



International Boundary Study

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South Africa – Namibia (*South-West Africa*) Boundary

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INTERNATIONAL BOUNDARY STUDY

No. 125

NAMIBIA (SOUTH-WEST AFRICA) – SOUTH AFRICA BOUNDARY

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NAMIBIA (SOUTH-WEST AFRICA) – SOUTH AFRICA BOUNDARY

I. BOUNDARY BRIEF

The South Africa–South-West Africa boundary consists of two discontinuous parts with a combined length of approximately 670 miles. Inland from the mouth of the Orange, the longer part follows the north bank of the river for 348 miles to the 20th meridian and then extends northward along this meridian for 253 miles to the Nossob. The remainder of the boundary delimits the South African enclave of Walvis Bay in South-West Africa for 69 miles.

II. HISTORICAL BACKGROUND

The Dutch ceded the port of Cape Town and adjacent territory to the United Kingdom in 1814. Administered by the British as Cape of Good Hope Colony, the entity was expanded northward and eastward by the acquisition of various tracts of land during the 19th century.

A proclamation by Richard Cossantine Dyer, Esquire, Staff-Commander in charge of Her Majesty's ship, *Industry*, announced the acquisition of Walvis Bay by the British on March 12, 1878. On July 22, 1884, the Cape Colony Government passed an act (No. 35 of 1884) to provide for the annexation of the port or settlement of Walvis Bay and of certain surrounding territories. A proclamation was issued the following month on August 7 by the Governor of Cape Colony officially annexing the 434-square mile territory. Since annexation Walvis Bay has remained an integral part of Cape Colony or its successor, the present Cape of Good Hope Province of the Republic (formerly Union) of South Africa.

In 1833 a German merchant obtained a land concession from a local chief on the coast of southwest Africa at Angra Pequena (Luderitz), which was taken to extend from the north bank of the Orange to the 26th parallel and inland for 20 miles. On August 16, 1884, Germany proclaimed a protectorate over the concession, and on the following September 8th, it also declared the coast from the 26th parallel northward to Cape Fria to be under German protection except for Walvis Bay. Following the coastal acquisitions, German South-West Africa was expanded rapidly into the interior by tribal agreements, proclamations, and international treaties to its present size.

Part of the Cape of Good Hope Colony for a short time, Natal was made a separate British colony in 1856. In 1900 during the Anglo–Boer War, the United Kingdom annexed the Orange Free State as the Orange River Colony and the South African Republic as the Transvaal Colony. A national convention with representatives from the four British colonies of the Cape of Good Hope, Natal, Orange River, and Transvaal met at Durban in 1908 and drafted a constitution for a combined state. On May 31, 1910, the Union of South Africa came into existence as a British dominion with each of the former colonies becoming provinces in the new state.

In the treaty of Versailles following World War I, Germany ceded rights to its former colonies to the principal Allied and Associated Powers. Article 22 of the Covenant of the League of Nations gave international status to the former German colonies. On December 17, 1920, the administration of South-West Africa was assigned to South Africa as a League of Nations mandate.

After World War II, the General Assembly of the United Nations rejected a South African request to annex South-West Africa, and South Africa refused to place the territory under a U.N. trusteeship agreement, maintaining that the United Nations was not an automatic successor to the responsibilities of the League of Nations.

Having previously achieved the status of a sovereign state under the Statute of Westminster in 1931, South Africa after a nationwide referendum became a republic on May 31, 1961. The Republic of South Africa later withdrew its application for continued membership in the Commonwealth.

On October 27, 1966, the General Assembly adopted Resolution 2145 which terminated South Africa's mandate in South-West Africa and brought the territory under the direct responsibility of the United Nations. By a resolution of June 12, 1968, the General Assembly also changed the name of South-West Africa to Namibia. In an advisory opinion in 1971, the International Court of Justice concluded, *inter alia*, that South Africa's presence in Namibia being illegal, the Government of South Africa must withdraw its administration.

