

AFRICA RISK CONSULTING  
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## Summary

*Presidential affairs minister and attorney general Albert Kawana presents prime minister Hage Geingob's proposed constitutional amendments to the National Assembly (NA). Geingob defends the proposals amid opposition criticism rallying support from South West Africa People's Organisation (SWAPO) members and supporters. A postponement of the Avid/SSC fraud trial until next year may enable the SWAPO Youth League (SYL) to escape a political fall-out from the increasingly likely conviction of its former secretary Paulus Kapia. The central bank raises interest rates again in a further bid to curb strong domestic credit growth and rising household debt. An early-August strike at diamond producer Namdeb hits earnings and government revenues. The temporary closure of Windhoek international airport exposes worrying deficiencies in airport management.*

### *1.1 Geingob is set to get his way on constitutional change*

Presidential affairs minister and attorney general **Albert Kawana** formally presented prime minister **Hage Geingob's** proposed constitutional amendments to the National Assembly (NA) on 31 July. Kawana tabled the 42 amendments as the **Third Constitutional Amendment Bill**. The bill's contents are virtually identical to those which *The Namibian* newspaper leaked in July (see *ARC Namibia July 2014 Briefing*) although it excludes the most contentious proposal, for a 5% vote threshold for political parties to gain representation in the NA.

The two major constitutional changes would be a new post of an unelected vice president and an expansion of the NA membership from 72 to 104 MPs. While accepting that the vice presidential appointment would make the executive “*top heavy*”, Kawana maintained this would foster “*inclusivity and nation-building*” and assist the head of state, without replicating the functions of the prime minister, who would continue to head the government and appear before parliament in that capacity.<sup>1</sup> His suggestion that the president might choose the vice president to represent Namibia's “*diverse*

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<sup>1</sup> New Era, 1 Aug 2014.

*spectrum of people*” has led to speculation that Geingob – currently the ruling **South West Africa People’s Organisation (SWAPO)** vice president and presidential candidate – might appoint a non-SWAPO personality to the post. Kawana also claimed that increasing the number of MPs would reflect the population growth since independence in 1990, noting that to accommodate this, the number of constituencies had already been increased from 95 to 121. One concession to the opposition is that while the number of non-elected MPs appointed by the president would still be increased from six to eight, they would not be given voting powers, as had been originally proposed. Kawana said this had been done in the Namibian spirit of *“give and take in the national interest.”*

Opposition parties and civil society groups have voiced strong criticism of the overall thrust of the constitutional amendments and the government’s rush to get them approved. Former senior cabinet minister **Hidipo Hamutenya** who heads the SWAPO breakaway party and current official opposition **Rally for Democracy and Progress (RDP)** claimed SWAPO was following in the footsteps of other fallen parties in **Africa**. He termed the government’s unwillingness to consider wide-ranging consultations as *“morally corrupt and unacceptable”*.<sup>2</sup> **South West African National Union (SWANU)** secretary general **Tangeni Iyambo** made a similar point saying the timing was wrong. Iyambo said a parliamentary *ad-hoc* committee should review the proposals and then put them to the public for consultation. Although SWANU only has one MP it is Namibia’s oldest nationalist party, predating SWAPO’s formation by several years.

Despite Kawana’s positive spin on the proposed constitutional amendments, there are questions about the mandate he and Geingob claim for the proposals. When tabling the amendments, Kawana claimed the **Law Reform and Development Commission (LRDC)**, chaired by **Sacky Shanghala**, a close associate of Geingob, had drafted them over a period of two years. It was subsequently revealed that Shanghala and ombudsman **John Walters** are the only current LRDC commissioners (Walters on an *ex officio* basis) as the mandate of all other commissioners expired in November 2013 and the vacancies have not been filled. It was also reported that the commissioners did not discuss the proposals as a whole before their terms of office expired.<sup>3</sup> Shanghala acknowledged that the LRDC did not have a full complement,

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<sup>2</sup> The Namibian, 18 Aug 2014.

