

**AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF  
NAMIBIA AND THE GOVERNMENTS OF AUSTRALIA, CANADA, INDIA,  
NEW ZEALAND, SOUTH AFRICA AND THE UNITED KINGDOM OF  
GREAT BRITAIN AND NORTHERN IRELAND  
CONCERNING THE TREATMENT OF WAR GRAVES OF MEMBERS OF  
THE ARMED FORCES OF THE COMMONWEALTH IN THE  
TERRITORY OF THE REPUBLIC OF NAMIBIA  
(WINDHOEK, 27 JUNE 2005)**

**[2006] ATNIF 3**

**Documents tabled on 10 May 2006:**

**National Interest Analysis [2006] ATNIA 17**

**with attachment on consultation**

**Text of the proposed treaty action**

**Background information:**

**Commonwealth War Graves Commission**

**Country political brief and country fact sheet**

**List of other treaties with that country**

**List of treaties of the same type with other countries**

**Current status list of Parties**



**NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY  
SUMMARY PAGE**

**Agreement between the Government of the Republic of Namibia and the Governments  
of Australia, Canada, India, New Zealand, South Africa and the United Kingdom of  
Great Britain and Northern Ireland concerning the Treatment of War Graves of Members  
of the Armed Forces of the Commonwealth in the Territory of the Republic of Namibia  
(Windhoek, 27 June 2005)  
[2006] ATNIF 3**

**Nature and timing of proposed treaty action**

1. It is proposed that Australia add its signature to this Agreement. The Commonwealth War Graves Commission (Commission) has negotiated the Agreement on behalf of its members. Australia as a member nation of the Commission has been asked to endorse this Agreement.
2. The Agreement, which opened for signature on 27 June 2005 at Windhoek, covers the treatment of war graves of members of the armed forces of the Commonwealth in Namibia. The Agreement is not yet in force, as the formalities to be undertaken by the Government of the Republic of Namibia in accordance with Article 9 have not yet been completed.

**Overview and national interest summary**

3. The Commission was established by Royal Charter of 21 May 1917. The nations forming the Commission are: the United Kingdom of Great Britain and Northern Ireland; Australia; Canada; India; New Zealand and South Africa. The Commission's duties are to mark and maintain the graves of the members of the forces of the Commonwealth who died in the two World Wars, to build and maintain memorials to the dead whose graves are unknown, and to keep records and registers. The cost is shared by the partner governments in proportions based on the numbers of their graves. The Australian High Commissioner in London represents Australia at meetings of the Commission.
4. In Namibia there are 426 identified Commonwealth burials within 33 cemeteries. Although there are no Australians amongst these Commonwealth burials, Australia is a founding member of the Commission and has a commitment to the work of the Commission in its entirety.
5. No previous agreement has been completed between the Government of the Republic of Namibia and the Commission although discussions have occurred over a number of years. The charter to maintain the graves of Commonwealth war dead has been undertaken in Namibia by the Commission despite the absence of a formal agreement. This Agreement will formalise the existing practices of the Commission in Namibia.
6. Signature of the Agreement by Australia will signify Australia's continued commitment to the work of the Commission and the remembrance of the Commonwealth war dead.

## **Reasons for Australia to take the proposed treaty action**

7. The Agreement is between the Government of the Republic of Namibia and the Governments forming the Commission and covers the maintenance of war graves of members of the Armed Forces of the Commonwealth in Namibia.

8. Australia is a founding member of the Commission and as a result has a commitment to the work of the Commission in its entirety. The Agreement will formalise the work already being carried out in Namibia by the Commission.

9. The Commission was advised at short notice that Namibia would sign the Agreement on 27 June 2005. Great Britain and India also signed the Agreement at Windhoek on that date. New Zealand added their signature on 24 August 2005. South Africa and Canada are expected to add their signature in April 2006.

## **Obligations**

10. While the Agreement does not explicitly confer rights and obligations on Australia, the Commission does not have international legal personality. This means the Commission's Member States retain responsibility for entering treaties and adopting rights and obligations on the Commission's behalf.

11. The Agreement obliges the Government of the Republic of Namibia to recognise the Commission as the sole authority with the duty of the laying out, construction and permanent care of the graves, cemeteries and memorials of the Commonwealth war dead in Namibia (Articles 2 and 6). In doing so, Namibia will allow the Commission the free use of, and access to, the land for its cemeteries (Articles 3 and 7), and will not, subject to the approval of the Namibian Ministry of Finance, charge the Commission any state or local taxes, duties or charges in connection with its functions (Article 7).

