

## **Speaking notes for Commissioner**

### **Annual Report presentation to SCOF, 14 October 2014**

#### 1. Introduction

- a. Introduce team
- b. Comment on time so far – it has been 22 days since President Zuma announced my appointment. I have been getting my boots under the table, and being briefed not just by Exco but a wide range of SARS staff
- c. I want to thank Ivan Pillay and his team for their work in the year under review on which we are reporting.
- d. The Exco team will share this presentation with me

#### 2. Flagged issues

- a. Before I enter into the meat of this presentation, focussed on the SARS 2013/14 Annual Report, I want to deal with a few issues which – while relevant – do not fall within the ambit of a document like the Annual Report.
- b. I know the Committee is aware of some challenges we have faced in the public domain this year
- c. SARS has reported to Minister Nene, and through him to the Committee, about the allegations involving a taxpayer (Mr Edrees Hathurani) and a former senior SARS employee (Mr Dawood Seedat). Unless other evidence is brought forward, we are confident in saying that, whatever the relationship may have been between Mr Seedat to Mr Hathurani, SARS's processes were not in any way influenced. This Committee may also have been informed that the Financial Services Board, where Mr Seedat was the CFO until his resignation earlier this year, have announced publicly that the FSB's own investigation and an external audit by the Auditor general found no evidence of a breakdown of internal controls within the

organisation. The FSB expressed its confidence that neither it, nor any of the entities it regulates, has suffered as a result of any actions of Mr Seedat.

- d. The matter involving allegations of impropriety against Mr Johan van Loggerenberg, a senior SARS investigator, was initially investigated by an internal SARS panel of review.
  - i. Although the panel of review did not prove any wrongdoing or breaches of the law on Mr Van Loggerenberg's part, SARS consider it paramount to further investigate the issues that were raised in Ms Walter's complaint so as to safeguard the integrity of SARS and the trust the South African public has bestowed on SARS.
  - ii. SARS therefore appointed Advocate Muzi Sikhakhane, SC, to lead an external Committee of Investigation into the complaints against Mr Johann van Loggerenberg, and Mr Van Loggerenberg was placed on special leave.
  - iii. The Committee of Investigation will be tasked to examine and report on whether there were—
    - 1. Any breaches of SARS processes, policies or codes including violations of taxpayer confidentiality, the oath of secrecy prescribed for SARS officials or procedures of good governance;
    - 2. Any instances where a conflict of interest arose;
    - 3. Any instances of unlawful or illegal interception of information occurred;
    - 4. Evidence of engaging in corrupt activities;
    - 5. Acts of impropriety in general in terms of any law, as well as any allegation that may come to light during the course of the investigation.

- iv. The Committee has been instructed to conclude its investigation and present its findings to the Commissioner within 45 days of being established, unless compelling circumstances dictate otherwise.
  
- v. The findings of this Committee will be made public.
- vi. Members of the Standing Committee on Finance may have seen the latest news headlines this weekend and the allegations against SARS, Mr Van Loggerenberg of the existence of an alleged covert intelligence unit within SARS. I want to emphasize the following—
  - 1. SARS does not and never had any power or authority in law to conduct covert intelligence operations
  - 2. SARS, under my leadership, will not condone any rogue activity of this nature by its officials. We will take decisive action if any credible evidence is found where the law was breached in the past
  - 3. I have instructed the SARS Executive to help me establish the facts around these allegations. I have addressed our ExCo and SARS Group Executives to indicate that the problems and allegations are going to be investigated thoroughly; I take full responsibility to ensure that the matter gets the prominence it deserves and is given priority.
  - 4. I have instructed senior managers in the responsible fields where possible transgressions are alleged to have taken place to provide me with a full report of events and that the facts be provided to me by the end of this week.
  - 5. As I have explained, the External Panel of Investigation of Adv Sikhakhane has been tasked to establish if any instances of unlawful or illegal interception of information occurred; to find any evidence of engaging in corrupt activities; and to find any acts of impropriety in general in terms of any law, as well as any allegation that may come to light during the course of the investigation. Where necessary the scope of the Panel may need to be broadened

accordingly to provide leadership on how this issue have to be dealt with.

6. I am confident that this Panel will apply its mind appropriately. Whilst trying to establish the facts for myself, it is important that the Panel must continue to do its investigation independently, make its findings to SARS within the prescribed time-frame of 45 days and advise me and SARS on how to act on its finding

### 3. Audit status

- a. SARS received an unqualified audit from the Auditor General, with no emphases of matter for both the own accounts and administered revenue audits. This is the first time SARS has had an entirely clean audit with no emphases of matter across all areas of our work and accounts. We are committed to maintaining this achievement for the future.

