷⁰ Of late, Chinese companies have signalled an interest in the nascent energy economy of Namibia, especially in uranium mining.

Chinese companies using Chinese labour are also winning tenders for the construction of a number of public and a growing number of private buildings in Africa.

Peace and security have emerged as an increasingly important dimension of Sino-African relations. Not only have more than 1,310 Chinese peacekeepers participated in UN-mandated operations in Africa, China has also been providing professional training to senior military officers in the NDF, while Namibia has procured military hardware from China since Independence in 1990.

As a relatively small but expanding donor, China provides Namibia with interest-free loans for low-cost housing, while Namibia has borrowed at a nominal interest rate of 1% from the Export-Import Bank of China for the purchase of locomotives and to meet other transport requirements.

How should Namibia manage this expanding relationship with China? What implications could the relationship have for Namibia and its foreign and development policies? It is clear that the relationship with China will and does have implications for Namibia's relations with other African countries and with the EU, the country's most important trade and development partner. Over time, the relationship with China will influence Namibia's multilateral agenda in the UN, the AU, and other multinational fora. The nature of the bilateral relationship between Namibia and China may also undergo further amplification, especially if China were to become a major player in Namibia's nascent energy-based economy.

Based on the history of the relationship between China and Namibia, it may become ever more imperative for Namibia to develop its capacity in trade negotiations and economic diplomacy in order to collaborate with other SADC member states in respect of negotiating and cooperating more effectively with China. Namibia stands to gain by supporting initiatives that stimulate China's participation in multilateral institutions such as the UN and donor fora, and by developing and engaging in bilateral relations with China in areas of mutual benefit.

Finally, while relations with China do indeed offer benefits to Namibia, such relations should not be entered into and sustained if they undermine potentially productive and more egalitarian relations with India, the EU and the US.⁷¹ China may indeed rely on 'soft power', and in this sense, may not be a 'hard' hegemon; but the achievement of its core foreign relations and development objectives may not always be in Namibia's interests. In 1944, an Austrian scholar, Karl Polanyi, wrote a seminal book with the evocative title, *The Great Transformation*,⁷² in which he pleaded passionately for "the primacy of society, the inclusive coherent unity of human interdependence as a means to transcend the perplexities and the contradictions of our times". Polanyi resonates

71 For an excellent analysis of the changing nature of India–China relations, see Singh (2011:1–14).

72 Polanyi (1944).

powerfully when it comes to the evolution and deepening of relations between Namibia and China. It is in this context that the latter will have to ensure its foreign policy towards Africa in general and Namibia in particular has a normative foundation that provides for the meaningful recognition of Africans' – i.e. including Namibians' – hard-won human rights and freedoms. Simply to perpetuate the historic pattern of commodity extraction and to use Namibia as a 'dumping ground' for lower-quality consumer goods would not be adequate and might in the long run turn out not to be acceptable to Namibians.

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Namibia's bilateral relations with Germany: A crucial relationship

*Peter H Katjavivi**

Introduction

Namibia has traversed a long and bitter road towards independence through a struggle to free itself from the bondage of apartheid and colonialism and accept the challenges of nationhood. It reminds me of the following quotation cited by my friend and colleague, Prof. Keto Mshigeni, who writes that, when an Egyptian King asked Euclid, the famous Greek mathematician of Alexandria in 3 BC, how one could learn his theorems of geometry in a more expeditious manner, the answer given was, “there is no royal road to geometry”.¹ What we know for certain is that, as David Jessop states, —²

[e]very nation and culture has a knowledge of where it has come from, an awareness of shared experience and a sense of its place in the world.

We have not only willingly accepted the challenges of nationhood, but have also used our experience acquired during the course of the struggle to chart the way forward with regard to all aspects of life, including crafting our foreign policy, as we took our place amongst the nations of the world. As David Jessop continues to write, —³

[h]istory and smallness together have distilled and elevated this into an often intense requirement for ownership and a constant and passionate defence of national identity and sovereignty.

This should certainly be seen against the events as described by Dr Henry Kissinger in *The new world order*:⁴

In the seventeenth century, France under Cardinal Richelieu introduced the modern approach to international relations, based on the nation-state and motivated by national interest as its ultimate purpose. In the eighteenth century, Great Britain elaborated the concept of balance of power, which dominated European diplomacy for the next 200 years. In the nineteenth century,

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1 See Taylor (2000:52).

2 Jessop (2008:1).

3 (ibid.). He is referring to the Caribbean experience, but it applies equally to Namibia, except that the territory of Namibia is large despite the population being small.

4 Kissinger (1994).

Metternich's Austria reconstructed the Concept of Europe and Bismarck's Germany dismantled it, reshaping European diplomacy into a cold-blooded game of power politics.

Not surprisingly, this was the period in world history when Africa and greater parts of the world were held in colonial bondage by Western powers. In this respect, there was a time when it seemed almost impossible to escape from that bondage. However, between the 1940s and 1960s, a great number of African colonies and other dependent territories around the globe achieved their freedom and independence in the long run. Since then, many of these developing countries have made great progress in a number of human endeavours as full members of the United Nations (UN). Many of those countries, as UN members, subscribe to the recommendations made by former Australian Foreign Minister Gareth Evans and his team, published in a book entitled *Cooperating for peace: The Global Agenda for the 1990s and beyond*.⁵ They point out the following:⁶

We believe that even if the world can never be made absolutely safe for all its peoples, we are beginning to learn how to make it very much safer than it has been. ... [The] phenomenon of economic and cultural community [has implied that] nations are finding it progressively easier to talk together, build processes and institutions together, advance common interests and resolve common problems. They are beginning to learn that their best interests are advanced not by a culture of conflict, but by a culture of cooperation.

Truly, today, two decades after Namibia's independence, it should be acknowledged that our people have made steady strides in advancing their national development and reconstruction in a number of areas.

Namibia's approach to making foreign policy

Before dealing with the detail of Namibia's bilateral relations with Germany, it is essential to understand the genesis of Namibia's foreign policy and its application.

It is evident that Namibia's foreign policy has been shaped by its liberation struggle. Importantly, the South West Africa People's Organisation (SWAPO) – as the country's main liberation movement – achieved a great deal of recognition from the international community, led by the UN. It was this recognition that contributed to SWAPO working as a non-state actor on the future of Namibia with the UN for a considerable period before Independence. This no doubt helped the SWAPO movement to develop a foreign policy framework that helped to maintain and run SWAPO's external structures, including its missions around the world. Of course, this policy framework was revisited and transformed after the country's independence in 1990 in order to reflect the changing

5 Evans (1993).

6 (ibid.:182).

circumstances. As the now retired Maj. Gen. Charles Namoloh, then Minister of Defence, has stated, –⁷

[t]he end of the Cold War ushered in a period of peaceful co-existence among nations. The independence of Namibia on 21st March 1990 brought new opportunities for the people of the country who suffered colonial oppression for over a century. The national independence brought to an end a bitter liberation war which claimed many lives of Namibians.

As former West German Chancellor Willy Brandt⁸ stressed in his book, *People and politics*, there is a need for nations to face up to change and adapt in order to meet the new requirements. In 1990, it was Namibia's turn to do likewise. Namibia's first Minister of Foreign Affairs, Hon. Dr Theo-Ben Gurirab, described the objectives of the country's foreign policy thus:⁹

... the Ministry of Foreign Affairs is to position itself to address changes in both the domestic and external environment in which it has to fulfil its two primary functions. These functions are namely: to positively portray the relations of Namibia internationally, and to continuously analyse and interpret the world around us with a view to ensure the security and prosperity of our country and its people.

The above-mentioned objectives have been the main focus of Namibia's approach to its foreign relations. As can be seen from various initiatives, Namibia's Ministry of Foreign Affairs also embarked on a number of reforms of the country's foreign policy. These involved training and general workshops aimed at the sensitisation of staff and officials engaged in foreign affairs. This point was equally highlighted by HE Dr Sam Nujoma, founding President of the Republic of Namibia, who stated the following:¹⁰

I am sure that the recently concluded Workshop on Economic Diplomacy, which was organized by the Ministry of Foreign Affairs, has further provided you and other Namibian Diplomats with the required tools and skills to effectively promote investment and trade opportunities as well as joint ventures which are available to investors from Malaysia and other parts of the world.

It is in this context that I agree with Ambassador George C McGhee of the United States (US) when he says the following:¹¹

I hold a strong belief in the importance of effective diplomacy in improving relations between nations. ... I use the word diplomacy here in its broadest sense. I do not wish to confine it just

7 See the presentation by Maj. Gen. (Ret.) Charles Namoloh, Minister of Defence, to Namibia's Parliamentary Standing Committee on Foreign Affairs, Defence and Security, in a Workshop conducted from 1 to 11 August 2011.

8 Brandt (1978:494-502).

9 GRN (2000:65).

10 GRN (2004).

11 McGhee (1987:vii, 13, 49).

to ambassadors making speeches or giving dinner parties or negotiating treaties. I would define it to include all negotiations and exchanges of information and views across national borders, whether in the private or public sector, for the purpose of lessening tensions and effecting international agreements.

A major reinforcement to Namibia's foreign policy was the adoption of the White Paper on Namibia's Foreign Policy and Diplomacy Management, published in March 2004. This document clearly emphasises economic diplomacy, calling for economic development within the context of economic diplomacy. This shift was necessitated by the government's desire to increase investment and economic growth in post-Independence Namibia.

This policy framework was implemented through the Ministry of Foreign Affairs and its various foreign missions. For instance, the following internal discussion that I conducted at the Namibian Embassy in Brussels illustrates how the Namibian missions abroad implemented the policy. I identified the following areas as crucial to the conduct of a successful economic diplomacy:¹²

- Carrying the banner of economic diplomacy
- Transforming the concept of economic diplomacy into a working tool in order for the Namibian Government to execute its diplomatic functions in the most effective manner
- Constant renewal of efforts in order to be on top of issues, and
- Concentration on issues which would allow embassy or mission staff to move an extra mile in task accomplishment.

Most ambassadors compete with each other as they represent the interests of their various countries in a given host country. Here, we are reminded by the former British Ambassador to the US, Christopher Meyer, when he says that –¹³

[s]peed and technologies are certainly powerful weapons in the diplomat's armoury; but without quality and context, information delivered fast is without merit.

I particularly enjoyed reading his book, which deals with his ambassadorial work in the US and his amusing reference to leading personalities in the host country as the *Big Beasts*. In applying this approach, Ambassador Meyer states –¹⁴

I wanted everybody at the Embassy, at their different levels, to develop their own contacts across the US administration and Congress. Sometimes the first intimation of a policy decision would come from a relatively junior source.

12 Staff meeting chaired by Ambassador Peter H Katjavivi at the Namibian Embassy in Brussels, March 2004.

13 Meyer (2005:63).

14 (ibid.:210).

My own contribution to this process was to deal with the 'Big Beasts', their deputies and their closest advisors. This meant the National Security Adviser to the President; Vice-President; the Secretary of State; the Secretary of Defense; the chairman and senior members of key committees in the Senate and the House of Representatives; and the top newspaper columnists.

I recall, during staff meetings at the Namibian Embassies in both Brussels and Berlin, having encouraged our diplomats to intensify wide-ranging contacts in the areas of trade and investment, among others.

Just before I arrived in Berlin as Ambassador, I was reliably informed that our Trade Attaché there was a very competent officer who stood out as a voice for all other trade attachés from other developing nations with embassies in Berlin. She was so competent that, when she left, the gap created was so big that we almost failed to fill it with another equally competent officer. However, after a long search, we managed to find another competent person. This illustrates how diplomats have a key role to front the development needs of their nations.

John Coles, a leading British diplomat, had this to say on the subject:¹⁵

I detect a need to reassert the role of officials in policy-making, to make a plan that they are looked to as the primary source of advice, but are equally expected to be open to ideas from all sources, inside and outside government, and to channel the best possible advice to ministers regardless of its source.

He further underscores the range of training made available to British civil servants, revealing that "more specialized training is given to civil servants nowadays". He adds that, "in the Foreign Office, many of us spent time at the London Business School on management courses". In this context, it is essential that we stress the importance of training and retraining our civil servants. It is to be hoped, therefore, that the Namibia Institute of Public Administration and Management (NIPAM) established in 2011 will team up with the relevant tertiary institutions in Namibia to provide the necessary training that will embrace policymaking courses, and innovations that could contribute towards making our overall 'civil service machine' more efficient in the long run. Most importantly, it is a worthwhile effort to internationally benchmark Namibia's training certification so that our graduates can be suitable for jobs anywhere across the globe. Furthermore, it is hoped that the establishment of this training institution will help "revalue public service and rekindle the enthusiasm that made people become public servants in the first place". No doubt it is hoped that the new institution will reinforce the culture of thinking and acting: the need to ensure civil servants do follow-ups, to the extent that they might ask themselves some of the following questions posed by John Coles:¹⁶

15 Coles (2000:159).

16 (ibid.:161).

We needed to ask ourselves searching questions about policy. Did we devote enough time to developing new policies? Did we know enough about how other countries were tackling the same problems? Did we think sufficiently long-term, sufficiently strategically? Did ministers always act in such a way to get the best out of the civil service machine?

These and many more questions are the kinds of issues that are being debated amongst our civil servants and diplomats nowadays.

John Coles compliments Foreign Minister Gareth Evans on his admirable initiative regarding the Australian experience in foreign policy formulation.¹⁷ Evans refers to his studies undertaken in 1987, with particular reference to that country's relationship to an Asian Pacific region. This interesting period marked a policy shift when Australia moved towards promoting "more effective economic co-operation in their region and inter-government dialogue to advance common interests".¹⁸

Coles argues that –

[t]he concept of national interests necessitates the starting point in making decisions, although the elements that constitute national interest are not necessarily self-evident. ... I group Australia's interests in three categories – geopolitical or strategic, economic and trade, and 'being a good international citizen'.

He adds another vital point, namely that "capacity to influence must be assessed". He stresses that –¹⁹

[e]ffective management of foreign affairs depends not just on being able to recognize opportunities for influence but also on developing and constantly refining priorities ...

Coles commends, in terms of the substance and process, the manner in which Foreign Minister Evans crafted Australia's foreign relations in the world of the 1990s.²⁰ In this respect, our policymakers and intellectuals need to pay far more attention to the experiences of other countries if we are to remedy our own shortcomings. It is clear when reviewing Namibia's foreign policy that there is a need to reinforce economic diplomacy with a view to advancing the struggle for economic emancipation.

One important aspect determining Namibia's foreign policy has been the work of the Namibian Defence Force (NDF) through the establishment of joint commissions on defence and security with all its neighbouring countries. Such joint commissions are

17 (ibid.:167–168).

18 (ibid.:169).

19 (ibid.:205).

20 See Coles (2000).

there to promote harmony and apply conflict resolutions to potential problems and challenges that might arise.

Former Minister of Defence Namoloh commented as follows on the progress made since Namibia's independence in this regard:²¹

We have moved from the era of confrontation that characterized Southern Africa, since the 1960s to the end of the 1980s, to cooperation among the defence forces in the region and elsewhere.

The NDF has been an active participant in a number of peacekeeping operations organised by the UN around the globe. The role played by the NDF in this regard is in keeping with Article 96 of the Namibian Constitution.

Overall, Namibia's foreign policy can be characterised as proactive and reactive, based on circumstances; but the general trend displayed has been a proactive one. Examples of this latter stance include the following:

- Intervention in the Democratic Republic of the Congo war in 2000–2001
- Namibia's strong position on the negotiations for a fair deal under the Economic Partnership Agreements (EPAs) of the European Union (EU) to allow protection of its infant industries
- Namibia's in support of the African Union's concern about foreign intervention in the Libyan crisis in 2011
- Its continued advocacy for the need to reform the UN Security Council in order to ensure equal continental representation, and
- Its continued advocacy for the need to strengthen the voice and representation of the developing countries, especially those in Africa, in the 'Bretton Woods' institutions (i.e. the World Bank and the International Monetary Fund).

For a small country like Namibia – that is, *small* in terms of population – it has done well on the world stage in raising its voice to the necessary heights where there has been a need.

Namibian–German diplomacy since Independence

Namibia's diplomatic relations with Germany have had their own challenges and opportunities. Soon after Namibia's independence in 1990, the country established diplomatic relations with Germany. With Germany having colonised Namibia from 1884

21 See the presentation by Maj. Gen. (Ret.) Charles Namoloh, Minister of Defence, to Namibia's Parliamentary Standing Committee on Foreign Affairs, Defence and Security, in a Workshop conducted from 1 to 11 August 2011.

to 1915, the relationship between the countries marked the beginning of a new era.²² However, while we acknowledge the process where Namibia and Germany started a new chapter in their relations, it is pertinent that we appreciate the efforts of those who laid the groundwork which led to these successful relations. The SWAPO leadership in exile worked closely with leading personalities of the Sozialdemokratische Partei Deutschlands (SPD/Social Democratic Party of Germany), the Green Party, and the long-serving German Foreign Minister, Hans-Dietrich Genscher. This relationship extended to working with churches, student/youth and solidarity organisations, foundations and other non-governmental organisations (NGOs). Herr Genscher and leading personalities within the SPD, in particular, played a vital role in facilitating meetings between SWAPO and German leaders and institutions in that country.²³ Equally important to note is that Genscher was anxious that the German-speaking community in Namibia be given the truth and reality about SWAPO and the UN's agenda.²⁴ Understandably, they did not want the white community in the then South West Africa to be blinded by the South African Government's negative propaganda about SWAPO's efforts. Genscher's even-handed approach in this regard was much appreciated by SWAPO.

Namibian–German bilateral relations were established against the background of a resolution passed in the German Parliament, which stated the following:²⁵

Since Namibia's independence in March 1990, friendly and comprehensive relations have developed between Namibia and the Federal Republic of Germany. The Federal Republic of Germany acknowledges a 'special responsibility' for Namibia, expressed officially in the parliamentary resolution of March 1989, entitled "The Special Responsibility of the Federal Republic of Germany for Namibia and all its Citizens", in which the German Bundestag [German Parliament] called on the government to develop and cultivate special relations with the independent Namibia. In that Germany took into account its responsibility for the country's colonial past as well as the government's commitment to the independence process, especially as part of the Western Contact Group.

This was subsequently endorsed by both Presidents Sam Nujoma and Roman Herzog, of Namibia and Germany, respectively. This happened during President Nujoma's first state visit to Germany in 1996.

22 For historical background, see Katjavivi (1988, 2008).

23 In 1973, a SWAPO delegation which included its President Sam Nujoma, Bishop Colin Winter of the Anglican Church, Ewald Katjivena, Ben Amathila and the author visited Bonn. During the visit, the delegation met Erhard Eppler, by then Minister for Economic Cooperation (1968–1974) and Chairperson of the SPD in Baden-Württemberg (1973–1981), as well as Chairperson of the Committee on Basic Values. Notably, it was during Eppler's time as Minister for Economic Cooperation that the Gesellschaft für Technische Zusammenarbeit (GTZ, today the Gesellschaft für Internationale Zusammenarbeit, GIZ) was founded. The delegation was also scheduled to meet President Gustav Heinemann, but the meeting did not take place for technical reasons.

24 Vergau (2010).

25 German Parliamentary Resolution on the eve of Namibia's Independence, 1989.

Since then, a number of agreements dealing with their bilateral relations have been signed between the two countries. The two nations have also witnessed the exchange of high-level reciprocal visits, reflecting the special relations that had developed between them.

Official visits – Germany to Namibia

- **1995**, September: Chancellor Dr Helmuth Kohl (1982–1998; member of the Christian Democratic Union, CDU)
- **1998**, March: Official state visit by President Dr Roman Herzog (1994–1999; CDU)
- **2003**, April: President of the Bundestag (Speaker of Parliament), Wolfgang Thierse (SPD)
- **2003**, October: Minister of Foreign Affairs, Joschka Fischer (Alliance 90/The Greens)
- **2004**, August: Minister of Economic Cooperation and Development, Heidemarie Wieczorek-Zeul (SPD) attended the centenary commemorations of the 1904–1908 uprising
- **2006**, October: Hartwig Fischer, MP (CDU), headed a delegation of German MPs to Namibia
- **2008**, April: President of the Bundestag, Prof. Norbert Lammert (CDU)
- **2008**, January: Delegation of MPs comprising members of the Parliamentary Budget Committee, the Foreign Office, and the Ministry of Defence
- **2008**, February: Minister of Education and Research, Dr Annette Schavan (CDU)
- **2008**, February: 20-person business delegation visited to inform themselves on investment opportunities
- **2010**, February: Minister of Economic Cooperation and Development, Mr Dirk Niebel (Free Democratic Party, FDP), attended the topping-off ceremony for the Ohorongo Cement Factory in Otavi, which is Germany's biggest investment in Namibia
- **2011**, August: Minister Niebel's visit was specially designed to help develop cooperation in vocational training and resource management
- **2012**, February: Ambassador Walter Lindner, the Director-General of African Affairs at the Foreign Ministry
- **2012**, February: Members of the German Budget Committee – Herbert Frankenhauser (CDU/Christian Social Union, CSU), Klaus Branden (SPD) and Heinz-Peter Hausteine (FDP) – informed themselves about the effectiveness of equipment assistance to Namibia
- **2012**, April: Prof. Annette Schavan, Minister of Education and Research (CDU) and her delegation held talks with senior government officials and visited German-supported projects

- **2012**, 24 August–1 September: Niema Movassat, MP (Left Party),²⁶ paid courtesy calls on the Namibian Government, Parliament and other institutions, and
- **2013**, January: Former Minister Heide-Marie Wieczorek-Zeul met members of the Namibian–German Parliamentary Friendship Group and the Minister of Foreign Affairs, besides visiting some of the communities in Otjimbingwe, Erongo Region, benefiting from the Namibian–German Special Initiative Programme.

Official visits – Namibia to Germany

- **1996**, June: Official state visit by President Dr Sam Nujoma to Germany
- **1997**, October: Prime Minister Dr Hage G Geingob (Berlin, Bonn, Dusseldorf)
- **1998**, February: Speaker of Parliament Dr Mosé P Tjitendero (Berlin, Bonn, Bremen, Dresden)
- **1999**, June: SWAPO Party of Namibia Secretary-General, Hifikepunye Pohamba, and delegation (Berlin, Bonn, Rostock, Schwerin)
- **2000**, July: Prime Minister Geingob (Expo 2000, Hanover)
- **2000**, August: President Nujoma (Expo 2000, Hanover)
- **2000**, November: Prime Minister Geingob (Berlin)
- **2002**, June: Official working visit by President Nujoma to Germany
- **2005**, November: Official state visit by President Hifikepunye Pohamba (Berlin, Hamburg, Stuttgart)
- **2006**, December: Speaker of Parliament Dr Theo-Ben Gurirab (Africa Forum 2006 entitled “Fostering Entrepreneurial Spirit”, within the programme “Building Global Cooperation – New Alliances with Africa”, Wittenburg)
- **2007**, March: Minister of Environment and Tourism Willem Konjore and his delegation participated in the annual International Tourism Bourse in Berlin
- **2007**, July: Official visit by Speaker of Parliament Dr Theo-Ben Gurirab and a multiparty parliamentary delegation to the Bundestag, which concluded with an agreement that dialogue should be the key focus for resolution of issues, and the need to form inter-parliamentary friendship groups
- **2010**, August: Official visit by Minister of Youth, National Service, Sport and Culture, Kazenambo Kazenambo, MP
- **2010**, November: Working visit to the Munich Airport by Deputy Minister of Home Affairs and Immigration, Elia G Kaiyamo, MP
- **2010**, November: Namibian Governing Party Chief Whip and former Ambassador of Namibia to Germany, Prof. Peter Katjavivi, MP (guest speaker at an International Conference on the Joint Africa–EU Strategy to assess whether the Strategy has

26 It should be noted that Hon. Movassat and his Left Party (Die Linke) colleagues were particularly instrumental in calling for justice to prevail in terms of the wrongs done to Namibian communities during the colonial occupation by German forces. Likewise, the SPD and Alliance 90/The Greens have presented a number of motions on Namibia in the Bundestag. The most recent of these was tabled on 20 March 2012.

met Africa's expectations; the Conference attracted great interest and presented a high-profile platform for Namibia)

- **2011**, March: Prime Minister Nahas Angula (keynote address entitled "The future of the Namibian nation", Berlin International Economics Congress)
- **2011**, October: Minister of Education Dr Abraham Iyambo visited to discuss bilateral cooperation to strengthen vocational education and training in Namibia
- **2011**, October: A high-level delegation led by Minister of Youth, National Service, Sport and Culture Kazenambo Kazenambo, MP, which included traditional leaders of communities affected by atrocities committed by German colonial troops, went to Berlin to collect human remains for repatriation to Namibia
- **2012**, January: Minister of Agriculture, Water and Forestry, John Mutorwa, invited by his German counterpart, Ilse Aigner, attended and participated in the Fourth Berlin Agricultural Ministers' Summit
- **2012**, March: Members of the Namibian Parliamentary Standing Committee on Foreign Affairs, Defence and Security – Paulus Kapia, Anton von Wietersheim, Ignatius Shixwameni and Lucia Witbooi – visited to promote open dialogue between the two Parliaments
- **2012**, June: Minister of Trade and Industry, Dr Hage G Geingob, attended the Conference on Sustainable Raw Materials Industry and Development Policy in Berlin
- **2012**, June: Managing Director of NamPower, Paulinus Shilamba, and his delegation including the Chief Executive Officer of the Electricity Control Board, Siseho Simasiku (attendance of the Africa Energy Forum in Berlin)
- **2012**, October: Official visit by the Chairperson of the National Assembly Standing Committee on Economics, Natural Resources and Public Administration, Ben Amathila, MP, and his delegation at the invitation of the Konrad-Adenauer-Stiftung, and
- **2013**, March: Members of the Namibian–German Parliamentary Friendship Group (PFG), headed by Prof. Peter H Katjavivi, visited as guests of the German Parliament at the invitation by the German–SADC Parliamentary Friendship Group and meet the President of the Bundestag, Prof. Norbert Lammert; and Secretary of State in the Ministry of Foreign Affairs, Dr Emily Haber, accompanied by the Regional Adviser for Sub-Saharan Africa and the Sahel Zone in the Foreign Office, Ambassador Egon Kochanke.

Namibian Government officials also regularly attend the annual International Tourism Bourse Expo in Berlin.

The above list is not exhaustive.

It is noticeable that the inaugural visits following Independence were both at high level and frequent. However, visits have dwindled from the German side in subsequent years. This is particularly the case with respect to the positions of head of state (President) and

head of government (Chancellor). Indeed, in his characteristic style, Willy Brandt once observed the following in reference to such state visits:²⁷

I sometimes wonder – and this applied in part to my time as Chancellor – if these trips bore a sensible relationship to the results obtained.

He went on as follows:²⁸

Personal contact between leading politicians can often be beneficial, of course, because they genuinely do represent an international version of the extended family.

Besides, in interpersonal relations, non-verbal communication (body language) is instrumental in winning hearts and creating a consensus on sensitive and/or critical matters such as those that characterise the Namibian–German past. Therefore, technological communication alone minus personal visits cannot be an option for high-level relations between Namibia and Germany.

Considerable efforts were in fact made by Namibia to invite the former President of the Federal Republic of Germany, Dr Horst Kohler, to visit Namibia during his term in office, and those efforts were renewed with regard to his successors. So far, these efforts have been to no avail. This issue preoccupies the Namibian Embassy in Berlin, which continues to lobby for such a visit to take place. Several factors are at play in this hesitation to oblige the invitations. The most important is reference to the subject of the atrocities committed against Namibians during the German colonial era (1904–1908), which Namibians demand be officially acknowledged as genocide by the German Government, together with reparations for the crimes committed during that time. These two topics continue to be a thorn in the side of high-ranking German officials.

Notably, too, on 10 May 2010, the Friedrich Naumann Foundation for Freedom and the Regional Office for the Berlin-Brandenburg in Berlin hosted a major national event in Berlin whose major theme was to celebrate 20 years of partnership between Germany and Namibia. As the famous saying goes, —²⁹

[i]t is better to light a candle than to curse the darkness.

Former President of the Soviet Union, Mikhail Gorbachev, has commented thus on parliamentary contact between countries:³⁰

27 Brandt (1978:153).

28 (ibid.).

29 Eleanor Roosevelt (1930s).

30 Gorbachev (1987).

I think the new style in international foreign relations implies extending their framework far beyond the limits of diplomatic process. Parliaments along with governments are becoming increasingly active participants in international contacts, and this is an encouraging development.

German official development aid to Namibia

Bilateral aid via the German Government

As can be seen from the above, early interactions between Namibia and Germany were marked by high-profile visits. Likewise, it is also noteworthy that both governments acknowledged and emphasised the shared special relationship based on our common past. In this respect, the heads of state of both countries have often spoken at state occasions and characterised the ties between Namibia and Germany as being close and special. These sentiments are very much in line with the resolution adopted by the German Parliament prior to Namibia's independence, namely one that welcomed such independence and pledged Germany's special obligation towards Namibia.³¹

There is no doubt that Namibia continues to benefit from the substantial bilateral development assistance programme provided by Germany. This programme started soon after Independence, and targeted the following three broad focal areas:

- The sustainable development and management of natural resources
- Ensuring sustainable economic development, and
- The development of transport infrastructure.

Notably, the total volume of official development aid (ODA) via German bilateral technical and financial cooperation commitments to Namibia since 1990 – including the former German Development Service, the former InWEnt (Capacity Building International), the *Deutsche Gesellschaft für Internationale Zusammenarbeit* (GIZ), the Centre for International Migration (CIM), humanitarian assistance, civil society organisations and political foundations – amounts to some N\$7 billion as at 2013.

Furthermore, German development assistance emphasises issues relating to poverty reduction, the creation of employment, the promotion of good governance, gender equity, land reform, and the fight against HIV and AIDS.

The Namibian–German development assistance programme is subjected to biennial review. The author has participated in these review meetings in the past in his capacity as Namibia's Ambassador to the Federal Republic of Germany, and later as the Director-General of the NPC. This exercise is essential to both governments to ensure that such assistance is being implemented according to the expectations of both countries, and the

31 Handover Report by Prof. Peter H Katjavivi, the then outgoing Namibian Ambassador in Berlin to Germany, to the Namibian Ministry of Foreign Affairs, April 2008.

meetings provide an excellent opportunity to view progress in various projects being implemented as well as serving as an occasion for further strengthening the ties between the two countries.

The most recent bilateral negotiations were held in Germany during May 2011. On that occasion, both governments reaffirmed their commitment to work towards strengthening their cooperation. During the meeting, Dirk Niebel, the Federal Minister for Economic Cooperation and Development, met his Namibian counterpart, Mr Tom Alweendo, my successor as Director-General of the NPC, and “pledged his country’s commitment to continue implementing a policy of friendly development between the two countries”.³² During these negotiations, Germany committed to provide N\$1.27 billion in ODA to Namibia over a period of two years, namely 2011–2012. Of this amount, about 40% consisted of concessional loans – mainly for the Lower Orange Hydro-electric Power Scheme Project. About 60% will be grants in the form of technical and financial cooperation, such as €8.5 million devoted to enhancing the transport network, and supporting land reform and land management in Namibia’s communal areas, and €8 million to the University of Namibia’s Faculty of Engineering on the Ongwediva Campus.

The outcome of the 2011 negotiations are interesting if one looks at the amount of ODA provided in terms of the breakdown between grants and loans. During the 2011 negotiations, the grant component was more than its loan counterpart, which is a departure from the pattern of the previous three to four years. Moreover, if one looks at Germany’s Development Cooperation Policy and the views of Minister Niebel – which were strongly geared towards private sector development, economic development, trade and investment, and ODA that supports Germany’s economic interests – the outcome of the 2011 negotiations was quite unique. During the biennial negotiations covering 2009–2010, loan funding amounted to €85 million vis-à-vis grant funds, which totalled some €35.5 million. Furthermore, Minister Niebel visited Namibia in September 2011 and toured the country to familiarise himself with the various projects being funded under German ODA and, in particular, the Ohorongo Cement Company in Otavi.

ODA as grants and/or loans

An area where concern has been expressed in recent years is in relation to the size of grants vis-à-vis the loans made available by the German Government to its Namibian counterpart. There is a perception within Namibian Government circles that loans have overtaken grants from the available resources that are currently being made available by Germany to Namibia. This point has been disputed by the German development partners.

In my opinion, this issue of grants vis-à-vis loans needs to be seen from a wider perspective, namely the ODA ‘landscape’ in which Namibia currently finds itself. As an

32 Personal communication.

upper-middle-income country, Namibia's pure grant funding has become increasingly scarce and very few donors continue to provide grant assistance; those who do so, provide aid on a limited scale only or offer it as 'seed money' to facilitate trade cooperation or partnerships (notably Sweden and Finland). Furthermore, it is important to note that ODA is defined by the Organisation for Economic Co-operation and Development (OECD) and others as grants or loans undertaken by the official sector for the promotion of economic development and welfare as the main objective. To qualify as ODA, loans need to have a grant element of at least 25%.³³ The Namibian Government often only placed emphasis on the grant part, and did not see the loans as part of ODA. The German Government, however, views such loans as an important contribution to ODA, given the concessional terms upon which they are provided. One of the challenges experienced was that the German Government would in good faith announce some concessional loan packages and proposals, which in some cases were not taken up by the Namibian Government, since the Ministry of Finance – which has the mandate to approve loans – is required to endorse the taking up of such loans. Thus, if one views the commitment and disbursement figures of Germany's ODA to Namibia, disbursements have not been that good for precisely this reason: the amount of loans announced at the bilateral negotiations as part of the ODA package is not always taken up by the Namibian side for various reasons.

Nonetheless, Namibia's German partners maintain that the ODA they provide to Namibia through grants is still higher than the loans they have offered. Arguments over this matter continue, with both sides holding on to their respective positions.

It should be stated here that both Namibia and Germany are committed to the principles set out in the Paris Declaration and Accra Agenda for Action on Aid Effectiveness, and there are opportunities for revisiting this and other related issues during the course of their biennial negotiations. As most good partners, it is important for both governments to utilise established forums and thereby maintain dialogue for the purpose of finding solutions to whatever challenges might arise from time to time. The Paris Declaration and Accra Agenda for Action stressed the need for a new paradigm that focused on partnership in development cooperation based on the principles of inclusive ownership, transparency, predictability and mutual accountability. Thus, it goes without saying that the stakeholders within the Namibian–German partnership should become aware of each other's perspectives and be ready to deal with any emerging challenges.

Implementing partners

Germany's development aid is provided in the form of financial and technical cooperation and is administered by the Federal Ministry for Economic Cooperation and Development

33 See the OECD definition of *ODA*; available at <http://www.oecd.org/dac/stats/34086975.pdf>, last accessed 21 September 2013.

(Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung/BMZ). On behalf of the BMZ, German organisations cooperate with their Namibian partners in various programmes and projects. A case in point is the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), the new agency formed after the merger of the following:

- German Technical Cooperation (Gesellschaft für Technische Zusammenarbeit/GTZ)
- German Development Service (Deutscher Entwicklungsdienst/DED), and
- InWent – Capacity Building International, Germany.

Another government-related body is the Kreditanstalt für Wiederaufbau (KfW), which is responsible for Germany's financial aid programmes on a bilateral, multilateral and private level. Also, the German Federal Institute for Geosciences and Natural Resources (Bundesanstalt für Geowissenschaften und Rohstoffe/BGR), the Centre for International Migration and Development (CIM), and the German Investment and Development Company (Deutsche Investitions- und Entwicklungsgesellschaft/DEG) are examples of similar German organisations which are active in Namibia.

Aid via German NGOs³⁴

Some of the German Government's development aid is channelled through German NGOs, international organisations and multilateral institutions. The German public strongly supports the agenda for social, health and environmental issues in Germany and abroad.

The German NGO community can be more or less grouped together in four categories:

- Political foundations
- Church-based organisations (CBOs), and
- Local organisations.

Political foundations are affiliated to major German political parties. They are involved in political lobbying and awareness-raising and provide assistance to NGO development projects.

CBOs were the first to receive public funding in the early 1960s. Since then, collaboration with the German Government has increased and procedures adapted to allow for the funding of projects and programmes. Some examples of CBOs are Brot für die Welt ("Bread for the World"), which works in close cooperation with the Evangelical Lutheran

34 See also NID (2009), which includes some Namibian NGOs working closely with those in Germany to provide humanitarian assistance within Namibia.

Church in the Republic of Namibia (ELCRN), Evangelische Kirche in Deutschland (Evangelical Church in Germany), Johanniter Hilfswerk (Knights of St John), and Miserior (Catholic Central Office).

Of the large number of other development organisations, many have grant programmes for supporting development and environmental NGOs in Namibia. They obtain their finances from various sources, including the Federal Ministry for Economic Cooperation and Development. Other sources of revenue include public donations and contributions, legacies, sale of products, and consultancy services.

The following are some examples of German NGOs that collaborate with Namibia at some level.

Senior Experten Service (SES)

Senior Experten Service (SES), a non-profit organisation, is the Foundation of German Industry for International Cooperation (Stiftung der deutschen Wirtschaft für internationale Zusammenarbeit). The SES offers interested retirees the opportunity to pass on their skills and knowledge to others, both within Germany and abroad. They work in a voluntary capacity as Senior Experts, helping to train both specialist workers and management staff.

Solidarity Service International (SODI)

Solidarity Service International (SODI) campaigns for solidarity and a just and peaceful world in which a natural way of life is preserved. SODI is also a non-profit association, and is independent of particular political and ideological views. SODI was founded in 1990, and succeeded the former Solidarity Committee of the German Democratic Republic. Significant in its constitution and development was its participation in the East German 'round table for development policy, as well as the strong will of its members and donors to advocate international solidarity in a united Germany.

Presently, the association has more than 300 members. Furthermore, it is supported by volunteers, grass-roots initiatives and donor groups. SODI is funded by donations, membership fees and public funds. Since 1994 they have received yearly accreditation from the German Central Institute for Social Issues (Stiftung Deutsches Zentralinstitut für soziale Fragen/DZI). SODI is a member of civil society networks and participates in national and international campaigns to reach its goals. SODI and its Namibian partner, the Clay House Project, constructed 600 dry toilets in Otjiwarongo and in rural areas in northern Namibia. These facilities serve over 4,500 people, who actively took part in the construction of the toilets and who learned how to maintain them themselves.

Weltfriedensdienst eV (WFD)

The WFD was founded in 1959 in Berlin. Together with other organisations and initiatives in southern and northern Germany, the WFD advocates and works for social justice, the observation and implementation of human rights, equal support of both women and men in development processes, and sustainable economic and agricultural activities which preserve natural resources. The WFD runs several projects in Namibia, including a crisis management fund for orphans, and a project for children living in Katutura.

Ombili Stiftung eV

Supported largely by the Lions' Club of Mosbach in Germany, Ombili was founded in 1989. The Ombili Foundation and School, located in northern Namibia, is dedicated to providing education and training to the San people of Namibia. From 1990 to 1997, projects such as a 4-ha vegetable garden under irrigation were established. Traditional and other handicrafts are encouraged and taught, and the products are bought by the Foundation to be sold locally or they are exported. A community centre, a school, a workshop, a kindergarten, a hostel, classrooms, and staff housing for teachers and employees at the Foundation have been constructed with the sponsorships of financial contributions by German NGOs as well as donations by private individuals.

Freundeskreis Gesundheit für Ombili Berlin-Brandenburg eV

This medical association is very helpful in assisting with San community project activities in Namibia. For several years, they have organised a biannual concert in Berlin for the benefit of the San.

Bürgersinn Stiftung/Baumgartsbrunn Farm School

The Bürgersinn Foundation supports the Baumgartsbrunn Farm School project in Namibia in particular. The project is committed to helping young women and children to help themselves. A primary school and a guest farm belong to the project as well. The principal goal for Baumgartsbrunn is to secure the existence of this model project of North–South cooperation beyond the death of its founder, Helmut Bleks, and to sustainably develop the project for the future. The project is run by the Helmut Bleks Foundation in Germany in collaboration with the Bürgersinn Foundation.

Deutsch-Namibische-Entwicklungsgesellschaft eV/German–Namibian Development Society

Since the formation of the German-Namibian Development Society in 1983, it has worked towards improving living conditions in Namibia and has been supporting long-

term as well as sustainable and effective development projects in Namibia, especially in rural areas. The Society is active in the fields of medical care, education and vocational training, scholarships, student exchanges, the establishment of community centres, support of cultural and science-related institutions, and sustainable agriculture projects.

Deutsch-Namibischer Hilfsfonds Quandt eV/Quandt Development Trust Fund

The Quandt Development Trust Fund was founded after the German Honorary Consul for Namibia, Georg Quandt, who supported projects for the poor in Namibia for 30 years as a private initiative in order to increase the effectiveness of development assistance. The main goals of this initiative are fighting poverty; anti-AIDS programmes; support of women's cooperatives; supervision of kindergartens, nursing homes and orphanages; care for bush hospitals; school buildings and equipment for communities and universities; and cultural exchanges. Specific assistance from the Fund has arrived during periods of natural catastrophes such as floods or drought, when they have donated containers of new clothes, blankets and medical equipment to Namibia.

NGOs that help children

- HILFE FÜR NAMIBIA eV/HELP FOR NAMIBIA

This association was established in 1988. Since then, it has a partner association in Windhoek who assists in identifying projects in need of help. Several institutions in Namibia are supported by Help for Namibia, including the hostel in Rietoog, Association for Children with Language, Speech and Hearing Impairments of Namibia (CLaSH), the Gobabis Kindergarten, the Rakutuka Primary School, the retirement home in Rehoboth, the Kombat Primary School, and the Khoandawes Primary School.

- KINDERHILFE IN NAMIBIA eV/HELP FOR CHILDREN IN NAMIBIA

This NGO supports self-help projects in local communities regarding the construction, enlargement and improvement of day-care centres, pre-primary schools (kindergartens) and schools. Kinderhilfe also provides secondary school learners with scholarships. The organisation realised the need for classrooms, pre-primary schools, kindergartens and school equipment. Institutions that are involved in the education process are supported by way of building materials for -

- the construction and renovation of classrooms and of pre-primary schools
- the construction, upgrading and renovation of kindergartens
- the maintenance, renovation and upgrading of hostels, and
- the improvement of infrastructure, e.g. storerooms, sports facilities and toilets, as well as educational equipment.

For some big projects, Kinderhilfe has received funding from Sternstunden – a benefit programme run by the Bavarian Broadcasting Corporation, the Irma Pfeifer Foundation, and the Ministry for Economic Cooperation and Development.

- OTHER NGOS THAT HELP CHILDREN

Some smaller German NGOs committed to the support of children in Namibia in respect of similar projects include LionKids Namibia eV, Deutsch-Namibischer Partnerschaftsverein eV, Namibiakids eV, and Fahrräder für Afrika eV/Bicycles for Africa, which cooperates closely with the Bicycle Empowering Network (BEN) Namibia. BEN Namibia aims to empower disadvantaged Namibians through provision of sustainable transport and bicycle-related income generation opportunities.

Support Ulm eV

Support Ulm eV is a non-profit organisation whose goal is support of a medical nature. The organisation was founded in 2005 by voluntary citizens in various occupations of the town of Ulm in Germany. Examples of projects they support are the Otavi Health Clinic, the Albino Corner, several anti-AIDS campaigns, and a medical station to provide medical assistance in the Otavi area.

The Namibian response to NGO assistance

On the Namibian side, the NGO desk in the National Planning Commission (NPC) and NANGOF, the Namibian NGO Forum, need to be strengthened in their liaison with international NGOs, specifically German NGOs. They need to undertake properly focused and well-coordinated approaches to channelling donor assistance to needy communities in Namibia.

Other important factors that influence bilateral relations

Other factors that should be looked at while reviewing the bilateral relations between Namibia and Germany are the two countries' mutual membership of certain groupings. For instance, on the UN front, both Namibia and Germany call for the world body to undergo major reform. However, it should be noted that actions by one country through other membership groupings can have an impact on the other country. Similarly, whereas it is accepted that Namibian–German bilateral relations were built on shared values, it is nevertheless expected that these relations can face particular challenges from time to time. In the late 1990s, for instance, the Government of the Democratic Republic of the Congo faced an imminent danger of collapsing after it had been attacked by external forces. In the light of this situation, the leadership of the Southern African Development Community (SADC), which included Angola, Namibia and Zimbabwe, combined their

forces and played a decisive role in helping to prevent President Desiré Laurent Kabila's government from falling during that critical time. However, the military intervention by these three SADC countries did not go down well with some of Namibia's development partners, including Germany. This development directly affected German official development assistance to Namibia, which was reduced during the period in question. Nevertheless, relations were later salvaged.

Furthermore, the relations between the African continent and the EU have undergone significant changes in recent years. African–EU relations are transforming from a partnership relating to the Cotonou Agreement to the Lisbon Treaty. This has produced a great deal of uncertainty among the African, Caribbean and Pacific (ACP) countries. On the trade front, the greatest concern being expressed by ACP countries, including Namibia, has revolved around EPAs with the EU. Negotiations concerning the EPAs have so far not produced agreements acceptable to Namibia and some other countries. As a publication from the European Centre for Development Policy Management (ECDPM) points out, —³⁵

[t]he EPA negotiation process has placed a heavy burden on the EU–Africa relationship, and it has also put pressure on the inner coherence of the ACP.

Another issue that has placed a burden on Namibian–German relations is the implementation of the Schengen visa regime by the EU. This development has placed Germany in a position where they do not reciprocate Namibia's granting of a 'no visa' requirement to German citizens visiting the country. However, the German Government has now exempted Namibian diplomatic passport holders from requiring visas to enter Germany.

Dealing with the pain of the past

Just as Namibia's foreign policy has been shaped by its past and by the liberation struggle, it could also be argued that the foreign policy of the Federal Republic of Germany has its origin in the foreign policy of West Germany. Ultimately, Germany's current foreign policy can be traced to a number of steps taken within the former West Germany's foreign policy.³⁶ Maull, one of the renowned commentators on German foreign policy, has elaborated on this aspect, explaining that the country wants —³⁷

... to be perceived as a reliable ally and a fair partner, and it rests importantly on leadership by example.

35 See various ECDPM publications on the EPAs, as well as Katjavivi (2012).

36 Maull (2011:148–161).

37 (ibid.).

Furthermore, Maull, in a 2011 article on globalisation and German foreign policy, asks how the policy should position itself.³⁸ He suggests several guidelines that would serve Germany well, summing these up as the task of steering the country along a course that would maintain and enhance public welfare in a sustainable way, to benefit not only the society at home, but also in the rest of the world. Maull constantly refers to the world going through a number of difficult foreign policy challenges, including crises that affect international relations in general, and, in particular, the North–South collaboration.³⁹

Judt and Snyder have it that, until recently, it was not fashionable in Germany to try to promote the concept of caring for the needy for the purpose of promoting equity within societies.⁴⁰ Furthermore, the authors claim, until recently, it was not politically fashionable to discuss and emphasise suffering within German societies, including the suffering of German citizens during the Allied Forces’ bombings in World War II, because this would reignite the debate of National Socialist German atrocities against others, and would probably relativise Germany’s crimes vis-à-vis atrocities by others against Germans.⁴¹ This thinking has continued to shape the entire political debate on addressing war and colonial atrocities in some sections of German society and, to a larger extent, all former imperial powers to date. It is easier to try to brush facts related to colonial oppression under the carpet than to face and appropriately address them.

Despite this, however, there has been a re-examination of the past.⁴²

Today, Germans and others engage their past in terms closely comparable to those familiar to us from historiography elsewhere. Since this shift in perspective occurred in exactly the decade when victimhood was taking centre stage in historical and political debates across the West, we should not be surprised that questions of comparative suffering, apology and commemoration – familiar from American identity politics to the South African truth commissions – have their place in German conversations as well.

According to Frank Chikane, the South African Truth and Reconciliation Commission (TRC) was perceived as “a historic task”.⁴³ And according to Archbishop Desmond Tutu, the South African TRC was regarded as the most ambitious, “a kind of benchmark against which the rest are measured”.⁴⁴ Material compensation is, as Töttemeyer points out, a component of restorative justice for atrocities committed in the past.⁴⁵

38 (ibid.).

39 (ibid.).

40 Judt & Snyder (2012).

41 (ibid.:44–45).

42 (ibid.).

43 Chikane (2013:305).

44 (ibid.:306).

45 Töttemeyer (2013:80).

Despite the warm relations that have developed between the Namibian and German Governments since 1990, there has been a continuous wave of demands for dialogue over the bloody conflict that characterised the history of both countries. For this reason, the affected Namibian communities believe successive German Governments have not addressed the painful realities of the genocide. This has led them to petition the German authorities through various forums to have their grievances heard. These communities have also resorted to taking the German Government to court in the United States of America. The court case in the USA ended inconclusively, but other form of actions continued, including the motion on reparations introduced in the Namibian National Assembly and unanimously adopted in October 2005.

I have written elsewhere about the plight of the Namibian people under German colonial rule:⁴⁶

The ordeal suffered by Namibians during this period is well captured in the Blue Book of 1918, produced by the British Government. In 2003, Dr Zephania Kameeta, Bishop of the Lutheran Church in Namibia, has written a preface for the re-published version of the Blue Book, saying that the book reveals “one long nightmare of suffering, bloodshed, tears, humiliation and death”.

It is indeed a sensitive and emotional issue for us in Namibia. As the title of the re-published Blue Book states, ‘words cannot be found’ to fully describe how people felt about their suffering. In an interview, the South African Judge and international war crime prosecutor Richard J Goldstone once said:⁴⁷

It really is a natural cry in every human being on every continent: when you’ve been victimized, you want justice. ... where those cries are unheeded, that causes cycles of violence, cycles of unhappiness ... There is this anger that builds up from generation to generation.

We are therefore reminded that, in order to heal the wounds of the past, it is essential to implement a process of justice or reach out to the victims. It is also important for us to take note of the work done by the Organisation of African Unity (OAU) in its efforts “to establish a material and moral basis for the crusade for reparations”. Both Prof. Ali Mazrui⁴⁸ and Ambassador Dudley Thompson⁴⁹ have made powerful statements of encouragement in respect of establishing –

... Regional Committees on reparations in all regions of the world, in which Africans and people of African descent are to be found.

46 Katjavivi (2008:91).

47 (ibid.).

48 Mazrui (1993:58–72).

49 Thompson (1993:21–27).

The Minister's apology

It is important to appreciate the courageous apology in the words of the Lord's Prayer, "Forgive us our trespasses", made by Ms Heidmarie Wieczorek-Zeul, then German Federal Minister for Economic Cooperation and Development, during her visit to Namibia to mark the August 2004 Centennial Remembrance of the atrocities committed by the German colonial troops in Namibia. This event was held near Okakarara, not far from where some of the most bloody battles had taken place.

In the eyes of many observers, as I have written elsewhere, this was –

... an apology that is rooted in acknowledging the historic injustice and human damages that were caused. Dr Theo-Ben Gurirab, who was the Prime Minister of Namibia at that time, later pointed out that "those words reverberated across the entire country, and our people said 'Yes, at long last.'"

I went further and quoted Judge Goldstone:⁵⁰

The public and official exposure of truth ... is itself an important form of justice ... Common to all forms of justice is public acknowledgement for the victims. I witnessed time and again in South Africa, Bosnia and Rwanda the importance of that acknowledgement to victims. It is frequently the beginning of their healing process.

Thus, the affected Namibian communities are still of the opinion that an apology can only be the first step towards serving justice in this particular matter. Since the adoption of the motion in the National Assembly in 2005, the affected communities have embarked on a constant consultation process with the Namibian Government, which in turn has taken on a facilitation role. It is in this context that, in December 2007, Prime Minister Nahas Angula, on behalf of the Namibian Government, transmitted the unanimously adopted resolution in support of the claims for reparations to Dr Frank-Walter Steinmeier, then Foreign Minister and Deputy Chancellor of the Federal Republic of Germany for consideration of the matter. However, the German authorities indicated that the Namibian Government had not stated its own position and, therefore, it was not a government-to-government matter. Since then, however, the Namibian President has formally taken up the issue with the German authorities.

The Namibian–German Special Initiative Programme

Minister Wieczorek-Zeul's visit to Namibia in 2004 was followed by the introduction of the Namibian–German Special Initiative Programme (NGSIP), with a pledge of a €20-million grant from the German Government. However, we are told that the project

50 Katjavivi (2008:91).

originally had a different name. Minister Wieczorek-Zeul reportedly spoke in Dusseldorf in 2005, having –⁵¹

... presented what she called a Reconciliation Initiative: development aid amounting to 20 million euro for the descendents of the population groups affected by the genocide in Namibia.

The aid was to be spent on community-based projects in those communities in central and southern Namibia – the Herero, Nama and Damara – who were affected by the genocide.

The German Government decision to provide €20 million was initially regarded by many observers as having been unilateral on their part. However, the initiative was followed up, presented and discussed between the two governments. In this connection, President Pohamba was approached by the German authorities during his state visit to Germany in 2005, and presented with a Memorandum of Understanding regarding the Special Initiative project. It was reported that this move took the Namibian President by surprise. For this reason, he declined to sign the said document at the time, and suggested that further consultations were needed.

After having consulted with all necessary stakeholders, President Pohamba appointed Deputy Prime Minister Dr Libertina Amathila to consult the traditional leaders of the affected communities. Accordingly, Dr Amathila produced a report which eventually formed the basis for the implementation of the NGSIP. The process to undertake this task took a long time. This was due to various logistic constraints and the necessary consultations that had taken place between Namibian and German authorities. For these reasons, the actual implementation only took place in November 2007. The Namibian Government's implementing agency was the National Planning Commission (NPC).⁵²

It must be acknowledged, however, that the various traditional leaders were displeased with the manner in which projects were being implemented. They had complained repeatedly about the lack of transparency and poor coordination with the would-be beneficiaries. This challenge faced the staff of the NPC, and the reigning mood when the author became the Director-General of the NPC in 2008 was despondent. In the light of the complaints by traditional leaders, the Namibian and German authorities stepped up their efforts to deal with the specific points that had been raised. Firstly, the relevant implementation committee structures were reorganised and additional people with appropriate expertise were appointed. Secondly, it became essential to appoint a new coordinator for the programme. These changes assisted the programme's implementation process, and made it more accountable to stakeholders.

51 (ibid.).

52 See debates in the Namibia National Assembly, 17 February–12 March 2009, in Parliament of the Republic of Namibia (2009:300).

The grant of €20 million pledged by Minister Wieczorek-Zeul unleashed a torrent of debate and confusion which had to be managed by both governments, who explained that the NGSIP was not a reparations programme per se. From the Namibian side, this assistance was applied to benefit all people in the targeted regions in order not to cause ethnic division or tension. Indeed, the Namibian Government's take on the issue is to develop infrastructure that benefits the wider community within the identified regions. German authorities had to regularly clarify to Namibian authorities that this funding was not for reparations. Due to different interpretations and expectations of what the NGSIP was intended to deliver, it has received extensive media coverage and attention both in Namibia and in Germany.

The NGSIP is quite unique. Despite the complaints, it is one of the few programmes where communities have had the opportunity to identify their needs and projects directly. Consultations were held with regional councillors, the various traditional leaders, constituencies, and with central ministries in order to have a coordinated approach and to integrate the programme within Namibia's structures and institutions as far as possible. This was done to make use of local capacities to implement and sustain the relevant projects in the future.

However, the implementation of the NGSIP has been very slow for a number of reasons. Some of these reasons were lengthy and bureaucratic procedures on both sides, protracted community consultations, and the reviewing of priority needs. Indeed, implementation is still under way. The serious delays experienced have triggered renewed attention on the NGSIP as well as renewed calls for reparations.⁵³ This led to a number of visits from Germany to Namibia, notably by Ambassador Walter Lindner. The last time he came, in February 2012, was in order to see what the problems were in terms of the NGSIP and how its implementation could be accelerated. During these discussions, the NPC sensitised the Ambassador and the Federal Ministry of Economic Cooperation and Development about the need for additional funding for the NGSIP in order to honour the original commitments Germany made to the relevant communities in Namibia. This was necessary because the NGSIP had experienced a shortfall following the implementation delays, which had not been foreseen: no price escalation or inflation index had been included in the budget. It is understood that, furthermore, the 2007 Feasibility Report produced by Namibia's NPC had underestimated the design and supervision consultancy costs, and had made no budgetary provision for capacity-building to support beneficiaries to obtain maximum and sustainable benefits from project investments. As a result, the total funds required to fund the original projects were 70% above the 2007 budget. The NPC officially approached the German Government in March 2012 and requested additional funding amounting to N\$104 million, being the NGSIP investment cost to implement the projects originally agreed with the communities concerned. Germany responded positively to this request, and granted the additional funds.

53 NPC (2013).

It may be fair to say that the NGSIP drew attention to more serious and unresolved matters, such as the reparations issue and, as such, escalated the urgency to try to deal with them. It is important for Germany – but also for Namibia – to ensure that the NGSIP works. Some believe that the NGSIP has the potential to assist the communities affected, and that a number of useful lessons can be drawn from how this programme was prepared and is implemented.

Many people in both Namibia and Germany regarded a description of the ‘reconciliation initiative’ to be more appropriate than the ‘Special Initiative’ label when viewed against the issue of genocide that had moved Minister Wieczorek-Zeul to tears when she addressed the 2004 event at Okakarara. No wonder her preferred words were those of a “reconciliation initiative”.⁵⁴ This explains her symbolic gesture of goodwill, expressed in the form of €20 million towards those she regarded as victims of bloody colonial war. It appears that Minister Wieczorek-Zeul perhaps did not win the game of words regarding the finalisation of the NGSIP, but she certainly won the hearts of many Namibians for her courage to stand before them and say, “We are sorry for what we did here!” Even more remarkable is that she represented the same political tradition of those German parliamentarians who had been opposed to colonial wars in Namibia at the turn of the 20th Century.⁵⁵ However, this framing of the NGSIP as a reconciliation initiative was not acceptable to the German authorities overall. This is not surprising, given the German Government’s sensitivity when it came to its history in Namibia, including the issue relating to the demand for reparations.

This subject was further emphasised by the Speaker of the Namibian National Assembly, Dr Theo-Ben Gurirab, during his visit to Germany in July 2007 as the head of an all-party delegation of MPs invited by Bundestag President Dr Norbert Lammert.⁵⁶ While in Germany, Dr Gurirab and his delegation had the opportunity to exchange views with their German counterparts on a number of issues, including the question of reparations. Equally, German MPs were interested in seeking the views of their Namibian counterparts with regard to the motion adopted by the Namibian National Assembly to ascertain whether that was the majority view. In that respect, it could be said that both the Namibian and German MPs were interested in having a structured form of dialogue, dealing with matters of mutual interest – including the said motion. This willingness was observed on both sides, as was their readiness to engage in dialogue that aimed at finding a lasting solution to the Namibian–German conflict of the past. There is no doubt that such a move should be encouraged and supported both in Namibia and in Germany. Ideally, such an initiative might hold promise for a better understanding of each other’s

54 Refer to the inception of the NGSIP.

55 For the duration of the period 1904–1908, the precursor of the SPD was the opposition party in the Bundestag, and it had pronounced itself against the German colonial wars in Africa.

56 This meeting marked a greatly renewed interest in Namibian–German relations. For more detail, see *Parliament Journal*, 6(1), January–April 2008.

positions as well as contributing towards the strengthening of the Namibian–German relations. Dr Gurirab spoke on the possible way forward in optimistic terms, but also sounded a word of caution:⁵⁷

My own view is that all tracks should be kept open and an all-inclusive dialogue, which seeks consensus and satisfactory outcome, must guide all the parties concerned. But a dialogue, while avoiding a rush, must, however, be time-bound. A dialogue which does not find a lasting solution would unhappily be a waste of time. By default, that would yet again end up as a betrayal of trust. Neither the German Government nor the Namibian Government can stand up in the face of such an indictment. I know that we can and we want to do better to close this ominous chapter of the brutal colonial history.

If we look at the relations and cooperation – historically, politically, economically and culturally – between the two countries, it is evident that both sides have more to lose than to gain if these issues are not resolved. In this respect it has also become clear that the amount of ODA given by Germany, albeit high, and the NGSIP should be viewed separately and cannot act as a substitute for dealing with the real issues at hand.

The repatriation of human remains

During my time as Namibia’s Ambassador to Berlin, word got to me that several skulls of Namibian ancestors who had been victims of German atrocities were being kept in medical and other research institutions in Germany, having been taken there in the early 20th Century to facilitate an unfounded anthropological research theory which assumed that black Africans were inferior to persons of European descent. I then initiated talks on the need to have these human remains returned to their homeland. The German and Namibian Governments engaged in detailed talks on the subject, leading to the first return of 20 skulls of Herero and Nama ancestors, in October 2011.

However, the return of these remains was not as smooth as had been expected. The Namibian Government had sent a high-level delegation to Germany, comprising traditional leaders of the affected communities, led by Hon. Kazenambo Kazenambo, Namibia’s Minister of Youth, National Service, Sport and Culture. The German side was represented by a lower-ranking Minister, Cornelia Pieper, who was then Minister of State in the German Foreign Office. In terms of protocol, the Namibian Government viewed the German Government’s decision to send a Minister of State instead of a full Cabinet Minister to represent them as an attempt to downgrade the event and an apparent denial of responsibility for the actions of the German colonial occupation forces. Certainly, the lukewarm approach on the part of the German authorities to the entire subject of the return of the human remains cast serious doubt on the sincerity of the German Government about the subject of reconciliation. Initially, the German authorities preferred to use the term *regret* rather than *apologise* to refer to the genocide actions of

57 Katjavivi (2008:91).

their occupation forces at the time. As illustrated by Yonas Endrias, the spokesperson of the German NGO Alliance, —⁵⁸

[t]he German Government uses the term regret instead of apologize. One regrets a minor crime, but genocide is the worst of all crimes, a crime against humanity.

Minister Kazenambo urged Germany to embrace openness in their future dealings with Namibian communities. Furthermore, on the occasion of the requiem mass held in Windhoek for the fallen souls to whom the skulls belonged, Namibian President Pohamba said the following:⁵⁹

We will continue to work with the Government of the Federal Republic of Germany to strengthen the ties of bilateral cooperation on the basis of mutual respect and mutual benefit of our two peoples. We also trust that our two countries will continue working together to complete the repatriation of the remains that are still in Germany.

At Namibia's national commemoration for the 20 Namibian skulls returned from Germany, German Ambassador to Namibia at the time, HE Egon Kochanke, said —⁶⁰

... the return of the skulls reminds us of a dark chapter in history, which still causes tremendous grief.

In his own words, he said:⁶¹

Allow me to mourn with you and to bow my head in deep regret.

Notably, there are still more human skulls of Namibian ancestors in Germany that are yet to be returned to their motherland. The first shipment of skulls returned from the Charité Hospital in the Berlin Medical Historical Museum comprised 20 skulls, i.e. 11 from Nama and 9 from *Ovaherero* communities. There are several other skulls still housed at the Freiburg University research facility.

Notably, although Minister Pieper acknowledged that Germany accepted its heavy moral and historical responsibility towards Namibia she left the venue before hearing the statement by the Namibian Minister who had led the Namibia delegation. This was perceived by the Namibian delegation as a show of disrespect.

Ambassador Kochanke, while speaking at the signing of a N\$660-million cooperation and financing agreement between his government and Namibia in 2011, soon after the

58 *Namibia Review*, 19(4), Sept/Oct 2011:9.

59 (ibid.:10–11).

60 "Namibian skulls' return prompts new demands", *The Local*, German Television News in English, broadcast. 6 October 2011, 06:40 CET.

61 (ibid.).

return of the Namibian skulls, described it as a “sensitive topic”, which had had a negative influence on bilateral relations between the two countries.⁶²

In an effort to cool or defuse the tensions that had developed around the issue of the skulls in particular, the German Government dispatched Ambassador Walter Lindner, Director-General for African Affairs in the German Federal Ministry of Foreign Affairs, to Namibia towards the end of January 2012. The purpose of Lindner’s visit was to meet Namibian stakeholders who included the Prime Minister, MPs,⁶³ and traditional leaders from the affected communities, on the main issues below:

- Strengthening of bilateral cooperation between Namibia and Germany
- Identifying the obstacles and challenges in implementing the NGSIP with a view to managing these challenges, and
- Addressing issues relating to the repatriation of the other existing human remains from Germany to Namibia.

In terms of civil society, more than 100 German NGOs have signed a “No Amnesty to Genocide” appeal to the German Parliament, joining the demand for a formal apology for the genocide and reparations. The alliance demands a prompt, official apology from the Bundestag itself, as well as the initiation of a “respectful dialogue” with the communities concerned in Namibia as regards “symbolic and material reparations”. In addition, the alliance has called for the establishment of a German foundation that would dedicate itself to the “critical” reappraisal of German history, with a particular focus on colonialism and the genocide committed in Namibia.

The way forward

What is the way forward in Namibian–German relations? As I have indicated before, these bilateral relations have gone through their ups and downs, but, as we have learnt, the relationship is one that is built on common interests.

It is important to continue to emphasise Namibia’s high potential to Germany and other parts of the world in respect of being an investment destination. In recognition of this important role, the Namibian Government should ensure that appropriate ministries and institutions intensify and, where necessary, revise and refine existing strategies with a view to broadening the landscape that would continue its drive to bring in the private sector and civil society role players. This could be done through constantly emphasising Namibia’s national vision – Vision 2030 and its five-year National Development Plans

62 “Collectors of skulls had hidden agenda – German Ambassador”, *The Namibian*, 17 November 2011. For further details on the significance of the repatriation of Namibian human skulls, see Katjavivi (2011).

63 The author, speaking on behalf of Namibian MPs, briefed Ambassador Lindner on 2 February 2012 on the subject in a Windhoek meeting.

– on the basis of a well-built system of coordination and structures linked to an efficient evaluation mechanism. For example, before the NGSIP can be utilised as a platform for a larger strategy to solve the needs of Namibia's needy communities, it should be evaluated in its entirety so as to take into account the lessons learnt, challenges met, and further opportunities that have accrued through its very existence.

Namibia should also utilise its parliamentary and other strategic partnerships to continue to speak out on issues it considers to be of a strategic nature, including the needs and expectations of the people of Namibia. For instance, Namibia faces particular challenges with regard to the impact of climate change on its fragile ecosystems. In this connection, Namibia could make a strong and compelling argument to its international development partners, including Germany, by emphasising the direct connection between healthy ecosystems and securing food and fresh water, a healthy economy, and healthy people. Knowing the Federal Republic of Germany's interest and commitment towards environmental challenges in general and to climate change in particular, Namibia might have a win-win situation on that score!

From everything that we have observed in the above discussion or have known beyond it with regard to relations between the two countries, it is clear that both Namibia and Germany have managed to maintain mutually beneficial ties over the years. However, there is unfinished business. Namibians still regard Germany's apology for the genocide as partial: one that can only be complete if accompanied by meaningful compensation for the wrongs committed in the past,⁶⁴ and aimed at bettering the livelihood of the communities originally affected, as part of the process of healing the wounds. Notably, to date, Germany has ruled out reparation and maintains that its €600 million in development aid since Namibia's Independence has been “for the benefit of all Namibians”.⁶⁵

How can Germany deal with the past in relation to Namibia? For this to happen successfully, both the Namibian and German Governments and their respective national Parliaments need to promote dialogue at the appropriate levels of society. It is worth noting that both the Namibian President and his counterpart, the German Chancellor, have begun engaging each other on these issues through direct communication between Windhoek and Berlin. The Namibian–German Parliamentary Friendship Group was encouraged during its visit to Germany in March 2013 to hear that the German–SADC Parliamentary Friendship Group had embraced the concept of engagement through dialogue to deal with the unresolved issues between Germany and Namibia, within the German Parliament. All parties represented within the Bundestag have agreed to address these issues. What is now required is a well-structured dialogue with a given time frame.

64 For details, see Olusoga & Erichsen (2010); Sarkin (2011).

65 “Namibian skulls’ return prompts new demands”, *The Local*, German Television News in English, broadcast. 6 October 2011, 06:40 CET.

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Unequal but intertwined: Namibia's bilateral relationship with South Africa

Tjiurimo Alfredo Hengari and Chris Saunders***

Namibia's post-Independence bilateral relations with South Africa were shaped in large part by two dominant facts: that its large neighbour to the south had ruled Namibia for 75 years (1915–1990) and left behind an extensive legacy, and that Namibia remained economically very closely intertwined with South Africa, which had Africa's largest economy. Initial relations with South Africa were also significantly influenced by the particular global context in which Namibia gained its independence, namely the end of the Cold War. At the same time, apartheid South Africa began to emerge from international isolation, in large part because it finally agreed in 1988, under great pressure, that Namibia should become independent via a process involving the United Nations (UN). It was not until 1994, however, that Namibia's relations with South Africa changed significantly, with the incorporation of Walvis Bay and then the advent of a democratically-elected government in South Africa a few months later. Relations between the two countries have not always been close since 1994, however, partly because of the past relationship between the two liberation movements that became the ruling parties in the two countries.

Relations between Namibia and South Africa since Namibia's independence in 1990 are, then, the product of history, of geographical continuity, of economic interdependence and integration, of culture, and of politics. As the last coloniser of Namibia, South Africa has a continuing influence on numerous aspects of the post-colony, including its economy, its social structure, its criminal justice system, its tourism sector, and its foreign relations. This legacy is much in evidence in Namibia's macroeconomic performance, particularly in the fiscal and monetary policies of the new state, as well as in its trade relations. Twenty-three years after Independence, Namibia's economy remains closely linked to South Africa's. Back in 1992, President Sam Nujoma complained that Namibia imported everything from South Africa and had no significant exports to that country.¹ In 2011, Namibia imported R35.4 billion worth of goods from South Africa, accounting for 66% of the country's exports, while 30% of Namibia's exports, valued at R8.3 billion, were destined for the South African market. In 2012, South African investments in Namibia were estimated at R58.47 billion.² Moreover, Namibia's retail and commercial sectors have, since Independence, been dominated by South African corporates, including Pick n Pay, Shoprite, Standard Bank, and First National Bank – to mention but a few.

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1 Republic of Namibia ([n.d.]:180).

2 South African High Commission ([n.d.]).

Namibia has viewed democratic South Africa since 1994 as the centrepiece of its economic diplomacy, yet has continued to be uneasy about its relations with its bigger neighbour. The two liberation movements, the African National Congress (ANC) and the South West Africa People's Organisation (SWAPO), did not always work closely together during their years of struggle against apartheid, despite having the apartheid regime as a common enemy. In the 1960s, SWAPO – founded almost 50 years after the ANC – continued its earlier campaigns against the incorporation of Namibia into South Africa. SWAPO's liberation politics were initially largely Sino-inspired, at a time when Soviet influence became a dominant ideological anchor for the ANC. While SWAPO's military wing, the People's Liberation Army of Namibia (PLAN), fought impressively in what it saw as a war for liberation against apartheid colonialism, the ANC, seeking the inclusion of the black majority in a non-racial South Africa, waged a much less successful guerrilla campaign. While some in SWAPO had thought the ANC not serious enough in the struggle against apartheid, some in the ANC had looked down on the Namibian nationalists as latecomers, lacking in sophistication.³

Namibia's post-Independence 'high politics' relations with its southern neighbour can best be termed ambivalent. Namibia appreciated President Nelson Mandela's declaration that South Africa would cancel the debt Namibia owed that country at independence. But Namibia's desire to be independent of its big neighbour in some instances lent towards overconfidence and overreach, particularly under the presidency of Sam Nujoma from 1990 to 2005.⁴ While Namibia's post-Independence political leadership accepted that South Africa was indispensable to its economic survival, by virtue of the close intertwining of the two countries' economies, that leadership has sought to pursue an 'emancipatory' foreign policy based on a desire to assert its sovereignty, wishing to avoid domination by its larger neighbour, and on anti-imperialism. However, leadership changes in both countries have impacted on the texture of bilateral relations. In order to better understand the complex nature of these relations, we propose to examine post-Independence Namibia's foreign relations with South Africa in three phases. The first, from 1990 to 1994, represents an interregnum because of the transition then taking place in South Africa from apartheid to democracy. The second and third phases (1994 to the present) cover the presidencies of Sam Nujoma and Hifikepunye Pohamba. These represent different avenues of consolidation in Namibia's relations with post-apartheid South Africa.

Phase 1: Engaging the former colonial oppressor, 1990–1994

Once installed in office, the new Namibian Government realised that it had to work closely with its former colonial power, despite all that had happened in the past, and

3 Cf. Southall (2013), especially Ch. 2–3.

4 Cf. Cooper & Shaw (2009).

despite the natural enmity of a liberation movement towards its former oppressor. From an economic perspective, there was no alternative, and pragmatism dictated a working relationship on other issues. Fortunately, then President FW de Klerk had already opened the door to a negotiated settlement in South Africa the month before he went to Windhoek in March 1990 for Namibia's Independence celebrations, which the recently released Nelson Mandela also attended.⁵ After 1990, relations with the De Klerk Government were naturally not close, for De Klerk was associated with all that apartheid had meant for Namibia. While diplomatic relations were then established between the two states, the ANC – by then unbanned in South Africa – was allowed to operate a representative office in Windhoek on an equal footing with the South African High Commission.⁶ Namibia continued to call on the international community to put pressure on South Africa to end apartheid, and, in 1991, Oliver Tambo, then President of the ANC, was welcomed in Windhoek.⁷

While independent Namibia became a member of the UN, the Commonwealth, the Organisation of African Unity (OAU), and the Southern African Development Co-ordinating Conference, which in 1992 became the Southern African Development Community (SADC), until 1994 South Africa remained outside these organisations. Namibia did, however, become in 1990 a formal member of the Southern African Customs Union (SACU), which had been established in 1910 and was dominated by South Africa. In SACU, Namibia soon argued for greater revenues from the common customs pool, and that was to become and remain a cause of friction between the two governments.⁸

Two years after Independence, in 1992, Namibia also became a member of the Common Monetary Area (CMA), along with Lesotho, South Africa and Swaziland. Namibia withdrew from this arrangement in September 1993, however, when it introduced its own currency. But the Namibia dollar continued to be pegged to the South African rand, and at the official launch of the new currency, President Nujoma expressed his appreciation to the South African Government “for allowing us to use the Rand as legal tender ... for the foreseeable future”, calling the concession “a commendable sign of regional co-operation”.⁹

5 President De Klerk used his visit for Namibia's Independence ceremony for extensive meetings with various international leaders, including UN Secretary-General Javier Perez de Cuellar and the Presidents of Angola, Egypt, Mali, Mozambique, Nigeria, Yugoslavia and Zambia; the Prime Minister of Cape Verde; the Foreign Ministers of Finland, Ireland, the Soviet Union, Spain, Sweden and West Germany; and officials from France, Italy and Norway (Wren 1990).

6 Republic of Namibia ([n.d.]:433).

7 (ibid.:95, 109).

8 See e.g. Gibb (2006).

9 (ibid.:324).

Despite notable advances in the economic relationship, the legacy of apartheid and its impact on the territorial integrity of Namibia left unresolved issues. UN Security Council Resolution 432 of 1978 had made it clear that Walvis Bay should be integrated into an independent Namibia.¹⁰ The first Article of the Namibian Constitution drawn up in late 1989/early 1990 stated the following:¹¹

The national territory of Namibia shall consist of the whole of the territory recognised by the international community through the organs of the United Nations as Namibia, including the enclave, harbour and port of Walvis Bay, as well as the off-shore islands of Namibia, and its southern boundary shall extend to the middle of the Orange River.

But, in 1990, South Africa continued to claim legal possession of Walvis Bay, Namibia's only significant port, which had become part of the new Union of South Africa in 1910,¹² as well as title to both banks of the Orange¹³ and to the Penguin Islands, which provided South Africa with a foothold inside the 200-nautical-mile Exclusive Economic Zone that Namibia declared at Independence.