12. The Commission is responsible for the transfer and exhumation of remains when necessary and the Namibian authorities will assist in this process (Articles 4 and 5).

## **Implementation**

13. There are no requirements on Australia's part to amend or introduce legislation to give effect to the Agreement.

14. Australia meets all requirements through its membership of the Commission. No further actions, subsequent to becoming a signatory to the Agreement are required.

## **Costs**

15. The cost of the Commission's work throughout the world is met by the participating countries in proportion to the number of their war graves.

16. Australia as a member of the Commission already provides an annual payment to the Commission based on the number of Australia's war dead from World War I and World War II. As

the Office of Australian War Graves maintains war cemeteries and graves on behalf of the Commission in Australia and Papua New Guinea, a slightly reduced percentage applies to Australia's annual contribution. The reduced amount equates to 6.05 per cent of the Commission's total budget (2005/06 A\$5.700m).

17. No additional costs will be incurred by Australia in signing this Agreement. Therefore there are no cost considerations for the Australian Government in becoming a party to this Agreement.

### **Regulation Impact Statement**

18. The Office of Regulation Review (Productivity Commission) has been consulted and confirms that a Regulation Impact Statement is not required.

### **Future treaty action**

19. The Agreement is similar to others entered into on behalf of the Commission with many countries throughout the world. Australia is already a signatory to these agreements.

20. No amendment or other treaty action is foreseen in relation to this agreement. In the event that future amendment is considered necessary, the Agreement may be amended by the Agreement of the Parties, in accordance with Article 39 of the Vienna Convention on the Law of Treaties.

### **Withdrawal or denunciation**

21. There is neither an express nor an implied right to withdraw from or denounce the treaty action, and withdrawal is possible only with the consent of all the parties (Article 54, Vienna Convention on the Law of Treaties).

### **Contact details**

Office of Australian War Graves  
Department of Veterans' Affairs.

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**[2006] ATNIF 3**

**CONSULTATION**

No consultation has been conducted. There are no graves or memorials to the missing for Australian war dead from either World War I or World War II located in Namibia.

## **BACKGROUND INFORMATION - Commonwealth War Graves Commission**

The Commonwealth War Graves Commission was established by Royal Charter of 21 May 1917, the provisions of which were amended and extended by a Supplemental Charter of 8 June 1964. Its duties are to mark and maintain the graves of the members of the forces of the Commonwealth who died in the two world wars, to build and maintain memorials to the dead whose graves are unknown, and to keep records and registers. The cost is shared by the partner governments – those of Australia, Canada, India, New Zealand, South Africa and United Kingdom – in proportions based on the numbers of their graves.

There are 149 countries in which there are Commonwealth war graves and memorials; 1,695,174 commemorations for which the Commission is responsible. In Namibia there are 426 identified Commonwealth burials within 33 cemeteries listed on the agreement. Throughout the world, most of the war cemeteries and memorials are maintained by the Commission's own staff, although in a number of countries, mainly within the Commonwealth, special arrangements exist whereby the governments of those countries carry out care and maintenance on the Commission's behalf. The care of the war graves in civil cemeteries and churchyards is mostly entrusted to local authorities and contractors who maintain them by agreement with the Commission.

The Commission's work is guided by fundamental principles which were established in 1920:

- that each of the dead should be commemorated individually by name either on the headstone on the grave or by an inscription on a memorial;
- that the headstones and memorials should be permanent;
- that the headstones should be uniform;
- that there should be no distinction made on account of military or civil rank, race or creed.

The headstones are 813mm in height; at the top of each is engraved the national emblem or the service or regimental badge, followed by the rank, name, unit, date of death, age and, usually, a religious emblem; and at the foot, in many cases, an inscription chosen by relatives. In some cemeteries, notably on the Gallipoli Peninsula, in the far East and the Pacific, where there is a risk of earth movement, stone or bronze plaques on low pedestals are used instead of headstones.

