

AFRICA RISK CONSULTING
Country briefing – Namibia
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Summary

The SWAPO presidential candidate Hage Geingob is pushing a set of amendments to the constitution which, if enacted in full, would expand the powers of the presidency to the detriment of the legislature. The proposals were not openly announced but became public due to leaked documents published by the local press. The Bank of Namibia raises interest rates by 25 basis points and will likely go further later in the year to curb an unsustainable acceleration in domestic credit. Namibia signs up to an economic partnership agreement (EPA) with the European Union (EU). State-owned Epangelo Mining Company secures a substantial equity stake in the Navachab gold mine. The mining sector demands clarity on Epangelo's stipulated 'first rights' to exploration of 'strategic minerals'.

1.1 Geingob's constitutional bombshell

In an unexpected development, it has emerged that **Hage Geingob**, the current prime minister, vice president and presidential candidate of the ruling **South West Africa People's Organisation (SWAPO)**, is pushing for wide-ranging constitutional amendments which would significantly increase the presidency's executive powers. *The Namibian* daily newspaper broke the story on 23 July under the headline "Death of Opposition",¹ based on documents in its possession, which the paper likely obtained from SWAPO sources and which appear to be authentic. The reports suggest that Geingob himself is driving the process, not the SWAPO leadership as a whole, in close concert with the presidential affairs minister and attorney general **Albert Kawana** and law reform commissioner **Sackey Shanghala**. Geingob's office has held initial "consultative meetings" with opposition parties, including the official opposition **Rally for Democracy and Progress (RDP)**, in a bid to secure their backing for the proposed changes. Geingob's reported aim is to secure parliamentary approval of the proposals before the November 2014 presidential and National Assembly elections. Geingob has not explained why the amendments are so urgent and commented:

¹ The Namibian, 23 Jul 2014

“This matter is still under discussion and wider consultations are still ongoing in order to solicit input from all concerned parties. After that it will be submitted to cabinet and parliament. Until such time, I will not comment on this matter.”²

There seems little doubt that even if only some of the proposals are enacted, the result would be to alter the constitution radically and remove checks and balances designed to ensure the executive (presidency) does not dominate the legislature. Geingob’s intention – based on the leaked documents – seems to be to centralise power within the presidency along the lines of other southern African states like **Zimbabwe** and **Mozambique** and to counter possible opposition to his presidential candidacy within SWAPO itself.

According to *The Namibian*, the main proposals are:

- A new post of vice president, while the appointment of a deputy prime minister will cease to be mandatory. Local political commentators say this would increase presidential powers at the expense of the prime minister.
- Parties that secure less than 5% of the vote would cease to gain representation in the National Assembly. Under the current system, the number of MPs gained by parties is in line with their share of the popular vote. If a 5% threshold had applied in the 2009 election, only SWAPO and the RDP would have been represented in the National Assembly, disenfranchising the seven other parties which between them secured a 12% share of the vote.
- The National Assembly would increase from 72 to 104 members and the number of MPs appointed by the president would increase from six to eight and would have full voting rights, which they do not at present;
- The powers of the upper house, the 26-member National Council, would be cut back, including the right to propose changes to the national budget;
- The powers of Namibia’s 13 elected regional councils would be transferred to the regional governors, who are already appointed by the president. Originally, the governors were chosen by the regional councils, but the current head of state President **Hifikepunye Pohamba** (2005-present) changed this during his first five year term of office;
- The security commission would be restricted to an advisory role and it would lose the power to recommend to the president appointments such as the head of the **Namibia Defence Force (NDF)**, the chief of police and the head of the prison service. The president would also be able to appoint the head of the national intelligence service;

² The Namibian, news report and opinion, 25 Jul 2014

- The president, and not the **Judicial Services Commission (JSC)**, would appoint the head of the **High Court**. The JSC is an independent body, consisting of the Chief Justice, the Attorney General, a judge nominated by the president, and two members of the legal profession.

