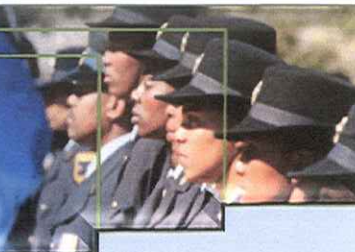


POLICE
17.06.15



SOUTH AFRICAN POLICE SERVICE

Department of Police



**BRIEFING BY THE SOUTH AFRICAN POLICE SERVICE
ON THE BORDER MANAGEMENT AGENCY**

**PORTFOLIO COMMITTEE ON POLICE
17 JUNE 2015**

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PURPOSE

✓ To provide an overview process regarding the establishment of the BMA and the involvement of SAPS in the process

✓ To provide various **Cabinet decisions** taken on regarding the establishment

✓ Make **specific proposals** that should be considered for the **South African BMA**

BACKGROUND

1. Border management in South Africa is currently exercised through multiple government departments and State agencies
2. Pre- /post- 1994 many bodies have played a coordination role in the border environment, e.g.
 - Border Affairs Committee Coordinating Committee (1996)
 - National Inter-Departmental Structure (NIDS) (1997)
 - Border Control Operational Coordinating Committee (BCOCC) (2001)
 - Inter-Agency Clearing Forum (IACF) (2010)
3. Coordination mechanisms have proved incapable of addressing the systemic and structural management problems affecting effective border management and border security in the country
4. Various National Intelligence Estimates have pointed to significant weaknesses, threats and challenges in border environment in SA

MANDATE...

1. 3rd of June 2009 in the State of the Nation Address: President JG Zuma stated that government "will start the process of setting up a Border Management Agency" in South Africa.

2. 26th of June 2013: Cabinet resolved that the Department of Home Affairs should take the lead in the establishment of the Border Management Agency (BMA) in South Africa

3. Cabinet endorsed:
 - Guiding principles for the BMA establishment process;
 - Implementation steps for establishing the BMA;
 - Formation of an Inter-Ministerial Oversight Committee for the duration of the BMA establishment period

...MANDATE

GUIDING PRINCIPLES:

- a) The BMA should be responsible and accountable for the entire border environment.
- b) The role of the BMA should be to ensure coordination, collaboration, oversight, control and effective management.
- c) The establishment of the BMA can be achieved through integrated systems and cooperation within an appropriate legal framework that specifies roles

IMPLEMENTATION PLAN:

- a) Appoint a Project Manager by the end of August 2013 and establish a **Project Management Office**.
- b) Minister of Home Affairs would appoint an **Oversight Committee** for the duration of the project consisting of the heads of the principal departments that operate in the border environment.
- c) Develop and submit a **draft business case including a budget** to the National Treasury.
- d) Develop a **policy framework and operational model** for the BMA and prepare a draft Bill that will give legislative effect to the establishment of the BMA by the end of the 2014/2015 financial year.
- e) **Build on existing achievements and strengthen key areas of border control** and management as part of the process of implementing the BMA.

PROGRESS

BMA: PROJECT MANAGEMENT OFFICE

- a) DHA appointed BMA Project Manager in November 2013
- b) Support staff appointed
- c) Accommodation secured
- d) BMA Pre-Feasibility Report prepared

INCLUSIVE CONSULTATION & PARTICIPATION PROCESS ESTABLISHED

- a) Four inter-departmental BMA Technical Working Committees (TWCs) were established and are functional
- b) Over 8 sets of TWC meetings convened since May 2014
- c) Engaged JPCS Cluster of DGs, IACF, and BMA Ministerial Oversight Committee

APPOINTMENT OF GOVERNMENT TECHNICAL ADVISORY CENTRE (GTAC)

- a) GTAC prepared BMA Institutional Options Analysis Report
- b) Provision of support in other areas of BMA Feasibility Study

THREE INTERNATIONAL STUDY TOURS ON BORDER MANAGEMENT

- a) Purpose to identify lessons on border management
- b) Three (3) inter-governmental delegations visited Americas, Europe, Asia
- c) Lessons captured in Study Tour Reports prepared

NATURE OF BORDER MANAGEMENT

Typically internationally, and in South Africa, border management comprises of the following specific functions:



INFRASTRUCTURE DEVELOPMENT AND MAINTENANCE

INTERNATIONAL OBSERVATIONS ON MANAGING THE BORDERLINE

Management of the borderline is undertaken internationally in different ways. Many countries **separate the military function of defending the country** and protecting its sovereignty from the **administrative tasks of border control in the borderline environment**:

- In many countries the **borderline function** is undertaken by the **military, para-military, police and/or law enforcement agencies**.
- Some countries have a **Border Guard / Border Patrol** unit, which manages the land borderline. **Coast Guards** are also found in many countries, which may be separate or part of the Border Guard.