Climate permitting, the headstones stand in narrow borders, where floribunda roses and small perennials grow, in a setting of lawn, trees and shrubs. Two monuments are common to the cemeteries: the Cross of Sacrifice, set usually upon an octagonal base and bearing a bronze sword upon its shaft, and, in the larger cemeteries, the Stone of Remembrance, designed specifically to commemorate those of all faiths and none, upon which are carved the words from the Book of Ecclesiasticus: THEIR NAME LIVETH FOR EVERMORE. Those who have no known grave, or whose remains were cremated are commemorated on memorials ranging from small tablets bearing a few names to great monuments bearing many thousands, such as the Thiepval memorial in France.

In many Commonwealth and other countries in which the Commission operates, its work is protected by a series of international agreements which recognise the Commission as the authority responsible for the care of the graves and memorials. The governments of these and many other countries have acquired the land occupied by the cemeteries and have generously granted its perpetual use to the Commission.

## **Political Brief on Namibia**

### **REPUBLIC OF NAMIBIA**

#### **Political and Economic Situation**

Since achieving independence in 1990, Namibia has been governed by the South West Africa People's Organisation (SWAPO). SWAPO has consolidated its position as the dominant political force in Namibia in successive elections held in 1994, 1999 and 2004.

Namibia's political and economic development since independence has been comparatively successful. With a GDP per capita of \$US3,000 in 2005, Namibia is a relatively prosperous country in the African context. Namibia's wealth is based on a large and diversified mining sector which produces diamonds, uranium and base metals. Real GDP has been growing at about 5 per cent but is forecast to slow to 3.9 per cent in 2006, as zinc production levels off and the growth of diamond output slows further. Namibia faces significant development challenges: the HIV/AIDS infection rate is over 21 per cent, and around 40 per cent of the population lives below the poverty line.

The 1990 constitution is the basis of Namibia's multiparty democratic system, and contains entrenched clauses protecting fundamental human rights and freedoms that cannot be amended without invalidating the entire constitution, together with safeguards for an independent judiciary. Other amendments require the assent of two-thirds of both houses of parliament. The president and the 72-seat National Assembly (lower house) are elected by universal adult suffrage every five years; in addition, the president can appoint up to six non-voting members of the assembly. The 26-member National Council (upper house) consists of two councillors nominated by each of the 13 regional authorities, for which elections are held every six years. The Council has the right to send back legislation to the lower house for review if two-thirds of its members object to it, or to propose amendments. President Hifikepunye Pohamba, who has been in office since March 2005, has spearheaded a campaign to root out official corruption and reduce unnecessary spending.

#### **Bilateral Relations**

Australia enjoys a friendly, but limited, relationship with Namibia. We strongly supported Namibia's efforts to achieve independence and its membership of the Commonwealth. Australia provided 300 army engineers and electoral personnel to United Nations Transitional Assistance Group, during the transition to independence. Australian investment in Namibia is concentrated in the mining industry. The Langer Heinrich Uranium Project represents a US\$100 million investment by Australian company Paladin Resources in Namibia. The level of two-way trade between Australia and Namibia is small, but jumped in 2005 due to the export of A\$2 million worth of Australian wire products. Our main import was fresh, chilled and frozen fish. Namibia has not been identified as a priority recipient of Australian development assistance. However, Australia funds two postgraduate scholarships each year for government employees from Namibia to study in Australia. Namibia is eligible for funding under the African Governance Fund for activities aimed at strengthening national institutions and civil society, and also for small grants under the Direct Aid Program.





# NAMIBIA

Fact Sheet

## General information:

Fact sheets are updated biannually, May and September

<b>Capital:</b>	Windhoek
<b>Surface area:</b>	824 thousand sq km
<b>Official language:</b>	English
<b>Population:</b>	2.0 million (2004)
<b>Exchange rate:</b>	AS1 = N\$ 5.1725 (Jun 2005)

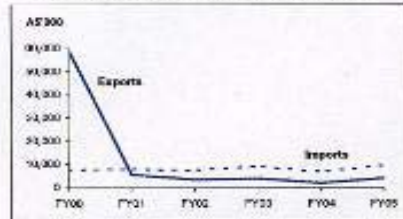
**Head of State:**  
H.E. President Mr Hilkkepuruye Pohamba