The newly formed Ministry of Foreign Affairs in Windhoek was conscious that Namibia was a small, weak state compared to its large and powerful neighbour, and that the only card it could play was an appeal to the international community. But Namibia chose not to refer its claims to Walvis Bay and the Penguin Islands to the UN or any other body. It appreciated that the De Klerk Government could not easily be seen by the white electorate to make concessions, especially when some in South Africa saw the retention of Walvis Bay as a way to guarantee post-Independence 'good behaviour' by the new SWAPO¹⁴ Government. The new Namibian Government was pragmatic, therefore, which eased the process of negotiation, as did the obvious ability and reasonableness shown by Namibia's first Foreign Minister, Theo-Ben Gurirab, who had acquired much experience of diplomacy from his many years at the UN. There was also no significant external assistance in the negotiation process that the two countries began in March 1991.¹⁵

10 Berat (1990).

11 Namibian Constitution, Article 1(4).

12 Walvis Bay was administered as part of South West Africa from 1922 until 1977; from 1978 to 1990 it was governed directly by South Africa.

13 South Africa claimed, on the basis of an 1890 treaty, that the border ran along the north bank of the Orange River.

14 Now *SWAPO Party of Namibia*.

15 Shortly after Independence, the Ministries of Foreign Affairs and of Fisheries and Marine Resources reached an agreement with Angola and South Africa on Namibia's territorial seas and Exclusive Economic Zone. But Namibia appealed to the European Community, the UN and the International Conference on South East Atlantic Fisheries for aid in dealing with the plunder of marine resources by South African and Spanish fleets.

South Africa's initial position on Walvis Bay was based on the non-negotiability of its sovereignty. It suggested that Namibia could use the harbour within a bilateral framework. Namibia, on the other hand, argued for the inclusion of the disputed territory. After the South African Government declared that the Walvis Bay dispute could only be resolved in the context of a post-apartheid Constitution, which he realised would mean years of delay, President Nujoma, speaking at the October 1991 Commonwealth Heads of Government meeting in Harare, accused the South African Government of "calculated and sinister foot dragging".¹⁶ The following year, the two countries agreed to set up a Joint Administration as an interim arrangement for Walvis Bay and the Penguin Islands, and a Joint Technical Committee to report on where the Orange River boundary between them should be.¹⁷ That Nujoma blamed the De Klerk Government for Chris Hani's¹⁸ assassination in April 1993 did not help the negotiations on Walvis Bay;¹⁹ but, as South Africa, at its multiparty negotiating forum later that year, itself moved towards a negotiated settlement, providing for the first democratic elections in that country in April 1994, the Walvis Bay and Penguin Islands issue was resolved, with South Africa agreeing to transfer both to Namibia on 28 February 1994. President Nujoma hailed this as constituting a "second independence" and as a diplomatic triumph for Namibia, although he continued to say that the arms embargo and the ban on nuclear technology transmission should remain until a democratic South Africa was born.²⁰

In the early 1990s, Namibia was careful not to escalate tension with South Africa as that country moved towards majority rule, but was nonetheless keen that its relations with apartheid South Africa should not compromise its desire to see majority rule come about there. Namibia's policy vis-à-vis South Africa in this period was, as a consequence, a mixture of optimism, looking forward to a new, majority-ruled South Africa, on the one hand, and, on the other, economic pragmatism as a result of Namibia's import dependency on South Africa. As one commentator wrote, Namibia proceeded –²¹

... cautiously and patiently, mindful of the fact that South Africa's preoccupation with internal developments presented both an opportunity and risk to the new state.

That independent Namibia adopted a policy of national reconciliation and a free market economy helped persuade Pretoria to agree to the handover of Walvis Bay.

16 Republic of Namibia ([n.d.]:135).

17 See e.g. (ibid.:85).

18 Leader of the South African Communist Party and chief of staff of Umkhonto we Sizwe, the ANC's armed wing.

19 Republic of Namibia ([n.d.]: 158, 279); Alden & Soko (2005).

20 Republic of Namibia ([n.d.]:333, 368, 380).

21 Evans (1993:135).

The Nujoma presidency and a democratic South Africa: Fraternal engagement, economic dependence, differences on regional policy

Namibia established formal diplomatic relations with South Africa soon after Mandela became the first black South African President, opening in that country what was, and remains – especially from an economic point of view – its most crucial diplomatic mission.²² While the bilateral relationship is strategic for Namibia, both from a fiscal and import/export perspective, the economic nature of the relationship is largely one of dependence on South Africa. Understandably, the two countries do not have the same perception of the relationship between them. South Africa sought to play an important role on the world stage, and its transition from apartheid to democracy helped enable it to become a member of the world's leading international groupings, including, in recent years, the Group of Twenty (G20),²³ and, in 2010, the group of major emerging markets – Brazil, Russia, India and China.²⁴ South Africa served as a Non-permanent Member of the UN Security Council in 2007–2009 and again in 2010–2012. Moreover, South Africa's economy – the largest on the continent – is more than three times the size of the rest of the southern African regional economies combined. Thus, South Africa has seen Namibia, a small and not very important country in global terms, from the perspective of its wish to play a leadership role in Africa and around the globe. Namibia, on the other hand, has been lukewarm towards Pretoria's pretensions to leadership in Africa and the SADC region.

Notwithstanding the change in SACU's revenue-sharing formula agreed in 2002, which had taken several years to negotiate among the five member states, Namibia's portion of this revenue varied between 25% and 37% during the 20-year period of the last decade of the 20th Century and the first of the 21st.²⁵ This degree of fiscal dependence has made it difficult for the Namibian Government to contemplate fundamental reform of SACU; also, the fact that Namibia is bound within a South-Africa-led institutionalised framework of trade, financial and other non-economic links has limited any scope for it to act independently in SACU.²⁶

Although Namibia adopted a liberal democratic Constitution four years before South Africa did, it did not have the necessary institutions or culture to give effect to that

22 Ministry of Foreign Affairs (2004).

23 The premier forum for international cooperation on the most important issues of the global economic and financial agenda; see http://www.g20.org/docs/about/about_G20.html, last accessed 25 September 2013.

24 With South Africa's membership, the acronym became *BRICS*.

25 In the 2012–2014 *Medium-term Expenditure Review*, the Namibian Government's budget framework, SACU revenue is expected to account for 34% of total state revenue (Ministry of Finance 2012).

26 See e.g. Alden & Soko (2005).

democracy in its early years. When South Africa, with its more highly developed institutions and civil society, adopted its own democratic Constitution, it could have become a role model for Namibia. Instead, under President Nujoma, Namibia continued to be a relatively closed society – one which had a free press, but where little open debate occurred in government. Despite the human rights abuses that had occurred in SWAPO's camps in Angola, Namibia refused to follow the South African example and appoint a Truth and Reconciliation Commission as a way to start healing the wounds of war. Furthermore, while Namibia's constitutional framework posits a democratic dispensation, the country's leadership has not grounded the country's foreign policy in democratic values and has vacillated on human rights. SWAPO has continued to act like a liberation movement, with strong authoritarian and ideological tendencies. While Nelson Mandela, the first President of a democratic South Africa, said he would adopt a foreign policy that sought the advancement of human rights and democracy, Nujoma made no such declaration for Namibia; indeed, under the Nujoma presidency, Namibia's bilateral relationship with South Africa was marked by sporadic acrimony, with the two countries taking different positions on several regional challenges.

The war in the Democratic Republic of the Congo (DRC) in 1998 was a major source of tension between Namibia and South Africa. Namibia intervened alongside Angola and Zimbabwe in the war to save President Laurent Kabila from almost certain defeat, while South Africa, backed by Botswana and Tanzania, worked for a diplomatic solution.²⁷ Namibia chose to follow Zimbabwe, which, as Chair of the Organ on Defence, Politics and Security, had a very antagonistic relationship with South Africa under President Nelson Mandela, who held the rotating chair of SADC. The formalisation of a mutual defence pact in 2000 between Angola, the DRC, Namibia and Zimbabwe signalled that Namibia wished to try to pursue an independent foreign policy not necessarily driven by economic considerations, but by its own assessments of opportunities and risks in the region.²⁸

While Namibia did not always appreciate the ambitious and aggressive African policy of President Thabo Mbeki, Mandela's successor, which tended to stress a focus on the continent as a whole rather than the region,²⁹ Namibia and South Africa did cooperate in the domain of security, including maritime security. A Permanent Joint Commission on Defence and Security was set up to meet annually under a rotational chair to discuss security-related issues, such as transnational crime, money laundering and public safety, and from 1997 bilateral relations were conducted through a Heads of State Economic Bilateral Meeting (HOSEB), which discussed, inter alia, such issues as joint economic cooperation and environment, in particular transfrontier parks, marine and coastal management, transport, energy, science and technology, trade and industry, spatial

27 Nathan (2012b).

28 Hengari (2012).

29 See e.g. Landsberg (2010:Part 4).

development initiatives and regional integration. Of the numerous initiatives to promote regional integration in which the two countries participated, among the most important were the following:³⁰

- The Trans-Kalahari Railway Line, to link Botswana, Namibia and South Africa
- The Trans-Kunene Corridor, to link Angola, the DRC, Namibia and South Africa, and
- The establishment of a SADC Standby Force.

The Pohamba presidency: Closer relations with South Africa under Jacob Zuma

After Hifikepunye Pohamba took over from Sam Nujoma as President of Namibia in 2005, and especially after Jacob Zuma succeeded to the South African presidency in 2009, relations between the two countries became closer. Not only was there more cooperation on matters of mutual concern, there were also more frequent visits by senior officials, including the two heads of state. In his opening remarks at the HOSEB meeting held in Windhoek in November 2010, President Zuma said he wished to convey “warm and fraternal greetings to the government and people of the sister Republic of Namibia”.³¹ This was, he said –³²

... another occasion to cement the close bonds of solidarity and cooperation that our people have enjoyed over the years, dating back from the days of the liberation struggle against apartheid ... [I]n addressing the future of our countries, we must, among other things, focus on the fundamental issues of development, namely the alleviation of poverty, inequality, unemployment and other social ills that continue to afflict our societies.

When President Pohamba made a state visit to South Africa from 5 to 7 November 2012, he addressed a joint session of Parliament. The most important agreement signed during that visit, which was primarily to attend the Eleventh Session of HOSEB, transformed that body into a Bi-national Commission which was to meet annually, alternating between the two countries.³³

In 2012, Namibia gave strong support to the candidacy of the South African Minister of Home Affairs, Nkosazana Dlamini-Zuma, for the position of Chairperson of the African Union (AU) Commission. Furthermore, since 2009, Namibia had backed President Zuma’s role as SADC facilitator on Zimbabwe. When South Africa’s Minister

30 See e.g. South African Government News Agency (2009).

31 <http://www.info.gov.za/speech/DynamicAction?pageid=461&sid=14319&tid=23833>, last accessed 14 September 2013.

32 (ibid.).

33 Two Memoranda of Understanding were also signed: see www.mfa.gov.na (Department of Bilateral Affairs), last accessed 26 September 2013.

of International Relations and Cooperation, Maite Nkoana-Mashabane, visited Namibia in April 2013, she emphasised a relationship of brotherhood and sisterhood between Namibia and South Africa. After mentioning that 52 bilateral agreements had been signed between the two countries, she did, however, add that —³⁴

... it was important to start implementation of some of these agreements in order for the people to continue to find meaning in these relations.

In the area of trade negotiations and access to markets in the European Union (EU), Namibia and South Africa have not always found common ground in concerns about the Economic Partnership Agreements (EPAs) the EU wished to sign with southern African states. When these negotiations were launched in July 2004 in Windhoek, EPAs were expected to take effect by 2008, but problems soon became apparent and Namibia initialled (but did not sign) an Interim EPA “with reservations” at the end of 2007 to secure Namibia’s trade preferences until such time as a full EPA could be agreed to. The issues of Most-Favoured-Nation status, a definition of the parties and the protection of infant industries then bedevilled the process, but Namibia and South Africa worked together in SACU to come up with a common position. Nonetheless, by mid-2013, the two countries had still not signed an EPA with the EU.

Namibia and South Africa have also worked together on such SADC projects as the Western Power Corridor and the Benguela Current Convention signed in April 2013.³⁵ The latter seeks to protect and manage the maritime resources of the Benguela Current.

In recent years, South Africa has tended to join Namibia and other countries in SADC in not upholding human rights and the rule of law. This was seen clearly in both countries agreeing with SADC’s decision in 2010–2011 to suspend and then dissolve its own Tribunal, which had been housed in Windhoek.³⁶ Instead of accepting and implementing norms and values codified in the various regional (SADC) and continental (AU) protocols to which the two countries are signatories, Namibia and South Africa have instead emphasised stability and security in the region. They have failed to condemn the absolute monarchy in Swaziland. In August 2013, the leaders of both Namibia and South Africa congratulated Robert Mugabe on his re-election as President of Zimbabwe, ignoring clear evidence of election rigging and the blatant non-observance of SADC’s

34 <http://www.globalpost.com/dispatch/news/asianet/130409/bilateral-relations-between-namibia-and-sa-discussed/>, last accessed 22 September 2013.

35 See <http://www.undp.org/content/rba/en/home/newscentre/articles/2013/04/30/angola-namibia-and-south-africa-sign-world-s-first-large-marine-ecosystem-legal-framework/>, last accessed 14 September 2013. A bilateral agreement was drawn up between the Karas Region in southern Namibia and the Northern Cape Province in South Africa, in part to promote tourism, but after a decade very little has been achieved; see *The Namibian*, 29 May 2012, “Karas and Northern Cape twinning struggles”.

36 Nathan (2012a).

own electoral guidelines. They also supported his election as the new Deputy Chair and prospective Chair of SADC.³⁷ In this respect, the foreign policies of the two countries have become more closely aligned in recent years. Whether this will continue under the successors to Presidents Pohamba and Zuma remains to be seen.

Conclusion

Both Namibia and South Africa have remained relatively stable in the two decades since apartheid rule ended and they adopted liberal democratic Constitutions. South Africa, however, not only has a population well over 20 times that of Namibia's, but also possesses the resources to project itself onto the global and African stages in a way that Namibia cannot begin to emulate. Relations between the two countries will, therefore, continue to be unequal. Although this will remain the case, the geostrategic context of the two countries will shift. South Africa's economy may decline relative to others, while Angola, which lies across Namibia's northern border, is likely to become increasingly important in southern Africa, both politically and economically.

South Africa is now behind a push to link SADC with the Common Market for Southern and Eastern Africa and the East African Community, and another to make SACU a larger organisation.³⁸ Whatever developments may take place in this regard, Namibia and South Africa will remain tied together: not only by being contiguous, but also by their liberation histories – even when the liberation movements now in government do eventually lose power – as well as by their intertwined economies. It is in both countries' interests that their future relations remain as friendly and close as possible.

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From confrontation to pragmatic cooperation: United States of America–Namibia relations

*William A Lindeke**

Introduction

The United States of America (USA) and the territory and people of present-day Namibia have been in contact for centuries, but not always in a balanced or cooperative fashion. Early contact involved American¹ businesses exploiting the natural resources off the Namibian coast, while the 20th Century was dominated by the global interplay of colonial and mandatory business activities and Cold War politics on the one hand, and resistance diplomacy on the other. America was seen by Namibian leaders as the reviled imperialist superpower somehow pulling strings from behind the scenes. Only after Namibia's independence from South Africa in 1990 did the relationship change to a more balanced one emphasising development, democracy, and sovereign equality. This chapter focuses primarily on the US's contributions to the relationship.

Early history of relations

The US has interacted with the territory and population of Namibia for centuries – indeed, since the time of the American Revolution.² Even before the beginning of the German colonial occupation of German South West Africa, American whaling ships were sailing the waters off Walvis Bay and trading with people at the coast. Later, major US companies were active investors in the fishing (Del Monte and Starkist in pilchards at Walvis Bay) and mining industries (e.g. AMAX and Newmont Mining at Tsumeb Copper, the largest copper mine in Africa at the time).

The US was a minor trading and investment partner during German colonial times,³ accounting for perhaps 7% of exports. After the Union of South Africa assumed control of Namibia under the Class C mandate of Article 22 of the League of Nations Statute, trade increased. The US economy had become the world's largest after the turn of the 20th Century, and British imperial majesty began to wane. Britain declined as both the global hegemon and the dominant economic interest in South Africa, opening new

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1 Reference to *America* and the United States (US) herein implies the USA.

2 1770s and after (Cooper 1988).

3 1884–1915.

opportunities in finance, trade and investment for other countries. American economic interests became more important in South Africa and Namibia, but never the dominant interests.

The mandate period

American imports to Namibia over the decades following 1919 grew in capital equipment for mining and fish processing, and in consumer goods, which became widely available in the transport and other sectors for those who could afford them. Trade was direct to Namibia in part with shipping lines between New York and Walvis Bay, but mostly trade and investments took place through the South African market, as they do to this day. US diplomatic and economic interests were coordinated through the Consular Office in Cape Town. Even so, the US was never a major economic partner with the colony, nor was the colony vital to the US economy in any way. Deference to the Commonwealth influenced much of America's relations with anglophone Africa and, particularly, the Commonwealth countries.

Similarly, in the early stages of diplomatic activity, America was not an important player in the international issues involving Namibia. Although the US was instrumental and inspirational at the Versailles Peace Treaty Meetings ending World War I and in the setting up of the League of Nations and its mandate system, under which the then South West Africa was governed, a minority of the US Senate (the so-called Isolationists) blocked the ratification of the League of Nations Treaty and America's membership in the international body. The desire of that group of senators and their supporters was to settle in behind the protective oceans and not become embroiled in other countries' conflicts. Thus, despite President Woodrow Wilson's being the originator of the 'right to self-determination' vision during the Versailles Peace Conference in 1919, America had a muted global role, especially in the legal and political disputes over the next decades under the League of Nations.

Bryan O'Linn,⁴ an important Namibian jurist, quotes Wilson on the mandate system:

The whole theory of mandates is not the theory of permanent subordination. It is the theory of development, of putting upon the mandatory the duty of assisting in the development of the country under mandate, in order that it may be brought to a capacity for self-government and self-dependence, which for the time being it has not reached and that therefore the countries under mandate are candidates, so to speak, for full members in the family of nations.

It was clearly not the understanding that Jan Smuts and other South African leaders held. For them, the Class C mandate giving the Union of South Africa supervision of the former German territory was all but the formal annexation of the South West as a fifth

⁴ O'Linn ([n.d.]:2).

province. White party politics in Namibia was greatly vexed by this issue over the next several decades.⁵ The scene was set for prolonged conflict locally and internationally.

For the most part, the early years of the South African mandate were conducted in relative isolation. After extending control into the north-central *Oshiwambo*-speaking areas in 1919, South African leaders tried to incorporate South West Africa as a fifth province in the then Union of South Africa. This was done, in part, through extending various laws and policies, including pass requirements and the contract labour system. US companies in South West Africa cooperated and benefited from the South African schemes. Also, some limited local control by the white settler community was granted in the 1920s.

International interactions were constrained on a global basis during the Great Depression of the 1930s and World War II (WWII) in the 1940s. A lack of infrastructure, markets and regular trade isolated Namibia further from the outside world, particularly from her neighbours, reinforcing the dependence on South Africa for nearly everything (over 80% of imports).

At this time, the most significant linkage with US interests was the Wall Street financing connection for Ernest Oppenheimer's takeover of the German-owned Namibian diamond claims, incorporating the Consolidated Diamond Mines of South West Africa Ltd (CDM) in Namibia as part of the dominant mining conglomerate Anglo American Corporation. Other mining interests were also owned or financed by US companies.

After WWII, the US became the leading international force as a hegemonic power in the West. The United Nations (UN) was established to provide for international peace, stability and prosperity. The legal status of the South African mandate over Namibia – now a trusteeship under the UN – was continuously explored and debated in that international body and its subsidiaries such as the International Court of Justice. However, the centre of diplomatic activity was in New York, at the UN, rather than in Washington, DC: it was an international, not an American issue. For the most part, America treated the Namibia case within the context of South Africa and the Cold War, although some concern for the legal and humanitarian issues was expressed at times.

Over the next few decades, a consistency emerged in the general relations of the US with Africa, with slight variations depending on the political party in power. America, in part, deferred most issues on the African continent to the former colonial powers – France, Portugal and the United Kingdom. Occasionally, the US Government was seen as a welcomed alternative to the former colonial powers, who continued neo-mercantilist policies which favoured the former colonial metropole. Then-dominant US multinational corporations sought entrance to the continent's riches and markets, when and where they could. American companies were sometimes seen as alternative competitors to those of

5 Du Pisani (1985); Henrichsen et al. (2010).

the former colonial masters, and they gained access to markets and commodities in the new countries.⁶

President John F Kennedy (1961–1963) was more knowledgeable and interested in Africa and developing world issues and battlegrounds than his predecessors. He briefly led the US to see Namibia in a different light. Legal issues became more important around the mandate/trusteeship and international responsibilities toward Namibia. In 1966, the US supported UN General Assembly Resolution 2145 to strip South Africa of the mandate over Namibia. The US also gave overt support to the UN voluntary arms embargo against South Africa, at least in general.⁷

In 1967, during the height of America's Civil Rights Movement, a US warship docking in Simonstown, South Africa, refused to comply with apartheid rules in a dramatic showdown regarding its multiracial crew being allowed to go ashore.⁸ That confrontation ended South Africa's role in protecting the southern sea lanes for Western powers after more than 160 years. However, the Cold War confrontational issues surrounding the Vietnam War soon overshadowed any positive sentiment from American leaders toward nationalist movements in Africa.

Cold War dominance

During the 1970s, under the influence of Henry Kissinger, the Cold War and superpower politics dominated the thinking around African policy. Access to strategic minerals in a zero-sum conflict with the Soviet Union linked economic, political and military concerns in the US. The deployment of tens of thousands of Cuban troops to Angola and Ethiopia toward the middle of the decade sharpened the focus on regional conflict zones in Africa. Increasingly, America supported the settler governments and remaining colonies in southern Africa, especially under National Security Study Memorandum 39 (NSSM 39), the famous Kissinger Memorandum linking future policy indefinitely to the continuing rule of white minorities in that subregion.

Overall, after the early independence movements' successes, Africa, for the most part, settled into a backburner position in the Cold War concerns that dominated international relations. The emergence of Afro-Marxist regimes in the mid-1970s and the deployment of Cuban military forces sharpened the issue for the next decade. From 1975 until the Soviet Union reforms under Mikhail Gorbachev in the late 1980s, these and other subregional conflicts occupied the superpowers' peripheral attention.

6 As still happens occasionally today.

7 Unlike with France and Japan

8 Baines & Vale (2008:27).

Indeed, Afro-pessimism, debt crises, and the Western withdrawal of economic engagement markedly characterised the next decades. Africa was in the doldrums both economically (with negative gross domestic product growth) and politically (with presidents-for-life and coups dominating the landscape). Southern Africa featured armed struggles in several countries; this, and the formation of the Frontline States and the Southern African Development Coordination Conference,⁹ positioned the subregion for an increasing focus on directly confronting apartheid.

US relations with southern Africa in particular were dominated by security issues, with economic concerns in second place. America had just over 1% of foreign investments and bank loans in South Africa and another US\$7.6 billion in share ownership – not a great amount by global measures.¹⁰ Africa's resources, however, were seen as important strategic materials during the Cold War, especially chromium, cobalt, titanium and uranium. The two superpowers – the US and the Soviet Union – struggled for advantage and leverage in military and political dimensions in the subregion. The Soviet Union could easily side with national liberation movements, even those without Marxist-Leninist ideologies or policies. America befriended an assortment of dictators, such as Mobutu Sese Seko of the then Zaire,¹¹ while at the same time it saw the anti-colonial nationalists as threats, and defended the settler regimes at the southern tip of the continent.

Henry Kissinger and, later, President Ronald Reagan (1981–1988) cemented the defence of minority rule in the subregion as a bulwark against Soviet expansion – or 'total onslaught', from the apartheid regime's perspective. Economic interests in mining and petroleum were also vital concerns in Africa which coexisted with security ones, sometimes in complex ways such as in Angola.¹² The arrival of Cuban troops in Angola in 1975 solidified the ties between the US Government and the apartheid regime, especially after rebels launched an attack from Angola a few years later on Shaba Province, a mining centre in Zaire.

A brief interlude during the Jimmy Carter Administration (1977–1980) negotiations was sandwiched between hard-line Cold War policies toward the subregion. Portugal had been permitted to bypass its North Atlantic Treaty Organization commitments by diverting military spending in its attempts to hold on to its African colonies – until the shocking coup in Lisbon in April 1974. President Carter's African policy team of Andrew Young and Donald McHenry helped to create a brief period of international negotiation and progress both at the UN and through the creation in April 1977 of the

9 SADCC, now the Southern African Development Community (SADC).

10 Rich (1990:311).

11 Now the Democratic Republic of the Congo.

12 American oil companies had active economic interests in the north of the country, while tens of thousands of Cuban troops defended in the south against South African incursions aimed against the *Movimento Popular para a Libertação de Angola* (Popular Movement for the Liberation of Angola) Government and their allies, the South West Africa People's Organisation (SWAPO).

Western Contact Group¹³ that undertook leadership toward a solution to the subregion's conflicts with the apartheid regime.¹⁴ International pressure from public protests and diplomatic efforts culminated in UN Security Council Resolutions 432 and 435 as a framework for Namibian independence.¹⁵ For once, the US did not veto the Resolutions – as had so often happened on southern African issues. In 1977, the UN Security Council passed a mandatory arms embargo on South Africa. By the end of the Carter years, a negotiated solution seemed near for Namibian independence and for some other international trouble spots.

Constructive engagement during the Reagan Administration

The election of Ronald Reagan scuppered the hoped-for Namibian solution as South Africa hardened its position, bolstered by the US Republican Party's insertion of a second issue: the prior removal of the Cuban troops from Angola as a prerequisite to a Namibian settlement – known as *linkage*. By 1980, conflict had escalated in a number of regional theatres from Central America to Afghanistan and Indochina. The old notion of rolling back Soviet influence was now a multifaceted policy priority of the new administration in Washington. Low-intensity counter-insurgency warfare restored the Central Intelligence Agency to a more active presence around the globe, including its support for Jonas Savimbi's União Nacional para a Independência Total de Angola (UNITA)¹⁶ rebel forces in Angola. The South African troops invading Angola were ignored in the grander scheme of the Cold War. Development agendas declined and negotiations were set back.

A remarkable convergence of long-lasting conservative governments among developed countries dominated economic and international policy in the 1980s in Britain, Canada, Germany and the US. Other countries were also caught up in this neoliberal policy convergence sometimes referred to as the *Washington Consensus* – as much for the Bretton Woods institutions headquartered there as for the American Government policies. Southern African issues were not always subject to the grand consensus, as different interests and public pressures interfered with a single-minded approach, such as the October 1983 UN Security Council rejection of linkage, which saw other Western Contact Group countries agree and the US abstain.¹⁷

13 Or *Group of Five*, namely Canada, France, Germany, the United Kingdom and the US.

14 Weiland & Braham (1994:20).

15 An earlier UN Security Council Resolution (UNSCR 385), which had given the UN agencies direct control over the election process, was not acceptable to South Africa. UNSCR 435 (and 432) gave the UN a supervision role, while the internal South African Administration in Namibia under the Pretoria-appointed Administrator-General conducted the election in 1989; the Electoral Commission of Namibia conducted the Special Election in Walvis Bay in 1994).

16 National Union for the Total Independence of Angola.

17 Singham & Hune (1986:13).

On the US side, Chester Crocker became the new Under Secretary of State for African Affairs. He introduced the concept of *constructive engagement* with the apartheid regime. For the next eight years, this was the dominant theme toward South Africa. The Reagan Administration did its best to assist the white minority regime internationally on diplomatic, economic and military fronts.¹⁸ Of course, they were not alone, as the other conservative governments shared, to a greater or lesser extent, the overall policy direction. South Africa facilitated an internal political process in Namibia through the Democratic Turnhalle Alliance (DTA), essentially relaxing (slightly) the notion of *separate development*, which later became the core of an Interim Government.¹⁹ In many ways Namibia served as a trial case for alternative apartheid scenarios.

Under these new circumstances, discussions did take place with various stakeholders, including the South West Africa People's Organisation (SWAPO). These culminated in the first place with 'proximity talks' and the *Constitutional Principles* document offered by SWAPO in 1982, which became the basis for the Constituent Assembly's Constitution-writing efforts in 1989–1990. To his credit, Crocker engaged multiple parties in shuttle diplomacy across multiple global locations. For the most part, however, Namibian participants were left on the outside of this global power negotiation. The Reagan Administration kept further pressure on negotiations by giving UNITA assistance through the Central Intelligence Agency. The main issue was agreement on the removal of Cuban troops from Angola and South African troops from Namibia and Angola. The Namibian solution, in the Reagan Administration's view, could follow easily under the international consensus and support for UNSCR 435.

Earlier near-agreements had been undermined by the massacre of Namibians by the South African Defence Force at Cassinga, Angola; the incursion into Shaba Province in then Zaire by Congolese rebel forces based in Angola; the unilateral internal election in so-called SWA/Namibia in 1978 to form an internal government; and the election of Ronald Reagan in the US. However, Namibia's allies and friends, through UN diplomatic circles, kept negotiations alive, and unrelenting pressure from the UN General Assembly pushed the process further.

An additional issue for South Africa that was pressed by the US and others was the idea of the *impartiality* of the UN. South Africa argued that the UN was too biased toward SWAPO²⁰ and required agreement on the UN distancing itself from the process,

18 For example, the Reagan Administration opposed 33 of 39 UN Resolutions between 1981 and 1983, and abstained from others (Chan 1990:324).

19 Wallace (2011:287).

20 For example, through the adoption of the name *Namibia*, the recognition of SWAPO, and the declaration of SWAPO as the "sole and authentic representative of the Namibian people" in 1973. South African officials did not remain neutral when it came to their preferred party, pouring over a R100 million into the campaign and other disinformation projects (Dobell 1998:90; Tonchi et al. 2012:37).

before they would agree on a settlement.²¹ Crocker engaged in multiple rounds of shuttle diplomacy in New York and elsewhere with the priority of solving the linkage problem first. Other major contributions to a convergence of positions were soon to fall into place.

Robert Rotberg²² summed up the impact of the new Reagan Administration's approach to South Africa as follows:

The United States eased its commercial embargo, reaffirmed intelligence links, moderated public criticism at home and abroad, and affirmed closer relations with South Africa. But the biggest carrot of all was the Cuban issue. To have made the Cubans hostage for Namibia reversed the entire drift of negotiations, permitted South Africa to relax, and has delayed Namibian independence indefinitely.

South Africa, in Rotberg's view,²³ saw no impending pressure from inside the US or South Africa, and no external pressure that would accelerate negotiations over the medium term at mid-decade (around 1985). This view would be proven completely wrong less than a year later: not only did protest heat up in the US and South Africa, but the battlefield also quickly reached an untenable impasse.

Turning points

Mass protest and solidarity movements were gaining strength in opposition to apartheid across the globe as well as at home in Namibia. After Zimbabwe attained independence in the first half of 1980, South Africa in particular came under attack for domestic racial policies and cross-border attacks that were deemed unacceptable by international standards. Namibia and South Africa became the prime focal point of global attention. Political pressure intensified in legislatures and at the ballot box. The US Congress, led by the Congressional Black Caucus, forced sanctions on a very reluctant Reagan Administration in 1986 by overturning a presidential veto of the Comprehensive Anti-Apartheid Act.²⁴

In corporate America and elsewhere, the divestment movement brought pressure to bear on major public entities beginning with the City of Wisconsin and spreading to university endowments, government pension funds, and churches to act against business as usual. Bank loans and other business contracts with the apartheid regime put business with these other larger economic entities at risk (e.g. with California or New York state governments) leading to accelerating divestment. Citibank was the last American bank

21 Weiland & Braham (1994:23–24, 49–50).

22 Rotberg (1985:107).

23 (ibid.).

24 Wallace (2011:299).

to pull out of South Africa in the 1980s. Thus, public pressure played an important part in the official turnaround in American and other countries' official actions.

The Solidarity with Namibia movement in America was relatively small, being subsumed under the overall anti-apartheid movement, although it is mentioned as early as the Tanga SWAPO Congress in 1970.²⁵ It also had to compete for attention and active followers with the opposition to Euromissiles as well as Central American policies and conflicts. Nonetheless, some church and other groups did draw attention and add support to the divestment movement that kept pressure on the South African regime. Most of the focus in the US centred on the UN agencies and the international diplomacy taking place there. Most of the key SWAPO leadership, such as Sam Nujoma, Hage Geingob, Theo-Ben Gurirab, and Hidipo Hamutenya, spent years in New York promoting Namibia's cause at the international agency and in its diplomatic milieu.

Senator Edward Kennedy, Rev. Jesse Jackson and the Congressional Black Caucus, among other prominent political figures and groups, championed the cause of Namibia's independence at this crucial time in the 1980s. Church groups and activists such as the TransAfrica Forum, the Lawyers' Committee for Human Rights under Law, musicians, and university communities – all mobilised around the struggle against apartheid. The shift from President Reagan to President George W Bush signalled a relative weakening in the ability of the US Government to assist the South African regime to resist change. Moreover, the then South African President PW Botha's 'Rubicon' speech did little to assist the apartheid cause in global sentiment.

At the same time, a dramatic turnaround took place in the Soviet Union. Domestic reforms and what was known as *New Thinking* in foreign policy under the new Soviet leader, Mikhail Gorbachev, brought additional pressure on his allies to negotiate regional, Cold-War-related conflicts to an end. Gorbachev's vision was to reduce regional confrontations leading to a reduced superpower confrontation and arms race. This would be followed by reductions in nuclear arms and military expenditure, which would free up resources to modernise the Soviet economy. A settlement of the Namibian issue, as well as others, became more feasible after this change in Soviet foreign policy.²⁶

The prolonged conflict at Cuito Cuanavale, Angola, the largest conventional battle up to that time in Africa, similarly impacted the direct participants and opened settlement possibilities. South African leaders faced a higher cost²⁷ stalemate far from their borders, increasing dissent in the townships at home, and accelerated economic divestment by

25 Dobell (1998:40).

26 Landsberg (1994:279–280). Afghanistan, Central America, and Cambodia were other regional conflicts impacted.

27 Estimates from the mid-1980s placed the overall expenditure at around US\$2 billion (Dobell 1998; Rotberg 1985).

the rest of the world. Apartheid became the mass-culture target, depicted as the new film 'enemy' in Hollywood. The moment was ripe for a deal under the UNSCR 435 terms.

Active diplomacy for the settlement included multiple players from the Western Contact Group, other American officials, South African leaders, the Frontline States and Nigeria, Cuban leaders, and their Soviet counterparts as observers. SWAPO leaders and other African allies were also active in meeting with internal, Namibian role players and the various solidarity movements that could influence home governments and the UN, but were not party to the settlement. Beginning in July 1988, talks among Angola, Cuba and South Africa eventually produced an agreement on 20 December 1988. This led to the end of fighting in Angola and the beginning of the UNSCR 435 process on 1 April 1989, and to the accompanying demobilisation of Cuban and South African armed forces and their scheduled, phased withdrawal from Angola and, in South Africa's case, from Namibia as well. These so-called New York Accords ended decades of armed conflict over Namibia.

Despite the decades of armed conflict and Cold War hostilities, the UNSCR 435 process and the withdrawal of Cuban and South African troops proceeded with remarkable smoothness and international cooperation. The Namibian domestic transition also proved notably smooth and conflict-free.²⁸

Independence and after

SWAPO's victory in the 1989 elections, and its adherence to the spirit of democracy, a mixed economy, and reconciliation during the early independence period, continued to receive strong support from old allies and assisted in gaining new ones. Customers of Rössing Uranium, such as Japan and the US, went from being considered outlaws in defiance of Decree No. 1 (banning mineral exports) to being encouraged to buy more by Namibia's Founding President, Sam Nujoma. Diplomatic and commercial contacts were actively sought across the political and geographical spectrums. Former imperialist exploiters were now desirable foreign direct investors in the transformed rhetorical universe of independence. Opposition parties were invited into Cabinet and shared the international stage with government in ongoing gestures of national reconciliation.

High-level contacts were established around the Independence Day events for the transfer of sovereignty on 21 March 1990. This event offered the world an important opportunity for international diplomatic exchanges with Namibian and South African players under the new conditions of emerging majority rule. American Secretary of State James Baker III

28 The events of 1 April 1989 and the assassination of Anton Lubowski just before elections that year did not prove fatal to the overall process.

attended Namibia's Independence celebrations, and opened a new US Embassy in the capital, Windhoek.

On 2 February 1990, at the opening of the South African Parliament in Cape Town, the new President, FW de Klerk, announced the unbanning of the African National Congress and the imminent release of its leader, Nelson Mandela, and others, opening a new chapter in that country's history. Just as Namibia's UNSCR 435 elections were overshadowed by the fall of the Berlin Wall and the end of Soviet domination of Eastern and Central Europe, the Independence events were more important in terms of international diplomacy around South African developments than for Namibian sovereignty – at least for the international community and media. Namibia, however, began its formal statehood with over 100 diplomatic recognition agreements amid its own joyous celebrations.

The US responded to the openness and reconciliation process of the new Namibian Constitution and Namibian Government along with others. Positive responses were seen from Freedom House evaluations of Namibia's governance and freedom, the successful 1990 New York Donors' Conference fundraising meeting, and the Houston, Texas, G7 meeting in 1992.²⁹ Sanctions and other restrictions were gradually removed in the context of establishing good relations with the new SWAPO Government and leading toward the end of apartheid in South Africa.

Early efforts included no-strings-attached funding for primary education, and bringing an average of around 100 Peace Corps volunteers to the country each year. American companies continued to supply goods to the Namibian economy as the boycotts were lifted and the expectations for majority rule in South Africa brightened. Of course, America was also a major final destination for many of the gem-quality diamonds produced by Namibia. Around 60% of Namibia's diamond exports eventually go to the Japanese and US markets.

The George HW Bush Administration (1989–1992) was generous toward the National Party transition process in South Africa by easing restrictions and sanctions before actual changes had taken place, rather than keeping the pressure on for rapid change. The easing of restrictions benefited Namibia in any case. Some degree of suspicion continued in the official bilateral and multilateral relationships, particularly among certain Cabinet members, older cadres of the ruling party,³⁰ and the remnant struggle ideology

29 Du Pisani (2000:305). The G7, or *Group of Seven*, was a forum which brought together the heads of the richest industrialised countries at the time, namely Canada, France, West Germany, Italy, Japan, the UK, the US, and the President of the European Commission to discuss global economic issues and coordinate policy; see http://en.wikipedia.org/wiki/16th_G7_summit, last accessed 19 November 2013.

30 Renamed *SWAPO Party of Namibia* for the 1989 election.

adherents.³¹ America continued to be the superpower that everyone loved to hate, and generic attacks on ‘imperialism’ continued to be an important part of the ruling party’s political discourse. However, generally good and pragmatic relations have characterised both the bilateral and multilateral experiences between the US and Namibia.

American support for Namibian democracy centred especially on election assistance and parliamentary assistance through the National Democratic Institute and US Agency for International Development (USAID) offices. Other domestic assistance for Namibia was mostly channelled through USAID and the Ambassador’s Office. Additionally, America supported Namibia’s efforts to join multiple international organisations as a full member of the global community.

Namibia pursued the same strategy of ‘active non-alignment’ inspired by Kwame Nkrumah and rooted in the Namibian Constitution³² by joining dozens of international organisations, hosting dozens of foreign embassies, and ratifying a large number of international agreements. Indeed, Namibia pursued an aggressive and widely inclusive diplomacy after Independence, which included previously distrusted players such as the US. As a country with a small population, Namibia punched well above its weight in international relations for nearly two decades after Independence. Having good bilateral relations with so many countries, including the remaining superpower, the US, was an important part of that success. Namibia became a sought-after international partner for many countries within and beyond the subregion.

Notwithstanding the good relations that have been developing since the beginning of Namibia’s independence, there is also recognition that Namibia has interests and principles that are not likely to be compromised through routine diplomacy. This was seen in the period of Namibia’s serving as a non-permanent member of the UN Security Council in 1999–2000 and in its continuing support for former allies in its struggle for independence, such as China, Cuba, Libya, North Korea and Palestine.

Perhaps Namibia’s support for Zimbabwean President Robert Mugabe from around 2000 since his confrontation with Western powers has embodied the triumph of first principles of solidarity over subsequent commitments to democracy, lawfulness, and non-violent policies. America may not like these continuing commitments, but it respects the authenticity of the differences.

Official relations between the two countries started off well in the early 1990s, and continue on a high plane. Both President Nujoma and President Pohamba have accepted

31 The liberation struggle discourse of anti-colonial nationalism has largely been displaced with a discourse of national unity, reconciliation and development (Du Pisani 2010), occasional outbursts and “wannabe” youthful revolutionaries notwithstanding.

32 Ministry of Foreign Affairs (2004).

invitations to visit the White House as part of African delegations. Vice-President Dan Quayle came to Namibia as a private visitor during the George W Bush Administration, and Vice-President Al Gore visited Namibia during the Clinton period. Congressional delegations were frequent visitors as were certain business personalities – from Michael Jackson to Brad Pitt and Angelina Jolie. Several Hollywood production companies have made use of Namibia’s landscape for filming, and Namibia enlisted Hollywood figures for the Nujoma biographical film of the liberation struggle.

The US was also home to over 100 Namibian students before and after Independence. Many of Namibia’s top political leaders in SWAPO and the opposition parties hold degrees from American universities. At Independence, a list of bursaries for Namibian and South African university students ran over eight single-spaced pages. Some of the awards were UN-based, while others originated with government programmes, civil society organisations and churches, especially the Lutheran ones. After Independence, a number of US Government bursaries and training programmes were still available to Namibian students in priority fields. Also, a number of universities have given honorary degrees to Namibian leaders over the years, especially to Founding President Sam Nujoma.

Over the years, the US has created a number of investment policies to encourage American firms to engage with Africa. Except for mining and petroleum extraction industries, these programmes were always undersubscribed. Afro-pessimism and the emerging debt crisis informally banished African investments for the most part. Sub-Saharan Africa became a case fit only for high-risk adventurers and multilateral agencies acting as charities. A few islands of investment did exist on the continent, including in South Africa, but the divestment movement started gaining steam in the mid-1970s to constrain that market, too.

Only after 1990 did the continent begin to see renewed business interest and governments’ increasing democratic and economic reforms swept the continent, creating better governance structures and policies. From this stronger base, African countries were able to take advantage of the boom in commodity prices and to weather the storm of the global financial crisis to achieve high economic growth rates. African optimism became infectious.

Namibia continued to attract US products and investment, primarily through South African subsidiaries. In July 2008, the Southern African Customs Union signed a Trade, Investment and Development Cooperation Agreement with the US. The recent case of Wal-Mart’s buying a majority share in Massmart South Africa is a prime example. In this case, both Namibia and South Africa sought to negotiate a better deal for their national economies than the private sector arrangement would have created. Half of Namibia’s imports derive from South Africa, and more than half the rest transit through South Africa. America has provided about 10% or less of the country’s imports for over a century.

Private American investments in debt instruments, stock shares, and other assets in Namibia and South Africa are conducted outside the official relations and, thus, are not well known. The largest single private investment was in Tsumeb Copper in the 1970s and 1980s, until it was sold to Gold Fields' South African interests prior to Independence.

Development assistance

America's support for Namibia has been multifaceted, highlighting security support, economic support, democracy support, and social support. The lead development work over the years since Independence (1990–2013) has been conducted through USAID.³³ This organisation began with several sub-programmes: democracy and governance, basic education, environment and conservation, employment creation and small enterprise development, and support for tuberculosis, and HIV and AIDS. Together with funds from the Ambassador's Office, these efforts constitute the main ongoing developmental support by the US to Namibia.

The US has been one of the top few bilateral donor partners for Namibia since Independence, along with the European Union and Germany. Both direct service delivery and technical assistance are included from the US efforts. Assistance is also provided through the operations of the Southern African Development Community (SADC) in water, food, and sanitation. Routine development assistance has been in decline in the past few years – as it has from other Organisation for Economic Co-operation and Development countries. The biggest grant programmes – the US President's Emergency Plan for AIDS Relief (PEPFAR) and the Millennium Challenge Account (MCA) – will wind down in the years ahead as well.

The democracy and governance initiatives from 1995 to 2009 were primarily directed toward electoral and parliamentary support to both houses, in terms of community outreach through the donation of a large mobile vehicle to bring parliament to the people during inter-sessions. Additional parliamentary assistance was focused on computer training for staff and members. Excellent relations were maintained with the early parliamentary leaders, Mosé Tjitendero (National Assembly Speaker) and Kandinima Nehova (National Assembly Chairman), providing strong institutional leadership. Additional aid to the anti-corruption efforts and to civil society constitutes further valued efforts. By the 20th anniversary of Independence in 2010, USAID's separate Democracy and Governance Section was closed down, after having been extended for a few extra years early in the 21st Century.

33 See www.usaid.gov/namibia, last accessed 19 September 2013. The following paragraphs draw heavily from this summary and its details.

US assistance to small-scale businesses has paralleled the efforts of other donors and organisations. Many of the returning SWAPO exiles had their training and experience in the Eastern Bloc or other countries lacking a strong business culture. With Namibia's commitment to maintaining a mixed economy and uplifting the previously disadvantaged, bringing capacity to smaller participants in the economy has received a lot of attention in the efforts inside and outside government to expand the informal and small-scale business sector after Independence. Various US programmes have assisted many businesses to begin or expand operations, and have featured cooperation with the Namibia Chamber of Commerce and Industry as well as other business groups. American efforts also seek to link Namibian partners with US markets and investors as an important extension of the general African policy and the activities of the Import-Export Bank. The recent establishment of a small business bank and other government efforts in the sector illustrate the continuing need for expansion in this part of the economy.

Another focus that resonates with planned successes from the Namibian side are nature conservation and biodiversity programmes such as the Living in a Finite Environment (LIFE) Project, which was active from 1992 to 2008. Community-based natural resource management (CBNRM) organisations in Namibia have implemented award-winning projects to link tourism, conservation of natural resources, and local empowerment. Early and continuing USAID support over 15 years has been helpful in creating and expanding the network to over 80 conservancies at present. This support aligns well with the rural development, poverty reduction, and anti-poaching agendas of Namibia's five-year National Development Plans. Conservancies have been rather successful, and now generate tens of millions of dollars in revenue for the participating communities to distribute.

Gender empowerment is another sector that resonates with Namibian Government priorities. US assistance was given to gender-based non-governmental organisations (NGOs) and to other sectors to support legal and institutional efforts to redress past imbalances and outdated laws. These efforts were both in line with official policy and in support of private initiatives. Other donor countries and NGOs are also active in these areas, so coordination efforts have been made to complement rather than duplicate activities in this area, as in other assistance dimensions.

The bulk of America's assistance has gone to the Basic Education Systems Project since 1991. This aid has been offered in line with government priorities, as indicated in the annual budget allocations to this sector, and with World Bank thinking on the contribution of basic education to economic and social development. Support to the formal education sector, orphans and vulnerable children, out-of-school youth (through the Katutura Youth Enterprise Centre, and higher education bursaries have been particular success stories for American assistance. This is a sector with many cooperating partners through the Education and Training Sector Improvement Programme and other government programmes.

The HIV and AIDS health sector grew suddenly in Namibia after the first case of HIV was identified in 1986. Behaviour patterns as well as population vulnerabilities associated with poverty and rapid societal transformation catapulted Namibia into the very top international ranks of the pandemic's infection rate. A variety of programmes, from promoting abstinence to supporting anti-retroviral and mother-to-child protection roll-outs, have been assisted by USAID and others. The long-term net effect has been to stall the disease near its plateau at sentinel sites at around a 19% infection rate (an estimated 13% for the population at large) and reverse the death rate and life expectancy declines due to the disease. A more comprehensive approach with much greater funding came from President George W Bush's (2001–2008) US\$15 billion global PEPFAR initiative, discussed below.

African Growth and Opportunity Act

The African Growth and Opportunity Act (AGOA) was initiated by the Administration of President Bill Clinton (1993–2000), but only implemented in 2002. The policy links into the ideas of Aid for Trade and the New Partnership for African Development, and became important at around the same time. AGOA was an outgrowth of older policies such as the Caribbean Basin Initiative and the North American Free Trade Area, which had, in part, the motivation of shifting some trade and investment from a successful Asia to a less-developed part of the world (Central America, the Caribbean Islands, and Mexico). Over 4,000 items became exempt from customs restrictions if they had been imported to America from African countries.

As with other US–Africa programmes in the past, AGOA has had some limited benefits for a few countries and product lines, but it has failed to dramatically alter the lack of development in Africa. The vast majority of imports under the programme (86% by 2012) are oil- and gas- related, and impact on only a handful of countries. Except for South Africa, little manufacturing development has taken place under AGOA terms. The major benefit initially for Africa and for Namibia (Ramatex) was in textiles and garments, where tens of thousands of jobs were created. Unfortunately, the expiration of the Multi-Fibre Arrangement³⁴ in 2004 displaced many of these jobs and factories to China and India, where 60–80% of such global production is now expected to take place. Some smaller factories still produce garments for export in Namibia, and an American–Namibian replacement firm to Ramatex is readying its launch.

34 This agreement held sway outside the World Trade Organisation/GATT rules from 1974 to 2004, by allowing the restriction of imports of yarn, fabric, and garments into North America and Europe from developing countries in order to protect domestic manufacturers from lower-cost competitors. Due to the economies of scale and low wages, China and India are set to be the main beneficiaries of the expiration of the agreement. Thousands of workers in several African countries have lost employment as companies closed down or relocated – as with Ramatex.

However, Namibian trade to the US market under AGOA is only about US\$8 million at last count, after growing to over US\$200 million in 2004.³⁵ Much of the benefit of AGOA for Namibia is the growth it affords to neighbouring countries and the potential use of Walvis Bay for transport logistics in line with national development plans, rather than the opportunities for direct investment or trade. In early 2013, the US fell below the top ten trading partners with Namibia – its lowest point in over a century. A restart to the textile and garment facilities at the former Ramatex factories would restore the objective and impact of AGOA as well as general trade for Namibia.

Nonetheless, AGOA will be extended again before its 2015 expiration date and does offer some additional opportunities for investment, growth, employment and diversification to Namibia and other qualified countries.³⁶ Because American customs duties are relatively low to begin with, the gains from participation require targeted efforts from both sides of the Atlantic. Namibia is still an attractive investment destination and AGOA skirts the problem of a small market, although the US may be too large a market to serve in some cases, as was discovered in the now defunct ostrich industry.³⁷

PEPFAR, and HIV and AIDS

If AGOA was the main contribution to Africa and Namibia by the Clinton Administration,³⁸ the second Bush Administration under George W Bush featured an important contribution to southern Africa and especially to Namibia in the form of PEPFAR: a multi-billion US Dollar, multi-year, multifaceted expenditure to halt and reverse the spread of HIV and AIDS, malaria and tuberculosis. Namibia was a major recipient of this programme and other sources.

In fact, Namibia receives 1% of the total global assistance for HIV and AIDS.³⁹ In recent years, the US has provided sub-Saharan Africa with over 60% of the international funding for HIV and AIDS, 26% for malaria, and 21% for tuberculosis. Together, the US and the Global Fund – one third of which is funded by the US – have supplied over 80% of the donations toward HIV and AIDS funding in recent years, with over 100 countries

35 Jauch (2006:218).

36 Negotiations to launch a free trade agreement between the US and the five members of the Southern African Customs Union (Botswana, Lesotho, Namibia, South Africa, and Swaziland) began on 3 June 2003. In April 2006, the parties suspended the negotiations, launching a new work programme on intensifying the trade and investment relationship instead, with the free trade agreement now a long-term goal.

37 Some Namibian business people arranged to supply ostrich feathers for polishing new cars for an American manufacturer, only to find that they could not supply sufficient quantities. Eventually, the budding ostrich industry in Namibia failed, along with its specialised abattoir.

38 By some calculations, his family outing to Africa cost more than the official development assistance programmes.

39 Kaiser Family Foundation (2013).

receiving some assistance from the two.⁴⁰ The US has supported Namibia from 2006, and up to 2010 the latter had received US\$456.6 million (N\$3 billion) for preventive health care in the domain of HIV and AIDS, malaria, and tuberculosis.⁴¹

Education, treatment, and institutional support featured strongly in the expenditures. As such, PEPFAR allowed much greater coverage and service delivery than the Namibian Government was prepared to deliver at that time. Namibia has been a leader in meeting international standards for anti-retroviral roll-outs and other success measures. Since the World Bank's designation of Namibia as an upper-middle-income country, however, donor partners have begun a slow withdrawal of support funds. Nonetheless, the extensive efforts under PEPFAR and others have created an awareness of what works in Namibia and what helps the government to sharpen the focus of its own efforts.⁴²

Security sector cooperation

Despite the long history of antagonism and suspicion between SWAPO leaders and the US Government before Namibia's independence, bilateral and multilateral cooperation has included the security sector. Several of the SADC military exercises, such as "Blue Hungwe" and "Blue Eagle", have included US military assistance, most recently involving harmonising communication technologies across the multiple-origin equipment that different countries have purchased. The 'interoperability' dimension of these SADC/African Union/UN forces is a very complex challenge, and requires external assistance for the forces to be effective. Although the US is not the most important partner in this policy space, it has been active in ways that are well received by local governments and militaries, including Namibia's.

Beyond the multilateral dimension, America and Namibia have also developed bilateral assistance in two important areas. The extremely important HIV and AIDS issue threatens 'force readiness' in ways that can undermine their availability and effectiveness for both peacekeeping and defence purposes. American policymakers want African forces to have the major role in African peacekeeping to help maintain continental stability. Thus, assistance in training and preparedness has been an important part of regional and subregional cooperation.

40 To his credit, President Thabo Mbeki of South Africa, among others, pushed donors to include malaria and tuberculosis in the Global Fund. From 2002 to 2010, funding for these two diseases increased 15-fold, while HIV and AIDS funding doubled.

41 Interview with Ms Wanda Nesbitt, current US Ambassador to Namibia, *Die Republikein*, 8 June 2011, p 9.

42 For example, the University of Namibia only had one health counsellor for its thousands of students – clearly under-servicing an important demographic group with a very high infection rate.

Namibian Defence Force deployments often leave them separated from their families for long periods of time, and, as with other militaries, this makes them vulnerable to infection from casual sexual activity. The US cooperated with both the Defence Ministry and the Health and Social Services Ministry in Namibia to address this risk with policy, education and action. The results of these efforts were shared with the International HIV/AIDS Conference in Canada in 2006.

Additionally, the US military provided important training for Namibian forces before they were deployed for UN peacekeeping duties. Since these deployments are usually into multinational force arrangements, it is helpful to share experiences and successful practices. Although most training for the Namibian Defence Force has been conducted by Commonwealth countries, beginning with the Kenyan detachment remaining from the United Nations Transition Assistance Group (UNTAG) deployment and the British Military Assistance Training Team (BMATT) in 1990, peacekeeping duties have become an increasingly important part of Namibian Defence Force activities, and US assistance has been valuable for their professional development.

Furthermore, Namibia's Windhoek Maschinenfabrik, the nation's only military manufacturing business, has participated (by invitation) in US military technical shows with their mine protection vehicle and armoured personnel carrier. Cooperation, thus, takes place both at high political level and at technical levels in the security sector. Over the past five years of the Barack Obama Administration (2009–2013), security assistance to Namibia has averaged between US\$100,000 and US\$200,000 per year – a modest amount.⁴³

Millennium Challenge Account

Another major development programme from the George W Bush Administration, and continued under President Obama, was the Millennium Challenge Act of 2003, which established a new format for development assistance. It created a Millennium Challenge Corporation (MCC) to administer grants to eligible countries. The first round of grants focused on lower-income countries, but Namibia was eligible in the second round, and the National Planning Commission (NPC) negotiated a major, multi-year grant. This assistance was only available to countries that were deemed to meet certain governance criteria such as the following:⁴⁴

- ... demonstrated a commitment to –
- (1) just and democratic governance, including a demonstrated commitment to –
 - (A) promote political pluralism, equality, and the rule of law;

43 See www.usaid.gov/namibia, last accessed 19 September 2013.

44 See <http://www.cfr.org/poverty/millennium-challenge-act-2003/p16232> accessed 10 September 2013)

- (B) respect human and civil rights, including the rights of people with disabilities;
- (C) protect private property rights;
- (D) encourage transparency and accountability of government; and
- (E) combat corruption;
- (2) economic freedom, including a demonstrated commitment to economic policies that –
 - (A) encourage citizens and firms to participate in global trade and international capital markets;
 - (B) promote private sector growth and the sustainable management of natural resources;
 - (C) strengthen market forces in the economy; and
 - (D) respect worker rights, including the right to form labor unions; and
- (3) investments in the people of such country, particularly women and children, including programs that –
 - (A) promote broad-based primary education; and
 - (B) strengthen and build capacity to provide quality public health and reduce child mortality.

After prolonged negotiations, an agreement was signed between the two countries on 28 July 2008 for a five-year programme, entailing a sum of US\$304.5 million (approximately N\$2.5–3 billion). An administrative unit known as the Millennium Challenge Account – Namibia Compact (MCA-N) was set up in the NPC to oversee and administer contracts and spending in three key areas:⁴⁵

The Compact aims to reduce poverty through economic growth and funds development projects in the sectors of education, tourism and agriculture.

NPC Director General Helmut Angula negotiated the agreement with Namibia's American counterparts at the Millennium Challenge Corporation. A brief, immature intervention by members of the SWAPO Party Youth League nearly put at risk the largest single development funding in the country's history. Senior officials in the SWAPO Party and the Namibian Government succeeded in smoothing over the intra-party skirmish and the programme launched in 2009 with the first contracts.

Among the major accomplishments thus far are the donation and distribution of thousands of school textbooks across the country, meeting a significant shortfall in the education process over recent years. Additional classrooms and schools have also been constructed in different Regions of the country, especially in poorer rural areas. Staff housing, libraries, school laboratories, and other infrastructure have been constructed in the education sector.

CBNRM training and assistance under MCA-N have extended earlier US contributions in that field, and tourism development and training also have benefited. Just as the CBNRM contributions have helped rural populations, agricultural inputs have benefited

45 MCA-N (2013:1).

communal farmers with livestock breeding projects, among others. By December 2012, MCA-N claimed that most of the projects would be completed on time by the September 2014 deadline – an optimistic assessment for implementation in Namibia. Although the total expenditure will probably not be completed by the negotiated deadline, prospects are good that most items will be completed and reasonable extensions can be expected.

Namibia's relations with the US

Overall, Namibian leaders have not engaged much in direct bilateral relations with the US. America was always the imperialist superpower that supported South Africa's oppressive apartheid system. Rather, Namibians were engaging through multilateral channels such as the UN, the Non-aligned Movement, the Organisation of African Unity (OAU), and the Frontline States. As a small country, these larger bodies amplified the diplomatic impact of Namibian efforts. The OAU's Liberation Support Committee was particularly helpful after the oil price increases of the 1970s boosted Nigeria's importance on the world stage.

SWAPO leaders in particular had multiple discourses depending on the audience. A Marxist-Leninist one for the Eastern Bloc assisted in securing their material aid (estimated to be around 90% of military supplies);⁴⁶ the Scandinavian socialist one assisted with humanitarian aid from more moderate audiences; and a democratic moderate one for Western audiences were all utilised during the 1970s and 1980s. For example, SWAPO leader Sam Nujoma launched the reconciliation policy in May 1988 from Washington, DC, for maximum effect with the Western powers.⁴⁷

In the words of Lauren Dobell's dissertation:⁴⁸

The only constant in the documents and statements produced during this period [1970s] is the demand for independence – all else was negotiable, it seems, and the language employed depended mostly on the intended audience.

Although New York was the centre of attention from the early days of independence diplomacy, the attention and diplomacy was clearly directed toward the UN rather than a domestic US audience – whether governmental or popular. Many of the political elite of Namibian independence activists gave testimony at the UN in the early days of the 1950s and 1960s, along with religious leaders who spoke on behalf of Namibians.⁴⁹ Such figures as Mburumba Kerina, Fanuel Kozonguizi, Michael Scott, Bishop Colin Winter and, later, Sam Nujoma were among the early presenters speaking for Namibians, including Chief

46 Dobell (1998:64).

47 Dierks (2002:296).

48 Dobell (1998:22).

49 Wallace (2011:247).

Hosea Kutako and Andimba Toivo ya Toivo. Over 120 separate petitions had been filed in 1960.⁵⁰ These same elites often attended university in the US on bursaries either through the UN, the African American Institute in New York, or churches. Their interaction was often through UN diplomatic contacts rather than Washington-based officials.

However, the formal and informal interactions over the years included Henry Kissinger, Cyrus Vance, Donald McHenry, Andrew Young, Chester Crocker, and Herman Cohen – all the Africa policy heavyweights of American Administrations. Significant negotiations included the *Constitutional Principles* of 1982, which became the basis for the Namibian Constitution and other important steps toward independence. The ultimate negotiations over the 1988 settlement (the New York Accords) excluded the Namibian participants, but also took place in New York.

In the grand overview of of pre-Independence SWAPO's relations with the US, as well as the now governing SWAPO Party of Namibia's post-Independence relations with the US, nothing quite covers the topic as does a quote from founding Foreign Affairs Minister Theo-Ben Gurirab at a 1992 conference looking back at the UNSCR 435 process:⁵¹

SWAPO did not really trust anybody in the 435 framework – the Contact Group, the UN, the Frontline States, Nigeria, South Africa or the internal parties.

Twenty years later, an African analyst could still make the same claim with respect to all of the liberation movements that had come to power in the region:⁵²

An aspect of US relations with southern Africa that is often ignored is the effect of historical memory on the way that the region views the USA. Given the historical nature of US involvement, the suspicion with which the region constantly views the USA should come as no surprise.

This aspect of the relationship between Namibia and the US recurs during the past decade and more since 2000 in the tensions over the Mugabe regime in Zimbabwe. Namibia established its official position to support President Mugabe regardless of Zimbabwean or Western opposition, as declared by Founding President Sam Nujoma, and no official has dared to deviate from the steadfast defence of Mugabe, even if they wished to. This supportive stance is a given in the relationship, regardless of conditions or actions taken in that country.

In other forums, such as the UN, the Namibian position supporting pre-Independence allies such as Cuba, Libya, the Palestinian cause, and others has been understood and respected. The US has attempted to find common ground in what the Namibian

50 Ruth First (1963, quoted in Dobell 1998:27n).

51 Gurirab (2010:109ff); Weiland & Braham (1994:45).

52 Ngwenya (2012:264).

leadership called “the second liberation struggle”, that is, economic development. Indeed “economic diplomacy” was the most important aspect of Namibia’s foreign policy from the beginning of independence.⁵³ In that respect, the prior approach of SWAPO’s leadership to a policy of ‘proactive positive non-alignment’ in global affairs continued in the economic diplomacy sphere, and that included actively engaging with the US Government on many different levels.

To quote Founding President Nujoma at the first SWAPO Party Congress after Independence:

The policies of SWAPO in this regard [foreign policy] have always been aimed at securing friends who sympathise with and support our objectives of democracy and social justice ... The central approach in SWAPO’s foreign policy in post-independent Namibia is to promote economic democracy. This means attracting investment, diversifying trade opportunities and promoting joint-ventures both with foreign governments and companies as well as with the local private sector.

In 1995, Namibia enacted an Investment Protection Agreement with the US in order to attract investment.⁵⁴ Similarly, Namibia signed on to the Multilateral Investment Guarantee Agreement with the World Bank to improve assurances for investor certainty.

Some of the older Namibian leadership has continued to be suspicious of the US and, as Cabinet members, have distanced themselves from cooperation. Periodically, anti-imperialist rhetoric is uttered against some usually vague and abstract threat.⁵⁵ Cabinet continues to show some distrust in its steadfast refusal to borrow money from the Bretton Woods institutions such as the International Monetary Fund and the World Bank. However, the official Namibian Government stance has been cooperation, and several ministries and institutions actively engage their American counterparts, who have always been among the top bilateral donor partners.

Public opinion concerning the US

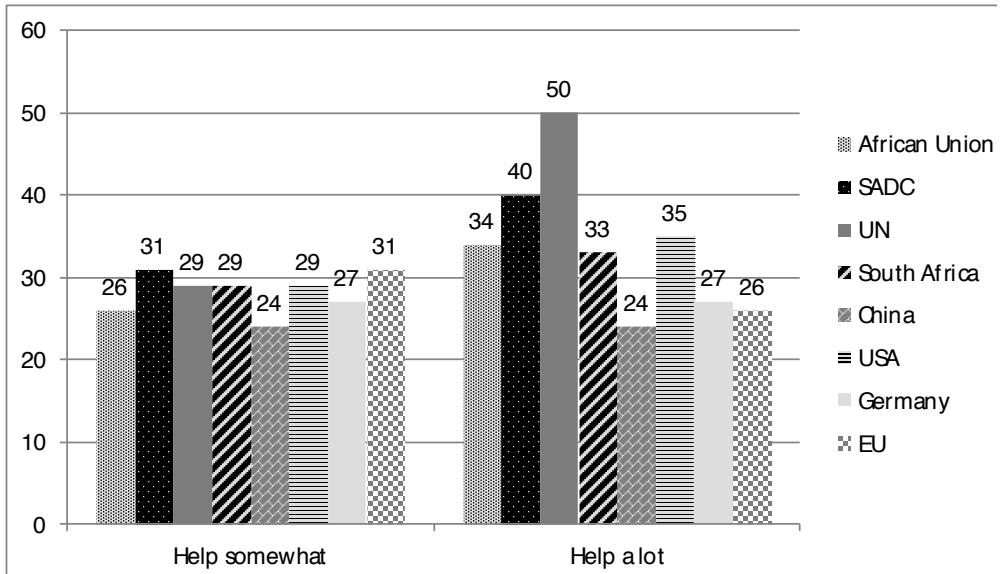
In 2008, the 4th Round of the Afrobarometer Public Opinion Survey⁵⁶ sought popular attitudes of Namibians toward a number of countries, including the US. The survey was conducted in Namibia just after the first election of President Barack Obama, the first African-American to hold this position. Therefore, there could be a bit of an ‘Obama bounce’ to the results. Nonetheless, America ranks highly in the opinion of ordinary Namibians, as shown in Figure 1.

53 Ministry of Foreign Affairs (2004).

54 Du Pisani (2000:308).

55 For example, around Libya and UNSCR 1974.

56 IPPR (2009).



Q98I. How much does each of the following do to help your country: the United States? [etc.]

Figure 1: How much does the United States help Namibia?

The US ranks third, at 64% positive, behind the UN (79%) and SADC (71%). This is quite a contrast from the pre-independence official attitude toward America. Urban respondents were somewhat more positive (67%) than were rural ones (61%), yet there was no difference along gender lines. Caprivians were the least supportive of American efforts, while *Oshiwambo*-speakers showed slightly above-average support. Those with no or little formal education (less than 10%) were the lowest positives, whereas those respondents with at least primary education completed and more were above average in their positive responses. The age group 30–64 years had the highest positive opinions in respect of US help for Namibia.

Round 5 of the Afrobarometer Survey in 2012⁵⁷ showed Namibians giving the US the highest marks (28%) for being a complete democracy out of the six countries with which it was compared.⁵⁸ Urban respondents were again more positive (by 3%) than their rural counterparts.

Negative attitudes toward the US seem to be mostly among a minority of believers in the pre-independence, anti-colonial nationalist ideology, mostly within the ruling party, but

57 IPPR (2013).

58 Also considered were China, Germany, Namibia, South Africa and Zimbabwe.

not necessarily at the grass roots.⁵⁹ The 2012 Libya crisis and intervention illustrated the hold of such sentiments within government, but Namibia was separated from its African peers in not recognising the new Libyan Government and in its strong condemnation of the US's role in the international intervention. The SWAPO Party of Namibia faction taking the hardest ideological stance on this and similar issues did not prevail at the party's Congress in November 2012. The more technocratic and pragmatic leadership won strong endorsement at the Congress. This is not to say that other leaders are not critical of American policies on the world stage; but a more realistic and pragmatic policy approach has always prevailed within the government since independence.

Conclusion

America bounced up against the Namibia Question over the past century in several different ways. First, private economic interests continued to seek opportunities through the German and South African colonial periods. These were not the dominant economic players of the time, however. Similarly, American ideals influenced the League of Nations mandate system and the intricacies involved, yet they were not the major players in those diplomatic dramas. Finally, the US did play a decisive part in the Cold War strategic issues that kept Namibia captive to the will and interests of others. Yet the US was also instrumental in the negotiations through the Western Contact Group that finally led to Namibia's independence.

Namibian leaders, especially those in SWAPO, saw America as the great imperial force behind the scenes on both a global and a local scale, frustrating the country's liberation. Nonetheless, the main enemy – and the direct conflict – was with apartheid South Africa. This direct conflict overshadowed all others. In the end, Namibian leaders inside and outside the country acquiesced in the UNSCR 435 negotiations that finally ended the external control over Namibia.

Since Independence in 1990, the policies of Namibia and the US have largely converged on the shared values of democracy and development cooperation between the two countries. The US has been a large donor partner since Independence in education, health care (especially HIV and AIDS), and conservation among others. Major programmes from the US such as PEPFAR, AGOA, and the MCA-N have made a significant direct and indirect impact.

Political and diplomatic relations have been generally favourable and friendly, with a few notable exceptions carried over from earlier differences. A pragmatic convergence of cooperation has emerged as the dominant post-Independence interaction.

⁵⁹ Although American churches were not important in Namibia over the past 150 years, music, fashion and culture have been popular with the general public.

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SECTION III

NAMIBIA'S MULTILATERAL RELATIONS

Namibia and the Southern African Customs Union

*Gerhard Erasmus**

Introduction

When the Republic of Namibia was born into sovereign statehood in 1990, it joined the Southern African Customs Union (SACU) as its fifth member state.¹ It had, however, already been a de facto part of that arrangement for a considerable period of time. As the former German colony of South West Africa it became an integral part of the administration of the Union of South Africa after the First World War in 1919, when the League of Nations was formed. The colonies of Germany and the Ottoman Empire were then put under the League's Mandate System. Namibia was a Class C mandate, bringing it under the internal administration of South Africa. After the Second World War, when the United Nations was established, the Trusteeship Council replaced the Mandate System and became the international supervisory institution for these territories. South Africa refused to accept this new arrangement and a protracted struggle and several international court cases on the status of Namibia and the nature of South Africa's obligations followed. The final outcome was the gaining of independence by Namibia in 1990.

SACU has seen its own share of change since 1990. This process coincided with the demise of apartheid rule in South Africa and the arrival of democracy in 1994. It was in fact during the negotiations for the Namibian Constitution, in February 1990, that the dramatic announcement was made in the South African Parliament that the South African liberation movements would be unbanned and their leaders released from Robben Island.

This chapter provides an overview of SACU as a specific kind of regional trade organisation and will clarify certain aspects of the present Agreement. SACU has, from its inception, been a sui generis arrangement with its own historical context, while functioning under specific multilateral trade rules.² This general background is discussed and the difficulties which subsequently arose around aspects such as revenue-sharing and the adoption of common policies are explained.

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1 The other members of SACU are Botswana, Lesotho, South Africa and Swaziland.

2 The General Agreement on Tariffs and Trade (GATT) came into existence in 1947. It prohibits discriminatory trade practices, but does allow for the formation of free trade areas and customs unions – provided certain requirements (e.g. the liberalisation of substantially all trade among the member states and adherence to a common external tariff, or CET) are met.

South Africa is the dominant economy in SACU. Its interests and policy needs are of a specific kind and order; they tend to dictate what policies are adopted via SACU structures. This is reflected in the practices of SACU, which has not become a “democratic” organisation, as the 2002 Agreement promises. The adoption of common policies has remained an elusive goal. The smaller member states are, as a consequence, confronted with particular trade and foreign policy challenges and constraints. At the same time, membership of SACU brings important benefits, the most obvious of which is the revenue from the Common Revenue Pool, collected as part of the common external tariff (CET). The bulk of these imports is generated by South African imports.³ It should also be noted that SACU is both a customs as well as an excise union.⁴

In addition, SACU members – with the exception of Botswana – belong to a common monetary arrangement which does not form part of SACU. The Common Monetary Area was enacted in July 1986; it originated from the Rand Monetary Area. The latter was established in 1974 and the signatories besides South Africa were Lesotho and Swaziland. The Common Monetary Area was replaced by the present Multilateral Monetary Area as of February 1992, when Namibia formally joined the arrangement.

Basic features of customs unions

A customs union provides for preferential trade between its members. This constitutes discrimination with regard to goods originating in third states outside the arrangement, but also enjoying, on the multilateral level, the protection of the most-favoured-nation principle, which forbids discrimination. Nevertheless, customs unions (and free trade areas⁵) will be allowed under the applicable rules of the General Agreement on Tariffs and Trade (GATT)⁶ if substantially all trade among the members of the union is liberalised, and no new restrictions on trade with other World Trade Organization (WTO) members are introduced. A customs union is also obliged to have a CET and a single customs territory.

The administration of the CET requires specific joint policies and measures by the member states. They are required to act jointly in trade negotiations with third parties and they are not free to unilaterally impose tariff changes, safeguard measures or trade

3 See also the discussion below on revenue-sharing in SACU.

4 The excise component of the revenue-sharing formula is explained in Article 34(4) of the SACU Agreement. Each member state’s share of the excise component is calculated from the value of its gross domestic product. Unless otherwise indicated, all references to provisions in the SACU Agreement refer to the 2002 SACU Agreement.

5 In a free trade area, the level of integration is lower and there is no CET. Members retain a larger degree of policy freedom to determine their trade policy and tariffs with respect to third states.

6 As embodied in Article XXIV, GATT.

remedies in order to protect their domestic industries. Their policy space for independent action in these areas is, as a consequence, curtailed.

Similar considerations apply with regard to the single customs territory aspect of a customs union. Trade between the members has to be tariff-free with respect to substantially all trade between them. Thus, there are no customs controls at the internal borders with respect to such goods. This does not mean that internal border controls will disappear: in SACU, different national fiscal regimes are maintained, which requires certain types of border controls. The same applies to sanitary and phytosanitary matters, immigration, health and standards. Nevertheless, the members of a customs union are obliged to eliminate substantially all other restrictive regulations of commerce between them.⁷

All the regional economic communities in southern Africa strive to become customs unions. They have adopted a ‘linear’ approach with regard to their deeper regional integration plans, moving from free trade areas to customs unions, common markets and, eventually, monetary unions at particular dates which are normally announced in advance.⁸ This has proved to be an arduous road. Customs unions and common markets are sophisticated arrangements whose members have to be prepared to sacrifice a large degree of autonomy over trade and economic policies – as the experience in the European Union has demonstrated. Supranational institutions and firm legal rules are required to ensure coherence and to prevent fragmentation. African states have not succeeded in implementing their ambitious plans on deeper integration.⁹

SACU is in a different category and is a functional customs union. The reason has to do with its long and special history – as the next section will show. At present, SACU members do not entertain formal plans to move to a higher level of integration, although they are committed to the adoption of certain common policies.

SACU’s historical development and the 1910 and 1969 Agreements

The history of SACU is at the same time also the storyline of the special economic relationship between its members. SACU has been around since 1910 – it is in fact the world’s oldest functioning customs union – and has been the formal embodiment of economic interdependence in the region. The importance for Botswana, Lesotho, Namibia and Swaziland (the BLNS countries) of revenue from SACU’s revenue-sharing arrangement, the strength of the South African economy, and the dominant position of South Africa in economic policy matters constitute essential features of the relationship between the member states. These factors impact directly on the foreign policy space of the smaller countries in particular.