China: The People's Liberation Army is responsible for borderline security and primarily focuses on the protection of the sovereignty and territorial integrity of the country. The Navy and Coast Guard work together, with the Navy providing support to the Coast Guard.

USA: United States Border Patrol is a component of the Customs and Border Protection (CBP). It is tasked with guarding the land borderline. The US Coast Guard is a standalone division within the Department of Homeland Security.

Netherlands: The Border Guard (military police) is responsible for total border security and processing of movement for persons at Ports of Entry. The Coastguard carries out multi-agency tasks in its home waters.

Canada: The Canada Border Services Agency (CBSA) does not assume direct responsibility for the borderline. The Royal Canadian Mounted Police is responsible for the borderline, but it interacts closely with the CBSA.

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BORDER MANAGEMENT AGENCY ESTABLISHMENT CONSIDERATIONS: KEY ASSUMPTIONS

BMA functions and co-ordination:

- ✓ BMA will likely assume responsibility for a **basket of control functions** currently performed by a number of organs of state
- ✓ **Border safeguarding** and the protection of South African sovereignty is the responsibility of the SANDF. DPW, DAFF, DEA, DHA and SAPS perform supporting border control and administrative functions.
- ✓ Only **5 border management authorities** have a permanent presence **at PoEs**
- ✓ **BCOCC** plays **coordinating role** at PoEs

Policy and Implementation:

- ✓ BMA should not be tasked with the development and ongoing refinement of “National Policy” in areas of human travel, immigration, trade, customs, health, phyto-sanitary issues etc.
- ✓ BMA should be tasked with implementation of national policy of parent departments (e.g. CBSA executes about 90 laws of different departments)
- ✓ BMA must interact with policy departments and share operational experience

Balancing security with legitimate travel & trade:

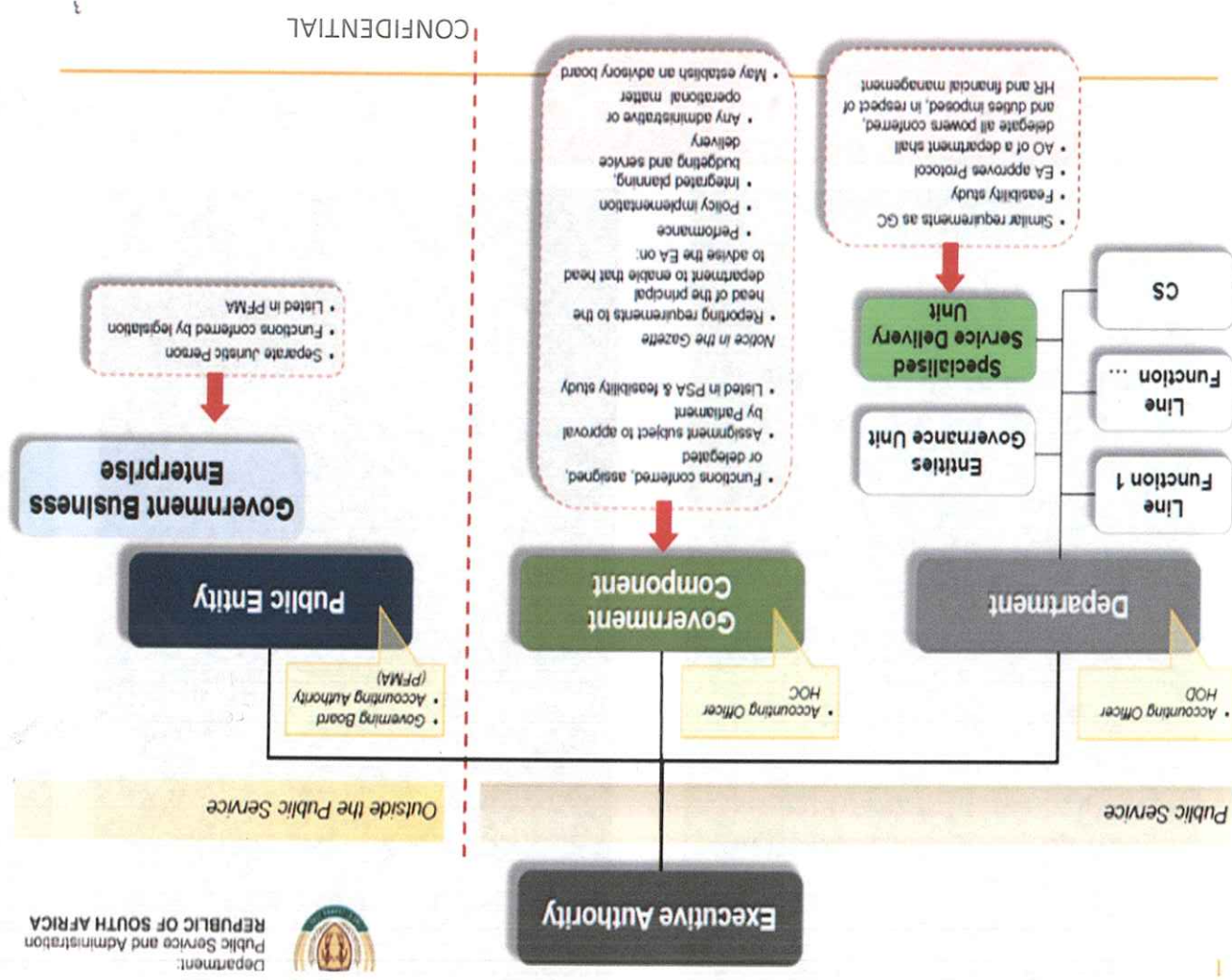
- ✓ National security must be cross-cutting dimension in border management
- ✓ **Legitimate travel and trade must facilitated**
- ✓ “Whole-of-government” national risk management and targeting must inform the work of the BMA