<sup>3</sup> The Namibian, 20 Aug 2014.



*“...ideally, we must have a representative from the Ministry of Justice, **Unam** (the **University of Namibia**), the **Law Society of Namibia**, etcetera. But I consulted with the Ombudsman and I am comfortable that we are not reckless to do sloppy work.”<sup>4</sup>*

Initially, Geingob left it to Kawana to motivate the amendments, but he has subsequently defended them robustly both in parliament and at SWAPO rallies. Geingob criticised the opposition for claiming they had not been consulted in advance by giving details of the number of parties and other groups consulted and also expressed his disappointment over accusations that the constitution is being amended for his benefit (i.e. to increase executive powers). Geingob accused civil society groups, who organised a small protest demonstration outside the parliament buildings in mid-August, of mobilising foreigners to interfere in Namibian affairs.<sup>5</sup> At a well-attended rally in the southern town of **Keetmanshoop** on 24 August, Geingob maintained that the constitutional changes will not give more powers to the presidency but in fact dilute them. It was also significant for party unity that home affairs minister **Pendukeni Iivula-Ithana**, one of two rival candidates for the SWAPO vice presidency whom Geingob comfortably defeated in December 2012, spoke in his favour, describing him as *“her mentor for many years and a leader who has contributed a lot to the country”*.<sup>6</sup>

Geingob will have little difficulty in ensuring SWAPO supporters turn out to vote for him and the party in November. There has also been cross-party support for establishing a new independent electoral commission to organise and manage elections which Kawana said the government had accepted at the request of the opposition parties and in line with the Supreme Court’s recommendation in 2012 when it ruled on an opposition challenge to the results of the 2009 NA election. Nevertheless, the ensuing debate in the NA has seen accusations of bad faith and has ramped up political tensions between SWAPO and the opposition parties in advance of this November’s simultaneous presidential and legislative elections.

## *1.2 The SYL may ride out the Avid scandal*

A postponement of proceedings until next year may limit reputational damage to the **SWAPO Youth League (SYL)** from a **High Court** fraud trial under Judge **Christie Liebenberg**. Legal proceedings first began four years ago against former SYL secretary **Paulus Kapia** and six others allegedly involved in the misappropriation of N\$30m (US\$2.8m) from the **Social Security Commission (SSC)**

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<sup>4</sup> New Era, 14 Aug 2014.

<sup>5</sup> The Namibian, 15 Aug 2014.

<sup>6</sup> New Era, 25 Aug 2014.

by **Avid Investment Corp.** The seven defendants are charged with a count of fraud, alternatively theft, along with a number of charges of reckless or fraudulent conduct of business in contravention of the **Companies Act of 1973** (see *ARC Namibia June 2014 Briefing*). The SYL leadership is brushing aside any connection although Kapia has been identified as having played a key role as a former Avid director in the misappropriation of the funds. Kapia remains a SWAPO MP – having been reinstated by the party after it initially suspended him as a result of the original Avid/SSC inquiry – and is the by far the best-known SYL personality.

Although Kapia and the six other defendants – who include a retired **Namibia Defence Force (NDF)** brigadier **Mathias Shiweda** – have steadfastly maintained their innocence, this is becoming more difficult to sustain. The prosecution in the current trial, which began at the end of May, maintains Kapia and the other defendants gave false testimony in the original High Court inquiry under the Companies Act nine years ago when they denied receiving any money from the fraud. Kapia and his co-defendants are charged with a main count of fraud, alternatively theft, in respect of Avid's failure to return the N\$30m plus interest by May 2005 as agreed. After the SSC transferred the money to an Avid bank account in January 2005, N\$29.5 million was transferred to an account of **Namangol Investments**, a firm owned by one of the defendants, from which N\$20 million was in turn transferred to a bank account of a **South African** investment company. In a repeat of her testimony during the Companies Act inquiry, **Christophine Kandara**, the widow of Avid founder **Lazarus Kandara**, claimed she had passed on cash for Kapia.<sup>7</sup> Within hours of his arrest in August 2005, Kandara had died of a gunshot wound outside **Windhoek** central police station, which an official inquest determined was suicide using a concealed firearm. His widow stated that after one of the accused had visited her home to deliver between N\$220-240,000 (US\$21-22,000) in cash, she had handed N\$40,000 (US\$3,700) each to three other defendants, with an additional N\$40,000 to be given according to her late husband's instructions to one "Kapia". She added that she had later deduced that her husband meant the SWAPO MP Paulus Kapia, but she did not know whether the extra cash was given to him or not. The indictment setting out the charges against the seven accused currently on trial alleges that Kapia and three other defendants had falsely denied receiving the money when they testified during the Companies Act inquiry.