### 4. Slides

- a. Highlights for the year under review – SLIDE 1 and SLIDE 2
  - i. For the financial year ending 31 March 2014, SARS collected R900 billion – over R1 billion more than the revised target of R899 billion, which represents 26% of South Africa's GDP.
  - ii. SARS operating costs sit at around 0.97% of total tax revenue. This means we compare well internationally. This is discussed in more detail later in this presentation.
  - iii. The 2013/14 tax year saw
    1. Over 6 million income tax returns for the year – processed in an average of less than a day
    2. Over 2.7 million VAT returns;
    3. Over 4.7 million PAYE returns;
  - iv. SARS is working to establish an environment where taxpayers are able to take a more active role in managing their accounts and

ensuring their tax affairs are in order. SARS is streamlining its tax systems and providing taxpayers with online facilities to manage their accounts. Around 40 million returns, declarations and payments were processed by SARS for the year under review. More than 96% of these transactions were processed electronically. In addition, SARS branch offices and points of engagements received more than 5.7 million queries and requests for assistance from taxpayers. Branch Operations Engagement teams participated in more than 14 000 tax awareness campaigns and education interventions. Through initiatives SARS engaged more than 725 000 taxpayers.

- v. SARS has conducted nearly 1.8 million tax audits across a range of taxpayers and tax types. There have been 333 investigations into possible serious tax and customs offences

b. International Relations – SLIDE 3 and SLIDE 4

- i. SARS has continued with a wide range of international engagements.
- ii. Base Erosion and Profit Shifting (BEPS) continue to be a threat to tax bases globally. The shifting of profits to locations with low or no income tax is an ongoing concern to SARS. Much of SARS' work internationally is focussed on the fight against BEPS. SARS' participation in the OECD project in this regard means it can promote the concerns of developing nations – generally most negatively affected by the BEPS trend.
- iii. We have launched a pilot project with our Swazi and Mozambican counterparts to establish an IT network linking regional customs authorities, as the first step in developing an international eCustoms network. This will ultimately allow for the seamless and real-time

electronic transfer of information between customs authorities across southern Africa.

- iv. SARS continued to be an active participant in the African Tax Administration Forum (ATAF) – and served as Chair for 2013/14 (this role has now been taken on by Zimbabwe). This includes providing operational and other support to the ATAF Secretariat which is based in Pretoria. ATAF's work is focussed on improving Africa's ability to mobilise domestic tax revenue, and to combat harmful tax practices.
  - v. The Global Forum on Transparency and Exchange of Information for Tax Purposes is chaired by my colleague Mr Kosie Louw, SARS' Chief Officer Legal and policy. Consisting of 122 member jurisdictions, the work of the forum is focussed on making the world more tax transparent – ensuring that individuals or companies avoiding tax in their own jurisdictions are not able to conceal their affairs in another.
- c. Areas where goals have not been met – SLIDE 5
- i. While we are proud of our achievements this year, it is important that we also look at the areas in which we have not performed as expected or where targets have been missed.
  - ii. Given our emphasis on ensuring that SARS' customs processes do not impede the flow of trade in and out of the country, the Customs team's goal had been to inspect only 12% of declared cargo entering South Africa. That inspection rate sat at 14.5% for the year under review. This was mainly due to an increased focus on clothing, textiles and tyres – all areas of especial interest to the domestic economy, and needing protection from illicit imports.
  - iii. There was a 0.7% decrease in VAT returns filed on time. Considerable effort has been put into the VAT modernisation

process, especially when it comes to making submissions easier. Compliance among VAT vendors remains a worry.

- iv. The average processing time for VAT refunds was 31.7 working days – considerably more than the target of 21 working days. This is mainly as a result of increased scrutiny on “old” returns submitted in the current year, and instances where refunds are held back because of investigations. Unfortunately, this has to some degree had an adverse impact on small businesses.

d. Revenue collection and trends – SLIDE 6 and SLIDE 7

- i. In the 2013/14 fiscal year SARS collected more than R1 trillion in tax revenue which reduced to R900.0bn after refunds were paid out. The R900.0bn exceeded the revised tax revenue estimate of R899.0bn by R1.0bn (0.1%). Tax revenue for 2013/14 grew by R82.2bn (10.6%) and a tax to GDP extraction rate of 26.1% was achieved, a significant improvement from the 24.4% that was achieved during the 2009/10 global financial crisis.
- ii. The most significant contributors to the growth in the 2013/14 tax revenue were Company Income Tax (CIT), Personal Income Tax (PIT), Import VAT and Customs duties. CIT showed a steady growth from the prior year, and for the first time passed the pre-crisis levels achieved in 2008/09. The relative contribution of CIT to total tax revenue was however still much lower at 19.9% as opposed to the 26.7% in 2008/09.
- iii. Despite muted job growth PIT grew by R34.2bn (12.4%) on the back of above inflation wage settlements. Import VAT and Customs Duties performed well growing by R19.7bn (17.6%) and R5.2bn (13.3%) respectively, mainly driven by imports of machinery and vehicles.

