Namibia

RISK & COMPLIANCE REPORT

DATE: March 2018

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Executive Summary - Namibia	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	Non - Compliance with FATF 40 + 9 Recommendations Not on EU White list equivalent jurisdictions EU Tax Blacklist
Medium Risk Areas:	Corruption Index (Transparency International & W.G.I.) Weakness in Government Legislation to combat Money Laundering World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score)

Major Investment Areas:

Agriculture - products:

millet, sorghum, peanuts, grapes; livestock; fish

Industries:

meatpacking, fish processing, dairy products, pasta and beverages; mining (diamonds, lead, zinc, tin, silver, tungsten, uranium, copper)

Exports - commodities:

diamonds, copper, gold, zinc, lead, uranium; cattle, processed fish, karakul skins

Imports - commodities:

foodstuffs; petroleum products and fuel, machinery and equipment, chemicals

Investment Restrictions:

The Government of the Republic of Namibia (GRN) is committed to stimulating economic growth and employment through attracting foreign investment.

The government requires local participation before issuing licenses to exploit natural resources and has implemented additional restrictions in the case of certain “strategic minerals”.

In 2011, the Namibian government declared uranium, diamonds, gold, copper, and rare earth metals to be strategic minerals.

No foreign national is allowed to acquire agricultural land without the prior consent of the Minister of Lands.

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Section 1 - Background

South Africa occupied the German colony of South-West Africa during World War I and administered it as a mandate until after World War II, when it annexed the territory. In 1966 the Marxist South-West Africa People's Organization (SWAPO) guerrilla group launched a war of independence for the area that became Namibia, but it was not until 1988 that South Africa agreed to end its administration in accordance with a UN peace plan for the entire region. Namibia has been governed by SWAPO since the country won independence in 1990. Hifikepunye POHAMBA was elected president in November 2004 in a landslide victory replacing Sam NUJOMA who led the country during its first 14 years of self rule. POHAMBA was reelected in November 2009.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Namibia is no longer on the FATF List of Countries that have been identified as having strategic AML deficiencies

Latest FATF Statement - 25 February 2015

The FATF welcomes Namibia's significant progress in improving its AML/CFT regime and notes that Namibia has established the legal and regulatory framework to meet its commitments in its action plan regarding the strategic deficiencies that the FATF had identified in June 2011. Namibia is therefore no longer subject to the FATF's monitoring process under its on-going global AML/CFT compliance process. Namibia will work with ESAAMLG as it continues to address the full range of AML/CFT issues identified in its mutual evaluation report.

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Namibia was undertaken by the Financial Action Task Force (FATF) in 2009. According to that Evaluation, Namibia was deemed Compliant for 2 and Largely Compliant for 5 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

US Department of State Money Laundering assessment (INCSR)

Namibia was deemed a 'Monitored' Jurisdiction by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Namibia is not a regional financial center, although it has one of the most highly developed financial systems in Africa. Both regional and domestic criminal activities give rise to proceeds that are laundered in Namibia. Falsification or misuse of identity documents, customs violations, trafficking of precious metals and gems, and trafficking in wildlife, illegal drugs, and stolen vehicles, mostly from South Africa, are regional problems that affect the level of money laundering in Namibia. Organized criminal groups involved in smuggling activities generally use Namibia as a transit point. Domestically, real estate as well as minerals and gems are suspected of being used as vehicles for money laundering. Namibian authorities believe the proceeds of criminal activities are laundered through Namibian financial institutions, but on a small scale.

The Namibian government has set up Export Processing Zones (EPZs). Companies with EPZ status can set up operations anywhere in Namibia. There are no restrictions on the industrial sector provided the exports are destined for markets outside the South Africa Customs Union region, earn foreign exchange, and employ Namibians. EPZ benefits include no corporate tax, no import duties on the importation of capital equipment or raw materials, and no value added tax, sales tax, or stamp or transfer duties on goods and services required for EPZ activities. There is at least one EPZ at the port of Walvis Bay. The Offshore Development Company (ODC) administers the EPZ regime. The ODC develops and leases multi-purpose industrial parks in four locations where companies can establish operations, including as EPZs.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:
"All serious crimes" approach or "list" approach to predicate crimes: All serious crimes
Are legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:
Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: YES
KYC covered entities: Banks and microfinance entities; pension funds, asset managers, and trust companies; casinos and gaming institutions; exchange houses, stock brokerages, and cash couriers; dealers in jewels and precious metals; insurance companies; pawn shops and dealers in high-value art and vehicles; realtors and auctioneers, to include livestock and real estate; lawyers, accountants, and notaries

REPORTING REQUIREMENTS:
Number of STRs received and time frame: 515 in 2015
Number of CTRs received and time frame: Not available
STR covered entities: Banks and microfinance entities; pension funds, asset managers, and trust companies; exchange houses, stock brokerages, and cash couriers; casinos; dealers in jewels and precious metals; insurance companies; pawn shops and dealers in high-value art and vehicles; realtors and auctioneers, to include livestock and real estate; lawyers, accountants, and notaries

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:
Prosecutions: Not available
Convictions: Not available

RECORDS EXCHANGE MECHANISM:
With U.S.: MLAT: NO Other mechanism: YES
With other governments/jurisdictions: YES

Namibia is a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a FATF-style regional body.

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

The Government of Namibia has taken steps to implement its AML/CFT National Strategy. The Financial Intelligence Centre (FIC), Namibia's financial intelligence unit, has AML/CFT regulatory responsibilities.

In 2014 the FIC issued nine intervention orders restricting the movement of $N8.7 million (approximately $564,000) while relevant authorities determined the legitimacy of the funds and whether additional legal actions were in order. There is no information on whether those determinations have been completed or whether they resulted in any prosecutions.

On January 28, 2015, the Namibian government published regulations under the Financial Intelligence Act of 2012 that set cash transaction reporting requirements. Section 23 of the regulations sets reporting thresholds of N$24,999.99 (approximately $1,620) for casinos and N$99,999.99 (approximately $6,485) for any other business or institution. Section 31 of the regulations also requires declaration of the cross-border movement of cash and negotiable instruments, but Namibia has yet to establish a reporting threshold or implement this area of its law. Section 32 of the regulations requires the reporting of all electronic transfers, irrespective of amount, to, from, and within Namibia.

Namibia should continue implementing its legislation and ensure sufficient resources and training are provided to supervisory, analytical, investigative, prosecutorial, and judicial entities. The informal banking and trading sectors need additional focus. The government also should continue its efforts to improve control of Namibia's long and porous borders. Statistics on the numbers of prosecutions and convictions, as well as the number of currency transaction reports (CTRs) received, should be made available as they reflect the effectiveness of a country's AML/CFT regime.

EU Tax Blacklist

Namibia is not a Member of the Global Forum on Transparency and Exchange of Information for Tax Purposes, has not signed and ratified the OECD Multilateral Convention on Mutual Administrative Assistance as amended, does not apply the BEPS minimum standards and did not commit to addressing these issues by 31 December 2019. Furthermore, Namibia has harmful preferential tax regimes and did not commit to amending or abolishing them by 31 December 2018.

Current Weaknesses in Government Legislation (INCRS Comparative Tables):

According to the US State Department, Namibia does not conform with regard to the following government legislation: -

Record Large Transactions - By law or regulation, banks are required to maintain records of large transactions in currency or other monetary instruments.