The outcome will not be known before this year's elections as the judge suggested a ten-month delay on 12 August, postponing the trial until June 2015 due to a congested court roll.<sup>8</sup> The judge accepted

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<sup>7</sup> The Namibian 29 Jul 2014.

<sup>8</sup> The Namibian, 13 Aug 2014.

as evidence a 14-page statement containing admissions agreed between the prosecution and defence. This will reduce the trial duration since witnesses will no longer need to be called in respect of agreed admissions. The statement mainly confirmed the various banking transactions involving the embezzled money.

The SYL seems confident it will continue to be influential within the ruling party once Hage Geingob becomes Namibia's new president in March 2015. In an article defending his proposed constitutional amendments, SYL deputy secretary **Veikko Nekundi** described his organisation as

*“not only the main revolutionary transmitting belt of the SWAPO party ideology, policies and political programme but also a legitimate bona fide structure recognised within the SWAPO party constitution as part of its broader collective.”<sup>9</sup>*

### 1.3 Central bank raises repo rate to 6%

The **Bank of Namibia (BoN)**'s decision on 19 August to raise its repurchase (repo) rate by a further 25 basis points to 6.0% confirms that Namibia has now entered a period of monetary policy tightening. Namibia's commercial banks raised prime lending rates by the same proportion, to 9.75%, and mortgage loan rates to 10.75%. BoN governor **Ipumbu Shiimi** stated the repo rate had been raised again in response to continued strong growth in household credit, which *“remains a concern, especially when used to finance unproductive imported luxury goods”*.<sup>10</sup> Private sector credit extension (PSCE) growth averaged 15.3% during the first half of 2014, up from 13.9% in the second half of 2013. Installment credit and overdrafts dominated growth in household credit. PSCE grew by 15.4% year-on-year in June to N\$63.4 billion (US\$5.9 billion), down slightly from 16.0% in May, but was N\$8.5 billion (US\$0.8 billion) higher, a 15% increase, than a year earlier. Credit extension to business grew by 17.8% to N\$24.9 billion (US\$2.3 billion), down from 18.5% in May, while credit to households expanded by 13.7% to N\$38.5 billion (US\$3.6 billion). Windhoek stockbrokers **IJG Securities** commented that household credit growth could be largely attributed to prolonged and historically low interest rates in Namibia, allowing for interest-sensitive households to take up credit relatively cheaply.<sup>11</sup> Installment credit comprised 10% of total credit growth extended in June.

The repo rate rise kept Namibia's monetary policy in line with that of the **South African Reserve Bank (SARB)**, which raised its repo rate, also by 25 basis points, to 5.75% on 18 July. This was mainly

<sup>9</sup> New Era, 15 Aug 2014.

<sup>10</sup> Bank of Namibia, Monetary Policy Statement, 20 Aug 2014.

<sup>11</sup> IJG Securities, PSCE- June 2014

because of concern over above-inflation wage settlements in the mining sector generating inflationary pressures.<sup>12</sup> The South African inflation forecast for 2014 has been raised to 6.3%. Namibia's inflation rate has remained more subdued, with year-on-year inflation falling to 5.6% in July, down from 6.1% in June and May, with 2014 average inflation projected at 6%.