- e. The contributions to overall revenue made by the different Tax types are as follows – SLIDE 8
  - i. Personal Income tax remains the biggest single contributor at 34.5%
  - ii. VAT is at 26.4%, and
  - iii. Companies Income Tax sits in third at 19.9%
  
- f. Tax to GDP ratio – SLIDE 9
  - i. This is the 5<sup>th</sup> consecutive year where the tax to GDP ratio sits around 25%.
  
- g. Overdue debt - SLIDE 10
  - i. 2013/2014 was a year of very solid performance.
  
  - ii. Significant efforts over the year contributed to successfully limiting the growth in debt to only R386 million - from R82.3 billion to R82.6 billion at 31 March 2014. This slight 0.5% increase on last year is a good achievement in difficult circumstances. Debt as a percentage of total revenue has decreased from 10.1% last year to 9.2% at 31 March 2014.
  
  - iii. Some debt accounts are historical and by law cannot be eliminated. Specific efforts to manage the debt book better were evident in Operations for the period under review. The mid-range debt book debt was reduced by R5bn (-8.8%) compared to the last financial year and debt management's cash collections increased 29.4% to R10.8 billion. Write offs were down by 3.2%. Productivity increased by 21% and collections per full time FTE were up 32.9%.
  
  - iv. The SARS Large Business Centre has raised assessments against aggressive tax structures for strategic reasons but which are uncollectable as no assets exist in the structures. We were unable to write these off as currently in law they are under dispute.

- v. When compared to other revenue administrations around the world our debt as a percentage of total revenue is not yet in line with international trends. However there is a positive downward trend towards our target of 6%. Worth noting is that UK and Australia do not include uncollectable debt in their measurements.
- vi. On the final day of the financial year R3.7 billion of new debt came onto the books which are included in the total of R82.6 billion. Debt would have been R79 billion had the R3.7 billion not arisen so late without an opportunity for collection.
- vii. As mentioned in previous reports there are cases where taxpayers have credits of the same tax type but for different periods which are not set off against debits as in the VAT and PAYE tax systems. Each period is treated as a separate account. In Income Tax, off-sets do occur as there is only one account. To align accounting treatment R4.3 billion of credits could be set off against the debt book. The alignment to off-set debt between different tax types is work in progress.

h. Strategic outcomes

i. Outcome 1 - Increased customs compliance – SLIDE 11

1. Customs revenue collection was R1.5 billion over target – with collections totalling R176 billion. Import VAT and customs duties accounted for almost all of this, with Import VAT increasing by 17.6% and customs duties by 13.3% from the previous year.
2. A total of 480 companies are currently participating in the SARS 'Preferred Trader' programme, working with SARS to improve customs compliance and competence - thus allowing for speedier transit of goods. In the year under review, 77 traders were audited to confirm their suitability to join the programme. The audits include validating trader

compliance, licencing and registration; ensuring systems competency; alignment with customs requirements; solvency; and appropriate knowledge amongst staff.

3. Of those 77, the SARS Customs Accreditation Review Committee recommended 30 for Level 2 accreditation, and assisted a further 36 implement compliance improvement programmes.
- ii. Outcome Two: Increased tax compliance – SLIDE 12 and SLIDE 13
1. Although Tax Revenue (excluding Customs) was R435 million below target, the 3 key tax types all saw growth. Personal Income Tax increased by 12.4% year-on-year; Companies Income Tax increased by 11.6%; and VAT by 8.7%.
  2. The total SARS taxpayer register increased by 9.8% and the personal income tax register by 8.8% from the previous year.
  3. In 2010/11 SARS changed its policy and stipulated that all individuals who are formally employed must register, rather than only those taxpayers above the tax threshold. This resulted in the number of individuals on register, increasing by 6.4 million taxpayers since 2009/10 to 16.8 million in 2013/14. SARS pursued further tax base broadening measures that resulted in the overall SARS tax and trader register reflecting a positive growth of 9.8% in comparison to 2012/13.
  4. There has been a 14% increase from the previous year in the numbers of audit cases completed.
  5. And 267 criminal cases returned a guilty verdict