7 GATT Article XXIV (8).

8 McCarthy (2011).

9 For a further discussion, see WTO (2011).

At the time of writing this chapter, important changes are under discussion in SACU. These include possible changes to the revenue-sharing formula, formalising the Summit of Heads of State and Government, and the conclusion of new trade agreements with third parties. These developments will be mentioned and their political consequences, as well as the foreign policy implications for Namibia, will be discussed.

SACU dates back to the formation of the Union of South Africa in 1910. Colin McCarthy has written extensively about this history and the technical aspects of SACU.¹⁰ This part of the present chapter borrows directly from his writings. He has emphasised the colonial foundations of the original arrangement, and has explained the technical and political difficulties under the 1969 SACU Agreement. These difficulties resulted mainly from the dominance of the South African economy and the manner in which Pretoria used SACU's CET as an instrument to promote its own industrial and trade policies.

The 1910 SACU Agreement provided the first formal framework for the operation of this customs union, which then included the former British Protectorates of Basutoland, Bechuanaland and Swaziland. When they became independent in the 1960s, a reassessment of the SACU Agreement was required. This resulted in the adoption of the 1969 SACU Agreement, concluded on 11 December 1969 and becoming operational on 1 March 1970. Revenue-sharing was, from the outset, the principal issue. Botswana, Lesotho and Swaziland were concerned that they were not getting a fair share of customs union revenue, basing their views on the argument that the fixed percentage shares in revenue which came their way under the 1910 Agreement did not compensate for the effects of trade diversion that arose from the protective tariff designed to serve South African industrial interests.

The 1969 Agreement provided for free trade among the members, while administering a CET for trade with third parties. However, it was envisaged that free trade within the common customs territory would, in terms of the preamble to this Agreement, be managed in a way that was to –¹¹

... ensure the continued economic development of the customs area as a whole, and to ensure in particular that these arrangements encourage the development of the less advanced members of the customs union and the diversification of their economies, and afford to all parties equitable benefits arising from trade among themselves and with other countries.

Asymmetry was, in McCarthy's words,¹² built into the arrangement from the beginning, with industrial development being concentrated in the high-growth metropolitan areas of South Africa as a result of economic agglomeration.

10 McCarthy (2006).

11 See Republic of South Africa (1969:9).

12 McCarthy (2006:11).

SACU experienced many practical difficulties under the 1969 Agreement, such as operational problems with regard to time lags in the distribution of customs union revenue, and inadequate customs procedures and control measures. The management of the technical aspects of the customs union gave rise to further friction. South Africa managed the CET primarily in the interest of its own economy. Although Article 5(1) of the 1969 Agreement specified that South Africa had to give the other contracting parties “adequate opportunity for consultations before imposing, amending or abrogating any customs duty”, consent of the other parties was in fact not sought. The actual practice showed that implementation was not dependent on concurrence from the BLNS countries. Article 5(2) dispensed with the need to consult where interim measures were implemented to protect an industry, pending a full investigation of such measures by the South African authorities. South Africa could, in fact, change tariff levels unilaterally.

This state of affairs went to the heart of the criticism that SACU was undemocratic. McCarthy, quoting Schiff and Winters, notes that –¹³

[i]n the most hegemonic of customs unions, SACU, South Africa simply decided trade policy and compensated the smaller countries for the costs it imposed on them.

Since a customs union is obliged to have a CET, it follows that it also needs to have a trade policy that is common in all material aspects. This feature ironically enabled South Africa to adopt SACU tariff policies to be in line with its own national development objectives.

There were efforts to address these obvious inequalities. Certain practical arrangements and a special revenue-sharing formula – which guaranteed the BLNS states a minimum revenue rate of 17% on import values and excisable consumption and production – were adopted. The adequacy of the compensation built into the revenue-distribution formula and the effectiveness of the special provisions to encourage BLNS infant industries were questioned, but SACU did provide these countries with a reliable source of revenue.

The 1969 Agreement was premised on an understanding that the BLNS countries would sacrifice important elements of their control over fiscal and trade policy. South Africa managed these affairs as if they were all part of the South African economy. In exchange, and as compensation for the polarisation effect inherent in being part of a single customs territory dominated by a much larger member, BLNS countries received the payments provided for in the revenue-distribution formula. This system of customs union management had evolved historically and was embedded in the colonial experience of the region.

13 Schiff & Winters (2003:85, cited in McCarthy 2006:8).

This was not a durable arrangement. South Africa's domestic political order of apartheid meant additional tensions and international isolation. All of this came to an end in 1994 with the election of a new government under a democratic dispensation. The newly elected African National Congress Government soon announced its preparedness to renegotiate the SACU Agreement.

The 2002 SACU Agreement

The adoption of the 2002 SACU Agreement was a response to the organisation's historical legacy and regional political and economic changes during the 1990s. Namibia became independent in 1990 and joined SACU as a full member. The announcement, in the same year, that apartheid would be abolished, heralded the end of South Africa's international isolation. The outcome of GATT's Uruguay Round of multilateral trade negotiations took effect in 1995, and on 1 January that year, the WTO came into existence. The WTO constituted a rules-based international trade regime, to which all the SACU states belong.

Certain changes and some degree of innovation within SACU followed, but essential features of the previous regime such as the strong focus on tariff revenue-sharing were retained. The Common Revenue Pool and the transfer of revenue to the BLNS states remained the essential *raison d'être* of SACU. The new Agreement still covers only trade in goods: it does not mention trade in services. SACU did not evolve into a true regional integration mechanism or an instrument for promoting trade beyond the exchange of goods. A number of new building blocks and institutions¹⁴ are mentioned in the 2002 Agreement and, when they become operational, there might be a new impetus towards deeper integration. This has not yet happened.

Nonetheless, the new SACU Agreement does alter the organisation's structure and some of its operational aspects. The 2002 Agreement now provides for an international organisation with legal personality,¹⁵ specific institutions, rules on decision-making, the development of common policies, and the possibility of formal dispute resolution.¹⁶ The 1969 Agreement noted that differences between the members had to be resolved through consultation. There was no provision for a regional court or tribunal.

The 1969 Agreement listed the free interchange of goods, the application of the same tariffs on goods imported from outside the common customs area, the amendment of customs duties, excise, the right to impose import and export prohibitions and

14 The SACU Tariff Board, the ad hoc Tribunal and the Common Negotiating Mechanism are the most important ones.

15 2002 SACU Agreement, Article 4.

16 The settlement of disputes will require an operational Tribunal, but this has not yet been instituted.

restrictions, the marketing of agricultural products, and the “pool of customs, excise, sales and additional duties”.¹⁷

The new Agreement, on the other hand, purports to create a typical international organisation, while maintaining – and, in some instances, repeating – provisions in the 1969 Agreement.¹⁸ The Preamble and Article 2 are both new in the sense that they spell out the inadequacies of the former arrangement, especially measured against the need to integrate the member states’ economies into the global economy and in dealing with the different levels of the economic development of the member states. The importance of tariffs as instruments for the implementation of industrial development is emphasised,¹⁹ as is the need now for a –²⁰

... dispute settlement mechanism [to] provide a mutually acceptable solution to problems that may rise [sic] between Member States.

Article 2 of the new Agreement deals with the Union’s objectives and emphasises the need for a technically sound customs union and to integrate the national economies into the global economy through enhanced trade and investment. Equitable sharing from the Common Revenue Pool is stressed, and there is a call to develop common policies and strategies. The same provision emphasises “conditions of fair competition in the Common Customs Area”, and the need to –

... create effective, transparent and democratic institutions which will ensure equitable trade benefits to Member States.

This particular aspect is significant: the members wanted to establish a dynamic and properly empowered SACU and to move away from the dominance of South Africa’s national institutions which characterised the functioning of SACU under the 1969 Agreement. They have not really succeeded in this particular endeavour, although they have benefitted substantially from the sharing of customs revenue. As long as the SACU Tariff Board and Tribunal are not established, South Africa will retain control over the administration of SACU’s CET and compliance with obligations will to be tested by an independent judicial forum.

The second part of the 2002 Agreement formalises SACU’s status as one based in the legal personality of the organisation. It provides for a permanent Secretariat to deal with the day-to-day administration of the whole organisation, as well as permanent headquarters in Windhoek, Namibia. Article 7 provides for the establishment of a Council of Ministers,

17 1969 SACU Agreement, Article 13.

18 The right of members to impose import and export restrictions is, for example, retained in Article 25 of the 2002 Agreement.

19 Preamble, SACU Agreement, para. 4.

20 (ibid.:final para.).

a Customs Union Commission, the Secretariat, a Tariff Board, Technical Liaison Committees, and an ad hoc Tribunal. The member states are represented by the Council of Ministers – still SACU's highest decision-making body – and the Commission, both on ministerial and senior official level. The Technical Liaison Committees will bring together officials from the various member states to deal with agriculture, customs, trade and industry, and transport. Exactly how this will happen will depend on the common policies to be adopted under Part Eight, the interaction with third parties, and agreements concluded with them.

An important development occurred with the decision taken at the SACU centenary celebrations of 2010 to establish a Summit of Heads of State and Government as a new and permanent SACU institution. This will require amendments to the SACU Agreement and a demarcation of powers so that the roles of the Council and Summit are clear. The present indications are that the Summit will provide political guidance to the organisation. Whether this will lead to a new kind of Summit diplomacy in SACU is to be awaited. If it does happen, the BLNS states may start to enjoy fresh scope for foreign and regional policy initiatives. The real test will come when individual member governments have to decide whether they will put vital issues on the Summit agenda and whether Summit decisions will be binding. Will national officials be under an obligation to implement them? Who will monitor implementation and compliance?

SACU has also adopted its own Vision and Mission, which provide as follows:²¹

The Governments of the Republic of Botswana, Kingdom of Lesotho, Republic of Namibia, Republic of South Africa and Kingdom of Swaziland

Acknowledging the positive role which the Southern African Customs Union (SACU) has played in the past one hundred years and the important role it can play in promoting regional integration and the economic development of all its Member States;

Mindful of the different levels of economic development of the SACU Member States and the need for their integration into the regional and global economy;

Recognising the challenges presented by developments at the regional and global level and the need to position SACU to respond to these;

Convinced that SACU can be a vehicle for deeper development integration both within itself and within the Southern African region;

Hereby commit to the following:

Vision

An economic community with equitable and sustainable development, dedicated to the welfare of its people for a common future.

Mission

To serve as an engine for regional integration and development, industrial and economic diversification, the expansion of intra-regional trade and investment, and global competitiveness.

21 Available at <http://www.sacu.int/about.php?id=395>; last accessed 12 November 2013.

To build economic policy coherence, harmonization and convergence to meet the development needs of the region.

To promote sustainable economic growth and development for employment creation and poverty reduction.

To serve as a building block of an ever closer community among the peoples of Southern Africa.

To develop common policies and strategies for areas such as trade facilitation; effective customs controls; and competition.

To develop effective, transparent and democratic institutions and processes.

SACU's new institutional framework provides for a Tariff Board and ad hoc Tribunal. They are in fact 'established' since they are expressly provided for in the text of the Agreement. However, they cannot become operational unless specific decisions are taken and additional legal instruments are adopted. This has not happened and present indications are that SACU may in fact never have these two institutions. If established and properly empowered, they could move SACU to a new level of rules-based trade and governance. The organisation will then enjoy effective powers and will decide over customs matters, trade remedies, rebates, refunds, and duty drawbacks. The ad hoc Tribunal will be an independent court and will exercise jurisdiction over "any dispute regarding the interpretation or application of this Agreement".²² This will allow for remedies when legal obligations are not complied with, a rather essential feature in a trade arrangement based on predictability and certainty of rights – including the rights of private parties, traders and investors. SACU lacks this important dimension.

Part Eight of the Agreement provides for the development of common policies over industrial development, agriculture, competition, and unfair trade practices. A regional organisation which has the aim of integrating the national economies of its members into the global economy cannot afford fragmented national approaches in these important areas. The use of tariffs with respect to industrial development, trade remedies and related customs matters should, for example, be coordinated in a real and effective manner. The SACU Tariff Board will eventually play an important role in this regard – if it is established. SACU constitutes a single market which requires regulation in terms of the same standards and policies in several commercial areas and in respect of trade-related policies.

Part Eight of the Agreement lists industrial development, agriculture, competition, and unfair trade practices as areas of future cooperation, but does not provide for any essential guidelines. The members will have to take deliberate steps to activate a process for developing and adopting the common policies listed in Part Eight.

These challenges remain on the SACU agenda. Part of the reason why no new policies have been adopted has to do with the vague language in the Agreement. The four areas – industrial development, agriculture, competition, and unfair trade practices – aim at

22 SACU Agreement, Article 13(1).

outcomes which require specific negotiations and outcomes for each area. In the case of industrial policy “member states agree to develop common policies and strategies with respect to industrial development”,²³ but nothing is said about the content or enforcement of such common policies. In the case of agriculture, the Agreement requires only that member states must “cooperate on agricultural policies in order to ensure the coordinated development of the agricultural sector within the common customs area”.²⁴ The five member states often follow different domestic approaches with regard to agriculture. In the case of South Africa, agriculture is a deregulated sector – while the opposite is true in the other member states.²⁵ With respect to competition policy, the members “shall cooperate with each other with respect to the enforcement of competition laws and regulations”.²⁶ This seems to suggest that each and every country will have its own competition laws and institutions: national authorities will only cooperate with respect to the enforcement of their domestic competition-related decisions. This will not be sufficient to deal with the extraterritorial challenges of uncompetitive commercial practices.

On unfair trade practices, Article 41 provides that the Council –

... shall, on the advice of the Commission, develop policies and instruments to address unfair trade practices between member states. These policies shall be annexed to this Agreement.

This provision differs from the other three in Part Eight, and goes further in terms of enforceability, implementation and adoption. The ultimate SACU policy on unfair trade practices will have to be adopted by the Council, after which it will become an annex to the SACU Agreement. Annexes to the Agreement are binding and, in terms of Article 42, an integral part of the Agreement. The adoption of annexes will presumably expand the legal obligations of members and may provide for additional mechanisms.

It is not entirely clear how competition policy, unfair trade practices and trade remedies will be coordinated. SACU’s Competition Policy will be a loose arrangement about national powers and national laws, while in the case of unfair practices there should ideally be a single legal instrument – in the form of an annex. The Tariff Board should have jurisdiction over trade remedies, while the national bodies will initially vet applications for trade remedies, tariff changes, duty drawbacks or rebates.²⁷

The operations of the Tariff Board will require a new institutional framework consisting of a detailed arrangement: national bodies in the member states, the Tariff Board as a SACU institution, and the SACU Council. Up till now, South Africa’s International Trade Administration Commission has been responsible for all decisions with respect

23 SACU Agreement, Article 38(2).

24 (ibid.:Article 39(2)).

25 See McCarthy (2006:10).

26 SACU Agreement, Article 40(2).

27 SACU Agreement, Article 11.

to trade remedies, rebates, refunds or duty drawbacks. It functions in terms of the South African Trade Administration Act,²⁸ which provides for the necessary powers and procedures. The Act also incorporates the respective WTO disciplines on trade remedies as part of South Africa's domestic legislation, and implements decisions with respect to the common customs territory.

The BLNS states do not decide over or implement trade remedies. They are nevertheless duty-bound to give effect to International Trade Administration Commission decisions and to protect the existence of the CET. Article 22 of the Agreement provides that "member states shall apply similar legislation with regard to customs and excise duties". Article 23 stipulates that member states –

... shall take appropriate measures, including arrangements regarding customs cooperation, to ensure that provisions of this Agreement are effectively and harmoniously applied.

These outstanding building blocks in the SACU architecture have a number of implications. One is that the original plan adopted as part of the 2002 Agreement remains incomplete. As long as this state of affairs prevails SACU will, in many important aspects, not function as a common mechanism. South Africa will retain essential powers which will impact on the operations and policies of the customs union and, by implication, on all the member states.

There are several inconsistencies in the 2002 Agreement, such as that it still allows individual members to impose import and export prohibitions and restrictions,²⁹ exactly as the 1969 SACU Agreement did. As long as this remains possible, fragmented outcomes will follow. A SACU Tribunal could deal with some of the complications by developing a binding jurisprudence, but it does not exist. One of the challenges for the Tribunal will be to interpret the SACU Agreement in a coherent manner and ensure that a rules-based regime comes about.

Revenue-sharing

The operation of the Common Revenue Pool is at the heart of the 2002 Agreement, as it was under the 1969 Agreement. A detailed annex provides for the collection and payment of tariffs into this Pool and for the distribution and sharing of customs and excise revenue.

The GATT rules do not determine how customs revenue in a customs union should be divided among member states: they are free to decide whether to link tariff revenue to the state of final destination of imported goods, or follow another type of arrangement.

28 No. 71 of 2002.

29 SACU Agreement, Article 25.

In SACU a special revenue-sharing formula applies. Members' shares are calculated from a customs component, an excise component and a development component.³⁰ Each member state's share of the excise component is calculated from its value of the gross domestic product (GDP) in a specific year as a percentage of total SACU GDP in such year.³¹ The customs component consists of the gross amount of customs duties and other specific and ad valorem duties levied on imports from outside the union. A member's share of the customs component is calculated on the basis of an unrelated consideration: the value of goods imported from all other SACU member states, on which no customs duties are levied. The destination of goods imported from outside the union is not taken into account for the purpose of this calculation.

For the 2011/12 tax year, the SACU revenue pool total contributions amounted to R61,437 million, of which South Africa contributed R60,135 million (97.9%). This figure includes revenue collections by South Africa on behalf of the BLNS countries. Namibia contributed R571 million – excluding revenues on Namibian imports collected by South Africa.³² Namibia received N\$7,137 in 2011/12 (11.6% of the total revenue pool). This amounted to 26.6% of total Namibian revenue in 2011/12 and 7.7% of GDP in that year.³³ For Swaziland and Lesotho this figure was more than 60%.

It is generally known that South Africa is unhappy with the present revenue-sharing arrangement. Some officials have complained that South African imports generate revenue which 'subsidises' the BLNS countries. The BLNS countries, on the other hand, point out the high costs for them which result from South Africa's domestic industrial and tariff policies.

There has always been a unique arrangement in terms of which customs administration has been undertaken according to the approach adopted in the applicable South African legislation. South Africa administers the CET and its International Trade Administration Commission is responsible for matters such as trade remedies and tariff changes.

Trade data disputes will be decided by the Council,³⁴ and the management of the Pool is still undertaken by South Africa, although this provision can be revisited in order to come

30 (ibid.:Article 34).

31 (ibid.:Article 34(4)).

32 See South African National Treasury/South African Revenue Service 2012 tax statistics, pp 7–8; available at <http://www.treasury.gov.za/publications/tax%20statistics/2012/2012%20Tax%20Statistics.pdf>, last accessed 21 August 2013. The 2009 WTO Trade Policy Review for SACU (WTO 2009) mentions South Africa contributing approximately 80% of the customs component (for 1998/99) and that this proportion was likely to remain relatively stable over the coming years.

33 See SACU (2012:41).

34 SACU Agreement, Article 36.

to a new arrangement.³⁵ It has not yet happened. At the time of writing there were some serious deliberations afoot to change the existing revenue-sharing arrangement. A special study called for in 2010 proposed far-reaching changes, including the establishment of a regional development fund, with conditionalities. The BLNS countries are strongly opposed to these proposals. This matter remains unresolved.

Assessing the promises of the 2002 SACU Agreement

Where does the new Agreement leave SACU with respect to the new philosophy of the 2002 Agreement, the commitment to common policies, and future regional integration? The message is a mixed one. The most optimistic reading suggests that the new Agreement – through the express provision for common policies and new annexes, and by mentioning independent institutions such as the Tariff Board and the Tribunal – contains a promise to bring about a truly new dispensation and to adopt joint policies. SACU's future depends on a common commitment and the quality of its political leadership.

That brings one to an important institutional deficit in the organisation: SACU lacks a collective voice. The Council of Ministers, which is the highest decision-making body (decisions are taken on the basis of consensus), is essentially a platform for the articulation of national interests. The Secretariat could become a more proactive body in promoting joint policymaking. This could happen via joint projects. However, it is not permitted to undertake its own policy initiatives: Article 10(4) of the Agreement limits its policy role to assistance regarding “the harmonization of national policies and strategies of member states in so far as they relate to SACU”. It remains, as a result, an institution responsible for the day-to-day administration of SACU and the related activities of its members.

Article 31 of the SACU Agreement is important since it provides for the establishment of –

... a common negotiating mechanism ... for the purpose of undertaking negotiations with third parties.

Once in place, this common arrangement can make a real contribution to the development of joint trade and related policies. This will also provide scope for the development of foreign policy strategies by SACU members and their translation into joint agreements.

The fact that this common mechanism does not exist results in a serious lacuna. It means that trade negotiations with third parties, such as the Economic Partnership Agreement (EPA) negotiations with the European Union,³⁶ will inevitably be influenced by South

35 (ibid.:Article 33(4)).

36 See the chapter by Raúl Fuentes Milani in this volume.

African preferences and its complicated tariff regime. A few trade agreements with third parties have been concluded,³⁷ and they will also require specific technical measures and new tariffs. More needs to be done in this area.

Trade diplomacy is a very important foreign policy dimension for members of a customs union and needs to be channelled through joint structures with the necessary powers. The absence of a common negotiating mechanism leaves the BLNS countries without such an instrumentality.

SACU and Namibia's foreign policy

Namibia's membership of SACU brings foreign policy constraints as well as benefits. It is between these diverging tendencies that Namibia has to steer its foreign policy boat – at least with respect to trade issues and matters covered by the SACU Agreement. The other major consideration is Namibia's bilateral relationship with South Africa. Relations with South Africa, its biggest trading partner³⁸ and a SACU member, are a priority concern for Namibia. This is not a relationship which permits unfettered unilateral action: for a substantial part it has to be conducted via the structures of SACU and in terms of the limited policy space permitted under that arrangement. It is also a difficult relationship, given the differences in economic and political power.

Namibia's foreign policy is historically and geographically determined to focus quite directly on southern Africa, and on South Africa in particular. The fact that Namibia was administered as an integral part of South Africa for seven decades³⁹ had lasting effects on the nature of its national economy, which is intrinsically linked to that of South Africa. After Independence in 1990, the Namibian Government continued to recognise and promote these ties. It also benefitted from SACU arrangements such as the revenue accruing from the Common Revenue Pool.

When the present chapter looks at the role of SACU in the shaping of Namibia's foreign policy, it requires an assessment of SACU's practices – in addition to specific Namibian initiatives. What does the SACU record tell us about common policies and strategies undertaken as joint commitments of the SACU member states? What policy space do

37 For example, with the European Free Trade Association (EFTA) and Mercado Común del Sur (MERCOSUR, the Southern Common Market).

38 Imports from South Africa amount to about 73% of Namibia's total imports, while exports to South Africa account for about 22% of the total. The United Kingdom is its second most important export destination, at 16%. See Namibia's Aid for Trade Framework and Strategy, adopted in 2011 and prepared by the Namibian Ministry for Trade and Industry and the United Nations Development Programme in Namibia.

39 This happened under the mandate system of the League of Nations and then, controversially, also when the United Nations took over the international supervision of the mandated territories after 1945. Namibia became independent in 1990.

individual SACU members enjoy which will allow them to steer SACU policies in a particular direction in order to promote individual national interests?

Intra-SACU business is not plain sailing. The BLNS countries often complain that South Africa acts without due regard to the impact on the smaller SACU member states when adopting changes to the CET. They maintain that these changes mainly address South African industrial and commercial concerns, while they are locked into a position where they inevitably have to bear many of the import costs resulting from such decisions. The other side of the coin concerns South Africa's own developmental needs at home, where it faces major unemployment and poverty alleviation challenges. South Africa is the dominant economy in Southern Africa, but is not a typical first world country which happens to have developing countries or least developed states as neighbours.

When Namibia joined SACU in 1990 as an independent state, the 1969 Agreement was still in place. The new South African Government, elected in 1994, soon announced its intention to renegotiate the Agreement and to adopt a new framework for interaction with its neighbours. South Africa was also then invited to join the Southern African Development Community (SADC). The negotiations to adopt a new SACU Agreement took much longer than initially expected, and the new Agreement was only signed, in Gaborone, Botswana, on 21 October 2002. It entered into force in July 2004.⁴⁰ This is SACU's present legal foundation, and it contains the principles and structures in terms of which the members have agreed to promote their trade and related interests and to adopt policies with respect to third parties. This had to take place in a spirit of 'democratisation'.

Under the 2002 Agreement, SACU had to provide a forum for practising a different style of decision-making, while generating common policies and functioning through new SACU institutions. The achievement of these goals and the implementation of Article 2 of the Agreement (listing the objectives of SACU) have not been easy. The member states have to manage a complicated regional relationship where one specific member, South Africa, plays a dominant role. Regional integration is never easy when the needs of a single hegemon often deviate from those of the smaller members. It may turn out that the former often dictates matters.

At times, Namibia has demonstrated a resolve to voice its concerns when unilateral South African actions have impacted on SACU affairs. When the European Union and South Africa in 2002 concluded their bilateral Trade, Development and Cooperation Agreement (the TDCA), which covers trade relations, development cooperation, economic cooperation and numerous other fields such as socio-cultural cooperation and political dialogue, Namibia withheld its concurrence. The 1969 SACU Agreement did not contain any provision on a common negotiating mechanism. When trade agreements

40 Article 46 of the SACU Agreement provides that entry into force of the new text would happen 30 days after the deposit of the instruments of ratification by all the member states.

with third parties were concluded, the concurrence of the other member states had to be obtained. The TDCA is a Free Trade Agreement (FTA) in its own right and has had direct implications for SACU's CET.⁴¹ The correct approach would have been to involve the BLNS countries in those negotiations. Namibia's refusal to grant concurrence subsequently demonstrated its unhappiness with the approach adopted by South Africa. This decision did not, however, result in the derailing of the implementation of the TDCA. Namibia learned to live with those consequences.

A customs union has a CET and this factor precludes members from pursuing unilateral trade policies vis-à-vis third parties. It means that joint tariff offers have to be developed when new trade agreements – such as the Tripartite Free Trade Agreement⁴² – are negotiated. This often requires compromises. Most of the time, the BLNS states have to live with the realities and implications flowing from the South African tariff policy, which is anchored on the use of the import tariff as a strategic instrument for promoting its national industrial development.

As an organisation, SACU is a mixture of both the old and the new. It has not fully moved away from the 1969 model. It is still primarily an organisation which focuses on trade in goods and a unique customs revenue arrangement. Some commentators believe that this particular aspect – the emphasis on customs revenue as a source of public revenue – contributes to the lack of forward movement and deeper integration. There is no real incentive to alter the present *modus operandi* or to enlarge SACU.

This does not mean that the organisation cannot become a more effective vehicle in the pursuit of deeper integration. However, the SACU members still act as independent nations, not as a common structure. In this regard, the new SACU did not change state behaviour in a fundamental way and it has not succeeded in generating supranational institutions.

The explanation for this state of affairs lies, to some extent, in SACU's limited mandate. For example, the SACU Agreement contains no provisions on trade in services or taxation. Common competition, agricultural and industrial policies have to be developed through new negotiations, but no additional commitments have been adopted. The list of formal objectives mentioned in Article 2 of the SACU Agreement does not mention the deeper integration of SACU expressly. This aspect may be implied in, for example, the

41 Goods imported into South Africa under the TDCA will circulate freely within the SACU customs territory. There will also be a loss of customs revenue.

42 The member states of SADC, the Common Market for Eastern and Southern Africa (COMESA) and the East African Community (EAC) decided, at a summit in Kampala in 2008, to form one joint free trade area between the 26 members. These negotiations are under way and have proved to be quite complicated. See also Erasmus (2013).

reference to the “development of common policies and strategies”. The recently adopted SACU Mission Statement recognises that the organisation has to –

... serve as an engine for regional integration and development, industrial and economic diversification, the expansion of intra-regional trade and investment, and global competitiveness.

It remains to be seen whether this statement will result in tangible outcomes.

The adoption of the Mission Statement does seem to indicate that SACU members will not pursue unilateral initiatives which will undermine their SACU agenda. It remains to be seen whether South Africa in particular will consider this to be a binding commitment. It has in the meantime become a member of BRICS, a loose arrangement between Brazil, Russia, India, China and – for the past two years – South Africa. Membership of this configuration suggests a special and higher status and a unique role in international affairs. The inaugural meeting of the BRICS Business Council took place in Johannesburg on 19 and 20 August 2013. It focused on identifying areas of potential cooperation, including the promotion of public–private partnerships, information exchange, and harmonisation of technical standards. These are matters which should also be canvassed at SACU meetings.

It might be argued that deeper integration efforts can be pursued through the initiatives adopted in SADC, to which all the SACU members belong. However, SADC’s integration record is rather unimpressive. Its Regional Indicative Strategic Development Plan (RISDP) is many years behind schedule, while several members have not implemented their Free Trade Area obligations. The suspension of the SADC Tribunal in 2011 was a retrogressive step which will seriously undermine efforts to transform SADC into a rules-based arrangement. SADC does not offer an exciting prospect for deeper regional integration. SACU is a smaller community of states: its members will be better served by adopting their own plans of action to deepen integration and then to endeavour to initiate larger regional initiatives.

The achievement of the new SACU objectives depends, for a major part, on how the organisation’s institutional and policymaking potential will be unlocked in order to bring about effective common governance. This will only happen once focused policies are developed, and deliberate steps are taken to do what the Preamble and the new Mission Statement require, namely to have an organisation that will cater for the needs of the 21st Century. Strengthening of the collective institutional voice is vital. Successful implementation will depend on firm commitments and effective monitoring of compliance. The SACU Tribunal will be a critical element in the achievement of a rules-based arrangement. This promise is yet to be fulfilled. This task falls squarely on the shoulders of the political leadership, but there are few indications that the member states want a properly empowered SACU with an effective collective voice. Would Namibia be prepared to champion these causes?

Regional integration in southern Africa and on the African continent could be undergoing important changes with the new Tripartite Free Trade Area being negotiated.⁴³ SACU has entered these negotiations by developing a joint tariff offer. The aim is for this integration initiative to evolve into a continent-wide free trade arrangement. For this to come about, a more serious commitment to legal certainty, predictability and effective regional institutions will be required. SACU should get its own house in order and actively support the correct efforts.

All African regional economic communities have, on paper, embarked on the road towards deeper integration. Attaining this objective has proven rather difficult and holds serious implications for traditional notions about *state sovereignty*. Most African governments have demonstrated little preparedness to grant regional institutions effective and independent powers or to accept the jurisdiction of regional courts. They claim that they will lose their sovereign policy space. This approach to sovereignty is problematical. The conclusion of most international agreements flows from the fact that they are necessary in order to protect and promote national interests: states cannot prosper in isolation. It is an act of sovereignty to conclude such agreements and to found regional and multilateral trade arrangements. These agreements cannot bind particular states unless ratification or accession has occurred. Compliance with international obligations freely entered into cannot subsequently be denied by invoking national sovereignty or domestic constitutions or laws. If that were possible, no international agreements would be implemented.

What are the direct implications of SACU membership for Namibia's foreign policy? The most immediate concern is the future of the revenue-sharing arrangement and the management of the Common Revenue Pool. Namibia, together with the other BLNS states, will have to steer discussions about possible changes to the present formula in a direction which will account for the broader regional implications. Namibia and Botswana are not as dependent on SACU revenue as Swaziland and Lesotho are. However, the more than 20% of public revenue annually flowing into the fiscus in Windhoek is a vital contribution. Serious political instability could follow if abrupt changes to SACU's revenue-sharing arrangement are introduced and the smaller SACU members, which have become dependent on the revenue from the Pool, are left stranded. SACU has generated regional realities and a degree of stability which cannot be altered in an abrupt manner. Regional instability will not be to South Africa's advantage. A well-informed and joint BLNS strategy about this matter is called for. Namibia could be a champion of such efforts.

Another important concern involves the conclusion of the SADC EPA with the European Union. SACU is not the official counterpart of the European Commission in these

43 The member states of SADC, the Common Market of Eastern and Southern Africa (COMESA), and the East African Community (EAC) are involved in these negotiations.

negotiations,⁴⁴ but the negotiations are, for all practical purposes, conducted with SACU. Pretoria has become the major player on behalf of SACU and this has complicated matters. South Africa wants, via the SADC EPA, an improvement of the market access conditions provided for South African goods under its bilateral free trade agreement, the TDCA, with the European Union. Namibia has specific needs with regard to quota-free and duty-free European Union access for its beef and table grapes. It stands to lose these important trade preferences if an agreement is not concluded in time. The European Commission has indicated that quota-free and duty-free access will be discontinued by the end of 2014 in those instances where EPAs have not been finalised. Windhoek's policy choices are difficult ones and require a balancing of regional solidarity concerns against real economic and trade benefits. It should, however, push for the successful conclusion of these negotiations. The whole SACU region stands to benefit from a sound and balanced deal.

Namibia is the host of the SACU Secretariat, which may allow it to develop a special relationship with this SACU institution. This will require a clear strategy in favour of the membership as a whole, especially since the chair of the Council of Ministers rotates every six months. The need for enhancing the Secretariat's technical capacity is rather obvious: the organisation needs a well-functioning Secretariat while the smaller members can benefit from Secretarial support with regard to customs procedures, the implementation of trade obligations, and complying with international standards, and in order to avoid duplication of institutions.

SACU's institutional strengthening will benefit Namibia and the other BLNS members in particular. The establishment of the SACU Tribunal and Tariff Board should be a priority concern and Namibia could play a constructive role in ensuring that the necessary is done as a matter of urgency. Without these institutions the SACU structures will remain seriously deficient, while operations will be fragmented and without a proper rules-based component.

Not all of Namibia's developmental needs can be addressed via SACU. Windhoek needs strong regional and multilateral ties in order to accelerate its infrastructural development and trade facilitation programmes. These priorities are recognised, but they can only be implemented as part of sound regional integration initiatives. Namibia stands to benefit quite directly by deliberately working for the improvement of regional governance and deeper integration. Apart from South Africa, Namibia is the only SACU member with its own ports. Walvis Bay is linked to many other African states within the SADC region via a good transportation and corridor network, which is a vital aspect of trade in goods and services. The Namibian Government is pursuing the benefits to be gained from deeper

44 Angola and Mozambique are also involved, but will probably opt for a future trade relationship with Brussels based on the 'Everything but Arms' arrangement in favour of least developed countries.

integration and from using the existing transportation network optimally. Transportation and trade facilitation are SACU and SADC concerns too, and a higher level of integration and commitment is needed.

Is there a particular principle which could guide these Namibian policy decisions? The pursuit of sound regional governance is an obvious candidate. Namibia's domestic governance is anchored in a constitution which proclaims these values and the rule of law. This constitution has been respected. As a smaller nation it will benefit from regional relationships which will reflect the same approach. This will also lead to the strengthening of SACU in a much-needed manner.

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Namibia and the Southern African Development Community

*Kaire M Mbuende**

Introduction

The relationship between Namibia and the Southern African Development Community (SADC) can be understood on the basis of the history and trajectories of the community on the one hand, and Namibia's developmental objectives – of which its foreign policy is an instrument – on the other. This paper aims to shed light on SADC's integration agenda and Namibia's participation in it. At the same time, the discussion intends to contribute to an understanding of Namibia's foreign policy as exemplified by its participation in the SADC regional integration scheme.

SADC is a product of the unique historical circumstances of southern Africa. The countries¹ of the region cemented their cooperation in pursuing the political agenda of liberating themselves from the yoke of colonialism through the Frontline States (FLS). In 1980, an economic dimension was added to the political cooperation through a different entity, the Southern African Development Coordination Conference (SADCC),² with broader membership than the FLS. The agenda for economic cooperation and development aimed at complementing the political strategy. SADCC's primary objective was to reduce the region's economic dependency on apartheid South Africa, and to enable them to effectively support the struggle for the independence of Namibia and the democratisation of South Africa. With the independence of Namibia and the imminent demise of apartheid in South Africa, SADCC was reconstituted as SADC³ in 1992. The new body aimed at attaining a higher level of cooperation that –⁴

... would enable the countries of the region to address problems of national development, and cope with the challenges posed by a changing, and increasingly complex, regional and global environment more effectively.

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1 The FLS consisted of Angola, Botswana, Lesotho, Mozambique, Tanzania, Zambia and, from 1980, Zimbabwe. Nigeria also participated in FLS meetings.

2 Founding members were Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe. Namibia joined after its independence in 1990.

3 Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, Swaziland, Tanzania, Zambia and Zimbabwe.

4 SADC (1993a:3).

Namibia formally acceded to SADCC in 1990 as its tenth member state. However, the relationship between Namibia and SADCC dates back to the organisation's establishment in 1980. Over the years, Namibia had been represented by its national liberation movement, the South West Africa People's Organisation (SWAPO). SWAPO was recognised by the Organisation of African Unity (OAU), the United Nations (UN), and a significant number of governments as the sole and authentic representative of the people of Namibia. It virtually acquired the status of a government in exile and, thus, had an observer status in virtually all continental and most international organisations.

SWAPO's – and, for that matter, Namibia's – participation in SADCC was initially based on two considerations, namely geopolitics, and long-term development. SADCC was regarded as complementing the efforts by national liberation movements and the FLS to expedite the independence of Namibia, and the democratisation of South Africa. Namibia, as a coastal state, was to play an important role in reducing the region's dependence on the South African transport system for their exports and imports. The Namibian port of Walvis Bay was to form a strategic nexus with Angolan ports along the west coast of Africa, while the Mozambican and Tanzanian ports would serve the east coast of the region. This was part of the backdrop against which South Africa's attempts to hold onto Walvis Bay after Namibia's Independence should be seen.

The Government of the Republic of Namibia was part of the ongoing process of transformation in the region, therefore, and positioned itself to meet its obligations and assumed responsibilities within the broad SADC programme. Thus, Namibia's policy on SADC has evolved through the process of negotiating the various SADC instruments, starting with the Treaty Establishing SADC and the various protocols.

The SADC integration process did not follow the conventional linear approach to market integration, starting with a Preferential Trade Area (PTA), graduating to a Free Trade Area (FTA), followed by the establishment of a Customs Union, then a Common Market, and ultimately, an Economic Union. Instead, SADC committed itself to what it called "development integration".⁵ The regional body developed a complex agenda from the very outset that rested on three pillars, namely politics, peace and security; functional cooperation; and trade and investments or market integration. SADC's approach was, thus, a 'big bang' that was made possible by pre-existing elements of cooperation in the realm of politics through the FLS, functional cooperation through SADCC, and market integration.

This complex agenda makes it difficult to measure progress: one has to look at various sectors without a clear notion of what the determining factors are in the process. For instance, in the case of trade integration, an economist would ask whether the arrangements were trade-creating or trade-diverting. In short, they would have a set of

5 SADC (1993:8).

indicators and benchmarks by which progress or lack thereof could be measured. The SADC experiment cannot be judged on the basis of a single economic activity or sector, however, but rather in terms of the three broad areas of political cooperation, functional cooperation, and market integration.

Indeed, it is in relation to these broad areas that the relationship between Namibia and SADC can be understood in terms of the country's contribution to and benefits from the regional grouping. Thus, this study will look at Namibia's role in SADC in terms of how the country benefits or could potentially derive greater benefits from regional cooperation and integration, on the one hand, and how it can contribute to the global common good in the process, on the other. This will be done through an analysis of the three broad areas that have characterised SADC efforts for integration and development, namely –

- cooperation in the area of politics, defence and security
- functional cooperation for the development of infrastructure and the management of natural resources, among other things, and
- trade and investments.

Namibia and cooperation in the areas of politics, defence and security

Regional integration by its very nature requires some degree of political cooperation to create a framework within which specific political and or economic objectives are pursued. Here I am not referring to the facilitating role of politics, but rather to politics itself as an object of cooperation. I will first outline briefly the objective of cooperation in the area of politics, defence and security. Secondly, I will discuss the process that led to the establishment of the institutional mechanism for cooperation in the areas of politics, defence and security within SADC. Lastly, I will analyse SADC's effectiveness and capacity to deal with conflicts within the region.

Objective of cooperation

The Treaty establishing SADC made provisions for cooperation in the areas of politics, defence and security with the view to developing –⁶

... common economic, political, social values and systems, ... democracy and good governance, respect for the rule of law and the guarantee of human rights.

6 A Declaration by the Heads of State or Governments of Southern Africa: Towards the Southern African Development Community; cited in Mandaza & Tostensen (1994:153).

Cooperation in the areas of politics, defence and security was viewed as a prerequisite for the success of regional integration in southern Africa. The experience of instability in the region – which emanated from the political subjugation of the region’s peoples by colonial regimes, the destabilisation of independent states by the South African regime, and the struggle for national liberation – was something that the region did not want to see repeated after the end of apartheid. Political instability in southern Africa had caused untold suffering and loss of life. Infrastructure had been destroyed and there was a lack of economic and social progress. With the end of apartheid, there was a commitment to ensure that the region’s peoples reaped the peace dividend. Mechanisms had to be put in place to ensure that peace in the region was sustained. To achieve this would require the institution of democratic bodies, good governance, popular participation, and respect for the rule of law.

The region had a tradition of cooperation in the areas of politics, defence and security before the adoption of the SADC Treaty, primarily through the FLS, prior to the democratisation of South Africa.⁷ The FLS provided an opportunity for the leaders of the region to work together on complex political issues through an informal structure that was deemed to have been successful. The cooperation through the FLS imbued a measure of mutual trust among its members. However, the fact that not all members of SADC were members of the FLS created tensions and mistrust that had to be overcome by inclusive regional mechanisms for cooperation in the areas of politics, defence and security.

Establishment of an institutional mechanism

When the process for the development of mechanisms for cooperation in the areas of politics, defence and security started as per the SADC Treaty, there was a parallel process to look at the future of the FLS in a post-apartheid southern Africa. Namibia had initially participated in FLS activities as an observer through SWAPO; after independence, it participated as a fully fledged member. Thus, Namibia was part of the political culture of the FLS. More often than not, Namibia took a similar position to that of the other FLS member countries. Namibia was also engaged in the discussion on the prospects for creating a successor organisation to the FLS, as well as on activating the provisions of the SADC Treaty to create an institutional mechanism for cooperation in these areas.

Some member states favoured the creation of a successor organisation to the FLS that would be independent from SADC, namely the Association of Southern African States (ASAS), on the basis that the issues of politics, defence and security could not be coordinated in the same fashion as other areas of cooperation within SADC. After protracted negotiations at ministerial level, the SADC Summit that took place in Gaborone in August 1995 resolved that the initiatives to create a successor organisation

⁷ See Mbuende (2012:40–42).

to the FLS and that of creating an institutional mechanism within SADC, respectively, be synchronised. Ultimately, a compromise was reached to create a semi-autonomous structure within SADC in the form of the SADC Organ on Politics, Defence and Security. However, the complex structure of the Organ quickly proved impractical. Subsequently, a Protocol on Politics, Defence and Security was signed, which put the SADC Organ on Politics, Defence and Security on a sound footing.

The region's capacity to deal with conflicts

The ability and resolve of the region to deal with conflict situations was put to test a number of times. SADC was involved in the process of the democratisation of South Africa; the civil war in Mozambique, which ended in 1994; and the situation in Angola. SADC has also been involved in the situation in Lesotho over many years. For example, SADC was instrumental in restoring the democratically elected government of Lesotho after what was termed a *Palace Coup*.⁸

A situation that gravely tested the resolve and capacity of the region to deal with conflicts within a member state was that of the Democratic Republic of the Congo (DRC). Euphoria had reigned as regards the DRC after the fall of President Mobutu Sese Seko. Southern African states – especially Angola, Namibia, South Africa, Zambia and Zimbabwe – were keen to develop close relations with the DRC for a variety of reasons ranging from romantic pan-Africanism to military, strategic and economic motivations. Angola, which shares borders with the DRC, wanted to make sure that the new government would not support the rebel movement, União Nacional para a Independência Total de Angola (UNITA, National Union for the Total Independence of Angola). There was also a belief that southern Africa, as a stable region, would in turn help to stabilise the DRC, and thereby extend the frontiers of stability and democracy. Some SADC member states encouraged the DRC to apply for SADC membership and ensured its admission.⁹ Not all SADC member states were enthusiastic about the inclusion of the DRC as they were not sure about the impact that a country with a long history of instability would have on the Community.

Shortly after the DRC had become a member of the regional body, the country was plunged into conflict. Its new President, Laurent-Désiré Kabila, asked fellow SADC member states to quash a rebellion supported by Rwanda and Uganda against his government. At a meeting in Harare, the Ministers of Defence of the various SADC member states considered the request of the Government of the DRC for military assistance and resolved that whichever member wished to intervene militarily should do so. Angola, Namibia and Zimbabwe decided to send in their troops. Other member states decided not to send troops to the DRC.

8 See (ibid.:45).

9 SADC Summit Communiqué, Blantyre, 1997.

Academics such as Laurie Nathan¹⁰ viewed the different approaches to the political situation in the DRC as a reflection of division within SADC, based on a lack of common values. He attributed this division to his characterisation of southern African states as being either more authoritarian or more democratic in terms of their domestic policies. He also distinguished between states with a militarist and those with a pacific approach in their foreign policies.¹¹

Committing or not committing troops to the DRC by SADC Member States did not necessarily reflect a division within the organisation. It is common practice in international organisations, i.e. that not all member states send troops to particular conflict areas. The deployment of troops in a multilateral context has always been a voluntary exercise. SADC allies have argued that their intervention was based on Article 4 of the SADC Treaty, read together with the objectives of the SADC Organ on Politics, Defence and Security in response to foreign invasion. In fact, Article 51 of the UN Charter recognises individual and collective self-defence against an aggressor state or non-state actor.

The distinction between the militarist and pacific approaches to foreign policy is not consistent with the practices of SADC member states in dealing with conflict situations in the region and beyond. There is much more to the decision by a particular member state to deploy or not to deploy troops in a specific situation. With regard to the DRC, some member states did not mind seeing the DRC Government fall because they did not see eye to eye with President Laurent Kabila. Some member states were indifferent to what was happening in the DRC at the time that Angola, Namibia and Zimbabwe decided to send troops. Furthermore, those member states who took a pacific approach in the case of the DRC took a militarist approach in the case of Lesotho – and vice versa.

SADC member states might have had their differences in terms of dealing with the situation in the DRC, but those differences were not articulated at SADC meetings. The SADC Summit held in Mauritius on 13–14 September 1998 welcomed the intervention in the DRC by its SADC allies. The question of the legality of the intervention has not been an issue as the principle of consent applied. Military intervention in the territory of the consenting state is an accepted principle and is an alternative to UN Security Council authorisation, whether states act unilaterally or as part of regional arrangements.

The shared experience of the three countries in the DRC brought them closer to each other to the point of virtually becoming a sub-military group within SADC. On 8 April 1999, Angola, the DRC, Namibia and Zimbabwe signed a Mutual Defence Treaty among themselves in Luanda. The Protocol read, *inter alia*, that –¹²

10 Nathan (2004:7).

11 (ibid.).

12 Article 4, Angola, DRC, Namibia and Zimbabwe Mutual Defence Treaty.

[a]n armed attack against one of them shall be considered an attack against the other and that in the event of such an attack each of them will assist the Party so attacked by taking forthwith in collaboration with other parties, such action as it deems necessary including the use of armed force, to repel such attack and restore peace and security in the territory of the Party so attacked.

A joint decision-making body calling itself the *Angola–DRC–Namibia–Zimbabwe Cooperation Committee* was established to ensure the smooth implementation of the Treaty.

The signing of a defence treaty by these four countries raised eyebrows among academics, and was interpreted in the same fashion as being division within the Community. However, SADC has always adhered to the principle of variable geometry where a group of countries can forge ahead with cooperation in a particular area. The signing of the defence pact between the four countries in question offered an incentive for the expeditious conclusion of a similar agreement embracing all member states – as indeed provided for in the Protocol on Politics, Defence and Security. In fact, the SADC Mutual Defence Pact made similar provisions to those encompassed in the Mutual Defence Treaty between the four countries. Article 6 of the SADC Mutual Defence Pact reads as follows:

1. An armed attack against a State Party shall be considered a threat to regional peace and security and such an attack shall be met with immediate collective action.
2. Collective action shall be mandated by Summit on the recommendation of the Organ.
3. Each State Party shall participate in such collective action in any manner it deems appropriate.
4. Any such armed attack and response thereto shall immediately be reported to the Peace and Security Council of the African Union and the Security Council of the United Nations.

While the three SADC countries were involved in military operations, the regional body itself was not found wanting in terms of trying to find a peaceful solution to the conflict. After months of fighting, civil society organisations approached the Executive Secretary of SADC, requesting him to explore the possibility of initiating consultations with the rebels with a view to bringing them to a negotiating table with the government. The Executive Secretary took up the matter with the SADC leadership and asked for permission to meet with the rebel leadership. He was authorised to talk to the rebels, and their first meeting took place in Zambia. He submitted a report to the SADC Chairperson on the rebels' willingness to talk to the DRC Government.

A mediation process under the chairmanship of the late former President of Zambia, Frederick Chiluba, was set up at the SADC Summit in Mauritius in 1998. The DRC Government initially refused to occupy the same room as the rebels, so 'proximity talks' and shuttle diplomacy were conducted by a committee consisting of South Africa, Tanzania, Zambia, the SADC Secretariat, the Organisation of Africa Unity (OAU) and the UN. The group facilitated the Lusaka Accord, which was signed on 10 July 1999 in

Lusaka, Zambia. Apart from the two warring parties and the countries that had troops there, the Accord was also signed by President Chiluba, the SADC Executive Secretary, the OAU Secretary General, and a Representative of the UN Secretary General. The implementation of the Accord brought new players onto the scene and, subsequently, the UN assumed responsibility for overseeing the peace process. Namibia was the first country to withdraw its troops from the DRC after UN peacekeeping troops had been deployed.

SADC has also been seized with the situation in Zimbabwe. Former South African President Thabo Mbeki was assigned the responsibility of mediating between the Zimbabwe African National Union – Patriotic Front (ZANU–PF) and the Movement for Democratic Change (MDC) to find an amicable solution to the political crisis in that country. Mbeki – and SADC, for that matter – pursued what was termed *quiet diplomacy*, that is, a non-confrontational approach where controversial issues are discussed behind closed doors. The approach was criticised by non-state actors in the region as well as a number of Western governments, who believe that South Africa had the capacity to force Zimbabwe into a desired course of action through sanctions and other punitive measures.¹³ Serving President Jacob Zuma has subsequently assumed the role of mediator, but the issue remains unresolved. Namibia has been an ardent supporter of quiet diplomacy in the case of Zimbabwe.

Indeed, Namibia has been an active participant in the arena of maintaining international peace and security through SADC. It has consistently pursued an independent policy – even at the risk of being isolated on some controversial issues. A case in point was the proposed imposition of sanctions against Nigeria following the execution of Ken Saro-Wiwa and eight other Ogoni human rights activists. At a SADC Extra-ordinary Summit held in Pretoria at the request of Nelson Mandela, South Africa’s President at the time, to consider the possibility of imposing sanctions against Nigeria, Namibia was vocal against such a move. As a result, the idea was aborted, and a decision was taken to allow the Commonwealth Committee of Eight – of which two SADC member states, South Africa and Zimbabwe – time to deal with the issue instead.¹⁴

Namibia placed a high premium on its international relations from the time that the country attained its independence. Namibia attached great importance to African solidarity, cooperation with other developing countries, and North–South cooperation. This is partially because there had always been a significant international relations and multilateral component to the struggle for national independence through the UN. The

13 See Fowale (2001); Dugger (2008).

14 Communiqué of the Extraordinary SADC Heads of State and Government Summit on Nigeria, Pretoria, 11 December 1995.

first generation of Namibian leaders spent years in the corridors of the OAU and the UN during the struggle for independence and, thus, further deepened those relations after the country attained its independence. The country has also expended substantial resources in the maintenance of international peace and security through the regional mechanism of SADC, as well as via the African Union (AU) and the UN. Namibia was among the first countries to put its forces in place for the SADC Brigade, which is now part of the AU's Standby Force.

Namibia and the SADC Parliamentary Forum

A discussion on Namibia's contribution to SADC, especially in the area of democracy and good governance, would be incomplete without reference to its involvement in the SADC Parliamentary Forum. This is not because Namibia hosts the Forum, but because of the catalytic role played by the late Dr Mosé Tjitendero, former Speaker of the National Assembly of the Republic of Namibia. The Forum would have been unthinkable without Dr Tjitendero's pioneering work and personal input. He convened a meeting in Windhoek in October 1993 to map out a strategy for the region's parliaments to contribute to regional integration. This resulted in what came to be known as the *Windhoek Initiative*. There were at least two broad aspects to these initial discussions. The first was how parliaments, as representatives of the people, could help disseminate knowledge to the people on regional integration and catalyse their involvement in the process. The second aspect related to parliaments' role in contributing to regional integration through their deliberative and legislative functions. Most regional and international instruments are ratified by parliaments; thus, a greater appreciation of regional integration issues by members of parliament will help to speed up the ratification of such instruments.

Options were also considered as to whether the SADC Parliamentary Forum would constitute the nucleus of a fully fledged regional parliament or simply serve as a parliamentary association. For some reason, the SADC Treaty did not provide for the establishment of a regional parliament. However, Article 9(2) of the Treaty provided for the creation of other institutions upon the decision of the Council of Ministers and/or the Summit of Heads of State or Government. The Forum was, thus, created in accordance with Article 9(2) of the Treaty.

It was clear from the outset that the Executive, the Council of Ministers and the Summit did not wish to create a legislative body with oversight functions. Instead, the SADC Parliamentary Forum was to become a parliamentary association rather than a regional parliament – even though the Forum's Constitution includes the aspiration of transforming the Forum into a regional legislature. Thus, the SADC Parliamentary Forum was established in 1997 as an inter-parliamentary body and an autonomous SADC institution, as per the provision of Article 9(2). Ten years later, the late former President of Zambia, Levy Mwanawasa, was the only SADC head of state or government to call for the transformation of the Forum into a fully-fledged legislature, along the lines of the

East African Legislative Assembly and the Economic Community of West African States (ECOWAS) Parliament.¹⁵

The establishment of the SADC Parliamentary Forum as an association rather than a parliament has been a blessing in disguise. The Forum has been quite dynamic and proactive in many areas. It has established itself as a moral and political authority whose views are taken seriously by the people of the region and internationally. It has set up committees dealing with important issues such as HIV and AIDS, regional integration, gender, democracy, conflict resolution, and inter-parliamentary cooperation. The most notable achievement is in the area of elections observation and the development of the Norms and Standards for Elections in the SADC Region, that were adopted by the SADC Parliamentary Forum Plenary Assembly in Windhoek on 25 March 2001.

Namibia and functional cooperation in SADC

Functional cooperation has been the most successful pillar of SADC's efforts towards cooperation in terms of directly impacting on the lives of the people of the region. Indeed, functional cooperation is a central tenet of the development integration model pursued by SADC and not an add-on – as is the case in the market integration approach. Development integrationists would argue that one has to produce before one trades. Trade integrationists, on the other hand, maintain that the market stimulates investments – and production, for that matter. These aspects, namely functional cooperation and market integration, are not mutually exclusive; however, the level of economic development will, to a certain extent, dictate the approach to integration.

I will single out seven sectors to underscore the importance of functional cooperation to Namibia in the context of SADC. This is not to say that other sectors are not important, of course. The brief discussion will demonstrate to some extent how indispensable regional economic cooperation and integration are to Namibia. SADC is viewed as a 'talk shop' by the uninformed. The analysis below will hopefully illustrate that regional integration affects the life of individual citizens in a positive way, and could do more in the future.

Fisheries and marine resources

Namibia joined SADC at a time when the organisation was concentrating on development cooperation. The SADC Programme of Action, which represented cooperation in the various sectors, was managed through the sector-coordinating system according to which every member state was given the responsibility of coordinating cooperation in a specified area. Namibia believed that it had a comparative advantage in the fisheries sector. However, fisheries were being coordinated by Malawi at the time that Namibia

15 *Lusaka Times*, 26 June 2007.

joined SADC. Malawi was keen to continue with its coordination role in view of its huge resources in Lake Malawi and the investments that they had made in the sector coordination unit. However, Malawi's efforts were primarily concentrated on freshwater fisheries, so there was a gap in terms of marine fisheries. A compromise was reached to split the fisheries sector into Inland Fisheries on the one hand, and Marine Fisheries and Resources on the other. Namibia was thus given the responsibility of coordinating the latter subsector.

Namibia developed a sound policy in the fisheries sector with the assistance of the Government of Norway. In fact, Namibia's management of the sector was rated by experts as one of the most well-managed on a global scale. Thus, Namibia was able to use its own experience to provide regional leadership in the management of fisheries and marine resources.

A SADC Protocol on Fisheries was adopted in August 2001, which *inter alia* provided for the management of shared resources, law enforcement, access agreements, high sea fishing, artisanal fisheries, aquaculture, protection of the environment, human resource development, trade and investment, and information exchange.

Legal affairs

Another area for which Namibia assumed coordinating responsibility on behalf of the region was in legal affairs. It was through its coordination of the legal sector that Namibia ultimately came to host the SADC Tribunal.

The Tribunal was initially viewed as a dispute settlement mechanism within SADC. Article 16(1) of the SADC Treaty reads as follows:

The Tribunal shall be constituted to ensure adherence to and the proper interpretation of the provisions of the Treaty and subsidiary instruments and to adjudicate upon such disputes as may be referred to it.

However, further details relating to powers, functions, procedures and other related matters were to be prescribed in a Protocol. This refers primarily to SADC instruments such as the Treaty, Protocols and other SADC agreements. It is the Protocol on Tribunal of SADC that broadened the Tribunal's mandate to cover SADC law. This Protocol provides the Tribunal with jurisdiction over disputes between member states, and between natural or legal persons and member states. The Tribunal was to develop its own jurisprudence —¹⁶

... having regard to applicable treaties, general principles and rules of public international and any rules and principles of the law of States.

16 Article 16(4).

In fact, SADC law virtually covers everything under the sun: the principles and objectives of the organisation range from development to the promotion of democracy, good governance and the rule of law.

On 18 August 2005, before the Protocol on Tribunal was ratified, the SADC Summit in Gaborone appointed members to the Tribunal in accordance with Article 4(4) of the Protocol. The members were sworn in on 18 November 2005 in Windhoek, and subsequently started to operate. Article 38 of the Protocol provides that it enters into force 30 days after the deposit of instruments of ratification by two-thirds of the member states. That has not yet happened, even though the Tribunal has been operational since then and has heard a number of cases. It has been argued that the amendment of the SADC Treaty in 2001 made the Tribunal an integral part of the Treaty and, therefore, obviated the need for the Protocol on Tribunal to be ratified. By implication, if one ratified the Treaty, then the Protocol – as part of the Treaty – was automatically ratified.

Citizens of the region have started to make use of the Tribunal's services. One such group is Zimbabwean farmers, who claimed that the country's land reform programme was discriminatory and that they had been denied justice. The Tribunal ruled in favour of the farmers, but the Zimbabwean Government has refused to abide by the Tribunal's ruling.

According to the Treaty, a decision by the Tribunal is final, without the possibility of appeal. Once a party refuses to abide by the decisions of the Tribunal the aggrieved party has the right to approach the Tribunal again to enquire about the circumstances relating to non-compliance. If no progress is made on the issue at hand, the Tribunal reports the matter to the Summit for a final decision. The matter between the Zimbabwean farmers and the Zimbabwean Government had in fact reached this stage before the Extraordinary Summit in May 2011.

The Government of Zimbabwe's argument is that the Tribunal is not properly constituted as its Protocol has not been ratified. Zimbabwe's Minister of Justice, Patrick Chinamasa, said the following in this regard:¹⁷

We hereby advise that, henceforth, we will not appear before the Tribunal and neither will we respond to any action or suit instituted or pending against the Republic of Zimbabwe.

The SADC Summit of 20 August 2010 directed the Committee of Ministers of Justice and Attorneys General to review the role, responsibilities and terms of reference of the SADC Tribunal. The SADC Secretariat itself commissioned a study in September 2010, the outcome of which was submitted and discussed during a Committee of Ministers of Justice meeting on 14–15 April 2011 in Swakopmund, Namibia. Whilst the study

¹⁷ AllAfrica.com, 13 May 2011; last accessed 19 October 2013.

and recommendations by the expert consultant seemed to support the competence of the Tribunal, in many respects the Committee expressed concern about the scope of the Tribunal's jurisdiction and the law it was expected to apply. The Extraordinary Summit of SADC Heads of State and Government on 20 May 2011 in Windhoek received and considered the Committee's own report and recommendations on the study. The Extraordinary Summit subsequently decided not to reappoint or replace members (judges) of the Tribunal, and upheld the moratorium on the Tribunal receiving or hearing new cases until the Protocol on the Tribunal had been reviewed and approved. A progress report in this respect is to be submitted by August 2011, and a final report by August 2012.¹⁸

Transport and communications

The realm of transport and communications is another area in which Namibia, along with other coastal nations, is well-positioned to make a significant contribution to regional integration as well as derive benefits from it. Regional integration is inconceivable without a well-developed transport infrastructure to facilitate the movement of persons, goods and services. SADC therefore identified the field of transport and communications as a priority sector.

Cooperation in transport and communication has been particularly important to the landlocked countries in SADC, who depend on access to other member states' ports for their exports and imports. Other areas of cooperation such as trade and investments as well as tourism cannot be pursued effectively without transport and communications. Thus, SADC started coordinating investments into developing and rehabilitating transport and communications infrastructure, and has advanced to the level of policy harmonisation and the adoption of common standards in the region.

Namibia has turned its potential as one of SADC's coastal states into an opportunity for regional integration in the transport and communications sector by way of investing substantial resources in a regional transport network. In this respect Namibia created the Walvis Bay Corridor Group, a public-private partnership designed to promote the optimal utilisation of four regional road networks, known as *transport corridors*. These are as follows:

- The Trans-Kalahari Corridor connecting the port of Walvis Bay to Botswana and the Gauteng Province in South Africa
- The Trans-Caprivi Corridor connecting Namibian port of Walvis Bay to Zambia and Lubumbashi in the DRC
- The Trans-Kunene Corridor that links Namibia with Angola, and
- The Trans-Oranje Corridor that links Namibia to South Africa.

18 Communiqué of the Extraordinary Summit of SADC Heads of State and Government, Windhoek, 20 May 2011.

The Walvis Bay Corridor Group functions as a one-stop shop, bringing together transport regulators and transport operators, among others.

Through its investment in transport networks, Namibia continues to contribute towards the attainment of the regional integration objective targeting the efficient movement of persons, goods and services. At the same time, Namibia benefits from transit trade and tourism generated by these transport networks.

Agriculture and natural resources

Another area of crucial importance to Namibia is that of agriculture and food security. The importance of this sector lies in the fact that around 70% of the nation depends directly or indirectly on agriculture. Furthermore, this sector is vulnerable because of precarious weather conditions and a predominantly arid to semi-arid landscape. The country is a net food importer, and vulnerable to development beyond its borders in respect of food security, food availability, and food access because of pricing. Namibia stands to benefit from cooperation in the area of agriculture, therefore.

While production takes place at the national level, the sector lends itself to cooperation in the areas of agricultural training and research. Another area in which cooperation in the sector has benefited Namibia is that of early warning systems. SADC has set a Regional Early Warning System for food security that operates as an integrated entity comprising a unit based in Harare and autonomous national early warning units in each of the countries. The regional unit feeds information into the national units, and vice versa. This enables each country to be aware of the situation at the regional level and how it could benefit from that through import or export, depending on whether the country concerned has a deficit or surplus. Through this system, SADC is able to assess the availability of food in the region and any likely shortfall so that appropriate measures can be taken. This system has proved effective during regional drought years, when coordination of imports and transport are important. Under these circumstances, extensive efforts are made to ensure that there is no congestion at the ports so that food can be delivered without delay to where it is needed.

Shared watercourses

Management of shared watercourses has also been an important area of cooperation. Namibia is a water-scarce country with no perennial rivers except those along its borders with Angola, Botswana, South Africa and Zambia. Thus, the utilisation of this strategic resource for human consumption, agriculture, and hydroelectric power depends on Namibia's cooperation with its neighbours. In fact, about 70% of SADC watercourses are shared by two or more countries. Instead of being a potential source of conflict if appropriate action were not taken, water has provided incentives for cooperation. A Protocol on Shared Watercourses in SADC, which was based on the Helsinki Rules

on the Uses of the Waters of International Rivers¹⁹ adopted in August 1966, was initially signed in 1995. It was revised in 1997 to take into account the United Nations Convention on the Law of the Non-navigational Uses of International Watercourses,²⁰ and came into force in 2003. The Revised Protocol stresses the importance of taking a basin-wide approach to water management rather than individual national approaches. Member states have therefore entered into specific basin-wide agreements such as those serving the Okavango River Basin, the Kunene River Basin, the Orange-Senqu River Basin and the Zambezi River Basin.

Energy

Power is another area in which Namibia's cooperation with its neighbours is of cardinal importance. Access to a secure and low-cost energy supply is essential for social and economic development. The cost of energy could also be a disincentive for investment. Development is unthinkable without energy, and Namibia is far from being self-sufficient in this resource. The country imports power from its neighbours, principally South Africa, but also exports power to Botswana and Zambia. Namibia is also part of a plan to bring power from the DRC through Zambia and into Botswana and South Africa.

In addition, Namibia participates in the Southern African Power Pool formed in 1995 through an inter-governmental Memorandum of Understanding that came into effect on 28 September 1995 and was revised on 23 February 2006. It was the first international power pool outside North America and Western Europe. The objectives of the Southern African Power Pool include the development of a world-class, efficient, reliable and stable interconnected electrical system in southern Africa. It also aims at creating a more efficient regional electricity market. This is to be achieved, *inter alia*, through the harmonisation of relations between member utilities.²¹

Namibia and trade and investment in SADC

Integration theorists consider trade as the lynchpin of regional integration. The word *integration* has virtually become synonymous with *trade liberalisation* and *market integration*. Regional trade agreements facilitate the movement of goods and services within SADC, thereby creating a competitive market that helps to enhance member states' global competitiveness. Furthermore, the existence of a large market allows for the development of economies of scale, which attract both domestic and foreign direct investment. While SADC has not adopted a market integration approach *per se*, trade and the desire to create a larger market have been important aspects of economic cooperation

19 The Helsinki Rules were superseded by the Berlin Rules of 21 August 2004.

20 UN General Assembly Resolution 51/229.

21 Southern African Power Pool website, www.sapp.co.zw; last accessed 19 October 2013.

and regional integration in southern Africa. Right from the very onset, a sector on trade and industry was created to promote intraregional trade and industrial development. The SADC Framework and Strategy for Building the Community stated that, in addition to functional cooperation, —²²

... there will be an active trade and market integration component, aimed at creating a unified regional market, by reducing the barriers to cross-border investment, trade in goods and services, and the eventual free movement of labour.

Foreign direct investment in Namibia and southern Africa as a whole, with a few notable exceptions, has been of the colonial type, namely investments aimed at exports to industrialist countries via the extractive industries, including mining, and agriculture. This pattern of investment and trade does not have the transformative impact on the region's economies as investment for the domestic market has. Indeed, it is the existing pattern of investment that SADC countries would like to transform through regional integration.

Namibia, as a small market, had a vested interest in being part of a larger economic space through regional cooperation and integration. For example, Namibia has been part of the Southern African Customs Union (SACU) since the establishment of the South West African Administration in the country by South Africa, following Germany's loss of colonies after the First World War. Namibia acceded to SACU immediately after its independence to avoid any disruption in its economy. SACU membership has been important to Namibia as it has provided access to the South African market.

Nonetheless, membership of SACU has not been without its challenges, as South African products have not always been competitive vis-à-vis agricultural products from Zambia and Zimbabwe. Thus, Namibia needed to diversify its imports. Namibia wanted to establish closer economic relations through, among other things, preferential trade arrangements with countries such as Angola and Zambia, where Namibian leaders had spent years in exile. Its SACU membership has, to a certain extent, limited the pace at which Namibia could establish closer economic relations through preferential trade arrangements with any third party, however, as the other SACU members have to concur with such a proposal. One way of fostering close economic relations with non-SACU countries in southern Africa was through SADC, where all SACU members were also represented.

Progress in creating a unified regional trade regime through SADC has been very slow. Member states have been relying on arrangements other than a SADC regime for trade among themselves. A number of important bilateral trade agreements have been struck between the various countries of the region, some of which predated SADC.

22 SADC (1993:8).

These bilateral agreements are more advanced than the regional trade regime in that they contribute to the development of local business in terms of taking advantage of neighbouring markets, and can become building blocks for a common regional trade regime. The problem, however, is that they are so different from each other. For example, –

- there is SACU, which involves five SADC member states
- there is an FTA between Malawi, Zambia and Zimbabwe
- there is a Free Trade Agreement between Namibia and Zimbabwe, and
- some members of SADC were also members of the Common Market of Eastern and Southern Africa (COMESA) and, thus, participated in COMESA's trade liberalisation scheme.

In fact, trade in the SADC region has been greatly facilitated not by a region-wide instrument, but by these bilateral and multilateral subsets.²³

In addition, there have been commitments to trade liberalisation measures that SADC member states individually undertook in the context of other initiatives. Some member states were implementing structural adjustment programmes and trade liberalisation policies without regard to the regional situation, however. In this regard, they brought down their tariffs significantly beyond what their counterparts in the region were prepared to offer one another. There were attempts by some of these countries to urge other SADC members to bring their tariffs on a par with theirs. The response was that the pace of trade liberalisation should not be externally induced but based on internal considerations.

Consequently, members of the SADC region have had an unlevel playing field in terms of access to each other's markets. Some countries accessed their neighbours' liberalised markets while applying the less liberal regional regime. Moreover, structural adjustment programmes have not only created an unlevel playing field, they also buttress trade imbalances in southern Africa.

Thus, member states had no common trade regime before the SADC Trade Protocol signed in 1996 was adopted. This Protocol aimed to create an FTA within eight years, i.e. by 2004. A Trade Negotiating Forum was therefore established to allow member states to negotiate the details of such an enterprise. The signing of the Trade Protocol also involved considerable behind-the-scene consultations to allay some member states' fears. Still, more than 17 years later, we are yet to see the FTA envisaged in 1996. Instead, we have seen the introduction of more ambitious enterprises, such as the decision to establish a Customs Union. This was not necessarily an incremental process, as the FTA has not yet been attained.

23 African Development Bank (1993:10–12); SADC (1993a).

From the outset, Namibia has been part of the process of developing a SADC trade regime. This process culminated in the adoption of the SADC Trade Protocol. Namibia was one of the member states that signed and ratified the Protocol speedily. Namibia has also participated in trade negotiations as a member of SACU. In terms of the SACU agreement, any further agreement with a third party has to be agreed upon by all the other SACU members. Namibia has been keen to develop a thriving trade with other SADC members as South African products, especially in the agricultural arena, have not always been competitive. For example, Namibia negotiated and entered into a bilateral free trade agreement with Zimbabwe, a move which was agreed to by the other SACU members. Discussions on a free trade agreement with Zambia were stalled, however, and subsequently had to be dealt with through a SACU-wide agreement. The idea of bilateral trade agreements was to allow for trade integration to move at a faster pace than that prevailing within SADC, while at the same time gaining access to duty-free or low-duty products from the rest of the region.

The sluggishness of trade negotiations in the SADC context was taking place in a dynamic global context promoting freer trade. Consequently, there was a risk for the SADC process to be overtaken by developments in the World Trade Organisation (WTO), thereby rendering the entire SADC endeavour redundant. Regional trading blocs are usually precursors to global trade liberalisation and competitiveness. Through integration, a region can prepare itself for global competition. Competitiveness at regional level would allow for enhanced productivity and efficiency. Fortunately for SADC's regional arrangements, the similarly slow pace of the conclusion of the WTO Doha Round has offered SADC a second chance. It should speedily put into effect the commitments by member states under its Trade Protocol.

Equally important is the Tripartite Agreement between SADC, the East African Community and COMESA, which aims to create an FTA. Variable geometry, which is one of the fundamental principles of this Agreement, allows each of the regional organisations to implement its own programme without being bogged down by a potentially slower process because of the large number of players involved. Interestingly enough, the Tripartite Agreement has not been concluded between regional organisations but between member states. This means there are no clear mechanisms for harmonising the three organisations' programmes except through the actions of member states. Given the relatively weak intergovernmental processes in the regional organisations themselves, however, the decision-making process could be painfully slow. Furthermore, past experience has shown that such an approach is not effective. A good example of this was the Cross-border Initiative that involved COMESA, the Indian Ocean Commission, and SADC.²⁴ The decisions taken at tripartite level were not necessarily integrated into each respective organisation's programmes. Thus, member states played differential roles in the arrangements. Nonetheless, although there is no reason why progress should

24 African Development Bank et al. (1995).

not be made in the Tripartite Agreement, given the overall trend towards global trade liberalisation, the bilateral as opposed to a multilateral approach is a cause for concern and a potential recipe for failure.

Trade liberalisation in itself cannot bring about economic development: only investments that can generate wealth through the production of various goods and services and create employment at the same time can achieve that. In fact, trade is an effect of production, and production is made possible by investments.

Africa's share of the investment flow is very low, and has not yet reached a level that will reduce poverty. As to why Africa – including southern Africa – did not attract foreign direct investment, the reasons given have been political stability, risk of policy reversal, inefficient physical and technological infrastructures, and the size of the market.

Countries of the SADC region have taken measures to create a favourable environment for domestic and foreign investment. Most of them have promulgated investment laws and special incentives for foreign investors such as the repatriation of profits, borrowing on local markets, grants for training local workers, and arbitration mechanisms in the event of disputes between investors and the government. Most SADC countries, including Namibia, have signed investment protection treaties with a number of industrialised countries. In addition, all SADC member states are simultaneously members of the World Bank Multilateral Investments Guarantee Agency (MIGA). MIGA promotes foreign direct investment by providing political risk insurance guarantees against political and non-commercial risk such as breaches of contract and expropriation.

It is argued that the existence of markets that are larger than what any single SADC country can offer has the effect of attracting more investment towards them and has the benefit of the potential to create economies of scale. One should hasten to add that the response to SADC members' individual and collective efforts to create a favourable investment climate was not commensurate with the actual flow of investments: although there has been a marked growth in export from Africa over the years, this was not underpinned by an increase in investment flows or improved productivity.

Most SADC countries have also undertaken policy reforms that try to address some of these impediments to investments. The region has also tried to complement member states' efforts in specific areas. For example, a system of themes was introduced, which allowed the Summit to focus on specific areas in which the region needed to make progress.

In addition, despite having a policy framework, whether or not to invest depended on the decisions taken by individual businesspersons and/or companies. Another factor to take into account is that the SADC region has largely attracted investments in the extractive sectors and in the production of raw materials for export to industrialised countries.

There is, therefore, a need for investments in value addition so that more jobs can be created and the economies of the countries of the region can be transformed.

Conclusion

Regional integration is not optional for small countries like Namibia. It has been important from the point of view of promoting political cooperation as well as peace and stability in the southern African region. Political cooperation enhances a small country's bargaining power in continental and global affairs. In the case of Namibia, the country has actively participated in the arena of maintenance of peace and security within SADC and beyond, and has expended substantial resources in so doing. The country also has not hesitated to articulate an independent position on a vast array of issues – despite its size.