Arrangements for Asset Sharing - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

International Transportation of Currency - By law or regulation, the jurisdiction, in cooperation with banks, controls or monitors the flow of currency and monetary

Ability to freeze assets without delay - The government has an independent national system and mechanism for freezing terrorist assets in a timely manner (including but not limited to bank accounts, other financial assets, airplanes, autos, residences, and/or other property belonging to terrorists or terrorist organizations)

EU White list of Equivalent Jurisdictions

Namibia is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Namibia is not considered to be an Offshore Financial Centre

Reports

US State Dept Narcotics Report 2013 (introduction):

No report available

US State Dept Trafficking in Persons Report 2016 (introduction):

Namibia is classified a Tier 2 country - a country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Namibia is a source and destination country for children, and to a lesser extent women, subjected to forced labor and sex trafficking. Some victims are initially offered legitimate work for adequate wages, but are then subjected to forced labor in urban centers and on commercial farms. Domestically, Namibian children are subjected to forced labor in agriculture, cattle herding, and domestic service, and to sex trafficking in Windhoek and Walvis Bay. A media report alleged that foreign sex tourists from southern Africa and Europe exploit child sex trafficking victims. Namibians commonly house and care for children of distant relatives to provide expanded educational opportunities; however, in some instances, these children are exploited in forced labor. Among Namibia's ethnic groups, San and Zemba children are particularly vulnerable to forced labor on farms or in homes. NGOs reported persons in prostitution being taken aboard foreign vessels off the Namibian coast, some of whom may be trafficking victims. Children from Angola, Zambia, and Zimbabwe may be subjected to sex trafficking and forced labor in the fishing sector and in organized street vending in Windhoek and other cities. Angolan children may be brought to Namibia for forced labor in cattle herding. There were reports in 2013 of labor violations—potentially including forced labor—involving foreign adults and Namibian adults and children in Chinese-owned retail, construction, and fishing operations.

The Government of Namibia does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government investigated seven trafficking cases and prosecuted two suspected traffickers during the reporting period, in comparison with none in 2014, and obtained its first trafficking conviction in June 2015. The government continued its efforts to finalize and enact anti-trafficking legislation, which included frequent consultation with NGOs and experts during the year. The government identified and provided shelter to five trafficking victims, although it did not institute formal victim identification and referral processes. The government established a national committee, chaired by the deputy prime minister, in February 2016. The government also appointed the permanent secretary of the Ministry of International Relations and Cooperation (MIRCO) as the formal lead for anti-trafficking efforts and convened the first meeting of the technical committee to combat trafficking in November 2015. The government increased prevention efforts and conducted anti-trafficking trainings and awareness activities during the reporting period.

US State Dept Terrorism Report

No report available

International Sanctions

None applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	51
World Governance Indicator – Control of Corruption	66

Companies face a moderate risk of corruption in Namibia. While the country suffers from less corruption compared to other countries in the region, corruption remains common. The country's public procurement sector is particularly susceptible to corruption due to the monopoly of state-owned companies (parastatals). The Anti-Corruption Act is Namibia's primary anti-corruption law, covering passive bribery, active bribery, attempted corruption, extortion and bribing a foreign public official. A range of legislation covers other corruption offenses; however, despite a strong framework for curbing corruption, enforcement of the legislation is inconsistent. Gifts and facilitation payments given or received as an inducement for an act are illegal under the Anti-Corruption Act, and there are few reports of gifts being expected. However, facilitation payments are common. **Information provided by GAN Integrity.**

US State Department

Transparency International's 2013 Corruption Perception Index ranked Namibia 57 out of 177 countries, tied with the Czech Republic, Croatia, and Bahrain and ahead of neighbors including Angola, South Africa, Swaziland, Zambia, and Zimbabwe. There are no international or regional "watchdog" organizations operating in the country.

The Namibian Government passed the Anti-Corruption Act in May 2003 and the Anti-Corruption Commission came into existence in 2006. The Commission complements civil society's anti-corruption programs, supports existing institutions such as the Ombudsman's Office and Attorney General, and has the authority to investigate allegations of corrupt practices. Anti-corruption legislation is in place to combat public corruption. In a nationwide survey commissioned by the ACC and released in December 2011, corruption was listed at the second most important development challenge facing Namibia. Over half (54 percent) of survey respondents rated corruption as "very high", although relatively few said that they had had a personal experience with corruption.

Namibia has signed and ratified the UN Convention Against Corruption and the African Union's African Convention on Preventing and Combating Corruption. Namibia has signed the Southern African Development Community's Protocol Against Corruption.

Corruption and Government Transparency - Report by Global Security

Political Climate

Namibia is often highlighted as an example of successful democratisation and corruption control on a continent infamous for its fragile political climate. The clear division of powers between the executive, legislative and judicial branches is yet another sign of a functional state with an independent judicial system that can uphold citizens' rights. Despite the positive developments, politics in Namibia suffers from a range of deficiencies that hamper accountability and transparency. For instance, Namibian law does require that politicians disclose their assets, yet these have only been disclosed twice since independence, in 2003 and 2009, furthermore politicians are not restricted from entering the private sector after leaving the government. Likewise, no law obliges political parties to account for their use of the public funding they receive annually. According to several observers, the dominance of the South West Africa People's Organization (SWAPO), initially formed as an independence movement against South African rule in the 1960s, poses a threat to Parliament's role in exerting checks and balances on the government. SWAPO has enjoyed massive popular support and continued to prove its dominance by receiving more than 75% of the vote in the November 2009 presidential and parliamentary elections, while the opposition has remained fragmented and weak. Hifikepunye Pohamba, who succeeded Sam Nujoma as President in 2004, was re-elected in the 2009 presidential elections with the majority of the vote.

Namibia is often described as a patronage state by sources, with power and resources distributed along channels of ethnicity, family, friends and political allies spreading out from the President's Office. The New York Times reported in a November 2009 article that Namibian newspapers revealed how the Chinese government had awarded scholarships to the children of Namibian top officials, including the daughter of the President as well as children of the ministers of Defence, Home Affairs and Immigration and Mines and Energy. Critics see the grants as a Chinese attempt to buy influence with the political elite to gain access to mineral resources and favourable business contracts. Holders of high offices and their family members have been involved in cases of grand corruption, often in relation to public procurement and extractive industry. The legislative and institutional framework to combat corruption is largely in place, and is supported by the media, which functions as an important control mechanism in Namibia. Nevertheless, corruption remains a problem at the political and higher administrative levels as well as in parastatal organisations. President Pohamba launched a zero tolerance for corruption campaign in 2006 and installed the officers of the Anti-Corruption Commission (ACC), which is answerable only to the National Assembly and can recommend cases to the prosecutor-general. However, the country lacks a national anti-corruption strategy, and, according to a July 2010 article by AllAfrica, political leadership in the fight against corruption had been limited to the President's speeches and among the elected political representatives at executive and legislative levels there is insufficient political will to tackle corruption. To add assault to injury, a 2011 study released by the World Bank reports that government corruption in Namibia has become a problem even bigger than organised crime and fraud, and embezzlement of public funds and misuse of public money have increased dramatically in recent years. For instance, the Government Institutions Pension Fund (GIPF) is being investigated by the Namibia Financial Institutions Supervisory Authority and the Auditor General for corruption. According to the report, about NAD 600 million were distributed to 21 Namibian companies in the form of loans through the Development Capital Portfolio (DCP) scheme between the years 1994 and 2006. These companies failed to pay back the money and the GIPF wrote off the loans as bad debt. According to a February 2011 article by The Namibian, a member of the SWAPO had promised to make the full forensic audit into the DCP public once those responsible for losing millions of Namibian dollars through irregular investment were identified and charged. Moreover, as reported in a 2012 article by the Namibia Economist, there has been a sharp increase in the number of activities related to money laundering and terrorism financing in the country in recent years. According to the article, the Financial Intelligence Centre reports that in 2011, 148 suspicious transaction reports were received, while in 2010 only 88 were received, representing a 68% increase in reported suspicious activities.

