

**OFFICIAL GAZETTE**  
**EXTRAORDINARY**  
**OF SOUTH WEST AFRICA**

**BUITENGEWONE**  
**OFFISIËLE KOERANT**  
**VAN SUIDWES-AFRIKA**

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No. 142      1989

**AGREEMENT ON PROCEDURES IN CON-  
NECTION WITH THE ELECTION FOR A  
CONSTITUENT ASSEMBLY**

No. 142      1989

**OOREENKOMS OOR PROSEDURES IN VER-  
BAND MET DIE VERKIESING VIR 'N  
GRONDWETGEWENDE VERGADERING**

It is hereby made known for general notification that the Administrator-General and the Special Representative appointed by the Secretary-General of the United Nations have agreed on procedures in connection with the election for a constituent assembly in terms of the Election (Constituent Assembly) Proclamation, 1989 (Proclamation AG. 49 of 1989), as set out in the letters exchanged between the said Special Representative and the Administrator-General and contained in Schedules A and B, respectively.

Dit word hierby vir algemene kennis bekend gemaak dat die Administrateur-generaal en die Spesiale Verteenwoordiger aangewys deur die Sekretaris-generaal van die Verenigde Nasies oor prosedures in verband met die verkiesing vir 'n grondwetgewende vergadering ingevolge die Verkiesingsproklamasie (Grondwetgewende Vergadering), 1989 (Proklamasie AG. 49 van 1989), ooreengekom het soos uiteengesit in die briewe verwissel tussen genoemde Spesiale Verteenwoordiger en die Administrateur-generaal en, onderskeidelik, in Bylaes A en B vervat.

# UNTAG

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## N A M I B I A

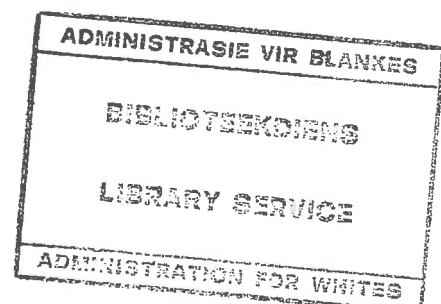
9 October 1989

Dear Mr. Administrator-General,

In connection with the impending promulgation of the Election (Constituent Assembly) Proclamation, 1989, I would like to state the following:

1. In accordance with relevant decisions of the Security Council, in particular resolutions 431 (1978) of 27 July 1978, 435 (1978) of 29 September 1978, 629 (1989) of 16 January 1989, and also resolutions 632 (1989) of 16 February 1989 and 640 (1989) of 29 August 1989, free elections will be held for the whole of Namibia as one political entity to enable the people of Namibia to freely and fairly determine their own future. The elections will be under the supervision and control of the United Nations. Supervision and control in the context of the above-cited Proclamation means that the Special Representative must at each stage, level and place satisfy himself that the conduct and the procedure of the election, including the establishment of the list of candidates, the taking of the poll, the determination of the results of the poll, and the declaration of the results of the election are fair and appropriate. If at any time during this process the Special Representative is not so satisfied, he shall promptly inform the Administrator-General. Moreover, the Special Representative will bring to the attention of the Administrator-General his comments and proposals in regard to any aspect of the election process whenever he thinks that it is necessary. The Special Representative shall give due consideration to the way in which the Administrator General responds to his proposals when the Special Representative makes his final determination on the existence of free and fair conditions for the election.

Mr. Louis Pienaar  
The Administrator-General of Namibia  
Tintenpalast  
Windhoek, Namibia



2. During the election process, UNTAG personnel are entitled to be present at:

- (a) the offices of the chief electoral officer;
- (b) the offices of the controllers appointed by the chief electoral officer;
- (c) the offices of the electoral officer for each district;
- (d) all polling stations, including all mobile ones;
- (e) all places where ballot boxes are kept, from the commencement of the poll to the final
- (f) all places where ballot boxes are opened, tendered ballots are verified, ballots are counted and any part and the over-all results of the election are determined or announced;
- (g) all places where registration cards are verified, during or at any time after the period of polling; and
- (h) all other places where any part of the election process may be carried out.

3. The Administrator-General undertakes to ensure that only senior government officials of integrity who are impartial and in good standing will be utilized in carrying out functions under the Proclamation, as controllers, electoral officers and as presiding officers. Similarly, polling officers and counting officers shall either be government officials or other persons carefully screened and selected, of proven integrity, impartiality and good standing.

4. Controllers, electoral officers, presiding officers, polling officers and counting officers (hereinafter "electoral officers") will only be appointed after the particulars of the individuals concerned have been submitted to the Special Representative. Such submission shall normally take place at least seven days before the appointment, and in cases of urgency at least three days unless the Special Representative agrees in a particular case to a shorter period.