Regional integration plays an important economic role in terms of functional cooperation, through which SADC countries work together in a number of areas. The area of transport and communication has been important to Namibia, as the country has been able to offer export and import routes to a number of neighbouring countries. The management of shared resources such as water and energy has been equally important from the point of view of economic development and resilience.

Being part of a larger economic and political space has been crucial in making the country attractive to foreign investors. Countries with small markets find it difficult to attract foreign direct investment in anything but the extractive industries. Such investments do not necessarily have a transformative impact on the economy of the receiver country.

The greatest benefit of regional integration to Namibia will come through the dynamic effect of integration, which will result in investment and job creation. This effect often comes about as a result of confidence by investors that things are working, that is, there is a reduction of risk premium. In this regard, strong institutions, and commitment to as well as delivery on a regional integration schedule in the various fields, are vital. It is also crucial for Namibia to stay the course insofar as the implementation of its commitments is concerned. Regional integration needs drivers: countries that act while others drag their feet.

In many respects, southern Africa is a functioning entity in terms of shared knowledge, joint development of infrastructures, joint management of shared resources, etc. However, political instability in a few SADC member states has had an adverse effect on the process of integration and development over the years. After 1994, there was a great deal of optimism about the region's future, following the end of apartheid in South Africa, the end of civil war in Mozambique, and the transition to democracy in Malawi. However, the region subsequently had to deal with the situation in Lesotho, then the one in the DRC, and then Angola. Now SADC is confronted with unstable situations in

Madagascar and Zimbabwe. The situations prevailing in such political hotspots need to be resolved so that integration and development can proceed apace.

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Namibia and the African Union*

*Bience Gawanas***

Introduction

It is fair to state that Namibia's foreign relations have largely been shaped by the history of the liberation struggle, the formative years of transition from colonial occupation and independence, and the relationship between the liberation movements – particularly the South West Africa People's Organisation (SWAPO) and organisations such as the United Nations (UN), the Organisation of African Unity (OAU, later the African Union/AU), the Southern African Development Community (SADC), the Commonwealth, the Non-aligned Movement, and the Frontline States.

There is also no doubt that the post-Cold-War era influenced both the OAU/AU and the Namibian agenda, moving from a focus on conflicts and security to broader development goals. Whereas the OAU concentrated on the decolonisation of Africa, the AU's main objectives are unity, integration, governance, peace, and development.

Against this background, it can be clearly stated that the OAU played a key role in Namibia's fight for freedom and independence. Consequently, it is a very meaningful task to verify whether Namibia still appreciates these historical bonds and has a special relationship with the OAU's successor organisation, the AU. In addition, it is important to show Namibia's stance on multilateralism, especially since the AU is at the highest organisational level within the African context. Last, but not least, the chapter is meaningful because it will illustrate the principles on which Namibian foreign policy rests.

The chapter is structured in the following way. First, it looks at the historical background of Namibia's relationship with the OAU prior to the country's independence in 1990. It then highlights Namibia's role in the founding and institutional design and building of the AU. Next, it explains Namibia's participation in the AU, particularly in respect of the four pillars upon which the AU's Strategic Plan is based, namely –

- peace and security
- integration, development and cooperation
- shared values (including governance, gender, culture, and civil society), and
- institution- and capacity-building.

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The chapter then discusses AU multilateralism and partnerships, before looking at the future of the AU and the changing roles of its members – especially that of Namibia – before drawing its conclusions. Finally, an appendix lists the treaties, protocols and other AU documents Namibia has adopted, signed and ratified to date.

Pre-Independence Namibia's relations with the OAU

A brief historical overview

The roots of pan-Africanism that shaped the future of Namibia both as a colonised and an independent country, as well as Africa as a free continent today, can be traced back to the late 19th Century: years before the Berlin Conference¹ which regulated European colonisation and trade in Africa and before Namibia became a German colony in 1884. The evolution of pan-Africanism finds its high mark at the Pan-African Congress in Manchester in 1945, which laid the foundation for the political independence of African states.² It demanded –³

[a]n end to colonialism in Africa and urged colonial subjects to use strikes and boycotts to end the continent's social, economic and political exploitation by colonial powers.

The Congress stressed that –⁴

[t]he gain of political power for colonial and subject peoples was a necessary prerequisite for complete social, economic and political emancipation.

The above shows that the need for political change – the total decolonisation and political integration of Africa – was raised before the OAU came into being. It was a process nurtured and advocated for by WEB du Bois, an Afro-American, and others, who strongly advocated for a free Africa. Leaders such as Kwame Nkrumah of Ghana, Jomo Kenyatta of Kenya, and Nnamdi Azikiwe of Nigeria, who attended the 1945 Congress, were inspired and later led their countries to freedom. Most importantly, their influence galvanised the formation of the OAU.

Some 18 years after the Manchester meeting, in May 1963, the OAU became a reality⁵ as an association of free and independent African states, with a focus on the decolonisation and integration of the continent, the promotion of unity and solidarity among African states, territorial integrity, and the independence of its members. Its formation provided

1 15 November 1884 to 26 February 1885.

2 The other Pan-African Congress meetings took place in 1919, 1921, 1923 and 1927.

3 Resolution of the 1945 Pan-Africanism Congress in Manchester.

4 (ibid.).

5 Founded on 25 May 1963 in Addis Ababa, Ethiopia.

much-needed political platform for free African countries and those still fighting for freedom to promote inter-African solidarity and gain support from their fellow African member states. The OAU's formation was, therefore, a necessary tool that filled a political vacuum. It signalled a major search for an African identity. However, despite its good achievements over the years, the OAU – and, later, even the AU – became distant from ordinary Africans on the street, as the Afrobarometer surveys indicate.⁶ This is because the OAU was viewed as an organisation for African leaders rather than one for the African people.

The Namibian liberation struggle and the OAU Liberation Committee

A good way to begin this topic is to refer to the relationship between Namibia and the OAU. Before June 1990, as a colonised country, Namibia did not have any kind of relationship with the OAU as such, although it occupied the minds of the international community and jurists. This is mainly because Namibia was under the illegal occupation of apartheid South Africa at the time, and only independent states could join as members of the OAU. In fact, one of the main pillars on which the OAU stood was to fight apartheid, free South Africa, and achieve Namibia's independence.⁷ Under those circumstances, a relationship between the OAU and Namibia as a country was not feasible at all. In view of this, what was the alternative route the OAU pursued to help Namibia gain its independence?

By virtue of Article 20(3) of its Charter, the OAU obliged its member states to provide support to peoples and organisations involved in the struggle for liberation from European colonisation. In line with this provision, the OAU established the Liberation Committee based in Dar es Salaam, Tanzania, which organised diplomatic support and channelled financial, military and logistical aid to the liberation movements – and SWAPO in particular – to help the fight against apartheid South Africa and end its illegal occupation of Namibia. It also embarked on a diplomatic mission to alert and influence world opinion as regards the illegal occupation of Namibia. This resulted in an action at the International Court of Justice (ICJ) in 1971 which declared that South Africa had no right to rule Namibia.⁸

In addition, the ICJ's declaration complemented and was consistent with a number of UN resolutions, particularly –

6 This initiative is an African-led series of national public attitude surveys on democracy and governance in Africa. Surveys in Botswana (2008), Namibia (2008), South Africa (2008) and Zimbabwe (2010) asked respondents how much the AU was doing to help their countries: 37% in Botswana, South Africa and Zimbabwe did not know, while 26% in Namibia thought that the AU helped Namibia somewhat.

7 In October 1966, South Africa's security and apartheid laws were extended to Namibia, retrospective to 1950.

8 ICJ advisory opinion of 21 June 1971; available at <http://www.icj.cij.org/docket/files/53/5597.pdf>, last accessed 31 October 2013.

- UN General Assembly Resolution 385,⁹ which condemned South Africa's presence in Namibia and its apartheid policy, and
- UN General Assembly Resolution 2145,¹⁰ by which the General Assembly terminated South Africa's mandate over the territory of Namibia.

Following the ICJ's declaration, the OAU passed a resolution that demanded South Africa's immediate withdrawal from Namibia and, thus, the end of its occupation of the territory.¹¹ The OAU continued to pass resolutions over the years in unreserved support of the struggle of the people of Namibia.¹²

Furthermore, through the Africa Group at the UN, the OAU lobbied for and succeeded in enabling SWAPO and other liberation movements to gain Observer status at UN and OAU meetings. Through its networks and influence at the UN, the OAU also supported and lobbied for SWAPO to have access to resources and a political platform at a higher level. Therefore, the OAU's formation ensured a constant African representation which formed a united front at the UN, exercising a strong influence on the UN General Assembly to support SWAPO and other liberation movements, and having the calculated intention to disadvantage apartheid South Africa and its illegal occupation of Namibia. In fact, it is as a result of actions by the same Africa Group at the UN and through information campaigns that sanctions were imposed on South Africa and, most importantly, that apartheid was universally declared a crime against humanity.¹³ Therefore, the work of the OAU complemented and strengthened the diplomatic effort at the UN, which also led to SWAPO's recognition as the sole and authentic representative of the people of Namibia by the OAU in 1975 and by the UN in 1976. As a consequence, SWAPO embarked on a rigorous diplomatic campaign and established both multilateral and bilateral relations with various governments and organisations, and became an observer at their meetings.

The above highlights a number of important points:

- That colonised Namibia could not have had a relationship with the OAU for as long as it remained under the (illegal) mandate of apartheid South Africa
- That, by contrast, the OAU had a relationship with SWAPO as a liberation movement
- That SWAPO benefited under Article 20(3) of the OAU Charter, as stated above, and

9 Of 1976, adopted by the Security Council at its 1885th Meeting, on 30 January 1976.

10 (XXX) of 27 October 1966.

11 See http://www.au.int/en/sites/default/assembly_en_21_23_june_1971_assembly_heads_state_government_eighth_ordinary_session_.pdf, last accessed 31 October 2013.

12 See e.g. the OAU Resolution on Namibia; Assembly of Heads of State and Government Fifteenth Ordinary Session, Khartoum, Sudan, 18–22 July 1978.

13 Tehran Conference, 22 April–13 May 1968; available at http://untreaty.un.org/cod/avl/pdf/ha/fatchr/final_act_of_TehranCon.pdf, last accessed 31 October 2013.

- Most importantly, that the OAU succeeded on the diplomatic front through the Africa Group at the UN to benefit not only SWAPO, but also the people of Namibia as a whole.

As stated earlier, Namibia, as an independent country, did not officially have any sort of relationship with the OAU. However, as a colonised territory, Namibia had a relationship with the OAU in the sense that the OAU supported its struggle for independence through supporting SWAPO as a liberation movement. Some 27 years after its formation in 1963, the OAU succeeded in one of its principal objectives: to achieve the decolonisation of Namibia. The country became an independent state in March 1990, and in June that year, a fully-fledged member state of the OAU.

From the OAU to the AU

From its founding, the OAU had been built on an unwavering commitment to political independence for Africa. It was driven by pan-Africanist visionaries that included Kwame Nkrumah of Ghana and Emperor Haile Selassie of Ethiopia, who were able to offer practical support such as logistics, passports and training for African revolutionaries.

The transformation of the OAU into the AU created a clearer mandate and new objectives for the AU. The clearest differences between the OAU and the AU, as set out in its Constitutive Act, are the following:

- A move from non-interference to non-indifference, thus being able to criticise and even intervene in its members' affairs
- Explicit recognition of human rights and a clearer commitment to governance
- Promotion of social, economic and cultural development, and
- An approach based on human-centred development.

The AU's key goal is to achieve integration through the implementation of the Abuja Treaty establishing an African Economic Community, and the Lagos Plan of Action. The Union's objectives in terms of its Constitutive Act include greater unity and solidarity between African countries and the peoples of Africa; accelerating political and socio-economic integration; promoting democratic principles and institutions, popular participation and good governance; and promoting and protecting human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments.

Key AU principles include the peaceful resolution of conflicts among member states, and non-interference by any member state in the internal affairs of another. However, the AU has the right to intervene in a state –

... pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity.

Other AU principles include the condemnation and rejection of political assassination, acts of terrorism and subversive activities, as well as condemnation and rejection of unconstitutional changes of governments.

Since our entry into the 21st Century, Africa has remained preoccupied as to why it is being left behind and even marginalised in world development, particularly since the establishment of the AU and its New Partnership for Africa's Development (NEPAD) programme, which provide a clear direction that allows Africans to take charge of their own destiny and determine their continent's development path for the 21st Century. This includes facing core challenges such as conflicts, poverty reduction, fighting corruption, reducing the disease burden, and strengthening the capacities of African states.

At the global level, the world's leaders committed themselves to end poverty with the adoption of the Millennium Declaration by the UN General Assembly, then under the watch of Namibia's Foreign Minister, Theo-Ben Gurirab, who was also serving as President of the General Assembly. The Millennium Declaration united the world around generally agreed Millennium Development Goals (MDGs) with some concrete measures of how to lift people out of poverty, fight disease, and improve standards of living among the poor and marginalised in particular.

It is worth noting that the AU and NEPAD came into being at the same time as the MDGs were adopted. The AU Commission prepared progress reports on the MDGs in 2005, while the AU Assembly requested the Commission to coordinate and lead a process of developing an African Common Position as Africa's contribution to the Report on the Review of the Millennium Declaration and MDGs. The Report was considered at a high-level UN Summit that same year. The review found that several African countries, with the exception of those in North Africa, were unlikely to meet the MDGs by 2015. The document also stresses that the attainment of the MDGs is a minimum prerequisite for sustainable development and poverty reduction.¹⁴

Whereas the dream of African unity might have been distant in 1963, we are much closer today to actualising it with the dedicated participation of many eminent and grass-roots African activists from all over the world. As in Namibia, however, the AU's challenge has shifted its focus on political independence to the urgent need to deliver greater economic autonomy and improve the lives for hundreds of millions of Africans.

On 25 May 2013, the OAU/AU marked its 50th anniversary. The occasion had African leaders gathering to celebrate it in Addis Ababa at the 21st Ordinary Session of AU Assembly. It is worth mentioning that the former President of Namibia and Founding Father, Dr Sam Nujoma, alongside former Zambian President, Dr Kenneth Kaunda, attended the jubilee celebrations as Pan-Africanists who had participated in the 1963 OAU Summit.

14 AU (2006).

The Assembly adopted a Solemn Declaration and pledged to act together with the African diaspora to realise the AU's vision of pan-Africanism and the African Renaissance. In so doing, the AU affirmed its implementation of the integration agenda, as well as its commitment to working towards greater peace, good governance, and social and economic development. The occasion was also used for a resolution that set the 2063 Agenda to define Africa's future with the involvement of all the peoples of Africa. The focus of the Agenda is to ensure that Africa becomes self-reliant and independent; that AU institutions such as the African Union Commission are strengthened; that Africa can take centre stage in world affairs, including in the resolution of conflicts on the continent; and that intra-African trade is promoted.

Namibia embarked on its commemoration of the jubilee celebrations by launching a year-long programme of activities to contribute towards the 2063 Agenda. The launch was attended by President Pohamba and President Nujoma, as well as the Prime Minister, Ministers, Members of Parliament, members of diplomatic missions, and other important stakeholders. Since then, a series of workshops and meetings have been held to solicit input to the AU's 2063 Agenda from the Namibian public at large. The Agenda offers Namibia a golden opportunity to make a meaningful contribution towards Africa's future.

Namibia's participation in the AU

It is imperative to acknowledge that Namibia participated in the transformation of the OAU to the AU as an independent state and full member, starting with Sirte (1999), Lomé (2000), Durban (2002), and Maputo (2003). Indeed, in 2003, with the formalisation of the AU Commission, Namibia nominated its former Ombudswoman to be elected as the Commissioner for Social Affairs – a position she held until 2012. Namibia's membership of the AU is a culmination of its relationship with the OAU, as discussed earlier. In this regard, the country has continued to support the strengthening of the AU in the fulfilment of its mandate.

The Commission is the Secretariat of the AU entrusted with executive functions. It is composed of ten officials, namely a Chairperson, a Deputy Chairperson, eight Commissioners with portfolios such as economic affairs, social affairs, and peace and security, and various staff members. The structure represents the AU and protects its interests under the auspices of the Assembly of Heads of State and Government as well as the Executive Committee.

From 2003 to 2012, the portfolio of Commissioner for Social Affairs was held by Adv. Bience Gawanas, former Ombudswoman of Namibia. She was elected in 2003 and re-elected in 2007. She was one of five women Commissioners elected to serve on the Commission, in line with the AU decision to ensure gender balance within its structures. Namibia and Malawi were the two countries from southern Africa to serve in the AU Commission during this period.

Namibia also participates in the following structures:

- The **Assembly of Heads of State and Government**, the **Executive Council** and the **Permanent Representative Committee**: These are the organs of the AU, with the Assembly being the highest decision-making body.
- The **Pan-African Parliament (PAP)**: Namibian Members of Parliament actively participate in PAP debates and have served on various PAP Committees.
- **Anti-corruption Advisory Board**: Namibia, represented by the Director of the Namibian Anti-corruption Commission, served as a member of the Board since its establishment until 2011.
- **Peace and Security Council**: Namibia served as a Chair for the month of February 2011.
- **Committee of Intelligence Services in Africa**: Namibia served as a member of this Committee until the end of 2012. At the time, Zimbabwe chaired the Committee, with Namibia as its Deputy Chair. Similar to other AU structures, the Committee is important in the domain of conflict prevention and resolution. The security architecture of the AU obliges member states to share their intelligence – also for purposes of the AU Early Warning System and its situation room.
- **Committee on UN Reform**: Namibia is one of ten AU member countries that make up the AU Committee of Heads of State and Government focused on putting forward a common African position on the need for the UN, including the UN Security Council, to be democratised. Namibia subscribes to the principles of democracy, equity, justice and fairness and, hence, it supports the AU's position on this issue. Namibia has also served on this Committee. The common position adopted is known as the *Ezulwini Consensus*, and speaks to Africa having two permanent Security Council seats with all privileges, including voting rights.
- **High-level Committee of Heads of State and Government¹⁵ on the post-2015 MDGs**: Namibia is a member of this Committee, which looks at Africa's post-2015 development agenda in order to ensure that Africa's position is incorporated in the global agenda.

As an AU member state, Namibia has generally participated in various activities and meetings organised by the AU as well as international conferences to promote Africa's common positions. It has also hosted many AU sectoral ministerial meetings and was the Chairperson of the AU Conference of Ministers of Health, the AU Conference of Ministers of Social Development, and the Labour and Social Affairs Commission.

In this role, Namibia has been mandated to represent AU ministers and present African common positions to the UN, such as the African Common Position on Social Development, and the African Common Position on Universal Access to HIV/AIDS Prevention, Treatment, Care and Support. The latter was adopted at the AU Conference of Ministers of Health held in Windhoek on 17–19 April 2011 and presented to the UN

15 This Committee was established at the AU Assembly in May 2012.

General Assembly's Special Session on AIDS in June that year. Namibia is in the process of organising a Special Session of the AU Labour and Social Affairs Commission for 2014 to review the Ouagadougou Plan of Action on Employment and Poverty Alleviation.

Strategic Plan (2007–2012)

The AU's second Strategic Plan is based on four strategic pillars, namely peace and security; development, integration and cooperation; shared values; and institution- and capacity-building. Namibia's AU participation will be discussed in terms of each of these pillars below.

Strategic Pillar 1: Peace and security

World peace and security remain the primary responsibility of the UN Security Council. However, continental bodies such as the AU and regional bodies such as SADC also have a role to play. In this regard, Africans and the AU have been at the forefront of avoiding or resolving conflicts with varying degrees of success through the establishment of the African Peace and Security Architecture (APSA). For example, in early 2005, the AU swiftly condemned an unconstitutional handover of power in Togo, which was later replaced by a more democratic process. After five years of trying to resolve the issue of Madagascar – where the unconstitutional assumption of power by the current government and caused the country's AU membership to be suspended – preparations are under way to hold elections in 2013. Thus, Africans are leading attempts to resolve problems and build peace in, amongst others, the Egypt, Great Lakes region, Ivory Coast, Libya, Mali, Somalia, Sudan and Tunisia. Whilst conflicts are declining, the lack of a rapid response to conflicts remains a challenge. This which leaves a vacuum for external interventions to fill – as evidenced in Ivory Coast, Libya and Mali.

- **AFRICAN PEACE AND SECURITY ARCHITECTURE**

The AU is in the process of operationalising APSA so as to allow Africa to take ownership of and assume leadership in respect of resolving conflicts on the continent. In this respect, the Peace and Security Council (PSC) and the Panel of the Wise are already in place. Other structures which still need to be put in place are the African Standby Force, the Special Peace Fund, and the Continental Early Warning System. When fully operational, APSA will go a long way towards building Africa's capacity to prevent, resolve and manage conflicts.

However, a review conducted in 2010¹⁶ found that there is a huge resource gap, raising questions of financial sustainability: APSA is dependent on development partners such as the European Union (EU) for its operations. Another challenge pointed out in the

16 2010 Assessment Study on APSA available at <http://www.peaceau.org/en/article/report-of-apsa-assessment-study-conducted-july-october-2010>, last accessed 18 November 2013.

review¹⁷ is that, although coordination exists in respect of certain aspects, there is none between the AU and regional economic communities (RECs), or among the RECs themselves. As will be discussed later herein, the issue is defining a clear role in terms of the subsidiarity principle for the AU and the RECs in peace and security matters.

In line with the Namibian Constitution, which stipulates that the country should promote international peace and security and resolve disputes through peaceful means, Namibia has actively participated in both the UN and AU peace agendas. Therefore, Namibia continues to support the AU's capacity for conflict prevention, resolution and management in Africa as part of the country's foreign policy.

- COMMON AFRICAN DEFENCE AND SECURITY POLICY

In February 2004, the AU Heads of State and Government adopted the Common African Defence and Security Policy. The Policy is based on shared principles and objectives which range from non-aggression, non-interference in the internal matters of member states, and mutual respect for national sovereignty, to protecting human rights and safeguarding human security. These principles, which underpin the Policy, seek to strengthen the –¹⁸

... collective efforts [and responses] to contribute to peace, security, stability, justice and development in Africa.

Furthermore, the Policy emphasises the interests of the people, thus seeking to intensify cooperation and integration among AU member states. The Policy's overall objectives encompass three concepts that are seen as preconditions for development, namely defence, security, and the absence of common security threats.

In this regard, the AU's response to conflict situations might be instructive. For example, during the Libyan crisis, although the AU sought peaceful means to resolve the issues at hand, due to the multiplicity of role players and interests, it was not allowed to pursue this path. For the AU, it was an internal matter; and the sovereignty of Libya as an AU member state needed to be respected whilst attempts were made to resolve the conflict.

Whilst it may have been possible for the AU to intervene in Libya because of grave human rights violations, one could also condemn the intervention led by the North Atlantic Treaty Organization (NATO) as an external one that interfered in Africa's internal affairs. This was the position adopted by the PSC, which Namibia, as a member, supported. However, the main contention is that AU member states should decide between two

17 (ibid.).

18 Solemn Declaration on a Common African Defence and Security Policy, p 1; available at <http://www.peaceau.org/uploads/declaration-cadsp-en.pdf>, last accessed 7 November 2013.

crucial options: whether to protect human rights and, therefore, interfere in the internal affairs of another state – even if it were an internal matter, or to respect state sovereignty and do nothing, as was the case under the OAU. Given the new AU emphasis on human rights, it still remains to be seen whether it will adopt the position of non-indifference and intervene.

Whilst many conflicts in the past were between states, more and more conflicts are now occurring within states, e.g. in Ivory Coast, Libya and Mali. External military intervention might not always resolve the conflict, nor may it respect the territorial integrity of the state; thus, the tools for resolving such conflicts should include dialogue, negotiation and reconciliation, which can lead to peaceful solutions. In this respect, the AU has adopted the approach of respecting the sovereignty and unity of the state, and any foreign interventions should be in conformity with these adopted resolutions. Namibia's stance should be seen in this light. Following the NATO-led intervention in Libya, therefore, Namibian President Hifikepunye Pohamba declared that Namibia stood by the PSC resolution that –¹⁹

... any foreign invasion in the internal affairs of any African state [should be] ... rejected in the strongest terms.

Indeed, as a member of the PSC, Namibia took an active part in drafting and adopting this resolution.

- PEACE AND SECURITY COUNCIL

The PSC was established in July 2002 as the main AU organ concerning matters of peace and security. According to the Common African Defence and Security Policy, the PSC should serve as its implementing mechanism. The most interesting and probably important part of the Protocol establishing the PSC²⁰ is the new principle of non-indifference, which supersedes the OAU principle of non-intervention.²¹ Article 4(j) of the Protocol reads as follows:

... the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity, in accordance with Article 4(h) of the Constitutive Act; ...

Namibia became the 23rd member state to ratify the Protocol, which it accomplished on 9 December 2003. In April 2010, for the first time, Namibia took a seat on the PSC.

19 See <http://www.namibian.com.na/news/full-story/archive/2011/march/article/pohamba-slams-libya-strikes/>, last accessed 7 November 2013.

20 See Protocol relating to the Establishment of the Peace and Security Council of the African Union; available at http://www.au.int/en/sites/default/files/Protocol_peace_and_security.pdf, last accessed 7 November 2013.

21 Compare Kioko (2003).

The seat was held until 31 March 2012. Namibia also chaired the PSC in the turbulence of February 2011, which saw the crises in Egypt, Ivory Coast and Libya erupt. In its communiqués, the PSC expressed its deep concern regarding the human rights and human security situation in these countries, and underscored the importance of democracy and the focus on the people and their interests in ensuring democracy, justice and peace. Strikingly, however, the only resolution the PSC, as a decision-making body, was able to pass in respect of the turmoil facing these countries was “to remain actively seized of the matter”.²² Even in the case of Ivory Coast, a violent conflict that lasted three months, the PSC simply expressed its concern without taking any action.

Clearly, as with many policies and legal instruments, despite their effective implementation, there are always some gaps that remain. This, too, might be the case with the cited Article 4(j) of the PSC Protocol.

- NAMIBIA’S PARTICIPATION IN AU-MANDATED PEACE SUPPORT OPERATIONS

Despite its relatively small population, Namibia has taken part in several UN interventions, with the biggest contribution having been made to that in Liberia in 2004,²³ followed by Angola in 1995.²⁴ Namibia also sent a contingent of 3,000 troops to the Democratic Republic of the Congo (DRC) in 1998, which was not a UN- or OAU-mandated mission, but rather fell within the SADC framework. Thus, two of the three biggest contributions to foreign interventions were made when Namibia’s own interest was an issue.

However, Namibia’s involvement in Angola and the DRC were severely criticised. The critics also focused on Parliament having been kept in the dark while the troops were deployed in the DRC, and pointed to the dominance of Namibia’s President and the Executive in deciding whether troops should be deployed. Du Pisani, for example, states that —²⁵

[i]n the case of new States such as Namibia, presidents and the executive often dominate aspects of their countries’ foreign policy.

Therefore, in comparison with UN-mandated missions, Namibia has sent few personnel on AU missions. Although one could speculate as to why this is the case, issues of capacity, the availability of a small number of trained peacekeepers, and limited technical and financial resources may play a role. One can only guess that the UN missions dealt with matters that were of greater concern to Namibia.

22 Compare recent AU Communiqués on Egypt, Ivory Coast and Libya; available at <http://www.au.int/>, last accessed 7 November 2013.

23 A total of 3,835 personnel to the United Nations Mission in Liberia (UNMIL).

24 A total of 760 personnel to the United Nations Angola Verification Mission III (UNAVEM).

25 Du Pisani (2003).

In respect of the three established AU missions in the Comoros, Darfur and Somalia, Namibia took part in the first-ever African Union Mission in Sudan (AMIS), for which 48 personnel were contributed.²⁶ This unit was replaced by the pioneering hybrid operation, the African Union/United Nations Hybrid Operation in Darfur (UNAMID).²⁷ Members of the Namibian Police are currently engaged in Darfur, Sudan, on a hybrid peacekeeping exercise under a joint UN–AU mandate. It is worth stating that most African peace support and peacekeeping operations are hybrid missions, meaning that these involve soldiers, police and civilians (often from non-governmental organisations). As reported in October 2013,²⁸ Namibia is to dispatch an additional contingent of 27 police officers to join UNAMID. The deployment is the second for the Namibian Police in the Sudan region, with 23 officers having already been attached to UNAMID, bringing the total number of Namibian police officers in that region to 50, 6 of whom are female officers.

The AU is also mindful of the role that RECs play in conflict resolution, as shown by the involvement of the Economic Community of West African States (ECOWAS) and SADC in their respective regions. For example, Namibia participated as the Chairperson of the SADC Extraordinary Summit on Madagascar, in keeping with the AU's instruments on unconstitutional changes of government and policies adopted by SADC. In October 2013, four years since the unconstitutional change of government in Madagascar, the latter country held its presidential elections. Because none of the candidates got more than 50% of the votes, there will be a rerun in December. The elections were declared free, fair and peaceful by the AU, the EU, SADC, and the UN. Part of the agreement for the elections was that both the former President and the current incumbent would not offer themselves as candidates.

In West Africa, it is argued that ECOWAS has been one of the most successful in undertaking positive action in conflict prevention, peacekeeping and conflict management in countries such as in Guinea Bissau, Ivory Coast, Liberia and Sierra Leone.

- SUPPORT TO WESTERN SAHARA (SAHARAWI)

Namibia's own history of colonialism and the struggle for liberation continues to influence its relations with other states, particularly those still under foreign occupation. A case in point is Western Sahara. Namibia has been one of the few AU member states to keep the Saharawi question on the agenda of various AU Summits as well as at the UN, and continues to call for the effective implementation of the UN Settlement Plan for Western Sahara as well as UN Security Council and General Assembly Resolutions aimed at holding a free and fair referendum in Western Sahara. At the 17th Ordinary

26 Ministry of Defence (2008).

27 See <http://unamid.unmissions.org/Default.aspx?tabid=898&ctl=Details&mid=1062&Itemid=8158>, last accessed 20 October 2013.

28 *New Era*, 31 October 2013.

Session of the AU Executive Council in Kampala, Uganda, in June 2010, Namibia's Foreign Affairs Minister Utoni Nujoma stated that –

... it is a matter of condemnation, after a decade since the advent of twenty-first century[, that] colonialism is still an issue facing the African Union ...

He called on AU countries to give more support to the decolonisation of Western Sahara, –

... stressing that the right to self-determination is a fundamental human right enshrined in the United Nations Charter. ... Namibia considers that the AU could do more to enable the people of Western Sahara to exercise its inalienable right to self-determination. ... [Africa] will not be free unless the people of Western Sahara have their freedom ... [and] it is the duty of Africa to help the people of Western Sahara in its quest for freedom and independence.

Namibian leaders have echoed these views during their recent workshops and meetings on the AU 2063 Agenda.

Although the APSA is slowly becoming a reality, with an improved leadership structure and more appropriate policy frameworks, the African Union Mission in Sudan illustrates how difficult it is to resolve conflicts without the capacity to prevent or respond rapidly to them, and without effective muscle and leverage. Therefore, how the AU will deal with conflicts and its peacekeeping mandate will largely depend on domestically inspired resources to reduce reliance on externally funded operations.

Strategic pillar 2: Development, integration and cooperation

- PROMOTING SUSTAINABLE DEVELOPMENT

One of the major premises upon which the AU was founded is the promotion of socio-economic development, particularly human and social development on the continent. The AU's Constitutive Act recognises the need to, inter alia, –

... promote sustainable development at economic, social and cultural levels ... [and] to promote cooperation in all fields of human activity to raise the living standards of African people.

Notably, in July 2001, NEPAD's foundation document was adopted as an AU programme in respect of development issues. Some of NEPAD's key principles and messages are as follows:

- African ownership and responsibility for Africa's development
- Self-reliant development to reduce dependency on aid
- Building capacity in African institutions
- Promoting intra-African trade and investment, and
- Accelerating regional economic integration.

The AU has adopted various policy and legal instruments to promote social and economic development on the continent, and Namibia has actively participated in their development and adoption. Informed by these instruments, Namibia has itself adopted five-year National Development Plans and a longer-term Vision 2030, and has developed national policies in line with them.

Africa faces many challenges, including poverty, unemployment, a high burden of disease, and climate change. It is generally agreed that Africa is a rich continent – but with very poor people. Social inequalities abound on the continent, making it imperative that sound pro-poor economic growth and social policies for effective and sustained interventions are implemented to save lives. The AU has embraced the MDGs in order to meet these challenges. The AU's 2006 report²⁹ clearly states that Africa will have to accelerate its action in order to achieve the MDGs.

The current discussions on the post-2015 development agenda raise an important issue about Africa's role in shaping this agenda. The fact that Africa lags behind in reaching some of the MDGs necessitates a more proactive and shared role for Africa and the AU. As noted earlier, in 2012, the AU set up the High-level Committee of ten African Heads of State and Government³⁰ to come up with a strong African Common Position on the post-2015 development agenda, which will ensure that Africa's particular concerns are on that agenda.³¹ Africa's position regarding this development should include –

- inclusive economic growth and structural transformation
- a development paradigm that has to be domestically inspired
- funded initiatives that are grounded in national ownership, social inclusion and equity
- a focus on vulnerable groups, and
- statistical monitoring.

Health, education and social protection are enablers of economic growth because they contribute to human capital, labour markets and worker productivity.

With regard to health, the major cause of the high disease burden in Africa remains HIV and AIDS, tuberculosis and malaria. However, it has become clear that non-communicable diseases and neglected tropical diseases also deserve due attention. It is also well-established that diabetes and cancer have become major concerns, and that maternal and child mortality remain unacceptably high in Africa.

29 AU (2006).

30 The UN Secretary-General also established the UN High-level Panel of Eminent Persons on the Post-2015 Development Agenda, which President Ellen Johnson Sirleaf of Liberia co-chaired. She has now been designated to chair the AU High-level Committee.

31 Available at www.uneca.org/post2015, last accessed 31 October 2013.

One initiative by the AU to achieve the effective implementation and follow-up of AU commitments on health has been the AU Campaign on Accelerated Reduction of Maternal Mortality in Africa (CARMMA) launched at continental, regional and national level. Thus far, 42 AU member states have launched national chapters of CARMMA in their countries. The focus of CARMMA is to ensure accountability, coordination, and effective implementation as regards existing plans and strategies that relate to maternal mortality. Most importantly, CARMMA is an African-led and -owned initiative. It is also a best practice in respect of how continental policies can motivate and provide an impetus to national-level action.

Namibia has participated in various AU Extraordinary or Special Summits at which major policies have been adopted, such as the Abuja Declaration and Plan of Action on HIV, Malaria and Tuberculosis in 2001, and the Abuja Call. Namibia appears to be on track in respect of eliminating malaria in that it has exceeded the targets set through the Abuja Declaration to cut malaria deaths in half by 2010.³² This was partly achieved through its collaboration with neighbouring countries to combat malaria in the spirit of regional cooperation, and the AU policy to harmonise continental policies and actions. However, Namibia has the world's highest prevalence of HIV associated with tuberculosis.

Whilst Namibia has reduced poverty since Independence, and has already achieved MDG1's target for poverty reduction, inequality in the country remains the highest in the world, as does chronic unemployment.³³ Nonetheless, Namibia has done well in reducing child mortality, although malnutrition and under-nutrition remain high. Maternal mortality also remains high. Indeed, it was with these grim facts in mind that Namibia launched CARMMA and put maternal and child health issues high on its agenda.

As regards environmental issues, climate change poses serious threats to humanity and has become a major issue for the AU and its member states. The AU therefore set up a Committee on Climate Change at Head of State and Government level, under the Chairpersonship of the Ethiopian Prime Minister. This Committee's principal task is to develop an African common position. Namibia will do well to remain engaged with climate change issues as environmental matters are of great concern to the country owing to its fragile ecosystems and consequent vulnerability to such change. For example, 2013 saw Namibia gripped in the throes of a severe drought, with the Kunene Region being the worst hit. Climate-related events such as these seriously undermine livestock farming and subsistence agriculture, among other things.

It is worth mentioning that Namibia hosted the United Nations Convention to Combat Desertification (UNCCD) Eleventh Conference of the Parties (COP11) in September 2013, which ended with major agreements. These included the establishment of a mechanism

32 World Bank Group (2013).

33 (ibid.).

(the Science–Policy Interface, or SPI) that scientists have long called for to enable them to communicate scientific findings to policymakers, and an intergovernmental Working Group to follow up on the outcomes of the UN Conference on Sustainable Development (Rio +20).

Unemployment, especially among the youth, remains a major challenge. For this reason, the AU Assembly adopted the Declaration on Employment and Poverty Alleviation and its Plan of Action in 2004. A ten-year review of the Plan of Action is due in 2014.

The AU's Social Policy Framework is another important document. The Framework places great emphasis on harmonised and integrated social policies and social protection. Namibia can be proud that its social protection policies (old age pensions, child grants, etc.) are regarded as best practices in Africa, but they should be promoted more vigorously. Namibia is also among very few countries that have a National Disability Council Act³⁴ which established a National Disability Council and contains a National Policy on Disability as a Schedule to the Act.

In respect of food security, the AU adopted the Comprehensive Africa Agricultural Development Programme. This Programme remains one of the most promising in the AU stable as regards food security and agriculture. The AU also adopted the Africa Regional Nutrition Strategy, linking food security with nutrition. Namibia subscribes to the Africa Regional Nutrition Strategy, in addition to being a lead member of the global Scaling Up Nutrition (SUN) Movement. Namibia also established the National Alliance for Improved Nutrition chaired by the former Prime Minister, and has already made inroads by way of advocating for emergency drought assistance to include nutrition, and called for a renewed focus on children aged 0–5 to reduce child mortality.

Many other social improvement strategies relate to Africa's integration being highly dependent on infrastructural development which promotes connectivity between states and peoples. The AU's Programme for the Infrastructural Development of Africa is a major step in this direction because it aims to promote socio-economic development and poverty reduction in Africa through improved access to integrated regional and continental infrastructure networks and services.

With regard to Namibia in particular, the country's adoption of its fourth five-year National Development Plan since Independence keeps it on track in respect of focusing on faster inclusive growth, more jobs, and less income inequality.

Strategic Pillar 3: Shared values

At Independence, Namibia adopted a Constitution with a Bill of Rights regarded as one of the best in the world. Since then, Namibia has adhered to the rule of law, held peaceful

34 No. 26 of 2004; the Act came into force on 30 October 2009.

and free elections, has a free press, etc. In these respects, Namibia can serve as a role model to other AU member states.

- THE AFRICAN CULTURAL RENAISSANCE

The AU believes that culture is the foundation for promoting the African identity and cultural heritage, the pan-African spirit, and inter-African solidarity.

When Namibia gained its independence in 1990, it immediately adopted a decision to have the OAU flag hoisted alongside the Namibian one, and the OAU anthem sung together with Namibia's. It declared 25 May a public holiday, namely Africa Day. This was done in the spirit of pan-Africanism, as explained by former Namibian President Sam Nujoma in 2001, as follows:³⁵

Namibia is an African country and as such, our citizens are proud sons and daughters of Africa. Our destiny is closely tied to the fate of our neighbours and our continent as a whole. We must, therefore, be proud of our African heritage and our 'Africanness'. Our children must be taught the African values of sharing, respect of authority, good neighbourliness and a sense of belonging to a larger community.

The Commissioner for Social Affairs spearheaded the adoption of the new AU symbols adopted by the Assembly in 2007. The AU Ministers of Culture adopted a decision in 2010 to urge the AU Commission to encourage all AU member states to follow the Namibian practice of honouring and providing visibility to AU symbols. Thus, in a Declaration adopted at the AU Assembly in January 2013, the AU decided that all member states should do likewise. Whilst some may argue that mere symbolism such as this does not constitute action that can lead to a united Africa, it is worth mentioning that symbols have played a major role in African culture and heritage.

As stated earlier, the AU also celebrated its 50 anniversary in 2013 under the theme "Pan-Africanism and the African Renaissance".

- GOVERNANCE AND HUMAN RIGHTS

The AU remains committed to ensuring better governance and accountability are in place across the continent. In this spirit, the AU adopted the African Charter on Democracy, Elections and Governance on 30 January 2009, which entered into force in February 2012. It has been signed by 45 and ratified by 21 member states. Namibia has signed the Charter, but has not yet ratified it.

Further building blocks in the AU's commitment to ensuring enhanced governance and accountability include strengthening the African Peer Review Mechanism (APRM),

35 Founding President Sam Nujoma's State of the Nation Address in Parliament; see *Debates of the National Assembly*, 2001, p 127.

which remains an important tool in this regard. The main aim of the APRM is to help governments deliver public services and goods to their citizens more efficiently and effectively, and to instil confidence in investors – both local and foreign – that governments will be more stable and sustainable.

The standards, guidelines and procedures of the APRM were approved in 2003. So far, 29 African countries have signed up for the Mechanism, and reviews have been completed for 15 countries – the first two being Ghana and Rwanda. Interestingly, Namibia is not part of the peer review exercise although it has high standards of governance and would probably score relatively well.

As regards human rights, it has been argued that the OAU's founding in 1963 was in effect Africa's search for human rights – albeit at the level of states rather than individuals.³⁶ Even though not expressly provided for in the OAU Charter, the OAU has adopted a number of instruments to promote human and peoples' rights on the continent, including the African Charter on Human and Peoples' Rights (Nairobi 1981), which later led to the establishment of the African Human Rights Commission located in Banjul, The Gambia. The establishment of the AU itself was hailed as a welcome opportunity to put human rights firmly on the African agenda. Thus, the AU's Constitutive Act adopted in 2000 marks a major departure from the OAU Charter in giving explicit recognition of human rights and adopting a human-centred approach to development.

However, despite all these instruments and institutions, the AU's reluctance to speak out publicly against its member states that are in violation of human rights or are guilty of bad governance still seems to be a big challenge for the AU's new role.

- ELECTIONS

More states in Africa are participating in elections than ever before. This is a departure from the military coups that hampered Africa's search for democracy and good governance. A major concern, however, has been post-election violence, e.g. in Kenya.

The AU observes its member states' elections in an effort to ensure good governance. Indeed, it dispatched an observer mission at the time of Namibia's presidential and National Assembly elections in November 2009, as well as during subsequent elections. Namibia has also participated in similar missions in respect of its fellow AU member states. During October 2013, Madagascar held presidential elections four years after an unconstitutional change of government led to its suspension from the AU. The elections were guided by SADC instruments, with Namibia's Minister of Foreign Affairs leading a SADC observer mission to the country to oversee elections. The elections were declared free, fair and peaceful by most observers.

36 Murray (2004).

- GENDER

Namibia has signed and ratified the AU Protocol on the Rights of Women and has adopted the Solemn Declaration on Gender Equality. It has also regularly submitted progress reports on the implementation of these two instruments.

Furthermore, Namibia supports the AU policy on gender balance within the organisation. The AU Commission is currently served by five women and five men. Unfortunately, however, gender balance does not apply further down in the organisation or on other AU organs.

In addition, Namibia has enacted gender-related laws, such as the Married Persons Equality Act³⁷ and the Combating of Rape Act.³⁸ Regrettably, women's representation in the Namibian Government, including Parliament and the country's missions abroad, is not very high – unlike countries such as Rwanda, where 60% of the Members of Parliament are women. The recent adoption by the SWAPO Party to ensure 50/50 gender representation within party structures should be welcomed and should be adopted as a government policy.

- SIGNING AND RATIFICATION OF LEGAL INSTRUMENTS

The OAU/AU has adopted many legal instruments over the years. These require ratification by member states in order to come into effect. Member states are committed to domesticating these instruments and ensuring their effective implementation.

Namibia has signed 22 AU documents³⁹ to date, but has only ratified 12 of these.

In order to assess Namibia's accession to treaties, a comparison is made with three other southern African states. In order of decreasing magnitude, Zimbabwe has signed 24 documents, of which it has ratified 17; South Africa has signed 19 documents, of which it has ratified 17; and Botswana has signed 12 documents, of which it has ratified 10. Thus, Namibia's ratification of only 12 out of the 22 signed AU documents ranks it lower in comparison with its three neighbours.

Several reasons could explain this state of affairs, e.g. internal concerns, or needing more time. For example, the Convention on the Conservation of Nature and Natural Resources might conflict with Namibia's Community-based National Resource Management (CBNRM) Policy. Another example is the African Charter on Democracy, Elections and

37 No. 1 of 1996.

38 No. 8 of 2000.

39 *Documents* are defined herein as treaties, conventions, protocols and charters. A complete list of all 50 documents is available at <http://www.au.int/en/treaties>, last accessed 20 October 2013.

Governance, which Namibia has not yet ratified despite its good record on human rights and respecting the rule of law. One could also argue that Namibia is a latecomer to multilateralism, and needs time to study the implications of all these treaties.

Notably, Article 144 of the Namibian Constitution states that –

... the general rules of public international law and international agreements [are] binding upon Namibia under this Constitution [and] shall form part of the law of Namibia[.]

which might also have a bearing on Namibia's ratification of treaties.

The AU remains concerned about the slow ratification or non-ratification of treaties overall as this has a bearing on its credibility. Because its member states differ in respect of the way treaties are ratified by their respective parliaments, the AU has called for such processes to be harmonised in a bid to speed up ratification.

On the issue of treaties and their ratification in general, it may be instructive to look at the recent debate on the relations between Africa and the International Criminal Court (ICC). A total of 27 African countries have consensually ratified the Rome Treaty establishing the ICC, whilst countries such as China, Russian and the United States of America have not joined the ICC.

The relationship between Africa and the ICC has been debated within the AU for a long time. The indictments of the Kenyan President and Vice President who are accused of stirring the post-election violence in Kenya in 2007 as well as the earlier arrest warrant which was issued against the Sudanese President by the ICC strengthen the AU's position that the court is biased against African leaders. Whilst there was a fear that the Extraordinary Summit held in Addis Ababa on 12 and 13 October 2013 would call for the withdrawal of African countries who are party to the ICC, the Summit instead decided to request the UN Security Council to defer the cases of the Kenyan President and Vice President. However, divergent views exist in Africa as regards the ICC, and leaders such as former UN Secretary General Kofi Annan and Nobel Peace Prize winner Archbishop Desmond Tutu of South Africa have supported the respect and dignity of the ICC as an important instrument to end the culture of impunity and uphold justice and the rule of law.

Strategic Pillar 4: Institution- and capacity-building

There are ongoing reforms within the AU to improve internal governance and accountability and to improve coordination among the various AU organs. This will not only ensure greater transparency and accountability in the use of resources, but also the effective implementation of programmes. The Permanent Representatives' Committee of the AU, of which Namibia is also an active member, is mandated by the Executive Council to work with the AU Commission to achieve these objectives.

The implementation of the Strategic Plan and programmes will depend on the effective functioning of the various institutions, particularly the AU Commission, which is the central nerve of the AU as a whole. As pointed out earlier, the AU depends on external funding for its operations and programmes: this cannot be sustained if Africa is to take ownership and leadership of its problems and solutions.

AU multilateralism and partnership

In the introduction, it was stated that Namibia's foreign relations were influenced by the history of its struggle for liberation as well as by globalisation. Namibia's overall foreign policy objective remains building mutually beneficial relations and, in particular, strengthening the capacity of the AU to achieve regional integration and the economic independence of the continent. In this regard, it is informed by the AU's Constitutive Act as well as Article 96 of the Namibian Constitution and the objectives for Namibia's post-Independence foreign policy. The said Article 96 reads as follows:

The State shall endeavour to ensure that in its international relations it:

- (a) adopts and maintains a policy of non-alignment;
- (b) promotes international co-operation, peace and security;
- (c) creates and maintains just and mutually beneficial relations among nations;
- (d) fosters respect for international law and treaty obligations;
- (e) encourages the settlement of international disputes by peaceful means.

Namibia has also adopted economic diplomacy as part of its foreign policy, recognising that promoting Namibia's economic independence and prosperity is an imperative. In this regard, the country has established bilateral relations with other AU member states, Asia, European countries, and the USA – to mention but a few – and promotes economic development as part of regional integration.

No regional organisation such as the AU, however cohesive, can successfully tackle its security and developmental challenges without engaging in multilateral partnerships with other governments and institutions. Thus, the AU has concluded various partnerships with, amongst others, Brazil, China, the EU, India, South America, and Turkey. As an AU member state, Namibia not only supports multilateralism, but also establishes and maintains bilateral relations within the various partnerships established between Africa (the AU) and countries on the other continents.

It is generally recognised that Namibia's strength lies in building mutually beneficial relationships with governments and organisations which have also served to promote Namibia's economic development. Namibia has established foreign missions in various countries as well as at the AU, Commonwealth, the Non-aligned Movement, the UN, etc. Indeed, the OAU was one of the first organisations that Namibia joined after

Independence in 1990 and its successor in 2001. Namibia established a mission to the OAU in 1990, while Namibia's first Ambassador took office in Addis Ababa in 1992.

The question is this: what does this mean, strategically, for Africa and for Namibia, and what benefits have countries gained from such partnerships? Have we been proactive or reactive in our dealings with these partners?

This question is partly answered, for example, by Namibia's stance on the economic partnership agreement (EPA) with the EU. As Peter Katjavivi, former Namibian Ambassador to Brussels, who was quoted in the local daily *New Era* stated, Namibia is one of the countries that has found it unacceptable to endorse the EPA in its current form because it is not favourable to sustainable economic development in Africa in general and to Namibia in particular.

Given the nature of the emerging challenges of regional development and security, even bilateral relations increasingly have to be located in multilateral settings. Similarly, as emerging institutions such as the AU begin to engage in new global challenges like climate change, energy security, global economic recovery, and terrorism, fractures in the international system could pose a threat to their very existence; hence, cooperation and mutually beneficial relationships become essential. What is important, however, is the promotion of trade among African countries themselves and, in this, way, promote regional integration. It is maintained that Africa's trade with the world has increased, especially with the BRICS countries (Brazil, Russia, India, China and South Africa), which are the continent's biggest trading partners; and yet, intra-African trade has lagged behind.

But while multilateralism may be relatively easy and effective in engaging challenging issues and actors, it has its own fault lines. Multilateralism is generally less useful for making quick decisions and for building a wide consensus on issues. This can circumscribe even bilateral initiatives. Multilateralism also carries its own historical baggage. Often new nations and institutions, such as the AU, feel constrained by dated yet influential regional and global norms rooted in post-Second World War multilateral frameworks.

The AU subscribes to the principles of complementarity and subsidiarity. In this regard, it recognises the important role that RECs play in driving the continental integration agenda. Improving and harmonising the relationships between the AU and these communities remains a high priority and will lead to greater complementarity and joint efforts. Yet, despite the existence of RECs, as stated earlier, intra-Africa trade is still insignificant.

As a member of SADC, Namibia and its fellow members represent SADC positions at the AU whilst defending and upholding AU mandates. Unless properly managed, multiple

memberships such as these and overlapping mandates of the various organisations can pose problems. A case in point here is the AU and the RECs both having mandates to resolve conflicts on the continent: some AU member states will side with an REC position that may be contrary to a stance taken by the AU.

The future of the AU and the changing role of member states in general and of Namibia in particular

For the years ahead, the AU will be expected to deliver more effectively on its mandate and to make an impact on some of Africa's development challenges. A key target is to raise the resources needed to start achieving the MDGs by 2015 and to put in place the architecture needed to promote peace, good governance and development, as well as increase the skills and capacity of government services such as public health and education.

As detailed earlier herein, the challenges facing the continent include strengthening and supporting the political leadership and sustaining good governance – which are key to African nations' success. Diseases, especially AIDS, malaria and tuberculosis, place huge burdens on Africa: health is a key cause of poverty on the continent. Universal primary education and equal terms for women and girls are also critical for development. International institutions need to find ways to fund more infrastructure, particularly cross-border projects. Africa's private sector also needs a good environment in order to flourish.

It is argued that, despite limited resources and a weak mandate at times, the AU peacekeeping force has performed admirably in assisting with making peace and security a reality on the continent. However, to achieve some of the objectives and commitments made by African leaders for peace, security, good governance and development, member states will have to respect the norms and principles that they themselves have established, and should commit the required resources as well as secure extensive political and material support from the international community.

Based on the principles of subsidiarity and complementarity, there is also a need for effective coordination and harmonisation among AU members, the RECs, and civil society. The existing African institutions need to be rationalised, therefore, particularly at the level of RECs. This will allow the institutions to function more effectively, and make better use of scarce resources.

Transformation processes take decades – even generations. Similar regional institutions in Asia, Europe and Latin America took many years to establish themselves. Thus, the AU admittedly faces tremendous organisational and financial barriers at the same time as having to deal with poverty and conflicts on the continent.

Despite various obstacles, the AU remains Africa's hope. In many ways, it is a testimony to progress – in development, in security, in human rights – the pillars on which the AU's Constitutive Act is built. As the then UN Secretary-General Kofi Annan stated in his address to the Banjul Summit, –⁴⁰

... the African Union itself is in many ways the most eloquent testimony of that progress, in development, in security, in human rights -- the three interlinked pillars on which the human family must build its future.

An institution which was created only six years ago has established itself as a defining voice in each one of those areas. And Africa as a whole has many success stories to tell in all three.

In order to promote effective programme implementation by and the efficient functioning of the AU, much depends on political will and financial support to operationalise the AU's structures. The operational and programme budget to finance the AU's operations that was approved for 2013 is about US\$280 million. Yet the AU has received only US\$77.3 million of this amount via its member states' contributions: the remainder is paid from partner funds. Thus, more than 90% of the budget will be financed by partners. However, pledges by partners have sometimes not materialised or funds have been disbursed late – resulting in a shortage of resources and, hence, the non-implementation of programmes. This is a situation that calls into question Africa's ownership of its programmes, since partners can make demands that are not necessarily to Africa's benefit. Moreover, despite years of trying to find alternative sources of funding, the AU has not yet adopted the proposals made in this regard by the High-level Panel led by former President Olusegun Obasanjo. This leaves the AU in the position of continuing to depend on foreign sources of funding, which is untenable.

Nonetheless, despite the AU's limitations, Namibia strongly supports the continental body and participates in its programmes. It has also been a fully paid-up AU member state since it joined the OAU.

Conclusion

As an AU member state, Namibia has the responsibility of increasing knowledge of its role within the organisation. This includes providing information on activities in which it is involved, such as serving on AU organs and participating in meetings such as the Assembly, where far-reaching decisions are taken.

Namibia sets a good example as a democratic state, with a model Constitution and Bill of Rights. It should, therefore, become an ardent advocate for the promotion of good

40 See <http://www.un.org/sg/statements/?nid=2117>, last accessed 30 September 2013.

governance, democracy and human rights on the continent. Similarly, it has paved the way for the promotion of a pan-African spirit through the adoption and display of AU symbols, and through celebrating Africa Day as a national holiday. This is an example which can be followed by other AU member states.

The 17th Ordinary Session of the AU took place in Malabo, Equatorial Guinea, in 2011 against a backdrop of the Libyan crisis and the warrant of arrest issued against Libyan President Muammar Gaddafi. In his report to the AU Summit, the Chairperson of the AU Commission pointed out that Africa was marginalised when it came to managing crises that primarily concerned Africa, and this represented a disturbing trend in international relations.⁴¹ In this regard, it might be important to look at the state of affairs in terms of Africa's actions in the management of conflicts, including its reaction to emerging conflicts, as well as Africa's relations with international partners. The management of conflict by Africans will require member states to take leadership and ownership in matters of peace, security and development on the continent, including speedy interventions where necessary, and to enable and make use of the AU peace and security architecture that can react promptly in terms of managing conflicts.

In the final analysis, Namibia's foreign relations are guided by the principles underlying its relationship with the AU. It is safe to argue, therefore, that Namibia can only be as effective in its role as an agent of change in the landscape of foreign relations as the AU is.

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Appendix 1

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- Protocol to the Court of Justice of the African Union (9 December 2003)
- Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights (9 June 1998)
- Protocol on Amendments to the Constitutive Act of the African Union (9 December 2003)
- African Charter on Democracy, Elections and Governance (10 May 2007)
- Convention governing the specific Aspects of Refugee Problems in Africa (11 November 2009)
- Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) (23 October 2009)
- African Nuclear-Weapon-Free Zone Treaty (Pelindaba Treaty) (11 April 1996)
- Revised African Convention on the Conservation of Nature and Natural Resources (9 December 2003)
- Constitution for the African Civil Aviation Commission (11 May 2010)
- African Maritime Transport Charter (13 July 1999)

African Union instruments ratified to date

- Constitutive Act of the African Union (**53** of 53 members ratified)
- African Charter on Human and Peoples' Rights (**53** of 53 members ratified)
- Statute of the African Union Commission on International Law (**53** of 53 members ratified)
- Treaty Establishing the African Economic Community (**49** of 53 members ratified)
- Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament (**47** of 53 members ratified)
- African Charter on the Rights and Welfare of the Child (**46** of 53 members ratified)
- Protocol Relating to the Establishment of the Peace and Security Council of the African Union (**44** of 53 members ratified)
- African Union Convention on Preventing and Combating Corruption (**31** of 53 members ratified)
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (**30** of 53 members ratified)
- Convention of the African Energy Commission (**28** of 53 members ratified)
- Agreement for the Establishment of the African Rehabilitation Institute (**25** of 53 members ratified)
- African Youth Charter (**20** of 53 members ratified)

The European Union: Relations with Namibia

*Raúl Fuentes Milani**

Introduction

The signing of the Namibian Declaration of Independence on 21 March 1990, bringing to life Namibia as a sovereign democratic state, remains a high point in history and an inspiration for many peoples in the world, regardless of nationality.

The European Union (EU) – the European Community at the time – welcomed the birth of the new country. Governmental relations were established the day after Independence, building on the moral and financial support that several EU member states such as Finland, France, Germany, Spain, Sweden and The Netherlands had provided to the South West Africa People’s Organisation (SWAPO)¹ during the liberation struggle.

These relations were further consolidated by Namibia’s accession to the Lomé Convention,² later succeeded by the Cotonou Agreement,³ which remains a cornerstone of EU–Namibian relations. As a result, the EU and Namibia are part of a wider EU–ACP (Africa, Caribbean, Pacific) partnership and enjoy “excellent relations”, in the words of President Hifikepunye Pohamba, which pertain to various fields such as democratic governance, human rights, trade, water and sanitation, rural economic growth, environmental protection, human resources development, science and technology.

The reinforcement of the EU’s capacity to act beyond its frontiers, with the creation of the European External Action Service, represents an opportunity to upgrade EU–Namibian relations. Whether we will be able to carry these relations to their full potential will depend on our capacity to dwell in the values of democracy, freedom and prosperity, which Namibia and the EU share on the basis of mutual respect.

I have organised this presentation on EU–Namibian relations from three complementary angles: political relations, trade, and development cooperation. I have tried to focus on what the relations are today, or what *I* think they are. In this regard, let me clarify

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1 Today the ruling SWAPO Party of Namibia.

2 For further information, see Gruhn (1976:240–262) as well as an overview provided by the European Commission (2012).

3 Council Decision of 14 May 2010 on the signing, on behalf of the EU, of the Agreement amending for the second time the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, as first amended in Luxembourg on 25 June 2005; OJ L287 of 04/11/2010, p 1.

that the lines which follow were written in my personal capacity and do not engage the institution I currently represent.

Political relations: The European External Action Service

The EU is arguably the most successful and sophisticated supranational organisation in history. Starting with the creation of the Common Market in 1957⁴ among the six founding member states, the EU has grown larger and more integrated, extending its competencies to justice and home affairs, economic and monetary policy, and foreign and security policy – to name but a few.

In 2009, the EU decided to reinforce its capacity to act beyond its frontiers by concentrating in a single person⁵ – the High Representative of the Union for Foreign Affairs and Security Policy,⁶ Baroness Ashton – the functions which had so far been exercised by the six-monthly rotating Presidency, the High Representative of the Common Foreign and Security Policy, and the Commissioner for External Relations. The EU also decided to provide the High Representative with a dedicated service, namely the European External Action Service (EEAS),⁷ of which the EU Delegations are an important element.

In practical terms, this means that EU Delegations assume the representation of the Union in third countries. Contacts with host countries on political issues – i.e. *demarches*, which were formerly carried out by a troika chaired by the member state in charge of the rotating Presidency – are now carried out by the EU Delegation. The Head of Delegation is obliged to take on the lead on reporting and presenting EU positions to its partners and the media.

In order to fulfil these tasks, the EU Delegation in Namibia was reinforced with a Political Section. This Section, together with the existing Operational Sections in charge

4 Treaty Establishing the European Economic Community, 25 March 1957, 298 UNTS.3, 4 Eur. YB 412 (*EEC Treaty or Treaty of Rome*).

5 Treaty of Lisbon led to the conferral of a legal persona to the EU. See Art. 47 of the Consolidated Version of the Treaty on European Union, 30 March 2010, 2010 OJ (C 83).

6 According to Art. 17 Treaty on European Union (TEU), the High Representative of the Union for Foreign Affairs and Security Policy is charged with the twofold mission to “conduct the Common Foreign and Security Policy” and “ensure the consistency of the Union’s external action”.

7 Art. 27(3) of the TEU constitutes the legal basis for the Council Decision of 26 July 2010 establishing the organisation and functioning of the EEAS (2010/427/EU, OJ L 201, 3 August 2010, pp 30–40). Pursuant to this provision, “the High Representative shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States”.

of the cooperation programme, Finance and Contracts, Administration, and a Press and Information Unit, makes the EU one of the better-staffed diplomatic missions in the country.

The creation of the EEAS is also an opportunity to ensure greater consistency and coherence for the EU's external action, since the end of the rotating Presidency abroad means that the representation of the Union is no longer subject to the changing capacities and sensitivities of the member state holding the Presidency for six-monthly periods. At the same time, it requires that the EU Delegation lends an ever more attentive ear to member states' voices. As sovereign states, EU members retain full capacity to run their bilateral affairs. The EU acts only in exercise of its competences (such as trade or the running of its development assistance programme) and in those issues where member states have agreed common positions.

Namibia is a very important partner for the EU as a reference for good governance in the southern African region. A very young country harbouring vivid memories of its liberalisation struggle, Namibia has penetrating views on the region's challenges. Namibia's positions on international affairs are respected and influential. At the same time, the Namibian Government has been successively reinforcing the foundations of the new nation by gradually putting in place the systems setting up an inclusive, democratic society with respect for human rights and the rule of law. These are principles which are also in the foundations of the EU and inspire its external action. The EU is ready to listen to Namibia and would like to dwell on these shared principles to address, jointly with Namibia, regional and global challenges – from peace and security to nuclear safety and climate change.

The key instrument in building a strong political partnership is political dialogue. As parties to the ACP–EU Partnership, which aims at preparing an interregional association between the EU and Africa, as enshrined in the Cotonou Agreement, the EU and Namibia –⁸

... shall regularly engage in a comprehensive, balanced and deep political dialogue leading to commitments on both sides.

Political dialogue is, therefore, a legal obligation. However, such dialogue also needs to be flexible: a tool to address, in a structured manner, any issue of common interest in order to contribute to peace, security and stability. Member states are associated with this dialogue, as may regional and subregional organisations and civil society be, where appropriate. Namibia and the EU regularly engage in political dialogue, including at the levels of Head of State and Prime Minister.

8 Article 8, Cotonou Agreement.

How can our political partnership work in practice?

In May 2011, together with some other 180 states, Namibia supported a United Nations (UN) Resolution which adapted the modalities for EU participation in the work of the UN General Assembly to the institutional structure of the EU established by the Treaty of Lisbon, namely the creation of the President of the European Council, the High Representative and the EEAS. This meant that, for the first time, a regional organisation had been awarded the right to speak and intervene in the work of the General Assembly alongside national states. Namibia's support of this ground-breaking move was very important to the Resolution's success.

The UN Conferences on Climate Change (Durban 2012) and Desertification (Windhoek 2013) may serve as a further example of EU–Namibian cooperation in the arena of political relations. Namibia and the EU share an interest in preserving the global environment and in fighting desertification. They also share advanced legislation and a sensitised population. But at the same time, they come from distant sides of the diplomatic spectrum in respect of addressing the issue of climate change, and suffer the challenge of desertification differently. Only through a respectful and attentive political dialogue will concurring views come to the surface and allow both Namibia and the EU to play a constructive role in such Conferences.

Trade: The Economic Partnership Agreement⁹

EU–Namibia trade amounts to roughly €2 billion, with a strong imbalance in Namibia's favour, which exports twice as much to the EU as it imports from there.¹⁰

The EU is the principal export destination for Namibian goods (32.2% of total exports, compared with 31% to South Africa). Minerals and diamonds account for around 65% of exports to the EU, followed by fish (10%), beef (6%) and grapes (5%), all of which enter the EU market at very low or zero tariffs under the Market Access Regulation. The EU awards such market access unilaterally, but the preferential terms expire on 1 October 2014.

The EU and Namibia are currently involved in the negotiation of an Economic Partnership Agreement (EPA), which constitutes a long-standing regional trade arrangement in association with seven Southern African Development Community (SADC) countries.¹¹

9 For more general information on Economic Partnership Agreements, see <http://ec.europa.eu/trade/wider-agenda/development/economic-partnerships/>, last accessed 9 November 2013.

10 For more information on trade relations with ACP countries, see <http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/regions/africacaribbean-pacific/>, last accessed 9 November 2013.

11 Angola, Botswana, Lesotho, Mozambique, Namibia, South Africa and Swaziland.

The negotiations have been going on for some time and, in fact, may well be approaching their successful conclusion.

In order to be compatible with World Trade Organization rules, EPAs will have to be reciprocal, meaning that both parties agree to give some degree of preferential access to their market. Taking into account SADC countries' development needs, the EU has agreed that this reciprocity will not be symmetrical in scope and time: while the EU will grant over 95% access to the European market, ACP partners are entitled to grant only limited access.¹²

An interim EPA was initialled in December 2007 by five countries¹³ of the SADC EPA group but signed by only four countries in June 2009.¹⁴ Namibia abstained on the grounds of some outstanding concerns. South Africa, on the other hand, asked to become part of the SADC EPA in 2006. The leap from an Interim EPA to a comprehensive EPA that would include South Africa was perceived as a particular challenge at the time. Firstly, South Africa is an emerging economy, not a developing one, which calls for greater ambition in the negotiation. Secondly, South Africa already benefits from a bilateral Trade and Cooperation Agreement with the EU.¹⁵

Despite these technical difficulties, the EU is engaged wholeheartedly in the negotiations for a comprehensive agreement as the best chance to set EU trade relations with the southern African region on a sound and mutually beneficial basis. In this context, Namibia remains crucial for the success of the negotiations. As an upper-middle-income country,¹⁶ Namibia cannot benefit from unrestricted access to the EU under the 'Everything but Arms' and the 'General Scheme of Preferences' provisions, which are open only to least-developed and lower-income countries. The establishment of a bilateral or multilateral legal framework to support EU preferences is paramount for securing Namibia's trade flows to the EU.

12 For more information on market access, see Council Regulation (EC) No. 1528/2007 of 20 December 2007, applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements; OJ L 348, 31 December 2007.

13 Botswana, Lesotho, Mozambique, Namibia and Swaziland.

14 Botswana, Lesotho, Mozambique and Swaziland; see Council Decision of 5 May 2009 on the signature and provisional application of the Interim Agreement with a view to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the SADC EPA States, of the other part; OJ L319, 4 December 2009.

15 Council Decision of 26 April 2004 concerning the conclusion of the Trade, Development and Cooperation Agreement between the European Community and its Member States, on the one part, and the Republic of South Africa, on the other part; OJ L127 of 29 April 2004.

16 According to the World Bank's main criterion for classifying economies, upper-middle-income economies are specified at US\$3,976 to US\$12,275 in gross national income per capita.

Development assistance

Until the creation of the EEAS, with its aspiration to bring our political relations to a new level, development cooperation has been the cornerstone of EU action in Namibia. Since Namibia's Independence, the EU and its member states have provided around 70% of the total development assistance received. Of this, the European Commission's share was over 30%.

Cooperation under the Cotonou Agreement

The ACP–EU Partnership Agreement is the main pillar of EU development assistance in Namibia. Under this framework, all cooperation activities are jointly decided and managed by the EU and Namibian authorities in a spirit of respect and solidarity.

The main elements of the ACP–EU Partnership Agreement are the consecutive European Development Fund (EDF)¹⁷ – a multiannual financial allocation, and the Country Strategy Paper and National Indicative Programme, which outline the cooperation strategies around selected sectors.

Immediately after Namibia's Independence, the EU mobilised an exceptional support budget¹⁸ of some 33.5 million European Currency Units (ECU), in support of 53 different projects in 1991 and 1992. Since then, Namibia has benefited from the 7th EDF (50 million ECU, plus 40 million ECU under the SYSMIN¹⁹ mechanism), the 8th EDF (52 million ECU), the 9th EDF (€97 million) and the current 10th EDF, which covers the period 2008–2013²⁰ with €105 million. A top-up of some additional €20 million was awarded in 2011 due to Namibia's excellent performance in managing its cooperation programme.

Since Independence, rural development and education have consistently received the bulk of EU assistance to Namibia. In addition, the 8th EDF incorporated tourism, trade and investment, while the 9th and 10th EDFs incorporated governance.

17 For general information on the European Development Fund, see http://ec.europa.eu/europeaid/how/finance/edf_en.htm, last accessed 9 November 2013.

18 For further information on the annual reports and accounts of the EDF budget, see http://ec.europa.eu/budget/biblio/documents/FED/fed_en.cfm, last accessed 9 November 2013.

19 A fund aimed at compensating variations of prices of mineral exports.

20 Decision No. 1/2006 of the ACP–EC council of Ministers of 2 June 2006 specifying the multiannual financial framework for the period 2008 to 2013 and modifying the revised ACP–EC Partnership Agreement (OJ L247, 9 September 2006).

An assessment of the 8th EDF strategy carried out in 2001²¹ concluded that, although the assistance programme had been successful, it could have benefited from greater support for the development of comprehensive frameworks to address poverty and public administration reform. The underlying idea was that assistance would be more efficient if it moved away from a project-led approach to consider broader strategies.

This revised approach was followed during the 9th EDF²² and, in particular, during the 10th EDF,²³ through the incorporation of sector budget support. This innovative mechanism, which is characteristic of EU development assistance, consists in channelling funds to the recipient country's treasury in support of an agreed sector strategy, concretised in several benchmarks or indicators with targets to be met within a certain time frame. Sector budget support, in the view of the European Commission, has the advantage of reinforcing the recipient country's ownership of the programme and ensures sustainability through the use of national systems and procedures.

Priority Area 1: Rural development

From the first National Indicative Programme in 1992 until today, agriculture and rural development have formed a prominent part of the cooperation between Namibia and the EU. For example, the Rural Poverty Reduction Programme (RPRP), financed from the 9th EDF (€53 million), was composed of five different components, namely –

- institutional support and capacity-building
- land reform
- rural roads
- rural water supply, and
- decentralised demand-driven actions.

Both sector budget support and traditional projects were used to implement the RPRP, some of whose achievements are the following:

- **Land reform:** The implementation of a €3.5 million grant was carried out by the Ministry of Land Reform and Resettlement. One of the direct results has been the issuing of 14,306 customary land registration certificates to people living on communal land, who now have guaranteed security of tenure.

21 Evaluation of EC Country Strategy: Namibia 1996–2000; available at http://ec.europa.eu/europeaid/how/evaluation/evaluation_reports/reports/acp/951584_en.pdf, last accessed 9 November 2013.

22 Council Regulation (EC) No. 309/2007 of 19 March 2007 amending the Financial Regulation of 27 March 2003 applicable to the 9th European Development Fund (OJ L82, 23 March 2007, pp 1–3.).

23 Council Regulation (EC) No. 617/2007 of 14 May 2007 on the implementation of the 10th European Development Fund under the ACP–EC Partnership Agreement (OJ L152, 13 June 2007, p 1).

- **Roads:** Funding was granted to the Ministry of Works and Transport to upgrade and/or build strategic rural access roads, using a labour-intensive approach, which included the construction of almost 2,000 km of gravel roads to rural communities.
- **Water supply:** During the period of financial years April 2004–March 2010, the water sector in Namibia constructed or rehabilitated a total of 1,341 water points, serving a population of 216,046 persons with increased access to safe and potable water.
- **Decentralised demand-driven actions:** These supported a wide range of small- and medium-sized projects which benefitted 164,760 people and created 4,000 jobs – two thirds of which are permanent.

The 10th EDF Country Strategy Paper and National Indicative Programme,²⁴ which covers the 2008–2013 period, originally focused on preparing a comprehensive programme for rural development using the entire budget available for this area of assistance (€45.2 million). This task proved to involve a highly complex process, necessitating collaboration from several line ministries. In the course of the Mid-term Review, the EU Delegation and the Namibian National Planning Commission agreed that the risk in not having a fundable programme ready for the 10th EDF was too high. It was then decided to award a reduced amount (€1.4 million) to support the Namibian Government in the development of a Rural Development Strategy, and to reserve the rest of the budget for a strong water and sanitation sector programme. According to this outline, the Namibian Water Supply and Sanitation Sector (NAWASA) Programme of the Ministry of Agriculture, Water and Forestry receives sector budget support of around €35 million to contribute to improved access to potable water and to appropriate sanitation for all Namibians.

Furthermore, it was decided to intensify the EU's engagement with traditional communities in communal areas by providing secure land tenure titles, infrastructure and advisory services in order to help integrate their activity with the mainstream economy.

A call for proposals in support of projects in the fields of climate change adaptation and mitigation complete our engagement with rural development under EDF10.

Priority Area 2: Human resources development

Vision 2030²⁵ calls for economic growth to be accompanied by equitable social development. These twin goals of growth with equity are to be pursued within a broader

24 Republic of Namibia–European Community, Country Strategy Paper and National Indicative Programme for the period 2008–2013; available at http://ec.europa.eu/development/icenter/repository/scanned_na_csp10_en.pdf, last accessed 9 November 2013.

25 Vision 2030 was published in 2004. A complete overview is available at http://www.npc.gov.na/vision/vision_2030bgd.htm, last accessed 9 November 2013.

strategic objective of transforming Namibia into a knowledge-based economy. However, Namibia's authorities are confronted with the fact that the equity and quality of education remain inadequate. Many learners leave school without the required foundation skills and competencies, and poor learning at primary level carries over to higher levels, making repetition (23.2% for Grade 5 in 2009) and drop-out rates (6% in Grade 7) high throughout the system.

The Namibian Government's huge investment into education and training since Independence has led to numerous changes. There have been considerable improvements in the infrastructure and several reforms have been introduced to improve access, equity, quality and efficiency in the system. Among these is the Education and Training Sector Improvement Programme (ETSIP),²⁶ which represents the sector's response to Vision 2030. This programme, led by the Ministry of Education, is the first fully-fledged sector-wide approach elaborated in Namibia that coordinates the contributions of all government offices, ministries and agencies as well as donors involved in the education sector. To achieve its objectives and deliver its expected results, ETSIP is estimated to cost about €240 million over five years.

EU support for human resources development has been one of the major areas of involvement in Namibia, even before Independence. Financial support has constantly increased, and reached €42 million under EDF10.

The EDF10 allocation of €42 million is crucial for ETSIP's viability, representing around 18% of its external funding. The allocation is provided directly to the State Revenue Fund through budget support. Results to be achieved focus specifically on activities underpinning equality of opportunity, improvement of the quality of teaching and learning, and strengthening system management towards greater efficiency and accountability.

The European Commission contribution will also help in safeguarding contributions from other development partners. It will provide a stable basis for EU member states that may consider joining the Programme at a later stage. Especially for those countries which no longer have a development office in Namibia, the joint assessments through annual sector reviews provide an excellent avenue through which to channel additional support.