According to the aforementioned World Bank report, observers perceive the main reasons behind corruption in Namibia to be the influential role of one party as well as the unclear distinction between corrupt and unethical or abusive activity. Nevertheless, opinions differ on how efficient the fight against corruption in Namibia is. According to Afrobarometer 2008, 54% of households perceive the current government fights corruption 'fairly well' or 'very well', whereas 41% think the government does a 'very bad' or 'fairly bad' job. Of the households surveyed, 46% think 'none' or 'some' of the government officials are involved in corruption while 49% think that 'most' or 'all' of them are involved in corruption. In addition, while 34% of households believed that it is 'somewhat' likely that the Anti-Corruption Commission (ACC) will be effective in reducing corruption in Namibia, 33% were more optimistic and believed that it is 'very' likely. According to a 2011 report released by the ACC, which reveals a list of the government offices, ministries and agencies perceived to be the most corrupt in Namibia, with the top three being the Ministry of Finance, the Ministry of Home Affairs and Immigration and the Ministry of Safety and Security, while the three least corrupt were the Office of the Auditor General, the Namibia Central Intelligence Service and the Office of the President. Respondents in the survey regard poverty and poor pay as some of the reasons behind corruption. Nevertheless, 55% of the respondents perceive that the ACC's current initiatives in fighting corruption to be effective and almost 25% of the respondents believe that the level of corruption in the country has decreased. However, Bertelsmann Foundation 2012 reports that despite repeatedly announced anti-corruption campaigns, political and bureaucratic corruption is a common practice in Namibia, the expectations placed on the ACC and the President Pohamba were too high in the previous years and could not be fulfilled. Furthermore, a neopatrimonial system allows for high-ranking government officials to privatise public benefits and use them for personal enrichment.

Business and Corruption

According to the US Department of State 2012, the government is committed to stimulating economic growth through attracting foreign investment. The country has considerable growth potential due to mineral wealth and its geographical position between two major economies of the region. The private sector is regarded as the principal source of economic production and as a catalyst for growth. However, despite the government's initiatives to spur growth, corruption continues to be one of the most problematic factors for doing business in Namibia, as pointed out in the World Economic Forum Global Competitiveness Report 2012-2013. The surveyed companies from the same report consider the occurrence of irregular payments and bribes in Namibia as fairly common. According to Bertelsmann Foundation 2012, there has been criticism that the investigations in major corruption deals in business-government relations are dragged out and tend to focus on lower-level officials. According to the same report, it is not unusual for government officials to privatise public benefits and use them for their personal gain. Furthermore, the existing close contacts between the government and the private sector give rise to suspicions of corruption. Indeed, the World Bank 2011 report notes that the relationship between the political elite and the business class has strengthened due to privatisation and that many Black Economic

Empowerment (BEE) managers have become business tycoons and are influencing parliamentary decisions and lobbying for legislation that will ultimately secure their personal gain.

Also the World Bank & IFC Enterprise Surveys 2006 reveals that companies operating in Namibia encounter corruption and that they consider corruption to be an obstacle to their business operations: 10% of companies cite corruption as the primary obstacle for business activities, 19% of companies identify corruption as a major constraint and 11% report that they expect to make unofficial payments to 'get things done'. The survey also reveals that corruption primarily affects the operations of small and medium-sized companies. It is also reported that 7% of companies cite anti-competitive or informal practices as the main constraint to doing business in Namibia. A 2009 Executive Opinion Survey conducted by Old Mutual Namibia and the Namibian Stock Exchange shows that corruption continues to constitute an obstacle to companies operating in Namibia. According to a 2010 article by The Namibian, 60% of the surveyed Namibian business executives perceive corruption as a 'serious problem', while 18% perceive it as a 'very serious problem' and 72% believe that corruption is increasing. Most of the respondents speak from experience as 43% reveal to have encountered corruption 'a few times' in 2009 while 11% have experienced it 'often'. The interface between government institutions and companies is hampered by corruption and companies face difficulties in getting access to government services unless they pay bribes to government officials, according to the Namibia Institute for Democracy Tackling Corruption 2007.

Actual Instances of Corruption 2008-2009 report by the Namibia Institute for Democracy also finds that abuse of office and embezzlement of funds are the two most frequent forms of corruption and that they are especially prevalent in private companies. However, according to the report, prevalence of corruption in the private sector during the time under review was lower compared to previous years and parastatals became the prime location for corruption in the country. In fact, according to the aforementioned World Bank report, investigations into cases of fraud and corruption have revealed the recurrence of a similar pattern; scammers make use of insider information and shell companies, collusion between insiders and outsiders, the use of family and social ties, weak management and weak internal and operational control. In fact, some of the same individuals have been detected in several cases of the same nature, which indicates a degree of specialisation in these schemes. Namibia's extractive industry attracts major foreign investments, and this offers huge opportunities for illegal enrichment for holders of high offices. Observers report that bribes are paid in return for the concessions and licences necessary to run companies in the extractive sector. The same World Bank report notes that high-level corruption can most commonly be detected in tendering, the irregular issuing of licences, procurement and investment schemes. The report also notes that kickbacks and non-declaration of conflict of interest is a common feature in corruption allegations. The Namibian economy is still characterised by a range of parastatals, although the government has continually stated its intention to continue its privatisation policy, of which the Bertelsmann Foundation 2012 characterises the implementation process as ineffectual and partly non-transparent. Many of these parastatals, such as Air Namibia, the Namibia Airports Authority, the Namibia Water Corporation, the Social Security Commission and TransNamib, are occasionally mentioned as sites of corrupt activities and mismanagement.

Regulatory Environment

The regulatory environment in Namibia is generally viewed as business-friendly and uncomplicated. However, the government aims at further clarifying and simplifying the procedures governing foreign investment in Namibia, as the current regulatory and incentives system has not attracted the desired level of foreign investments. Companies generally spend little time dealing with requirements of government regulation compared to both regional and world average figures. According to the World Bank & IFC Doing Business 2013, starting a company takes an average of 66 days and involves 10 procedures. Despite the Namibian government's commitment to creating a liberal regulatory regime, a policy that has made it into one of the least bureaucratic places to do business in the region, administrative procedures are still considerably more time-consuming, costly and complex than in OECD countries. According to the same report, Namibia performs well regarding the number of steps and days it takes for a company to obtain necessary licences to build a warehouse. However, it struggles with a complex, time-consuming and costly bureaucracy in the fields of registering property and trading across borders. Bertelsmann Foundation 2012 reports that Namibian administrative channels are long, and corruption is common without being excessive. Red tape is also singled out as an impediment to investment by the Namibian administration. Business executives surveyed in the World Economic Forum Global Competitiveness Report 2012-2013 give complying with administrative requirements (permits, regulations, reporting) a score of 3.4 on a 7-point scale (1 'extremely burdensome' and 7 'not burdensome at all'). Moreover, companies identify inefficient government bureaucracy as one of the three most problematic factors for doing business in Namibia.

In order to minimise the bureaucratic burden on foreign investors, the Government of Namibia has established an Investment Centre under the Ministry of Trade and Industry. The centre was established to act as a one-stop shop to assist foreign investors and is often investors' first point of contact in the country where companies can obtain advice on investment opportunities, incentives and procedures. In addition, the centre is tasked with assisting investors in minimising bureaucratic red tape by coordinating work with government ministries as well as various regulatory bodies. This has led the government to pass business-friendly legislation, and several observers assess the business climate in Namibia as attractive compared to some of its neighbours. Namibia has a range of tax and other fiscal incentives to attract foreign investors, but these have been introduced over a prolonged period of time, leaving Namibia with a somewhat complex set of investment incentives. Companies exporting at least 80% of their production outside the Southern African Customs Union (SACU) may apply for Export Processing Zone (EPZ) status, and there are also specific incentives for manufacturing and export-oriented production. The parastatal Offshore Development Company (ODC) is in charge of the EPZ programme, but has itself been at the epicentre of a major corruption scandal involving NAD millions. All information on EPZ incentives can be found at the website of the Ministry of Trade and Industry.