5. The Special Representative retains the right to call for any appointment made in terms of paragraph 4 above to be withdrawn if in his judgement such appointment is not compatible with free and fair elections. Paragraph 11 of the Agreement between the United Nations and the Republic of South Africa concerning the Status of the United Nations Transition Assistance Group in Namibia (South West Africa) is also relevant in this regard.

6. Lists of electoral officers and UNTAG personnel involved in election supervisory duties are to be mutually exchanged and maintained up to date.

7. The Administrator-General shall secure the concurrence of the Special Representative in determining the polling days and in making any changes thereto.

8. The Administrator-General shall keep the Special Representative informed of the numbers and locations of polling stations and of the use of mobile polling stations, which will be jointly determined by the chief electoral officer and his UNTAG counterpart. After commencement of the poll, additional polling stations may only be established after consultation with UNTAG counterparts.

9. The chief electoral officer shall agree with his UNTAG counterpart in respect of the notices to be given to the representatives of the registered parties and to the public in respect of the places where polling stations are to be established, the schedules of mobile polling stations and the establishment of additional polling stations. It is understood that, aside from formal notifications by published notices and by communications to party officials, every effort will be made to distribute such information as widely as possible and targeted specifically to the voters in any particular area, using all suitable media and in particular radio and television.

10. Before suspending voting at any polling station because of an emergency, the presiding officer shall secure the concurrence of his UNTAG counterpart.

11. No presiding officer shall require any person to leave a polling station without the concurrence of his UNTAG counterpart, which may not unreasonably be withheld.

12. Before any voter who is at a polling station at the time it is required to be closed is prevented from voting on that day, the presiding officer of that station shall consult with his UNTAG counterpart.

13. No voter shall be prevented from voting at any polling station without the concurrence of the UNTAG team leader at that station.

14. The UNTAG electoral supervisors may participate in the examination of the entitlement of voters to receive a ballot, and in particular may examine their fingers for the presence of the identification mark.

15. The chief electoral officer shall agree with his UNTAG counterpart with respect to the manner in which election agents may object to a voter.

16. Before any voter who presents a registration card issued in the same electoral district as the polling station, as well as an identity document or an affidavit concerning his identity, may be required, by reason of a challenge or for any other reason, to cast a tendered ballot, the presiding officer of the polling station shall consult his UNTAG counterpart and take into account the views expressed by the latter. If a presiding officer is informed by his UNTAG counterpart that the latter considers that a particular voter should cast a tendered ballot, that voter shall be required to do so.

17. In the examination of registration cards or affidavits concerning lost registration cards that accompany tendered ballot papers, the chief electoral officer shall obtain the concurrence of his UNTAG counterpart before either accepting or rejecting any tendered ballot. If no such concurrence can be achieved, the question of the acceptance or rejection of the ballot shall be referred to the Administrator-General and the Special Representative.

18. In counting of ballots, counting officers shall obtain the concurrence of their UNTAG counterparts before rejecting any ballot or before deciding to which party a doubtful ballot shall be credited.

19. Before the result of any count of ballots is announced, at the district level or for the election as a whole, the electoral officer concerned shall obtain the concurrence of his UNTAG counterpart.

20. Any dispute between the chief electoral officer and a registered party concerning the list of candidates it has submitted pursuant to the Proclamation shall be resolved in consultation between the Administrator-General and the Special Representative.

21. The Administrator-General shall obtain the concurrence of the Special Representative in respect of the calculation of the number of candidates of each registered party that are to be declared elected, and in respect of the disqualification of any candidate who is listed on the list of candidates of any registered party.

22. The chief electoral officer shall on a daily basis during the poll and the counting of the votes make available to his UNTAG counterpart all returns and information concerning the election process.

23. The chief electoral officer shall obtain the concurrence of his UNTAG counterpart in designating the polling stations from which registration cards and tendered ballots are to be delivered on a daily basis during the polling period for the purpose of the verification foreseen by section 27 of the Proclamation. The Administrator-General shall obtain the concurrence of the Special Representative before directing the chief electoral officer to discontinue such verification.

24. The Special Representative may, at any time before or after the results of the election have been announced, require the Administrator-General to carry out a complete verification of all registration cards or affidavits in lieu of registration cards that have been presented by voters in casting their ballots, in order to determine the extent, if any, to which ballots may have been cast fraudulently. Such verification shall be carried out by the chief electoral officer and his staff, under the supervision and control of their UNTAG counterparts.

25. Where any ballot box or any other container or packet containing electoral materials is to be sealed by an electoral officer, his UNTAG counterpart shall be entitled to place UNTAG seals thereon. Before any item that has been sealed may be opened, an UNTAG electoral supervisor shall be entitled to inspect the UNTAG seals to determine that they have not been tampered with.

