

## Breakaway Report 4

### Setting up of border posts and control zones

- The architectural layout of OSBP not available. Police is not included at the relevant Border Post (BP).
- There is a general concern of where the Clearing agents / brokers should be based. Are they to be allocated an office at the BP? The general feeling is that the Clearing agents should be moved to the BP. They do not have to be based within the parameters of the BP, but could be allocated a space outside, but in close proximity to the BP. The possibility of having a licensing scheme for the Clearing agents to have standard licences that applies to both Mozambique and South Africa. A clearing agent has to adhere to certain requirements that should be in line with the specifications of at the relevant BP. In order to be registered as an accredited agent, the Clearing agent should adhere to the agreed Authorised Economic Programme to be determined.
- Currently, the BP is very small and there is no room for the extra space as set out in the document. When expanding the BP, certain criteria should be taken into account, eg.
  - Where should terminals and counters be placed?
  - The principal of extraterritoriality should apply at the BP.
  - There should be a clearly marked area of control, where the respective countries will have sovereign authority.
- Design
  - Will there be duty free shops?
  - Will citizens be allowed from the duty-free shops?
  - Are private entities going to be allowed to sell their goods at the shops?
  - Are they needed at the BP? An agreement was reached that these shops cause congestion and officials find them a nuisance at the BP; also, the life span is short.
- Hawkers and informal traders: Decision will have to be taken on whether hawkers and informal traders will be allowed within the parameters of the BP. Ideally, traders that are allowed within the control zone, should have a permit cleared by the relevant agencies, i.e. SAPS, SARS, etc. Only passengers and valid traders will be allowed within the parameters of the BP. Currently, no agency wants to take direct responsibility for the eviction of hawkers. We are posed with the problem of as long as there is movement of people, others will perceive it as an entrepreneurial endeavor and will try to sell goods. One way of limiting access of hawkers to the BP, is to award tenders to retailers and ensure that they are approved taxpayers with relevant licensing permits.
- Access control to officials and private entities: A strict minimum of officials should be allowed at the BP. Therefore, the facilities at the BP should be for the sole purpose of the comfort of the staff.
- Courtesy to inform other state how many officials will be employed

Internationally not acceptable for commercial business part of World Bank funding policy.

### Documentation Flow

- All cargo submissions will have to be done electronically.
- Criteria for an agent to be accredited has to be determined.
- Electronic data should be a requirement for accreditation.
- Requirement of WCO
- Proposed that a kiosk be provided at a harbour or port to enable the agent to do the capturing.
- Authorised Economic Program must be taken into consideration by the working group.
- Supporting documentation that needs to be submitted.
- Do we need offices at Port of Entry (POE) for clearance agents?
- Is electronic declaration admissible in court?
- Declaration does not necessary have to be on paper. Digital signature is acceptable

- Unique consignment reference number use by SARS.
- Task Team to explore and advise its electronic submission and declarations best practices in the world, its validity and authentication as a legal declaration
- Suggested unique certificate downloaded by shipping agent to certify docs, which is an additional control measure.
- Clearing agents want designated agents on common pool sharing to do examinations and offloading in order to secure their loads.

### Signage language

- Should be done bilingually
- 600 hektar at KM4 at the Mozambican side is available for creating extra space at the BP
- Keep in mind that no laws are being created; better working conditions should be created for staff and well as the expansion of the BP.
- Therefore, actual borders will not be distinguished, but re-aligned. There should be a distinct borderline to determine sovereignty of the respective area.
- Passengers and busses will straddle across the border. Will be straggled. Extraterritoriality will be applied
- KM4 should provide for an area for the quarantine of animals and agricultural goods subject to investigation to satisfy international standards for the import and export of agricultural goods.

### Detention cells

- There should be a "gentlemen's" agreement between the respective countries whereby a person arrested on the host country's territory and is a national of the host, will be handed over to the host country. It was agreed that each country should have their respective holding cells.
- Housing accommodation should be subjected to the same conditions to prevent disparity.
- Noted that accommodation is not budgeted for in the OSBP project, but under a separate project.
- Who's paying for the OSBP project? South African Government is currently funding the project, but it has been proposed that the Private Sector also contributes to the project.

### Extraterritoriality

- South African and Mozambican laws are similar and need to be integrated and harmonized to apply to the respective countries.
- Malawi/Mozambique joint patrols of customs of both countries. Incident recorded by official of the territory where caught.
- Labour law to person working at the facility the law of the registered country applies.
- Accreditation of agent is accountable to the country where he is registered/ domicile for implementation of laws to commodities.
- Work contract determines which country's laws applies.
- The clarity around legislation should be understood by all parties involved.

### Operations

- Mozambique is currently prepared to open the BP for 24 hours.
- There are a few stumbling blocks, though:
  - Security aspects: Trucks are hijacked and are more at risk during the early morning hours. Authorities will have to secure the area;
  - Traffic is spread out during the day, therefore a needs based assessment has to be conducted in order to ascertain the needs of the drivers;
  - Clearance brokers' official hours are until 20:30. Although the BP will be open until midnight, no service will be available to assist the drivers in this regard.
  - South Africa Immigration is significantly understaffed compared to their Mozambican counterparts
- If the traffic volume increases over a period of time, it would therefore be anticipated that the BP working hours should be extended to accommodate the drivers.