It seems likely that *The Namibian* obtained a copy of the preliminary draft; the final proposed constitutional amendments will be less far-reaching. Even so, the saga is a worrying sign that even before he secures election as president – a result which is not in doubt – Geingob appears to regard it as necessary for him to exercise greater powers than either of his two predecessors in office, Pohamba and Namibia’s first head of state, **Sam Nujoma** (1990-2005). It also signals a shift from Geingob’s previous declarations criticising the concentration of powers in one person or group. Nujoma removed Geingob as prime minister in 2002. In response Geingob described in a 2003 doctoral thesis a trend during Nujoma’s final term in office of “*an assumption of power over everything by one person*”, expressing his concern at the executive’s domination of parliament. Geingob seems to be going further than even Nujoma dared. The motivation appears to be his lack of confidence that as president he will be able to control the party and ensure his policy agenda is implemented.

Political commentator and author **Graham Hopwood** commented that the proposals appeared to have been cobbled together as a “rushed job” to address SWAPO’s need to accommodate all its key figures on its party list for the National Assembly election, after implementing the 50:50 gender equality policy. Since a majority of existing MPs are male, this would mean there would have to be a larger number of National Assembly seats if all the existing MPs were to be accommodated.

1.2 *Bank of Namibia begins raising interest rates*

Concern over the continued acceleration in the rate of domestic credit growth led the **Bank of Namibia (BoN)** to raise its repurchase (repo) rate by 25 basis points to 5.75% on 17 June, earlier than had been generally anticipated. The market had expected the BoN to begin tightening monetary policy during the third quarter of 2014.³ In response, commercial banks raised prime lending rates by the same proportion, to 9.5%.

The Namibian dollar and **South African** rand are pegged at the same value. The BoN had held its repo rate at 5.5% since August 2012 and did not follow the **South African Reserve Bank (SARB)** when it raised its repo rate by 25 basis points to 5.5% in January 2014. The June 2014 increase was the first

³ Bank of Namibia, Monetary Policy Statement, 18 June 2014

time the BoN had raised interest rates since October 2007 when the repo rate rose 50 basis points to 10.5%. From December 2008 the repo rate had been steadily reduced to 5.5%.

In the view of most local economists, it is almost certain the BoN will raise the repo rate again, probably by another 25 basis points, possibly as early as 20 August, since the initial rate increase is unlikely to dampen credit growth significantly. The SARB's decision to increase South Africa's repo rate again by 25 basis points, to 5.75%, on 17 July has further fuelled sentiment that Namibia will soon follow suit.⁴

The BoN has taken the view that a modest increase in the repo rate will not depress domestic economic output significantly. The economy recorded 1.6% real GDP growth in the first quarter of 2014, compared to a 3.8% contraction in the same quarter of last year, although it was below the 4.9% growth rate recorded in the final quarter of 2013.⁵ Despite the impact of lower production by the strategically important **Rössing** uranium mine since mid-2014, the BoN has forecast GDP growth will trend upward for the rest of this year, supported principally by strong consumer demand and robust construction activity, the sectors showing the strongest growth in the first quarter.

The BoN's biggest concern is a continued acceleration in the annual growth rate of private sector credit extension (PSCE), which rose to 15.8% in April 2014 from 14.3% in December 2013, driven mainly by higher household borrowing mainly through higher instalment credit and overdraft lending. PSCE continued to grow in May, by 16% to a total N\$63.0 billion (US\$5.9 billion) according to **Windhoek** stockbrokers **IJG Securities**. Current credit to businesses rose 18.5% to an outstanding amount of N\$24.6 billion (US\$2.3 billion) and household credit rose 14.7% to N\$38.2 billion (US\$3.6 billion).⁶

Namibia's foreign trade deficit also grew by 35% in local currency terms to N\$7.3 billion in the first quarter of 2014 compared to a year earlier, and by 12% in US dollar terms to US\$673m. The stock of Namibia's international reserves declined by only 2% in local currency terms, by N\$1.1 billion to N\$14.6 billion, but in US dollar terms the fall was much greater – by 28% to US\$1.3 billion – reflecting a major weakening of the Namibian dollar and the rand against the US currency since mid-2013.

1.3 Namibia has finally signed up to an EPA

⁴ Mail & Guardian, 17 Jul 2014

⁵ Namibia Statistics Agency, Gross Domestic Product, First Quarter of 2014, June 2014.