In 2013 the central bank kept rates unchanged in order to underpin domestic economic output in the context of weak global economic growth, but it regards Namibia's economic outlook for the rest of 2014 as "*encouraging*". Output strengthened in the first half of 2014, driven mainly by stronger real value-added output from diamond mining (but see 1.4 below), cereal farming, construction, wholesale and retail trade and government activities. The BoN is concerned that expanding "unproductive" imports have contributed to a soaring foreign trade deficit, putting pressure on Namibia's international reserves. It noted that the trade deficit widened further in the first half of 2014 due to higher imports of capital goods (mainly for the mining industry and therefore productive), vehicles and other consumer goods. The **Namibian Statistics Agency (NSA)** noted that while the trade deficit had fallen by 38% to N\$2.3 billion (US\$0.2 billion) in June, this was significantly higher than the N\$0.3 billion (US\$0.03 billion) trade deficit in June 2013.<sup>13</sup>

#### *1.4 Namdeb strikes unlikely to spread*

Recent wage disputes at **Namdeb Diamond Corp. (Namdeb)**, the 50:50 government/**De Beers**-owned diamond producer which is Namibia's most profitable mining operation, have raised fears that Namibia could be in danger of importing South African-style inflationary wage settlements in the mining sector. A mid-August wage settlement for employees of Namdeb's onshore diamond mining arm agreed with the **Mineworkers Union of Namibia (MUN)**, has bought little respite as MUN subsequently announced another strike by workers employed by its offshore mining unit – **De Beers Marine Namibia (Debmarine Namibia)** – with a similar set of wage and improved service condition demands. Namdeb has a total of 3,300 employees, the vast majority indigenous Namibians, with over two-thirds employed at the more labour-intensive onshore mining operations. If the second strike goes ahead, it will prove even more damaging to Namdeb; diamonds recovered by Debmarine from the **Atlantic 1** deepwater concession off the southern coastline of the *Sperrgebiet* (prohibited zone) where onshore mining takes place, contribute the largest share of Namdeb's output and are the major source of earnings. In 2013, Namdeb recovered a record 1.16m carats offshore, 66% of its total output of 1.76m carats. In the first six months of 2014, marine recoveries were 605,000 carats, 64% of

<sup>12</sup> South African Reserve Bank, Statement of the Monetary Policy Committee, 17 Jul 2014.

<sup>13</sup> Namibia Statistics Agency, Trade Statistics Bulletin, June 2014

Namdeb's 941,000 carat total production. Onland alluvial diamond reserves are dwindling while only a small proportion of the offshore resources has been extracted so far.

Earlier this year, Debmarine CEO **Otto Shikongo** hailed the 2013 production record as a milestone and said the firm expects to achieve the same result for 2014. He attributed the achievement to "*an exceptionally diligent and passionate team of employees ... highly skilled, technical and committed men and women*".<sup>14</sup> Namdeb's turnover was N\$5 billion (US\$0.5 billion) in 2013, with some N\$2.3 billion (US\$0.2 billion) paid to the Namibian treasury in taxes and royalties, as well as N\$1 billion (US\$0.1 billion) in dividends to the firm's two shareholders (in practice these go mainly to the government). This year, Debmarine spent N\$100m (US\$9m) on equipping one of its five mining vessels, the mv Mafuta, with a second seabed crawler system. The vessel contributes some 40% of total offshore recoveries.