Other areas of assistance under the EDF

Actions financed under other areas of the Country Strategy Paper for Namibia on the one hand aim to increase civil service efficiency in areas related to the priority sectors and,

²⁶ ETSIP, approved by Cabinet in February 2005, is a sector-wide programme covering all education levels and phased in three cycles. The first phase spans from 2006 to 2013.

on the other, leverage non-state actors' contributions to the priority areas as well as to the governance/democratisation agenda. The contribution to improved governance will include the following:

- Provision of capacity-building to the National Planning Commission/National Authorising Office for donor harmonisation
- Support to the Office of the Prime Minister for the roll-out of the Performance Management System to prepare the ground for civil service reform
- Support to the National Assembly and the National Council for the follow-up of development programmes
- Support to the Ministry of Finance in the field of public finance management, and
- Support to civil society organisations to leverage existing expertise and resources to further the objectives of the Country Strategy Paper.

Finally, the EU supports the Ministry of Health and Social Services (through a contribution agreement with the World Health Organization of €10 million) in implementing the Ministry's Road Map on Maternal and Child Health as part of the EU's efforts to ensure progress in achieving the UN Millennium Development Goals.

Other EU–Namibia cooperation activities

The EDF alone, however, does not give a global view of the EU's development cooperation. Other sources of EU engagement with Namibia are the budget lines,²⁷ soft loans and investment capital made available by the European Investment Bank (EIB), and the EU contributions to the Global Fund to fight HIV and AIDS, tuberculosis and malaria.

A new field of cooperation that the EU is currently exploring refers to how to enhance its contribution in the case of emergencies such as the floods and drought that have affected Namibia in recent years. The EU is certainly ready to respond to the calls for emergency aid that the Namibian Government may issue, but the EU wants to go beyond short-term measures. The recurrence of the floods requires that the EU reflect on medium- and long-term measures and improve its disaster-management response capacity. In this context, the EU has mobilised its EDF B-envelope, which contains a financial reserve that allows the restoration of smaller units of infrastructure affected by floods, improves camp management, and explores the involvement of the European Emergency Office.

The future

Over two decades since the establishment of formal relations, the bond between the EU and Namibia is multi-dimensional and strong. Together, and in a spirit of mutual respect,

²⁷ Named thus because they are financed directly from the EU budget in support, for instance, of non-state actors and human rights.

we have been able to adapt our partnership to changes in the EU, in Namibia, and in the international environment. The creation of the EEAS is an opportunity to reinforce our political relations in order to address bilateral, regional and global challenges. The accession of Namibia to the status of an upper-middle-income country – an auspicious piece of news in itself – will also have an impact on our cooperation, which may benefit from a shift to new sectors directly linked to productivity and job creation, thus ensuring the EU's contribution is a catalyst for growth.

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The United Nations and Namibia since 1990*

*Kari Egge***

Introduction

Namibia is a relatively small country in comparison with other members of the United Nations (UN), especially with regard to its population size and gross domestic product. However, considering its long fight for liberation; domestic progress on the economic and political front; and major achievement in building a nation characterised by peace, democracy and political stability in the post-Independence period, one can confidently say that Namibia is a small country with a big heart. Despite the existence of significant challenges, 21 years after Independence, freedom, peace and security still prevail, and the country is considered a democracy both in legal and political terms.

It is well documented that Namibia's long fight for freedom may not have been possible without the support by the UN over many years. In a number of ways, Namibia is a child of the UN. This is often underscored in conversations with those who either actively or indirectly participated in the liberation struggle. There are no legal or other obligations on Namibia to compensate the UN for its tremendous work in helping it achieve independence. However, the country, its people and its government still show appreciation to the UN for its role during the liberation struggle as well as in helping it strive for development and prosperity. Namibia's appreciation of the UN and the countries that assisted her in the fight for independence is witnessed by her tight engagement with the global body and her various contributions in the post-Independence period.

In attempting to describe the relations between Namibia and the UN (and vice versa), this article will focus on the three pillars of the UN, namely *Peace and security*, *Development*, and *Human rights*.

With regard to peace and security, Namibia's engagement in the UN peacekeeping missions will be highlighted, namely Namibia's contribution on several occasions by way of troops, law enforcement, and security personnel and observers to the UN's international peacekeeping and security missions.

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Namibia is not only a close UN development partner, but it also contributed to the crafting of the UN Millennium Declaration while Theo-Ben Gurirab was President of the UN General Assembly. The Millennium Declaration notably formed the basis for the drafting of the Millennium Development Goals (MDGs), which eventually became the UN and UN member states' long-term development agenda and strategy for global change.

Finally, the article will also examine the UN human rights agenda and Namibia's quest to promote, respect and fulfil its human rights obligations globally and in the country.

And since Namibia's relations to the UN are not a one-way street, the article will also describe the UN's current role in and contribution to Namibia.

Peace and security

Namibia's involvement in peacekeeping missions abroad

Namibia's contributions towards and support of the maintenance of international peace and security is a result of principle, policy and constitutional consequence and is, therefore, well founded. The Namibian Constitution states that Namibia, in its conduct of international relations, is obliged to promote international cooperation, peace and security;¹ and encourage the settlement of international disputes by peaceful means.² On closer analysis, these provisions complement and support the UN vision of maintaining international peace and security as outlined in the UN Charter.

The provisions also guide the country's foreign policy, which has as its prime objective the promotion of national security, peace and prosperity. These help to form the basis of Namibia's international engagements and, most importantly, support the UN principles of peaceful settlement to international disputes. Those constitutional provisions and principles also guide Namibia's contributions to UN peacekeeping missions.

The UN, having no permanent military infrastructure to draw from, relies on the contributions of its member states to assist in maintaining international peace and security. By virtue of article 43 of its Charter, the UN can call upon all its members to contribute towards the maintenance of international peace and security by providing armed forces, facilities and assistance.³ Since Independence, Namibia has actively and positively responded to the UN's calls to contribute forces and other forms of assistance.

1 Article 96(b), Constitution of the Republic of Namibia.

2 (ibid.:Article 96(e)).

3 Chapter VII: Action with respect to threats to the peace, breaches of the peace, and acts of aggression; Article 43(1–3), UN Charter. Available at <http://www.un.org/en/documents/charter/chapter7.shtml>; last accessed 26 July 2011.

As a result, and despite its small army size, the country has taken part in a number of UN peacekeeping and peace support missions in many countries.

Based on Namibia's constitutional support and the UN's need for assistance, the country has participated in UN peacekeeping missions with full commitment. Namibia's first engagement in such operations was as part of the United Nations Transitional Authority in Cambodia (UNTAC), 1992–1993,⁴ to which it contributed a contingent of 43 soldiers as well as equipment. In total, the country participated in three UNTAC missions. UNTAC was set up by the UN Security Council to ensure that the Agreements on a Comprehensive Political Settlement of the Cambodian Conflict were implemented.

Namibia also participated in the UN Angola Verification Mission (UNAVEM) III in 1996. UNAVEM was established to assist the Angolan Government and the União Nacional de Independência Total de Angola (UNITA) in restoring peace and achieving national reconciliation against a fragile politico-military background. Namibia continued to serve with the smaller UN Observer Mission in Angola (Mission d'Observation des Nations Unies à l'Angola, MONUA), which replaced UNAVEM III in 1997. In 1999, Namibia was also part of a panel of experts tasked with the responsibility of tracking violations of UN sanctions against UNITA. Thus, Namibia played an active part in advancing peace in Angola.

In 2003, Namibia took part in the UN Mission in Liberia (UNMIL)⁵ and initially contributed a contingent of 855 personnel, which included 844 troops, 6 civilian police officers, 4 staff officers, and 3 military observers. In the end, Namibia contributed 3,835 personnel to the mission.⁶ UNMIL was ordered by the UN to replace the 3,250 strong West African multinational force, in order to help stabilise Liberia and support the implementation of the ceasefire agreement. UNMIL ended in 2007.

Namibia participated in the UN Mission in Ethiopia and Eritrea (UNMEE)⁷ as well, by providing 26 personnel. UNMEE was tasked by the Security Council to prepare the ground for future peacekeeping missions.

4 Established by United Nations Security Council (UNSC) Resolution 745 of 28 February 1992. Available at <http://www.un.org/en/peacekeeping/missions/past/untacbackgr2.html>; last accessed 26 July 2011.

5 Established by UNSC Resolution 1509 (2003). Available at <http://www.un.org/en/peacekeeping/missions/unmil/resolutions.shtml>; last accessed 26 July 2011.

6 Mushelenga (2008:220). Available at http://uir.unisa.ac.za/bitstream/handle/10500/2703/dissertation_mushelenga_%20s.pdf?sequence=1; last accessed 26 September 2011.

7 Established by UNSC Resolution 1312 (2000), adopted by the UNSC at its 4181st meeting, 31 July 2000. Available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/583/66/PDF/N0058366.pdf?OpenElement>; last accessed 26 July 2011.

Apart from the above missions, Namibia provided military observers to Burundi, Ivory Coast, Kosovo, Sierra Leone, Sudan, and Timor-Leste.⁸ Up to September 2010, Namibia has also been part of seven other UN peacekeeping missions, including the United Nations Mission in the Central African Republic and Chad (MINURCAT).⁹

Domestic policy decisions on peacekeeping and security

By being part of UN peacekeeping missions, Namibia demonstrates a better understanding of peace and security issues within an international, regional, and domestic context. Indeed, Namibia's Defence Policy reflects this position, emphasising that –¹⁰

Namibia's foreign and defence policy is founded on the principles of peaceful co-existence and co-operation with other countries and in the operation of international law. The day-to-day guarantee of security lies in the maintenance of international order and, in particular, in the regional stability.

This underscores Namibia's understanding that, if it is to be secure and continue to prosper, it needs to function within a peaceful and secure neighbourhood – regionally and beyond. This explains Namibia's contribution to efforts by the UN and other regional bodies aimed at keeping and bringing peace and security to the southern African region and elsewhere.

Namibia's efforts and contributions also need to be understood within the framework of its history. Namibia is a product of international efforts garnered through the UN. The UN's involvement and support for Namibia's independence can be traced back to 1946, when the first-ever session of the UN General Assembly attempted to persuade South Africa to place Namibia under the UN trusteeship system. A milestone was placed in 1978, when the UN Security Council (UNSC) adopted Resolution 435, paving the way for Namibia's independence. That journey continued with the successful implementation of the UNSC Resolution setting up the United Nations Transition Assistance Group (UNTAG), which was then deployed to Namibia to monitor South Africa's withdrawal and provide electoral assistance.

Finally, the country's independence was witnessed by the then UN Secretary General, Javier Perez de Cuellar,¹¹ who also administered the oath of office to the first-ever President of an independent Namibia, His Excellency Sam Nujoma. Many countries had expressed and shown their solidarity with the Namibian cause from the beginning until its independence; therefore, as a free and independent country, Namibia now supports

8 Ministry of Defence [(n.d.)]. Available at <http://www.mod.gov.na/>; last accessed 10 July 2011.

9 A product of UNSC Resolution 1861 of 14 January 2009. Available at <http://www.un.org/en/peacekeeping/missions/minurcat/facts.shtml>; last accessed 30 August 2011.

10 Ministry of Defence [(n.d.)].

11 Term of service January 1982 to December 1991.

peacekeeping missions in other countries by committing troops and observers as part of its obligations as a member of the international community and the UN.

Namibia has gained a good deal of experience in peacekeeping operations and continues to build up its military expertise. This is crucial for future operations at home and as part of the UN. The country has established a name for itself in the UN as a strong participant in the maintenance of international peace and security. Therefore, Namibia has transformed itself from being a security concern prior to its independence, to being a fully fledged and active member on all fronts today.

By supporting and helping to maintain international peace and security, the country also helps to reduce human suffering and enhance the protection of vulnerable civilians in crisis. This helps reduce conflict-related challenges like increasing numbers of refugees, harassment and abuse of civilians, war crimes and intolerable acts of war, and humanitarian suffering. If not prevented and managed, these issues can stretch the UN's limited resources to its limits.

Today, Namibia takes part in many UN-sponsored workshops and training and capacity-development programmes aimed at enhancing knowledge, skills and understanding in peacekeeping and peace support missions. For example, in March 2010, Namibia participated in the Lessons Learned Workshop on Management of Police Deployment to Peace Missions, organised by the Pearson Peacekeeping Centre.¹² Namibian officials also attended a course on combatting sexual and gender-based violence, delivered in Khartoum to female UN police officers deployed in the Darfur (African Union–United Nations Mission in Darfur/UNAMID)¹³ and Sudan (UNAMIS) crises.¹⁴ The skills gained from these training programmes are undoubtedly put to good use, and will have a positive spill-over effect at home and in future UN peacekeeping missions. Moreover, Namibians who have participated in many of these missions are being praised and continue to be recognised for their role and good work. A case in point is when Lieutenant-General Chikadibia Obiakor of the UN Mission in Liberia decorated the peacekeepers of the Namibian contingent with UN medals for their effort and contribution towards maintaining peace and security in that country.¹⁵

12 See <http://www.peaceoperations.org/index.php/capacity-building-programs/past-projects/pan-africa/namibia-policy/lang/en/>; last accessed 27 July 2011.

13 UN–African Union hybrid operation in Darfur. It was established on 13 July 2007 with the adoption of UNSC Resolution 1769. Available at [http://daccess-ods.un.org/access.nsf/Get?Open&DS=S/RES/1769%20\(2007\)&Lang=E&Area=UNDOC](http://daccess-ods.un.org/access.nsf/Get?Open&DS=S/RES/1769%20(2007)&Lang=E&Area=UNDOC); last accessed 21 May 2011.

14 UN Missions in the Sudan, established by UNSC Resolution 1590 of 2005. Available at [http://daccess-ods.un.org/access.nsf/Get?Open&DS=S/RES/1590%20\(2005\)&Lang=E&Area=UNDOC](http://daccess-ods.un.org/access.nsf/Get?Open&DS=S/RES/1590%20(2005)&Lang=E&Area=UNDOC); last accessed 21 May 2011.

15 UNMIL [n.d.].

Namibia was only two years old in 1992 when it first committed troops to UNTAC. To date Namibia has contributed to more than six missions in total. The country's contribution to world order is not only time and money well spent, but is also about the opportunities that were created by being part of these missions that offered the country a rare chance to share with the rest of the world its own successful experience and transition from a conflict-ridden country to a fully independent and sovereign state.

Development

Namibia's involvement regarding the issue of development at the UN

Shortly after becoming President of the UN General Assembly in September 1999, and before the issue of terrorism became the most urgent topic in the international community, Theo-Ben Gurirab of Namibia stated that poverty –¹⁶

... can cause political instability, economic retrogression, social disorder, widespread acts of terrorism and crime leading inevitably to the breakdown of family cohesion and negation of human dignity. It is against poverty – the father of all evils – that the international community must declare war and achieve victory in the interest of protecting our existence and safeguarding future generations.

These dramatic and evocative words made clear how serious he and Namibia are about the problem of poverty, and also how important it is for the countries with higher levels of development and more resources to support the underdeveloped ones.

Namibia's greatest contribution to the international community so far has been its assistance in the establishment of the current UN development framework and strategy, comprising the MDGs. At the end of his term, in September 2000, Theo-Ben Gurirab submitted a Draft Resolution containing a proposal for the UN Millennium Declaration. The Draft Resolution was presented at the UN Millennium Summit and was then adopted by the UN General Assembly in New York in 2000. The Millennium Declaration¹⁷ is the key document on which the MDGs are based. Most of the phrases of the final MDGs were directly derived from the Draft Resolution, especially sections III and IV therein. Namibia's contribution was of great importance as the MDGs are the UN's and its member states' long-term strategy for development.

The attainment of the MDGs is reviewed on a regular basis. Namibia has been active in this respect as well. At interval MDG Summits, the Namibian Government has regularly

16 *Government News*, 20 September 1999; "Assembly President says international community must achieve victory in war against poverty". Available at http://www.gov-news.org/gov/un/news/assembly_president_says_international_community/66743.html; last accessed 16 June 2011.

17 UN (2000b),

reported on its progress towards the goals. Currently serving President Hifikepunye Pohamba participated in the last periodic review in New York in September 2010, and made a strong statement on Namibia's contributions towards the MDGs. Although Namibia has introduced a special campaign and efforts on the MDGs, it still lags behind the targets set for MDG4, 5, and 6, and the indicator on nutrition under MDG1.

Namibia is among the UN member states in sub-Saharan Africa that is hardest hit by the HIV and AIDS pandemic. In support of the global fight against the pandemic and the attainment of MDG6, Namibia is collaborating closely with relevant UN bodies at all levels, particularly with UNAIDS and its ten co-sponsors, by sharing lessons and experiences in areas like preventing mother-to-child transmission of HIV – in a realm in which Namibia is a success story among UN member states.

Namibia has also actively provided support to the UN reforms introduced in 1996 by then Secretary General Kofi Annan. A call for reform has since affected the whole UN system: the Secretariat in New York, the Security Council, and all the UN agencies, funds and programmes that work at country level at the request of the UN Secretariat and its various bodies. Namibia volunteered to become a pilot country to the UN reform when these were identified through a voluntary process in 2006. Cape Verde was instead chosen in that category.

Similarly, during 2008 and 2009, Namibia co-chaired the Session on System-wide Coherence in the UN and wanted to become a 'self-starter' country in terms of the UN reforms. At that stage, however, the UN agencies, particularly those at country level, were not ready to implement the reform agenda in Namibia. However, negotiations continued, mainly at New York level and through the UN Development Group office. In April 2010, Namibia's Prime Minister, Nahas Angula, committed Namibia to becoming a self-starter country to the UN reform programme during a meeting with the UN Development Programme (UNDP) Administrator, Helen Clark, who is also the Chair of the UN Development Group. Since then, Namibia has been an even stronger supporter of UN reform, and has requested that the UN system in Namibia come together around the "Delivering as One" concept to ensure a more coherent approach to development assistance, a reduction of overlap and duplication of efforts, more effective utilisation of resources, and a results-based management approach. The coordinating body for this long-term process in-country is Namibia's National Planning Commission.

The UN's involvement in respect of development in Namibia

Conversely, the UN has also been very active in Namibia since Independence. Various UN agencies established themselves in the country after its independence at the new government's request, and have since then worked closely with most government bodies through clearly defined country programmes and the UN Development Assistance Framework (UNDAF) – the overall strategy for the UN system's support to the Namibian Government and civil society organisations.

Non-resident UN agencies also assist the country through technical assistance frameworks and in areas identified by the government. Today, there are 12 resident and more than 20 non-resident UN agencies and offices supporting Namibia in respect of implementing its Vision 2030 and goals outlined in respective five-year National Development Plans. The UN system also supports MDG implementation through policy development, technical assistance and, in some areas, service delivery.

During the floods in Namibia in the first of 2011, the UN expanded its work to introduce collaboration on the UN's Humanitarian Reform programme. This has led to an increase of agencies that support Namibia's drive towards the more efficient reduction of disaster risks and an improved humanitarian assistance framework.

UNDAF (2006–2010)

Quite a number of UN agencies operate in Namibia. Apart from the UNDP already mentioned, there are the United Nations High Commissioner for Refugees (UNHCR), the United Nations Educational, Scientific and Cultural Organisation (UNESCO), United Nations Population Fund (UNFPA), United Nations Children's Fund (Unicef), the World Bank (WB), the World Food Programme (WFP), the United Nations Office of Drugs and Crime (UNODC), International Civil Aviation Organization (ICAO) and the World Health Organisation (WHO).¹⁸ These agencies, in collaboration with the Namibian Government and civil society, developed the UNDAF. Besides international commitments related to development, the UNDAF –¹⁹

... aims to guide integrated programming among the UN Agencies working in Namibia to support government and civil society to reach Namibia's economic and social development goals, outlined in Vision 2030, the Millennium Development Goals, [and] NDP III ...

The UNDAF specifies UN support in the areas of HIV and AIDS, livelihoods and food security, and capacity-building for the governmental and civil society sectors.²⁰ The UNDAF is based on Namibia's 2004 MDG report, which coined the term *triple thread*²¹ to describe these three areas of support. The UNDAF also identifies the roles of the respective UN agencies, and how they are to collaborate with the government and civil society.

Following the introduction of the “Delivering as One” agenda as part of the UN reform since May 2010, and based on the current UNDAF period (2006–2012) ending

18 See UN ([n.d.]:a:1).

19 (ibid.:1).

20 See (ibid.:v, 3).

21 GRN (2004:28).

on 31 December 2012, a new UNDAF process has started in Namibia by way of the development of a situation analysis. The aim of this analysis is to lay the foundation for the UN's future development assistance to Namibia, and offers a UN perspective on Namibia's development. Furthermore, the new process serves as a contribution towards Namibia's preparations for its Fourth National Development Plan (NDP4).

The UN agencies working in Namibia provide assistance and technical support in areas such as the following:

- Health
- Nutrition
- Education
- Food security and livelihoods
- HIV and AIDS, and sustainable financing of the national AIDS response
- Programmes for decent work
- Population issues, and sexual and reproductive health
- Refugee assistance
- School feeding programmes
- Social security and welfare
- Climate change and environment
- Emergency prevention and response
- Civil aviation
- Anti-corruption measures
- Good governance and decentralisation
- Cultural tourism, and
- Human rights and gender.

The above list is far from exhaustive, but it provides an insight into how broad the collaboration between the Namibian Government and the various UN bodies is.

The United Nations information Centre (UNIC) also collaborates with many government institutions, the University of Namibia, the Polytechnic of Namibia, public and private institutions in the country, and the media, in order to provide information on the UN, globally and locally. In addition, UNIC works closely with a number of school outreach programmes in the country.

The United Nations Department for Safety and Security (UNDSS) is another UN representative at the UN House in Windhoek. The UNDSS provides security and safety advice to the UN and UN-deployed staff. It also enhances knowledge and collaboration efforts with the respective government bodies on the importance of safety and security issues related to UN staff and their various programme operations around the country and in the region. In addition, the UNDSS provides training to security personnel employed at the UN to enhance their knowledge and skills.

Human rights

Human rights constitute the third pillar of the UN system's work, and represent an area that has become increasingly important during the world organisation's 66-year lifespan to date. With most member states having adopted the Universal Declaration of Human Rights (UDHR) of 10 December 1948, the Declaration has provided the framework for the UN's work in human rights. An increasingly large number of UN Conventions, Treaties and other instruments have been drafted among member states and adopted by the UN General Assembly for ratification by member countries. Since its independence, Namibia has ratified and signed a number of human rights Conventions and Treaties, as listed below. This has had a critical impact on the country's legislative work, norms and standard-setting, as well as its policy development in the respective sectors and with the bodies responsible. Ratifying human rights Conventions and Treaties means that national legislation needs to be aligned with their intention and content. Namibia has taken considerable strides in this direction. Nonetheless, the country has admitted it has some distance to go before its human rights duties and obligations are fully integrated into national legislation and policies that reflect the government's obligations towards its citizens in this respect. Human rights duties and obligations rest with government, being the primary duty-bearer in respect of its own citizens. It is important to note that the international community and the UN have a duty to support and provide resources to countries like Namibia in its work to fulfil obligations such as these that will help give effect to each citizen's human rights.

The basic principles that are set out for the UN's human rights work are very important, as they also form the foundation for the UN's support to Namibia in this area. These principles entail that, since human rights are individual, no forms of discrimination are permitted to occur in any country on the basis of race, sex, cultural norms, political views or belonging, or religious beliefs.

Thus, all citizens have equal rights – whether they are girls or boys, women or men, rich or poor. Violations of these principles and the various Conventions and Treaties that give effect to them should be reported to the UN bodies that are responsible for providing the necessary technical and administrative support to any holder of a right that has been violated and/or abused.

Besides the Office of the High Commissioner for Human Rights (OHCHR) and its regional office for southern Africa, other UN agencies are instrumental in giving effect to human rights. These are linked to some of the UN agencies' mandates and their roles vis-à-vis national institutions such as government ministries which they assist in abiding by the expectations of Conventions and Treaties. For example, Unicef, on behalf of the Global Staff Association, oversees the implementation of the Convention on the Rights of the Child (CRC), while the UNFPA oversees sexual and reproductive health rights. WHO is responsible for ensuring rights to health are respected, while the Food and

Agriculture Organisation (FAO) performs this function in respect of the right to food and nutrition.

Namibia and UN human rights Conventions and Treaties

From the very beginning, the UN made the promotion, protection and realisation of human rights its top priority. Since the adoption of the UDHR in 1948, the UN and its member states have established a great number of treaties covering various human rights topics. Of the nine core international human rights treaties that fall under the umbrella of the United Nations,²² Namibia has ratified or acceded to seven, as follows:

- The International Covenant on Civil and Political Rights (ICCPR)
- The International Covenant on Economic, Social and Cultural Rights (ICESCR)
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- The Convention on the Rights of the Child (CRC), and
- The Convention on the Rights of Persons with Disabilities (CRPD).

Namibia has not yet signed or ratified the following treaties:

- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), and
- International Convention for the Protection of All Persons from Enforced Disappearance (CPED).

Various human rights institutions within the UN human rights framework oversee the implementation of UN Conventions, Treaties and other instruments. These are the UN Human Rights Council (UNHRC), which superseded the UN Commission on Human Rights (UNCHR) in 2006; the Human Rights Council Advisory Committee; the Social, Humanitarian and Cultural Affairs Committee (or *Third Committee*) of the General Assembly; and, finally, the Office of the High Commissioner for Human Rights (OHCHR).

After the World Conference on Human Rights in 1993, OHCHR Regional Offices were established with the aim of coordinating human rights issues in the UN system and within the international community, and promoting human rights at the regional and national level. The goal of these Regional Offices is to make sure that all civil, political and socio-economic, and cultural human rights are guaranteed. The Southern Offices, for example,

22 See OHCHR ([n.d.]a).

support country governments and civil society actors in strengthening human rights protection systems such as parliaments, the judiciary, and human rights institutions.

Namibia's Prime Minister Nahas Angula made a strong statement by declaring employment a human right.²³ This is in line with the International Labour Organisation (ILO) Convention²⁴ that Namibia has ratified, and helps the government in its efforts to focus on unemployment as a top priority for the nation's development. It is of great interest, therefore, to see how Namibia contributes to the UN's human rights framework and whether Namibia complies with the stipulated obligations.

Monitoring and reporting

Each of the above-mentioned Conventions and treaties has a monitoring body to which all member states have committed themselves to submit regular reports with regard to progress in implementing the rights that have been agreed upon. In most cases, the first report has to be submitted a year after the ratification/accession of a treaty, while subsequent reports are due five years after such ratification/accession. The Committee examines the reports, discusses its concerns with member states, and makes recommendations for improvement.

Namibia has written reports to six of these monitoring bodies, but with delays. Delayed submissions have a considerable impact on a country's opportunities to surge ahead as regards implementing its obligations and duties in respect UN instruments. Namibia's delayed reporting is a concern that has been brought up with the bodies responsible during the recent (2011) Universal Periodic Review (UPR), but also during OHCHR visits to Namibia. Some of these reports were delivered years after they were due. According to the list, there are at least three outstanding as at May 2010. The records show the following up to May 2010, which are the last data available:

- The second report to the Committee Against Torture was due in December 1999, but had not been delivered by May 2010²⁵
- The initial report to the Human Rights Committee monitoring implementation of the ICCPR was due in 1996, but was only submitted in October 2003²⁶
- In the case of the Committee on the Elimination of Racial Discrimination, Namibia has not yet submitted a report for the period 1997–2006²⁷
- The Committee on Social, Cultural and Economic Rights state that Namibia has not submitted its core document since acceding to the ICESCR in 1995, and no report had been submitted by May 2010²⁸

23 See Nakale (2011).

24 The Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C.111); ratified in 2001.

25 UN (2010c).

26 UN (2009).

27 UN (2007).

28 UN (2010d).

- The reports to the Committee on the Elimination of Discrimination Against Women were submitted with delays of four to eight years, with the last one still being outstanding by May 2010²⁹
- Despite the fact that the initial report to the Committee on the Rights of the Child was submitted on time, the submission of the subsequent report was delayed by 12 years,³⁰ and
- In the case of the Committee on the Rights of People with Disabilities, the report has been due since June 2010.³¹

Apart from delays in submitting its reports, Namibia still has some way to go before the international instruments to which it has acceded are fully integrated into national legislation, policies, development plans and programmes, which are the normal means for implementing and realising these instruments.

In terms of other issues outstanding, also raised during the recent UPR meeting in Geneva, is that the Namibian Government has not yet made any of the declarations referred to in Articles 14 and 22 of the ICERD and CAT, respectively, where it recognises the competence of the respective treaty bodies to receive complaints from individuals or groups claiming that their human rights guaranteed in the said treaties have been violated by Namibia. In addition to this, the Namibian Minister of Justice conceded the following in Parliament on 21 April 2011:³²

Our legislation needs to be reviewed and/or amended in order to make provision for the domestication of international instruments which we have ratified or acceded to. It serves no purpose for us to ratify international instruments if our domestic laws are not in line with those instruments.

It is important to note that Namibia ratified the Rome Statute of the International Criminal Court in June 2002.³³

Universal Periodic Review

The UNHRC, which was established in March 2004 and succeeded the UNCHR, introduced the UPR as a mechanism to monitor and control the implementation of human rights agreements. The UPR for Namibia took place in Geneva from 24 January–4 February 2011.³⁴ Namibia's national report was submitted³⁵ to the UNHRC. At the UPR, Namibia reported on a number of human right topics, namely –

29 UN (2006a).

30 OHCHR (2010a).

31 OHCHR ([n.d.]b).

32 Ministry of Justice Budget Presentation, 2011. Hon. Pendukeni Iivula-Ithana, Member of Parliament and Minister of Justice.

33 Coalition for the International Criminal Court (2009).

34 UN (2011).

35 UN (2010a).

- affirmative action
- children
- discrimination, racism and xenophobia
- education
- gender
- health care
- non-governmental organisations and civil society
- refugees and asylum seekers
- religious and socio-cultural rights
- the role and independence of the media
- torture
- trafficking, and
- social security.

The country's report also stated that "Namibia is attentive of its international obligations to submit the outstanding periodic reports",³⁶ and mentioned that the country lacked the human and material resources as well as the internal organisational framework to coordinate all ministries concerning human rights issues. The UPR Working Group made 27 human-rights-related recommendations, and set a deadline for their examination and/or implementation.³⁷

The recommendations from the UPR deliberations touch on a number of international human rights issues, such as child labour and asylum. The recommendations also demanded an end to the discrimination and marginalisation of indigenous people³⁸ and minorities.³⁹

Nonetheless, despite the weaknesses highlighted by the UPR, there are also positive aspects worth mentioning, such as the accreditation of the Office of the Ombudsman

36 (ibid.).

37 The Universal Human Rights Index of UN Documents can be accessed for all recommendations all observations the UN has made on Namibia. Available at <http://www.universalhumanrightsindex.org/>; last accessed 19 September 2011.

38 Compare Namibia's position on the same topic in the section entitled "Namibia's participation in the UN human rights system".

39 See the Universal Human Rights Index of UN Documents for the 1954 Convention Relating to the Status of Stateless Persons; the 1961 Convention on the Reduction of Statelessness; the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the 2002 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the 2006 International Convention for the Protection of All Persons from Enforced Disappearances; and the 2008 Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. Available at <http://www.universalhumanrightsindex.org/>; last accessed 19 September 2011.

with an “A” status,⁴⁰ meaning that it fully complies with the Principles relating to the Status of National Institutions, named the *Paris Principles*.⁴¹

Special Procedures

Apart from the UPR, the UN human rights system provides for what are known as *Special Procedures* with regard either to a country or to thematic issues. These Procedures –⁴²

... usually call on mandate-holders to examine, monitor, advise and publicly report on human rights situations in specific countries or territories, known as country mandates, or on major phenomena of human rights violations worldwide, known as thematic mandates.

There are various Procedures, of which three were conducted for Namibia.⁴³ One such Procedure was conducted in 2011 by way of a country visit by an independent expert (*mandate-holder*) on the topic of water and sanitation,⁴⁴ which falls under the thematic mandates.⁴⁵ In addition, Namibia received at least four letters of allegation and urgent appeals sent by Special Procedures mandate holders, and it replied to only one.⁴⁶ In the period from 1 January 2006 to 30 June 2010, the country also received 23 questionnaires, but had responded to none of them.⁴⁷ A Namibian human rights organisation, Namrights, points out that Namibia has not extended a standing or open invitation to all HRC Special Procedures, unlike 82 other UN member states have done.⁴⁸ An invitation would demonstrate Namibia’s commitment to human rights issues, since it would allow mandate holders to visit the country at any time.

Namibia’s participation in the UN human rights system

The UNHRC was established in 2006 and has 20 African members. Namibia is not yet among these members.⁴⁹ The UNCHR – the predecessor of the UNHRC – was

40 See UN (2010b).

41 See UN (2010e:8). For the Paris Principles, see OHCHR ([n.d.]e).

42 OHCHR ([n.d.]h).

43 (i) Standing invitation (“A standing invitation is an open invitation extended by a Government to all thematic special procedures. By extending a standing invitation States announce that they will always accept requests to visit from all special procedures. As of 31 August 2011, ... 88 States have extended a standing invitation to thematic procedures”; OHCHR [n.d]f); (ii) “Country and other visits” (OHCHR [n.d.]g); and (iii) “Urgent appeals”, “Allegation letters” (OHCHR [n.d.]h), and questionnaires on thematic issues.

44 See OHCHR ([n.d.]c).

45 See OHCHR ([n.d.]d).

46 See UN (2010b). Since the document just states “[d]uring the period of review”, but does not give the exact dates, one cannot say whether Namibia received more than these four letters.

47 (ibid.).

48 Namrights (2011a). Available at <http://www.nshr.org.na/index.php?module=News&func=display&sid=1480>; last accessed 26 September 2011.

49 See UNHRC ([n.d.]a).

established in 1947. Even before Namibia became independent, it was not a member of the UNCHR.⁵⁰ Similarly, Namibia has not yet become a member of either the current Human Rights Council Advisory Committee or its predecessor,⁵¹ the Sub-commission on the Promotion and Protection of Human Rights. Namibia has received considerable support from the OHCHR through its Regional Office, but has so far not taken part in the various sub-institutions, such as the Treaty-based bodies.⁵²

During its short life as an independent country, Namibia has realised the importance of human rights instruments, and participates actively in workshops, seminars and consultations on human rights in the region in particular. At UN level, however, there is still room for Namibia to engage in the deliberations on human rights – as this will be of major importance to the country during its efforts to realise Vision 2030 and to consolidate its position among UN member states as a democratic country that fully actualises its human rights obligations and duties. While it has proved a solid partner in respect of fulfilling its obligations towards the CRC and CEDAW, Namibia's support in terms of some other treaties in the UN Global Staff Association has surprised a number of member states. For example, as a member of the UN General Assembly's Social, Humanitarian and Cultural Affairs Committee (Third Committee) in 2007, by proposing an amendment on behalf of several other African states,⁵³ Namibia delayed a declaration on the rights of indigenous peoples which had a history in the UN system as far back as 1985.⁵⁴ International human rights groups claimed Namibia's stance was a delaying tactic as no regular sessions of the General Assembly were scheduled after mid-December 2007, and no budget had been authorised for a special session.⁵⁵

It is to be understood that the implementation of human rights instruments is always a work in progress, and it is expected to be supported by the international community. However, while there is increasing interest and considerable progress in Namibia's commitment towards realising its obligations on these instruments, its role in the UN's global activities on the promotion, protection and realisation of human rights cannot be considered as significant at the moment.

Conclusion

Namibia was 'born' of the UN and is still one of its youngest member states. The country's transition period – which is regarded as the most successful to have taken place from conflict to peace and development – and maturation over the past 21 years has

50 See OHCHR ([n.d.].i).

51 See OHCHR ([n.d.].j).

52 See UNHRC ([n.d.].b).

53 See UN (2006b).

54 See Converge ([n.d.]).

55 Maletsky (2006).

received full support from the UN and its agencies. Similarly, the various agencies that were established in the country together with the UN Resident Coordinator's Office very soon after Independence received full support from the Namibian Government and its institutions throughout the 21-year period. The country's commitment and collaboration with the UN system is consistently strong and constructive; the Government's committed support of UN reform is highly regarded; and its strides on the road to development and progress are widely acknowledged. In addition, while Namibia is still in transition from being dependent on foreign aid and development assistance to a situation where she will have to fund most of her own development plans and activities from domestic resources, the UN system is itself in transition in respect of the way it supports and assists Namibia in her development efforts.

Through its move from providing considerable support and assistance towards service delivery to focus increasingly focus on 'upstream' work in areas like legislation review, standard- and norm-setting, policy development, and provision of high-level technical assistance at the government's request, the UN system is gradually applying new strategies in respect of its development assistance to Namibia. The Namibian Government is now in the driver's seat. The stage has been reached where equal partners agree on the way forward and on how the UN system is best positioned to assist its development.

With the UN system adhering to the Paris Declaration and the Accra Agenda for Action,⁵⁶ the UN's role in Namibia is increasingly one of providing support to the government's national development plans and programmes through the "Delivering as One" drive and UNDAF, instead of implementing its own priorities and agendas in the country. This change will be implemented over time, but it is in recognition of Namibia's increasing capacity to determine her own route for development and her augmented role in contributing towards the three pillars of UN work.

While the country's current record on progress in respect of the three UN pillars may be somewhat mixed, there is no doubt about the Namibian Government's political commitment towards the work and value of the UN as the global governing body. Recent proof of this was the country's participation at the MDG Summit in New York,⁵⁷ its regular participation in the Global Health Assembly in Geneva, the high-level delegation that was sent to the UPR by the HRC in Geneva in January 2011, and the UN High-level Meeting on HIV and AIDS in New York in June 2011. Namibia's important role in crafting the Millennium Declaration, which led to the establishment of the MDGs in 2000 will always reflect positively on the country and its commitment to global progress.

56 OECD ([n.d.]).

57 Namibia's MDG Report is available at <http://www.un.org/esa/socdev/unpfii/documents/Desk%20Review%202010.pdf>; last accessed 30 August 2011

Namibia has, despite its small population, contributed to more than half a dozen UN peacekeeping missions. This reflects its strong sense of responsibility and commitment to the cause of peace and security – one of the most important areas requiring action in a world that is constantly charged with a number of challenging conflicts and crises.

When assessing Namibia's record on actualising human rights in the country, all collaborating bodies have agreed that there is room for improvement, and that this should be implemented through a review of legislation; the development of relevant policies, instruments and action plans; and, not least, through the increased participation of all Namibians in the development process – independent of race, sex, and cultural and/or religious affiliation. Although Namibia has signed and ratified many international human rights instruments, their domestic implementation poses considerable challenges. Thus, support for the development of a National Action Plan on Human Rights needs to be high on the government's agenda as well as the UN's. Such a Plan is critical for ensuring all human rights are gradually actualised in a country that has ratified and adopted many international human rights instruments.

Development is all about empowering people so that they have the capacity to take part fully in their country's development process. The UN system in Namibia has taken this on board and has adopted strategies and approaches in its work to reflect this. With the country being on a move towards the attainment of its Vision 2030⁵⁸ and towards greater independence of foreign assistance and support, the UN system's future role may, therefore, increasingly be one of facilitation, advising and assisting the Namibian Government in ensuring that the three UN pillars are fully understood and reflected in the country's development aspirations and programmes. Moving towards a partnership agenda of this kind has already started in some other middle-income countries, and Namibia may adopt the same approach in the next few years. Hence, the UN system will also increasingly have to take regular stock of its country collaboration strategies and its relevance in the country, and make changes according to the country's specific needs.

There is no doubt that Namibia needs the UN system; the contributions of Namibia in the different UN forums are also indispensable. Namibia could easily serve as a role model for other middle-income countries in areas where they have a lot to learn. Taking advantage of such a role could function as an entry point to increased trade, South–South collaboration, and the cross-fertilisation of ideas between countries in the region and across continents.

It is the UN's belief that Namibia, being a country with a small population and a solid income, can attain all the MDGs – and the various UN bodies are ready to support her efforts on all fronts.

58 Progress in some key areas is very slow and may hamper ultimate achievement of this long-term development plan.

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SECTION IV

**NAMIBIA'S FOREIGN RELATIONS
IN PERSPECTIVE**

The legal dimension of Namibia's foreign relations*

Sacky Shanghala**

Introduction

Domestic laws of states regulate the relations of citizens *inter se* (horizontally) and with the state (vertically),¹ whereas the relationship of states in their interactions is regulated by international law.² Yet there are other activities that take place beyond the national boundaries – social activities (citizens intermarrying), cultural (peoples sharing common backgrounds across frontiers), and economic (trade across borders) – which states seek to regulate out of necessity. While some of the activities are good, there are also bad activities such as crime (drugs, terrorism and arms trade) which states seek to curb. States deal with these extraterritorial or cross-frontier activities individually, bilaterally or through multilateral arrangements.

Namibia, on her own accord, joined the community of nations as an independent country on 23 April 1990,³ and as such, her interaction with other states is defined by the rules of international law and the policies of state driving interests of a particular state as it interacts with other states, i.e. foreign policy.

McGowan and Nel⁴ define the concept of *foreign policy* as –⁵

* This work is intended to provoke deeper examination of positions taken and to be taken, as well as premises assumed and utilised in the expectation of interaction with foreign non-governmental organisations (NGOs), international organisations, multinationals, international NGOs, foreign governments and their agents, and the general perception of the region and the world, from a Namibian perspective. Reference to a given set of circumstances involving any given foreign NGO, international organisation, multinational, international NGO, foreign government or its agent does not reflect the position of the Government of the Republic of Namibia or any of its agencies, and along with any errors, are the views of the author in pursuit of that provocative thinking.

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1 See Froneman (2006).

2 See Shearer (1994:3) which reads as follows: “[t]hat body of law which is composed for its greater part of the principles and rules of conduct which states feel themselves bound to observe”.

3 Namibia became a member of the United Nations (UN) on that day. Dr Hage Geingob, then the Prime Minister, led the delegation to the UN buildings to witness the hoisting of the Namibian flag alongside other UN member states' flags.

4 McGowan & Nel (1999, cited in Akwenye 2003:48). The cited authors distinguish between *high* and *low* politics – a recommended read. The definition has elsewhere been ascribed to Hill (2005:6).

5 Prof. André du Pisani (pers. comm., 22 February 2012), makes the point that “‘foreign policy’

... the sum total of all activities by which international actors act, react and interact with the environment beyond their national borders.

Most of the matters that are the subject of foreign relations/policy are, of course, determined by politics. However, the questions this paper seeks to answer relate to whether the law(s) – national or international – have a role to play in Namibia’s foreign relations policy, written or otherwise. If it does, as this paper argues, does such law exclude the influence and operability of ideological and political viewpoints of Namibians and the Namibian state in the interaction with other states?

One might quip that these are rhetorical questions or academic jargon at best, embellished by lexical and syntactic refinement to occupy the elite sophisticated debates of the well-to-do diplomats, lawyers or the odd commentator! Yet, the relevance of law in international relations may not necessarily be presumed, despite it being a necessary medium for the attainment of political and national objectives across the parameters of state territories – amongst other factors that include economic and political interests and political influence.

These questions are partially answered by the Foreword to a publication by Namibia’s Ministry of Foreign Affairs, titled *Namibia’s foreign policy and diplomacy management*, in the following text:⁶

As the world turns and the seasons change, so do the intentions of nations and the behaviour of world leaders that, in many cases, defy prediction. World politics is about peace, security, ideas, collective actions, alliances, co-operation, development and power. These are the essential elements of international co-operation and international conventions and protocols. Ideally, the objectives of inter-state relations are to promote good order, civilized discourse and mutual support for a better world. The tools for achieving these objectives are international law, conferences, [and] bilateral and multilateral negotiations.

is a boundary activity. The term *boundary* implies that those making foreign policy straddle two environments: an internal or domestic environment, and an external or global one. *Foreign policy*, in this sense, mediates between these two environments”. The time-honoured question that comes to mind is this: is a country’s boundary an incidence of its national law or does it come about as a result of international law – or, for that matter, the laws of another state? It seems irrefutable that the Berlin Conference of 1884 had long-lasting international imperialist ramifications that persist to today. Closer to home and albeit of redundant academic interest, one could provokingly ask whether Namibia took over Walvis Bay and the Penguin Islands, or whether South Africa gave them over – since both countries legislated on the subject matter. For Namibia, it was the Walvis Bay and Offshore Islands Act, 1994 (No. 1 of 1994), and for South Africa it was the Transfer of Walvis Bay to Namibia Act, 1993 (No. 203 of 1993).

6 Foreword by Hon. Hidipo Hamutenya, Member of Parliament (MP), then Minister of Foreign Affairs (Republic of Namibia 2004:i). Hon. Hamutenya is now the President of the Rally for Democracy and Progress (RDP), the official opposition as at 2012. The document was adopted by the National Assembly under the tenure of Minister of Foreign Affairs Marco Hausiku, now Deputy Prime Minister.

Therefore, this paper departs from the vantage point that international law and foreign relations are inextricably intertwined, the residue question being centred on the degree of interrelation as regards Namibia as an actor on the international stage.

A historical setting

Namibia's presence in the international arena cannot be discussed without taking into account the context of its historical setting. Some have casually called it "the last colony in Africa",⁷ and that name tag engenders some mystique, which can be clarified.

Apart from occupying *terrae nullus* and forming states after the decolonisation of territories, new states will only come about as a result of the diminution and/or disappearance of existing states.⁸ It is important, therefore, to underscore the birth of the Namibian state as one of the United Nations' success stories.⁹

Before 21 March 1990,¹⁰ the determiners of foreign policy for Namibia were those that wielded political control over the country. They determined all and sundry, including matters that related to Namibia's identity in the world. During the period of German rule, for example, which began on 8 September 1884, the country was known as the *German Protectorate of South West Africa* or *German South West Africa*.¹¹ From 1920 onwards, under the period of South African rule – whether as a Union or as a Republic, what eventually became known as *Namibia* was termed the *Territory of South West Africa* or simply *South West Africa* at the time,¹² in relation to its geographical location. In

7 See e.g. in an article by Christopher Wren (1989) for the *New York Times*, titled "Last colony in Africa nearing independence with jitters for all".

8 Shaw (2008:198).

9 In an article titled "The United Nations' success story", this was the opinion of Jim van de Water (2005), writing for the *San Diego Union Tribune*.

10 The date on which the Republic of Namibia was founded as an independent country; see e.g. the Territorial Waters Act, 1963 (No. 87 of 1963), which applied over the then South West Africa.

11 See e.g. <http://www.schudak.de/timelines/germansouthwestafrica1844-1920.html>, last accessed 14 September 2011. See also the text of the Council of the League of Nations' Mandate for German South West Africa decision, made at Geneva on 17 December 1920, available as Appendix II to Wellington (1967). *Protectorate* was defined in the Interpretation of Laws Proclamation 37 of 1920 which has since applied in Namibia (and is only now being reviewed) as "the territory of South West Africa lately under the Sovereignty of Germany and at present under the administration of the Government of the Union of South Africa". *Territory* was defined by the same law as "the Mandated Territory of South West Africa". These definitions followed the Treaty of Versailles and the mandatory established under the League of Nations over the territory. The definitions also become relevant later as we investigate the issue of Namibia's borders at independence.

12 See the Treaty of Peace and South West Africa Mandate Act, 1919 (No. 49 of 1919), promulgated by the Parliament of the Union of South Africa.

1968,¹³ members of the United Nations (UN) General Assembly resolved that the name *Namibia*¹⁴ would be the official name of the country, in accordance with the desire of its inhabitants.

South Africa had not only breached its mandate obligations by then (and exposed the systemic failure of the League of Nations arrangement), but also went further to impose its racist policy of apartheid,¹⁵ despite UN General Assembly Resolution 1514 (XV)¹⁶ of 14 December 1960, in which the –¹⁷

... inalienable right to self-determination, freedom and national independence in an untruncated territory including Walvis Bay, the Penguin Islands and all adjacent offshore islands ...

was reaffirmed, and ultimately, the occupation of South Africa was declared illegal and brutally repressive by the UN General Assembly.

Ultimately, after many UN pronouncements, Resolution 435¹⁸ of the UN Security Council decided that Namibia would become independent through free elections under the supervision and control of a United Nations Transition Assistance Group (UNTAG).¹⁹ By far, this is probably the most important resolution of the UN on the subject matter

13 Resolution 2372 (XXII) of 12 June 12 1968.

14 Mburumba Kerina is credited with having coined the name in the 1960s. The name is closely related to *Namib*, the name of Namibia's desert to the west.

15 Expert writings on apartheid are obtainable. However, to Namibians, this policy of 'divide and rule' based on race was introduced by the National Party of South Africa under the Government of Prime Minister Dr Hendrik Verwoerd, under which the historical owners of Namibia were subjected to demeaning social, class, economic and other forms of discriminatory treatment. The use of the term in this work, therefore, is with reference to a historical fact through which Namibians have emerged.

16 As well as the numerous subsequent relevant resolutions and decisions of the UN General Assembly and Security Council on the subject.

17 See records of the UN General Assembly Seventh Plenary Meeting of 20 September 1986, on the theme "Question of Namibia", Document A/RES/S-14/1, posted on 18 December 1999 by the UN Department of Economic and Social Affairs; available at file:///Volumes/OFFICE/A:RES:S-14:1%C2%A0%20Question%20of%20Namibia.html, last accessed 14 September 2011. The UN website is flush with records of discussions on the matter of Namibia and, with deeper research, the quantum of time spent by UN diplomats, campaigners and the world community on other deliberations calling for an end to South African imposition over Namibia can be determined.

18 The text of Resolution 435 is available at <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/368/80/IMG/NR036880.pdf?OpenElement>, last accessed 14 September 2011. Resolution 435 was preceded by Resolutions 385 (1976) of 30 January 1976, and 431 (1978) and 432 (1978) of 27 July 1978 – all equally important decisions to the resolution of the Namibian matter.

19 Para. 3, UN Security Council Resolution 435 of 29 September 1978.

Namibia: UNTAG did indeed come to Namibia and oversee the transition, and in doing so, the UN also reaffirmed its legal responsibility over Namibia.

Earlier, the UN had established a Council for South West Africa²⁰ with powers and functions, inter alia, “to be discharged in the Territory”, including –²¹

... to promulgate such laws, decrees and administrative regulations as are necessary for the administration of the Territory until a legislative assembly is established following elections conducted on the basis of universal adult suffrage.

The choice and usage of language of the Resolution is important, as *territory* is the basic characteristic of a state.²² Over its territory, a state exercises sovereignty. How people enter and leave its territory is a subject of state power.

In an opinion of the Legal Counsel of the UN Secretariat, at the request of the Commissioner for South West Africa, the UN reaffirmed that the function of “issuing of travel documents is one of the functions under international law entrusted to national Governments”, ordinarily.²³ However, while using other examples, the Legal Counsel justified the issuance of travel documents by the Council for South West Africa to Namibian citizens who applied for them, as even SWAPO was doing at the time.²⁴

Other administrative functions of governance were being administered by South Africa directly, and eventually also indirectly through the institutions of Governor-General, Administrator and Administrator-General, aided by Executive Committees, Cabinets, Advisory Councils, and Assembly, National Assembly, Native Commissioners and other functionaries with varying names depending on the whim of the racist apartheid occupation structures.²⁵

20 On 19 May 1967, the UN General Assembly established the Council and passed Resolution 2248 (S-V).

21 (ibid.:para. II, 1(b)).

22 See Shaw (2008:487). Drawing from Article 1 of the Montevideo Convention of 23 December 1933 on the Rights and Duties of States, Shearer (1994:85) cites the following qualifications for statehood: permanent population, a defined territory, a government, and the capacity to enter into relations with other states.

23 See UN (1967:Ch. VI). Selected legal opinions of the Secretariats of the UN and related intergovernmental organisations are also given (ibid.:309, para. A(1)(5), Ch. VI).

24 (ibid.:311). Hon. Pendukeni Iivula-Ithana, MP since 1990, Minister of Justice until 2012, and incumbent Minister of Home Affairs and Immigration, revealed that there were friendly countries to SWAPO such as Sierra Leone that issued its passports to Namibians in the diaspora (pers. comm., 19 September 2011).

25 See the South West Africa Constitution Act, 1925 (No. 42 of 1925), South West Africa Legislative and Executive Authority Establishment Proclamation R101 of 1985, and other statutes to this effect. With regard to the use of the term *apartheid*, please see Footnote 15 above.

When the South African Defence Act²⁶ was promulgated in 1957, the definition of *Republic* included the territory of South West Africa. It was not quite clear as to who legally exercised sovereignty over Namibia at the time.²⁷

The International Court of Justice (ICJ) eventually rendered an Advisory Opinion as to the “Legal Consequences for States of the Continued Presence of South Africa in Namibia”, confirming that, although that South Africa’s occupation of Namibia was illegal, such illegality did not include acts of registering births, deaths and marriages of Namibians. However, South Africa’s economic and other relations on behalf of or concerning Namibia (which entrenched its authority over Namibia), its diplomatic activity with regard to Namibia, and its treaty relations with other UN member states concerning Namibia (save where humanitarian treaties whose non-performance would affect Namibians) were considered as acts of occupation of the territory without title, illegal and invalid.²⁸

The UN, the Frontline States/Southern African Development Co-ordination Conference (SADCC) and other individual states contributed immensely to the international debate, diplomacy and lobbying²⁹ that raged on through the UN, in the ICJ and throughout academia and other forums, leading to the “settlement of the Namibian situation”.³⁰

The Republic of Namibia is as much a product of international diplomacy within and beyond the diplomatic channels of these organisations and bodies as it is a product of bloody battles in southern Angola and northern Namibia with the involvement of the Union of Soviet Socialist Republics (USSR), the Republic of Cuba,³¹ the Republic

26 No. 44 of 1957.

27 See e.g. the views of the International Court of Justice (ICJ) in one of the opinions in the matter, namely *International Status of South West Africa, Advisory Opinion*: ICJ Reports (1950) at 128; available at <http://www.icj-cij.org/docket/files/10/1891.pdf>, last accessed 14 September 2011. There are numerous ICJ opinions and many UN General Assembly Resolutions on the matter.

28 Available at <http://www.icj-cij.org/docket/files/53/5597.pdf>, last accessed 14 September 2011.

29 Lobbying was not limited to state actors: individuals and organisations – particularly Namibian individuals and organisations under the instructions of Chief Hosea Kutako – also played a role.

30 Terminology introduced in the UN Security Council by way of a letter addressed to the President of the Security Council dated 10 April 1978, from the representatives of Canada, France, the Federal Republic of Germany, the United Kingdom of Great Britain and Northern Ireland, and the United States of America (Document S/12636 available at http://www.signonsandiego.com/uniontrib/20050224/news_1z1e24water.html, last accessed 14 September 2011). Also refer to the 1985 address by M Evans of the University of Zimbabwe, titled “The Front-Line [sic] States, South Africa and southern African security: Military prospects and perspectives”, and his views on Frontline States’ role in blunting South African military dominance in the region; available at <http://archive.lib.msu.edu/DMC/African%20Journals/pdfs/Journal%20of%20the%20University%20of%20Zimbabwe/vol12n1/juz012001002.pdf>, last accessed 14 September 2011.

31 The author is indebted to Jorge Risquet, Cuban Internationalist Forces Commander in the 1960s and, later on, an official in the Cuban Government. Mr Risquet took part in, among other things,

of South Africa, SWAPO's military wing – the People's Liberation Army of Namibia (PLAN), and the Republic of Angola.³²

So far, it is clear that these historical events have impacted the attitude of Namibia and its conduct as it relates with the rest of the world in its individual state capacity and as a member of international and/or regional groupings and organisations. Perhaps there have been recent events that have put to test Lord Palmerton's³³ dictum that "[t]here are no permanent allies, no permanent friends, only permanent interests": we shall broach some of these events and juxtapose others against the legal obligations that are binding on Namibia.

The Namibian Constitution

As indicated above, at Independence, the Republic of Namibia succeeded the Mandate of South West Africa/Namibia, and in the text of the Namibian Constitution's Preamble, pronounced that, "in association with the nations of the world", it would promote the unity and integrity of the Namibian nation, whose territory was that "recognised by the international community".³⁴

The Namibian Constitution, the Supreme Law of the land, not only embraces general international law, it is "international-law-positive"³⁵ as it made Namibia a monist country, meaning that international law and national law are one, with some provisos.

the negotiation of Namibia's independence with the South African Government. He shared his insight into the processes that culminated in the decision for Cuba to withdraw from southern Africa (Angola), as well as into other details of the Cold War era during a brief meeting with the author in Havana, Cuba, on Saturday, 22 October 2011. See also Ramonet (2008:345–374); Dreyer (1994:173).

32 It should be underscored that only the Forças Armadas Populares de Libertação de Angola (FAPLA), which was associated with the Movimento Popular de Libertação de Angola (MPLA) sided with SWAPO's PLAN and the Cuban internationalist forces, on the one hand, against the South African Defence Forces (SADF), the South West Africa Territorial Forces (SWATF) and the notorious counterinsurgency unit known as *Koevoet* ("crowbar"), on the other hand. The União Nacional para a Independência Total de Angola (UNITA) of Dr. Jonas Savimbi and the Frente Nacional de Libertação de Angola (FNLA) of Holden Álvaro Roberto are not recorded as being sympathetic to SWAPO's quest for Namibia's independence. It should also be recorded that SWAPO was the only Namibian liberation movement, which consisted of both a political and military effort.

33 An English statesman and Prime Minister during the 19th Century.

34 See Article 1(4) of the Namibian Constitution: "The national territory of Namibia shall consist of the whole of the territory recognised by the international community through the organs of the United Nations as Namibia, including the enclave, harbour and port of Walvis Bay, as well as the off-shore islands of Namibia, and its southern boundary shall extend to the middle of the Orange River".

35 Tshosa (2010:3).

This conclusion is derived from Article 144 of the Namibian Constitution, which states the following:³⁶

Unless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia.

With specific reference to foreign relations, the Namibian Constitution, under “Principles of State Policy” contains a similarly titled clause, namely Article 96, which, for the purposes of this paper, ought to be reproduced:

The State shall endeavour to ensure that in its international relations it:

- (a) adopts and maintains a policy of non-alignment;
- (b) promotes international co-operation, peace and security;
- (c) creates and maintains just and mutually beneficial relations among nations;
- (d) fosters respect for international law and treaty obligations;
- (e) encourages the settlement of international disputes by peaceful means.

There may be merit in addressing, albeit briefly, these five pillars of Namibia’s foreign relations, which are repeated in the Mission Statement of the Ministry of Foreign Affairs of the Republic of Namibia, along with the object to –³⁷

- promote security domestically, within our own neighbourhood and in the global arena.
- enhance the international standing of our country and advance its socio-economic, cultural, technological and scientific interests, with particular emphasis on economic growth and development.

Duty to adopt and maintain a policy of non-alignment

The duty to adopt and maintain a policy of non-alignment derives its inspiration from SWAPO’s involvement in the Non-aligned Movement established at the Belgrade Conference of 1961 by so-called Third World countries, with a view not to be subsumed into any alignment with or against any bloc or country.³⁸

36 Readers are referred to the work of Yvonne Dausab (2011), who correctly sums up the legal situation in Namibia while taking issue with it. Emphasis however should be placed on the usage of the words “binding upon Namibia” from Article 144. Provocatively, it should be asked whether, for instance, given the other provisions of the Namibian Constitution, the phenomenon practised of late by some powerful members of the international community of pre-emptive strikes should be a principle of law binding on Namibia when that provision is juxtaposed against Article 51 of the Charter of the United Nations (self-defence)? The same can be asked of the newly minted principle of Responsibility to Protect (R2P) emanating from the UN General Assembly 63/308 of 7 October 2009: which interpretation should be applied to scenarios to trigger R2P? Juxtapose the difference of the Arab Spring events as they unfolded in Libya as opposed to the events in Egypt.

37 See the Vision and Mission Statement in *Republic of Namibia* (2004).

38 See the key objectives of the Non-aligned Movement; available at <http://www.nonaligned.org>.

Duty to promote international cooperation, peace and security

The obligation to promote international cooperation, peace and security reflects the stated purpose of the UN as articulated under Article 1(1), (2) and (3) of the UN Charter.

Duty to create and maintain just and mutually beneficial relations among nations

Creating and maintaining just and mutually beneficial relations among nations is a duty that is also reflected under Article 1(2) and (3) of the UN Charter, which binds Namibia as a member of the UN.

Duty to foster respect international law and treaty obligations

The duty to foster respect for international law and treaty obligations seems to underscore the classic international law principle of *pacta sunt servanda*,³⁹ encapsulated under Article 26 of the Vienna Convention on the Law of Treaties of 1969.

While *treaty*⁴⁰ is defined in the latter Convention, there are many other terms used which ought to be considered part of this obligation arising out of *pacta sunt servanda*, such as *Convention, Protocol, Agreement, Arrangement, Procès-Verbal, Statute, Covenant, Declaration, Modus Vivendi, Exchange of Notes (or of Letters), and Final Act or General Act*.⁴¹

Duty to encourage the settlement of international disputes by peaceful means

The duty to encourage the settlement of international disputes by peaceful means is explicit in its language and talks to Chapter VI of the UN Charter as well as Articles 1(1) and 2(3) thereof.

Namibia's foreign policy is also impacted by Article 99 (Foreign Investments) of the Namibian Constitution, which encourages foreign investments within Namibia,

org/2010/06/11/key-objectives-of-the-non-aligned-movement/, last accessed 15 September 2011. Many of the diplomatic ties established by SWAPO are retained by the Namibian Government to date, with Cuba being a case in point.

39 The actual text reads as follows: "Every treaty in force is binding upon the parties to it and must be performed by them in good faith". This is the accepted meaning of the Roman maxim. There are other Articles in the said Vienna Convention that advance this objective.

40 Per Article 2(1)(a) of the Vienna Convention, it "means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation".

41 For a discussion of these terms, see Shearer (1994:401–404).

subject to an Investment Code.⁴² For Namibia, foreign direct investment is critical in stimulating sectors of its development economy. This provision has motivated Namibia's membership of the Multilateral Investment Guarantee Agency, a member of the World Bank Group, so that the country may attract foreign investors who can have their input secured with cover from non-commercial risks. Namibia has also signed the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.⁴³

Other duties derived from the Constitution

It is important that Article 101⁴⁴ of the Namibian Constitution is not overlooked in this context, however, as it seems to point to the directory rather than obligatory provisions of Chapter 11 therein. Article 101 reads as follows:⁴⁵

The principles of state policy contained in this Chapter shall not of and by themselves be legally enforceable by any Court, but shall nevertheless guide the Government in making and applying laws to give effect to the fundamental objectives of the said principles. The Courts are entitled to have regard to the said principles in interpreting any laws based on them.

There are further provisions of the Namibian Constitution which impact on Namibia's relations on the international plane. One such important provision is the one that treats existing agreements in the context of state succession. Per Article 143 of the Namibian Constitution, all existing international agreements at Independence, which are binding upon Namibia, are to remain in force until the National Assembly decides otherwise, under Article 63(2)(d).⁴⁶ Article 63(2)(d) should be read together with Sub-Article (e),

42 That code is the Foreign Investment Act, 1990 (No. 27 of 1990), currently under review.

43 Namibia has not ratified the Convention, however, and neither has she acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards concluded on 10 June 1958 (New York Convention). Nonetheless, Namibia has participated in arbitrations held under the auspices of the International Chamber of Commerce and the Permanent Court of Arbitration – admitting, by participation, to abide by its rules.

44 “Application of the Principles contained in this Chapter”, referring to Chapter 11 of the Constitution.

45 Curiously, Dausab (2011) takes issue with this constitutional provision! However, the Namibian Supreme Court, in *Government of the Republic of Namibia & 2 Others v Mwilima & 127 Others* (SC) Case No. SA 29/2001, at 40, in a judgment rendered by then Chief Justice Strydom, it was held that the provisions of the International Covenant on Civil and Political Rights were applicable because, among other things, Namibia had acceded to it and had an obligation to adopt legislative and other measures to give effect to the rights arising from the Covenant. For a comparison, see *The Chairperson of the Immigration Selection Board v Frank & Another* (2001) (NR) 107 (NmSC). Article 101 seems to be Namibia's indispensable ‘escape clause’ in legal parlance.

46 Prof. Lazarus Hangula (2011:195), referring to the Namibian/South African territorial borders along the !Garib/Orange River postulates a serious philosophical query to this principle when he asks, “but can the inhabitants of such an arid area as what was then Namaland and the Namib Desert truly now live without access to the waters of their ancestral river, just because two

as that constitutional provision empowers the National Assembly to either repudiate or confirm international agreements concluded by previous administrations, while the latter empowers the National Assembly to either ratify or accede to international agreements negotiated by the President or his/her delegates.

Treaties that come into life and become binding on Namibia by ratification become part of the law of Namibia when the National Assembly ratifies such by resolution, whereas treaties that become operable by signature are not automatically part of the domestic law of Namibia and require enabling legislation.⁴⁷

Mention of agreements concluded by previous administrations prior to Namibia's Independence on 21 March 1990 invokes consideration of state succession agreements, particularly agreements impacting the territorial boundaries of Namibia, as intimated earlier in the discussion. Article 1(4) of the Namibian Constitution places the southern boundary in the middle of the Orange River, whereas the English–German Boundary Treaty of 1 July 1890, also known as the *Helgoland Treaty*, places the boundary between Namibia and South Africa as –⁴⁸

... a line commencing at the mouth of the Orange River and ascending the north bank of that river to the point of its intersection by 20th degree of east longitude.

It is apt to reproduce Article 1(4) of the Namibian Constitution at this juncture and refer to previous discussions relating to the definitions of *protectorate* and *territory*:

The national territory of Namibia shall consist of the whole of the territory recognised by the international community through the organs of the United Nations as Namibia, including the enclave, harbour and port of Walvis Bay, as well as the off-shore islands of Namibia, and its southern boundary shall extend to the middle of the Orange River.

The discerning eye would note that Article 1(4) singles out the southern boundary; the enclave, harbour and port of Walvis Bay; and the off-shore islands of Namibia, when there is no explicit linkage in that respect to the period of the takeover from the Germans by the South Africans during the Mandate System of the League of Nations, as there was never a question as to the contiguous area which Germany, acting under Article 118 of the Versailles Peace Treaty, renounced –

... all rights, titles and privileges whatever in or over territory which belonged to her or to her allies, and all rights, titles and privileges whatever their origin which she held as against the Allied and Associated Powers.

foreign colonial powers so decided at a time and in the name of a discredited pre-human-rights ideological doctrines [sic] of imperialism and colonialism?''.

47 See Tshosa (2010:20); subject, of course, to Article 7 (Full Powers) of the Vienna Convention, and Articles 32(3)(e) and 63(2)(e) of the Namibian Constitution.

48 Herslet (1899).

The UN, through its decisions such as that resulting in Resolution 432 of 27 July 1978, maintained this perspective and declared Walvis Bay an integral part of Namibia.⁴⁹

South Africa, on the other hand, continued unabated and administered/legislated for Walvis Bay as part of the Province of the Cape of Good Hope of South Africa from 1 September 1977⁵⁰ as a result of the enabling provisions of the South Africa Constitution Act,⁵¹ which, as of 31 May 1961, defined Walvis Bay and the Penguin Islands to form part thereof. The territory of and sovereignty over Walvis Bay and the Penguin Islands only returned to Namibia in 1994 with both South Africa and Namibia legislating to that effect.⁵²

One of the achievements of diplomacy after Namibia's independence which may be cited as a best practice in the region is indeed how Namibia and South Africa resolved the matter of Walvis Bay under the leadership of Presidents Sam Nujoma and Nelson Mandela, when, on 28 February 1994, at midnight, Walvis Bay was reintegrated into Namibia. Notwithstanding their gentlemen's agreement of 1998, the !Garib/Orange River boundary persists hitherto – in keeping with the Helgoland Treaty!⁵³

Notwithstanding the Portuguese–German Lisbon Convention of 3 December 1886 concerning the Kunene River, which forms a boundary between Angola and Namibia in the north, the two countries entered into their own present-day agreement of 4 June 2002, which demarcates their territorial waters, and have since been cooperating⁵⁴ under the Convention on the Law of the Sea of 1982.

With the matter relating to the Kasikili (Sedudu) Islands, arising from the Anglo–German Agreement of 1 July 1890, in which Namibia and Botswana were able to achieve certainty through litigation at the ICJ, the two countries have laid the matter to rest.⁵⁵

49 See Footnote 18. See also paragraph 7 of UN General Assembly Resolution 32/9 D of 4 November 1977, in which the Assembly declares Walvis Bay as an integral part of Namibia.

50 Specifically as a result of Walvis Bay Administration Proclamation R202 of 1977.

51 No. 32 of 1961.

52 The South African legislation was the Transfer of Walvis Bay to Namibia Act, 1993 (No. 203 of 1993) assented to by the South African Parliament on 14 January 1994, while the Namibian counterpart legislation was the Walvis Bay and Off-shore Islands Act, 1994 (No. 1 of 1994).

53 Hangula (2011:194).

54 (*ibid.*:192).

55 The two countries requested the ICJ to “determine, on the basis of the Anglo–German Treaty of 1 July 1890 and the rules and principles of international law, the boundary between Namibia and Botswana around Kasikili/Sedudu Island and the legal status of the island”. The Island referred to is known as *Kasikili* in Namibia, and as *Sedudu* in Botswana. See <http://www.icj-cij.org/docket/files/98/7577.pdf>, at 1053, last accessed 25 September 2013. This has displayed Namibia's commitment to its constitutional foreign policy object to promote, among other things, international peace and security and the settlement of disputes by peaceful means as required under Article 96 of the Namibian Constitution and other international instruments. The

Again, this is another exemplary resolution of a territorial dispute. Both governments and citizens committed to peace, resolved their dispute peacefully, and continue to interact peacefully.

Hence, there is a need to resolve the Helgoland Treaty disaster as a matter of urgency as this impacts on the territorial integrity of Namibia, not to mention the interests of commerce of the citizens of the two countries.⁵⁶ It is, after all, Article 1(4) of the Namibian Constitution which expressly states “the middle of the Orange River”.

Facets of Namibia's multilateral and bilateral activity

Sometimes, Namibia acts only under the aegis of a collective, i.e. multilaterally; yet sometimes, she acts directly with other nations on her own accord (bilaterally) or with international institutions. With membership of the UN,⁵⁷ the African Union (AU), the Southern African Development Community (SADC), the Southern African Customs Union (SACU) and other multilateral bodies, Namibia commits to act with a collective objective in mind. These institutions are mostly set up by treaties,⁵⁸ and under them, a plethora of protocols⁵⁹ address specific areas of cooperation.

Signing up has implications for the ability of a country to act contrary to the terms of the treaty in question.⁶⁰ There may be limitations imposed on a state by virtue of such membership to international instruments. Once signed up, a country cannot invoke national law as an excuse for its inability to carry out its obligations under international law – even if its government is in compliance with a decision of a judicial organ at national level.⁶¹

case is officially cited as *Kasikili/Sedudu Island (Botswana/Namibia) Judgment*, ICJ Report 1999, at 1045.

56 A grape grower on the Namibian side may experience nuisance from diamond mining operations on the South African side, which literally ends on the banks of the river on the Namibian side, and vice versa.

57 The UN system opens up membership to organs such as the United Nations Food Agricultural Organisation (FAO); the United Nations Development Programme (UNDP); the United Nations Educational, Scientific and Cultural Organisation (UNESCO); and the International Telecommunication Union (ITU), to mention but a few in which Namibia actively participates.

58 For instance, the Consolidated Text of the Southern African Development Community (SADC) Treaty as Amended, of 17 August 1992.

59 There are approximately 24 Protocols negotiated under SADC alone; see <http://www.sadc.int/english/key-documents/protocols/>, last accessed 16 November 2011.

60 See Articles 18 and 27 of the Vienna Convention on the Law of Treaties of 1969.

61 See Article 4(1) of the International Labour Commission's 2001 *Articles on the Responsibility of States for Internationally Wrongful Acts*. It states as follows: “The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central Government

An example of limitations applicable to Namibia and others are the Preferential Trade Agreements under SACU. A SACU member state cannot conclude such an agreement without the consent and approval of its fellow SACU members,⁶² whilst most-favoured-nation agreements may be concluded without such approval. However, sometimes, even when having acted in consort with others, Namibia has withdrawn from organisations – as it did from the Common Market for Eastern and Southern Africa (COMESA) in 2004, because it juxtaposes its cost–benefit returns from its memberships.

AU members who are also signatories to the Rome Statute of the International Criminal Court have recently posed the question of conflicting loyalties for themselves on the subject of international criminal jurisdiction: should they go with the AU or the International Criminal Court?⁶³ Namibia is a signatory to the Rome Statute – one of 33 out of the 54 AU member states.⁶⁴ Ongoing discussions about the jurisdiction of the SADC Tribunal place Namibia alongside some fellow SADC member states and on the opposite side to other fellow SADC member states on the critical question – should citizens of SADC member states have *locus standi* before the SADC Tribunal or not?⁶⁵ Namibia is a member of SADC and in fact, the Tribunal is housed in a historic building in Windhoek.

or of a territorial unit of the State”; available at <http://www1.umn.edu/humanrts/instree/WrongfulActs.html>, last accessed 14 September 2013.

62 See Article 31(3) of the 2002 SACU Agreement: “No Member States shall negotiate and enter into new preferential trade agreements with third parties or amend existing agreements without the consent of other Member States”.

63 See Akande et al. (2010:6), where the authors refer to the AU Summits of July 2009 and 2010 held in Libya and Uganda, respectively, which meetings expressed sentiments on the International Criminal Court (ICC) and on international criminal justice in general. An interesting must-read, however, is the work of Tladi (2009:57ff) on the universality of the values of intolerance of impunity for crimes under international law of the ICC Statute. The indictment of President Omar Hassan Al Bashir of Sudan (*The Prosecutor v Omar Hassan Al Bashir* ICC-02/05-01/09), for example, saw the AU Summit of February 2009 call on the UN Security Council under Article 16 of the Rome Statute establishing the ICC to defer the process initiated by the ICC against President Al Bashir. Some AU members, such as Kenya (through the conduct of its High Court during August 2011), issued a warrant of arrest pursuant to the ICC indictment, given that Kenya is a signatory to the ICC’s Rome Statute. Malawi refused to host the AU Summit of Heads of State and Government. In 2012 if the Sudanese President Al Bashir was to attend; as a result, Addis Ababa, Ethiopia, the seat of the AU, had to host the Summit.

64 Namibia deposited her instrument of ratification on 25 June 2002.

65 In the case of *Campbell*, SADC (T) Case No. 2/2007 [2007] SADCT 1, 13 Dec 2007, affected persons by the Republic of Zimbabwe’s laws on the question of land restitution were able to receive favourable judgment. The matter has since been overtaken by SADC Summit of Heads of State and Government decisions to suspend the SADC Tribunal in its current legal status while the Ministers of Justice/Attorneys-General conduct a study on the Tribunal’s jurisdiction for determination by Summit of SADC during August 2012. Subsequently, the SADC Summit resolved that a new SADC Tribunal Protocol be negotiated, with the specific instruction that the jurisdiction over natural persons be excluded. This is the status as at the time of printing.

It should be noted that some of Namibia's membership to international organisations or commitments are inherited from the apartheid regime.⁶⁶ For instance, membership to the International Telecommunications Union (ITU) is listed as having commenced on January 25, 1984. SACU membership, *albeit* widely accepted as having commenced on March 21, 1990, can arguably be determined to have actually begun on December 11, 1969 whilst the *Territory* was still a Mandate of the United Nations Trusteeship Council.