⁶ IJG Securities, PSCE May 2014, 7 Jul 2014

After years of on-off negotiations with the **European Union (EU)** on signing an **Economic Partnership Agreement (EPA)**, largely driven by Namibia's reluctance to expose its infant industries to European competition, agreement has finally been reached. The breakthrough was reportedly made possible by a deal in July between the **Southern African Development Community (SADC)** negotiating group and the **European Commission** covering outstanding issues.⁷

Namibia's trade and industry minister **Calle Schlettwein** told the National Assembly in the week ending 18 July that both parties had initialled a final EPA agreement and that, once the EPA was in full force, all external tariffs would be harmonised within the **Southern African Customs Union (SACU-Namibia, Lesotho, Botswana, Swaziland and South Africa)** in relation to trade with the EU. He explained that, as a result of the final round of negotiations, Namibia had secured concessions to protect it against sudden, large inflows of EU goods. Provisions include:

- **Most Favoured Nation (MFN)** treatment: the EU has agreed there will be no automatic extension to it of any better treatment Namibia may in future negotiate with another major economy, thereby keeping options open for future 'South-South' trading arrangements;
- Quantitative restrictions on imports: Namibia may continue to use these as long as they are compatible with its obligations under the **World Trade Organisation (WTO)**;
- Export taxes: Namibia can continue to apply export taxes without major restrictions for economic purposes, including infant industry protection and revenue needs.

The agreement now goes to cabinet and then the National Assembly for ratification. As Schlettwein has had prime minister Geingob's full backing in negotiating the improved terms, this is a formality and means that the EPA will be implemented some two months before the EU-imposed deadline of 1 October 2014.

Both the fisheries and livestock industries have expressed relief at the agreement which will mean these important sectors of the economy will not face the loss of duty-free access to the EU market as they would have done after 1 October if an EPA deal had not been reached. This would have made the price of Namibian products uncompetitive with exports from other exporters to the EU. Most of Namibia's white fish (especially hake to **Spain**), processed beef and table grapes are exported to the EU. Fisheries and marine resources minister **Bernard Esau** confirmed the EU was the biggest consumer of Namibian hake exports.

⁷ The Namibian, 18 Jul 2014.



*"Our fish contributes over N\$6.1 billion (\$0.6 billion) to the GDP and the bulk of that contribution comes from hake, so we welcome the news with open arms."*⁸

1.4 Epangelo secures a substantial stake in Navachab

The state-owned **Epangelo Mining Company** has gained an equity stake – which Epangelo managing director **Eliphaw Hawala** described as “substantial” – in the **Navachab** gold mine. The **United Kingdom (UK)**-based private mining company **QKR** completed the mine’s acquisition – its first transaction – from **AngloGoldAshanti (AGA)** at the beginning of July for US\$110m.⁹ QKR president **Lloyd Pengilly**, a former **Johannesburg** gold analyst who left global bankers **J P Morgan** to set up QKR, said the firm’s focus will be on maximising Navachab's inherent value and realising the full potential of the asset, *“together with our future partners at Epangelo”*. However, neither the size nor terms of Epangelo’s equity stake have been disclosed (see below).

Navachab currently has 3.9m resource ounces and 1.9m reserve ounces.¹⁰ Epangelo (which does not yet mine anything despite its name) was cut into the deal in the latter stages of the transaction to square the transaction with the SWAPO government. Initially, when AGA announced it was selling Navachab outright to QKR in February this year, there was no mention of any Epangelo involvement in the deal. But Epangelo had lobbied hard to ensure Navachab did not continue to be a 100% foreign-owned operation (as it had been under AGA).

Epangelo is a private firm registered in 2008, but the government is its sole shareholder, it is effectively a state-owned entity (which, in Namibia, essentially means that it is SWAPO-controlled). The Epangelo website, which provides no information on its mineral holdings, states its mission is to

*“aggressively pursue our goals to ensure we occupy a significant position in major commodity businesses, inclusive of uranium, diamonds, copper, gold and various precious metals.”*¹¹

Until now, equity participation deals Epangelo has struck with foreign mining and exploration firms have involved 10% equity interests on a free-carried interest basis, i.e. Epangelo has paid nothing upfront for its shareholding, but will pay for it out of its share of future dividends. For example, in November 2012 Epangelo received a 10% free-carried interest in **Swakop Uranium** – the developer of the \$2.2 billion **Husab** uranium mine now under construction in the central **Namib** desert –

⁸ New Era, 22 Jul 2014

⁹ The Namibian, 2 Jul 2014.