- It has been noted that, since the extension of the BP hours, the transporters have utilized the additional time to the max, indicating a definite need for an extension of the BP hours.

## Harbour

- Mozambique Customs operating times are 7:00 until 24:00
- Customs staff only operates from 7:00 until 17:00 for paperwork, hampering the clearance of goods and adding to congestion
- Terminals for trucks are open 24 hours
- If the BP is open for 24 hours, it has to be operational in all aspects.

## Who are the role players that should be open 24h?

- 2 main terminals
- Customs until 24:00
- Maputo Container terminal
- Bulk terminal: Fruit and Coal
- CFM and customs
- Exports in transit from Mozambique to SA and Wagons Cargo movement to Swaziland is currently been delayed with 6h because they insist on inspecting the goods.
- Mozambique Customs are delaying the goods for some clearance of goods. They are not supposed to delay goods in transit.
- Based on the bilateral agreement, Mozambique and South Africa Presidents decided to open it 24hr assessment of traffic volumes first need to be done.
- Government Agencies that are required to be based at the BP to optimize performance are: Immigration; SAPS; SARS; Agriculture; and Health
- A decision was taken to gradually extend the BP operating hours from 10pm to midnight in 2007. During 2008, the hours will be extended further to 6:30am.
- A "mini" OSBP project should be piloted by **March 2008**. This is not peak season, leaving enough room for the officials to become comfortable with the amended working conditions. It should be noted that there is no need for a full contingent of officials to be appointed as yet, only a few to start the project.
- Timeframes need to be put in place to add to the success of the OSBP project.
- Mozambique proposes that the whole port be controlled by Customs.
- SARS and Department of Home Affairs need to provide gate guards at the entry to the control zones of the BP. Currently, a private security company is being utilized to fulfill this need.
- Government Departments should indicate who should be responsible for security at the BP. It is not viable to have a private security at the BP due to the fact that it is a Customs area
- Mozambique Customs is para-militia and take the role of both Customs and Police officials at the POE.
- It was proposed that RSA should have only customs within the parameters of the BP and that SAPS should be outside the parameters.

## OPERATIONS

### Service

- There is a need to harmonise documentation at borders in order to save time
- Especially during peak hours traffic inspectors are required 24 hours
- Create and manage facility for taxi operators at the border
- Create a mini facility for hawkers and taxi operators

### Commercial Services

- Entry and exit documents also need to be harmonized, particularly with fresh products.
- Need more involvement from the Department of Agriculture and Health
- Suggest single window policy for documentation process

### Payments

- Rands, Dollars and Meticals to be acceptable as means of payment, using the official daily exchange rate
- Banks or Foreign Exchange offices to be available at border
- SA VAT refund to be reviewed

### **Controls**

- Concerns raised around scanner fees which are currently very high in MOZ

### **Communications**

- Regarding the sharing of information, there is a need to differentiate between routine data and exceptional
- Data. There must be agreement on the definitions. Key issues to consider;
- How long should this data be kept?
- Propriety info, how long should it be kept?
- The group recommended and proposed the installation of the Local Area Network (LAN)
- Consider the legalities and rights of the public in sharing the info.
- The group also proposed the concept of Verification by exception based on the common Risk profiling system.
- Install the Telecommunications infrastructure for respective countries at KM4

### **Rights and obligations of officials**

- Only members with accredited permits allowed at the control area
- Share wellness service for all government agencies at the border
- Relevant jurisdiction be applied both for Mozambique and SA borders for offences committed within the 2 countries.
- Consult with insurance companies upfront for the changes at the border
- Create and agree a similar code of conduct for all government agencies
- Create holding cells for all law infringers
- Ensure speedy turn around times on holding cells

### **Management**

#### **Facilities and Maintenance**

- There is a need for a MOU between intra governmental departments. Another between 2 governments.
- The OSBP should be state funded and get a commitment for funding. Consideration could be given to introduce a user charge to defray operating expenses.
- There is a need to achieve clarity on the ownership of the management of the facility and the maintenance of the facility.
- There is a need to communicate the map, the responsibilities and the roles of various border agencies. Refer to Table 4 and 5. There is a need to clarify and agree roles and clear confusion and overlap of the mandate.
- There is a need to learn from best practices in establishing OSBPs and prevent to re-invent the wheel and make mistakes.

#### **Training**

- Creation of standard operating procedures to ascertain the training requirements for all government agencies.
- Create a pilot team to deal with on the job training before end 2008.
- Pilot operations and faced implementation by March 2008
- Development and agreement of mutual recognition of other countries findings.
- Definition of routine and acception of data sharing.
- Training facilities to be looked in terms of sharing.

#### **General**

- Scanners should be discussed between 2 governments related to investments and applicable charges (if any).

#### **Communication Strategy**

- Proper periodic consultations, follow ups and the monitoring of the performance data suggested adjustments