Some other commitments come as a by-product of membership to some international bodies. A case in point is the ICJ. All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice.⁶⁷ For some agreements and activities, such as the management of the water resources in the Kunene River Basin, there is a purely bilateral existence, exercised by the Namibian and Angolan governments under the Permanent Joint Technical Commission. Thus, the obligations under the Third Water Use Agreement establishing such Commission, concluded on 21 January 1969 by and between the Republic of South Africa and the Republic of Portugal, continue to the present day due to state succession.⁶⁸ It may surprise the inquisitive mind that Namibia is recorded as having acceded to the International Covenant on Civil and Political Rights (ICCPR) on 28 November 1994, even though its provisions comprise customary international law – which, by virtue of Article 144 of the Namibian Constitution, forms part of the law of Namibia.

Perhaps the best visible sign of Namibia's international interactions is the posting of the men and women of its diplomatic corps at embassies and high commissions around the world. The Diplomatic Privileges Act, 1951 (No. 71 of 1951) from the days of South African rule still applies. However, it should be read in conjunction with the 1961 Vienna Convention on Diplomatic Relations, the 1963 Vienna Convention on Consular Relations, the 1992 SADC Protocol on Immunities and Privileges and, indeed, the Namibian Constitution, as discussed earlier.

A considerable amount of time and effort – not to mention funds – is placed in Namibia's direct interaction with other states and organisations via ministers, diplomats and negotiators in the pursuance of the country's international law obligations.⁶⁹ The

66 Article 143 of the Namibian Constitution states that “[a]ll existing international agreements binding upon Namibia shall remain in force, unless and until the National Assembly acting under Article 63(2)(d) hereof otherwise decides”.

67 See Article 93 of the UN Charter. However, Article 95 therein permits the resolution of matters between members of the UN by other tribunals by agreement of those members involved.

68 See Article 143 of the Namibian Constitution as well as provisions of the 1978 Vienna Convention on Succession of States in respect of Treaties.

69 Namibia maintains diplomatic missions in Angola, Austria, Belgium and the EU, Botswana, Brazil, China, Cuba, the Democratic Republic of the Congo, Egypt, Ethiopia and the AU, France, Germany, India, Japan, Malaysia, Nigeria, the Russian Federation, South Africa, Sweden, Switzerland, Tanzania, the United Kingdom, the UN, the United States of America,

cornerstone for such interaction remains premised in international law, even if political or policy considerations are central to the positions taken.

In neighbouring South Africa, courts have been able to test how far diplomatic privileges and immunities may be contrasted with what nationals expect of their governments. In the case of *Samuel Kaunda & Others v The President of the Republic of South Africa & Others*,⁷⁰ heard in the Constitutional Court of South Africa, the court elaborated rather extensively on the relationship at an international level between that country and foreign states in regard to the nature and extent of its obligations towards South Africa citizens beyond its borders, i.e. the extraterritorial protection of citizens and the extension of diplomatic protection to them. In a nutshell, the court expressed the view that, in essence, it was the function of the Executive arm of the state to determine foreign policy and grant any protection.⁷¹ However, in the following words it also opined that that, in itself, could not be considered an ouster of the courts to have jurisdiction to deal with issues concerned with diplomatic protection:⁷²

The exercise of all public power is subject to constitutional control. Thus even decisions by the President to grant a pardon or to appoint a commission of inquiry are justiciable. This also applies to an allegation that government has failed to respond appropriately to a request for diplomatic protection.

By so doing, the court has expressed an opinion that seeks to alter the concept of *foreign policy* somehow: can a country, in its foreign policy, maintain diplomatic relations with a country that holds a contrary position to its constitutional position? The death penalty comes to mind. Of course, the ICCPR does not make capital punishment impermissible under international law, and neither is it outlawed by the African Charter on Human and Peoples' Rights. So should Namibia cut ties with its neighbour to the East⁷³ because they maintain the capital punishment on their statute books?

The answer is “Not at all”, because the very essence of international comity is the difference of opinions of nations and their governments, and how they treat different subjects differently – even within a country. One might strongly argue that the Namibian courts are likely to follow the line of argument assumed by the Constitutional Court of South Africa on the issue of the right to diplomatic protection. The Supreme Court of South Africa used clearer language in the case of *The Government of the Republic of*

Zambia and Zimbabwe; see <http://www.mfa.gov.na/>; last accessed 4 June 2012.

70 Case CCT 23/04 decided on 4 August 2004 in a judgment written by Chaskalson CJ.

71 In Namibia, this role falls to the National Assembly as per Article 63(2)(d) and (e) of the Namibian Constitution in relation to international agreements.

72 (ibid.:36, para. 78).

73 Article 4(1) of the Constitution of the Republic of Botswana provides that “[n]o person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of an offence under the law in force in Botswana of which he has been convicted”.

South Africa & Others v Crawford Lindsay von Abo,⁷⁴ when it expressed the following view:

It is therefore a completely foreign concept that one state would attract liability in terms of its municipal law (because that is the only law that the respondent could enforce against the appellants) viz-a-viz [sic] its own national for the wrongs of another state, committed by the state in another country viz-a-viz [sic] the same individual.

It is, however, an entirely different argument under domestic law as compared with that between a national and his/her state – i.e. when a national seeks the enforcement of international law provisions in his/her country's courts.⁷⁵ Should a national be an employee of a UN agency, for example, would that national be entitled to the immunity enjoyed by (foreign) staff members of the particular UN body?

The Namibian High Court had opportunity to examine this question in the case of *Hannu Shipena v The Government of the Republic of Namibia & Another*,⁷⁶ and the court ruled in favour of the national, namely that he, too, was subject to the exemption for as long as he was in the employ of that UN body which was subject to the terms of the Convention on the Privileges and Immunities of the United Nations.⁷⁷

However, what about when a Namibian national seeks to enforce judgment against a foreign government in Namibia?⁷⁸ Would it be possible for the High Court of Namibia to attach the property of the embassy or high commission of the government in question?

The South African case of *Republic of Zimbabwe v Sheriff Wynberg North & Others*⁷⁹ was an opportunity for the courts to deal with such a situation. Relying on the provisions of the Foreign States Immunities Act, 1981 (No. 87 of 1981), the court was able to rule that the properties of the Embassy of the Government of the Republic of Zimbabwe were immune from the jurisdiction of the courts unless they were being put to commercial use or the government had issued its written consent to such jurisdiction.

By merely construing the provisions of the 1961 Vienna Convention on Diplomatic Relations, in particular Article 22(3), it is almost guaranteed that a Namibian court may

74 Case No. 283/10, para. 31, at 16, delivered 4 April 2011.

75 See Footnote 45 above for a discussion of the *Mwilima* case.

76 Case No. A 79/2004, delivered 8 October 2008.

77 Adopted by the UN General Assembly on 13 February 1946.

78 Under Article 15 of the Protocol on Tribunal in the Southern African Development Community, now suspended, if a citizen of a SADC member state (or perhaps a natural person in SADC) has a dispute with a SADC member state, the Tribunal has jurisdiction to adjudicate such matters until or unless such jurisdiction (personal jurisdiction) has been recrafted under the Protocol. See e.g. Bartels (2011:27–30).

79 South Gauteng High Court, Case No. 2009/34015, delivered 22 November 2010. The case is marked “Not reportable”.

also rule similarly and protect the properties of a diplomatic mission.⁸⁰ As discussed earlier, the outcome will be imputed upon the state in the definition of its foreign relations or otherwise.

Cardinally, foreign relations will require that the territory of another state is respected and should not be violated.⁸¹ *Sovereignty* has been defined to include exclusive control over the airspace above a territory.⁸² Intra-African international air services were negotiated under the Yamoussoukro Declaration.⁸³ The conclusion of bilateral air service

80 The exact text of Article 22(3) states the following: “The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution”. It is in fact possible that the Foreign States Immunities Act, 1981 still applies in Namibia, because its definition of *Republic* was contained in the Territorial Waters Act, 1963 (No. 87 of 1963), which, by virtue of its section 8, applied to South West Africa (SWA). In SWA, the Administrator-General promulgated Proclamation AG32 of 1979, which was repealed by the Territorial Sea and Exclusive Economic Zone of Namibia Act, 1990 (No. 3 of 1990). All matters of SWA with relation to the rest of the world remained with the Government of the Republic of South Africa during those years. It is common cause that the definition of *Republic* since 1957 in the Defence Act, 1957 (No. 44 of 1957) always included the “territory of South-West Africa”. Even if the Administrator-General promulgated the Transfer Proclamations Executive Powers Transfer [General Provisions] Proclamation 1977 [AG7/1977]), the South African Supreme Court judgment in *James Hamupanda Kauluma & Others v The Cabinet for the Interim Government of South West Africa & Others* (Appellate Division) delivered on 8 November 1988 and written by Joubert JA, at 16, confirms that, although there have been three legislative authorities for SWA (South African Parliament, the President and the Administrator-General), the South African Parliament as supreme legislative authority never ceased being the supreme legislative authority. I think the Supreme Court may then inadvertently have omitted to refer to the Legislative Assembly of South West Africa as a fourth lawmaking body. For a discussion on the subject of the attachability of assets of the Government of the Republic of Namibia, see *Minister of Home Affairs, Minister Jerry Ekandjo v Johannes Jurie Jacobus Van Der Berg*, Namibian Supreme Court Case No. 19/2004. The case of *Nyathi v Member of the Executive Council for the Department of Health, Gauteng & Another*, Case CCT 19/07 [2008] ZACC 8, determined the matter in South Africa – section 3 of the State Liabilities Act, 1957 (No. 20 of 1957) – being unconstitutional. See also the case of *Gondo* (Case No. SADC (T) 05/2008, 9 December 2010). *Quaere*: Is it perhaps time for reform in Namibia of the surviving and corresponding provisions of section 3 of the Repeal of the Laws of the National Assembly, the Cabinet and the Constitutional Council Proclamation, 1989 (AG16 of 1989)?

81 See Article 2(4) of the UN Charter.

82 See Article 1 of the Convention on International Civil Aviation, 7 December 1944; also known as the *Chicago Convention*.

83 The purpose of the Yamoussoukrou Decision (YD) is to achieve “the liberalization of intra-Africa scheduled and non-scheduled air transport services, and its provisions prevail over incompatible provisions in existing or future bilateral or multilateral air transport agreements between States Parties to the YD”. The first five Freedoms of the Air are (1) the right of an airline of a member state to overflight without landing; (2) the right to the airline of a member state to overflight and conduct a technical stop (e.g. refuel); (3) the right of an airline of one member state to carry traffic to another member state; (4) similar to the right under Freedom

agreements among SADC member states ensures the accessibility of markets as well as the movement of people and goods, whilst respecting the principle of sovereignty. When people trade in the markets of the countries to which they have access by virtue of such agreements, they are liable to tax; in the absence of double taxation agreements, either they are worse off or the state coffers suffer.⁸⁴

Furthermore, bilateral investment protection agreements are concluded for the purposes of protecting the investments of nationals in the jurisdiction of other countries. An example for Namibia was Ramatex, a textile industry. In a 1994 agreement, Namibia and Singapore concluded a Reciprocal Promotion and Protection of Investments Agreement protecting the physical and other assets of the investor (*in casu* Ramatex) in either of the party countries (*in casu* Namibia) to the Agreement.

When the citizens of a country conduct themselves in a manner that is injurious to a citizen of another country, or are condemned in the courts of another country, it is necessary for judicial cooperation either in the form of mutual legal assistance agreements,⁸⁵ the enforcement of foreign civil⁸⁶ or criminal judgments,⁸⁷ or agreements and extradition⁸⁸ agreements to be concluded to facilitate the necessary interaction between the states in the enforcement of citizens' rights. Namibia has entered into a number of these agreements with other countries to underpin her interactions with them as they relate to the citizens of those countries in Namibia, or to Namibian citizens there. Globalisation will only ensure that these interactions continue.

In terms of monetary and finance issues, Namibia's membership of the World Bank and the International Monetary Fund since 25 September 1990 recognises the need to interact with others to ensure global monetary stability in a modern world where

(3) above but back from another SADC state (inbound traffic); (5) the right of an airline of one member state (A) on a service to another member state (C) to set down or uplift traffic at an intermediate point (in yet another member state [B]) (this is intermediate 5th- Freedom traffic) and/or to carry traffic from/to that other member state (C) destined for/coming from a third State (D), located beyond that other member state (C) (whether or not within the SADC region). See Haanappel & Razafy (2009:9, 23).

84 The said agreements seek to ensure that a jurisdiction "grants a credit for the taxes of the other country to reduce the taxes of a resident of the country" otherwise the resident may be taxed by both countries for the same income.

85 These are necessary for the obtaining of restraint, search and seizure as well as confiscation orders at the request of foreign states.

86 See the Enforcement of Foreign Civil Judgments Act, 1994 (No. 28 of 1994). See also the Reciprocal Service of Civil Process Act, 1994 (No. 27 of 1994), the Foreign Courts Evidence Act, 1995 (No. 2 of 1995) and the Reciprocal Enforcement of Maintenance Orders Act, 1995 (No. 3 of 1995).

87 See the International Co-operation in Criminal Matters Act, 2000 (No. 9 of 2000).

88 These agreements are necessary for the surrender of persons who are wanted for prosecution or imposition or enforcement of a sentence in the requesting state for an extraditable offence.

products – including financial products – are not limited by state boundaries. In this regard, the African Development Bank interacts directly with its member countries, but also indirectly through the collective of the regional blocs. In the AU system, these regional structures are known as *regional economic communities*. SADC is the relevant one for Namibia.

Within SADC, Lesotho, Namibia, South Africa and Swaziland form what is known as the *Common Monetary Area*, a form of currency and monetary union in which the South African Rand is legal tender.

Also within SADC is the Kavango–Zambezi Transfrontier Conservation Area, enjoining Angola, Botswana, Namibia, Zambia and Zimbabwe to harmonise their policies, strategies and practices to manage the shared natural resources straddling their international borders and creating a super-transnational park. The first transfrontier park in which Namibia was involved was the 2001 |Ai-|Ais–Richtersveld Transfrontier Park with South Africa. For the purposes of this discussion, environmental protection is both a legal and policy objective of the Republic of Namibia if regard is had to Article 95(1), wherein the following is stated:

The State shall actively promote and maintain the welfare of the people by adopting, inter alia, policies aimed at the following: ...

- (1) maintenance of ecosystems, essential ecological processes and biological diversity of Namibia and utilization of living natural resources on a sustainable basis for the benefit of all Namibians, both present and future; in particular, the Government shall provide measures against the dumping or recycling of foreign nuclear and toxic waste⁸⁹ on Namibian territory. [Footnote added]

The Atomic Energy and Radiation Protection Act, 2005 (No. 5 of 2005) underscores this constitutional objective, yet beyond the national laws, there are international instruments that have a bearing on all matters uranium. Notably, however, the Safeguards Agreement,⁹⁰ entered into between Namibia and the International Atomic Energy Agency for the application of safeguards in connection with the Treaty on the Non-proliferation of Nuclear Weapons, plays a crucial role in determining activities in this sector.

89 Whilst this political position may have been noble in 1990, it is since being discussed as a viable commercial activity. The recycling of nuclear waste seems to be possible, if not to be encouraged. The following was posted on the World Wide Web: “Nuclear waste is recyclable. Once Uranium fuel is used in a reactor, it can be treated and put into another reactor as fuel. This cycle can be repeated several times. Once all the energy is finally extracted from the fuel, the waste that is left over decays to harmlessness within a few hundred years, rather than a million years as with standard nuclear waste”; see <http://www.whatisnuclear.com/articles/recycling.html>; last accessed 4 July 2012.

90 The agreement was signed in Vienna on 19 March 1998.

The mention of weapons bears on the subject of defence, armed conflicts and peacekeeping. Beginning with peacekeeping, Namibia has participated in UN missions in Angola (United Nations Angola Verification Mission III, UNAVEM III), Cambodia (United Nations Transitional Authority in Cambodia, UNTAC), East Timor (United Nations Mission of Support in East Timor, UNMISSET), Sierra Leone (United Nations Observer Mission in Sierra Leone, UNOMSIL), and Sudan⁹¹ (United Nations Hybrid Operation in Darfur, UNAMID). In so doing, Namibia can be said to have acted in terms of Article 2(5) of the UN Charter by giving assistance to the UN.

Within the SADC Region, Namibia – along with Angola and Zimbabwe – intervened in the insurrection in the Democratic Republic of the Congo (DRC), which seems to have had support from some of the neighbouring states to the DRC. Angola was obviously interested in the stability of its neighbour, whilst Namibia worried about the continued political stability of its own neighbour, Angola. The relative peace and tranquillity in Namibia misleads the visitor into not thinking of the terror instilled by UNITA elements to the residents of the borderline areas of Namibia with Angola. Therefore, the conduct of the trio – Angola, Namibia and Zimbabwe – can be said to conform to Article 5(1) (c) of the SADC Treaty (as amended). Both the international and regional peacekeeping interventions were also in conformity with section 32(2) of the Defence Act, 2002 (No. 1 of 2002).

Conclusion

Whether acting as an individual state or in concert with other states, Namibia is bound to abide by the relevant rules of international law as binding on her. There is a definite link between the interaction of Namibia in the international sphere and the attainment of her political, trade or economic interests. The strand that links the two, i.e. the action/interaction internationally with the objects underlying such action/interaction, is the law: international or national. As a constitutional democracy, Namibia's actions internationally ought to be justifiable in law.

But what happens when a citizen is of the view that Namibia has breached its national or international law obligation by act or omission? This discussion was broached by the South African courts in the cases of *Samuel Kaunda & Others v The President of the Republic of South Africa & Others*, *The Government of the Republic of South Africa & Others v Crawford Lindsay von Abo* and *Republic of Zimbabwe v Sheriff Wynberg North & Others*, wherein it was held that “the exercise of all public power is subject to constitutional control”.⁹² Arguably, “persons aggrieved”⁹³ may have to come before courts

91 Being jointly conducted with the AU.

92 See *Samuel Kaunda and Others v The President of the Republic of South Africa and Others*, Case CCT 23/04 decided on August 4, 2004 in a judgment written by Chaskalson CJ at paragraph 78 on page 36.

93 See Article 18 of the Namibian Constitution on Administrative Justice which states that

to compel the President and/or the Minister of Foreign Affairs to cut off diplomatic ties with an international actor found to have violated human rights.⁹⁴ What an interesting judicial excursion that will be!

It is important that Namibia and South Africa resolve the Helgoland predicament concerning the !Garib/Orange River. This matter impacts the territorial sovereignty of the Republic of Namibia recorded under Article 1(4) of the Namibian Constitution, an important aspect to her interactions internationally as she exercises jurisdiction over its natural resources as contemplated under Article 100⁹⁵ therein. If the Governments of South Africa and Namibia are unable to or do not solve this matter soon, then it is difficult to perceive better conditions for a basis to set aside colonial agreements. Hopefully, the two countries will adopt the *thalweg*⁹⁶ as a principle in the resolution of this matter.

Indeed, state action must be sound in law, domestically and internationally. The interests of socio-political considerations will always interact with the obligation of legality. Sometimes, this interaction may be manifested in a multilateral setting, such as the AU situation with the International Criminal Court, or with SADC in relation to the SADC Tribunal. At other times, such interaction may simply manifest itself bilaterally, as in the case when Namibia participated in the DRC military campaign, although SADC eventually sanctioned the intervention. However, the principle of legality persists.

Namibia is a country founded partly by international solidarity; by and large, the foreign policy pronouncements of Namibia's leaders have mirrored this historical foundation.⁹⁷ Namibia's continued position on the situation in Palestine comes to mind. Article 96 succinctly summarises the basis of Namibia's international relations:

- Non-alignment
- International cooperation, peace and security
- Just and mutually beneficial relations among nations

“Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed upon such bodies and officials by common law and any relevant legislation, and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a competent Court or Tribunal”.

94 For instance, and really with a view to provoke deeper thinking on the theme of human rights, the SADC Tribunal, and State conduct in relation thereto: should Namibia treat Zimbabwe any differently, given the SADC Tribunal decision in the matter of Campbell?

95 The said Article 100 of the Namibian Constitution provides as follows: “Land, water and natural resources below and above the surface of the land and in the continental shelf and within the territorial waters and the exclusive economic zone of Namibia shall belong to the State if they are not otherwise lawfully owned”.

96 The deepest continuous inline within a valley or watercourse system; see <http://en.wikipedia.org/wiki/Thalweg>, last accessed 25 September 2013.

97 It may be interesting to have conflicting public statements from Cabinet Members on matters affecting foreign policy, and to see how that may define the stance of Namibia.

- Respect for international law and treaty obligations, and
- Peaceful settlement of international disputes.

These five principles for international relations may tend towards defining Namibia as a pacifist state; yet, as discussed above, it is clear that Namibia can act militarily. Having emerged from a war itself, it is encouraging to note that Namibia, despite the size of her population and economy, continues to contribute to international peacekeeping missions.

Since Namibia is a monist country, one wonders whether the newly minted Responsibility to Protect (R2P) principle will be “binding upon Namibia”.⁹⁸ It seems that the discussion is yet to be concluded on this issue; however, what is conclusively known is that politics and law will continue to define Namibia’s foreign relations (and that of many other countries) for as long as Addis Ababa, Gaborone, Geneva, New York and Vienna continue to churn out AU-, SADC- and UN-related legal instruments, and politics remain what they are.⁹⁹ Nonetheless, whilst Namibia signs these many international agreements, their implementation is difficult to track, as there seems to be no central electronic and hard-copy database accessible to the government or the public to assess and interrogate the text of such international agreements from time to time. This certainly resonates in a world where access to information is being made a right under law. Deeper examination and better preparedness for Namibia’s engagement in international forums may very well produce the exercise of Namibia’s right to enter into reservations – something that has not yet come to the fore; and if it has, as indicated above, it will be difficult to determine without a centralised database.

Lastly, civil society organisations, private enterprises and the citizenry are key barometers when it comes to ensuring that foreign policy indeed serves the interests of their social, trade and economic objectives. With a foreign policy constitutionally tied to law, these entities have the right to take part in the national discussion to shape foreign policy, and more of this discussion should be encouraged.

Postscript

Still, it should be remembered that “No man is an island, No man stands alone”.¹⁰⁰

98 Quite interestingly, a former German *Bundestag* member posed an interesting query in conversation recently: while Namibia’s position on the R2P is not clear, can it be assumed that Namibia will overlook matters of sovereignty and non-interference if a body such as the AU, SADC or UN sanction action is premised on the R2P? In this case, how does that distinguish the intervention in the DRC of the late 1990s?

99 The time has come for Namibia to post lawyers at these missions so as to facilitate Namibia’s interaction internationally at the AU, SADC and UN. Lasswell (1948, cited in William 2008:566) defines *politics* as “who gets what, when, and how”.

100 Line based on prose and later a poem by John Donne from *Meditation XVII*.

Tendencies towards reclusion by individuals cannot be transplanted to foreign policy for a country that came about as a result of solidarity around the world. Also, Namibia should become more activist in the region – not the other way around. The relative¹⁰¹ peace and stability Namibia has enjoyed for over two decades since Independence may have bred amnesia on the part of the older generation. Also, a young generation born free of political oppression may engage in escapism with respect to problems being experienced in another African country, as they may feel unaffected by that problem. Yet, as long as Namibia remains a member of the international community, it will be affected directly or indirectly by action or inaction on its part or on the part of the international community in relation to any event occurring in any region or country calling into play the law in the interactions of international actors.

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101 The adjective is a necessary inclusion for the purposes of including the Caprivi secessionist attacks of August of 2000 and the UNITA incursions; otherwise, Namibia is a stable, peaceful, democratic country.

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The parliamentary dimension of Namibia's foreign relations*

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Introduction

This discussion opens with an investigation of the roles defined for Parliament under the Constitution of the Republic of Namibia and the White Paper on Foreign Policy, Defence and Security. The remainder of the article offers an insight into Parliament's oversight function in respect of foreign relations, namely by way of explaining the role of the Standing Committee on Foreign Relations, Defence and Security. It will then analyse Parliament's legislative role by illustrating how international agreements are ratified. This will be followed by an outline of Parliament's role and function in regional, continental and international parliamentary bodies, and an outline of policy statements by Parliament on current issues and crises. Next up is a discussion of former Foreign Minister Theo-Ben Gurirab's specific role as former President of the United Nations (UN) General Assembly and of the Inter-parliamentary Union (IPU). As a parting shot, the article looks at whether Parliament indeed plays its designated role, and at whether that role merely looks good on paper but is in effect negligible.

Parliament's constitutional and political role in Namibia's foreign relations

Role definitions in the Constitution of the Republic of Namibia

In Chapter 1 of the Constitution of the Republic of Namibia, Article 1 states the following:

The Republic of Namibia is hereby established as a sovereign, secular, democratic and unitary State founded upon the principles of democracy, the rule of law and justice for all.

Article 3 declares that –

[t]he main organs of the State shall be the Executive, the Legislature and the Judiciary.

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This division of powers among the three organs of state forms the foundation of our democracy, and the Constitution stipulates clearly what the role of these organs is. Thus, any discussion of the role of the legislature – Parliament – must of necessity be based on its constitutional role. Apart from its role as the principal legislative authority in and over Namibia, exercising its oversight function over the executive and having the power to make and repeal laws, in a democratic state, Parliament should have input in the formulation of foreign policy, according to Article 63 of the Constitution.

For the purposes of this paper, Article 63 – specifically Sub-Article (2)(d), (e) and (f) – forms the basis of Parliament’s legislative role with regard to foreign and international relations. The Article in question reads as follows:

- (2) The National Assembly shall further have the power and function, subject to this Constitution: ...
 - (d) to consider and decide whether or not to succeed to such international agreements as may have been entered into prior to Independence by administrations within Namibia in which the majority of the Namibian people have historically not enjoyed democratic representation and participation;
 - (e) to agree to the ratification of or accession to international agreements which have been negotiated and signed in terms of Article 32(3)(e) hereof;
 - (f) to receive reports on the activities of the Executive,

Furthermore, Article 144 of the Constitution contributes to Parliament’s powers in regard to its legislative role in foreign relations, namely the issue of ratifying international agreements.¹ Article 144 reads as follows:

Unless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia.

On the other hand, as regards the execution of Parliament’s oversight function, it has a number of options with regard to the conduct of foreign relations:

- During the debate on the Appropriations Bill, the Minister of Foreign Affairs can be questioned by all Members of Parliament (MPs) when his/her budget is being motivated. The Minister, as the steward of monies allocated to the Finance Ministry, is obliged to account for the way in which funds were expropriated in a prior financial year, and to inform the House how monies are to be expended during the next financial year. Members can make use of this opportunity to question the Minister in respect of international agreements, membership of international organisations, and the way in which Namibia’s foreign missions represent the country.

¹ For a detailed analysis, see the chapter herein by Sacky Shanghala on international agreements.

- One can ask questions in the House on any matter relevant to the Ministry.
- One can bring motions on any topic with regard to foreign policy.
- One can debate ministerial statements.
- One can introduce legislation through a private members' bill, and/or
- One can debate any White Paper on Foreign Policy.

Role definitions in the White Paper on Namibia's Foreign Policy and Diplomacy Management

When one researches Parliament's constitutional and political role in Namibia's foreign relations, another important document to consult is the White Paper on Namibia's Foreign Policy and Diplomacy Management, published in March 2004. The White Paper highlights the objectives and procedures of the country's foreign policy.

In its foreword, the policy document highlights that all three branches of government – the executive, legislature and judiciary – play a role in contributing to Namibia's foreign policy. Parliament's legislative role allows it to function as a forum for –²

... political and legislative intercourse among parliamentarians and political parties ... [where] ideas, questions and answers [are generated and] debate on pertinent issues about world affairs [takes place], thus enriching the process of foreign policy formulation.

The White Paper further states that such debate strengthens the quality of Namibia's foreign policy by building interstate institutions and venting discussion on the ratification of international agreements.

In addition, the policy document highlights that the sphere of foreign relations needs to remain "in tune with the aspiration of the nation [and] ... the demands expectations, anxieties and resourcefulness of the people"³ are to be considered. Thus, one might conclude that Parliament, as the nexus between the people and the government, and as the principal representative of the people, is a key player when it comes to defining foreign policy.

The White Paper also makes general reference to parliamentary foreign affairs committees, which can influence the making of foreign policy in a meaningful way.⁴

2 Republic of Namibia (2004:iii).

3 (ibid.).

4 See below for more on the Parliamentary Standing Committee on Foreign Affairs, Defence and Security.

Regarding Parliament's oversight function, the White Paper simply states that the Ministry of Foreign Affairs routinely informs Parliament of developments abroad that affect the country.⁵

The policy document concludes that, –⁶

... these days, parliamentarians are extensively involved in international affairs and are thus duty bound to make their contribution to the projection of good images for their countries.

For this reason, MPs might use international forums to articulate the country's interests and to engage in international debates.

All in all, the White Paper does not specify what the National Assembly is tasked with when it comes to Namibia's foreign relations, although the reader will get an idea of its general orientation towards Parliament's role therein.

The Parliamentary Standing Committee on Foreign Affairs, Defence and Security

Parliament exercises its option to conduct an oversight function through Parliamentary Standing Committees, which in fact execute most parliamentary work. With regard to foreign policy, the Standing Committee on Foreign Affairs, Defence and Security⁷ has the right, in terms of its mandate, to involve itself in all discussions of foreign policy matters. However, the majority of back-benchers and all office-bearers serving on this Committee are members of the ruling SWAPO Party of Namibia. As is the case with the House in general, the ruling party members of the Committee have absolutely no interest in drafting foreign policy, but rather see themselves as unconditionally supporting whatever policy the executive may decide on. For example, although the Committee has the right to be informed of selections being made for Heads of Diplomatic Missions and is entitled to make suggestions in that regard as well, these specific procedures have not been followed to date because doing so is deemed as being tantamount to interfering with the powers of the Head of State to make such appointments.

Parliamentary Standing Committees reflect the same ratio of party representation as that in the House. In other words, SWAPO Party members make up two thirds of the membership, and invariably the Chairperson and Deputy Chairperson of such Committees are elected from within their own ranks. Such positions are decided by the Party Caucus and serve the political interests of the ruling party: the selections are

5 Republic of Namibia (2004:88).

6 (ibid.:15).

7 Five of its six members belong to the SWAPO Party of Namibia; cf. Parliament of Namibia [n.d.].

not based on a candidate's qualifications, experience, or ability. It goes without saying that this has a serious impact on the Committee's work. SWAPO party members argue that such representation is a reflection of the will of the electorate, and elections are democratic. However, this line of reasoning does not hold if the ultimate goal of the Committee is for Parliament to exercise its oversight function. With things as they stand, such attitudes play a crucial role in making Parliament impotent.

From time to time, the Committee receives and reciprocates visits to its sister committees from countries with whom Namibia enjoys excellent bilateral relations. However, such visits are more of a familiarisation with another country's policies and procedures than an opportunity to deal with foreign relations issues. Nonetheless, it does happen that a visiting delegation will raise a matter of concern to them; at such times, opposition members have criticised government policy. One glaring example of the conflict between ruling and opposition parties is on the issue of Namibia's foreign relations with Zimbabwe. Members disagree particularly on the question of Zimbabwe's elections; but whatever position the opposition parties may hold, it is overruled. For example, a Southern African Development Community Parliamentary Forum (SADC-PF) Observer Mission report opined that Zimbabwe's elections in 2000 did not conform with the Norms and Standards for Elections in the SADC Region agreed to by all SADC leaders.⁸ The report was hailed internationally as one of the most objective. Namibian MPs were part of that delegation. However, once the SWAPO Party members of the SADC-PF delegation had returned from Zimbabwe, they supported the position of the SWAPO Party at home to the effect that the elections were free and fair. Fortunately, history has absolved the Forum delegation because the report was proof of electoral fraud – even in subsequent elections in Zimbabwe.

This raises the question as to whether Namibia is a democracy or a one-party state through democratic elections. This issue is often reflected in the work of Parliamentary Standing Committees in general, when opposition party representatives differ with their ruling party counterparts on such Committees. The SWAPO Party's position is that it is the President's constitutional right to appoint an executive of any size. Opposition parties, however, maintain that such power is subject to the demands of the Constitution. In other words, in a democracy, the executive should not be put in a position where it is larger than the legislature and, therefore, exercises oversight over itself. Indeed, for this reason, members of Cabinet are not allowed to serve on Parliamentary Standing Committees. This was a mechanism devised in order to facilitate and guarantee oversight, but it has failed in practice because of the unwillingness of back-benchers to 'oversee' Ministers whom they regard and constantly refer to as their 'senior leaders'.

As a result, the major thrust of the Standing Committee on Foreign Affairs, Defence and Security's work is to pay regular visits to Namibia's missions abroad, especially

8 SADC-PF [Date unknown].

those that are deemed to be ‘hardship’ missions, and to present reports to the Ministry of Foreign Affairs. Such reports mostly have to do with conditions of service at the missions, and how to improve the lot of diplomatic staff. Such occasions are also the only time the Committee makes use of its power to summon the Foreign Affairs Minister and staff to appear before it.

The practice of paying study and in situ visits to parliaments abroad, and receiving such visits from others in return, has contributed greatly to broadening Standing Committee members’ insight into parliamentary policy and procedure. In addition, the constant problem of being unable to form a quorum in the House applies – and should be a matter of concern – to all members of the House. However, although Parliament has the power to change the rules on quorums in order to facilitate its work, after more than two decades after Independence no concrete steps have been taken in this respect. Namibia could, for example, take a leaf from Sweden’s book. There, when a Minister had to answer questions, only s/he, the parliamentary speaker and the relevant minister are needed for decisions that allow work to proceed. Another fine example to emulate is presented by the Ghanaian Parliament, where a special day is set aside for all MPs to put questions to ministers, and all MPs are entitled to ask further questions. In Namibia’s Parliament, a minister only has to answer questions put by a specific MP, and only that MP is permitted to ask any additional questions. Indeed, when Standing Committee have reported back on their return from such visits, they have – irrespective of their political affiliation – often tried to share their experiences in the House in the hope of introducing more democratic practices, but to no avail. Their recommendations are usually not even debated.

Parliament’s engagement with international parliamentary bodies

Since globalisation affects not only economic but also political actors, and since one cannot nowadays clearly distinguish between national and international topics, the last few years have shown that there is a serious democratic deficit in foreign relations in general and among international organisations in particular. The UN articulates this fact very intelligibly:⁹

Concerning democracy, a clear paradox is emerging: while the substance of politics is fast globalizing (in the areas of trade, economics, environment, pandemics, terrorism, etc.), the process of politics is not; its principal institutions (elections, political parties and parliaments) remain firmly rooted at the national or local level.

For example, international agreements on human rights, trade and other topics concerning and influencing the national level are passed “through the House (of Parliament) instead

⁹ Note by the Secretary-General at the 58th Session of the United Nations General Assembly; cited in Beetham (2006:157); cf. also Karuombe (2008:241).

of being passed by the House”,¹⁰ as Karuombe descriptively writes. Since Parliament is the embodiment of participatory democracy and the sole institution which represents the electorate, it is highly qualified to dismantle the democratic deficit and oversee the actions of heads of state at the international level. Furthermore, on the international level, parliaments are able to gain information and experience on recent developments and best practices, and can in turn exchange these with others.¹¹

Karuombe outlines a number of functions parliaments can perform with respect to foreign relations. He mentions their “legislative and democratic oversight function” first,¹² followed by the function of domesticating, implementing, conducting national planning for, and popularising international agreements, thereby accelerating regional integration, for example.¹³ Also, national parliaments are (theoretically) able to give feedback to and from the electorate.¹⁴ Focussing on the SADC–PF, he also notes that parliamentarians are part of highly acknowledged SADC election observations.¹⁵ Furthermore, he illustrates that the SADC–PF offers MPs a platform to deliberatively contribute to the development and integration of southern Africa.¹⁶

All in all, parliamentary involvement in foreign affairs theoretically has the possibility to increase a state’s accountability and transparency at international level.

The following section presents a discussion of the extent to which the Namibian Parliament is involved in international parliamentary bodies like the SADC–PF, the Inter-parliamentary Union (IPU), the Pan-African Parliament (PAP), and the African–Caribbean–Pacific and European Union Joint Parliamentary Alliance (ACP–EU JPA).

The SADC Parliamentary Forum

The late Dr Mosé Tjitendero was one of the most active members of the SADC–PF, serving on its Executive Committee and being instrumental in convincing the Namibian Government to provide the facilities for its headquarters in Windhoek as well as offering material and moral support to the Forum and its Parliamentary Leadership Centre. He remained one of the most respected, active and analytical Speakers in the organisation.¹⁷

10 Karuombe (2008:222).

11 (ibid.:235).

12 (ibid.:223).

13 (ibid.:223, 228).

14 (ibid.:233).

15 (ibid.:235).

16 (ibid.:234).

17 The gratitude of SADC–PF member states and individuals was visible not only by their attendance at his funeral, but also by the fact that any delegation attending a SADC–PF meeting, workshop or conference always first requested a visit to his grave to show their respect.

Namibia hosted the historic summit that transformed the Southern African Development Coordination Conference (SADCC) into the Southern African Development Community (SADC) in 1992. Namibia also hosted the conference which established the SADC–PF, despite limited resources at its disposal. These successes show that Namibia’s foreign policy supports international efforts to strengthen the role of parliamentary institutions in respect of their contribution to democracy.

The five MPs delegated to serve on the SADC–PF also played a very significant role in policy formulation and execution within that organisation. The author of this article held the position of Vice-Chairperson for two years, also participating in the drafting of the Norms and Standards for Elections in the SADC Region, which are now used by the African Union as well as SADC. Other members of the SADC–PF have also served on the various Parliamentary Standing Committees, and have held leadership positions from time to time.

A major commitment which received extensive support not only from the members of the SADC–PF, but also from Namibia’s current President, Hifikepunye Pohamba, was the SADC–PF’s transformation into a regional parliament, similar to that of the Economic Community of West African States (ECOWAS) for West Africa and the East African Legislative Assembly (EALA) for East Africa. Even if the examples of ECOWAS and EALA show that there is still a long way for them to go before they become fully fledged parliamentary bodies that are able to exert their oversight and legislative functions,¹⁸ it would be a good start for the SADC–PF to become a regional parliament. Unfortunately, this transformation has not succeeded as yet and the SADC–PF remains a “parliamentary deliberative body without legislative powers”.¹⁹

In his welcoming remarks on the occasion of the official opening of the 28th SADC–PF Plenary Assembly, Namibia’s current Speaker in Parliament, Dr Theo-Ben Gurirab, stated the following:²⁰

It is our view that the SADC Parliamentary Forum has distinguished itself in promoting the regional parliamentary work over recent years and the time has come for us to be transformed into a fully-fledged regional parliament. ...

Our deliberation at this Assembly must serve as a catalyst in our quest for the establishment of a SADC Parliament. We must therefore move forward with determination, commitment and a sense of urgency to realize this worthy vision, whereby SADC–PF will become the institution that will monitor, scrutinize and evaluate the impact of SADC programmes and its institutions in our region. ...

18 (ibid.:229, 230).

19 (ibid.:229).

20 Gurirab (2010:4).

In our efforts to become a regional parliament it is imperative that we continue to promote alliances with regional, continental and international institutions. In particular I would like to emphasize the need for closer networking with the SADC Secretariat and the Pan[-]African Parliament.

These statements and commitments – also at the level of the International Parliamentary Union – with regard to enhancing the role of parliament are indicative of Namibia's decision-makers' resolve with respect to the role parliaments have to play in a democracy. However, the issue of establishing a SADC Parliament was not on the agenda of the 30th SADC Summit of Heads of State and Government held in Windhoek in August 2010. Indeed, the resolution of its plenary to consider including the matter on the agenda for the next summit prompts the conclusion that the necessary political will to finalise the matter is still not there – despite lobbying efforts by the Presidents of Namibia and Malawi.

SADC–PF plays a very significant part in the training of new MPs by way of workshops and by sending delegations to other SADC countries to participate in discussing issues like HIV and AIDS, gender, and peacemaking and peacekeeping. Members are also involved in election observer missions to all countries in the region. Some of these missions, especially the one to the 2000 elections in Zimbabwe, have raised international recognition for the SADC–PF. In this instance, unlike most of the other continental and international observer missions, the SADC–PF was the only one to declare that the elections had not conformed with the Norms and Standards for Elections in the SADC Region drawn up by the SADC–PF and endorsed by SADC.

The SADC–PF was established with the aim of forging common economic, political and social values for the region as a whole. The body faces difficulties in implementing its protocols due to a lack of commitment by member countries. For example, the SADC Protocol on Gender and Development has not been ratified by some member states, while others are simply ignoring the SADC–PF guidelines on elections. Even Namibia does not fully adhere to these guidelines.²¹

Inter-parliamentary Union

Another international platform where Namibian MPs have played a very significant part in drawing up foreign policy agreements was within the IPU. Once again, Namibia has to thank the late Dr Tjitendero and Theo-Ben Gurirab, who were two of the IPU's most influential members. Tjitendero served on its Executive for more than four years and was a candidate in the election for its President. He lost by a very narrow margin because some delegates from Africa left before the vote was taken. In spite of the loss, Tjitendero remained the most influential member of the organisation until his passing. Whenever

21 Cf. Tjirera ([forthcoming]:16).

there was a stalemate on any issue, especially when the position of the African Group was crucial, he was the one called upon to mediate.

The Namibian delegation has also played and continues to play a significant part in the reform of the IPU. Apart from the late Speaker, the Deputy Chairperson of the National Council, Margreth Mensah-Williams, also served on the Executive Committee, the Women's Coordinating Committee, and as Vice-President of the IPU.

IPU Standing Committees deal with foreign affairs in the following areas:

- Sustainable development, finance and trade²²
- Peace and security
- Finance, and
- Human rights.

Members of the Namibian delegation have served on all these committees as ordinary members.

A major thrust of the work in the IPU is to support democracy. When there was a coup d'état in Thailand, for example, the IPU's membership was suspended and the conference that was supposed to be held there was moved to Indonesia.

A considerable amount of work goes into looking after the human rights of detained MPs as well. From the time that Namibia joined the IPU, it worked towards obtaining associate membership of the UN – in which it succeeded five years ago. It is important to note that topics for deliberation at IPU conferences are carefully chosen to correspond with major items of deliberation at the UN General Assembly. In fact, UN Millennium Development Goals 3 and 5 were proposed by the IPU at the time that Gurirab was President of the General Assembly. It is worth noting that Namibia's associate membership of the IPU at the UN happened just before he took over the IPU Presidency.

Gurirab served as President of the UN General Assembly between September 1999 and September 2000, as well as carrying out his national duties as Minister of Foreign Affairs. He was renowned for his commitment to highlighting Africa. Although he stated that "it is not parliaments but governments that make decisions", he played a significant role as President of the General Assembly, but also later as the IPU President, in respect of enhancing the role of parliaments in democracies. He also kept the issue of UN Security Council reform on its agenda.

The late Moses Katjiuongua also played a pioneering role at the IPU and was instrumental in getting Namibia's first Speaker elected onto its executive. Because of his extensive knowledge of international politics as well as the contacts he had built with freedom

22 The author served on this Standing Committee for two terms as Vice-President.

fighters from the region, Katjiuongua played a significant part not only in deliberations from the floor, but also in caucusing with his African and Asian colleagues on order to find a common platform.

The IPU's most notable success through its associate membership of the UN was to ensure that MPs, as the democratically elected representatives of the people, were granted a say in the UN – thus representing ruling as well as opposition parties.

The Namibian members of the IPU made it their duty to report matters relating to its work not only to the House, but also, through regular press conferences, to the nation as a whole.

The IPU has a National Group of Namibia to which parties appoint their representatives. This is the platform from which decisions regarding participation at IPU meetings are taken. These decisions would include time slots for regular IPU meetings. The National Group also serves as a platform for discussing IPU delegations and budgets, and it prepares regular reports to the IPU. Notably, this is the only National Group to have elected a member of the opposition as its Vice-President.

The IPU holds two meetings per year. There is one in Geneva, which principally deals with administrative issues; and then there is the deliberative Annual Assembly, which is held in a member country. As stated previously herein, it is usual practice to choose agenda topics in line with those on the UN agenda, and resolutions are passed in a similar manner. The various IPU Standing Committees deliberate and submit proposals to the Annual Assembly.

The Pan-African Parliament

At the PAP's inception, it was decided that, contrary to its statutes, representatives would not be elected by the peoples of the member states concerned; instead, they would be appointed by their respective parliaments, according to the ratios of those parliaments, for a specified term. As a result, the Namibian PAP delegation consists of four members of the ruling party and one from the opposition. Thus, the ruling party is in effect over-represented: the SWAPO Party constitutes 80% of the delegation's membership, despite it not holding an 80% majority in the House.

Namibia's foreign policy is based on whatever position the executives of African Union member states adopt on any foreign policy issue. Predictably, the members of the Namibian delegation take a view which does not contradict their government's position on such issues.

After ten years of PAP's existence, there has still been no election of its members. In other words, the members serving on PAP simply continue to be appointed by their

respective parliaments. Also, the fact that its members have not been elected may be one of the reasons why PAP is still a consultative body with no legislative power on the continent.

According to an interview with Dr Peter Katjavivi, Governing Party Chief Whip and leader of the Namibian delegation to PAP, Namibia considers PAP as an instrument for enhancing unity on the continent, in the same vein as the first Pan-African Congress had done in Paris in 1919. Katjavivi also stated that Namibia saw PAP as a major factor in promoting parliamentary democracy.

Furthermore, Katjavivi reported on the latest motion brought to PAP by the Namibian delegation: it proposed a resolution on what he termed “the current crisis” in Libya. The resolution was adopted and –²³

... formed part of the initiative taken by the African Union through the president of South Africa when he visited Libya recently.

This resolution criticised the action taken by the UN and the North Atlantic Treaty Organization (NATO) to assist the rebels, and pushed for dialogue between the Libyan actors in order to preserve the country’s national sovereignty. In the interview, Katjavivi also stated that “Africa should not be involved into [sic] change of government by force”.²⁴ This shows that Namibian foreign policy tends to adhere to the traditional notions of *state sovereignty* and *non-interference* rather than to the modern notions of *human rights* and *human security*.²⁵

The ACP–EU Joint Parliamentary Assembly

The ACP–EU Joint Parliamentary Assembly (JPA) is an institution made up of parliamentarians of the African, Caribbean and Pacific (ACP) states and those of the European Union (EU). The JPA originates from the Cotonou Agreement signed in 2000 by 78 ACP states²⁶ and the states of the EU, and it contains the ACP–EU strategy for poverty eradication and development and trade issues, such as the incorporation of ACP states into the world economy.²⁷ According to an interview with the former Namibian MP Johan de Waal, the JPA concentrates on economic aspects and is a more theme-based parliament.²⁸ He also stated that two thirds of the members of the Namibian delegation to the JPA are members of the ruling party, while one third are from the opposition.

23 Radio interview with Peter Katjavivi, Windhoek, Namibia, 1 June 2011.

24 (ibid.).

25 See elsewhere in this volume for the article on Namibia and the AU.

26 Cuba is the only state which has not signed the Agreement.

27 Cf. ACP–EU JPA (2006). See also elsewhere in this volume for the article on Economic Partnership Agreements.

28 Cf. Hanson & Julian (2008).

Since the Cotonou Agreement contributed considerably to the developmental aid Namibia received, the ACP–EU partnership is of great value to the country. But what role could Namibia's Parliament play in the ACP–EU JPA?

De Waal illustrated that the ACP–EU JPA was a valuable platform for lobbying, networking and discussion, and it could influence EU MPs. For example, at this forum it was possible to promote Namibia in terms of tourism.

However, when it came to exercising the JPA's oversight function, major flaws hindered the delegations from doing so. De Waal stated that there was much room for improvement in terms of informing the delegations to and preparing them for ACP–EU JPA meetings: they needed to know about topical issues. Also, because two thirds of the delegation were members of the ruling party, when it came to voting, the delegation usually voted in line with government policies. In De Waal's view, this showed that the delegations did not comply with the role parliaments ought to play on this international stage. De Waal concludes that Parliament did not play a big role "on foreign relations as such", and that it did not "give an input in the making of our [Namibian] foreign policy".²⁹ Asked about the most important topic the ACP–EU was concerned with, namely the Economic Partnership Agreements (EPAs), De Waal could only state that they had been discussed in the Parliamentary Standing Committee on Economics, Natural Resources and Public Administration, but could not give a statement on whether or how they had been discussed in the JPA.

Another source highlights that EPAs have been a very important issue in JPA talks.³⁰ A newspaper article about a JPA resolution safeguarding Namibia's interests confirms this,³¹ and indicates the strength of the Namibian delegation. De Waal also concludes that the Namibian Parliament's influence in the ACP–EU structure is mostly in terms of bilateral issues, not foreign affairs.

In another article, Tjirera concludes that –³²

... most of the decisions taken in these organisations [PAP, SADC–PF, IPU, ACP–EU JPA] are not binding, but [are] of advisory importance. In the case of Namibia, reports are compiled based on the discussions in these forums but, in most cases, are only tabled for note[-]taking and not for discussion. Due to the excessive dominance of the Namibian parliament by the executive it is not likely for the Namibian delegation to these forums to take a position that contradicts the country's position. Thus the role of [the] Namibian Parliament, as an autonomous organ of the state, in international relations is very limited.

29 Interview with Johan de Waal, Windhoek, 17 May 2011.

30 See Hanson & Julian (2008).

31 See Duddy (2009).

32 Tjirera ([forthcoming]:16).

Despite some shortcomings, through their membership of international parliamentary bodies, MPs have managed to play a very significant role in the SADC region, on the continent and internationally. This was possible mainly because Namibian MPs always presented a united front when issues were discussed. Whilst they would disagree at home, such disagreements were set aside abroad and colleagues supported each other – especially when it came to having Namibian delegates elected to serve on the governing bodies of international parliamentary organisations based on their ability, rather than their party affiliation.³³

International agreements

The Namibian Constitution states the following in Article 144 under Chapter 21:³⁴

Unless otherwise provided for by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia.

Thus, the Constitution opens up a space for international law to be incorporated into Namibian municipal law, and provides for a strong role for Parliament. Article 63(2)(e) of the Constitution strengthens this role of Parliament as follows:

The National Assembly shall further have the power and function, subject to this Constitution: ...
(e) to agree to the ratification of or accession to international agreements which have been negotiated and signed in terms of Article 32(3)(e) hereof; ...

In his research into the incorporation of international law into Namibian law, Onkemetse Tshosa emphasises the role of Parliament as last resort, and states that Article 144 does not harm the “sovereign power of the Namibian legislative authority to transform treaties”.³⁵ With reference to the Constitution, he adds that it is absolutely possible for Parliament to democratically control and oversee “the nation’s conduct of its foreign relations”.³⁶ He concludes that Article 144 does not interfere with Parliament’s power to decide on international law and international agreements.

But what does this look like in practice? How does Namibia’s National Assembly actually comply with its constitutional role as legislator when it comes to international agreements?

33 Compare, for example, the following section on the role of the current Speaker of Parliament, Theo-Ben Gurirab.

34 For an appraisal of Article 144, see Dausab (2010).

35 Tshosa (2010:20).

36 (ibid.:21).

Unfortunately, there are many flaws which prevent Parliament from complying with this role. International agreements are often not presented to the National Assembly until the very day they are supposed to be ratified. Cabinet Ministers decide whether and when to bring a treaty or other document to Parliament for ratification. MPs often do not have a chance to see the document until the day before such ratification. Once the agreement has been ratified, there is no follow-up process to domesticate the law, i.e. to review and amend national law in accordance with such agreement. De Waal and Katjavivi also confirmed that MPs were often ill-prepared and seldom proactive; that Parliament did not take control of the ratification process; and that a flawed implementation process had led to a lack of implementation.³⁷

Policy statements by the National Assembly on current international issues, crises and conflicts

The National Assembly very rarely makes policy statements on current international issues, crises and conflicts. In most cases, a Minister will make a ministerial statement in the House, but it is almost never debated, the Minister cannot be extensively questioned. Thus, not only are divergent views not articulated, they are also never incorporated – not even when Namibia is directly involved in international conflicts, such as the wars in Angola and the Democratic Republic of Congo. Even though the Constitution makes provision for such participation by Parliament, it is not involved in the decision-making process. Indeed, it was a direct order from the Head of State, Sam Nujoma, to intervene in the latter conflicts: Parliament's role was reduced to legitimising and justifying a decision that had already been made.³⁸ There can be no clearer indication of what role the ruling party is prepared to allow the opposition to play.

When researching the parliamentary dimension of foreign relations, one also has to focus on the life of Theo-Ben Gurirab, who has been an important figure in Namibian foreign policy. Besides being an MP and Namibia's current Parliamentary Speaker, he served as President of the UN General Assembly between September 1999 and September 2000, and as President of the IPU from 2008 to 2012.³⁹

When he was elected President of the UN General Assembly – “the world's greatest parliament”,⁴⁰ as he called it – he was highly praised by other diplomats. It was said that

37 Interview with Johan de Waal, Windhoek, 17 May 2011; radio interview with Peter Katjavivi, Windhoek, Namibia, 1 June 2011.

38 Cf. Melber (2006:8).

39 IPU ([n.d.]a).

40 *Government News* (1999a); available at http://www.gov-news.org/gov/un/news/my_mind_heart_devotion_always_close_un_charter/1085.html; last accessed 4 October 2011. Compare his statement on the General Assembly: “Because of its transparency and representative character -- it is the most deliberative policy-making organ in the United Nations -- its authority

he would ensure the UN did not forget Africa because he saw the continent “as a global issue and how global issues impact on Africa”.⁴¹ Gurirab was also described as “the right man at the right time”, who brought great advantage to the job when the UN faced enormous challenges entering the new millennium.⁴²

Despite declaring that “it is not parliaments but governments that make decisions”,⁴³ he tried his best as President of the General Assembly to keep the issue of reforming the UN Security Council on the UN’s agenda.⁴⁴ He stated that –⁴⁵

... it was high time for Member States, particularly those from the developing countries, to redress the persistent attacks on and marginalization of the foremost organ of the United Nations.

Theo-Ben Gurirab also submitted a Draft Resolution containing a proposal for the UN Millennium Declaration.⁴⁶ The Declaration was presented to the UN Millennium Summit held from 6 to 8 September 2000, and was later adopted by the General Assembly. This Declaration is the key document on which the Millennium Development Goals are based. He also ensured that the Declaration included a reference of the important role of parliaments.⁴⁷

Gurirab called for “globalization with a head, a heart and a human face”, meaning –⁴⁸

... [developing world] debt cancellation, productive investment, measures to discourage financial speculation, and firm action to end the tariff and non-tariff barriers that are still imposed lopsidedly against developing countries that can least afford them.

As President of the IPU, he pronounced that he was not serving as a Namibian, but as a world representative.⁴⁹ With this he meant his agenda was not focussed on Namibian issues only, but on global issues relevant to all parliaments. He also stated that –⁵⁰

and integrity must be reinforced. It is here, in the General Assembly, where all the nations, big and small, rich and poor, are represented, that democracy really comes alive. It happens nowhere else. ... and the mandate of the General Assembly should be restored”; available at http://www.gov-news.org/gov/un/news/transcript_press_conference_assembly_president/4670.html; last accessed 4 October 2011.

41 Mwaura (1999).

42 (ibid.). It seems that he delivered on these high expectations. A reporter stated that he knew no other General Assembly President that had spent so much time at the UN as Gurirab had; see *Government News* (2000).

43 *New Era* (2008:8).

44 *Government News* (1999b).

45 UNIS (2000).

46 UN (2000).

47 *Diplomacy Namibia* (2010).

48 UN Forum (2000).

49 *New Era* (2008:8).

50 (ibid.).

Parliaments are not the first movers in a democracy. It is the government that has to do things first. We [the IPU] will bring the attitude of an inspector of what governments do.

This statement highlights the importance of parliaments in terms of social issues. This includes their oversight function with regard to the implementation of the Millennium Development Goals, a task that was adopted by the IPU at its 115th Assembly in Geneva in 2006.⁵¹ At another occasion, Gurirab highlighted the need to improve the accountability of parliaments.⁵²

Under his presidency, the IPU has provided capacity-building to meet MPs' information and knowledge needs, and has sent observers to several elections. The President has also voiced the IPU's concern about undemocratic transitions of power on several occasions.⁵³

However, despite Gurirab having stated that he wanted to send election observers through SADC regional arrangements,⁵⁴ the IPU database only quotes positive SADC and AU statements on the Namibian and other elections: even PAP's critical assessment is ignored.⁵⁵ Indeed, after each election, opposition parties go to court to point out irregularities; one such case is still in court.⁵⁶

Gurirab was a vocal IPU President, speaking up about a number of regional conflicts and global crises. For example, he made statements on the global financial crisis, on Palestine, Zimbabwe, and, more recently, on Egypt and the Ivory Coast.

Thus, it is no exaggeration to say that Gurirab represented the Namibian Parliament in an outstanding way. Through his positions as President of the General Assembly and, recently, the IPU, he was at least able to try to set the agendas of these institutions. He definitely was and is a shining example of Namibian diplomacy and influence at international level.

One also has to look at his domestic role within Parliament to see what he has done to strengthen the parliamentary dimension of foreign relations. Gurirab has served as Minister of Foreign Affairs, Prime Minister, and Speaker of the Parliament. These three very senior positions affect Parliament's role. The Speaker has the power to allow debate; s/he has the power to defend the right of any member in the House to participate in the affairs of Parliament; and s/he has the power to control MPs' behaviour. As Prime Minister, Gurirab was first amongst equals: he had influence over the executive, especially with regard to their performance in the House and the way they interacted with their

51 Gurirab (2008).

52 *Diplomacy Namibia* (2010).

53 Mingxin (2009).

54 *New Era* (2008:8).

55 IPU ([n.d.]b); Shejvali (2009).

56 Sasman (2011).

colleagues across the floor. As Foreign Minister, he was at the helm of Namibia's foreign relations. He was one of the few Ministers who treated members of the opposition with respect. But it took years before a White Paper on Foreign Relations was tabled in the House. He will, therefore, have to account to history – if not today – why Parliament has absolutely no say in Namibia's foreign policy. Most of the people interviewed for this chapter are in agreement that this is indeed the case. In a recent newspaper interview, for example, the Speaker seems to agree with this criticism by expressing concern about Parliament's powerlessness.

Conclusion

During the first five years of the first legislative period, the ruling party did not have a two thirds majority in the House. As a result, the role of opposition parties in the House was more significant.

However, after the ruling party had obtained a two thirds majority, the powers of the legislature diminished. The executive now has the overall majority in the House and, as such, is not only responsible for making laws, but also for controlling debates in the House.

The backbenchers of the ruling party never disagree with the Ministers or their Deputies. In terms of the Standing Rules and Orders of the House, time for debate is allocated proportionally. As a result, especially during the second reading of a Bill when the debate is more general, members of the opposition never have enough time to make contributions.

Furthermore, because of the executive's size, Ministers – who are responsible for drafting and presenting Bills – end up talking more than the backbenchers and opposition combined, and it is obvious that these parties hardly ever criticise each other; and even if they do, when it comes to the vote, they never vote against a motion or even abstain. As a result, laws are made that have to be amended on a regular basis.

All of this means that Parliament has very little influence on policymaking. When an MP asks questions, it sometimes takes weeks – if not months – to receive an answer. Often, there is no answer forthcoming at all; and if the answer is given, very often it is merely referred to as the member wanting to score political points. It lies within the Minister's discretion as to whether to answer the question at all. A small number of Ministers take the responsibility of accounting to the House very seriously and, after intensive research, answer the questions put to them in a very respectful manner. However, the majority treat the function of answering questions with impunity. It is very unfortunate that, in most cases, by the time the question is answered, it is no longer relevant.

If an MP opts to put forth a motion, s/he will usually not even get a chance to complete the motivation to do so before the motion is thrown out. It is not surprising, therefore, that no MP has introduced a private members' Bill on Foreign Relations.

As stated earlier, despite the right of the legislature to agree to ratify and/or accede to international agreements, the status quo leaves much to be desired. Very often, agreements are brought to the House for ratification, but it would be the first time that the National Assembly had ever seen the agreements. In most cases, Parliament has no input in the preliminary discussions that take place in respect of international agreements, so when such agreements are brought to the House for ratification, it is not more than a rubberstamping exercise. In any event, because of the majority of the executive in the House, it has no power to deny ratification at any point. Members of the executive attend international meetings or conferences where agreements are discussed and decided upon, but there is no practice that obliges the Minister to report on the matter in Parliament in a manner that would enable it to have an input before agreements are acceded to. In most cases, when such agreements on foreign policy are made, Namibia's position is dictated by whatever SADC or the AU decides. Within SADC, various levels of decision-making take place. First senior civil servants meet; they in turn advise their Ministers, who then meet before the Heads of State and Government do. Policies are formulated at a Summit of Heads of State and Government. When decisions are taken at international meetings, therefore, all SADC – or, for that matter, AU – member states will vote according to such decisions.

Thus, a critical assessment of the role of Namibia's Parliament in the domain of foreign affairs leads to the conclusion that, because of the majority of the executive in Parliament and the reluctance of SWAPO Party backbenchers to criticise their Ministers, the role of Parliament, with its very small opposition – though deemed very important as far as the Constitution is concerned – is very limited in practice. As indicated herein, it depends on the individual MPs to map out the role they can play in regional, continental and international affairs. Experience has shown that the involvement of MPs in Namibia is much more successful at regional, continental and international organisations because the delegation is perceived as a unit and not as one divided according to party-political membership. Members of such delegations are judged according to their ability and potential with respect to how they can contribute to the organisation in question's success.

It is common practice within international organisations for MPs to vie for leadership positions in the executive as well as on committees. Naturally one's contribution to debates, motions or other activities within these organisations is noted by one's peers, and when vacancies occur, one is known. Very often, some horse-trading takes place as well, and getting one's continent's support is vital. This was evident during Theo-Ben Gurirab's election to the IPU Presidency: SADC–PF chose him as its candidate for the region, while PAP made him their candidate for the continent. From there, everyone

worked tirelessly to obtain the support of other geopolitical groups. Without that support, he would have lost the election.

Because of the efforts by all its MPs, Namibia has gained respect and recognition in international organisations, where comments have often been made that its representation on decision-making structures belies the country's smallness in terms of its population. Because of Namibia's MPs' commitment to participate actively – irrespective of their party-political affiliations – in the various regional, continental and international parliamentary organisations, the country has managed to play a major role in discussions and decisions relating to foreign policy.

This role is facilitated by the fact that, within these organisations, ruling parties scan the political platform. Whereas one delegation may, because of its composition, follow a very leftist/socialist line, another with a conservative ruling party may hold exactly the opposite position. Furthermore, geopolitical groups within the UN–IPU may often have a united approach to issues. Thus, international parliamentary organisations like these are more representative of their electorates. Reforms that have taken place within the UN–IPU relationship as well as those within the IPU itself have enabled parliaments to be recognised as the elected representatives of their peoples – and as having the right to participate in their own right and not through the executive alone.

One of the main reforms within the IPU that have become institutionalised is its Associate Membership of the UN, which has enabled representation of all elected MPs and not just the Cabinet. The introduction of a gender perspective – in terms of which delegations had to include democratically elected MPs that included women in particular – allowed delegations to be disqualified if there was no gender balance. Secondly, the suspension of parliaments which were not democratically elected, the collapsing of the two annual IPU meetings into one, the working session held in Geneva, and one deliberative session held in a member country which offers to hold it, are all examples of reforms that have been implemented.

Because of these reforms, it has become common practice for MPs – including opposition MPs – to be included in official delegations from their respective countries. This includes UN General Assembly sessions as well as all its committees. Moreover, national delegations to international meetings also include MPs. In this way, Parliament can be involved in discussion and decisions on foreign policy in deliberations that relate to international agreements. This involvement has not yet become common practice in Namibia, but times are changing. The latest demonstrations by citizens on the African continent who demand the democratisation of their societies make it imperative for the Namibian Government to practise what it preaches and implement what the Supreme Law dictates, namely to provide space for Parliament to exercise its oversight and legislative functions – not as an opposition or enemy, but as an integral part of a democratic system.

When this happens, the people of Namibia, through their elected representatives, will truly own whatever foreign or other policies its government decides on.⁵⁷

Ben Amathila, the previous leader of the Namibian delegation to PAP, even called for greater participation by civil society in this continental parliament. Namibia has the potential to play a much more significant role in international affairs if it were prepared to use all its human resources at hand. Our Speaker was the President of the IPU; his predecessor, the late Tjitendero, played a great role in SADC–PF as well as in the IPU. Their election to various positions of leadership was successful because of their delegations – and opposition MPs were their most active lobbyists. Namibia is being sold short: it can only gain by maximising the potential of its MPs to influence foreign policy and develop beneficial foreign relations with all its international partners. If one looks at Namibia's neighbours, or the continent, for that matter, people who have shared the country's common history – i.e. Namibia's struggle comrades, many of whom are academicians of international repute – hold very important positions in international bodies. This is not because Namibia's neighbours are better than us, but because they support each other as citizens of the same country. For example, if one considers Namibia was a child of the UN and held its presidency at one point, it is amazing that there are so few Namibians within the UN system. If one visits UN offices, be it in Austria, Geneva or New York, you will find even security staff from our sister countries. Where are the Namibians?

After more than two decades of independence, Namibia needs to remove its “sole and authentic”⁵⁸ blinkers and don the cloak of “One Namibia, One Nation”.⁵⁹ Fortunately, all is not lost. Ambassador Eddie Amkongo, Chairperson of Namibia's Public Service Commission and a long-standing and faithful member of the SWAPO Party, recently published an opinion piece titled “The paradox of the separation of power”.⁶⁰ At last, someone from within the ruling party has opened up a debate in which all should participate. The following excerpt from his piece deserves quoting here:⁶¹

Two decades of our democratic exercise have shown that there are frictions due to either deliberate [misinterpretation] if not application, regarding some articles of the Constitution, the practice of which appears inconsistent with the principle of the separation of power. ...

57 That being said, it is an open question whether Parliament really represents and is in touch with its electorate – the people of Namibia. A report by the Institute for Public Policy Research shows that 96% of respondents had not contacted a member of the National Assembly in 2008 (Parliament of Namibia 2009:9).

58 Reference to the UN's recognition of SWAPO as being the only credible representatives of the Namibian nation prior to Independence.

59 One of the official nation-building slogans.

60 Amkongo (2011).

61 (ibid.).

Parliamentarians, amongst whom are Cabinet ministers, not only debate it but also vote it into law, because they are full-time members and, to make things ludicrous all Ministers are frontbenchers who dominate the august House. Participation by ordinary MPs, including opposition members of parliament, becomes a facade and oftentimes the debate is punctuated with bashing, accusations and unnecessary interjections. ...

Put into perspective, the Minister initiates, formulates, debates, votes into law and, finally, takes back his/her finished product to the ministry to implement.

This is the best explanation why Parliament in Namibia has very little, if any, say in foreign policy, and that is why a paper on the parliamentary dimension of foreign relations will remain limited in scope. This underlines the absence of debate on key international events and their impact on our domestic agenda as well as our positioning as one of the brighter spots on the African continent

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Namibia's foreign relations and security policy: Exploration of a critical nexus

*André du Pisani**

Introduction

The quintessential statement on the nexus between the foreign relations of a state and its security comes from classical realism, a tradition of scholarship that has dominated the study of international relations for several decades. In his seminal study, titled *Politics among nations – The struggle for power and peace*, Hans Morgenthau argues that state-based “collective security”, as provided for in the 1945 Charter of the United Nations, does not supersede the more foundational principle of “the balance of power”.¹ For Morgenthau and other scholars of his persuasion, the *balance of power* construct made collective security possible. The historically most significant manifestation of this ‘balance of power’ is to be found in the relations of economic, political and security alliances involving more than one state.

At the height of the Cold War, the ideas of Morgenthau and his followers essentially shaped the analysis of the nexus between foreign relations and security, while the arms race between the United States (US) and the former Soviet Union gave special credence to such an approach. The end of the Cold War, however, spawned new approaches to the study of foreign relations and security, as well as to the more restrictive notion of *foreign policy* and its complex interface with defence and security policy.

The most salient new understandings of foreign relations (and of foreign policy) and their complex interrelations with security have been a reconsideration of the classical realist notion of *national power* and its elements: geography, natural resources, industrial capacity, military preparedness, population, national character, national morale, the quality of diplomacy, and the quality of government – among others.² Since classical realism offers a state-centric account of the world, and because realism takes the state to be central to international relations, topics such as the study of foreign-policy-making or the analysis of the components of national power loom large; for the same reason, interstate ‘war’ is taken to be *sui generis*, unlike any other form of social conflict. This state-centricity suggests that realism ought to have a clear theory of the state. As it

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1 Morgenthau (1948).

2 (ibid.:106–143).

happens, this is not the case: the lack of such a theory is an important problem at the heart of realism – indeed of International relations as an academic discourse.³

However, although theory is missing, realism offers quite an elaborate description of the state and of its emergence. The *state* is understood as a territorially based political unit characterised by a central decision-making and enforcement machinery (a government and a civil service); the state is legally ‘sovereign’ in the sense that it recognises neither an exterior superior nor an internal equal; and the state exists in a world composed of other, similarly characterised, territorial, sovereign political units.

As mentioned above, the end of the Cold War and the implosion of once powerful states like the former Soviet Union, and alliances such as the Warsaw Pact, challenged many of the central precepts of the realist understanding of the world and of international relations. In parallel, new understandings of security emerged in the scholarly literature and in the conduct of international relations. While national or state security was not superseded by the widening of the concept of *security*, new dimensions of security became progressively more important, as these posed new policy challenges. The most significant of these included the notions of *human security*, *public security*, *economic security* and *environmental security*. All of these notions of security had people, as opposed to states, as their primary referent. Consequently, *human security* and *national* or *state security* became to be regarded as complementary, mutually constitutive and, largely, indivisible.⁴ Moreover, the trinity of *democracy*, *security* and *development* came to characterise the literature on the topic of the nexus between foreign relations and the multi-dimensional construct of *security*.

Namibia: A fusion of traditional and post-Cold War understandings of *security*

Namibia assumed its independence at a historically most significant confluence in world history – the end of the Cold War. Thus, it is not surprising that the new state articulated a position on security and its interfaces with foreign relations that fused more traditional state-centric notions of *security* with broader understandings of the construct. The Vision and Mission of the Ministry of Foreign Affairs reflect this. The Vision, for example, calls for the following:⁵

3 See Brown & Ainley (2005:63).

4 See, among the many influential sources, Buzan (1991); Buzan et al. (1998); Prins (1993); and United Nations Commission on Human Security (2003).

5 See Office of the President (2004:vii). See also the *Third National Development Plan* (NPC 2008a:70–79) and *Vision 2030* (Office of the President 2004:187–200).

A peaceful, safe, stable and prosperity-enhancing world order that is predicated on the principles of diplomatic persuasion and a multilateral approach to international relations, a world order in which Namibia is able to become a developed country by the year 2030.

The Ministry's Mission Statement elaborated this by highlighting "the promotion of security domestically, within our neighbourhood and in the global arena".⁶

Both the Ministry's Vision and Mission derive their thrust from the principles and objectives set out in Article 96 of the Constitution of the Republic of Namibia, which state that Namibia will –

- adopt and maintain a policy of non-alignment
- promote international cooperation, peace and security
- create and maintain just and mutually beneficial relations among nations
- foster respect for international law, treaty and obligations, and
- encourage the settlement of international disputes by peaceful means.

While Article 96 reflects some of the post-Cold War values and concerns that have come to characterise the foreign relations and policies of many new states, it is important to emphasise that it also provides for tenets that pre-date the independence of the country in March 1990. Chief among these are the adoption and maintenance of a policy of non-alignment, and the primacy of national or state security – the latter, based on the classical notion of *sovereignty*: a construct that has since undergone important amplification. As a new state, Namibia prized itself on the sacrosanct principle of 'domestic sovereignty',⁷ as was evidenced in its bilateral negotiations on the reintegration of Walvis Bay and the Penguin Islands,⁸ a topic to which this chapter returns. Of equal importance, as shown in the chapter by Chris Saunders in this volume, has been the imprint of the foreign policy and diplomacy of the erstwhile liberation movement, the South West Africa People's Organisation (now *SWAPO Party of Namibia*), who subsequently took power at Namibia's Independence in March 1990. SWAPO participated actively in international organisations right after its establishment. For example, in 1961, SWAPO President Sam Nujoma attended the founding meeting of the Non-aligned Movement (NAM) in Belgrade, Yugoslavia. SWAPO became a full member of NAM in 1978. Nujoma was present at the inaugural meeting of the Organisation of African Unity (OAU), the antecedent of the African Union (AU), in Addis Ababa, Ethiopia, in May 1963, and he attended many later OAU summits. At the time of Independence, SWAPO had 27 diplomatic missions abroad. Of these, 12 were in Africa, notably in the former Frontline States (FLS, the precursor to the Southern African Development Coordination Conference, which evolved into the Southern African Development Community, SADC),

6 See Ministry of Foreign Affairs (2004:vii).

7 See the contribution on the African Union (AU) by Bience Gawanas in this volume: Namibia is not supportive of the AU principle of non-indifference.

8 Also officially referred to as *the Offshore Islands*.

11 in Europe, 1 in Asia (India), 2 in the Americas, and 1 in Australia. SWAPO also had observer status at the United Nations (UN).⁹

SWAPO's pre-Independence diplomacy was formative for the post-Independence period: many of the politico-security relations entered into at the time formed the basis for such relations after Namibia's independence. For example, security-related relations with the erstwhile FLS and with the OAU made it relatively easy to continue and further cement such relations with the SADC and the AU. Ties with a number of other liberation movements – including Frente de Libertação de Moçambique (FRELIMO, Front for the Liberation of Mozambique), the African National Congress (ANC) and, from 1975, the Movimento Popular para la Libertação de Angola (MPLA, Popular Movement for the Liberation of Angola) – meant that the post-Independence SWAPO Party could continue and deepen such relations after 1990.¹⁰ Moreover, the complex UN-brokered transition in Namibia left a most useful institutional legacy for the conduct of security diplomacy, namely the Joint Permanent Commission (JPC), which has since served both Angola and Namibia well.

As a liberal democracy, the Republic of Namibia strongly reflects in its Constitution the values of a liberal democracy. The organs of state and public policy are clearly subordinate to this fundamental and Supreme Law.¹¹ Thus, post-Independence foreign policy mirrors the values and principles of the idealist or liberal/pluralist approach to international relations. Four values are especially deeply imprinted in the country's international relations. These are –¹²

- respect for international law and treaty obligations (and, by implication, for the sovereignty of states)
- the promotion of international cooperation with the express purpose of fostering regional and international peace and security
- the peaceful (diplomatic) resolution of conflict, and
- maintaining just and mutually beneficial relations among states – principally through the instrument of economic diplomacy – and privileging South–South cooperation.

In the rest of this chapter we will be concerned with a number of selected issues and agreements between Namibia and other states that illustrate the close nexus between the country's foreign relations and security considerations. The analysis will focus on both bilateral and multilateral relations, without claiming to be comprehensive. The chapter will culminate in a balanced assessment of the achievements after more than two decades of independence.

9 Mushelenga (2008:5).

10 See Brown (1995:19–39), Dreyer (1994), and Nujoma (2001:205, 339–364).

11 Naldi (1995:14). See also Du Pisani (2003:19; 2010:3–16).

12 Mushelenga (2008:71–145). See also *Vision 2030*, Chapter 6 (Office of the President 2004:179–200) and the Foreign Investment Act, 1993 (No. 24 of 1993).