The onshore workers' strike began on 2 August after wage negotiations with Namdeb management ended in deadlock, despite mediation efforts by deputy minister of labour **Alpheus Muheua**. Some 750 workers downed tools in support of their demands; the strike ended on 16 August after Namdeb and MUN agreed a three-year wage settlement. For year one, backdated to 1 April 2014, workers received a 9.5% across-the-board basic salary increase and a 14% housing allowance rise, while Namdeb has raised its contribution to workers' medical aid from 60% to 80%. Namdeb company secretary **Liberta Kapere** acknowledged the wage increase was "*way above*" (65% in fact) inflation, while the mining industry's pay increase norm was between 5-6%.<sup>15</sup> Kapere maintained this would be balanced by more modest 8% annual wage increases in years two and three (1 April 2015 to 31 March 2017). These are based on the average Namibia Consumer Price Index (NCPI) inflation rate plus 1%, which would assume a 7% inflation rate, higher than current forecasts. But should inflation fall below 4% in February of any year, Namdeb will pay inflation +2%. There is no guarantee that MUN will not return with further wage demands. Namdeb estimated the two week strike cost it N\$140m (US\$13m) in production losses, while the government lost some N\$6m (US\$0.6m) per day in taxes and royalties.

MUN general secretary **Ebben Zarondo** announced on 19 August the union would take strike action at Debmarine also, following a similar wage negotiation deadlock. At the time of writing the strike had

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<sup>14</sup> New Era, 8 Apr 2014.

<sup>15</sup> The Namibian, 19 Aug 2014.

not begun although Zaronzo had said his members would “*take to the streets very soon*”.<sup>16</sup> MUN is demanding an 11% basic wage increase, a 15% rise in rental allowances and 12% in seagoing allowances. Debmarine has offered a 10.5% wage increase.

### 1.5 Airport downgrade hits tourism

The temporary suspension of intercontinental flights in and out of Windhoek’s **Hosea Kutako International Airport (HKIA)** at the end of July has highlighted management deficiencies at the **Namibia Airport Company (NAC)** and dented Namibia’s image with tourists. The suspension came after the **International Civil Aviation Organisation (ICAO)** downgraded HKIA from category 9 to 5 following a routine audit on 21 July, forcing **Air Namibia** to immediately relocate its intercontinental flights from **Frankfurt, Germany** to **Botswana’s Gaborone** airport and subsequently to **Zambia’s Kenneth Kaunda International Airport in Lusaka**. The ICAO initially provided the **Directorate of Civil Aviation (DCA)** with an exemption for the airline to operate its A330-200 wide-bodied aircraft from HKIA, but withdrew this after a review.<sup>17</sup> The ICAO audit found that HKIA was ill-equipped to handle emergency landings and take-offs by large, modern aircraft. The specific failures were (two out of three) non-functioning fire engines, inadequate available firefighting equipment, poorly trained firefighters, poor maintenance of the runway and other crucial facilities. The NAC was given 15 days to rectify the deficiencies in respect of emergency firefighting procedures and equipment.

Although the NAC managed to comply with the deadline and intercontinental flights to and from HKIA had resumed by mid-August, the suspension has seriously damaged Namibia’s high standing as a global tourist destination and raised questions of responsibility. A Namibian passenger on board the first diverted flight from Frankfurt said passengers were worried by news of landing in Botswana, as no explanation was offered on why the aircraft would not land in Windhoek as originally planned.<sup>18</sup>

The NAC immediately suspended two managers but the parastatal subsequently revealed that they had remained on full pay. Minister of works and transport **Erkki Nghimtina** sought to put the blame for the downgrading on the NAC, attributing the two dysfunctional firefighter trucks to “*people not being serious with their jobs*”.<sup>19</sup> Opposition MPs grilled Nghimtina and expressed astonishment that such a damaging situation could have arisen. The usually pro-government *New Era* – which is owned by SWAPO although editorially independent – was particularly scathing. The newspaper noted the

<sup>16</sup> New Era, 19 Aug 2014.

<sup>17</sup> New Era, 30 Jul 2014.

<sup>18</sup> New Era, 25 Jul 2014.

<sup>19</sup> New Era, 25 Jul 2014.

