

Annexes to the Agreement on Combined Border Control Posts on the Mozambique-South Africa Border

Preliminary Hearing

2011



Purpose of the Agreement to be supplemented by the Annexes

- To provide for the implementation of combined border control posts (also referred to as one-stop border posts) between the Republic of Mozambique and the Republic of South Africa as agreed by the Parties from time to time, in order to expedite rail and road traffic across their common borders



Purpose of the Annexes

- To facilitate the implementation of the Agreement



Introduction

- Annexes developed through a comprehensive and consultative interdepartmental and bilateral process
- Three (3) elements dealt with to facilitate implementation of the Agreement:
 - Annex I concerns the designation and delimitation of all areas to constitute a combined border control post, to establish a basis for application of relevant legislation
 - Annex II concerns the joint control and management of all border crossing activities in respect of persons, goods and conveyances, to support effective and efficient border control
 - Annex III deals with establishing, owning, managing and maintaining relevant infrastructure, facilities, assets and amenities



**Annex I – Designation and Delimitation of Areas
Clause 1 – Scope of Application**

- Applies to the designation and delimitation of combined border control posts, control zones and areas designated for exclusive use for the implementation of one-stop border posts between the Republic of South Africa and the Republic of Mozambique



**Annex I – Designation and Delimitation of Areas
Clauses 3 to 5 – Methodology**

- Provides that the boundaries and limits of the combined border posts, railway stations, routes, control zones and areas designated for exclusive use by either Party shall be described and identified by agreed means, namely through global positioning systems coordinates, geographic coordinates and/or alphanumeric grid references
- The areas so described shall be further illustrated by detailed maps, drawings, plans, photos and diagrams with comprehensive descriptions indicating relevant purpose and use of each area



Annex I – Designation and Delimitation of Areas
Clause 6 – Identification and Signage

- All areas so designated are to be clearly identified with appropriate signage in both English and Portuguese to ensure persons crossing the border are fully informed as to relevant legal aspects, requirements and obligations in each environment



Annex II – Joint Control and Management
Clause 1 – Scope of Application

- Applies to the joint control and management of border crossing activities in respect of persons, goods and means of transport for the implementation of one-stop border posts



**Annex II – Joint Control and Management
Clause 3 – Joint Committees and Teams**

- Empowers the Parties to establish such joint management structures (committees and teams) as they feel may be required at a one-stop border post, including joint operational management and coordination committees, joint risk assessment teams and joint inspection teams



**Annex II – Joint Control and Management
Clause 6 – Legislation and Procedures**

- Officials are required to comply with the domestic law in force in their respective territories and to ensure that border control procedures and practises are coordinated.
- Arrangements are provided for whereby the respective authorities responsible for regulating the border crossing of people, goods and conveyances may: assist one another; specialise in particular border; and/or recognise each others' border controls



**Annex II – Joint Control and Management
Clause 7 – Simplification and Harmonisation**

- In order to enhance border crossing operations, it is provided that: the two Parties shall align any documents used to international standards; reduce the number and extent of procedures and documents as much as possible; make use of risk-based methods and techniques; and make use of non-intrusive inspection methods and techniques insofar as possible



**Annex II – Joint Control and Management
Clause 8 – Protection and Support**

- Given that officers from each Party may be deployed in a control zone in the territory of the other Party, it is foreseen that situations may arise where such officers may also require the same protection and support as provided to their counterparts deployed on own soil



Annex II – Joint Control and Management
Clause 9 – Command and Control

- Deploying administrations need to ensure that they retain operational and disciplinary command and control over any officials or officers they deploy in any area on foreign territory



Annex II – Joint Control and Management
Clause 10 – Offences in the Control Zone

- As the control zones are created for border control legislation to be applicable on own or on foreign territory, each Party needs to have jurisdiction over offences committed in terms of such border control legislation
- Offences that are not related to border controls shall remain under the jurisdiction of the Party on whose territory such offences have been committed
- Deployed officers committing offences shall remain under the jurisdiction of the deploying Party at all times
- Mechanisms will be established to support the reporting of and assistance with interventions in offences



**Annex II – Joint Control and Management
Clause 11 – Claims for Compensation**

- In instances where the actions of officers on duty in any Control Zones result in any claims for compensation for loss, injury or damage, the applicable domestic law of the deploying Party shall apply



**Annex II – Joint Control and Management
Clauses 12 – Exchange of Information**

- The ability to exchange information is crucial for the purposes of ensuring effective and efficient border control



Annex II – Joint Control and Management
Clause 13 – Information Use, Confidentiality and Protection

- Use is restricted to border control purposes and such information shall be treated as confidential and subject to all protection and confidentiality provided by domestic legislation. No information shall be passed to 3rd parties without the approval of the supplying Party
- The Parties shall agree on the information to be exchanged, shall ensure that information to be exchanged has been collected in a lawful manner and shall be liable for any claims for damages caused by any unlawful use of such information



Annex III – Establishing, Owning, Managing and Maintaining
Infrastructure, Facilities, Assets and Amenities

Clause 1 – Scope of Application

- Applies to the establishing, owning, managing and maintaining of any infrastructure, facilities, assets and amenities for the implementation of one-stop border posts between the two Parties



Annex III – Establishing, Owning, Managing and Maintaining Infrastructure, Facilities, Assets and Amenities
Clause 3 – Establishing Infrastructure and Facilities

- The parties agree that they will establish: the necessary infrastructure on their territory to enable the use of bulk services (water, electricity, etc); required road and rail infrastructure in terms of commonly agreed standards; and infrastructure for the use of information and communications technology
- Relevant infrastructure should ensure outward and inward movement is separated as well as effective access control to and from Control Zones



Annex III – Establishing, Owning, Managing and Maintaining Infrastructure, Facilities, Assets and Amenities
Clause 4 – Ownership, Use and Access

- Ownership vests in the Party on whose territory such are erected and a register is to be maintained of all one-stop border post infrastructure, facilities, assets and amenities noting the respective ownership of each
- When facilities are to be closed, this shall be by common agreement, such facilities shall not be summarily demolished and any compensation shall be on agreed terms
- Proper access control of all persons entering or leaving any control zone shall also be agreed to and implemented



**Annex III – Establishing, Owning, Managing and Maintaining
Infrastructure, Facilities, Assets and Amenities
Clause 5 – Shared Use**

- The Parties shall agree on any such infrastructure, facilities, assets and /or amenities that they may wish to share, establishing relevant procedures for such shared use, and shall agree on respective rights and responsibilities.



**Annex III – Establishing, Owning, Managing and Maintaining
Infrastructure, Facilities, Assets and Amenities
Clause 6 – Movable Assets**

- The Parties are required to agree on measures to monitor and manage the installation of any movable assets to be used for border control and shall remain responsible for the maintenance, upkeep and replacement of any such assets that they have installed
- The parties may agree to establish a centralised information and communications technology system to support the exchange of information for border control purposes



**Annex III – Establishing, Owning, Managing and Maintaining
Infrastructure, Facilities, Assets and Amenities**

Clause 7 – Management and Maintenance

- The Parties are required to develop:
 - a mechanism for ensuring the joint management and maintenance of all one-stop border post infrastructure, facilities, amenities and assets;
 - Measures for controlling access by any service providers to any area required; and
 - A mechanism for the apportioning of any costs of joint management and maintenance