The government strongly supports Black Economic Empowerment (BEE) measures, which improves the opportunities for previously disadvantaged groups to establish themselves in the private sector. However, the government has so far failed to deliver a long-awaited policy on BEE. In the meantime, some companies have drafted their own BEE guidelines. Observers expect that it will become increasingly necessary for foreign investors to form partnerships with local BEE companies. In addition, the government's investment and development programmes focus on less developed regions. However, recent support to local BEE projects has reportedly failed due to fraud and mismanagement of funds. This has led some observers to argue that the BEE programme is in danger of benefiting only the black elite with ties to the ruling party. Investors are strongly recommended to develop, implement and strengthen integrity systems and to conduct extensive due diligence before committing funds and when already doing business in Namibia.

The protection of property rights is secured in the Constitution of Namibia 1990. Foreign investors can purchase and own land in Namibia, the only legal restriction being that of foreign ownership of agricultural farmland. However, foreign investors should note that land reform is a growing political issue. No expropriations have occurred to date without appropriate compensation. There is little government interference in the judicial system and it is generally reported that Namibian courts provide effective enforcement of property and contractual rights. The Foreign Investment Act 1990 also allows for settlement of commercial disputes by international arbitration for investors that have obtained a Certificate of Status Investment (CSI). Namibia has signed, but not yet ratified the International Centre for Settlement of Investment Disputes (ICSID) Convention. The Professional Arbitration and Mediation Association of Namibia (PAMAN) has been established to function as the facilitating hub of arbitration in the labour, commercial and construction fields but there are currently few reports of its performance. Access the Lexadin World Law Guide for a collection of legislation in Namibia.

Section 3 - Economy

The economy is heavily dependent on the extraction and processing of minerals for export. Mining accounts for 11.5% of GDP, but provides more than 50% of foreign exchange earnings. Rich alluvial diamond deposits make Namibia a primary source for gem-quality diamonds. Marine diamond mining is increasingly important as the terrestrial diamond supply has dwindled. The rising cost of mining diamonds, increasingly from the sea, combined with increased diamond production in Russia and China, has reduced profit margins. Namibian authorities have emphasized the need to add value to raw materials, do more in-country manufacturing, and exploit the services market, especially in the logistics and transportation sectors.

Namibia is the world's fifth-largest producer of uranium. The Chinese owned Husab uranium mine in expected to start producing uranium ore in 2017. Once the Husab mine reaches full production, Namibia is expected to become the world’s second-largest producer of uranium. Namibia also produces large quantities of zinc and is a smaller producer of gold and copper. The mining and quarrying sectors employ 2% of the population. Namibia's economy remains vulnerable to world commodity price fluctuations, and drought.

Namibia normally imports about 50% of its cereal requirements; in drought years food shortages can be a problem in rural areas. A high per capita GDP, relative to the region, hides one of the world's most unequal income distributions. A priority of the current government is poverty eradication.

A five-year, Millennium Challenge Corporation compact ended in September 2014. As an upper middle income country, Namibia is ineligible for a second compact. The Namibian economy is closely linked to South Africa with the Namibian dollar pegged one-to-one to the South African rand. Namibia receives 30%-40% of its revenues from the Southern African Customs Union (SACU). Volatility in the size of Namibia's annual SACU allotment complicates budget planning.

Agriculture - products:

millet, sorghum, peanuts, grapes; livestock; fish

Industries:

meatpacking, fish processing, dairy products, pasta, beverages; mining (diamonds, lead, zinc, tin, silver, tungsten, uranium, copper)

Exports - commodities:

diamonds, copper, gold, zinc, lead, uranium; cattle, white fish and molluscs

Imports - commodities:

foodstuffs; petroleum products and fuel, machinery and equipment, chemicals

Banking

The Bank of Namibia regulates commercial banks and the government regulates publicly owned banks. Commercial banks are part of the Common Monetary Area (CMA) governed by monetary policy set by the South African Reserve Bank. Automated Teller Machines (ATMs) and Internet banking are readily available in Windhoek and throughout major towns in Namibia. Cell phone banking is becoming more widespread and popular.

The banking system is modern and closely tied to the South African system. Three of the four local commercial banks are subsidiaries of South African banks. All local commercial banks handle international transactions and trade financing. Banking fees and charges are among the highest in the world.

Stock Exchange

Although the Namibian Stock Exchange is the second largest stock exchange in Africa, this distinction is largely because many South African firms listed on the Johannesburg exchange are also listed (dual listed) on the NSX. The government has also introduced investment incentives to attract mutual funds and foreign portfolio investors that have energized emerging stock markets elsewhere in the developing world. By law, Namibia‟s government pension fund and other Namibian funds are required to allocate a certain percentage of their holdings to Namibian investments.

Section 4 - Investment Climate

Executive Summary

Namibia is a stable, democratic country, and the Government of the Republic of Namibia is committed to stimulating economic growth and employment through foreign investment. The Ministry of Industrialization, Trade and SME Development is the governmental authority primarily responsible for carrying out the provisions of the Foreign Investment Act of 1990 (FIA). The government emphasizes the need for investors to partner with Namibian-owned companies and/or have a majority of local employees in order to operate in the country. The past year has seen an increase in high-profile challenges to government-awarded tenders in the energy, infrastructure, and water sectors. Namibia's judiciary, widely regarded as independent, is reviewing those tenders and has suspended some of them due to procurement process irregularities. In late 2015, the Namibian parliament passed a new procurement act that is more in line with international standards and aims to ensure greater transparency.

The FIA calls for equal treatment of foreign investors and Namibian firms, including the possibility of fair compensation in the event of expropriation, international arbitration of disputes between investors and the government, the right to remit profits and access to foreign exchange.

There are large Chinese foreign investments in Namibia, particularly in the uranium mining sector. Australia and the United Kingdom (U.K.) are other important investors in uranium mining. South Africa has considerable investments in the diamond mining and banking sectors, while the U.K. has additional investment in zinc and copper mines. Foreign investors from Brazil, Spain, the U.K, Netherlands, the United States and other countries have expressed interest in oil exploration off the Namibian coast although the interest has dwindled with the worldwide drop in petroleum prices. European and Chinese companies are investing in the fisheries sector.

Namibia has a relatively small domestic market, high transport costs, high energy prices, and limited access to skilled labor. These disadvantages are offset by the main factors facilitating Namibia's inward Foreign Direct Investment (FDI): political stability; a favorable macroeconomic environment; an independent judicial system; protection of property and contractual rights; good quality of infrastructure; and easy access to South Africa. Namibia also has access to the Southern African Customs Union (SACU); the Southern African Development Community's (SADC) Free Trade Area; and markets in Europe. The investment climate is generally positive.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	45 of 168	transparency.org/cpi2015/results

World Bank's Doing Business Report "Ease of Doing Business"	2016	101 of 189	doingbusiness.org/rankings
Global Innovation Index	2015	107 of 141	globalinnovationindex.org/content/page/data-analysis
U.S. FDI in partner country ($M USD, stock positions)	2014	10 Million USD	BEA/Host government
World Bank GNI per capita	2014	5,630 USD amount	data.worldbank.org/indicator/NY.GNP.PCAP.CD

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

The Namibian government welcomes and encourages foreign investment to help develop the national economy and benefit its population. The FIA guarantees equal treatment for foreign investors and Namibian firms, including the possibility of fair compensation in the event of expropriation, international arbitration of disputes between investors and the government, the right to remit profits and access to foreign exchange. Investment incentives and special tax incentives are also available for the manufacturing sector.