**Head of Government:**  
Prime Minister Rt Hon Nahas Angula

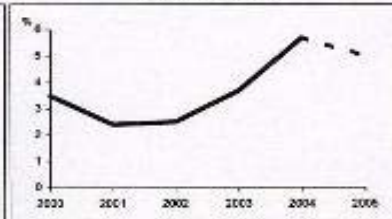
## Recent economic indicators:

	2000	2001	2002	2003	2004(a)	2005(b)
<b>GDP (US\$bn):</b>	3.4	3.2	3.0	4.3	5.5	6.2
<b>GDP per capita (US\$):</b>	1,804	1,663	1,530	2,149	2,738	3,062
<b>Real GDP growth (% change YOY):</b>	3.5	2.4	2.5	3.7	5.7	5.0
<b>Current account balance (US\$m):</b>	255	17	79	271	583	463
<b>Current account balance (% GDP):</b>	7.5	0.5	2.6	6.3	10.2	7.7
<b>Goods &amp; services exports (% GDP):</b>	45.6	45.0	46.5	39.4	44.9	46.8
<b>Inflation (% change YOY):</b>	9.3	9.3	11.3	7.2	4.1	4.0
<b>Labour force (m):</b>	0.8	0.8	0.8	0.8	0.8	0.9

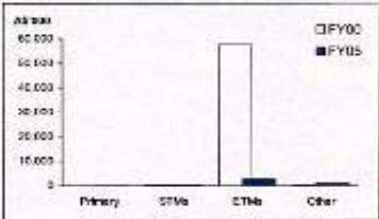
Australia's merchandise trade with Namibia



Real GDP growth



Australia's merchandise exports to Namibia



## Australia's trade relationship with Namibia:

### Major Australian exports\*, 2004-05 (A\$'000):

Wire products	1,792
Measuring and controlling instruments	679
Metallic salts & peroxy salts	208
Telecommunications equipment	64
Alcohols, phenols, phenol-alcohols	56

### Major Australian imports, 2004-05 (A\$'000):

Fish, fresh, chilled or frozen	9,168
Crustaceans	250
Textile yarn	159
Pearls and gems	51
Passenger motor vehicles	43

\*Includes A\$1m of confidential items and special transactions, 25% of total exports.

### Australian merchandise trade with Namibia, 2004-05:

		Total share:	Rank:	Growth (yoy):
Exports to Namibia (A\$'000):	4,128	0.0%	139th	96.9%
Imports from Namibia (A\$'000):	9,754	0.0%	83rd	42.9%
Total trade (exports + imports) (A\$'000):	13,882	0.0%	117th	55.6%
Merchandise trade deficit with Namibia (A\$'000):	5,626			

### Australia's trade in services with Namibia, 2004:

		Total share:
Exports of services to Namibia (A\$m):	n.a.	n.a.
Imports of services from Namibia (A\$m):	n.a.	n.a.
Services trade balance with Namibia (A\$m):	n.a.	

## Namibia's global merchandise trade relationships:

### Namibia's principal export destinations, 2003:

1	South Africa	31.5%
2	Angola	24.9%
3	Spain	12.8%
4	United Kingdom	10.4%
5	United States	2.7%
20	Australia	0.4%

### Namibia's principal import sources, 2003:

1	South Africa	80.5%
2	Germany	2.3%
3	Spain	1.4%
4	China	1.3%
5	United Kingdom	1.2%
33	Australia	0.1%

Compiled by the Market Information and Analysis Section, DFAT, using the latest data from the ABS, the IMF and various international sources.

(a) All recent data subject to revision; (b) EIU forecast.

n.a. Data not available.

