



**1<sup>st</sup> DRAFT**  
**ECONOMIC DEVELOPMENT PORTFOLIO COMMITTEE'S OVERSIGHT VISITS REPORT**  
**17<sup>TH</sup> – 19<sup>TH</sup> NOVEMBER 2009**

**Purpose/ Terms of Reference**

The purpose of the visit is to oversee the interventions by SARS, as agreed to in the “Framework response” on strengthening and providing additional capacity at the different points, focusing on the following:

- Risk management plan, including cooperation with other countries in implementing the plan
- Fraud Prevention Plan,
- Mitigating strategy/plan
- Co-operation & collaboration i.e. intra and inter departmental
- The number of officials implicated in fraudulent activities from 2008 to date and the number of cases won
- Human Resources capacity
- Challenges

**Background**

As part of its mandate to support the economy and provide the revenue needed by the government to build democracy, SARS performs several important roles in international and local trade.

In fact, one of SARS' core functions is the provision of a customs service that maximizes revenue collection, protects South Africa's borders and facilitates trade. It does this by:

- enforcing customs and related trade laws;
- collecting duties and taxes;
- ensuring the social welfare of citizens by controlling the import and export of prohibited and restricted goods; and
- ensuring timeous clearance of goods and facilitating the speedy movement of travellers through South African borders.

The “Framework for South Africa’s response to the international economic crisis” was approved by the joint economic presidential working group on 19 February 2009 as the basis for a national response to the impact of the international economic crisis on South Africa.

The government will also take the necessary steps to strengthen the ability and capacity of the South African Revenue Service (Sirs), in order to address customs fraud that has led to many job losses.

Paragraph 3.9 of the “Framework for SA’s response to the international economic crisis” states that:



*The parties acknowledge the problem of customs fraud and illegal imports and are concerned that as a result of the global economic crisis, the level of illegal imports may increase. They recognise the progress made in building an effective enforcement mechanism. They agree that urgent attention should be given and additional capacity be devoted to official enforcement capacity, including SARS, to further improve their*

The committee was briefed by SARS, prior the visits to the different points, on customs fraud in South Africa. The Committee subsequently identified 3 different modality points (sea, air and land) to be visited, in order to examine the interventions undertaken by SARS as agreed to in the “Framework response”, namely:

1. Durban Harbour – KZN
2. Lebombo Border Post – Mpumalanga
3. OR Tambo International Airport - Gauteng

## **1. Durban Harbour**

### **Background**

Durban Harbour, as a sea modality, was identified by the committee to ascertain what interventions or mechanisms has been put in place to effectively and efficiently deal with customs fraud at the harbour.

Durban Harbour is one of the busiest ports in the world which consists of: 1884 ha port area, 53 commercial berths, 136 km of roads, 280 km, 12 bridges, 1 dry dock and 1 floating dock.

Some of the core functions of Durban Customs include: trader management, trade administration, border control, container security initiative, post clearance audits and inspections, regional training, regional risk management and passenger movement.

The delegation was informed that one of the major challenges facing the harbour is the expansion thereof, which is currently surrounded by industrial and residential property. It was noted by SARS that Richards Bay harbour has limited container traffic, where it is envisaged that Durban might divert some of its traffic to Richards Bay, since Richards Bay is in a better situation to be expanded.

### **Purpose of the visit**

The purpose of the visit is to oversee the interventions by SARS, as agreed to in the “Framework response” on strengthening and providing additional capacity at Durban Harbour, as a marine modality.

### **Committee’s observations**

- The delegation noted that the information provided by the SARS Durban Harbour was not what was requested from them. The delegation highlighted that the information, as was requested, should have focused on the marine modality, specifically focusing on Durban Harbour.



## **Recommendations**

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## **2. Lebombo Border Post**

### **Background**

Lebombo Border Post, as a land modality, was identified by the committee to ascertain what interventions or mechanisms has been put in place to effectively and efficiently deal with customs fraud at the border post.

### **Purpose of the visit**

The purpose of the visit is to oversee the interventions by SARS, as agreed to in the “Framework response” on strengthening and providing additional capacity at Lebombo Border Post, as a land modality.