Other Investment Policy Reviews

The Namibian government has not conducted any investment policy review in the recent past through the OECD, WTO or UNCTDAD. However, in June 2014, the Institute of Public Policy Research (IPPR) released a study on Easing the Way for Investment in Namibia identifying 17 policy recommendations. The study is available online at the following link: Investment Policy Recommendations

The Namibian Chamber of Commerce and Industry publishes an annual Namibia business and investment climate (NAMBIC) survey. The most recent one available on-line is from 2014 and one can get a copy at the following link: http://www.ippr.org.na/sites/default/files/namBIC_2014_with%20final.pdf

Laws/Regulations on Foreign Direct Investment

The FIA is the primary legislation that governs foreign direct investment in Namibia. It calls for granting a Certificate of Status Investment (CSI) and special incentives to manufacturers and exporters.

The Competition Act of 2003 established the legal framework to "safeguard and promote competition in the Namibian market." The Act aims to promote:

- The efficiency, adaptability and development of the Namibian economy;
- Competitive prices and product choices for customers;

- Employment and advancement of the social and economic welfare of Namibians;
- Expanded opportunities for Namibian participation in world markets;
- Participation of small enterprises in the economy by ensuring a level playing field; and
- Greater enterprise ownership particularly among the historically disadvantaged.

The Competition Act also established the Namibia Competition Commission (NaCC), which has the mandate to review any potential mergers and acquisitions that might limit the competitive landscape or adversely impact the Namibian economy. The Minister of Industrialization, Trade and SME Development is the final arbiter on merger decisions and may accept or reject a NaCC decision. Any investor can file an appeal with the ministry but no formal process is prescribed for doing so.

Relatively effective and transparent regulatory systems have been established in many sectors. In 2000, the government established the Electricity Control Board (ECB) to regulate electricity generation, transmission, distribution, supply, import and export within the country. The ECB is also mandated to recommend to the Minister of Mines and Energy which companies or entities should receive licenses. The ECB's vision is for Namibia to have a competitive and transparent electricity market, but the Namibian parastatal responsible for providing electricity, NamPower, currently enjoys a virtual monopoly.

The 2009 Communications Act aims to level the playing field for all telecommunication operators and improve competition, but many implementing regulations are not yet in place. Under this same act, the Communications Regulatory Authority of Namibia (CRAN) replaced the Namibian Communication Commission (NCC), which had limited regulatory authority. The state-owned Namibian Broadcasting Corporation (NBC), which transmits TV and radio services, is exempted from the licensing procedures enumerated in the act.

The Bank of Namibia (BoN), the country's central bank, regulates the banking sector. . Most banks in Namibia are South African-owned, but the BoN has begun to grant licenses to banks from other countries. In 2015, the BoN granted provisional licenses to Banco BIC Namibia Limited, and Banco Atlantico, both of which have majority Angolan shareholding. In December 2012, the BoN granted a license to SME Bank Namibia Limited, a majority government-owned banking institution that is mandated to provide access to financial services for small and medium Namibian enterprises. The SME Bank is owned by both Namibia and Zimbabwe.

The Namibia Financial Institutions Supervisory Authority (NAMFISA) regulates non-banking financial institutions. NAMFISA aims to reduce financial crime through developing and implementing effective regulatory systems.

Business Registration

In 2014, the Namibian government established the Business and Intellectual Property Authority (BIPA) to improve service delivery and ensure effective administration of business and intellectual property rights (IPRs) registration. BIPA serves as a one-stop-center for all business and IPR registrations and related matters. It is also tasked with the provision of general advisory services and information dissemination on business registration and IPRs.

Website: http://www.bipa.gov.na/ BIPA is currently established under Section 21 of the Companies Act, pending the enactment of the enabling legislation to transform it into a fully-fledged regulatory body.

The functions of BIPA are:

- to be the central focal point for the registration, administration and protection of businesses, commercial and industrial properties rights; and
- to be the legal depository of information, documents and data required to be lodged under the applicable legislations.

Under the FIA, the Ministry of Industrialization, Trade, and SME Development established the Namibia Investment Center (NIC), which serves as Namibia's official investment promotion and facilitation office. The NIC is often the first point of contact for potential investors. It is designed to offer comprehensive services from the initial inquiry stage through to operational stages. The NIC also provides general information packages and advice on investment opportunities, incentives and procedures. The NIC is tasked with assisting investors in minimizing bureaucratic red tape, including obtaining work visas for foreign investors, by coordinating work with government ministries as well as regulatory bodies.

Business in Namibia may be conducted in the form of a public or private company, branch of a foreign company, closed corporation, partnership, joint venture or sole trader. Companies are regulated under the 2004 Companies Act, which covers both domestic companies and those incorporated outside Namibia but trading through local branches. To operate in Namibia, businesses must also register with the relevant local authorities; workmen's Compensation Commission; and the Social Security Commission.

Most investors find it helpful to have a local presence or a local partner in order to do business in Namibia, although this is not a legal requirement. Companies usually establish business relationships before tender opportunities are announced. The World Bank's *Doing Business 2016* report notes that it takes 10 steps and an average of 66 days to start a business. Some accounting and law firms provide business registration services.

The FIA provides for liberal foreign investment conditions and equal treatment of foreign and local investors. With limited exceptions, all sectors of the economy are open to foreign investment. There is no local participation requirement in the FIA, but the Namibian government is increasingly emphasizing the need for investors to partner with Namibian-owned companies and/or to have a majority of local employees in order to operate in the country.

The FIA reiterates the protection of investment and property provided for in the Namibian constitution. It also provides for equal treatment of foreign investors and Namibian firms, including the possibility of fair compensation in the event of expropriation, international arbitration of disputes between investors and the government, the right to remit profits and access to foreign exchange.

In Namibia, there are several names and definitions given to the micro, small and medium-sized enterprises (MSMEs) sector, which overlaps to a significant extent with the informal sector. A definition of SME widely used in Namibia is the one set by the Ministry of Industrialization, Trade, and SME Development (below).

Sector	Employment	Turnover (USD)	Capital Employed (USD)
Manufacturing	Fewer than 10 persons	100,000	50,000
Service	Fewer than 5 persons	25,000	10,000

Namibia's MSME sector is engaged in a whole range of activities including: subsistence farming; crafts (including woodwork, pottery, handicraft, basketry, jewelry-making, leatherworking, weaving, sewing, and furniture-making); small-scale manufacturing (including bread-making, tailoring, food catering, candle-making, and confectionery); small-scale mining; small-scale construction (including building, brick-making, plumbing, welding, carpentry, and electricity); informal services (including transport, auto repair, shoes, electric household appliances, gardening, domestic work, and hoe polishing); and informal trade (including rural information markets ("cuca shops"), urban information, informal cross-border trade (particularly along the Namibian/Angolan border), informal meat markets ("bush markets" in rural and urban areas), and informal sorghum marketing).

Industrial Promotion

In 2013, the Ministry of Trade and Industry launched a "growth at home" strategy to promote job creation through the manufacture of products with added value. The "growth at home" strategy emphasizes the importance of commodity-based industrialization by strengthening local and national value chains and creating more efficient linkages within the economy supported by improved logistics and infrastructure, and improvements in the ease of doing business. Namibia is endowed with significant human and natural resources that can be used to advance industrialization and structural economic transformation through value addition strategies in all sectors, but particularly in agriculture and agro-processing, fish processing and in mining and mineral beneficiation.

Limits on Foreign Control and Right to Private Ownership and Establishment

Foreigners must pay a 10% non-resident shareholder tax on dividends. There are no capital gains or marketable securities taxes, although certain capital gains are taxed as normal income. As a member of the Common Monetary Area, the Namibian Dollar (NAD) is pegged at parity with the South African Rand.