The reintegration of Walvis Bay and the Penguin Islands

One of the first and most important problems at Independence concerned the territorial integrity of the Namibian state, which related to a dispute between the newly-independent state and South Africa over the sovereignty of the then South Africa-controlled enclave of Walvis Bay and certain offshore islands known as the *Penguin Islands*. Article 1(4) of the Constitution proclaims that the national territory of Namibia includes Walvis Bay. Walvis Bay, which covers an area of 1,124 km², is the only deep-water port in the country and is of key importance to Namibia's economic development, maritime security, and foreign trade relations.¹³

Historically, Walvis Bay and the Penguin Islands had been occupied by the United Kingdom in 1878. With German colonisation in 1884, they were annexed to the Colony of the Cape of Good Hope and were in turn transferred to South Africa at the time of its Union in 1910. From 1919, they were administered as part of South West Africa, although they had not been incorporated into the Mandate Agreement of 1920. Subsequently, from 1977 onwards, the territory was administered as part of the Cape Province. In the protracted negotiations over the future of Namibia, South Africa stubbornly insisted that it would not give up sovereignty over Walvis Bay and the Penguin Islands although UN Security Council Resolution 432 (1978) called for the reintegration of Walvis Bay into Namibia.

The South African claim to sovereignty was based on occupation, inherited from the colonial power (the United Kingdom), whereas various legal arguments were advanced on Namibia's behalf.¹⁴ Ironically, however, the Namibian courts have expressed support for the original South African claim, rejecting the assertions that the Cape Province did not effectively annex Walvis Bay; that South Africa did not effectively exercise authority and legislative power over it; and that the Namibian Constitution did not regard Walvis Bay as having previously been a legal part of South Africa.¹⁵

Nevertheless, as has been indicated, under Article 1(4) of the Namibian Constitution considers Walvis Bay and the offshore islands as part of its national territory. This also found expression in the judgment by the Supreme Court of Namibia in *S v Redondo*,

13 Naldi (1995:26). See also Thornberry (2004:5,329) and Halbach (2000:124–5).

14 In her authoritative study, *Walvis Bay: Decolonization and international law*, Lynn Berat (1990) advances four main claims based on the right of self-determination to support Namibia's title to the land in question: (1) Legal ties between the indigenous peoples, as discussed in the *Western Sahara Case*, International Court of Justice [ICJ] Reports 1975; (2) Inter-temporal Law; (3) Estoppel, as a result of having been administered as part of South West Africa for nearly 60 years; and (4) Its status as a colonial enclave. As Dugard (1973:98–101,111–114) points out, however, none of these arguments is very convincing.

15 *S v Redondo* 1992 NR (2) SA 528 (Namibian Supreme Court), 539. See also *S v Martinez* 1991 (4) SA 741 (Namibia), at 749–750.

which stated that, as from the date of Namibia's Independence, Walvis Bay formed part of Namibia.¹⁶

Consequently, in 1991, bilateral negotiations over the future of Walvis Bay and the Penguin Islands were initiated between Namibia and South Africa. This resulted in Namibia temporarily accepting joint administration over Walvis Bay in 1992, without prejudice to Namibia's claims to sovereignty. In August 1993, South Africa, seemingly bowing to national calls from within that country – notably from the Pan-Africanist Congress (PAC) and the African National Congress (ANC) – announced that it had agreed to cede Walvis Bay and the offshore islands to Namibia. Such transfer of sovereignty becoming effective on 1 March 1994 under the terms of the bilateral Treaty on Walvis Bay,¹⁷ the Walvis Bay and Off-Shore Islands Act,¹⁸ and the South African Act to Provide for the Transfer to Namibia of the Territory of and Sovereignty over Walvis Bay and Certain Islands.¹⁹

It was significant that the reintegration of Walvis Bay and the Penguin Islands was the first foreign policy objective among five set by the then Namibian Minister of Foreign Affairs, Theo-Ben Gurirab.²⁰ The negotiated reintegration of Walvis Bay and the offshore islands was the first fruit borne of shoring up foreign policy and relations with a clear articulation of security interests. The reintegration has since formed the basis for cooperative bilateral relations with South Africa. In retrospect, it was the single most important process in building confidence between the former coloniser (South Africa) and the newly independent Namibian state, especially since the negotiations were successfully concluded before the transition to democracy in that country in April 1994.²¹

Having briefly explored the peaceful, negotiated resolution of the matter of Walvis Bay and the Penguin Islands, the focus now shifts towards a consideration of Namibia's role in peacekeeping and peace support operations both within SADC and further afield.

Peacekeeping and peace support operations

The establishment and maintenance of a defence capability in Namibia is provided for in Article 118 of the Constitution. The Article also states that the composition, powers,

16 *S v Redondo* 1992 NR 133 (SC) at 143.

17 The State President of South Africa already had wide powers to legislate for what was then South West Africa (and later, South West Africa/Namibia) and Walvis Bay in terms of the South West Africa Constitution Act, 1968 (No. 39 of 1968), and he exercised these powers in respect of the 1977 Walvis Bay Administration Proclamation R202.

18 Walvis Bay and Off-Shore Islands Act, 1994 (No. 1 of 1994).

19 Naldi (1995:27).

20 Republic of Namibia (1991:80). Among the other foreign policy objectives were playing a constructive and active part in peacemaking, and diversifying foreign trade relations.

21 Notwithstanding South Africa bickering over what it believed was infrastructure belonging to it.

duties and procedures are to be prescribed for the Namibian Defence Force (NDF) in order to protect Namibia's territorial integrity and national interests. Section 2 of the Defence Act²² makes provision for the composition and organisation of the NDF's three Arms of Services, namely the Army, Air Force and Navy.

The 2008 Defence Policy, ratified by Parliament, has as one of its key elements a definition of the NDF's principal roles. It further provides for a framework for democratic civil-military relations and commits Namibia –²³

... to secure the region collectively with other Southern African Development Community (SADC) member states through bilateral and multilateral cooperation.

As a State Party to SADC, Namibia has ratified or signed various legal instruments. Chief among these are the following:

- SADC Treaty (1992)
- SADC Protocol on Combating Illicit Drug Trafficking in the Southern African Region (1996)
- SADC Protocol on Tribunal and Rules of Procedure thereof (1999)
- SADC Protocol on Legal Affairs (2000)
- SADC Protocol on Defence and Security Cooperation (2001)
- SADC Mutual Defence Pact (2003)
- Protocol on the SADC Standby Force (2008–2009), and
- SADC Revised Edition Strategic Indicative Plan for the Organ on Politics, Defence and Security Cooperation (2010) – popularly known as the *Revised SIPO*. It is important to point out that the Revised SIPO launched in Arusha, Tanzania, in November 2012, happened when Namibia was the Deputy Chair of the Organ on Politics, Defence and Security Cooperation. In August 2013, Namibia became the Chair of the Organ troika.

Further political and legal obligations flow from Namibia's membership of the AU and the UN. In the case of the AU, the most important policy and legal frameworks include –

- the Constitutive Act of the African Union (2000)
- the Protocol Relating to the Establishment of the Peace and Security Council of The African Union (2002), and
- the African Union Non-aggression and Common Defence Pact (2005)

As regards the UN, the Charter of the United Nations (145) (as amended in 1965, 1968 and 1973) is the key legal document.

Apart from the country's military engagement in the Democratic Republic of the Congo (DRC) – a fellow SADC member state – in the period October 1998 to early 2001, which

22 No. 1 of 2002.

23 Republic of Namibia (2008:3).

will be separately considered later herein on account of its wider political and security importance to SADC, Namibia has participated in 11 peacekeeping and multinational support operations to date under the country's regional and international obligations. These deployments have taken place under three different mandates: that of the UN, the AU, and SADC. In the cases of Angola, Cambodia, East Timor, Haiti, Liberia, Sierra Leone, Somalia, Sri Lanka and Sudan [Darfur],²⁴ Namibia deployed peacekeepers that included staff officers, military observers and civilian police. In the case of Sudan, Namibian peacekeepers first formed part of the AU-mandated mission (AMIS) and stayed in the country after the mandate was changed into a joint UN–AU one (UNAMIS).

Namibia has, since early 1993 when she first deployed peacekeepers in Cambodia, become an important contributor to multinational peace missions under the aegis of the UN and the AU. As far as SADC is concerned, Namibia has trained both military and police components for future deployment under the SADC Standby Force (SADCSF) arrangement. Both the NDF and the Namibian Police (NAMPOL) are engaged in ongoing training for peace support operations, often in association with external militaries and police forces. In February 2007, former UN Ambassador and Permanent Representative of Namibia, Dr Kaire Mbuende, spoke in support of reforms in UN peacekeeping on the General Assembly Substantive Session of the Special Committee for Peacekeeping Operations.²⁵

As far as police and policing are concerned, Namibia supports its foreign policy objectives through membership of the International Police Organisation (IPO) that the country joined in 1991 and the Southern African Regional Police Chiefs Co-operation Organisation (SARPCCO) of which Namibia has been a member since its inception in 1995. Members of NAMPOL have been seconded to the INTERPOL Regional Bureau in Harare, Zimbabwe, including its Deputy Inspector-General for Operations, who, until 2010, served as Head of the Regional Bureau.

Peacekeeping and peace support operations – and, more recently, collective regional police action on transnational crime syndication such as money laundering, drug trafficking, violent crimes, illicit diamond buying, cattle hustling, small arms proliferation, and human trafficking – offer tangible proof of how defence, security, intelligence and foreign policy are mutually constitutive.

24 NAMPOL contingents or individual members have served in countries such as East Timor, Haiti, Liberia, Sierra Leone, Somalia, and Sudan. See Republic of Namibia (2010:245).

25 Training and capacity-building in peacekeeping and peace support have been – and continue to be – provided by various countries, including the Federal Republic of Germany, the United States of America, the Republic of Malaysia, and the Kingdom of the Netherlands. For the full text of Dr Kaire Mbuende's statement to the UN General Assembly, see Mbuende (2007a:10).

Against this brief and incomplete overview of Namibia's involvement in peacekeeping and peace support operations over the past two decades, the focus now shifts towards a consideration of the Kasikili/Sedudu Island dispute with neighbouring Botswana.

Kasikili/Sedudu Island dispute

During 1992, Botswana, a fellow SADC member state, claimed sovereignty over Kasikili Island (called *Sedudu*) by Botswana, which Namibia regarded as part of its own territory. Kasikili/Sedudu is a small island, 3.5 km in length, located near the Chobe River on the north-eastern international border between the two countries. The island has limited strategic or economic importance to the two countries. Several meetings, some at the level of SADC Heads of State, mediated by the President of Zimbabwe, Robert Mugabe, were held between the two countries to resolve the dispute peacefully. The mediation ended unsuccessfully in 1995, whereupon both governments decided to refer the dispute to the International Court of Justice (ICJ) in The Hague, the Netherlands, for international arbitration and a binding legal opinion on the matter. Before this issue is discussed any further, the politico-legal background to the island needs to be briefly sketched.

Like many border conflicts in Africa, the dispute over ownership had its roots in the Anglo-German agreement of 1890 that defined the middle of the Chobe River's main channel as the boundary between what were then German South West Africa and British Bechuanaland. Controversy between the two states ensued over legal ownership of the island, as well as on the related question as to whether the Chobe's main channel – more than a century after the original agreement (in addition to the fact that rivers change their courses in 100 years) – was the one to the north or the south of the island. Namibia, in its submission to the ICJ, claimed it was the south channel; Botswana claimed it was the channel north of the island.

In 1995, following President Mugabe's unsuccessful attempts to mediate, both governments agreed to refer the dispute to the ICJ, as mentioned above. The ICJ presented itself as one of the most impartial international bodies to rule on the dispute, and the joint decision to refer the dispute for arbitration came in the wake of both governments failing to implement recommendations contained in a report by a Namibia–Botswana Joint Technical Commission (JTC) established in 1992. Namibia also remembered earlier rulings of the ICJ, notably that of 1971, which declared South Africa's presence "illegal" in the country; hence, it had faith in the impartiality and justice of that body.

The JTC comprised three members from each of the two countries in question. During its work, the JTC made use of earlier border demarcations contained in the 1890 Anglo-German Agreement and the subsequent Anglo-German-Portuguese Treaty of 1892, as

well as of several historical and contemporary political and topographical maps and aerial photographs.²⁶

Namibia argued that the island belonged to it on the grounds of human settlement and subsistence, as well as other historical, ethnographic/cultural and oral evidence, besides its reading of the 1890 Anglo-German Treaty. Invoking the legal principles of *description* and of *Estoppel*, which refer to the continuous use and occupation by people of a specific territory, Namibia's legal team under Dr Albert Kawana²⁷ argued that the island was legally and politically part of the territory of Namibia through long use, as the Subia people had been exploiting both the water and the grazing of the island for more than a century without any protest from either the United Kingdom or Botswana. Botswana based its claim to ownership on the geographic position of the northern channel, as well as on the 1985 agreement between itself and South Africa. Both parties made extensive use of maps and expert evidence in support of their legal arguments.

Oral hearings before the ICJ started in February 1999 and were concluded early in March of the same year. The Chairperson of the Botswana legal team was Deputy Attorney-General (Prosecutions), Adednigo Tafa. Their Chief Legal Counsel was Prof. Ian Brownlie, a noted name in constitutional and international law. Brownlie was assisted by Lady Hazel Fox, QC, formerly associated with the University of Oxford. They were in turn assisted by Dr Stefan Talmon, a former student of Brownlie. The 14-member Namibian legal team was headed by Dr Albert Kawana, then Permanent Secretary in the Ministry of Justice. Prof. Abram Chayes from Harvard University in the US acted as Leading Counsel. In the end, when the ICJ resolved that the island indeed belonged to Botswana, Namibia bowed graciously to the decision.²⁸

Subsequent to the ICJ ruling – which, in retrospect, served the bilateral interests of both countries rather well – Botswana indicated that it was unhappy with the current boundaries of another small, insignificant island in the Caprivi Region of Namibia – Situngu. Both countries decided to discuss Botswana's concern at the bilateral level. Since the establishment of a Permanent Security Commission between the two SADC member states, this and other more explicit security concerns have been amicably discussed and resolved.

The erstwhile dispute over the Kasikili/Sedudu Island and the manner in which it was resolved has not only contributed greatly towards improving bilateral relations between

26 See British and German documents respecting the delimitation of their respective spheres of influence in south-western Africa in the National Archives of Namibia (ZBU: A.I.b.4–A.I.b.5). See also Dierks (2002:72); Hangula (1993:18–21); and Kangumu (2011) for additional historical background to the 1890 and 1892 Treaties.

27 Now Minister of Presidential Affairs.

28 Du Pisani (2000:310).

both countries over a wide spectrum of areas of common interest and concern such as tourism, transnational crime, health and environmental management, but it has also, more importantly, won Namibia respect in the region and beyond, and contributed towards confidence-building at a time when the region had to contend with two other fractures – Angola and the DRC. It is to the latter, the DRC, that this chapter next turns.

Military engagement in the DRC, 1998–2001

In late 1998, two years after the SADC Organ on Politics, Defence and Security Cooperation (OPDS) had been established and military interventions had occurred in the DRC and Lesotho, intraregional relations were under severe stress. Botswana and South Africa spearheaded the military intervention in Lesotho, ostensibly under SADC auspices. In the case of the conflict in the DRC, three SADC member states – Angola, Namibia and Zimbabwe – decided to engage militarily in that country when the new government under the uncertain tutelage of former President Laurent Kabila faced the threat of external invasion from armed formations in Rwanda and from internal rebellion.

The 1998 intervention in the DRC conflict brought into sharp relief the challenges facing the OPDS. That intervention and South Africa's refusal to join in the military action highlighted intra-SADC tensions around three principal issues:²⁹

- Autonomy (the relationship between the OPDS and the SADC Secretariat and Summit)
- The legal and political frameworks in which the OPDS should be operating, and
- The power struggle over regional hegemony in the post-liberation and post-apartheid era.

Divergent views over the appropriate legal and political frameworks of the OPDS were further exacerbated by political and economic considerations, most notably between South Africa, under President Nelson Mandela, and Zimbabwe, under President Robert Mugabe, the latter having been the Chairperson of the OPDS from its inception in 1996. The further accusation by some SADC member states – among them Namibia, Swaziland and Zimbabwe – that South Africa was pursuing selfish and potentially hegemonic economic and trade policies in the region, as well as a restrictive immigration regime, added to the tensions. By 1999, SADC reflected these tensions, and there was every prospect that the region might very well become polarised between a South-African-led grouping and a Zimbabwe-led one. The latter comprised, apart from Zimbabwe itself, Angola, the DRC and Namibia.

At the SADC Summit held in Swaziland in 1999, most of the above tensions were recognised. As the Chair, Swaziland was tasked to review the OPDS and make

29 Baregu & Landsberg (2003:7).

recommendations for reforming it. Working closely with fellow SADC member states, Swaziland actively drove the process of revisiting the OPDS and its relationship to the Summit and the SADC Treaty over the next year. In March 2001, significant progress was reported under the Chair of Namibia. During the Extraordinary SADC Summit that took place on 16 March in Windhoek, the heads of state and government decided to integrate the OPDS tightly into SADC structures. Whereas, since its inception in 1996, the OPDS had been administered by the Ministry of Foreign Affairs of Zimbabwe and chaired by President Mugabe, SADC leaders decided that, in future, the OPDS would not be accountable to the Chair country of the structure but to the respective SADC heads of state and government.³⁰

In retrospect, one of the most significant implications of the military intervention by the three SADC member states was the restructuring of the OPDS. The Organ not only became part of the institutional fabric of SADC, but, since 2001, had been coordinated at Summit level. The principle and practice of a rotating troika – reporting to the Chairperson of the Summit – was also instituted. Since August 2001, the structure, operations, and functions of the OPDS have been regulated by the Protocol on Politics, Defence, and Security Cooperation. In practice, this meant that SADC had made significant advances in terms of both the ideas of collective (state-based) security and collective accountability, as provided for under the troika arrangement.

It came as no surprise, therefore, when the SADC heads of state and government at the Blantyre, Malawi, Summit held in mid-August 2001 unanimously agreed to ratify and implement the Windhoek recommendations of March that year. After the Blantyre Summit, the OPDS was brought firmly under SADC control. In Blantyre, former President Joachim Chissano of Mozambique became the new Chairperson of the OPDS, with outgoing Chair President Mugabe and incoming Chair President Benjamin Mkapa of Tanzania serving as deputies as per the troika arrangement.

Apart from the reintegration of Walvis Bay and the Penguin Islands, the various peacekeeping and peace support operations, the dispute over Kasikili/Sedudu Island with Botswana, and the military engagement in the DRC, foreign and security policy concerns show a confluence in respect of various other aspects of international law as well. These will now be briefly discussed under the rubric of *new forms of security*.

New forms of security

After 2004 in particular, with the publication of the White Paper on Namibia's Foreign Policy and Diplomacy Management and, later in the same year, Namibia Vision 2030, the

30 (ibid.:8). See also Statement by the Extraordinary SADC Summit, Sandton, 9 November 2008; available at www.sadc.net; last accessed 3 May 2011.

country's long-term national development framework, there has been growing evidence of a policy confluence between more traditional forms of security, such as national/state security, and various dimensions of human security on the one hand, and foreign policy on the other. The White Paper, for example, discusses various aspects of security that transcend the more traditional state-based understandings of the construct. Most of these, it argues, need to be addressed through multilateral diplomacy. The following new security concerns find a place in the White Paper:³¹

- The environment
- Marine resources, and
- Economic security, which is to be ensured through regional integration, foreign direct investment (FDI), and trade diversification.

Namibia Vision 2030 takes the articulation of *security* to a higher, more comprehensive level, when it locates it not only in a regional, but also in a global context. Moreover, Vision 2030 talks of the need to –³²

- reduce the prevalence of HIV and AIDS
- enhance economic security – principally through the Common Monetary Area and the Southern African Customs Union
- gender development, and
- interface national and regional development and security through holistic and integrated planning and action.

The Third National Development Plan (NDP3) of 2008 for the period 2007/8–2011/12 is even more explicit and coherent on the nexus between peace, security and political stability and foreign policy objectives. In Chapter 10 of the document, it outlines “sustained participatory democracy” as a foundation for domestic and regional peace, security and political stability – and in doing so, forges a link between democracy and security. NDP3 also emphasises the primacy of the rule of law and social justice as a further foundation for peace and security. In common with earlier policy articulations, the document has regional integration – still principally defined in terms of economic, market and trade integration, rather than as security or development integration – as one of the core strategies for deepening peace and security in SADC. NDP3 also makes a clear commitment on the part of government to contribute to peacekeeping and peace support operations in the region and beyond, and to enhance water management, especially at the regional level.³³

For purposes of balanced and sound analysis, however, it is important to point out that Namibia had ratified or signed various international legal instruments that have a direct bearing on new understandings of security, before the above-mentioned policy

31 Ministry of Foreign Affairs (2004:79–81).

32 Office of the President (2004:174–192).

33 NPC (2008a:137–158).

frameworks were in place. To its credit, Namibia acted swiftly after Independence to either sign or ratify a raft of such international agreements.³⁴ What follows is an incomplete overview of some of the most important of these instruments.

Some prominent international agreements signed or ratified by Namibia to date

As a newly independent state, Namibia was formally admitted to the UN on 23 April 1990, and that implied the country acceded to the UN Charter, ratified the ICJ Statute, and endorsed the 1948 Universal Declaration of Human Rights.

Namibia signed and ratified the Constitutive Act of the AU, 2000, on 27 October 2000 and 28 February 2000, respectively. The county acceded to SADC when it signed the Declaration and Treaty Establishing the Southern African Development Community (SADC), 1992, on 17 August 1992. Since then, Namibia has signed and ratified various other important SADC Protocols, including the Protocol on Tribunal and the Rules of Procedure Thereof, 1999 (ratified on 7 March 2001) and the Protocol on Legal Affairs, 2000 (ratified on 7 March 2001). Since the crafting by a South African academic of the AU's Common African Defence and Security Policy, AU member states have made no direct contribution to the policy. The African Peace Facility Fund (APFF) is provided for in the AU's peace and security architecture with the specific purpose of supporting AU-mandated peace support operations and mediation. Namibia has yet to contribute financially to the APFF.

In respect of armed conflict, Namibia has acceded to a number of UN Conventions, popularly referred to as the *Geneva Conventions*.³⁵ More recently, Namibia also

34 Article 32(3)(e) of the Namibian Constitution gives the President power to “negotiate and sign international agreements, and to delegate such power”. Article 63(2)(e) gives the National Assembly the power “to agree to the ratification of or accession to international agreements which have been negotiated and signed in terms of Article 32(3)(e) hereof”. Article 144 states that, “[u]nless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia”. Article 143 provides that “[a]ll existing international agreements binding upon Namibia shall remain in force, unless and until the National Assembly acting under Article 63(2)(d) hereof otherwise decides”.

35 The primary UN Conventions that Namibia has acceded to are as follows: Amelioration of Condition of Wounded and Sick in Armed Forces in the Field, 1949 (accession 21 March 1990); Amelioration of Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949 (accession 21 March 1990); Geneva Convention relative to the Treatment of Prisoners of War, 1949 (accession 21 March 1990); Geneva Convention relative to Protection of Civilian Persons in Time of War, 1949 (accession 21 March 1990); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1977 (accession 21 March 1990); and the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of

acceded to various International Conventions on transnational crime. These include the following:³⁶

- Rome Statute of the International Criminal Court, 1998 (signed 27 October **1998**)
- Convention Against Transnational Organised Crime, 2000 (signed 13 December **2000**; not ratified to date)
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000 (signed 13 December **2000**; not ratified to date)
- Protocol against the Smuggling of Migrants by Land, Sea and Air, 2000 (signed 13 December **2000**; not ratified to date), and
- International Convention for the Financing of Terrorism, 1999 (signed 10 November **2001**; not ratified to date).

As a UN member state, Namibia has a number of legal and political obligations with regard to combatting money laundering and the financing of terrorism. Such international public law obligations also derive from specific provisions of the Constitution. Chief among these are the following:

- Preamble: "... the equal and inalienable rights of all members of the human family is indispensable for freedom, justice and peace"
- Article 13(1): "... national security, public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedoms of others", and
- Article 21(2): "... in the interests of the sovereignty and integrity of Namibia, national security, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence".

The key UN Conventions that apply are the following:³⁷

- Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention), 1988 (accession 31 March **1998**)
- Convention against Transnational Organised Crime (Palermo Convention), 2000 (signed 13 December **2000**; not ratified to date)

Victims of Non-international Armed Conflicts (Protocol II), 1977 (accession 21 March 1990). The interesting fact is that all the above UN Conventions were originally acceded to by the UN Council for Namibia on behalf of Namibia on 18 October 1983, which is another illustration of how pre-Independence foreign policy and diplomacy impacted on the Republic of Namibia's post-colonial foreign relations and policy.

36 The Prevention and Combating of Terrorist Activities Act, 2012 (No. 12 of 2012) requires Namibia to become a state party to these UN Conventions, particularly the International Convention for the Suppression of the Financing of Terrorism, 1999; the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, with Resolution 3166(XXVIII) of the UN General Assembly, 1973; and the International Convention for the Suppression of Terrorist Bombings, 1998.

37 LAC (2001:7).

- Convention for the Suppression of the Financing of Terrorism, 1999 (signed 10 November **2001**; not ratified to date), and
- Convention against Corruption, 2003 (signed **2003**; not ratified to date).

In the domain of anti-money laundering policy and legal frameworks, Namibia has made significant progress. The country acceded to the international provisions of the Financial Action Task Force (FATF), originally established by the then G7 Summit in Paris in 1989. Since then, the FATF has evolved into an international non-governmental organisation whose purpose is to develop and promote national and international policies to combat money laundering and the financing of terrorism.

Since 1990, the FATF has agreed upon a number of recommendations (also known as *standards*) to respond to the evolving global threat of money laundering. At the time of writing, these recommendations/standards amount to 40 plus 9 (40+9). At SADC level, the Eastern and Southern African Anti-money Laundering Group (ESAAMLG) was launched in August 1999 in Arusha, Tanzania. Namibia is a member of the ESAAMLG, and following the events of 11 September 2001 in the US, the ESAAMLG expanded its scope of work to include the countering of funding for terrorists.³⁸ Based on a Memorandum of Understanding amongst ESAAMLG member states, Namibia undertook to systematically adopt and implement the FAFT 40+9 recommendations/standards. ESAAMLG became an Associate Member of the FATF in June 2010. Namibia, in common with other member states, has engaged in an internal audit process as well as being subjected to inspections by the FATF on the status of its legal and policy frameworks to determine the extent of compliance.

In terms of common law, the High Court of Namibia has an extensive jurisdiction which can be invoked in a transnational crime or offence, such as money laundering, if a significant portion of the activities constituting that offence took place in the country and if no reasonable objection thereto can be raised in international comity.³⁹ In addition, the jurisdiction of Namibian courts can be extended by expressly providing for an extended or concurrent jurisdiction in an Act of Parliament.

In December 2012, the Namibian Government promulgated the Prevention and Combating of Terrorist Act, 2012.⁴⁰ With this Act, Namibia acceded to the FATF regulations and ratified the key UN protocols, mentioned above.

38 Bank of Namibia (2011:7).

39 The following pieces of legislation provide for extended and/or current jurisdiction: Merchant Shipping Act, 1951 (No. 57 of 1951); Aviation Act, 1962 (No. 74 of 1962); Civil Aviation Offences Act, 1972 (No. 10 of 1972); Protection of Information Act, 1982 (No. 84 of 1982); Prevention of Organised Crime Act, 2004 (No. 29 of 2004); Anti-corruption Act, 2003 (No. 8 of 2003); and Financial Intelligence Act, 2007 (No. 3 of 2007), as amended in 2012.

40 No. 12 of 2012.

Following this brief exploration of the domains of crime, terrorism, drugs, and peacekeeping, as well as Namibia's obligations under international law in respect of these domains, other dimensions of security and their interface with foreign policy objectives will now be examined. The most important of these include environment, marine resources, health, human rights, refugees and stateless persons, and trade.

Environment

Since Independence, Namibia has emerged as a shining example to Africa and the world in terms of environmental protection and security. The country has earned an enviable status internationally for protecting and securing its biodiversity and for its efforts to practise integrated natural resource management.

The following is a brief and incomplete presentation of some of the most salient international protocols and conventions on the environment that Namibia has either signed or ratified:

- UN Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973 (accession 18 December 1990; effective 18 March **1991**)
- Agreement for the Establishment of Southern African Centre for Ivory Marketing (SACIM),⁴¹ 1991 (in force since 20 June **1991**)
- Vienna Convention for the Protection of the Ozone Layer, 1985 (accession 20 September **1993**)
- Montreal Protocol on Substances that Deplete the Ozone Layer, 1987 (accession 20 September **1993**)
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989 (accession 15 May **1995**)⁴²
- UN Convention on Wetlands of International Importance, especially as Waterfowl Habitat, 1971 (Ramsar Convention) (accession 23 December **1995**)
- Protocol to amend the Convention on Wetlands of International Importance especially Waterfowl Habitat, 1982 (came into force 1 October 1986; accession 23 December **1995**)
- UN Framework Convention on Climate Change, 1992 (signed 12 June 1992; ratified 16 May **1997**)
- UN Convention on Biological Diversity, 1992 (signed 12 June 1992; ratified 16 May **1997**)
- Cartagena Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa, 1994 (signed 24 October 2004; ratified 16 May **1997**)

41 SACIM was changed to the Southern African Convention for Wildlife Management (SACWM) in 1996.

42 Namibia did not agree to every amendment to the Basel Convention.

- Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, Adopted at the Second Meeting of the Parties at London on 29 June 1990 (ratified 6 November **1997**, with the exception of some amendments)⁴³
- UN Convention Concerning the Protection of the World Cultural and Natural Heritage, 1972 (accession 6 April **2000**)⁴⁴
- UN World Heritage Convention, 1975 (accession 6 April **2000**)⁴⁵
- SADC Protocol on Wildlife Conservation and Law Enforcement, 1999 (ratified 6 April **2000**)
- SADC Revised Protocol on Shared Watercourses in the Southern African Development Community Region, 2000 (ratified 19 June **2001**)
- UN International Convention on Civil Liability for Oil Pollution Damage, 1969 (accession 9 October **2001**)
- UN International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1997 (accession 9 October **2001**). and
- Copenhagen Climate Conference Declaration, 2009 (signed **2010**, but not ratified to date).

In April 2007, Dr Kaire Mbuende, former Ambassador and Namibia's Permanent Representative to the UN, delivered a comprehensive statement on the relationship between energy, security and climate to the UN Security Council. In his statement, he highlighted the impact of climate change on health, rainfall, biodiversity, and food security, among other things.

From the brief overview above of some of the principal international legal conventions and protocols that Namibia has either signed or ratified, it is clear that the country has a sound record on environmental security-related issues such as the preservation of biodiversity. In this respect, considerations of environmental security do in fact support other developmental (notably tourism) and foreign policy objectives.

Marine resources

Given the economic and strategic importance of the marine environment, it is not surprising that Namibia has either acceded to or ratified various international conventions and protocols on the protection of marine resources. What follows is an incomplete listing of such legal instruments to which Namibia subscribes:

- UN Convention on the Law of the Sea, 1982 (signed 10 December 1982; ratified 18 April **1983**)⁴⁶

43 LAC (2001:10).

44 See www.epi.freedom.org/whtrty.htm; last accessed 9 May 2011.

45 See www.unesco.org/whc; last accessed 9 May 2011.

46 Namibia was represented by the UN Council for Namibia as stipulated in Article 305, paragraph 1(b) of the Convention.

- Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, 1995 (signed 19 April 1996; ratified 8 April **1998**)
- Protocol on the Privileges and Immunities of the International Seabed Authority, 1998 (signed 24 September **1999**; not ratified to date)
- Convention on the Conservation of Antarctic Marine Living Resources, 1980 (accession 29 January **2000**; not ratified to date), and
- Convention on the Conservation and Management of Fisheries Resources in the South East Atlantic Ocean (ratified 15 November **2001**).

In addition to these international conventions and protocols on marine resources, Namibia has proclaimed an Exclusive Economic Zone along its coastline with the express purpose of protecting the sensitive and lucrative marine ecosystems dominated by the Benguela Current. The Government policy and legal framework that guides sustainable management of aquatic living fisheries resources, is entitled *Towards Responsible Development of the Fisheries Sector* (1991). This framework was reviewed in 2004, when the monitoring, control and surveillance aspects were strengthened to comply with international fisheries conservation and management standards.⁴⁷

Health

Health is a further policy domain where the accession to international regulations and standards work in support of foreign policy objectives such as human development and enhancing human security. There are essentially four primary legal and policy frameworks – in addition to the assistance provided for by other states such as the US⁴⁸ and agencies of the UN – that guide independent Namibia. These are –

- the International Sanitary Regulations, 1951
- the Constitution of the World Health Organization (WHO), 1946 [as amended] (signed 23 April **1990**)
- the Commonwealth Regional Health Community for East, Central and Southern Africa (accession 19 December **1991**), and
- the SADC Protocol on Health, 1999 (ratification reported, but date not located).

Human rights

The domain of human rights is the last area of policy and politics that has a direct influence on the complex nexus between foreign policy behaviour and security in its different dimensions. As argued at the outset of this chapter, Namibian foreign policy in the post-Independence period has been profoundly normative: the country started out as a

47 Republic of Namibia (2010:201).

48 See the chapter by William A Lindeke on Namibia–USA relations in this volume.

‘norm entrepreneur’,⁴⁹ basing its foreign policy and relations on considerations of human rights and development. It is thus to be expected that Namibia would have acceded to, and ratified, various international public law human rights conventions and covenants. In retrospect, that has indeed been the case. It is the ratification and systematic adherence to such frameworks however, that show that more than two decades after Independence, there is indeed room for improvement.

Of the numerous international human rights conventions and protocols that Namibia signed or ratified since Independence, the following are especially noteworthy:

- International Convention on the Elimination of All Forms of Racial Discrimination, 1966 (accession 11 November **1982**; not ratified to date)
- Convention on the Rights of the Child, 1989 (signed 8 September 1990; ratified 30 September **1990**)
- Convention on the Elimination of All Forms of Discrimination against Women, 1979 (accession 23 November **1992**)
- African Charter on Human and People’s Rights, 1981 (accession 30 July **1992**)
- Convention on the Preservation and Punishment of the Crime of Genocide, 1948 (accession 28 November **1994**; not ratified to date)
- International Covenant on Economic, Social and Cultural Rights, 1966 (accession 28 November **1994**, not ratified to date)
- International Covenant on Civil and Political Rights, 1966 (accession 28 November **1994**)
- Optional Protocol to the International Covenant on Civil and Political Rights (accession 28 November **1994**)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 (accession 28 November **1994**)
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the Abolition of the Death Penalty, 1989 (accession 28 November **1994**)
- African Charter on the Rights and Welfare of the Child, 1990 (signed 13 July **1999**)
- Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women, 2000 (accession **2000**, but not to all amendments)
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (signed 8 September **2000**)
- Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (signed 8 September **2000**), and

49 For another application of the construct of a *norm entrepreneur* with reference to South Africa’s foreign policy after isolation and the transition to democracy, see Geldenhuys (2006:93–107).

50 See *Namunjepe & Others v Commanding Officer, Windhoek Prison & Another* 1999 NR 271 (SC) at 284Hff; see also LAC (2001:14).

- Protocol to African Charter on the Establishment of African Court on Human and People's Rights (signed 9 June 1998; ratified 7 November **2000**).

Given the constitutional provisions on the protection of human rights and the more general normative and idealist grounding of the country's foreign policy and relations that privilege international cooperation and the peaceful resolution of conflict, human rights provisions – while clearly important – should have weighed more heavily in respect of the recent conflict in Zimbabwe and regular violations of human rights (particularly those of women) in the DRC, for example.⁵¹ Namibia should act more systematically as a 'norm entrepreneur' in SADC and beyond. In retrospect, it is clear that Namibia has found it difficult to act independently on human rights issues in fellow SADC member states.

The last issue this chapter wishes to address is that of Namibia's position on UN reform, particularly as regards the UN Security Council, since it could impact on the nexus between foreign relations and security.

UN reform

Since 2008, as a member of the AU Committee of Ten Heads of State and Government, Namibia actively supported UN reform – particularly of the Security Council. In common with other AU member states, Namibia put forward a proposal for Africa to be represented on the Security Council. As shown in the chapter in this volume that explores the country's relations with the UN,⁵² Namibia has served in various capacities within the international body, including having one of the Vice Presidents of the UN Security Council (2008–2009) as President of the UN General Assembly (2000–2001) when the Millennium Development Goals were agreed on, and as Chair of the UN Commission on Narcotic Drugs (2008–2009).

As a new constitutive element and norm in public international law, which was brought up by former UN Secretary General Kofi Annan, the theme of "Responsibility to Protect" (R2P) widens the definition of human security and provides a basis for UN member states to intervene in the domestic affairs of other countries in the case of 'mass atrocity crimes'. Although there is no official correspondence or policy in existence to this effect, the Namibian diplomat at the UN spoke in favour of the R2P.

51 For a critical reading of Namibia's policy on Zimbabwe, see Melber (2008:6). See also Hengari (2009:7).

52 See the chapter by Kari Egge in this volume.

Conclusion

This cursory chapter has explored, with reference to select cases, the complex nexus between security – in its different dimensions and referents – and the foreign relations of Namibia since Independence in 1990. The chapter has shown that, in terms of both policy articulation and constitutional framing, there is an appreciation of the nexus between security and foreign policy considerations.

Harnessing select case studies such as the reintegration of Walvis Bay and the Penguin Islands, participation in various peacekeeping and peace support operations in the SADC region and beyond, the peaceful resolution of the dispute with Botswana over the Kasikili/Sedudu Island, military engagement in the DRC (1998–2001), and accession to various international legal instruments on aspects of political life with security implications, there is compelling evidence that Namibia values the primacy of different forms of security, both classical (national/state-based and new forms of human security) and their relationship to foreign policy and national development.

The analysis also showed that Namibia has not acted resolutely and consistently in respect of every foreign policy case where human rights and other aspects of human security were threatened. This was so, for example, in the conflicts in the DRC and Zimbabwe. In both cases, Namibia's foreign policy behaviour reflected older forms of solidarity politics emanating from the former liberation struggles in the region, as well as divisions within SADC. Rarely did Namibia act within a normative corset on these issues, and in doing so, undermined the idealist seam of its foreign policy that privileges a 'peace through law' approach.

In respect of new forms of security such as the environment, inclusive of the marine environment and safeguarding of biodiversity and global warming, Namibia's overall record in Africa is enviable. The country has emerged as one of the leading voices when it comes to environmental protection and duly deserves credit for this. When it comes to other forms of security, such as peacekeeping and peace support operations and keeping Africa as a nuclear-free continent, Namibia's record has been admirable. It is within the normative domain of human rights and their centrality for any conception of human security, however, that Namibia could have acted more credibly and decisively. There is a role for Namibia as a new and small state to reignite its role as 'norm entrepreneur' in SADC and beyond. In this respect, various pointers can be found precisely in the way the country acted constructively in resolving earlier conflicts, such as those over Walvis Bay and the Penguin Islands, and over Kasikili/Sedudu Island.

Finally, this chapter concludes that there is a need for additional policy-focused research on the foreign relations of Namibia, particularly since these are often poorly

communicated to the public and there may indeed be a need to “democratise our Foreign Policy”.⁵³ It is with such an understanding that this exploratory chapter was written.

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Beyond economic diplomacy: The interface of Namibia's foreign relations and economic cooperation

*Lesley Blaauw**

Introduction

The end of the Cold War posed a new challenge for both international relations theorists and foreign policy practitioners. The test which confronted them was how to establish a new international order that reflected the changing global political landscape no longer characterised by bipolar rivalry. Regions and regional concerts were seen as the edifice upon which such a new international order was to be built. Not surprisingly, therefore, since the end of bipolar rivalry, the idea and organisation of the concept *region* has elicited renewed international attention.¹ This resurgence in the study of international regionalism is exemplified by the revival of old regional organisations, the formation of new ones, and the deepening of existing regional arrangements.

The formative force of regions and the conceptualisation of economic regionalism in the 1990s demanded that states recast their foreign policy positions. In this trajectory, new approaches to regions and regionalism make allowance for a much broader and more comprehensive definition of these processes. States' foreign policies necessarily had to reflect this changing reality after 1990. The need for states to make these changes was – and still is – necessary because the edifice of the new world order has regionalism as one of its main contours. Bjorn Hettne asserts that “regional multilateralism” is one of the crucial building blocks for a new international economic order.² Others have argued that the foreign policy postures of states, like state relations themselves, will have to be recast to reflect the diminution of the role of the state in economic diplomacy and foreign policy relations. From this reading, two trends were discernible by the 1990s. Of importance here are the neoliberal institutionalists, who contended that state relevance could only be maintained by looking at common forms of governance which were, in turn, only possible on the basis of formal international regimes and institutions.³ In the case of Namibia's foreign policy, this meant it would have to reflect the practice of governance and coordinated action as exemplified by the Southern African Development Community (SADC) and the Southern African Customs Union (SACU).

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1 Concern with regional patterns and with regionalism did not suddenly begin in the 1990s: it has been the focus of study and political action since the beginning of the 20th Century (Cerny 1999a).

2 Hettne (2003:37).

3 Gilpin (2001:377–403).

At Independence on 21 March 1990, Namibia was faced with both opportunities and constraints in the foreign policy domain. The challenges that the country encountered related to the profound changes that had occurred at the global level, following the end of the Cold War. Also, the country had to confront the challenges that small states met in dealing with the external environment. For André du Pisani, this meant that Namibia had to deal with a plethora of issues ranging from an increased need to strengthen South–South cooperation, recasting North–South relations, and dealing with new forms of economic multilateralism, among other forms of multilateralism.⁴ This meant that an independent Namibia’s foreign policy priorities had to be both reflective of its history and the nature of its global and negotiated transition. While economic regionalism represented one of the cornerstones of the post-Cold-War world, it is not formed in isolation. Fredrik Söderbaum posits that “globalization and regionalization are intimately connected and together shape the emerging order”.⁵ Because states interact at the interface of the domestic and international levels, it means that globalisation changes the internal architecture of the state. By and large, therefore, states’ foreign policy postures are influenced not only by economic regionalism, but also by the relationship between globalisation and the state. Not surprisingly, the Namibian Government engaged in a process to project itself as a facilitator of globalisation by actively courting foreign direct investment through constitutional provisions, which protect, amongst other things, private property and the establishment of a favourable climate for foreign investors through regimes such as export processing zones.

Globalisation and the state

The de-territorialisation of economic and political space has led to a growth in global forms of governance. This suggests that the state is no longer the key structural agent that can initiate action and exercise structural power in its own right. Resultantly, states’ foreign policies need to respond in innovative ways to the proclivities of globalisation. The foreign policy position of the Namibian state seems to take cognisance of this crucial position, because the Foreign Policy White Paper posits that the formulation of external relations should be premised on an awareness that, increasingly, the relations of one state are closely related to those of another.⁶ Also implicit, therefore, is the recognition that state behaviour is largely influenced by a fluid process of globalisation.

In response to the diminution of its role as an initiator of global economic action, the state needs to reposition itself. In doing so, the state at times actively participates in the process of economic globalisation. This gives the state a particular neoliberal posture.

4 Du Pisani (2003:14–19).

5 Söderbaum (2005:234).

6 Republic of Namibia (2004:54).

The neoliberal state has been viewed as an active promoter of economic globalisation.⁷ Philip Cerny argues that “the state has always been to some extent viewed as a promoter of market forces”.⁸ This implies that globalisation is reconstituting or transforming the functions and authority of the nation state, with profound implications for its foreign policy. Mushelenga posits that, at Independence, the Namibian state was compelled to craft a foreign policy which had, as its foundation, concerns with foreign direct investment as part of economic diplomacy.⁹ Cerny suggests that –¹⁰

[t]he main task or function of the contemporary state is the promotion of economic activities, whether at home or abroad, which makes firms and sectors located within the territory of the state competitive in international markets.

The state, in this context, reproduces itself in the face of domestic and international challenges. In simple terms, the state is being fundamentally transformed within the wider structural context of global transformation. To James Mittelman, this suggests that –¹¹

[i]n a globalized division of labour, the state no longer primarily initiates action in, but rather reacts to[,] worldwide economic forces.

Globalisation involves a complex process of de-territorialisation and re-territorialisation of political authority. The role of the state in this trajectory is, therefore, defensive.

In addition, Cerny contends that neoliberalism actively promotes the “market-state” by positing that –¹²

... state structures today are increasingly being transformed into market-oriented and even market-based organizations themselves, fundamentally altering the way that public and private goods are produced.

Economic globalisation is transforming the conditions under which state power is exercised. Robert Cox observes that the above has resulted in “[t]he loss of effective sovereignty by states in economic policy”.¹³ Conversely, –¹⁴

7 Cerny (2003:214) notes that “Economic globalization contributes not so much to the supersession of the state by a homogenous global order as to the splintering of the existing political order”.

8 (ibid.:208).

9 Mushelenga (2008).

10 Cerny (2003:214).

11 Mittelman (1996:189–213).

12 This suggests that “we may be witnessing the transmutation of the state from a civil association into a more limited form of enterprise association” (Cerny 2003:208).

13 Cox (1997:59).

14 (ibid.).

... states have promoted the formation of a web of transnational regimes and other linkages which have increasingly been developing the capacity to operate autonomously of those states.

This implies that interactions and processes at various levels also shape and change state responses to globalisation.

From the above, the globalisation process produces a contradiction for states:¹⁵

States and intergovernmental organization play a role in enforcing the rules of the global economy and in enhancing national competitiveness, but their powers of shielding domestic economies from negative effects of globalization have diminished.

The loss of effective sovereignty by states in economic policy, brought about by economic globalisation, means that the state is seen as less able to provide for the development needs of its people. This realisation – that domestic economic challenges can best be addressed by utilising the opportunities which the rule-based global economy developed in the 1990s – prompted Namibia to apply for classification among the Least Developed Countries (LDCs) in 1990.¹⁶ Its status as an LDC enabled Namibia to export beef duty-free to the European Union (EU), under the auspices of the Lomé Convention. Arguably, these favourable terms of trade allowed Namibia to use such export earnings for domestic developmental needs. The inability of the state to perform its developmental role is made more pronounced by what Richard Sandbrook terms *pragmatic neoliberalism*, which posits that –¹⁷

... the state assumes responsibility for providing minimally adequate safety nets for those individuals who cannot market themselves effectively.

This suggests that the state is here engaging in welfare action instead of development, which is an effect of globalisation and the neoliberal ideology.

The above, Richard Sandbrook claims, “... purveys a false promise to the poor and socially excluded”.¹⁸ In protest, the poor and socially excluded challenge such exclusion, brought about by globalisation. This, in turn, gives rise to resistance from social forces. By and large, such resistance suggests the need for a ‘new’ recognition of the role of non-state actors. Simply put, it calls for the acknowledgement that international relations are conducted not only by states, but also by a complex array of non-state actors; formal and informal political processes; and levels of subnational, national, regional, international, and transnational polity. All of these have deep-seated consequences for a state’s foreign policy. Balefi Tsie forcefully argues that states may no longer be seen as the primary unit of analysis in international relations, since –¹⁹

15 Cox (1996a:26–27).

16 Du Pisani (1992:14–19).

17 Sandbrook (2000:1071–1080).

18 (ibid.:1071).

19 Tsie (2001a:114).

... there may be other equally important or even more powerful actors in the international political arena than the state

One way of counteracting this is to articulate foreign policy economic interests – by finding recourse in transnational structures.

Other authors, like David Held et al., contend that globalisation does not, after all, bring about the end of the state.²⁰ To them, globalisation has also encouraged a more realigned activist state. Cerny asserts that –²¹

... state actors and institutions are themselves promoting new forms of complex globalisation in the attempt to adapt state actions to cope more effectively with what they see as global 'realities'.

This argument posits that the power of national governments is not necessarily diminished by globalisation. States remain important actors in national, regional and global politics. They have been joined, however, by numerous non-state actors that address a multitude of issues beyond territorial politics.

From the above, the power of national governments is being reconstituted and restructured in response to the growing complexity of processes of governance in a more interconnected world. To Cerny, the political response of the state to globalisation –²²

... does not lead to a simple decline of the state but may be seen to necessitate the actual expansion of de facto state intervention and regulation in the name of competitiveness and marketization. [*Italics in original*]

The continued calls by former President Nujoma to expand the Namibian economy's manufacturing base finds resonance in the aforementioned postulate. The President's call suggests that states remain central to shaping international economic relations. In pursuance of its economic goals under the neoliberal economic rubric, however, states have to deal with a complex array of economic relations. The various bilateral and multilateral economic agreements signed by the Namibian Government bear testimony to the existence of multiple economic agreements, which are all aimed at deepening economic diplomacy.

The demands of a bilateral and multilateral dimension explain the state's preoccupation with market-related economic matters,²³ which indirectly promotes civil society formation. States, in having to reorganise economic space, need to go regional. Simply put, states

20 Held (1990).

21 Cerny (1997:251–274).

22 (ibid.).

23 Implicit is the recognition "that globalisation transforms political and not just economic life" (Rosow 2000:27–45).

respond to the structural pressures of globalisation by turning to regionalism.²⁴ This is because “regionalism both shields domestic society from and integrates it into the global division of labour”.²⁵ Seen in this light, the emergence of new approaches to regionalism takes place against the background of the comprehensive structural transformation of the global system, characterised by a multi-level pattern of governance. In this trajectory, globalisation and regionalisation are intimately connected.

Globalisation and regionalisation

As stated earlier, regionalism takes place within the overall context of globalisation. As such, regions are created and recreated in the process of global transformation. One of the consequences of such transformation is the internationalisation of the state. Such internationalisation requires the state to respond to multi-level pressures, ranging from the local and regional to the international context. In this trajectory, the argument for regional cooperation²⁶ and integration²⁷ becomes persuasive in terms of being the only way to deal with the challenges of unbridled market forces spawned by globalisation. This is the context in which Gibb and Michalak remark that, through regionalism, states are trying “to control at the regional scale what they increasingly failed to manage at the national and multilateral levels”.²⁸ In simple terms, therefore, regionalism is the political response to globalisation. Jean Grugel posits that, as a state-initiated project, “[n]ew regionalist associations of this sort may also be a way to avoid marginalisation”.²⁹ This

24 To Tom Mertes, this results in a process of what he calls “*de-globalisation*”, which demands the building of “strong regional markets within the South that would have some autonomy from global financial interests” (Mertes 2002:1–8).

25 Mittelman (1996:189–213). Regionalism can, therefore, be a defensive or an offensive state strategy, or it can combine elements of both. Resultantly, it is a conscious political project.

26 Björn Hettne (2001a:158) notes that “[r]egional cooperation through a formal organisation is sometimes rather superficial, but at least the framework for cooperation is created”. Hurrell (1995:331–358) adds that “[r]egional cooperation may involve the creation of formal institutions, but it can often be based on a much looser structure, involving patterns of regular meetings with some rules attached, together with mechanisms for preparation and follow-up. ... Unlike some brands of regional integration, such cooperative arrangements are very clearly statist, designed to protect and enhance the role of the state and the power of the government”.

27 *Regional integration*, on the other hand, is defined as “the gradual elimination of political and economic barriers between [and among] participating countries” (Dieter 1997:201). Fredrik Söderbaum and Björn Hettne (1998:4) contend that “although both processes form an integral part of the current transformation of the global system, regionalization has a stronger element of political reaction to the basically market-driven globalisation process”.

28 Gibb & Michalak (1996:42–56). See also Fawcett (2004:429–446). Gamble and Payne (1996:16) argue that “nearly all states now seek, as it were, to ride two tigers simultaneously: they have to respond to the structural power of international capital, which demands the continuing openness of the world economy, and to the continuing pull of national interests of various sorts, which requires that they compete for relative advantage in the global economy as effectively as possible”.

29 Grugel (2000:8).

suggests that, for states, globalisation has necessitated the construction of new types of interstate organisations³⁰ at a regional level. What it allows foreign policy practitioners to do, therefore, is to exercise some degree of regulation through a process of economic cooperation. The formulation of foreign policy in this trajectory allows for patterns of cooperation, integration, complementarity and convergence in a particular cross-national geographical space. Not surprisingly, Namibia formally acceded to SACU in 1990, the year of its independence, and hosted the formation of the Southern African Development Coordination Conference³¹ in 1992.

The above explains why a shift towards regionalism and bloc formation is increasingly apparent at both the global and regional levels.³² The rise of regionalism not only represents an attempt to militate against the possible negative consequences of globalism, but also seeks to influence the form that globalism is taking. Part of this influence is that new forms of regionalism have to incorporate non-state actors. Contemporary regionalism differs from its historical counterpart in that the latter was primarily concerned with interstate relations, in both content and scope.³³ The involvement of actors such as the privately owned Namibia Breweries and the parastatal NamPower suggests an awareness on the part of the Namibian Government that certain issue areas are not confined to interstate relations.

Whereas 'old' regionalism was either economically or intergovernmentally driven, 'new' regionalism is broader and multidimensional. The multifaceted nature of regionalism and the uncertainty of political phenomena opened up space for actors other than states to influence global and regional events. In constructing a foreign policy, all states need to bear in mind the increasing influence of transnational actors on economic cooperation.

30 The above illustrates that states now share governance with societal actors. David Held and Andrew McGrew (1998:219–243) conclude that, because of these increasingly complex forms of governance, we now have “a divided authority system – in which states seek to share the tasks of governance with a complex array of institutions, public and private, local regional, transnational and global, representing the emergence of ‘overlapping communities of fate’”. Needless to say, this poses a new challenge to foreign policy analysis and implementation.

31 Which later became SADC.

32 In this context, Hettne (1993:212) suggests that “[t]he contemporary context of the mercantilist logic is no longer the nation-state, however, but the international political economy, in which ‘the political’ refers to a transnational framework of economic transactions”. This compels us, he says, “to see regionalism as a return of the political, the need to control, in a transnational context” (ibid.). These insights suggest that regionalism and, in particular, economic cooperation offer small states like Namibia the opportunity to play a more pronounced activist role in international relations through these transnational structures.

33 Andrew Hurrell (1995:331–358) contends that new regionalism is distinct from older forms of integration as a result of its multidimensional character: its scope and level of analysis embraces North–South regionalism, and creates regional consciousness. Economic cooperation and its relation to foreign policy are not only limited to South–South cooperation, but should also embrace North–South linkages.

Hettne illustrates that global structural transformation was also occasioned by the addition of “non-state actors [that] are active and manifest themselves at several levels of the global system”.³⁴ The new regionalism, therefore, embraces a range of issues and actors which covers a variety of spectrums in the domains of economics and politics. The developments that have ushered in the rise of new regionalism are informed by a growth in economic, social and political interdependencies, involving both state and non-state actors.³⁵ The terms of engagement vary from one region to another, depending on each region’s structural location and its role in the global economy.³⁶ What the new regionalism intends to achieve is a change in the terms of engagement for the developing world. Hettne argues that new regionalism and one of its variants, developmental regionalism, “imply regional economic regulation without going to the extent of delinking from the world economy”.³⁷ Thus, —³⁸

[t]here is no doubt that the ‘new regionalism’ represents an attempt by states to forge a form of governance different from but not necessarily opposed to multilateralism.³⁹ In that sense, it is a new strategy dealing with rapidly changing conditions in the global political economy and might lead to a revamped or improved multilateral system.

This suggests the fostering of new forms of governance, which acknowledges the existence of a multipolar world. Governance, in this context, “is constructed by certain actors for certain purposes”.⁴⁰ Regionalism, therefore, is a political response to the economic consequences of globalisation. The process of regional integration are, thus, crucial for states: both as an international and as a national development strategy. In the developing world in general, the resurgence of regionalism also needs to be viewed as a response to the perceived threat of global marginalisation. In this regard, Louise Fawcett points out that —⁴¹

34 Hettne (1996:161).

35 The genesis of new regionalism is to be located “[a]s a building block of global social theory ... which allows us to ... somewhat simplistically speak of a marriage between development theory and international political economy ... Such a merger may ultimately strengthen an emerging ‘new’ or ‘critical political economy of development’” (Söderbaum 2001:104).

36 This is because “[g]lobalisation had a differential reach and impact reflecting existing asymmetries in the geometry of global power relations” (Held & McGrew 1993:261–288). Through foreign policies that actively seek to encourage economic cooperation, small states like Namibia can challenge the asymmetry in the geometry of global power relations.

37 Hettne (1997:230).

38 Tsie (2001b:12).

39 In a multilateral world, one view is that globalisation and regionalisation are mutually reinforcing. This suggests that “[r]egionalism is one possible approach to multilateralism”, ostensibly because “[w]orld regions rather than nation states may in fact constitute basic units in a future multilateral world order” (Hettne 2001a:156). The foreign policy positions of states should mirror this crucial consideration.

40 Söderbaum & Taylor (2003:13).

41 Fawcett (2004:429–446). Morten Boås (2001:28) asserts that “[r]egionalisation, as a political strategy ... is an attempt by nation-states to recuperate governance over a globalised international

[f]or weaker states regionalism has provided a point of entry into a western-dominated order in which their interests are often perceived as marginalized, and also a forum where interaction and agenda-setting are possible.

Namibia's active involvement in the negotiations for a SADC-wide Free Trade Area (FTA) in the 1990s, and its activism in the negotiations for an FTA between SACU and the United States of America (USA), are but two examples on how the country works collectively with the rest of the developing world – not only to counteract marginalisation, but also to be proactive in setting the global economic agenda.

To achieve the above, the state needs to respond in innovative ways to these global and regional pressures because the state is located at the interface of the international and the national. Towards this end, the state –⁴²

... looks both inward and outward, and in the process derives considerable power and autonomy, often playing each spatial dimension off against the other.

This suggests that states' foreign policy postures should not be detached from either national or international forces.⁴³ This dual role compels the state "to locate itself within the globalising order".⁴⁴

New approaches to the study of regionalism have shed light on how the region is constructed in the interplay between states, markets and civil society in various areas. In the case of Namibia's business community in particular, the country's Agricultural Trade Forum has rallied its members to be assertive on matters pertaining to the ongoing negotiations between Namibia and the EU on the proposed Economic Partnership Agreements (EPAs).

New regionalism and foreign policy

Globalisation and the study of regionalism after the Cold War can be seen as a reflection of the reconfiguration of economic and political power in the production centres of the world. Hurrell and Fawcett note that –⁴⁵

[t]he end of the Cold War has witnessed a further expansion of the normative ambitions of international society. Order is increasingly held to involve the creation of rules that affect very deeply the domestic structures and organisation of states, that invest individuals and groups within states with rights and duties, and which seek to embody some notion of a common

political economy through regional management". Again, the foreign policy options that states pursue through economic cooperation should reinforce this important goal.

42 Hopgood (2000:1025).

43 (ibid.).

44 Grugel (2000:6).

45 Hurrell & Fawcett (1995:309).

good (human rights, democratisation, the environment, the construction of more elaborate and intrusive interstate security orders).

One of the ways that is increasingly being seen as contributing to the creation of ‘new’ rules for international society is regionalism, especially in the aftermath of the Cold War.

Since the Cold War, international society has increasingly been restructured along regional lines. The rise of new forms of regionalism refers to a phenomenon in its infancy that had its genesis in the mid-1980s.⁴⁶ As a field of study, new forms of regionalism –⁴⁷

... reflect the deeper interdependence of today’s global political economy and the intriguing relationship between globalism and regionalism.

Simply put, new forms of regionalism reflect the proliferation of transnational activity. This is because, “[e]ven if initiatives are taken within the region, the factors which make these initiatives necessary are global”.⁴⁸ *New regionalism*, therefore, is the study of new forms of regionalism.

In the aftermath of the Cold War, a second wave of revamped regionalism took off. Regionalisation, therefore, should be seen against the background of important transformations of the global political economy. This suggests that the world economy is not only becoming globalised, it is also becoming regionalised. Conceptually, the *new regionalism* refers to “new economic and political processes actually going on in many parts of the world”.⁴⁹ While various authors agree that the *new regionalism* refers to the second wave of regionalism, –⁵⁰

... there is as yet no clear definition of the new regionalism which is commonly subscribed to. There is only some convergence of thinking in emphasizing its difference from the old.

46 For Marchand et al. (1999:897–910), “there is a qualitative difference between the old regionalism of the Cold War and the one that emerged during the late 1980s”.

47 Hettne & Söderbaum (2000:38–82).

48 Hettne (1997:229). Bøås et al. (1999:1062) remind us that “[t]he globalisation/regionalisation nexuses have created a whole range of diversified patterns of interactions and responses at the local, national and regional levels”. These patterns are, arguably, due to the unevenness of this process of global restructuring. Indeed, “[t]he impact of global restructuring is not only uneven among countries, but perhaps even more so within them. This means that at the local as well as the national and regional levels there is a multitude of approaches and responses to globalisation/regionalisation” (ibid.:1061–1070).

49 Hettne (1999:1).

50 Mistry (1999:123). The most cogent distinction between *new regionalism* and older forms of the *regionalism* concept is that the former allows for “a marriage between development theory and international political economy. Such a merger may ultimately strengthen an emerging ‘new’ or critical political economy of development” (Söderbaum 2001:104). Critical political economy deals with historical power structures, emphasising contradictions in them, and points out changes and transformations expressed in normative terms (Cox 1996b).

New regionalism, as a field of study, differs from the old or first wave of regionalism in important respects.⁵¹ Hettne posits that, whereas old regionalism was “[f]ormed in and shaped by a bipolar cold-war context”, the new regionalism has the following features:⁵²

- (1) ... the new is taking shape in a multipolar world order[.]
- (2) Created ‘from above’ (by the superpowers), the new is a more spontaneous process from within the region[,] and also [created] ‘from below’ in the sense that the constituent states themselves, but increasingly also other actors, are the main proponents for regional integration.
- (3) As far as economic integration is concerned, [the old regionalism] was inward-oriented and protectionist, [while] the new is often described as ‘open’, and thus compatible with an interdependent world economy[.]
- (4) Specific with regard to objectives, some organizations being security-oriented and others being economically-oriented, the new is a more comprehensive, multidimensional process. This includes trade and economic integration, but also environment, social policy, security and democracy, including the whole issue of accountability and legitimacy[, and]
- (5) [While the old only] concerned relations between formally sovereign states, the new forms part of a global structural transformation in which non-state actors are active and manifest themselves at several levels of the global system[.]

Theoretically, new forms of regionalism are also an innovative response to the impact of neoliberalism on state and society. Cox asserts the following in this regard:⁵³

Neo-liberalism is transforming states from being buffers between external economic forces and the domestic economy into agencies for adapting domestic economies to the exigencies of the global economy.

Multilateral institutions in a regional setting facilitate this transformation of the state to the exigencies of the global economy. The new regionalism is, therefore, predicated on the assumption that engagement with the world economy is unavoidable. For Balefi Tsie, the process of new regionalism “represents an attempt by states to forge a form

51 Marchand et al. (1999:897–910) observe that, “[i]n the past, the study of regionalisation has been dominated by functionalist and neo-functionalist approaches to, as it was then called, economic and political integration”. James Mittelman (1999:26) concludes that, in addition to these two approaches, institutionalism and neo-institutionalism are deficient, ostensibly because they “understate power relations and fail to offer an explanation of structural transformation”. Recently, however, “renewed interest has been accompanied by the emergence of new theories and approaches to regionalisation. In particular, political economy and critical security studies are shedding new light on processes of regionalisation, as well as on the emergence of regionalism as a new world order phenomenon” (Marchand et al. 1999:897–910). Ultimately, new regionalism differs from older types in that the new regionalism approach, “unlike the ‘old’ regional studies[,] also incorporates all three major types of actors in its purview, not just states but also companies and communities” (Shaw 2000:399–414).

52 Hettne (1999:7–8).

53 Cox (1995:39).

of governance different but not necessarily opposed to multilateralism”.⁵⁴ The latter contention is closely related to the fact that “the constituent states themselves are main actors”.⁵⁵ Seen in this light, new regionalism is arguably a state-initiated political project to respond to globalisation and to a plurality of actors, with a view to respond, in turn, to the comprehensiveness and multifaceted nature of contemporary regionalism. The challenge for foreign policy practitioners is how to respond to these multiple actors and issues.

For Hettne, the process of “new regionalism is a response to globalisation processes, including efforts to initiate a counter-process of de-globalisation”. *De-globalisation* is “an attempt to bring the globalisation process and transnational transactions under some political-territorial control”.⁵⁶ In the face of their reduced autonomy, states are the main protagonists initiating this process of de-globalisation.⁵⁷ This initiating role takes place against the backdrop of the state’s reduced influence as a unitary actor in international affairs.⁵⁸

Cox concludes that “[s]tates are, by and large, reduced to the role of adjusting national economies to the dynamics of an unregulated global economy”.⁵⁹ Developmental regionalism, as an integral part of the new regionalism, offers states the opportunity to craft foreign policies which could not only contribute to regulating the global economy, but could also accord them the prospects of deepening economic cooperation.

Developmental regionalism and foreign policy

Globalism brings into relief the issue of regionalism as a key development phenomenon in southern Africa. By similar extension, “[t]he new regionalism may also provide

54 Tsie (2000:11–19).

55 Hettne (1997:229).

56 Hettne (1999:6). Thus, regionalisation must ultimately be viewed as “the political corrective to globalised market-driven disorder and turbulence, not only on the level of the world but also in local systems” (ibid.:xxx). Moreover, de-globalisation results from a desire “to modify, halt or to reverse the process of globalisation in order to safeguard some degree of territoriality, civil norms, cultural diversity, and human security” (Hettne 1998:44–59).

57 Indeed, it is intimately related to the current transformation of the world economy into trading blocs and the process of globalisation. Yet, the new regionalism “is on the one hand seen as an integral part of the globalisation process, but on the other it can serve as formal (including state-led) counterforces against this process” (Lee 2003:35). In this sense, the new regionalism is an important political construct in influencing both the projects of globalism and foreign policy.

58 Accordingly, “[w]ithin each regional project there will be more than one vision, and often also more than one actor pursuing regionalisation” (Marchand et al. 1999:897–910). This suggests that, in the context of new regionalism, “[t]he debate has also been widened ... [I]t is beginning to acknowledge that regional interactions and organisations focus not only on states but on continuing linkages among a heterogeneous set of actors and realms, including states, economies/companies and societies/civil societies” (ibid.:897).

59 Cox (1996b:528).

solutions to development problems".⁶⁰ If the dictum that foreign policy is a reflection of domestic policy holds true, then new regionalism – as an integral part of foreign policy – offers states the opportunity to build new forms of economic cooperation that would mirror domestic developmental needs. This is of particular importance to Namibia, which is struggling with significant development challenges by way of poverty, inequality and unemployment. For Hettne, development is “one dimension of the new regionalism, which has many causes and serves many purposes”.⁶¹ In the face of marginalisation, regionalism offers southern African countries the opportunity not only to address national developmental needs, but also to engage the international community. Bertil Odén postulates that –⁶²

[t]he marginalization of Southern Africa as well as the rest of Sub-Saharan Africa in the world economy over the last decades has increased the scope for regionally induced initiatives.

Because of its precarious domestic developmental situation, Namibian policymakers need to engage the international community in a way that deliberately tries to address its national condition.

As a normative project, regionalism in southern Africa – as elsewhere in the developing world – accords states and non-state actors the opportunity to build new regional economic capacity.⁶³ Louise Fawcett notes the following in this regard:⁶⁴

Promoting regional cooperation would appear then to be a rational policy choice for developing countries both in terms of strengthening links with the advanced industrialized countries but also demonstrating greater independence and self-sufficiency.

However, regionalism in southern Africa should be driven not only economically, but also politically, since the aim of regionalism should be to reduce the acute disparities in and among countries of the region.⁶⁵ A developmental foreign policy lends scope and provides guidance to this postulate by imbuing the agents of foreign policy with agency and raising awareness among them that it is as much an economic as a political strategy.

These significant regional inequalities lend support to developmental regionalism that sets out explicitly to address, by regional economic regulation, the structural and spatial

60 Hettne (2001b:103).

61 Hettne (1996:164).

62 Odén (2001:176). This is with a view to counteract “the global pattern of uneven development ... that ... more often than not was reproduced within the region” (Odén 1999:19).

63 This is because globalisation, as a normative project, “is driven not primarily by some inexorable economic process, but rather by politics: by ideology, by the actions, interactions and decisions of state actors, their private sector interlocutors and [the] wider public” (Cerny 1999b:147–162).

64 Fawcett (1995:22).

65 Indeed, one of the fundamental aims of the regionalisation process is the “creation of welfare (in terms of social security and regional balance)” (Hettne 2001b:90).

problems associated with integration amongst unequal partners.⁶⁶ A developmental foreign policy for Namibia suggests that we need to position ourselves appropriately and actively encourage economic cooperation that would facilitate the transfer of resources to address domestic and regional inequalities. For the aforementioned to materialise, Namibia's foreign policy disposition should be orientated towards attracting investment to itself rather than to South Africa or Zimbabwe, whose manufacturing capacities are much more developed than hers. In this context, *developmental regionalism* refers –⁶⁷

... to concerted efforts from a group of countries within a geographical region to increase the efficiency of the total regional economy and to improve its position in the world economy.

One way of increasing the efficiency of the total regional economy is through regional industrial development. Indeed, one of the precepts that underpin developmental regionalism relates to “efforts to coordinate regional industrial development”.⁶⁸ This suggests “a political economy approach to developmental regionalism”.⁶⁹ Such an approach compels foreign policy practitioners to set the development priorities for Namibia in the context of economic cooperation.

A political economy approach to developmental regionalism presupposes that we answer the question of “what the driving forces of the regional process are”.⁷⁰ Accordingly, and to answer the question, we need to ascertain the roles of the state, market forces and civil society in building new economic capacity.⁷¹ Historically, state-led regionalism in southern Africa has been a politically elite project that has tended to live a life of its own, often separated from market demands and civil society. Thus, up to now, the interpretation of what constitutes *regional community* in southern Africa remains the prerogative of the narrow interests of regional elites. From this reading, it implies that states in southern Africa provide the only path to regional community. Regionalism is, however, as we have seen, a comprehensive and multifaceted process that takes place at various analytical levels, and involves both state and non-state actors. A developmental foreign policy presupposes that the Namibian state and other domestic actors work together to instate and reinstate development in the discourse about economic cooperation.

66 Söderbaum (1998:75–90).

67 Hettne (2001b:104).

68 Gibb (2001:74).

69 Söderbaum (1998:75–90).

70 (ibid.).

71 Writing on state, market and society relations in southern Africa, Söderbaum (2001:111) asserts that “[t]he private and public economic forces have been reacting faster than have the state actors to the new postapartheid situation and the changes occurring as the result of the structural adjustment and economic liberalization reforms in Southern Africa”.

Concluding remarks: A developmental foreign policy for Namibia?

This second decade of the new millennium demands principally that Namibia's foreign policy becomes increasingly concerned with developmentalism. Developmentalism and a developmental foreign policy are geared towards engaging the international community. For Chris Landsberg, a *developmental* foreign policy is —⁷²

... fundamentally concerned with addressing domestic, continental, and global disparities and inequalities ... [and] policy seeks massive amounts of resources and resource transfers to engage in redistribution to help inequalities.

As was illustrated elsewhere in this chapter, a compelling argument could be made that Namibia's foreign policy has impulses of developmentalism insofar as it is not only actively outward-oriented, but also geared towards finding solutions to pressing national problems through being pro-engagement. Namibia's active involvement in multilateral structures also points to the degree of developmentalism contained in its foreign policy and its quest to put developmental issues on the global agenda. This proactiveness suggests that, like other southern countries, Namibia aims to restore the economic sovereignty of the developing world. More importantly, through South–South cooperation, Namibia's activism on various multilateral fora such as the World Trade Organization (WTO), and in its current negotiations with the EU on EPAs, suggests that the country is at the forefront in setting the development priorities of developing nations.

The developmental nature of Namibia's foreign policy is also reflected in its interest in the democratisation of the global economic order. For instance, in June 1998, Namibia's Foreign Minister Theo-Ben Gurirab called for the use of multilateralism and multilateral agencies to ensure “growth for poverty alleviation and strengthening of Africa's participation in the global economy”.⁷³ Reinforcing the concern with development requires Namibia's foreign policy to engage in processes to turn the Millennium Development Goals into real development strategies. Also, the country will have to strike a balance between a foreign policy driven by the need and quest for foreign investment and one that aims to expand market access for its produce and minerals. In the economic parlance, therefore, there is a need to develop a much more robust developmental foreign policy that is able to —⁷⁴

... make the link between issues of democratization and governance, and the issues of poverty and inequality. A real challenge for a future developmental [foreign] policy is how to encourage development in a context of democratization.

72 Landsberg (2005:723–756).

73 *New Era*, 22–25 June 1998.

74 Landsberg (2005:723–756).

To achieve the above, Namibia's foreign policy should demonstrate a degree of transparency and predictability by articulating a clear developmental macroeconomic framework. With a view to attract much-needed foreign direct investment, Namibia will need to recast its policies on, amongst other things, the land issue in an open and transparent manner. Furthermore, development in the context of democratisation also demands that developmental paradigms are articulated at the outset on programmes with economies and countries that cooperate with Namibia. Simply put, Namibia should demand transparency from the EU, the WTO and subregional organisations like SADC and SACU. Finally, Namibia needs to continue building strategic South–South partnerships and strengthen its inter- and intra-African liaisons.

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Namibia's attitudes towards pan-Africanism

*Joseph Diescho**

Our [Ghana's] independence is meaningless unless it is linked up with the total liberation of the African continent!

Kwame Nkrumah; Independence Speech, 5 March 1957

Introduction

Namibia is a child of pan-Africanism and internationalism. To all intents and purposes, Namibia is both the creation as well as the outcome of a multiplicity of attitudes held at different times by a number of countries in their own responses to the trajectory of the history of Africa's decolonisation. Such countries were on the African continent and elsewhere as they interacted with one another in international forums.

The Western European adventurism and expansionism by way of colonialism – notably the German Reich, the United Kingdom and the Union of South Africa, and, later, a growing number of countries as members of the United Nations (UN) – all led to the creation and acceptance of what is today the Republic of Namibia. Hence, these affirming words came from the first President of Namibia on the occasion of the country's Independence on 21 March 1990:¹

For the past 43 years or so, this land of our forbearers (sic) has been a bone of contention between the Namibian people and the international community on the one hand, and South Africa, on the other. The Namibian problem has been at the centre of bitter international dispute over the last four decades. The United Nations and other international bodies produced huge volumes of resolutions in an attempt to resolve this intractable problem ...

This background, and the manner in which Namibia achieved political independence and membership of the Southern African Development Coordination Conference (SADCC),²

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1 Sam Nujoma, Inaugural Address at Independence, Windhoek, 21 March 1990.

2 The Southern Africa Development Coordination Conference (SADCC), the precursor to the current Southern African Development Community (SADC), was founded in Lusaka, Zambia, on 1 April 1980 with the aim of strengthening unity amongst southern African states against the onslaught of the South African apartheid regime and its machinations aimed at weakening its neighbour's economies. SADC had nine members at the time, namely Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe. The organisation was established on 17 August 1992, in Windhoek, Namibia, with an integration agenda that was

the Organisation of African Unity (OAU), the Non-aligned Movement (NAM), the Commonwealth, and the UN, placed upon the new nation an onerous expectation not only to reciprocate the goodwill of others, but also to define new ways to interact and cooperate as regards international relations in Africa and a world that had been polarised by the infamous Cold War which formed the curtained divide between nations prior to the end of 1989. The timing of Namibia's independence brought with it an existentialist reality with attendant expectations that African nations hitherto had not held. Namibia, as the first real success story born of the activities of the international community, should have generated hope and aspiration from Africa in relation to the foreign policy orientation and outlook of this, the world's newest baby. Namibia was not only expected to, but also had an obligation to, extend its self-definition in the context of its foreign policy towards the international community in general and to Africa in particular.