### **Internal and external stakeholders**

Internal stakeholders at Lebombo Border Post consist of the Border Control Operational Coordination Committee (BCOCC) (SARS, SAPS, NIB (DHA), Departments of Agriculture, Health, NIA). Other departments include: Transport, Public Works, SANDF, DEAT, DTI. The border post also works closely with the local and district municipality.

External stakeholders include: clearing agents (e.g. tax practitioners), transport associations etc. There is also a working relationship with the World Customs Organisation (WCO). Through the BCOCC, Lebombo Border Post, have established a customs to customs and inter border engagements with their Mozambican counterparts. There is also close cooperation and collaboration between SA Developmental Countries (SADC) and the SA Customs Union (SACU) countries.

SARS acknowledged that they do have a working relationship with countries such as Malawi, Tanzania, Mozambique etc, but at this stage there is no formal forum, where there is direct interaction, to discuss issues from an operational perspective. SARS, however, noted that SA and Mozambique to share information on the inflow of trade, between the two countries, on how to address the overall risk mitigating strategy.

Management of SARS at Lebombo Border Post acknowledged that they do not have a strategy in place to integrate the community in their efforts to assist them. What they are currently doing is to use the media to inform people in the surrounding areas (using the language of the area) on customs fraud and the impact of buying illicit goods. SARS acknowledged that they need to develop an integrated and collective approach in order to obtain the assistance of the community.

### **One Stop Border Post (OSBP)**

SARS (Lebombo Border Post) noted that the intention of government is the creation of “One stop border posts” (OSBP) and currently Phase 1 of construction is already underway on the South



African side of the border post and it is envisaged that it will be partly finished by March 2010. The passenger hall is semi-complete and the cargo bypass, it is anticipated, will be finalised during February 2010.

### **Risk Management (Compliance)**

G4 (private company) is deployed at all gates at the border post and their primary duties is to secure the premises. SAPS (Police) are also present at all gates, where they check for stolen vehicles and other criminal activities. They perform checks based on security measures. Customs officials and the Customs Border Control Unit (CBCU) are at the exit gates, where these officials are responsible for checking compliance to declarations made, identifying undeclared goods and detections.

Customs has a mandate of detection of illicit goods, contraband cigarettes, drugs, and currency, precious and semi-precious stones/gems.

### **Methods of detection**

- Automated and manual validations – This relates to what SARS defines as the Customs Risk Engine, where the risk level of for example the client or product is measured and the level of the risk will determine if it necessitates a physical search. This also deals with the passenger processing system (PPS) and the Electronic Data Interchange (EDI)
- paper trail and transaction audits
- Physical examination of cargo – the border post has specialist team dealing with this, which is determined by the risk level as indicated above.
- Scanning of baggage
- Gate control checks (G4 security)
- CBCU and dog unit checks
- Formal investigations

### **Fraud Prevention Management**

SARS noted that the E-release will be operational by the 1<sup>st</sup> of December 2009 and the export declaration process will be reviewed, which include: the procurement of the clearance stamp is underway, the Lebombo stamps will only be used at the border post and G4 security will assist with controls.

### **Mitigating Strategy**

Some of the mitigating strategies at Lebombo Border Post include:

- SARS envisage to strengthen and reinforce the CBCU unit where a further 12 members are undergoing training currently
- The G4 security company will also allocate additional staff
- The mode of operation for enforcement will be implemented by December
- The submission on the EDI system has become mandatory
- The continuous execution of the risk management plan



### **Officials implicated in fraudulent activities**

SARS indicated that they had four disciplinary cases, where two officials were charged (but later resigned), one was dismissed and one acquitted. A security guard was also expelled for dereliction of duties from the warehouse.

### **Human Resource capacity**

The staff compliment at Lebombo Border Post is 123 employees, where it consists of import teams (3 shifts), export teams (3 shifts), Passenger teams (3 shifts), CBCU Teams (2 teams) and a dog unit (1 team).