Foreign and domestic entities may establish and own business enterprises and engage in all forms of remunerative activities. The Ministry of Home Affairs grants renewable and non-renewable temporary employment permits for a period of up to 12 months for skills not locally or readily available. However, work permits and long-term residence permits are subject to bureaucratic hurdles. Complaints about delays in renewing visas and work permits are common.

Privatization Program

Namibia does not currently have a privatization program.

Screening of FDI

The Namibia Investment Center (NIC) is responsible for screening all potential foreign investments. It does not follow a formal review process, but does evaluate the credibility of potential investors and their business presentations and gauges the potential economic benefit to the country. The NIC's decisions are forwarded to the Minister of Industrialization, Trade and SME Development for final approval/rejection.

Competition Law

The Namibian Competition Commission (NaCC), established in 2009 under the Competition Act of 2003, is responsible for reviewing mergers (foreign and domestic) to safeguard and promote competition in the Namibian market. See the section on Transparency of the Regulatory system for more information on the NaCC.

2. Conversion and Transfer Policies

Foreign Exchange

The Namibian Dollar is pegged at parity to the South African Rand, and Rand are accepted as legal tender in Namibia. The FIA offers investors meeting certain eligibility criteria the opportunity to obtain a Certificate of Status Investment (CSI). A "status investor" is entitled to:

- Preferential access to foreign exchange to repay foreign debt, pay royalties and similar charges, and remit branch profits and dividends;
- Preferential access to foreign currency in order to repatriate proceeds from the sale of an enterprise to a Namibian resident;
- Exemption from regulations which might restrict certain business or categories of business to Namibian participation;
- Right to international arbitration in the event of a dispute with the government; and
- Payment of just compensation without undue delay and in freely convertible currency in the event of expropriation.

Remittance Policies

According to World Bank Development Indicators, data remittances to Namibia have been consistently less than 0.15 percent of GDP for at least the last decade. The majority of remittances are processed through commercial banks. There have been no plans to change investment remittance policies in recent times.

3. Expropriation and Compensation

The Namibian constitution enshrines the right to private property but allows the state to expropriate property in the public interest. The Agricultural (Commercial) Land Reform Act 6 of 1995 (ACLRA) is the primary legal mechanism allowing for expropriation, but the government has adhered to a "willing seller/willing buyer" policy as part of land reform programs. In 2004, the government announced it would proceed with land expropriations after much criticism about the slow pace of land reform. Three farms were expropriated as part of the effort. Court decisions mandated sizeable compensation to land owners. The expropriations had limited success and the government quickly returned to the "willing buyer/willing seller" policy. The Namibian constitution makes pragmatic provision for different types of economic activity and a "mixed economy" (Article 98), accepts the importance of foreign investment (Article 99), and enshrines the principle that the ownership of natural resources is vested in the Namibian state (Article 100). Section 11 of the FIA reiterates the commitment to market compensation in the case of expropriation in terms of Article 16 of the Constitution. Holders of a Certificate of Status Investment must be compensated in foreign currency and can opt for international arbitration if any disputes arise.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

The FIA allows for the settlement of disputes by international arbitration for investors that have obtained a Certificate of Status Investment (CSI) that includes a provision for international arbitration. The FIA stipulates that arbitration "shall be in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law in force at the time when the Certificate was issued" unless the CSI stipulated another form of dispute resolution.

There is no domestic arbitration body in Namibia. Investors without a CSI that encounter a dispute have to address their dispute in the Namibian courts or in the court system which has jurisdiction according to the investor's contract. The Namibian court system is independent and is widely perceived to be free from government interference. Namibia's legal system, based on Roman Dutch law, is similar to South Africa's legal system. The system provides effective means to enforce property and contractual rights, but the speed of justice is generally very slow.

Bankruptcy

The Companies Act of 1973, amended in 2004, governs company and corporate liquidations while the Insolvency Act 12 of 1936, as amended by the Insolvency Amendment Act of 2005, governs insolvent individuals and their estates. The Insolvency Act details sequestration procedures and the rights of creditors. Through the law, all debtors (whether foreign or domestic) may file for both liquidation and reorganization, and a creditor may file for both liquidation and reorganization.

Investment Disputes

As the "one-stop-shop" for investors, the Namibia Investment Centre (NIC) should be the body that first learns of an investment dispute between a foreign investor and a domestic enterprise. The NIC has not yet received a report of an investment dispute. Investment disputes can be handled by the courts.

International Arbitration

Namibia signed but has not ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

ICSID Convention and New York Convention

Not applicable.

Duration of Dispute Resolution – Local Courts

Dispute resolutions in Namibian courts routinely take multiple years.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Namibia does not impose performance requirements on foreign investors as a condition for establishing, maintaining or expanding investments and has not notified the WTO of any measures that are inconsistent with its Trade Related Investment Measures (TRIMS) commitments. The requirements in place are mostly imposed as a condition to access tax and investment incentives. For example, to benefit from incentives in a planned export processing zone, investors are required to export a certain percentage of finished products. There is no legal requirement for investors to purchase from local sources. However, for certain industries, there are local content requirements to exempt final products from duties under the Southern African Customs Union (SACU).

Investment Incentives

Incentives are mainly aimed at stimulating manufacturing, attracting foreign investment to Namibia and promoting exports. To take advantage of the incentives, companies must be registered with the Ministry of Industrialization, Trade and SME Development and the Ministry of Finance. Tax and non-tax incentives are accessible to both existing and new manufacturers. The Ministry of Industrialization, Trade and SME Development has produced a brochure on Special Incentives for Manufacturers and Exporters that is available from the Namibia Investment Centre (NIC).

Namibia has an Export Processing Zone (EPZ) regime that offers favorable conditions for companies wishing to manufacture and export products. By the end of 2013, there were some 20 EPZ companies in operation, most of which were closely linked to minerals beneficiation, including Namzinc (which produces Special High Grade zinc at the Skorpion zinc mine), Namibia Custom Smelters (which produces blister copper from imported copper concentrates) and a variety of diamond cutting and polishing operations (which cut and polish locally and internationally sourced rough diamonds).

Research and Development

Foreign firms are able to participate in government financed or subsidized research and development programs. The National Commission on Research, Science, and Technology strives to be the leading research and development agency in the country. There are some research and development centers at the state-run universities including the FabLab Design and Technology Center of the Namibia University of Science and Technology. There is ongoing research and development work on environmental and conservation issues at a number of institutes, including the Gobabeb Research and Training Center.

Performance Requirements

The government actively encourages partnerships with historically disadvantaged Namibians. Although the government does not have a codified Black Economic Empowerment (BEE) program, the Equity Commission requires all firms to develop an affirmative action plan for management positions and to report annually on its implementation. Namibia's Affirmative Action Act strives to create equal employment opportunities, improve conditions for the historically disadvantaged, and eliminate discrimination. The commission facilitates training programs, provides technical and other assistance, and offers expert advice, information and guidance on implementing affirmative action in the work place.

In certain industries the government has employed techniques to increase Namibian participation. In the fishing sector, companies pay lower quota fees if they operate Namibian-flagged vessels based in Namibia with crews that are predominantly Namibian. The Ministry of Mines and Energy has made clear that mining companies must "indicate and show commitment to empower previously disadvantaged Namibians" in their applications for exploration and mining licenses.

The lengthy and administratively burdensome process of obtaining work permits is among investors' greatest complaints in Namibia. Although the government cites the country's high unemployment rate as its motivation for a strict policy on work permits, Namibia's labor force does not yet many of the skills needed to fill jobs that foreigners currently hold.