After all, it was the African countries which had focused specially on and called world attention to the plight of the inhabitants of Namibia under foreign rule when Ethiopia and Liberia took the matter of Namibia's domination by South Africa to the International Court of Justice in November 1960, demanding that South Africa had no right to rule the territory that was placed under UN trusteeship.

After it attained independence in 1990, Namibia, as a country, paid scanty and episodic attention to what African issues should have been in the new world. Unlike Ghana under Kwame Nkrumah, Namibia's foreign policy orientation in general and its attitudes towards pan-Africanism in particular can best be described as an extension of idioms of the liberation struggle, thus, based upon past experiences and individual hero-leaders' memories – not a well-thought-out policy undergirded by a set of fundamental principles monitored by a hierarchy of self-interests and values.

It would appear that post-independence African countries invariably do not appreciate the importance of receiving foreign aid beyond general, vague and casual pronouncements or reactions of leaders in response to a perceived readiness – or lack thereof – of richer nations to offer them foreign aid. African countries remain in the rut of internalised dependency on others, and formulate whatever they believe are their attitudes towards foreign nations, mainly in the context of what material aid they receive or wish to receive.

Namibia had followed the route of African countries – not states – in its tendency to conflate what ought to have been (their) national interest with historical experiences through which assistance was given to them during their liberation struggles. In this sense, they are unable to cast their eyes beyond the politics of being the underdog and

principally economic. The member states of SADC today are Angola, Botswana, Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, the United Republic of Tanzania, Zambia and Zimbabwe.

towards the politics of the nation state³ in relation to other nation states, with their own national and strategic interests. This attitude was confirmed in Namibia's White Paper on foreign affairs in 2004 by the following admission:⁴

Namibia's bilateral relations can be placed within the historical context of the struggle for independence. The country attaches high value to the decisions of the United Nations and other international organisations, particularly the fraternity of the Organisation of African Unity (OAU) (now the African Union), and the Southern African Development Community (SADC) as well as the Non-Aligned Movement

On account of the last 23 years of self-rule, Namibia's foreign policy towards the international community generally and Africa specifically has been more reactive than proactive. Where it did exist, it was in the heads and/or actions of the President or the first Minister of Foreign Affairs. As the vibrant experience of Independence celebrations dissipated, there was less of a discernible orientation that would have influenced the attitudes of state actors representing the Namibian nation. As a consequence, Namibia's attitudes towards pan-Africanism are to be found in actions that are admittedly progressive – but not as part of an existing policy as such. Today, 23 years after the celebrations of independence, Namibia remains by and large unclear about its own intrinsic values that would, in turn, inform strategic and theoretical formulations of what types of relations it has with the world, and what self-interests it should be pursuing. For instance, there is no theory that undergirds its main thrusts when it comes to negotiating relations with countries such as the United States of America on matters affecting precious resources, such as potentially the second richest source of uranium in the world. Using a healthier starting point, Namibia could exercise more influence in nuclear negotiations for Africa and in the world. This is because Namibia founds its self-definition to be in the paradigms of dependency and powerlessness, instead of self-worth and strength.

It would not be fair to accuse the Namibian political leadership of over 23 years to have been completely devoid of ideas on how to interact with the world because there have been interactions that have yielded good results for the country. What is clearly lacking is a theory or a set of well-thought-through and cogent theories that could assist the country's diplomats, Members of Parliament, business representatives and other role players in planning their interactions on the basis of sufficient knowledge and confidence.

3 African body politics invariably suffer a shortcoming in that they cannot understand the comprehensiveness of the juridical entity called *the state* – with the government, the organs of the government within their jurisdictions, the private sector, religious communities, civil society, and non-governmental organisations all being part of the state. African political elites cannot distinguish between the role of the ruling party at a point in time on the one hand, and the government and the state on the other. For the most part, the ruling elite see themselves as the government and the state. *The state*, in its original sense as the *Rechtsstaat*, is more than the government of the day and more than the party – however popular that party may be. See Verloren van Themaat & Wiechers (1967:4).

4 Ministry of Foreign Affairs (2004:63).

A theory is always helpful for purposes of knowledge, consistency, seamlessness and informed planning. It is also fair to say that Sam Nujoma and the first Minister of Foreign Affairs, Theo-Ben Gurirab, were in theory and deed the brightest beacons when it came to the country's foreign policy over the years. This is because they learned the art during the years of the liberation struggle – hence the following admission by the SWAPO Party of Namibia⁵ leadership in 2004:⁶

That the struggle was a great school of diplomacy is testified to by the vast international exposure availed in Namibia's would-be future foreign policy formulators and executors. For example, the President of SWAPO, Sam Nujoma, as the foremost champion of the then evolving Namibian national interest, was able to raise the movement's international profile, thereby placing the country's name on the world map. He trotted the globe, meeting and winning the support of a wide range of the world's historic figures, such as, Chou En-Lai of the People's Republic of China, Gamal Abdel Nasser of Egypt, Josip Tito of Yugoslavia, Fidel Castro of Cuba, Leonid Brezhnev and Andrei Gromyko of the then Soviet Union, Olof Palme of Sweden, Indira Ghandi of India, Francois Mitterrand of France, Julius Nyerere of Tanzania, Kwame Nkrumah of Ghana, Jomo Kenyatta of Kenya, Kenneth Kaunda of Zambia, Agostinho Neto of Angola, etc. Meetings with these eminent statesmen, at the level of both bilateral and multilateral diplomacy, were an invaluable apprenticeship for the future conduct of foreign policy.

This “school of diplomacy” for Namibian political freedom activists, who became the nation's leaders after Independence and after the Cold War, essentially prepared them poorly for navigating the nation in the context of the ‘New World Order’, as (then) US President George Bush Snr dared to define it. Namibian leaders continued to perceive themselves as junior diplomats. This background and context explain why Namibian leaders put on their best democratic behaviour when they interact with European leaders, and are more ostentatious when with African leaders. In fact, Namibian leaders are excellent articulators of democratic values when it comes to situations outside of their own contexts and leadership challenges back home.

Tenets of foreign policy

Successful, effective, transparent foreign policy grows out of a country's self-definition and relocation of what its most important or self-evident values are, measured by its seriousness as well as its success domestically and internationally. Such values may include human rights, national interests, commerce, the prevention of war, or a historically informed ideology such as South Africa's African Renaissance under President Thabo Mbeki⁷ and, to a lesser extent, under his predecessor, Nelson Mandela. This agenda

5 Originally the South West Africa People's Organisation; the name was changed to compete in Namibia's first-ever democratic elections in 1989.

6 Ministry of Foreign Affairs (2004:27).

7 It is well known that, after Kwame Nkrumah, it is Thabo Mbeki who articulated a clear vision for the continent. He electrified Africa and the African diaspora to take a different look at

was spelled out very clearly barely one month into Mandela's Administration, when he appeared as the first-ever South African head of state to address an OAU Meeting of Heads of State and Government in June 1994, when he declared South Africa's pan-African position to be as follows:⁸

The total liberation of Africa from foreign and white minority rule has now been achieved ... Where South Africa appears on the agenda again, let it be because we want to discuss what its contributions shall be to the making of the new African Renaissance ...

For clarity's sake, it is important to offer a general definition of what *foreign policy* is. In broad terms, *foreign policy* is a framework or a pattern of behaviours of actors within a state while they pursue their interests in relation to other states. A country's *foreign relations policy* is a formulation of a set or a series of self-interest strategies delineated and articulated by the state to inform, spearhead and guide the various actors within the state in their attitudes towards other countries' governments or even non-state actors with whom they interact or wish to establish relations in the furtherance of their national interests and world peace. These articulations and enunciations usually come by way of official pronouncements or declarations employed to define, clarify or guide, strategically, the various actors within the state when conducting business politically, commercially or otherwise with other countries or non-governmental organisations in other countries on matters concerning mutual interests or world peace in the context of today's globalising economies.

These official statements become the index of information and knowledge in a given state, to guide its official representatives in their dealings with the outside world so that there is confidence on their part and seamlessness of conduct to uphold the good name of the country. Such policies are evaluated and monitored from time to time to keep abreast of the present and of changes in the environment as well as the shifts in emphasis by different office-bearers in the country.

Conventionally, the creation or promotion of foreign policy is the business of the head of state or government. In addition, foreign policy is conducted through diplomatic channels, trade and commerce, strategic alliances and, occasionally, through warfare.

themselves as part of the global village that had a proclivity to marginalising Africa. When he used the words *African Renaissance* for the first time in Virginia, in the United States of America, on 21 April 1997, he said: "As Africans, we have a vision, a hope, a prayer that will come in the end ...". See Mbeki (1998:200).

8 It was made clear that the African Renaissance agenda would influence the post-apartheid South Africa's relations and interactions with other African countries. South Africa, under Mbeki – and, to a lesser extent, under Mandela – was driven by peace on the African continent and the need to develop African solutions to African problems, with a consciousness on the part of those representing South Africa to desist being seen as the 'Big Brother'. See "Statement of the President of the Republic of South Africa, Nelson Mandela", at the OAU Meeting of Heads of State and Government, Tunis, Tunisia, 13–15 June 1994.

All three traditional branches of a democratic state – the Legislature, the Executive and the Judiciary – contribute to and play significant roles in the development and execution of a country's foreign policy. For administrative, practical and implementation purposes, the Ministry of Foreign Affairs, led by its Minister, is responsible for the day-to-day running and maintenance of foreign policy and foreign relations. The Minister of Foreign Affairs, or Secretary of State in other systems, is the chief advisor to the Head of State on foreign and international matters.

Foreign policy is by and large the extension of domestic politics and life. In other words, a country can only project that which it holds dear within its boundaries, where it wields complete sovereignty. The Namibian Government gave expression to this reality as follows, even though there has not been much consistency in this regard:⁹

Namibia's pursuit of its foreign policy objectives is no different, in this connection, from those of other nations. Indeed, our foreign policy is the flipside of the domestic order and its national priorities. In other words, it is the interpretation of internal policies to the outside world.

But the country's leadership neither drew from the very foundations upon which the Republic was established, nor made any serious efforts to build on what was indeed its rightful base as a starting point for meaningful and respectful foreign policy formulations. For instance, Namibia, by virtue of her healthy start on the basis of the exemplary manner in which she fashioned her constitutional multiparty democracy, was very well positioned to champion multipartyism and popular participation in leadership elections on the African continent. In the first 13 years of self-rule, Namibia excelled in many ways, gaining the moral high ground and rectitude to influence politics across Africa.

Instead, Namibia saw itself – and, arguably, continues to see itself – as a member of the international community rather than as a participant. In the Ministry of Foreign Affairs' vision statement, its articulated goal reads as follows:¹⁰

To achieve a peaceful, safe, stable and prosperity-enhancing world order that is predicated on the principles of diplomatic persuasion and multilateral approaches to interstate relations, a world order in which Namibia is able to become a developed country by the year 2030, i.e., having joined the ranks of high-income (with a GNP per capita of US\$7.911) economics.

The areas of influence for Namibia in relation to pan-Africanism ought to have gone beyond the idioms of liberation and, even, race. These areas of influence, treated in more detail below, include –

- human rights
- national interest
- regional integration

9 Ministry of Foreign Affairs (2004:ii).

10 (ibid.:vii).

- pan-Africanism
- negotiated (peaceful) resolution of conflict
- national reconciliation
- internationalism
- race relations
- corruption, and
- the land question.

Human rights

During its emergence as a new democracy, the most visible on the African continent at the time of its independence, and especially before South Africa stole its thunder, Namibia occupied a unique space availed to it to make an indelible impression on the minds of the international community. They were waiting for a country, big or small, to define the world differently, to reframe the role of the international community in general and Africa's role in the affairs of the world in particular. It must be added that not even Nelson Mandela succeeded in doing this beyond his disarming treatment of the white worlds that expected the worst forms of revenge from black South Africans.¹¹ Thus, in the years shortly after it had attained its independence, Namibia was responsible for conducting its foreign affairs in conformity with and for the amplification of international norms and values in respect of human rights, especially universal rights. For example, Namibia's position on human rights issues needed to be clarified and elaborated for the sake of those still suffering in Africa, by fostering guiding principles on how the new nation would engage with states that found themselves guilty of abusive human rights practices. These included Morocco, Nigeria and Western Sahara, to mention but a few. This would have been consistent with Namibia's position on apartheid South Africa at the time, to which President Nujoma sent a very strong message:¹²

President De Klerk's proclamation here today that South Africa has reached a final and irreversible decision to relinquish control over Namibia is an act of statesmanship and realism. This, we hope, will continue to unfold in South Africa itself.

At this moment, Namibia was under the watchful gaze of the international community as no African country had previously been, yet she made no mention of the unhappy state of affairs amongst the millions of inhabitants on the African continent still under the heavy yoke of oppressive regimes of one-party states. There was also no mention in this auspicious address of the role of the OAU and other continental or regional bodies in reorganising affairs on the African continent.

11 See Diescho (1996).

12 Sam Nujoma, Inaugural Address at Independence, Windhoek, 21 March 1990.

Here a qualification is necessary. Although Namibia was expected to have expressed itself on human rights issues in Africa as part of its pan-Africanist posture at Independence, it was not required to suspend relations with states violating their citizens' rights. Nor was the new small state expected to alienate potential allies by adopting hostile measures against them due to their domestic policies. All that was asked of Namibia, thus, was a pragmatic yet informed and future-oriented approach with which to influence a new form of dialogue better suited to deal with such states, and to bring honour to Africa in the New World Order.

In other words, the timing of Namibia's independence in March 1990, just after the discrediting of the so-called Marxist-Socialist rhetoric of the liberation struggle, and the fundamental changes and reconfiguration of the world order as the Cold War ended, offered developing nations more room to manoeuvre than ever before in terms of possible choices of policies and realignments.

National interest

Conventionally, nation states understand that they do not have friends or enemies, but rather a hierarchy of relations. The levels at which they engage with other nations in the international system differ and change from time to time in accordance with what they perceive are in their national interests. Commenting on the kinds of relations that new, post-apartheid South Africa under Nelson Mandela would pursue in relation to its neighbours and from the perspective of its national interests, the South African *Financial Mail* stated the following:¹³

Already President Mandela has indicated that he is aware of the need for a policy of "restraint and sensitivity" towards South African neighbours ...

It would appear that, at the time of Independence, Namibia had too many friends, and the new government was uncertain about its own national interests. This was the time to develop and formulate a sensible policy for dealing with other countries in the southern Africa region in relation to one another, on the one hand, and to South Africa on the other. The romantic associations surrounding the liberation struggle-cum-socialist tendencies needed redefinition and redirection to respond effectively to the post-bipolar world, and Namibia was the most well-placed country to articulate this reality. There are many parts of Africa which still have very little to do with Namibia except for being part of the continent, and it remains an expensive and futile exercise to pretend to share something in common with a country like The Gambia.

Indirectly, the application by Namibia to be admitted as a member of the Commonwealth on the basis of the need to be close to other African nations is a positive admission of the

13 "Foreign policy: A matter of interest"; *Financial Mail*, 27 May 1994, p 23.

urgency of belonging to the African family. It must be said, however, that the enthusiasm to belong to international organisations does not, by any means, demonstrate clarity about why membership is in the country's national interests.

What are *national interests*, then? Jack Spence makes the observation that *national interests* derive from "ideas which people have of the place which they would like their country to occupy in the world".¹⁴ Spence further avers that "[t]hese ideas change in time, apart from never being unanimous within a country at a given time".¹⁵

Jack Spence¹⁶ points out how –

conventional wisdom holds that a country's foreign policy requires the definition and ranking of national interests based on the immutable facts of geographic, economic and military capability together with a flexible and skilful diplomacy ...

In this context, Namibia's national interests should have been informed by the following elements:

- At the domestic level, Namibia needed to consolidate its democracy, and develop an economy with a built-in capacity to create jobs for sustainable economic growth
- A national programme to reduce socio-economic disparities
- A government and business agenda that gave priority to enhancing traditional links with the states of Europe and North America, and establishing new relations with the East Asian Tigers as well as Latin America, based on a reconsideration of Africa's role in the world
- A redefinition of *neighbourliness* and *regional integration* based on a growing measure of self-reliance – unilaterally at first, then bilaterally, followed by a regional assertion, and then a continental one
- A redefinition and re-launching of *regional infrastructural cooperation* to enhance the movement of goods and people in the region and on the continent, starting with Angola and South Africa as the pillars of Namibia's own economic growth
- Building on the high moral ground the country enjoyed at the time of Independence and elaborating an agenda for self-respect, national reconciliation, and peaceful settlement of national disputes in order to address the socio-economic inequalities and other ills left by apartheid and colonialism
- A comprehensive programme towards education reform in the southern African region to obviate difficulties that impede its regional integration, so that there is movement towards streamlining education policies to allow for an exchange of teaching personnel and students, and
- A comprehensive articulation of the importance of the unity of African development efforts as opposed to the earlier efforts towards liberation.

14 Spence (1995).

15 (ibid.).

16 (ibid.).

Regional integration

About a year after becoming the first President of a democratic Namibia, Sam Nujoma addressed SADCC in Windhoek and boldly stated Namibia's position on regionalism:¹⁷

...we of this sub-region[,] including a post-apartheid, democratic, united and non-racial South Africa[,] are fully committed to pooling our resources for the common good of our countries and peoples. It is also a further demonstration that the people of this region, even when the obnoxious system of apartheid is removed, will still have the need to reach out to one another for regional growth and prosperity. SADCC will, no doubt, provide the right framework for the community of nations of Southern Africa ... we are living in times where countries the world over are moving towards integrated production and trade areas. In our own sub-region, we have already made substantial progress in establishing a framework for future closer co-operation and must now examine more closely the modalities of a truly integrated single SADCC economy.

Yet the follow-up actions were devoid of consistency or the determination to pursue real goals and strategies. The absence of clear strategies resulted in episodic, not thought-through actions at the behest of the Head of State, such as the participation in the conflict in the Democratic Republic of the Congo in 1998, the explanations of which left more questions than answers not only in Namibia, but also beyond its borders.

(Pan-)Africanism?

The spirit of pan-Africanism derives from the restlessness of black people living in the developed world, but who saw their plight as inextricably tied into the developments around the inhabitants of the African continent.

The later versions of pan-African sentiments still stemmed from international quarters such as the UN General Assembly in its commitment to assisting Africa to participate more meaningfully in international affairs by encouraging the continent to stand together as a political bloc. One such General Assembly resolution was as follows:¹⁸

- Give full support to the political and institution structure of emerging democracies in Africa;
- Encourage and sustain regional and sub-regional mechanisms for preventing conflict and promoting political stability, and to ensure a reliable flow of resources for peace-keeping operations on the continent;
- Take special measures to address the challenges of poverty eradication and sustainable development in Africa, including debt cancellation, improved market access, enhanced official development assistance and increased flows of foreign direct investment as well as transfers of technology, and
- Help Africa build up its capacity to tackle the spread of the HIV/AIDS pandemic and other infectious diseases.

17 Ministry of Foreign Affairs (2004:64).

18 (ibid.:v).

In many ways, Namibia sold itself short in terms of the great strides this small country had taken to solidify its Africanness. For instance, it has been much more pro-Africa than South Africa and Angola, its rich neighbours. It is only in Namibia that the state promoted the singing of the African Union Anthem alongside the national anthem.

Namibia's lost opportunities in effecting and directing a pan-Africanist agenda are not due to a lack of interest but mainly to a lack of consistency and intellectual cohesion. For instance, if Namibia had been as consistent about promoting a pan-Africanist agenda as it had been over the singing of the African Union Anthem, the political leadership would have made attempts to enhance its intellectual capacity by employing non-Namibian scholars and thinkers in its advisory networks. How else would one country push a continental agenda without the direct input of other Africans, at least at an ideas level?

This is what Kwame Nkrumah did when he employed other Africans in his team to advise him. Indeed, he even went as far as importing the African-American pan-Africanist Dr WEB du Bois – the Father of pan-Africanism – who died in Ghana. Similarly, Julius Nyerere encouraged scholars from the African diaspora, such as Walter Rodney, to go and work in Tanzania, while Kenneth Kaunda made Zambia home for exiled Namibians and South Africans for a long period. In this manner, these leaders gave effect to what they preached. This was never the case in Namibia.

Secondly, the country has done itself a great disservice with its practice of anti-intellectualism by which it emphasised blind loyalty to the ruling SWAPO Party of Namibia, instead of embracing Namibians on the basis of the contribution they could make to the life of the nation. This anti-intellectualism deprived the country's diplomatic services of new ideas and thoughts.

Thirdly, before South Africa became liberated with Nelson Mandela at its helm, Africa looked to Namibia for a new mode of African leadership – an occasion to which Namibia never rose.

Pan-Africanism, as a concept, has its historical roots in the protest movement of North American and West Indian 'Negroes' who were reasserting their links with Africa and the achievements of African civilisations. Its precursors were the early 'Back to Africa' movements, following on the creation of countries like Liberia and Sierra Leone, as locations for 'freed' slaves who were returned to the African continent to live as free people. One of the high points of this remarkable spread of blackism was the work of Marcus Aurelius Garvey who, in the 1920s in the United States, championed what later became known as *Pan-Africanism*.¹⁹

19 Legum (1962:24–36).

When the UN was founded in 1946, as the world was licking the wounds from the Second European Tribal War (often described as the Second World War), Africa was almost entirely under European colonial rule. Only four countries were self-ruling, namely Egypt, Ethiopia, Liberia, and the Union of South Africa.

Pan-Africanism was, to all intents and purposes, an –²⁰

... expression of resistance by people whose present day reality is the direct consequence of a history of slavery. From the ghettos of New York or Detroit to the rural communities of the Caribbean, individuals and groups have turned their gaze towards Africa as their true homeland, as the place to which they truly belong

Colin Legum,²¹ in his book entitled *Pan-Africanism*, gives a relatively full account of this trajectory. Among these personalities who agitated in America for the return of dignity to the people of African ancestry were Prince Hall (1735–1807), a minister of a church in Boston and a Freemason Grand Master. In 1787, Hall petitioned the Massachusetts Legislative Assembly to allow impoverished black people to return to their African homelands. The request was ignored. Paul Cuffe (1759–1817), a Quaker merchant and shipbuilder from Boston, urged fellow Africans to return to Africa. In 1815, in concert with another 40 fellow African Americans, he set sail for Sierra Leone in a ship he had built himself. His efforts did not amount to more than establishing a settlement in West Africa at his own costs. The efforts by children of ex-slaves to emancipate themselves as Africans were followed by those of white American liberals who founded the American Colonization Society (ACS) in 1816 with the main aim of financing and arranging for the relocation of ‘freed’ slaves to Liberia. One of the outcomes was the American Colonial Society’s establishment of Liberia, the first American colony in Africa, which became home to repatriated ‘freed’ African slaves.

The same spirit of agitation to return to Africa obtained in the West Indian Islands and Latin America where Africans were slaves. For instance, the Jamaican journalist John Russwurm (1799–1857) picked up the freedom mantle there, and supported the repatriation of Africans. He later moved to Liberia where he set up the *Liberia Herald* newspaper. In 1897, Dr Albert Throne launched the African Colonial Enterprise, with the aim of relocating Africans in the West Indies to Africa.²²

Later, following the spread of the theory of the “survival of the fittest” by the European thinker Charles Darwin (1809–1882), practitioners of white supremacy extended the theory of Social Darwinism to argue that Africans and other people of colour in the world were in the lowest ranks of the human pecking order and were, therefore, only fit to be ruled by white Caucasians, who were claimed to be superior to them. Thus, colonisation

20 Watson & Thompson (2000:10).

21 Legum (1962:13–64).

22 (ibid.).

was justified and expanded under the pretext that white settlers in Africa were culturally superior to those to whom they had the duty to deliver civilisation by way of their own (European) religious, political and economic systems. Once they had brought this 'civilisation' to the 'heathens', 'savages' and 'barbarians', they were the harbingers of the good life. Hence, as late as 1919/20, with the Treaty of Versailles, Article 22 of the Treaty of the League of Nations argued that, with respect to the inhabitants of "C" mandate countries such as Namibia, they "were not able to stand by themselves ... or unable to manage their own affairs" and, therefore, were obliged to be governed by and placed under the tutelage of 'advanced' nations such as the white South Africans.²³ This ruling could and did, in fact, apply to Africans as a whole.

The UN became a forum where colonies ruled by other nations could agitate for self-rule under the umbrella of the right to self-determination. After the adoption of the Universal Declaration of Human Rights by UN member states on 10 December 1948, it became increasingly difficult for colonisers to maintain possession of their colonies and still remain respectable members of the UN.

In this context, African countries would find the pan-African route the best treatment to undo what Chika Onyeani, in his seminal work entitled *Capitalist Nigger*, describes as follows:²⁴

The balkanization of Africa by the six Caucasian nations, Britain, France, Spain, Italy, Portugal and Germany, resulted in the creation of disparate and at best, baseless boundaries, countries without geographic significance. The fight to gain independence was not so much aggressive pursuit of the goal of independence by African leaders, as the realization by the Europeans that they had looted all that they needed to loot from Africa. The leaders of Africa who benefited from the handout of independence to African countries had no concept of the ideals of rulership they were inheriting other than their desire to displace the Europeans in their oppression of masses of the people and their opulent lifestyles with the resources of the people.

In the end, pan-Africanism is in every African country's national interest!

Negotiated (peaceful) resolution of conflict

Namibia deserves credit for the dexterity with which its leaders managed to reach common ground before, during, and after the hard negotiations in the Constituent Assembly, which agreed upon and crafted the Constitution of the Republic of Namibia at the end of 1989 – within 80 days. Admittedly, the conditions in the international community and under which the Constitution was negotiated were more favourable than those which prevailed when previous African constitutions were written. What must be said, however, is that the Namibian leadership from all political party formations seized

23 Goldblatt (1978:211).

24 Onyeani (1999:98).

the moment and put together a peace initiative which provided the blanket of security and stability under which the Namibian nation has been able to sleep since Independence. It took the leadership that was in place to deliver such a magnanimous testament to the coming generations.

What followed later in terms of telling the Namibian story to the international community in general and to Africa in particular is far below the standards of the Namibian success story. The Namibian leadership sold the country short by returning to the failed antics of African politics, whereby leaders in the ruling party degenerated into the psychosis of African ruling party hubris and paranoia. The same leadership that had ushered in political liberation in such an exemplary fashion by negotiating a peaceful settlement with their worst enemies retrogressed by ten steps in introducing a one-party-political style of rule by fear to such a degree that the country lost its respectability in the region and on the continent. Sam Nujoma, who presided over Namibia's independence, is not one of the elder statesmen called upon to mediate in any resolution on the continent because he is not regarded as a man of sufficient peace or wisdom to counsel others. In his latter years as a leader, he became belligerent and punitive towards his own who did not wish for him to stay permanently in power as the Perfect Man, the Strong Man of the land.

National reconciliation

Namibia's policy on national reconciliation is not an outcome, as was the case in South Africa, of a Sunset Clause²⁵ employed to cajole the white population into accepting changes so that they would not leave the country or destabilise it. In Namibia's case, the SWAPO leadership decided that, if it came to power, reconciliation with their historical political foes would be the route to follow. In February 1989, at a party meeting in Angola, the SWAPO leadership adopted the following resolution on national reconciliation:²⁶

The Central Committee resolved to adopt a policy of national reconciliation in order to enhance the chances of peace in Namibia ... Communities have been set against each other, tribe against tribe, race against race, wife against husband, son against father, daughter against mother, etc. The Swapo policy of national reconciliation was aimed therefore to heal these wounds of war ...

While it is very important to give credit to the SWAPO leadership for this bold and magnanimous resolution, the point must be made that there have been very few efforts on

25 The Sunset Clause, developed by Joe Slovo as a guide for the African National Congress (ANC) strategy to negotiate with the white apartheid establishment, recommended that a Government of National Unity be adopted until the white citizens adapted to it. In five years (when the sun set), it would then take over all apparatuses of state and government. See Slovo (1992:36–40).

26 *Forum for the Future News*, No. 2, June 2004, p 2.

SWAPO's part to follow it up in a nation-building programme. There was considerable gesturing on the part of some quarters of the government towards appeasing white farmers and businesses when it was convenient for it to do so. However, virtually nothing was done to heal the wounds that were inflicted in areas of jurisdiction where SWAPO was in charge, for example, in Lubango in Angola, where many people who were perceived by the leadership to be difficult were tortured, made to disappear, or reported to have died of some or other obscure illness.²⁷

Where Namibia did not do so well was in internalising reconciliation as a value for Namibian society. Because the government did not build on this foundation, it has now crumbled. Furthermore, the ruling party has adopted a stance that it is more important than the people. Moreover, the first President has resorted to calling white people who have an opinion that differs from his or his party's "foreigners" who are there at the mercy of the ruling party. Hence, the ruling party has been unable to distinguish between itself, the government, and the state – so much so that the party leaders have begun to fantasise that the party is above the government and above the state. In this manner, Namibia cannot be a promoter of positive pan-Africanism.

Internationalism

The expression of nationalism, in tandem with the logic of states and boundaries left behind by European colonialism, understandable though it has been, must be seen to be an artificial situation stemming from one of the main aims of colonialism: to divide and rule African territories. The long history of this experience and the exploitation of Africa that accompanied it left African countries individually and collectively underdeveloped. Liberation can only come through informed and collective action and forward-looking programmes that start in individual African states.

It is futile for any African country to harbour the illusion that it can develop meaningfully in a sustainable fashion in the present world by itself. Only through partnership and commercial and economic solidarity can Africa become a real player on the continent and in the world. Tajudeen Abdul Rahman expressively observes this as follows:²⁸

The collective African experience is that we can only be ourselves and we need each other to counter the threat of marginalization, rapacious globalization and the consolidation of whatever little gains may have been accomplished in a number of African countries. No one country can be a sustainable miracle if its neighbours are in hell.

27 SWAPO Party of Namibia (1996). This book, produced by the party in response to the calls to the SWAPO leadership to give an explanation for what happened to countless Namibians in the so-called dungeons in Lubango, Angola, representing over 80% of the unaccounted-for deaths or disappearances of people under SWAPO's jurisdiction, offers "died in combat" as the main cause of the absence of people.

28 Tajudeen Abdul Rahman, cited by Murithi (2005:8–9).

It is not sufficient to think of pan-Africanism only in terms of the contribution which other African governments have made to the struggle for Namibia's independence. For instance, being sandwiched between two giant economies, Angola and South Africa, offers Namibia great pan-African possibilities. Namibia could have brought about a new format of dialogue between these countries, not only for trade and commercial reasons, but also to enhance and harmonise the disparate cultural and other ties that exist between the citizens of those countries. Namibia could benefit a great deal from this harmonisation, in the process rendering trade and commercial interaction more integrated and sustainable. In so doing, the consolidation of peace and democracy could become people-oriented and less focused on mere government interactions, necessary though they are.

Race relations

Against the background of apartheid and the worse circumstances that obtained in Namibia before Independence, Namibia has to be commended as having done extremely well in the area of race relations. To be sure, these were militarised under apartheid, as the SWAPO Central Committee statement in February 1989 succinctly noted.²⁹ There was hardly a family in Namibia that did not have a member working for the South African Defence Force, whose aim was to prevent the coming into being of true black majority rule in the country.

Jannie de Wet, the erstwhile Commissioner General of the Indigenous Peoples of South West Africa, the prefect of white minority rule in the country, acknowledged his astonishment at the manner in which the SWAPO-led Government had handled and maintained peaceful race relations in the country. Addressing a packed gala dinner bidding farewell to the first President and welcoming the second on 20 March 2005, De Wet expressed his gratitude to the Namibian Government that he had never in his previous role thought that he would live in a free Namibia where he would be respected as a white citizen amongst black citizens of the country, and how this was all due to the policy of reconciliation that recognised all races as equal citizens.³⁰

Across the board, the Namibian people have been more than willing to work together. For the first 15 years after Independence, race relations were beyond reproach until the first President failed to secure the presidency for the fourth time and forever. He then turned to Zimbabwe and made use of unnecessary venom to reassert his leadership in his party. He became hostile towards white citizens, and party politics became worse since any critical voice from the white community was now seen as racist, reactionary, and even imperialist. This is the image that the rest of Africa and the rest of the world now have of Namibia.

29 *Forum for the Future News*, Newsletter No. 2, June 2004, p 2.

30 JM de Wet, speech at the gala dinner in honour of President-Elect Hifikepunye Lucas Pohamba, Windhoek, 20 March 2005.

This is disappointing, compared with Nkrumah's truly pan-Africanist stance in 1957, when he declared that all Africans could enter Ghana without visas, including white South Africans, as they were citizens of the African continent!

Corruption

Corruption has been a silent destroyer of confidence in the Namibian body politic. Though it remains hard to pinpoint particular incidents of official corruption, the problem is so rampant that the second President pronounced his own commitment to stamping it out in his first address as Head of State on 21 March 2005. The background to his acknowledgement that corruption was a cancer in Namibian society was, in part, the lack of action by the state on a number of investigations instigated by the government but with no outcome. A total of over 14 Presidential Commissions were appointed by the Nujoma-led Government to investigate incidents of corruption, but none of their outcomes were announced or followed up on – all due to political interference and influence.³¹

The land question

From 25 June to 1 July 1991, the Namibian Government convened a National Conference on Land Reform and the Land Question. This involved discussing the 'willing seller

31 The list includes the following: Presidential Commission on Higher Education, 1991; Presidential Commission of Inquiry into Matters Relating to Chiefs, Headmen and Other Traditional or Tribal Leaders and Authorities, 1991; Presidential Commission of Inquiry into Alleged instances of Irregularities in Respect of Property of the Central Government of Namibia, 1991; Presidential Commission of Inquiry into the Procedures and Practices Applied in the Allocation and Utilisation of Existing Fishing Rights, 1993; Presidential Commission of Inquiry into the Cause of Resistance by Certain Members of the Caprivi Community to the Appointment of Certain Senior Public Servants (Education), 1993; Presidential Commission of Inquiry into Labour-related Matters Affecting Agricultural Employees and Domestic Employees, 1995; Presidential Commission of Inquiry into Legislation for the More Effective Combating of Crime in Namibia, 1996; Presidential Commission of Inquiry into the Aviation Regulatory Practices of the Directorate Civil Aviation in the Ministry of Works, Transport and Communication, 1997; Presidential Commission of Inquiry on Education, Culture and Training, 1999; Presidential Commission of Inquiry into the Activities, Management and Operations of TransNamib Holdings Limited, 2001; Presidential Commission of Inquiry into the Activities, Management and Operations of Air Namibia, 2001; Presidential Commission of Inquiry into the Activities, Affairs, Management and Operations of the Social Security Commission, 2002; Presidential Commission of Inquiry into the Activities, Affairs, Management and Operations of the Roads Authority and Road Fund Administration, 2003; and Presidential Commission of Inquiry into the Activities, Affairs, Management and Operation of the Former Amalgamated Commercial Holding (Pty) Ltd AMCOM Registration No. 93/261 and the Former Development Brigade Corporation (DBC) Established under Section 2 of the Development Brigade Corporation Act, 1992, (Act No. 32 of 1992), 2004. Until the Anti-corruption Commission was appointed in 2004/5, no outcomes of these Commissions were announced or acted upon.

– willing buyer’ principle, and was aimed at promoting the constitutional right of all citizens to own, purchase or sell land anywhere in the country.³²

Other than the ongoing expressions of discontent from the Herero community, there has not been any major incident regarding the use of land in the country since Independence. The government has acquitted itself well in allowing the Constitution to run its course in land affairs, and would do well to maintain the stance of a unitary state with some allowance for the use of land by and under Traditional Authorities.

The only point that ought to be made is that the government has been inconsistent in regard to land matters when dealing with the Zimbabwean crisis over the years. Namibia did not need to denounce President Mugabe *ad hominem*, but merely, in line with its own Supreme Law, say to him that the grabbing of land from white Zimbabweans was incompatible with the laws of Namibia and SADC. The good name of Africa cannot be sustained when member states behave so wilfully towards their citizens’ rights to land.

Challenges ahead

It must be stated that pan-Africanism as a grand idea was never coherent in any country in Africa since its inception. Its coherence was within the diaspora where it started – within the ranks of black people who found themselves away from the Mother Continent and hankered to be connected to the where their ancestors came from. When the matter of the unity of Africa was debated amongst the leaders of liberated states, there was a big division between those who wanted the unity now, and those who preferred it to be the outcome of a gradual process. Hence, the formation of the OAU was a compromise between the so-called Monrovia Group who wanted a gradual process, and the Casablanca Group who were the radical pan-Africanists at the time.

At the centre of this vexing debate was the question of who was going to be the Leader of leaders. Nkrumah pushed hard for the immediate unification of Africa, a zeal that can be said to have led to his demise in his country, Ghana. In other words, even though there has never been national coherence about pan-Africanism as an ideal, there has, at the same time, been more consensus about the need to have a pan-African identity than there has been about forming the United States of Africa.

There seems to be a consensus amongst Africanists that the better route to pan-Africanism – or even the United States of Africa, as the embodiment of this ideal – is through the gradual route of regionalism. The major challenge here is whether political leaders of

32 Article 16(1) of the Constitution of the Republic of Namibia pronounces that “[a]ll persons shall have the right in any part of Namibia to acquire, own and dispose of all forms of immovable and movable property individually or in association with others and to bequeath their property to their heirs or legatees ...”.

Africa can master enough authority on the one hand, and political will on the other, to mobilise the disparate nation-state-based identities to move towards a united front of Africa à la Nkrumah, with, inter alia, a single African currency, one African defence command, and one mega-constellation of African states. As long as African identities remain patterned along European linguistic blocs, namely anglophone, francophone and lusophone, pan-Africanism remains an ideal that is difficult to reach. In addition, nationalism and national pride stand starkly in the way of each state in Africa's attempts towards realising true pan-Africanism – and Namibia is no exception. Xenophobia exists in each African state even as national leaders pay lip service, at best, to pan-Africanism.

If pan-Africanism was a search for the dignity of African peoples in the 20th century, can it still remain such a quest in the 21st, in the contexts of nationalisms, sovereignties and 'independentisms' across the African continent that hinder the slightest continental efforts to settle problems of democratisation, namely the rights of the citizens of African countries to be themselves – free from dictatorships, free from oppression, free from ignorance, and free from want? It would appear that pan-Africanism in the current century means different things to various players at different times, admittedly for varying purposes. The clearest acclamation to have come from African states in relation to the commitment to pan-Africanism was the establishment of the Pan-African Parliament in March 2004, by Article 17 of the Constitutive Act of the African Union, as one of the nine Organs provided for in the Treaty Establishing the African Economic Community signed in Abuja, Nigeria, in 1991. The Pan-African Parliament purports to provide a common platform for African peoples and their grass-roots organisations to participate more in decision-making processes regarding problems and challenges facing their countries in particular, and the continent in general.

The existence of such a Pan-African Parliament in Midrand, South Africa, is one of the hallmarks of contradictions in African politics. Many of the members of this megaparliament either hold dubious credentials as elected officials, or hail from regimes that have no serious parliamentary democracy back home. How they would oversee parliamentary democracy on the continent when they have no such culture is anybody's guess. The members of this parliament are undoubtedly grateful to stay in South Africa where they enjoy so many benefits and trappings – most of these at the expense of South African taxpayers!

Namibia is a member of this Pan-African Parliament, yet refuses to be part of the African Peer Review Mechanism (APRM), which is widely considered as the jewel in the crown of the New Partnership for Africa's Development (NEPAD). NEPAD was adopted by the African Union (AU) Summit in Lusaka in 2001 as its official development programme and is considered as a pan-African agenda programme.

The APRM was subsequently launched in 2003 and is regarded by member states as the most important NEPAD instrument and, as such, a critical AU instrument intended

to assist African governments with enhancing the quality of governance on the African continent by allowing member states, as peers, to review one another, after acceding to the process on a voluntary basis. The APRM was adopted at NEPAD's Sixth Summit of the Heads of State and Government Implementation Committee in Abuja, Nigeria, in March 2003. The instrument would, if respected, truly assist African governments with monitoring themselves in anticipation of the peer review process so that, in the end, democratic practices would be shared and strengthened across the continent. This would be true pan-Africanism in motion.

It is not surprising that Namibia is not one of the signatories to the APRM. When confronted with the idea of respecting the commitments to good governance and the process of peer review in NEPAD, Namibia has exhibited a dismissive attitude towards these AU efforts, arguing that NEPAD was purely concerned with economic issues (a fundraising arm of the AU for African countries) and not with politics. Namibia's second Prime Minister, Theo-Ben Gurirab, was vocal on the APRM issue, saying it belonged —³³

... to the dustbin of history as a sham. I see it as a misleading new name for the old, discredited structural adjustment fiasco. ... Neo-colonialism – which is what the APRM is – is a killer disease: we must run away from it.

Conclusion

Like the European Renaissance that focused on Europe, pan-Africanism was an intellectual preoccupation of individuals who were concerned about the future of the African continent and her inhabitants in the context of what had been inflicted on them by other nations. The trouble in Africa was that many concepts, including that of the African Renaissance advocated by Thabo Mbeki of South Africa, held that African leaders – or, rather, the ruling politicians – were the high priests of ideas. In Namibia, where there is a total disdain for intellectual thought and contribution, pan-Africanism as such could not thrive, as there was no beginning, no process and no ending to it. Whatever there was or is of Pan-Africanism in Namibia originated from Sam Nujoma and the disparate histories of SWAPO.

Attempts under the rubric of the Pan-African Centre of Namibia (Pacon), established in 1999, are instructive. Its best intentions to revive Africanism in Namibia notwithstanding, it fell prey to the politics of heroism, becoming a mini-cultural mouthpiece of the ruling party to such a degree that its biggest accomplishment is the unsuccessful movie, *Where others wavered*, on the founding President. Thus, Pacon failed to become a pan-Africanist movement, and instead became an ethnic entity with the central preoccupation of winning the favours of the ruling party.

33 Gurirab (2003); cited in Melber (2003:22). In this paper, Melber offers a helpful analysis of the contradictions of liberation movements in power, inter alia alluding to the fact that they do not necessarily breed a democratic culture.

Pan-Africanism is, in essence, a beckoning of Africans – and yes, including Namibians – to turn to themselves, to Africa. For too long, Africans have been programmed to start elsewhere, and end up elsewhere – and hardly ever with themselves. Namibian problems and opportunities are African in content and character; therefore, thinking about solutions to the problems of the country must start with Africa, working with and through other Africans, using Africa as the starting point of development and planning – in order to arrive at African solutions. As the late Tom Mboya, a Kenyan nationalist during the struggle for liberation in his country, once opined at the time of the pro-West/pro-East divide, “Africans are neither pro-West nor pro-Russian – they are pro-African!”³⁴

Namibia cannot succeed in going the route of pan-Africanism by itself: its economy is too small and leaders with very limited influence. For that matter, no single African country can drag the rest towards a united front, however willing or resourceful the others might be. Former Tanzanian President. Benjamin Mkapa perhaps has his finger on the right button when he makes the following warning:³⁵

This is a shortcoming of both regional and continental organizations. The NEPAD momentum is slowing down. The Summits have descended into annual parades. Implementation of past decisions is inadequately reviewed. New development initiatives are not sufficiently backed by funding, and so become simple resolutions of hope. Our actions do not match the ambitions we proclaim. Churning out position papers will not fight poverty, illiteracy and disease. Analysis of our problems must happen concurrently with deliberate capacity to address them

And finally, May 2013 marked the 50-year anniversary of not so much the accomplishments as such towards the African Union agenda aspired to in 1963 with the establishment of the OAU, but a new call to action to the new crop of African leaders to dream afresh. This dream might not be about the sovereignty of African states but a new African Renaissance. This spirit should deconstruct the current state of affairs of the AU, which by and large is about the goings-on of a trade union of African heads of state – not the emancipation of the dwellers of the African continent who are in search of a better life. Thabo Mbeki’s poignant question cannot be overemphasised:³⁶

... what have we done over half-a-century to advance towards the achievement of the objective of African unity[?]

This is where it is at: not the fight against colonialism, but the march towards the emancipation of Africa, including the lifting up of the burden of heads of state as ‘Big Men’.

34 Legum (1962:13).

35 Mkapa (2011).

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Namibia: Global governance matters

*Henning Melber**

Direct United Nations (UN) responsibility and intervention was an important factor for a solution of the dispute concerning the future of Namibia in 1989/1990. The transition to independence negotiated and implemented for Namibia under the initiative of the UN was a process of controlled change, which finally resulted in changed control. It remains a matter of speculation which course Namibia's decolonisation would have taken without the international organisation's facilitation. The fact of the matter is that Namibia, more than most other sovereign states, has been a result of an active role taken by the UN. Hence, it is an interesting question what role Namibia plays as an international actor with regard to normative frameworks and the values and principles relating to global governance.

This chapter recalls, in a first part, the role played by the UN in the process towards achieving national sovereignty. It then analyses Namibia's subsequent role as an independent member state of the UN with regard to a few aspects of its foreign policy relating to the respect for global normative frameworks guiding the notion of good governance. A third and final part offers some concluding thoughts.

A trust betrayed

Most parts of the territory of the Republic of Namibia were declared a Protectorate of imperial Germany in 1884. What was then known as *German South West Africa* lasted for 30 years. During this period, it was transformed into a settler-dominated society under foreign rule characterised by strict racial segregation. The structures imposed within a violent subjugation process of the local population had lasting effects far beyond the actual period of German rule. After World War I, the former German colony was declared a "C" mandate, with far-reaching authority transferred on the mandatory power. The trusteeship was executed on behalf of the British Crown by the Union of South Africa. With the end of the League of Nations – originally in charge of supervising such trusteeships – and the subsequent establishment of the UN and its Trusteeship Council, a long-lasting dispute emerged between the world body and one of its founding members, South Africa. The

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future of the country, including the administrative and legal responsibilities and its status in terms of international law and self-determination, became one of the most prominent and genuine cases of internationally negotiated decolonisation for most of the second half of the 20th Century.

The “winds of change”¹ brought about the decolonisation of most African countries until the late 1960s. This contributed towards a diversified composition of the family of sovereign states within the UN, which in turn had an impact on the discourse in the international policy arena. The emergence of independent African states and both the establishment of an Organisation of African Unity as well as a Non-aligned Movement contributed markedly towards shifts in policy issues. These included the change of perception of unsolved decolonisation conflicts like the case of Namibia. The 1960s, therefore, brought to an end the silent tolerance of a continued occupation of the territory by neighbouring South Africa in defiance of the authority and responsibility claimed by the UN.

The dispute turned into open conflict and demanded recognition – also in terms of international law.² In both the General Assembly as well as the Security Council, the UN assumed full responsibility to remain seized with the matter for more than two decades to come. Namibia turned into a genuine and singular case of UN concern, manifested also by the creation of the UN Council for Namibia³ and the UN Institute for Namibia (UNIN).⁴ The liberation movement – in a process of formation during the 1950s and established since 1960 as the South West Africa People’s Organisation (SWAPO)⁵ – subsequently achieved unique status. With the overwhelming support of the non-aligned countries and the Eastern bloc, as a result of intensive diplomacy Namibia was acknowledged by the General Assembly as the only legitimate agency of the Namibian people⁶ and obtained

1 This catchword, characterising the rapid processes of decolonization in many African countries was coined in a speech by then British Prime Minister Harold Macmillan on 3 February 1960 whilst addressing the South African Parliament in Cape Town during his tour of African Commonwealth states. He then said: “The wind of change is blowing through this continent. Whether we like it or not, this growth of national consciousness is a political fact”. The most popular song by the late Jackson Kaujeua (1953–2010) had the same title.

2 With Resolution 2145, the UN General Assembly terminated South Africa’s mandate over South West Africa on 27 October 1966 and subsequently qualified its continued presence as illegal occupation.

3 Subsequent to Resolution 2145(XXI), on 19 May 1967 the General Assembly resolved to create an entity representing the interests of the Namibian people within the UN agencies.

4 Its Director, who was employed as a highly ranked UN international civil servant, was Namibia’s first Prime Minister, Hage G Geingob. Other prominent exiled Namibians serving at UNIN included the late Mosé Tjitendero, who later served as the Speaker of Namibia’s Parliament.

5 Today the ruling party; later known as *SWAPO of Namibia* and currently as *SWAPO Party of Namibia*.

6 UN General Assembly Resolution 3111 of 12 December 1973 recognised SWAPO as “the authentic representative of the Namibian people”. This was amended in UN General Assembly

formal observer status to the UN bodies.⁷ Notwithstanding this considerable diplomatic success, however, the polarised situation of superpower rivalry prolonged the transition process to Namibian independence despite several far-reaching UN Resolutions and diplomatic initiatives until the late 1980s, when UN Security Council Resolution 435 of 1978 was finally implemented – more than a decade after its adoption.⁸

The UN as a multi-level broker

Until Namibia's independence, the UN played a crucial if not decisive role, culminating in the establishment of the United Nations Transition Assistance Group (UNTAG). UNTAG had supervisory powers in respect of Namibia's transition to an internationally accepted sovereign state under UN Security Council Resolution 435.⁹ Hence, the UN system can be considered by all standards as a midwife to the Republic of Namibia, proclaimed on 21 March 1990.

These agencies, however, were in themselves by no means a sign of homogeneity or uniformity. UN positions and policies on Namibia were represented in different ways, be it through the most radical support to SWAPO as expressed in the General Assembly Resolutions, the role assumed by the UN Council for Namibia as an institution acting on behalf of a generally assumed Namibian interest otherwise not represented, or in the far more controversial (non-)decisions taken by the Security Council (and, in particular, the role of its permanent Western member states, who initially all too often blocked any progress by using their veto rights). The Western Contact Group (WCG) emerged during 1977 to overcome a stalemate in terms of geo-strategic interests in general and with regard to southern Africa and Namibia in particular, as an attempt to prevent further isolation of the Western Security Council members over controversial issues related to the South African apartheid regime.¹⁰ At the same time, the WCG's institutionalisation

Resolution 31/146 of 20 December 1976 to “sole and authentic”, endorsing an exclusive status and political monopoly of SWAPO in the negotiations on behalf of the Namibian population.

7 The long-standing SWAPO representative to the UN was the country's first Foreign Minister, later Prime Minister and Speaker of the National Assembly, Theo-Ben Gurirab.

8 A wide range of literature has been produced on the Namibian case, much of it characterised by a preference to one of the parties involved in the conflict and reflecting the bias of the Cold-War period. Informative, though not necessarily non-partisan, overviews on the different aspects of the complex issue and the variety of political interests at work are offered by Dore (1985); Dreyer (1994); Du Pisani (1986:272–460); Kaela (1996); Melber & Saunders (2007:73–94); Nyangoni (1985:40–93); Rocha (1984); Singham & Hune (1986); UNIN (1987), as well as numerous UN publications. Many of the above sources offer access to the full text of the relevant UN documents.

9 For details on the last stages to Namibian independence, see in particular Cliffe et al. (1994); Hearn (1999); Herstein & Evenson (1989); Lush (1993); M'Passou (1990); Thornberry (2004); Weiland & Braham (1994).

10 The WCG (also dubbed *The Gang of Five*) was composed of the then five Western member countries of the Security Council: Canada, the Federal Republic of Germany, France, the

was a visible indication of the existing differences on how to approach a lasting and acceptable solution to the Namibia problem. With intensive shuttle diplomacy, including proximity talks in decisive stages, the initiative tried to negotiate a compromise between the direct opponents – SWAPO and South Africa. The immediate result was reflected in Security Council Resolution 435 (1978). But the blueprint was followed by further negotiations on details as well as on more substantive issues. Consequently, this initiative failed to achieve implementation for years to come.

The subsequent policies through most of the 1980s were a reflection of continued negotiated compromise between the different power blocs and their global policy interests, while the battle over the occupied territory of Namibia continued politically, diplomatically and militarily. Hence, it would be erroneous to assume that there has been one binding UN position on the Namibia conflict ever since the issue emerged. Instead, the UN created the forum to negotiate the decolonisation process and to ultimately secure its implementation. This process lasted more than a quarter of a century and finally brought to end more than a hundred years of foreign occupation of the territory. In its course, it was accompanied by the articulation of different and, at times, conflicting political approaches from several social forces operating in a local Namibian, a regional southern African, and a wider global context.

In the light of this complexity, the UN was more of a conflict mediator and power broker seeking to reconcile the various interests operating also within its own structures. The overall goal of most if not all parties might have been to correct the existing anachronism of a trust betrayed towards the end of a century, which, since the 1950s, had witnessed the era of successive formal independence for the African colonies. But the views on how to achieve this goal for Namibia differed considerably at times. With Namibian sovereignty in 1990 and – more or less as a direct result thereof – the subsequent democratic elections in South Africa during 1994, the era of European colonialism on the African continent was brought to an end.

SWAPO's armed liberation struggle, launched in the mid-1960s, as well as the Cuban engagement with the South African military in southern Angola, had a major impact on the further course of decolonisation. But Namibian independence was also the achievement of an international community, which after the Cold-War period managed to end lengthy and complicated diplomatic negotiations first and foremost dominated by the strategic interests of the two power blocs. The internationally negotiated settlement ultimately resulted in a transition towards independence with a decisive degree of UN involvement based on the – albeit delayed – implementation of Resolution 435 (1978). It paved the way for a legitimate government led by the previous liberation movement, SWAPO.

United Kingdom and the United States. Interesting accounts on the initiative are offered by Jabri (1990) and Vergau (2006).

The goal of the struggle was political independence in a sovereign state under a government representing the majority of the previously colonised people so far excluded from full participation in society. The power of definition concerning the future post-colonial system was exercised during this process, mainly by the national liberation movement. It voiced ‘the will of the people’ in interaction with the international players. The struggle included exile politics and international diplomacy as relevant components. Dobell proposes that –¹¹

Namibia provides a particularly fascinating case study of the gradual dismantling of a century of colonial rule, and its ultimate replacement – through democratic means, and monitored by external powers – by a movement which, some would argue, had in certain respects come to resemble the forces against which it had originally struggled.

UNTAG was finally established to overlook and implement the transition to independence between April 1989 and March 1990. It had to maintain a precarious balance throughout, in order to underline the claim of being a neutral facilitator during the implementation process. The figures presented by UNTAG at the end of its involvement displayed a massive investment into maintaining relative stability and an environment conducive to basically free and fair elections. During the period in question, there were an average of 6,700 members of UNTAG in Namibia from a total of 109 countries: 4,300 of them were in the military component; 1,500 were police monitors; and 900 formed the civilian component. During the actual week of elections, 7–11 November 1989, the UNTAG presence peaked at 7,900 members. The total cost of the UNTAG operations amounted to some US\$373.4 million. UNTAG had established 42 district centres and 48 police stations, with the number of UNTAG bases (including military posts) totalling almost 200. Over 43,000 Namibians were repatriated prior to the elections from 40 different countries by the United Nations High Commissioner for Refugees, and 56 laws categorised as discriminatory were abolished. As part of its voter education campaign, UNTAG produced and broadcast 32 television and 201 radio programmes, the latter in 13 different local languages. More than 600,000 T-shirts, buttons, stickers, information brochures and posters were distributed as well.¹²

Even a more critical approach to the UNTAG enterprise has to register an ultimately at least satisfactory if not happy end (considering the further costs of human life during the UNTAG supervision), and to correct many of the originally more pessimistic doubts as to the possibilities of a success. This conclusion is mainly drawn under the given circumstances of judging UNTAG as a peacemaking or, rather, peacekeeping mission

11 Dobell (1998:23).

12 UNTAG itself offered a comprehensive and colourful pictorial display of its wide range of activities during the period, with many illustrated details (cf. UN 1990). It is important to note in this context that UNTAG did not undertake an election campaign: this was left to the parties competing for votes. Instead, UNTAG concentrated on providing the necessary information about the process, its own role, and the elections to come.

in the first place: it supervised adherence to agreed democratic principles to ensure an acceptable result of the decision-making process on the political future of Namibia by the majority of the Namibian people. Seen in this context, UNTAG received praise mainly with regard to its efficient role as a peacekeeping force, thereby creating an enabling environment for relatively free and fair general elections. To this extent, the Namibian case and experience contributed positively to redefining the UN's potential role as a global agency and institution enforcing rules applicable to humanity as a whole.¹³

Among the many highest-ranking guests of honour witnessing the hoisting of the Namibian flag during the first minutes of 21 March 1990 was the then UN Secretary-General Javier Perez de Cuellar. He also held the opening speech at the beginning of the Independence ceremony, and was the first UN Secretary-General ever to swear in an incoming Head of State: President Sam Nujoma took the oath of office from the highest international civil servant. This was a final symbolic act underlining the crucial role of the international organisation in bringing about national sovereignty to the Namibian people. Not surprisingly, joining the UN as a member state was among the first foreign policy initiatives implemented by the new Namibian Government executing political power.¹⁴

Namibia, global governance and normative frameworks

This close historical bond between Namibia and the UN, as one of the most important among several midwives giving birth to the legitimate sovereign state, suggests that the country's foreign policy is guided by respect for the role that the international community can play in bringing about a negotiated solution to conflicts. This would embrace that the Namibian reference points for governance both at home and abroad are firmly rooted in and linked to the normative frameworks adopted by the UN since its establishment after World War II. Indeed, Namibia is a signatory to most international conventions and agreements. Thereby, it indicates its commitment to uphold the values and principles considered as substantial ingredients for good governance. These include domestic policies in respect of the rule of law and human rights as well as contributing to peace and security internationally through bi- and multilateral relations practising and supporting the same values. President Hifikepunye Pohamba reassured the august gathering of world leaders at the opening plenary of the 67th UN General Assembly on 24 September 2012, at which the Declaration on the Rule of Law at the National and

13 Johansen (1990).

14 With Resolution 652 (1990), the UN Security Council unanimously recommended on 17 April 1990 to submit the membership application to the General Assembly, which admitted the Republic of Namibia as its 160th member state on 23 April 1990 by way of Resolution S-18/1. The UN Council for Namibia subsequently and logically so decided its own dissolution on 11 September 1990.

International Levels¹⁵ was adopted, that –¹⁶

... his country was founded upon the principles of democracy, the rule of law and justice for all. It had a Bill of Rights and had acceded to the international treaties and conventions related to those principles.

Given the process of decolonisation as summarised above, with the particularly close engagement of the international community in bringing about its independence, and the wide appraisal of its being the UN's ultimate success story,¹⁷ Namibia was initially able to punch above its weight in the international arena. For example, that representatives of 147 countries were in attendance at Namibia's Independence ceremony speaks to the worldwide prominence of the event. It is also not surprising, therefore, that, during its first decade as an independent state, Namibia was able to play a more significant role than one would expect in relation to its actual relevance (i.e. irrelevance) in terms of the international power relations.

In 1998, Namibia's Foreign Minister Theo-Ben Gurirab was elected as Chairperson for the UN General Assembly's 54th Session 1999/2000, and Namibia was elected as a non-permanent member of the Security Council for 1999 and 2000. The Millennium Summit of the Heads of State and Government at the UN from 6 to 8 September 2000 was jointly chaired by the respective Namibian and Finnish Presidents, Sam Nujoma and Tarja Halonen.

Between 2006 and 2010, Namibia also played a visible role in UN deliberations, mainly as a result of our proactive ambassador who managed to achieve a high profile and visibility in the organisation's headquarters in New York. Kaire Mbuende, first a Deputy Minister for Agriculture, Water and Rural Development, and then a less fortunate SADC Executive Secretary¹⁸ and, finally, Deputy Minister of Foreign Affairs, was a near ubiquitous Permanent Representative to the UN who participated in several initiatives on behalf of his country and thereby managed to gain much respect for Namibia.¹⁹

15 Document A/67/L.1. It "reaffirmed that human rights, the rule of law and democracy were interlinked and mutually reinforcing, and that they belonged to the universal and indivisible core values and principles of the United Nations"; UN Department of Public Information, News and Media Division, New York, General Assembly, GA/11290, 24 September 2012; available at <http://www.un.org/News/Press/docs/2012/ga11290.doc.htm>, last accessed 16 September 2013.

16 (ibid.:19).

17 This is a rather relative conclusion, given the long battle for independence at the expense of so many lives and other sacrifices by ordinary people. A more decisive intervention at an earlier stage by the UN – provided the Western countries had been willing to support this – could have spared many lives on all sides of the conflict.

18 He resigned under pressure before ending his second term in office.

19 Mbuende's appointment as Permanent Representative to the UN by President Pohamba came as a surprise after his earlier dismissal as Deputy Foreign Minister together with Minister Hidipo Hamutenya by Pohamba's predecessor as Head of State. Mbuende was regularly accused of

Global policy issues in the Nujoma era

However, Namibia's track record, in retrospect, was far from being a shining example. Rather early into its bilateral relations with other states and their leaders, a display of camaraderie with some of the less reputable autocrats became obvious and began to dent Namibia's image. The state visit by President Sam Nujoma to Nigeria's dictator Sani Abacha on 14 May 1995 raised eyebrows – also at home: in a rare initiative, people demonstrated outside the Nigerian High Commission in a failed effort to save the life of writer and activist Ken Saro Wiwa. Reportedly, Sam Nujoma, in his friendly exchanges with his Nigerian colleague, never raised the appalling violation of human rights by the Abacha regime.

Similarly embarrassing was the official state visit by Indonesian Head of State Suharto to Namibia on 18 November 1997. Already under siege at home by those who revolted against his tyranny, this was among the autocrat's last international appearances before he was toppled by his people. His reception in Namibia was one of a respected leader, while many were wondering where the judgment of the government had been in embarking on such dubious signs of friendship. Closer to home, the lasting friendship with Zimbabwe's autocrat Robert Gabriel Mugabe and the close ties with the Laurent Desiré Kabila of the Democratic Republic of the Congo (DRC) reflected a similar mindset.

At a session on 25 March 1999 during its membership in the UN Security Council, Namibia joined China and Russia in their condemnation of the North Atlantic Treaty Organisation intervention in the former Yugoslavia, and on several occasions took positions in defence of the Milosevic regime. This view, declared as solidarity with the weak on the side of justice, was also propagated in a brochure presenting SWAPO's political programme for the parliamentary elections in November 1999. The emphasis on strict non-intervention as a guiding principle for international policy and peace was, however, less convincing due to Namibia's own military intervention in the DRC, where, in late August 1998, President Nujoma ordered the army to come to the rescue of President Kabila Senior. This not only cost the lives of several soldiers of the Namibian Defence Force in an internal conflict threatening to erupt into full-scale civil war in a country not even bordering on Namibia, but it was also a controversial issue in SADC. The military support offered to the Kabila regime by Angola, Namibia and Zimbabwe was

being among the notorious Rally for Democracy and Progress party's 'hibernators' in SWAPO. After the parliamentary election results at the end of 2009, when the local poll among Namibians voting at the UN mission in New York did not meet SWAPO's expectations, Mbuende's fate seemed to be a foregone conclusion after the SWAPO Youth League publicly demanded from the Head of State to replace him for his unpatriotic lack of delivery – as if the diplomat was supposed to ensure that the ballots had the desired results.

not approved by the other members of the SADC Security Organ, and was considered an unauthorised, unilateral initiative.²⁰

In March 2002, President Nujoma lambasted the Commonwealth decision to suspend Zimbabwe after its presidential elections, which resulted in Mugabe's continued hold on power, provided evidence of having been fraudulent. At the end of his own three terms in office as Head of State, President Sam Nujoma had established an image of being a benevolent autocrat himself. His ties with autocrats elsewhere in the world did not help to counteract such perceptions.

Global policy issues under President Pohamba

While his image was more that of a soft political leader, the foreign policy under Namibia's president Hifikepunye Pohamba did not deviate visibly from the country's earlier track record. Maybe the country – not least due to the active permanent representative at the UN in New York – engaged in general matters relating to UN structures and governance more visibly. A presidential visit to Tanzania on 27–28 May 2006 was used for statements by both heads of state to strengthen the continent's position as part of a broader UN reform. Pohamba also demanded the democratisation of the UN on his return from the AU Heads of State and Government meeting in Addis Ababa in 2006, where he had addressed local diplomats. He opposed the idea of any veto right. In his speech to the 60th Session of the General Assembly in New York on 17 September 2006, he reiterated the demands for adequate African representation and the abolition of any privileges for certain member states.

At the AU Summit in Sirte on 3 July 2009, Namibia was among those countries that endorsed the dismissal of the ICC extradition order for Sudan's President Omar al-Bashir. On his return, Foreign Minister Marco Hausiku stressed that Al-Bashir would be a welcome guest in Namibia. On 9 July 2009, the Director of the Legal Assistance Centre, as a credible local human rights agency already active under the South West African Administration, criticised this as a violation of legally binding international treaties signed by the Namibian Government, such as the Treaty of Rome, which had established the ICC. He declared that the endorsement of the AU decision suggested that Namibia could not be trusted with its international treaty obligations and was in defiance of its own Constitution:

Considering our recent history of violent oppression under Apartheid, of all nations, we are expected to side with victims of mass murder, rape, mutilation and torture; not with their tyrants and persecutors.

20 Not that the other SADC members were not guilty of having applied double standards: South Africa, as the fiercest critic of this intervention, had at about the same time directly intervened in Lesotho without seeking any prior approval or authorisation from SADC.

In contrast to the government's dubious stance in solidarity with Al-Bashir, the country's Permanent Representative at the UN, during the UN General Assembly debate, vehemently demanded the strict implementation of the AU principle that governments that seized power by means of coups should not be recognised. He led an initiative which ruled on 25 September 2009 that the new government of Madagascar would not be admitted to participate in the 64th session of the General Assembly's high-level segment.

The situation in Libya, however, revived the struggle mentality of yesteryear, and the intervention sanctioned by the UN Security Council was criticised both by members of the Namibian Government and by leaders of the SWAPO Party of Namibia as an imperialist conspiracy for regime change. In his speech on 21 March 2011, during Namibia's 21st anniversary of its independence, President Pohamba condemned the intervention "in the strongest terms", saying, "Our brothers and sisters in Libya are under attack from foreign forces". That same week, former President Nujoma added that this was a "crime against humanity" and a violation of international law. On 11 July 2011, Minister of Justice Pendukeni Iivula-Ithana confirmed that Namibia would not comply with the ICC arrest warrants for Muammar Kadhafi and Al-Bashir. Namibia was among 22 countries that objected in the UN General Assembly on 16 September 2011 to accepting the National Transitional Council as the body officially representing Libya. On 23 September 2011, Pohamba declared in his speech at the 66th Session of the General Assembly that the intervention in Libya was reminiscent "of the infamous Berlin Conference of 1884/1885, when Africa was carved up by imperial powers".

Finally, 24–28 July 2012 saw a state visit by King Mswati III of Swaziland, accompanied by one of his 12 wives. The rare trip, which included a hunting safari with the former Head of State and some sightseeing excursions at Namibian taxpayers' cost, received much criticism.

Domestic policy aspects

As stressed by the recent high-level debate in the UN and acknowledged in the speech by President Pohamba on that occasion (as quoted above), the rule of law is among the pillars of a global governance system seeking to respect and secure human rights, democracy and justice. The rule of law has both international and domestic dimensions.²¹ Hence, Namibia's commitment to global governance norms and principles also has a domestic element which can document to which extent these guiding principles are applied in spirit and practice.

One of the most recent contentious issues in this regard was the debate about the future of the SADC Tribunal. Established on 14 August 2001 and operational as from 2005 in

21 See Melber (2012).

Windhoek's former "Turnhalle",²² it was a major step forward in securing a subregional rule of law among SADC member states. The Tribunal was, however, de facto suspended at a summit in Windhoek on 16 and 17 August 2010, when SADC celebrated its 30th anniversary and elected President Pohamba as its next Chairperson for the year to come. This decision was in response to the case of a Zimbabwean farmer who successfully resisted the eviction from his land by the Zimbabwean authorities by appealing to the SADC Tribunal. A documentary film, *Mugabe and the White African*, recording the stages of this battle in court and adding footage from the terror on the ground, received worldwide attention and critical acclaim.²³

Despite the Tribunal's pronouncements, however, the Zimbabwean Government repeatedly declared its judgments as irrelevant. It considered the Tribunal's rulings not binding, claiming that not enough member states had ratified the SADC Treaty establishing the Tribunal. On 16 July 2010, the Tribunal reiterated two earlier judgments in the matter and concluded that the Zimbabwean state had violated its decisions; the Tribunal was to report its finding to the Windhoek SADC Summit for appropriate action. Instead of dealing with the Zimbabwean non-compliance with the rulings, the Summit decided that a review of the role, functions and terms of reference of the court should be undertaken within six months. The official communiqué added not a word more on the matter. This was tantamount to shelving the controversial issue after the Zimbabwean authorities had effectively been in contempt of court. However, the Summit went even further by not endorsing an anticipated second term in office for four judges, whose first terms were to expire on 31 August 2010. They included the Tribunal's President, although his presidential term was set to run until 27 November 2011. As a result, the Tribunal ceased its activities as from the end of August 2010.

Namibia's role with regard to the future of the Tribunal could be seen as indicative of the government's continuing stance with regard to upholding the rule of law in the region, especially when other SADC member states maintain strongly antagonistic positions on the matter. In preparation for the 32nd Official SADC Summit on 17 and 18 August 2012 in Maputo, the Ministers of Justice and Attorneys-General held a meeting from 11 to 15 June 2012 in Luanda to finalise their submission on the Tribunal. Reportedly, the Ministers held the view that human rights formed an integral part of their domestic judicial system. By implication, this could be interpreted as the intention to return to the

22 Dating from the German colonial era in the centre of Windhoek, this historical building was home to the so-called Interim Government established in the 1980s as an effort to counter SWAPO's struggle for Namibia's independence. That it was chosen as the seat of the SADC Tribunal had some symbolic significance in respect of reclaiming southern African sovereignty.

23 See also Freeth (2011). Namibia's reputation in terms of its efforts to promote equality before the law was greatly enhanced by the personal role of the Namibian lawyer Elize Ndjavera Angula, who was part of the claimant's team seeking justice for their clients.

dictum of absolute national sovereignty with the aim to strip the Tribunal of its most important role.

As a result, the SADC leaders agreed at the Maputo Summit in August 2012 that a new Protocol was to be negotiated. Its remit was to be limited to interpreting disputes among member states in respect of the SADC Treaty and its Protocols. This effectively bars citizens' from having any further individual access to the Tribunal, and allows the Zimbabwean Government to get away with all sorts of violations despite the court's earlier rulings. This shelving of the Tribunal's regional function not only raised "serious concerns about the normative coherence and cohesion of SADC", but also gave one reason to worry about the lack of recognition —²⁴

... of the primacy of people and regional citizens rather than the security of states and the interests of their ruling elites.

The official position on the SADC Tribunal held by Namibia's former Minister of Justice Pendukeni Iivula-Ithana (then also Secretary-General of the SWAPO Party of Namibia and among the contenders to succeed President Pohamba as Head of State, while holding the post of Attorney-General at the same time) is, in this respect, revealing. At an earlier meeting in Walvis Bay in 2011, she had already expressed the view that the Tribunal was in conflict with international law principles, including a number of SADC member states' constitutions. She reiterated the wish "through appropriate measures to make adjustments from time to time, to fit our interests". She felt that SADC member states were entitled to "fine-tune regional bodies" to serve them: "The instruments serve us, they are for us, and this is not a reversible position".²⁵ Such blatant misconception of the rule of law turns it again into the law of the rulers.

This unfortunate misunderstanding also seems to explain the Namibian Government's misguided handling of the failed secession attempt in the Caprivi in 1999.²⁶ For more than 12 years now, those that were originally imprisoned and accused of high treason have been waiting for a verdict. The assumption of being innocent until found guilty sounds very hollow under such circumstances, where none of the accused – even those suffering from grave health problems – were granted bail. Meanwhile, more have died

24 Le Pere (2012:1).

25 Quoted in Sasman (2012).

26 This north-eastern strip of land was added to the territory in the early 20th Century as part of the Heligoland–Zanzibar Treaty between the British and German Governments, thereby separating parts of the Barotseland kingdom from the main centres in then Northern Rhodesia (today the Western Province of Zambia). The local Lozi-speaking population nourished desires for autonomy and self-determination. As a result of the recommendations of a Delimitation Commission, redefining the voting districts and regions for the parliamentary and presidential elections in late 2014, the region was renamed as *Zambezi*, much to the protest among some of its inhabitants.

in custody (without being found guilty) than victims on all sides during the military encounter in August 1999, which resulted in the – so far only – declaration of a state of emergency. If ‘justice delayed is justice denied’, then, indeed, the more than 100 accused behind bars for more than 12 years have fallen victim to a legal system that has failed to offer justice to them.²⁷

The above examples of Namibia’s role with regard to the dismantling of the SADC Tribunal and its treatment of the prisoners accused of high treason and waiting for a verdict for 12 years in jail shows that the track record in terms of adherence to the fundamental values and principles of basic normative frameworks is not free of occasional flaws.

Concluding remarks: An opportunity wasted?

Given the window that opened with the internationally negotiated and implemented transition to independence, Namibia was given every opportunity to establish a solid reputation. As one of the latecomers to a largely post-colonial world, Namibia could have set an example of best practices. Looking back, this chance has been unnecessarily squandered on a number of occasions. Often, a knee-jerk response to challenges, guided by the rhetoric (if not antics) of the anti-colonial, pseudo-revolutionary vocabulary, has dented the image of the political leadership in charge of the protection and promotion of fundamental values, rights and principles. Rubbing shoulders with old and new friends who were best known for dubious track records in terms of human rights and respect for the rule of law did nothing to enhance Namibia’s image among those concerned about equality, democracy and justice.²⁸

Namibia remains among those states on the continent which has reason to feel relatively confident about its achievements since independence. But there is no reason for smugness or backslapping, given the often only limited, relative value of such comparisons. Instead, one should carefully question the criteria and points of reference on which such comparative judgments are based. That there are many more countries ranking lower on a democracy index or any similar list does not mean that everything is as good as it could be. There are enough depressing statistics counteracting any temptation to be triumphant or even satisfied. That states elsewhere in the world claim the moral high ground when it comes to Namibia – while they should rather take care of their own problems at home –

27 See Melber (2009:463–481).

28 Neighbouring Botswana, for that matter, displays partly a contrasting approach: a state of similarly minimal influence internationally, it has on various occasions taken the liberty to disagree with a dubious African unity in protection of those who violate the fundamental rights of their people in the name of national sovereignty. The new head of state in Malawi seems to be on a similar avenue, and has already courageously resisted opportunism and stood her ground under difficult circumstances, thereby adding tremendously to her own and her country’s positive reputation.

is also no excuse for not trying harder. Furthermore, that the normative frameworks and guiding principles adopted by UN member states are often ignored is not an acceptable reason for why one should not loyally seek to abide by them.

Thus, the existence of Guantanamo Bay²⁹ and other places of organised state crime and violations of fundamental principles of respect for the rule of law and human rights does not mean that this adequately justifies locking people away in similar places, such as Dordabis (a rural police station south-east of the capital, Windhoek) or some other obscure locations and deny them a fair trial. Similarly, that hegemonic interests execute a power of definition which, according to the geostrategic interests that suit those powers, make commitments to fundamental values an opportunistic and hypocritical exercise at best does not mean that one should not bother to sign noble declarations without seeking to give them adequate recognition and meaning by living up to their spirit.

Namibia could have done better. Only if it vigorously pursues policies breathing life into the kind of global governance principles and values of international solidarity which brought about independence to the nation and its people will it deserve a more prominent ranking worldwide.

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29 Where, under extrajudicial conditions without legal representation or a trial, the US has indefinitely locked up persons suspected of having been involved in the September 2001 bombings of various locations in that country They have still not been tried by an international or civil domestic court.

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