26. All ballots, whether unused, completed or spoiled, all registration cards presented by voters, and all ballot boxes containing any ballots, registration cards or tendered ballots, shall be guarded at all times, including during periods of transportation that may be required, by both SWAPOL and by UNTAG guards, except that during the hours of polling such guarding shall be performed within polling stations by the electoral officers and their UNTAG counterparts. In addition, if at any polling station no safe or strongroom is available for the overnight storage of such ballots, cards and boxes, the presiding officer and his UNTAG counterpart shall remain with them during any time that the poll is closed. The procedures concerning such guarding are set out in an annex to this letter, and are incorporated herein by reference.

27. At the conclusion of the election and after any verification that the Special Representative considers necessary has been carried out, all ballots, whether unused, spoiled, counted or rejected, shall be destroyed after a reasonable time, on a date set by agreement between the Administrator-General and the Special Representative.

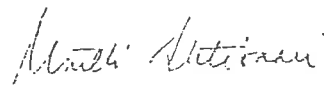
28. Before any person is charged with any offence pursuant to the Proclamation, the Administrator-General shall consult with the Special Representative, and take account of the views expressed by the latter.

29. Where complaints are made by individuals and/or political parties or by UNTAG or where circumstances arise that might influence free and fair elections, investigations shall be made in the first instance by the presiding officer at any polling station concerned, in collaboration with his UNTAG counterpart. If the matter cannot be resolved at that level it shall immediately be referred to the district electoral officer and his UNTAG counterpart for investigation. Should the matter not be resolved at that level, it shall be immediately referred to the chief electoral officer and his UNTAG counterpart, who shall conduct investigations and report respectively to the Administrator-General and the Special Representative for resolution in accordance with the Settlement Plan.

30. The Administrator-General shall render such reasonable assistance as may be required by UNTAG personnel in the performance of their tasks.

I would appreciate receiving express confirmation of your acceptance of the proposals in this letter. Upon receipt of that confirmation, I will not raise objection to the promulgation of the Election (Constituent Assembly) Proclamation, 1989.

Yours sincerely,



Martti Ahtisaari  
Special Representative  
of the Secretary-General  
for Namibia



ANNEXPROCEDURES FOR GUARDING BALLOTS AND OTHER VOTING MATERIALS  
(Referred to in paragraph 26 of the Exchange of Letters)

1. On the arrival of the ballot papers in Windhoek, representatives of the Administrator-General and of the Special Representative shall:

- (a) Take the ballot papers into their joint custody;
- (b) Satisfy themselves as to the quality and contents of the printed text of the ballot papers;
- (c) Check to determine whether their serial numbers coincide with those reflected in the requisitions issued;

2. All ballot papers shall initially be locked into a strongroom with two independent locks, one of which is to be controlled by the chief electoral officer and the other by his UNTAG counterpart. Both locks and the door itself may be sealed by representatives of both the chief electoral officer and his UNTAG counterpart.

3. Ballot papers allocated for use in each district will be sealed in boxes by representatives of the chief electoral officer and of his UNTAG counterpart, and these boxes will be escorted and handed over to the electoral officers (against receipts) in the presence of their UNTAG counterparts.

4. Ballots for use at fixed and at mobile polling stations will be issued by the electoral officers to presiding officers (against receipts) in the presence of their UNTAG counterparts.

5. The controls exercised by presiding officers in regard to unused, used and spoiled ballot papers will be supervised and controlled by their UNTAG counterparts (team leaders).

6. After ballot papers are counted at district centres, these ballot papers and any related registration cards that had not previously been transferred to Windhoek, will be resealed into ballot boxes by the electoral officers in the presence of their UNTAG counterparts (district supervisors), after which these ballot boxes will be transferred to Windhoek.

7. Whenever any ballots are transported from one place to another, the transport will be performed jointly by SWAPOL and by UNTAG guards.

8. Operations at the office of the chief electoral officer and the stongroom thereat will be guarded by SWAPOL and by UNTAG guards for twenty-four hours each day throughout the polling period and the subsequent counting period, and until the Special Representative determines that no further verification will be required.

9. Copies of all relevant registers, returns and receipts concerning ballot papers or other electoral materials will be made available to UNTAG representatives on a current basis.

KANTOOR VAN DIE ADMINISTRATEUR-GENERAAL  
OFFICE OF THE ADMINISTRATOR-GENERAL

Verw. / Ref. No.  
Tel. No. 3-6630  
Teleks No. / Telex No. 50-908-3222

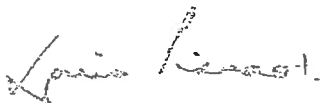
Privaatsak / Private Bag 13278  
WINDHOEK  
9000

9 October 1989

Dear Mr Ahtisaari

I acknowledge the receipt of your letter of 9 October 1989 in connection with the impending promulgation of the Election (Constituent Assembly) Proclamation 1989, and confirm that it is in accordance with our discussions and that I am in agreement with its contents.

Yours sincerely



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L A Pienaar  
ADMINISTRATOR-GENERAL

Mr M Ahtisaari,  
Special Representative of the  
Secretary General for Namibia,  
Troskie Building,  
Windhoek