III. BOUNDARY TREATIES

An Anglo–German agreement of July 1, 1890, delimited a boundary between British and German spheres of influence from the Atlantic coast inland to the confluence of the Linyanti and Zambezi. In effect the agreement established a line between the Cape of Good Hope Colony and South-West Africa, which is the present South Africa–South-West Africa boundary from the mouth of the Orange to the intersection of the 20th meridian and the Nossob. Despite desert hardships, the 20th meridian sector was surveyed and demarcated by an Anglo–German boundary commission appointed initially in 1898.

The proclamation by Commander Dyer on March 12, 1878 (and the Proclamation of Annexation in 1884) gave the limits of Walvis Bay as follows:

...and I do further proclaim, declare, and make known that the said territory of Walfisch Bay [Walvis Bay] so taken possession of by me as aforesaid shall be bounded as follows: that is to say, on the south by a line from a point on the coast 15 miles south of Pelican Point to Scheppmansdorf; on the east by a line from Scheppmansdorf to the Rooibank, including the Plateau, and thence to 10 miles inland from the mouth of the Swakop River; on the north by the last 10 miles of the course of the said Swakop River.

Following the establishment of the German protectorate for South-West Africa, the Commission of Angra Pequena and the West Coast was appointed in 1885 including German and British representatives. The commission recommended that the text of the proclamation of 1878, and subsequent official documents based on it, should be corrected to read "Scheppmansdorf or Rooibank" and what had been called "Rooibank" should be "Rooikop." In effect these recommended changes made parts of the southern and eastern limits of Walvis Bay questionable. At the time a unilateral survey of Walvis Bay boundary was being made by a surveyor, Phillip B. S. Wrey, authorized by the Cape Colony Government.

Germany raised questions on Wrey's interpretation of the Walvis Bay boundary primarily on two counts: (1) whether the southern limit should begin at a point 15 statute miles or 15 nautical miles from Pelican point as in the Wrey delimitation, and (2) whether the southern limit should be terminated in the vicinity of the mission church of Scheppmansdorf or at Ururas in accordance with the Wrey survey. In 1888 a joint German and British commission was unsuccessful in reaching any settlement on the boundary dispute. The Anglo-German agreement of July 1, 1890, stated that "the delimitation of the southern boundary of the British territory of Walfisch Bay is reserved for arbitration, unless it shall be settled by the consent of the two powers within two years from the date of the conclusion of this Agreement."

In 1904 a second joint commission failed to reach agreement on the alignment of the Walvis Bay boundary. On January 30, 1909, representatives of the United Kingdom and Germany in accordance with the terms of the 1890 agreement signed a declaration at Berlin requesting the King of Spain to designate from among his subjects a lawyer to arbitrate the disputed part of the boundary. Senor Joaquin F. Prida, appointed as arbitrator by the King, made an award on May 23, 1911, which determines the present alignment of the southern part of the Walvis Bay boundary. The award followed Wrey's delimitation and demarcation by determining that the southern limit should begin at a point 15 nautical miles from Pelican Point and by approving the prolongation of the line to Ururas.¹

IV. ALIGNMENT

Article III of the Anglo-German agreement of July 1, 1890, delimits the part of the South Africa-South-West Africa boundary from the mouth of the Orange to the Nossob by giving the limits of South-West Africa adjacent to British territory as follows:

¹ In 1914 a second unilateral survey and a map of the Walvis Bay boundary were made by Fred Muller, the British Government Surveyor.

1. To the south by a line commencing at the mouth of the Orange River, and ascending the north bank of that river to the point of its intersection by the 20th degree of east longitude.
2. To the east by a line commencing at the above-named point, and following the 20th degree of east longitude to [its intersection by the Nossob]...

The present Botswana–South Africa–South-West Africa tripoint at the intersection of the 20th meridian and the Nossob was determined by a British Order in Council of October 3, 1895.