### **Committee observations**

- G4 Security's (a private security service provider) personnel are not vetted.
- Advocacy campaigns of SARS, in the surrounding communities are not as effective.
- The warehouses, where goods are stored are manned by private security personnel, which can easily be over powered by syndicates.
- Only four disciplinary cases have been investigated at the border post.

### **Recommendations**

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## **3. OR Tambo International Airport**

### **Background**

OR Tambo, as an air modality, was identified by the committee to ascertain what interventions or mechanisms has been put in place to effectively and efficiently deal with customs fraud at an international airport.

### **Purpose**

The purpose of the visit is to oversee the interventions by SARS, as agreed to in the "Framework response" on strengthening and providing additional capacity at OR Tambo International Airport, as an air modality.

### **Risk Management Strategic Plan**

Mr Ravele (Chief Officer: Customs) presented an overview of SARS' activities relating to customs fraud. With regard to SARS' Risk Management Framework, Mr Ravele noted that the framework guides SARS' interventions which are in support of their strategic goals and this allows SARS to focus resources on high and medium risk areas.

Components of the Risk Management Strategy consist of: (1) environment scanning, (2) Risk identification, (3) Risk analysis (which include training, development of standard operating



procedures and governance thereof), (4) development of a risk mitigation plan and finally (5) monitoring & review implementation.

SARS' 2009/10 Risk Management priorities include the following:

- Support for the SARS Accreditation program
- Commercial fraud
- Prohibited goods: illicit drug trafficking
- 2010 FIFA World Cup

### **Cooperation and collaboration**

The BCOCC is the key inter-departmental coordinating mechanism for border agencies. SARS noted that the National Integrated Border Management Strategy was adopted by Cabinet in January 2008 and the strategic goals of this strategy include: coordinating activities of border agencies; providing strategic direction for Ports of Entry and protecting the South African society and economy.

SARS indicated that the inter-agency cooperation is formalised by way of MoU's with inter alia: The DTI, SAPS, DEWA, SAPO, Port Health, Transnet.

### **Cooperation with other countries**

Cooperation takes place at:

- Multilateral level – The World Customs Organisation that represents 176 customs agencies and develop treaties, instruments and best practices
- Regional level – SARS actively participates in SADC and SACU customs structures
- Trilateral level – The India-Brazil-South Africa (IBSA) Customs Forum
- Bilateral level – MoU's are concluded with major strategic trade partners where there is a need to exchange intelligence and information.

SARS indicated that eight (8) bilateral treaties are in place including China, India, USA etc. Nine (9) treaties are signed but awaiting ratification and nine (9) are under negotiation.

SARS intends intensifying cross border investigations, where some of the countries focusing on include Botswana, Lesotho and Zimbabwe. Focus areas include, clothing and textiles which relates to under-invoicing, origin transgressions and Duty Credit Certificate abuse.

### **Customs Branch Overview: OR Tambo International Airport (ORTIA)**

#### **Customs Operational Mandate**

The Customs Operational mandate include appointing places of entry /exit and specific customs activities and also visible control activities, i.e. anti-smuggling checks, rummages etc. With regard to movement control, SARS has to account for all goods entering, transiting and leaving the Republic. SARS have to maximise the use of electronic pre-arrival information and electronic communication with Release Authorities ensuring integrity across the supply chain.

The delegation was informed by Lebombo Border Post that the G4 security personnel are not vetted. G4 as a service provider are vetted.



## **Customs challenges at the Port**

Challenges at the port relate to (1) organised crime (under-invoicing, round tripping, ghost exports, smuggling, counterfeit, corruption), (2) increased complexity of international trade (intra-trade within multi-national corporations, transfer-pricing, increase trade volumes), (3) capacity to deal with new threats (biological and chemical war agents, weapons of mass destruction, commercial fraud).

Current capabilities Customs at ORTIA inter alia include:

- Non intrusive inspections: body, baggage & container
- K-9 Unit
- Visible border control (CBCU)
- Aircraft rummaging
- Post Clearance Inspections
- Seize or forfeit goods
- Detain goods

## **Risk Management Capability at the Port**

SARS noted that the port based risk compliance unit is responsible for: conducting standardised risk assessments, port specific trend and threat analysis, conducting industry compliance research, providing in-debt profiles and evasion tactics for customs operations.