Data Storage

The Namibian government does not have "forced localization" requirements for data storage. Domestic content is encouraged. State owned enterprises are including local ownership/participation requirements in procurement actions.

6. Protection of Property Rights

The Namibian constitution guarantees all persons the right to acquire, own and dispose of all forms of property throughout Namibia, but also allows parliament to make laws concerning expropriation of property (see Expropriation and Compensation Section) and to regulate the right of foreign nationals to own or buy property in Namibia. There are no restrictions on the establishment of private businesses, size of investment, sources of funds, marketing of products, source of technology, or training in Namibia.

Real Property

All deeds of sales are registered with the Deeds Office. Property is usually purchased through real estate agents and most banks provide credit through mortgages. The Namibian constitution prohibits expropriation without just compensation.

Intellectual Property Rights

Namibia is a party to the World Intellectual Property Organization (WIPO) Convention, the Berne Convention for the Protection of Literary and Artistic Works, and the Paris Convention for the Protection of Industrial Property. Namibia is also a party to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks and the Patent Cooperation Treaty. Namibia is a signatory to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

The responsibility for IPR protection is divided among three government ministries. The Ministry of Industrialization, Trade and SME Development oversees industrial property and is responsible for the registration of companies, private corporations, patents, trademarks, and designs through its Business and Intellectual Property Authority (BIPA). The Ministry of Information and Communication Technology manages copyright protection, while the Ministry of Environment and Tourism protects indigenous plant varieties and any associated traditional knowledge of these plants.

Two copyright organizations, the Namibian Society of Composers and Authors of Music (NASCAM) and the Namibian Reproduction Rights Organization (NAMRRO), are the driving forces behind the government's anti-piracy campaigns. NASCAM administers intellectual property rights for authors, composers and publishers of music. NAMRRO protects all other intellectual property rights including literary, artistic, broadcasting, satellite, traditional knowledge and folklore.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en.

Resources for Rights Holders

Contact at the U.S. Embassy Windhoek:

Caroline Dow
Economic / Commercial Officer
14 Lossen Street, Windhoek, Namibia
+264-61-295-8500
Econ_Comm_Windhoek@state.gov

A list of local lawyers can be found at:
http://windhoek.usembassy.gov/doctors_and_lawyers.html

7. Transparency of the Regulatory System

The Competition Act of 2003 establishes the legal framework to "safeguard and promote competition in the Namibian market." The government, through the Competition Act, has designed a legal and regulatory framework that attempts to safeguard competition while boosting the prospects for Namibian businesses as well as recognizing the role of foreign investment. The act is intended to promote:

- The efficiency, adaptability and development of the Namibian economy;
- Competitive prices and product choices for customers;
- Employment and advancement of the social and economic welfare of Namibians;
- Expanded opportunities for Namibian participation in world markets;
- Participation of small enterprises in the economy by ensuring a level playing field; and
- Greater enterprise ownership particularly among the historically disadvantaged.

The act established the Namibia Competition Commission (NaCC), which was officially launched in December 2009. The NaCC has the mandate to review any potential mergers and acquisitions that might limit the competitive landscape or adversely impact the

Namibian economy. The Minister of Industrialization, Trade, and SME development is the final arbiter on merger decisions and may accept or reject a NaCC decision. Any investor can file an appeal with the ministry, though no formal process for doing so has been established.

On December 31, 2015, the Namibian government published the Public Procurement Act of 2015, which is more in line with international standards and aims to ensure greater transparency in public procurements by government entities, including state-owned enterprises. The act is expected to enter into force in the second half of 2016.

Draft bills and proposed legislation are normally not available for public comment. Bills are customarily drafted within the relevant ministry without consulting stakeholders or the public and then presented to the parliament for debate.

8. Efficient Capital Markets and Portfolio Investment

There is a free flow of financial resources within Namibia and throughout the Common Monetary Area (CMA) countries of the South African Customs Union (SACU), which include Namibia, Botswana, Swaziland, South Africa and Lesotho. Capital flows with the rest of the world are relatively free, subject to the South African currency exchange rate. The Namibia Financial Institutions Supervisory Authority (NAMFISA) registers portfolio managers and supervises the actions of the Namibian Stock Exchange (NSX) and other non-banking financial institutions.

Although the NSX is the second-largest stock exchange in Africa, this ranking is largely because many South African firms listed on the Johannesburg exchange are also listed (dual listed) on the NSX. The government has introduced investment incentives to attract mutual funds and foreign portfolio investors that have energized emerging stock markets elsewhere in the developing world. By law, Namibia's government pension fund and other Namibian funds are required to allocate a certain percentage of their holdings to Namibian investments. Namibia has a world-class banking system that offers all the services needed by a large company. Foreign investors are able to get credit on local market terms.

There are no laws or practices by private firms in Namibia enabling incorporations to prohibit foreign investment, participation or control; nor are there any laws or practices by private firms or government precluding foreign participation in industry standards-setting consortia.

Money and Banking System, Hostile Takeovers

Namibia's central bank, the Bank of Namibia (BoN), regulates the banking sector. Namibia has a highly sophisticated and developed commercial banking sector that is comparable with the best in Africa. There are five commercial banks: Standard Bank, Nedbank Namibia, Bank Windhoek, FNB Namibia, and the SME Bank. Bank Windhoek is the only locally-owned bank; the others are subsidiaries of South African institutions. In addition, there is one micro-finance bank (Trustco, formerly known as FIDES Bank) and one branchless bank (EBank). In 2015, the BoN granted provisional licenses to Banco BIC Namibia Limited, and Banco Atlantico, both of which have majority Angolan shareholding. A third bank, Letshego Bank Limited, received a provisional license from the BoN to operate mostly as a micro financier. A significant proportion of bank loans come in the form of bonds or mortgages to individuals. There is little or no investment banking activity.

There are no restrictions on foreigners' ability to open bank accounts. However, a non-resident must open a "non-resident" account at a Namibian commercial bank to facilitate loan repayments. This account would normally be funded from abroad or from rentals received on the property purchased, subject to the bank holding the account being provided with a copy of any rental. Non-residents who are in possession of a valid Namibian work permit/permanent residency are considered to be residents for the duration of their work permit and are therefore not subject to borrowing restrictions placed on non-residents without the necessary permits.

9. Competition from State-Owned Enterprises

While Namibian companies are generally open to foreign investment, government-owned enterprises have generally been closed to all investors (Namibian and foreign), with the exception of joint ventures discussed below. State Owned Enterprises (SOEs, also known as parastatals) include a wide variety of commercial companies, financial institutions, regulatory bodies, educational institutions, boards and agencies. Generally, employment at SOEs is highly sought after because their remuneration packages are not bound by public service constraints. Parastatals provide most of the essential services such as telecommunications, transport, water and electricity. The following are the most prominent SOEs:

- Air Namibia (air carrier)
- Namibia Airports Company (airport management company)
- Namibia Institute of Pathology (medical laboratories)
- Namibia Wildlife Resorts (tourism)
- Namport (maritime port authority)
- Nampost (postal and courier services)
- Namwater (water sanitation and provisioning)
- Roads Contractor Company
- Telecom Namibia (primarily fixed-line) and MTC (mobile communications)
- TransNamib (rail company)
- NamPower (electricity generation and transmission)
- Namcor (national petroleum company)
- Epangelo (mining)

The government owns numerous other enterprises, from media ventures to a fishing company. In December 2009, the Minister of Mines and Energy inaugurated Epangelo Mining, a wholly government-owned mining company that owns 7 to 10 percent of each extractive industry operation established since 2009 through new investments or mergers and acquisitions. Parastatals own assets worth approximately 40% of GDP and most receive subsidies from the government. Some SOEs have been perennially unprofitable and have only managed to stay solvent with government subsidies. In industries where private companies compete with SOEs (e.g., tourism and fishing), SOEs are sometimes perceived to receive favorable concessions from the government. Foreign investors have participated in joint ventures with the government in a number of sectors, including mobile telecommunications and mining. In 2015, the President created a new Ministry of Public Enterprises with the mission to improve the management and performance of SOEs.