Effectiveness Gains & Fiscal Certainty:

- ✓ Establishment of new South African Organs of State or the shifting of functions does not make effectiveness gains a given
- ✓ Phased implementation should be considered

BORDER MANAGEMENT AGENCY ESTABLISHMENT CONSIDERATIONS: INSTITUTIONAL OPTIONS

5 BMA institutional form options were assessed:



- Considerations:**
1. BMA must be located under single Executive Authority
 2. Government Component & Public Entity both suitable
 3. Aware of concerns over proliferation of Public Entities
 4. Components more suitable for a single function scenario
 5. Public Entity has added advantage of accommodating an inclusive Board representing multiple parent organs of state

BORDER MANAGEMENT AGENCY : VISION

1. **BMA will be outcomes focused:** Balance facilitation of legitimate trade and travel functions while simultaneously addressing security risks
2. **BMA will be established as a single body:**
 - a) Under a single Executive Authority
 - b) Constituted as a single accounting authority
 - c) Established by an enabling Act
3. **BMA will assume control of port of entry and borderline functions:**
 - a) **Ports of Entry functions** will be: immigration control; customs control; human health inspection; inspections of animals, fish and associated foodstuffs and products; inspections of plants and related products; border policing; and full custodianship for infrastructure at land Ports of Entry.
 - b) **Maritime environment:** BMA Coast Guard will be established to patrol and secure the 12 nautical miles zone (territorial waters) and the South African Navy will secure the remainder of the maritime zone extending to Exclusive Economic Zone.
 - c) **Land borderline:** BMA Border Guard will be established
 - d) **Air border environment:** appropriate complementary BMA capability will be established to monitor, and secure the country's airspace together with the South African Defence Force and Air Force.



BORDER MANAGEMENT AGENCY : STRATEGIC PATH

1. Transition Phase (January 2015 – December 2016)

- a) Continuation with present collaborative efforts at Ports of Entry under formalised Multi-Party Agreements
- b) Above agreements will seek to strengthen the BC OCC in this interim period
- c) Commence with BMA legislative drafting process and its enactment: approximately 115 Acts and 42 international and regional agreements and protocols identified
- d) Initiate process to align national risk targeting processes between stakeholders in the border environment.

- e) BC OCC to be relocated to the DHA: Opportunities exist to pilot the strengthened BC OCC as the prototype for the planned BMA. Note that the customs and revenue collection functions will remain with SARS in the transition period.
- f) Launch Operation Pyramid: enhance borderline control and coordination in the transition period
- g) Launch the BMA

2. Agency Phase: 2017 and beyond

- a) Implementation of legislation to operationalise the BMA as a 'multi parent' Public Entity within the Ports of Entry environment initially and the provision of authority
- b) Adopt a phased approach to the expansion of the BMA mandate and functions to include the air, land (Border Guard) and maritime (Coast Guard) border line environment.

BORDER MANAGEMENT AGENCY: ISSUES AND CONCERNS RAISED...

INSTITUTIONAL FORM AND CONDITIONS OF SERVICE

- Clarity on uniform conditions of service
- Risk of fragmenting the public service
- How long will it take to move capacity from different Departments?
- This affects over 21 Departments

BORDERLINE MANDATE

- Implications of demobilising SANDF in the Borderline
- Overlapping functions on the Borderline
- Consider agency relationship/ DHA/BMA-SANDF &SAPS
- Certainty about Cabinet mandate re: Borderline

...BORDER MANAGEMENT AGENCY: ISSUES AND CONCERNS RAISED

- Envisaging huge establishment
- Constitutionally and legally complex endeavour
- Need for Constitutional amendment
- Wide range of functions are being pulled together
- Operational challenges
- Are the proposals mentioned budgeted for
- Modern technology can be a game changer, integration of platforms critical
- Identify efficiency gains
- Secondments from Departments to BMA during transition
- State law Advisor – questioning legality of transition



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Thank you

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 facility mgmt
~~Yona~~ Chilemba: leading border mgmt
 At Kinross mgmt
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