SARS explained the process to the delegation relating to high level risk management processes focusing on advanced passenger profiling, advanced cargo profiling and real-time declaration processing.

## **Operational cooperation**

Within SARS the branch is working with the enforcement and risk division which deals with audits, criminal investigations, anti-corruption and security and debt collection. They also work closely with the legal and policy division dealing with litigation, appeal etc.

Within the port close collaboration exists with the following departments: SAPS, ACSA, NIA, DHA, Health, Agriculture, etc.

## **The illicit economy: Transshipment**

According to SARS, South Africa is emerging as a significant hub of international criminal activity whose operations are masked as a legitimate commercial business activity; SA also has a modern financial system linked to financial markets worldwide, which facilitates money laundering. SARS noted that Nigerian traffickers are finding SA air and sea ports to be attractive gateways for transshipping illicit goods into the West European market.

## **SARS anti-corruption & security**

### **Background**

SARS emphasised that cross border crime has risen as international syndicates target new democracies whose borders they view as weak. SARS' personnel are actively recruited and



offered large sums of money to collude, while the current recession contributes to economic pressures resulting in greater vulnerability of staff to bribery and corruption. According to SARS, incentives combined with opportunity and the ability to justify illicit behaviour is fuelling fraud and corruption, where risk assessment showed that all areas of SARS, including Customs, are affected by fraud and corruption.

### **Customs Area of operation**

SARS highlighted that customs is responsible for facilitating cross-border trade. Customs, according to SARS, mitigates risk in a number of ways, as follows: utilisation of risk engines, conducting inspections, introducing Standard Operating Procedures and policies to regulate the environment.

### **Anti-Corruption and Security (ACAS) Unit area of operation**

ACAS is responsible for monitoring the Customs systems, processes and people and to identify additional risks. ACAS' aim is to deter, detect and counter fraud and corruption and to secure SARS people, information and property.

Specific objectives include:

- Prevention of fraud & corruption – from an ethics side it deals with the code of conduct for officials. Pre-screening and vetting of the CBCU and SARS BCOCC members have been prioritised for vetting for this financial year. SARS noted that Ethics Awareness Workshops was held this year at Lebombo Border Post, Durban and ORTIA. With regard to information security, it relates to officials affirming an oath of secrecy, protecting information and managing documents.
- Detection and punitive capacity – at SARS there is a zero tolerance for corruption (dismissible offence), anonymous reporting channels, joint projects with SAPS at various Port of Entries, naming and shaming of convicted employees.

### **Trends**

SARS indicated that there has been a spike of cases in the last quarter and with the onset of the recession, there has been a high incidence of cigarette theft from warehouses (tobacco is a serious issue with almost 80% of warehouse thefts involving cigarettes). SARS stated that they have noticed the abuse of SARS assets is very high in customs.

### **Committee observations**

- Due to the limited time available, to the delegation was unable to properly engage with the SARS Management of OR Tambo International Airport.

### **Recommendations:**

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### **Conclusion**



The delegation raised concern over the fact that the Durban Harbour management did not comply with the information as requested by the committee. The Committee requested specific information relating to Durban harbour, but what was presented to the delegation was a brief overview of Durban Harbour. The committee specifically identified Durban Harbour as marine modality, since the other visits include land and air modalities (Lebombo Border Post and ORTIA). SARS Durban Harbour indicated that in order to do a proper tour of the harbour, the committee would at least need to dedicate one full day to do this.

Lebombo Border Post informed the delegation they do not have a strategy in place on how to mobilise communities in the surrounding areas to assist in dealing with customs fraud.

While touring the warehouse at Lebombo Border Post, the delegation was informed that the warehouse is manned by 2 security personnel on a 24 hour basis. Next to the warehouse is a field where criminals jump over the fence and hold up the securities at the warehouse in order to loot it. Members were concerned since this practice (2 security personnel securing the warehouse) might have catastrophic consequences.

Report to be considered.