¹⁰ Miningweekly.com, 1 Jul 2014

¹¹ Epangelo Mining Co. website

following Swakop's acquisition in early 2012 by a consortium of **China General Nuclear Power Group (CGNPC)** and **China-Africa Fund (CADFund)** from the original project developers, **Australia's Extract Resources** and its UK **Alternative Investment Market (AIM)**-listed major shareholder **Kalahari Minerals**. In September 2011, **Namibia Rare Earths (NRE)**, the local subsidiary of the **Canadian** company developing the **Lofdal** heavy rare earths deposit in northwest Namibia, granted Epangelo a 10% interest in a new mining firm should an economically-recoverable uranium resource at Lofdal also be identified. This was the first equity participation agreement between Epangelo and a foreign private sector firm, although it has yet to come into effect as no uranium has been discovered yet.

Epangelo may therefore have secured at least a 10% shareholding in Navachab. Its decision not to go public with the size of its stake may be due to a confidentiality agreement with the highly-secretive QKR. Virtually the only information on QKR's website is that the firm's principal shareholders are **Qatar Holding**, an arm of the **Qatar Investment Authority (QIA)**, and **Kulczyk Investments (KI)** which is owned by **Polish** multi-billionaire businessman **Jan Kulczyk**. The Navachab deal is a milestone for Epangelo as it is the first time it has secured equity participation in an operating mine as opposed to an exploration/development project (although Husab is due to start producing its first uranium by the end of 2015). Hawala was bullish about the Navachab deal, commenting:

"This process brings us closer to fulfilling Epangelo Mining Company's objective [of ensuring] state participation in mineral resources development, mining, beneficiation and creation of mining related employment opportunities for Namibians."

Navachab's importance to the economy will be somewhat eclipsed by the new US\$244m **Otjikoto** gold mine 300 kilometres north of Windhoek. This is due to be completed in September, with planned production of 141,000 ounces per year during the first five years, more than double that of Navachab (which produced 63,000 ounces in 2013). Canada's **B2Gold** owns 90% of Otjikoto, with 10% held by a Namibian black empowerment firm **Evi Mining**, which is part of a business group owned by **Leake Hangala**, a permanent secretary at the **Mining and Energy Ministry (MME)** during the 1990s before he switched to the private sector. Hangala is understood to have been instrumental in seeing off a bid by Hawala to secure a stake in Otjikoto for Epangelo, following a visit to the mine site earlier this year by mines and energy minister **Isak Katali** who said that Epangelo should have a stake. Hangala subsequently pointed out to Katali, one of Hawala's strongest supporters in cabinet, that as Evi itself



was a “broad-based” empowerment vehicle, there was no need for Epangelo to get involved to ensure Namibian participation.¹²

Both foreign mining and exploration firms and the local mining industry have accepted Epangelo’s role as (minority) equity partner, but are highly dubious as to whether it should have a leading role in mineral exploration. The current president of the **Chamber of Mines of Namibia (CMN) Werner Duvenhage**, and managing director of the Rössing uranium mine, reiterated at its annual general meeting in May that the CMN was not opposed to government participation in the mineral sector, and in fact had welcomed Epangelo’s establishment.¹³ But industry has expressed deep concerns at Epangelo’s sole right to new exclusive prospecting licences for so-called ‘strategic minerals’, which include most high-value products of interest to exploration companies. Duvenhage commented that *“the uncertainty about strategic minerals continues with no legislation passed to date for its implementation.”* Because Epangelo has very limited resources – its annual allocation from the government is only N\$15m per year – the industry fears that inserting the company into the sector will deter foreign investors and lead to the land-locking of as yet undiscovered resources, since the state-owned firm will have insufficient resources to conduct exploration itself.

“The sustainability of the mining industry depends on vibrant exploration activities, without which the future of our mining industry will be in jeopardy.”¹⁴

Although the cabinet announced the reservation of new prospecting licences for strategic minerals to Epangelo back in 2011, it has not passed a law to this effect (see *ARC Namibia April 2014 Briefing*). According to an April 2011 announcement to the National Assembly by Katali, five strategic minerals – uranium, copper, gold, zinc and coal – were reserved for Epangelo. Subsequently, diamonds and rare earth elements (REEs) were added to the list of strategic minerals, while zinc appeared to have been removed, leaving six.¹⁵

At the meeting, current MME permanent secretary **Kahijoro Kahuure** did not disclose if a new law would be drafted to accommodate Epangelo or if the existing **Minerals (Prospecting and Mining) Act of 1992** would be amended. Nothing has happened since then and it is unlikely if any new law or a revised Minerals Act (which is being reviewed) will be enacted before this year’s elections in November.