*“lukewarm” response, “even from the highest political echelons”, and rebuked the NAC for “blatant negligence”, suggesting that the NAC had made scapegoats of its staff members “for a problem that is bigger than them”.<sup>20</sup>*

## 2 Implications

Despite the controversial nature of some of the constitutional amendments, how they were drawn up and why they are being rushed through parliament so quickly, SWAPO presidential candidate Hage Geingob seems unlikely to suffer from a voter backlash in the November presidential election. If anything, the sparring with opposition parties over the proposed changes seems to have energised Geingob, who on the evidence is connecting strongly with SWAPO supporters, overcoming any prospect that as a **Damara** and the party’s first non-**Oshivambo** presidential candidate he would be less popular.

Although Geingob’s critics have accused him of drafting the proposals with a small group of associates, he has clearly secured cabinet support for the proposals, and - on the evidence of the NA debates - support of a majority of SWAPO MPs. Since SWAPO enjoys the two-thirds majority necessary to approve amendments to the constitution, the amendments seem likely to be approved before the elections in line with Geingob’s wishes. This will provide Geingob with an accomplishment (in SWAPO’s view) to proclaim to the electorate. He has made it clear that if Namibians think the amendments are misconceived they should express this view at the ballot box. On balance the amendments may not result in any substantial shift in power to the executive as originally feared, but increasing the number of MPs and creating a new vice presidency will increase the cost of government without enhancing representative democracy in Namibia.

As a verdict on the Avid/SSC fraud charges against former SWAPO Youth League (SYL) leader Paulus Kapia will now not be handed down until next year, the SYL will avoid further damage to its reputation in the immediate future. This will leave it in a stronger position than previously seemed likely to continue influencing government policy from inside SWAPO. The trial will no doubt come as a relief to the current SYL leadership and may enable Kapia to survive as a candidate on the SWAPO party list for this year’s National Assembly election. The list will be chosen at a SWAPO elective college due to take place from 29-31 August, made up of 84 central committee members, plus the 17

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<sup>20</sup> New Era, 8 Aug 2014.

SWAPO MPs not on the committee. However, Kapia is not one of the six nominations submitted by the SYL for the party list.

A second interest rate increase by the central bank in two months indicates growing alarm at the continued rise in household debt caused by individuals' continued high growth in borrowing and the impact of consumer spending on high-end imported consumer goods on the balance of payments. From another perspective, higher consumable imports are a product of greater economic prosperity, since they reflect growing disposable incomes of Namibia's burgeoning black urban middle class, a phenomenon underway in many African and **Asian** developing economies. We anticipate the BoN will increase the repo rate by a further 25 to 50 basis points by the end of 2014, pushing up prime lending rates to 10.00-11.25%. Provided the global outlook does not deteriorate sharply, the monetary policy tightening should not choke off domestic growth, but should curb growth in domestic credit extension.

Namdeb has been forced to concede one inflationary wage settlement, with another in the pipeline. As long as output remains on an upward trajectory to meet stronger global demand for gemstones, this is affordable for the company. But it leaves Namdeb exposed to further wage demands which would either result in a reduction of revenue flows to the government or re-investment to extend the life of mining operations. However, in many ways Namdeb is a special case, and for this reason the outbreak of union militancy may not spread to the rest of Namibia's mining sector. As the government is a 50% shareholder, the MUN calculates this will make Namdeb more willing to concede union wage demands. Because strikes have a direct impact on the government's revenue stream, it is understandably keen for wage disputes to be resolved quickly, even at the cost of agreeing to above-inflation wage increases. The same factors do not apply to other mining firms because they are generally less profitable (the next-biggest mining operation, **Rössing Uranium**, is currently unprofitable at prevailing low uranium prices), and in none of them does the government hold a 50% equity interest as in the case of Namdeb (although it has a minority equity shareholding in Rössing). This means the scope for MUN to press for substantial wage increases is more restricted, and it cannot count on government intervention in its favour.

The unexpected downgrade of Windhoek's international airport and consequent temporary rerouting of Air Namibia's intercontinental flights at the end of July should result in concerted efforts by the government and the parastatals concerned to upgrade infrastructure to match international



requirements. There is no sign of this happening yet as all concerned are involved in a blame game, which does not bode well for better management of the domestic aviation sector.