The alignment of the Walvis Bay part of the South Africa–South-West Africa boundary is based on the report and map of Wrey's survey of 1885. The arbitration award of 1911 confirmed the demarcation from pillars A through G, and the remainder of the boundary was not contested at the time of or following the arbitration proceedings of Senor Prida. The Walvis Bay part of the boundary is demarcated as follows:

Pillar A, situated at Pelican Point;

Pillar B, 15 geographical [nautical, 6,080 ft.) miles, to the south of the former, near the coast;

Pillar C, behind the mission station at Rooibank;

Pillars D, E, and F, between the preceding pillar and Ururas, marking a line which separates the sand-hills from the left, or south, bank of the River Kuisip;

Pillar G, on the opposite side of the same river, coinciding with the extremity of the land asked by for Mssrs. Wilmer and Evenson in Ururas;

Pillar H, on the top of Rooikop, in the desert of Nariiep;

Pillar J, on the top of the black rock called Nuberoff, situated on the south bank of the River Swakop, at a distance of 10 miles approximately from its mouth;

Pillars K, L, and M, following the general direction of the course of the Swakop towards the sea; and

Pillar N, in Walfisch Bay, in front of the Resident's house...

APPENDIX

DOCUMENTATION

1. British Proclamation, taking possession of the Port or Settlement of Walfisch Bay, March 12, 1878. British and Foreign State Papers (BFSP), Vol. 69 (1877–8), p. 1177.
2. British Letters Patent, for the Annexation to the Colony of the Cape of Good Hope of the Port or Settlement of Walfisch Bay, on the West Coast of South Africa, and of certain Territory surrounding the same. Westminster, December 14, 1878. BFSP, Vol. 70 (1878–9), pp. 495–6.
3. Act of Government of the Cape of Good Hope, to provide for the Annexation to that Colony of the Port or Settlement of Walfisch Bay, on the West Coast of Africa, and of certain Territory surrounding the same, and of certain British Territories on the St. John's River, in South Africa [No. 35], July 22, 1884. BFSP, Vol. 75 (1883–4), pp. 408–10.
4. Proclamation by the Governor of the Cape of Good Hope and High Commissioner for South Africa, annexing Walfisch Bay to the Colony of the Cape of Good Hope. August 7, 1884. BFSP, Vol. 75 (1883–4) pp. 407–8.
5. German Proclamation placing under the Protection of the German Emperor the Territory acquired by M. Luderitz on the south-west Coast of Africa. August 16, 1884. BFSP, Vol. 75 (1883–4), p. 546.
6. The German Consul at Cape Town to Sir H. Robinson (correspondence received at the Colonial Office, October 1, 1884). September 5, 1884 [except for Walvis Bay, placed the coast territory from 26° south latitude to Cape Fria under German protection]. BFSP, Vol. 75 (1883–4), pp. 549–50.
7. British Order in Council, to provide for the Government of British Bechuanaland. Balmoral, October 3, 1895. BFSP, Vol. 87 (1894–5), pp. 624–5.
8. British Order in Council, assenting to the Annexation of British Bechuanaland to the Colony of the Cape of Good Hope. Balmoral, October 3, 1895. BFSP, Vol. 87 (1894–5), p. 625.
9. Agreement between Great Britain and Germany, respecting Zanzibar, Heligoland, and the Spheres of Influence of the countries in Africa. Signed at Berlin, July 1, 1890. BFSP, Vol. 82 (1889–90), pp. 35–47. Also see Great Britain Treaty Series, Africa No. 6 (1890), C. 6046.
10. Declaration between Great Britain and Germany referring the Delimitation of the Southern Boundary of the British Territory of Walfisch Bay to Arbitration. Signed at

Berlin, January 30, 1909. BFSP, Vol. 102 (1908–9), pp. 91–2. Also see Great Britain Treaty Series, No. 10 (1909), Cd. 4579.

11. Award of Don Joaquin Fernandez Prida, Arbitrator in the matter of the Southern Boundary of the Territory of Walfisch Bay. Madrid, May 23, 1911. BFSP, Vol. 104 (1911), pp. 50–102. For copy of Mr. Wrey's map of December 12, 1885, see Great Britain Treaty Series, Africa No. 1 (1911), Cd. 5857.

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