¹² Mining industry source to author

¹³ The Namibian, 23, 27 May 2014

¹⁴ The Namibian, 23, 27 May 2014

¹⁵ The Namibian, 27 May 2014

2 Implications

While SWAPO vice president and presidential candidate Hage Geingob is still on track to win the November 2014 presidential elections by an overwhelming margin, the revelations that he has drawn up a set of major constitutional amendments in secret has taken the gloss off his campaign. It also threatens to stoke dissent within SWAPO and put opposition parties under pressure not to support the proposed changes and may even cause some of the smaller opposition parties – the **United Democratic Front (UDF)** and **Republican Party (RP)** among them – which had advised their members to vote for Geingob in the presidential poll (but not for SWAPO in the national assembly election) to withdraw their support. However, this would only have a marginal impact on the outcome as their combined votes are unlikely to exceed 20,000 or some 2% of the estimated 830,000 voters likely to turnout for the elections.

One Geingob proposal in one leaked version of the planned changes is for a 5% voting threshold, which would result in parties securing less than that proportion of the popular vote being excluded from representation in the national assembly. This would effectively prevent all opposition parties with the sole exception of the RDP from representation in the national assembly. Since the RDP is a SWAPO breakaway party it would effectively mean SWAPO and its ex-members would control parliament completely, ending Namibia's current status as a multi-party democracy.

Geingob is widely regarded as an intelligent politician and has waited years for the opportunity to become Namibia's head of state. Putting forward such an anti-democratic raft of constitutional amendments seems risky and may reflect the weakness of his personal support base within SWAPO. Geingob reportedly fears that, once he becomes president, he will face strong opposition from within the party from the two candidates he defeated in the SWAPO vice presidential election of December 2012 and their supporters, and from party radicals within the SWAPO Youth League. Concentrating more executive power in the presidency would in theory enable him to fend off future internal and external challengers.

There are other political factors driving Geingob's plans. SWAPO has recently adopted the principle of 50:50 gender equality – for which it has received wide praise. But it has also created a problem. The principle means that the SWAPO party list for the November elections must now alternate male and female candidates. A third of current SWAPO MPs are female so, to accommodate all the current male MPs, the list would have to contain more names. SWAPO had already proposed increasing the national

assembly from 72 to 104 MPs. To avoid the charge that it was acting only for its own political interests, Geingob has dressed up the idea of increasing the size of the national assembly as part of a wider raft of constitutional changes.

Whatever eventually transpires, Geingob seems to have over-reached himself, and it is likely that most of the more contentious proposals – including the 5% threshold and diluting the powers of Namibia's regional councils – will be dropped before the elections. Nevertheless, there would still be plenty of proposed changes left in place to shift the balance of executive power in Namibia sharply towards the presidency.

The Bank of Namibia's decision in June to start tightening monetary policy, although widely predicted, came sooner than expected. Because the domestic commercial banking system is well capitalised and liquid, it will take at least one more tightening of policy – probably two – for higher interest rates to start slowing credit growth. By acting now, the central bank may hope to achieve a soft credit landing without undermining the currently growing economy.

The government's decision to sign a revised economic partnership agreement (EPA) with the EU will ensure Namibia's continued ability to compete on price with other international suppliers of beef and fish to the EU market. The livestock and fishing industries employ more than three times the number of Namibians working in the mining sector. Continued uncertainty about the EPA and the loss of duty-free access to the EU in just over two months time would have been extremely damaging to the economy. In the process, Namibia seems to have won worthwhile concessions to protect infant industries and processors at home.

While Epangelo has undoubtedly secured a coup in gaining an equity stake in the Navachab gold mine, concerns about its impact in mineral exploration remain unresolved. The government has promised to clarify Epangelo's role and regularise the position by enacting relevant legislation, but has so far failed to do so. Failure to do so will mean Namibia running the risk of losing the confidence of foreign mineral explorers that are already enduring tough market and operating conditions. In practice, most will be unwilling to risk capital on joint ventures with state-owned firms which cannot contribute their proportionate share of the costs and risk.