OECD Guidelines on Corporate Governance of SOEs

Namibia does not follow the OECD guidelines on governance of SOEs. The 2006 State Owned Enterprises Governance Act, which has yet to be fully implemented, requires each SOE to submit an annual business and financial report to its portfolio minister at least three months prior to the beginning of each financial year (Namibia's financial year is from April 1 through March 31). With important exceptions, few SOEs have consistently provided such annual reports.

While disputes with SOEs are generally difficult to resolve, in some cases individuals have been successful in taking SOEs to court. The majority of those cases were labor disputes brought from employees or former employees.

Sovereign Wealth Funds

Namibia does not have a Sovereign Wealth Fund (SWF). The Government Institution Pension Fund (GIPF) provides retirement and benefits for employees in the service of the Namibian government as well as institutions established by an act of the Namibian parliament.

10. Responsible Business Conduct

Most large firms, including SOEs, have well defined (and publicized) social responsibility programs that provide assistance in areas such as education, health, environmental management, sports, and SME development. Many firms include Black Economic Empowerment (BEE) programs within their larger Corporate Social Responsibility (CSR) programs. Firms operating in the mining sector – Namibia's most important industry – generally have visible CSR programs that focus on education, community resource management and environmental sustainability, health, and BEE. Many Namibian firms have HIV/AIDS workplace programs to educate their employees about how to prevent contracting and spreading the virus/disease. Some firms also provide anti-retroviral treatment programs beyond what may be covered through government and private insurance systems.

11. Political Violence

Namibia is a stable multiparty and multiracial democracy. The protection of human rights is enshrined in the Namibian constitution, and the government generally respects those rights. Political violence is rare and damage to commercial projects and/or installations as a result of political violence is considered unlikely. The State Department's Human Rights report for Namibia provides additional information.

12. Corruption

The Anti-Corruption Act of 2003 created an Anti-Corruption Commission (ACC), which began operations in 2006. The ACC attempts to complement civil society's anti-corruption programs and support existing institutions such as the Ombudsman's Office and the Office of the Attorney General. Anti-corruption legislation is in place to combat public corruption. In a nationwide survey commissioned by the ACC and released in December 2011, corruption was listed at the second-most important development challenge facing Namibia (12.8 percent, after unemployment at 39.6 percent). Over half (54 percent) of survey respondents rated corruption as "very high", although relatively few professed a personal experience with corruption.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Namibia has signed and ratified the UN Convention against Corruption and the African Union's African Convention on Preventing and Combating Corruption. Namibia has also signed the Southern African Development Community's Protocol against Corruption.

Resources to Report Corruption

Paulus Noa
Director
Namibia Anti Corruption Commission
Corner of Montblanc & Groot Tiras Street, Windhoek
+264-61-370-600
anticorruption@accnamibia.org

13. Bilateral Investment Agreements

Namibia has ratified Reciprocal Promotion and Protection of Investment Agreements (RIPPAs) with Angola, Austria, Cuba, Finland, France, Germany, Italy, Malaysia, the Netherlands, Spain, Switzerland and Vietnam. China and the Russian Federation have signed investment agreements with Namibia, but the agreements have yet to be ratified. There is no bilateral investment agreement between the United States and Namibia. In 2008, SACU (of which Namibia is a member) signed a Trade, Investment and Development Cooperation Agreement (TIDCA) with the United States.

Bilateral Taxation Treaties

There is no bilateral taxation treaty between Namibia and the U.S.

14. Foreign Trade Zones/Free Ports/Trade Facilitation

Companies with Export Processing Zone (EPZ) status can set up operations anywhere in Namibia. There are no restrictions on the industrial sector provided that the exports are destined for markets outside the SACU region, earn foreign exchange, and employ Namibians. EPZ benefits include no corporate tax, no import duties on the importation of capital equipment or raw materials, and no VAT, sales tax, stamp or transfer duties on goods and services required for EPZ activities. Non-residents operating in an EPZ may hold foreign currency accounts in local banks. The government also provides grants to EPZ companies for training programs to improve Namibian workers' skills and productivity.

The Offshore Development Company (ODC) administers the country's EPZ regime. Further information available at: http://www.mti.gov.na/odc.html. Information on Namibia's Port of Walvis Bay EPZ, managed by the Walvis Bay EPZ Management Company, is available at http://www.wbepzmc.iway.na

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) ($M USD)	2014	USD 13.20 billion	2013	USD 13.11 billion	www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country ($M USD, stock positions)	2013	$ 8 million	2014	$ 10 million	http://bea.gov/international/direct_investment_ multinational_companies_comprehensive_data.htm
Host country's FDI in the United States ($M USD, stock positions)	2013	$ -9 million	2014	NA	http://bea.gov/international/direct_investment_ multinational_companies_comprehensive_data.htm
Total inbound stock of FDI as % host GDP	2012	NA	2013	35%	NA

Table 3: Sources and Destination of FDI

Limited FDI data is available for Namibia. The main countries with FDI in Namibia are South Africa and China. The main destination of Namibian FDI is South Africa. Namibian FDI figures for 2013, the latest year available, show that the country had around USD 699 million in total inward direct investment, and USD 8 million total outward direct investment.

Information Source: UNCTAD, Bank of Namibia Annual Report 2013.

Table 4: Sources of Portfolio Investment

Limited data is available for Namibia from the Bank of Namibia Annual Report 2014.

Net portfolio investment outflows declined during 2014 as Namibia's foreign investments, mainly in debt securities, fell. Net portfolio investment outflows declined by 20% to USD 380 million during 2014 compared to the previous year due to a decrease in investment in foreign debt securities. In contrast, foreign investment in equity securities rose by 51.2% to USD 30 million. The rise in foreign invested equity securities could be attributed to a positive performance by capital markets.

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments

Legal system:

Mixed legal system of uncodified civil law based on Roman-Dutch law and customary law

International organization participation:

ACP, AfDB, AU, C, CD, FAO, G-77, IAEA, IBRD, ICAO, ICRM, IDA, IFAD, IFC, IFRCS, ILO, IMF, IMO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC (NGOs), MIGA, NAM, OPCW, SACU, SADC, UN, UNAMID, UNCTAD, UNESCO, UNHCR, UNIDO, UNISFA, UNMIL, UNMISS, UNOCI, UNWTO, UPU, WCO, WHO, WIPO, WMO, WTO

Exchange control

Exchange controls apply in Namibia.

Treaty and non-treaty withholding tax rates

The treaty withholding rates are made as follows:

	Dividends		*Interest*	*Royalties*
	Individuals/ companies	*Qualifying companies*		
	(%)	*(%)*	*(%)*	*(%)*
Treaty countries:				
Botswana	10	10	10	10
France	15	5	10	10
Germany	15	10	x	10
India	10	10	10	10
Malaysia	10	5	10	5
Mauritius	10	5	10	5
Romania	15	15	15	15
Russia	10	5	10	5
South Africa	15	5	10	10
Sweden	15	5	10	5/15
United Kingdom	15	5	20	5

X - Taxable only in the state of residence of the recipient.

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	**Medium Risk**	**Higher Risk**
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: CIA World Factbook)

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: CIA World Factbook / https://www.cia.gov/library/publications/world-leaders-1/index.html)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: OECD Global Forum on Transparency and Exchange of Information for Tax Purposes PKF International)

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Any questions or queries should be addressed to: -

Gary Youinou

Via our Contact Page at KnowYourCountry.com