**Other treaties with that country**

**There are no other treaties between Australia and Namibia.**

### Treaties of the same type with other countries:

- Agreement regarding British War Cemeteries in Iraq, and Exchange of Notes, concluded between **Iraq** and Australia, Canada, India, New Zealand, South Africa and the United Kingdom  
[1936] ATS 4
- Agreement regarding British War Memorial Cemeteries and Graves in Egypt, and Exchange of Notes, concluded between **Egypt** and Australia, Canada, India, New Zealand, South Africa and the United Kingdom  
[1937] 8
- Convention regarding the Transfer to the French State of the Property in the Sites of the British Monuments Commemorative of the War 1914-1918, concluded between **France** and Australia, Canada, New Zealand and the United Kingdom  
[1938] ATS 14
- Agreement relative to the Graves of Members of the Armed Forces of the British Commonwealth in Netherlands Territories, concluded between the **Netherlands** and Australia, Canada, India, New Zealand, Pakistan, South Africa and the United Kingdom  
[1951] ATS 13
- Agreement regarding British Commonwealth War Graves in French Territory, concluded between **France** and Australia, Canada, India, New Zealand, Pakistan, South Africa and the United Kingdom  
[1951] ATS 19
- Agreement regarding the War Graves and Memorials of the British Commonwealth in Danish Territory, concluded between **Denmark** and Australia, Canada, India, New Zealand, Pakistan, South Africa and the United Kingdom  
[1954] ATS 3
- Agreement relative to the Graves in Italian Territory of Members of the Armed Forces of the British Commonwealth, concluded between **Italy** and Australia, Canada, India, New Zealand, South Africa and the United Kingdom  
[1955] ATS 7
- Agreement modifying the Agreement regarding British War Memorial Cemeteries and Graves in Egypt of 2 June 1937, concluded between **Egypt** and Australia, Canada, India, New Zealand, Pakistan, South Africa and the United Kingdom  
[1955] ATS 9
- Agreement regarding British Commonwealth War Graves in Iraq, concluded between **Iraq** and Australia, Canada, India, New Zealand, Pakistan, South Africa and the United Kingdom  
[1955] ATS 13

- Agreement regarding War Graves, and Exchange of Notes, concluded between **Thailand** and Australia, India and the United Kingdom  
[1955] ATS 15
- Agreement relative to the British Commonwealth War Cemetery in Japan, and Exchange of Notes, concluded between **Japan** and Australia, Canada, India, New Zealand, Pakistan, South Africa and the United Kingdom  
[1956] ATS 10
- Agreement regarding the War Graves, Cemeteries and Memorials of the British Commonwealth in the Territory of the Federal Republic of Germany, concluded between **Germany** and Australia, Canada, India, New Zealand, Pakistan, South Africa and the United Kingdom  
[1958] ATS 18
- Exchange of Notes constituting an Agreement [between United Kingdom and **Italy**] exempting from Italian Dues and Taxes, Fuels and Lubricants used by the Commonwealth War Graves Commission acting under the War Graves Agreement of 27 August 1953  
[1963] ATS 33
- Agreement respecting the War Cemeteries, Graves and Memorials of the Commonwealth in Indonesian Territory, concluded between **Indonesia** and Australia, Canada, India, New Zealand, Pakistan and the United Kingdom  
[1964] ATS 12
- Agreement respecting the War Cemeteries, Graves and Memorials of the British Commonwealth in Ethiopian Territory, concluded between **Ethiopia** and Australia, Canada, India, New Zealand, Pakistan, South Africa and the United Kingdom  
[1967] ATS 26
- Agreement concerning Graves of Members of the Armed Forces of the Commonwealth in Greek Territory, concluded between **Greece** and Australia, Canada, India, New Zealand, Pakistan and the United Kingdom  
[1969] ATS 16
- Exchange of Notes constituting an Agreement concerning the British Commonwealth War Cemetery in Japan, concluded between **Japan** and New Zealand (and on behalf of Australia, Canada, India, South Africa and the United Kingdom)  
[1978] ATS 6
- Agreement between concerning the Mosul War Cemetery, concluded between **Iraq** and Australia, Canada, India, New Zealand and the United Kingdom  
[1989] ATS 30
- Agreement concerning Commonwealth War cemeteries, Graves and Memorials in Tunisia, concluded between **Tunisia** and Australia, Canada, India, New Zealand and the United Kingdom  
[1991] ATS 43

- Plurilateral Agreement regarding War Graves, concluded between France, Germany, Australia, Canada, India, New Zealand, south Africa and the United Kingdom  
**[1935] ATS 21**
- Plurilateral Agreement on War Cemeteries, Graves and Memorials of the British Commonwealth, amending the Agreement of 20 December 1935, concluded between France Germany, Australia, Canada, India, New Zealand, Pakistan South Africa and the United Kingdom  
**[1958] ATS 17**

April 2006

**Current status list of Parties to the Namibian War Graves Agreement as at 26 April 2006**

<b>State</b>	<b>Date of signature</b>
Namibia	27 June 2005
United Kingdom of Great Britain and Northern Ireland	27 June 2005
India	27 June 2005
New Zealand	24 August 2005