6. SARS enforcement programmes follow the “width, depth and leverage” model. It ranges from desktop verification of information to criminal investigation. Width means that there has to be equal chance for every taxpayer to be “touched” by SARS. Depth means that, in certain cases, SARS will consider a taxpayer’s affairs in depth. Leverage means that SARS will consider measures that are not necessarily enforcement e.g. accreditation, partnering with industry lobbies/representative groups to encourage voluntary compliance (e.g. accord with the banking sector)

iii. Outcome 3: Increase ease and fairness of doing business with SARS – SLIDE 14 and SLIDE 15

1. The 2013 Filing Season saw 6.1 million returns submitted on time (on or before 22 November 2013) – a 7.7% increase on the previous year. This was despite the fact the threshold to submit a tax return was substantially increased by the Minister of Finance in the 2013 Budget.
2. Effectively, the threshold adjustment removed the administrative obligation for thousands of taxpayers to submit a return if they earned income below R250 000 a year and did not submit any claims for a tax refund
3. Of those returns, 99.85% were assessed within 24 hours, and in instances where refunds were due 94.98% of these were paid within 72 hours.
4. A refinement of the eFiling service means that taxpayers can now submit supporting documents from third parties, such as medical scheme contributions or insurance payments, online.
5. The Tax Clearance Certificate process has been substantially transformed – with the intention of making it

taxpayer-driven and easier to use. SARS received over 785 000 TCC requests last year, placing a significant burden on both SARS branches and the back office processing systems.

6. With the establishment of the Office of the Tax Ombud (one of the outcomes of the Tax Administration Act), SARS developed a formal structure for communication between the OTO and ourselves. The OTO functions independently from SARS and reports directly to the Minister of Finance. The OTO receives complaints from the public on service-related matter and conducts an overview on the fairness of SARS's processes and its treatment of taxpayers. Clear lines of communications and interaction between SARS and the OTO are therefore essential.

7. SARS has worked jointly with the CIPC and the Department of Home Affairs to establish electronic links with databases held by them. This will allow SARS to improve on its management of taxpayer entity identities. It will result not only in improved ease of doing business, but also in increased confidence about the accuracy and integrity of the information SARS holds and thus strengthen SARS' ability to encourage tax compliance.

iv. Outcome 4: Increase cost effectiveness, internal efficiency and institutional respectability – SLIDE 16

1. SARS continues to maintain its cost-to-tax-revenue ratio in line with the international benchmark of 1%, used by revenue authorities around the world. This year saw it dip below that for the first time in 6 years, to sit at 0.97%.

2. This is the best possible indicator that SARS is being successful at containing the cost of tax collections at the same time as it is increasing those collections.
3. It should also be noted that these calculations do not take into account non-tax revenue collected on behalf of other institutions – which is the case with a number of significant international revenue authorities. If those collections were taken into account in this calculation, the SARS ratio would dip further, sitting at around 0.94%.
4. Internationally, the US has achieved a low of around 0.6%, while Germany sits at around 1.5%. Brazil and Russia also sit around the 1% international benchmark.

i. HR information – SLIDE 17

- i. The SARS total staff headcount at the end of March 2014 was 14 137 (excluding 20 temporary employees). Of these nearly 11% are management and less than 1% are top management.
- ii. The staff attrition rate was slightly higher than the previous year – and nett staff turnover was -3.97%.
- iii. We continue to prioritise employment equity, and strive to achieve annual equity targets for race, gender and disability. Since its inception SARS reversed the demographic composition of its personnel from 2:1 white-to-black; to 2:1 black-to-white. This was accomplished through natural attrition and deliberate recruitment. There was no retrenchment or exodus of white staff; and in this way SARS retained a lot of its institutional memory. Ours remains a commitment towards employment equity and to ensure that transformation is expressed the demographic composition of our institution. Being new in the position of Commissioner employment equity is an priority for me and we must start right at the top in this

regard by looking at the composition of our ExCo and Senior Management.

- iv. Both black and female representation at top management level (grades 9 and 10) has declined slightly since 2011. The SARS EE Plan has prioritised the appointment of Africans, in particular women, in the next two years.
- v. There has, however, been an increase in both black and female representation at senior management level since 2011. In particular, black female representation increased from 20.41% in 2010 to 23.65% in 2014.

## CONCLUSION AND QUESTIONS