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REPORT PHASE 1



SSATP – CORRIDOR FACILITATION PROGRAM TRANSIT REGIME FOR MOZAMBIQUE

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TRANSIT CUSTOMS REGIME DIAGNOSIS AND RECOMMENDATIONS FOR LEGISLATION AMENDMENTS

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REPORT
TRANSIT REGIME FOR MOZAMBIQUE
MAPUTO CORRIDOR LOGISTICS INITIATIVE (MCLI)

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LIST OF ACRONYMS

| | |
|-----------|--|
| 20'DRY/GP | 20Foot Dry or General Purpose Container |
| 40'DRY/GP | 40Foot Dry or General Purpose Container |
| ACIS | Associacao de Comercio e Industria (Mozambique Non-Profit Business Association) |
| AU | African Union |
| BLNS | Botswana, Lesotho, Namibia & Swaziland |
| BAF | Bunker Adjustment Factor |
| CFM | Caminhos de Ferro de Moçambique |
| CIF | Cost, Insurance and Freight – INCO Term |
| CTA | Confederation of Trade Associations |
| CTO | Container Terminal Order |
| CMC | Committee of Ministers |
| CTR | Customs Transit Regulations |
| DDU | Delivered Duty Unpaid – INCO Term |
| DGA | Director General of Customs |
| FOB | Free on Board – INCO Term |
| GATT | General Agreement on Tariffs and Trade |
| GDP | Gross domestic product |
| IBID | “Same as above” reference for a source that was cited in the preceding or footnote |
| IATA | International Air Transport Association |
| ICAO | International Civil Aviation Association |
| ICC | International Chamber of Commerce |
| IMO | International Maritime Organization |
| ISO | International Standards Organization |
| ISPS | International Security Port Standards |
| IVA | Mozambique Value Added Tax |

| | |
|--------|--|
| MCLI | Maputo Corridor Logistics Initiative |
| MDC | Maputo Development Corridor |
| MPDC | Maputo Port Development Company |
| MRA | Mozambique Revenue Authority |
| NCTTCA | Northern Corridor Transit Transport Coordination Authority |
| OSBP | One stop border post |
| PSS | Port Security Surcharge |
| RECs | Regional economic communities |
| ROE | Rate of Exchange |
| SA | South Africa |
| SAD | Single administrative document |
| SARS | South Africa Revenue Services |
| SADC | Southern African Development Community |
| SDI | Spatial Development Initiative |
| SEWS | Single Electronic Window System |
| SSA | Sub-Saharan Africa |
| SSATP | Sub-Saharan African Transport Policy |
| TFF | Trade Facilitation Facility |
| TFR | Transnet Freight Rail |
| TRAC | Trans-African Concession |
| UN-ECE | United Nations Economic Commission for Europe |
| VAT | Value added tax |
| WBCG | Walvis Bay Corridor Group |
| WCO | World Custom Organization |
| WTO | World Trade Organisation |

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A project like this cannot happen without the collaboration and cooperation of many stakeholders and the author would like to extend her appreciation to each and every MCLI stakeholder who has, over the years, contributed to the many workshops, meetings and workgroups, where the Mozambique transit regime has been debated at length in order to identify the impacts on the development and growth of the region and to find common solutions in line with regional best practice. A special word of thanks is also extended to Dr Antonio Matos, the Chairman of MCLI in Mozambique and Dr Kekobad Patel, an MCLI board member and CTA President of the Customs, Fiscal and International Trade Policy Committee, for their leadership and support in obtaining the output of this project, namely a proposal for legislation revision tabled with the Mozambican Revenue Authority through the office of the Director General of Customs.

Without the cooperation and collaboration of the Director General of Mozambique Customs, Dr Domingos Tivane and his team, this project would not have been possible. The consistent collaboration and excellent spirit of cooperation has motivated MCLI to pursue this project until its completion.

The invaluable inputs from the SARS Customs Experts team has greatly contributed to the project and has enabled a better understanding of best practice in South Africa, and the drawing of comparisons and the promotion of recommendations in line with neighbouring country practices.

The transit regime review project required corridor, trade as well as legal expertise and insight and the support of Dr Osorio Lucas from the Port of Maputo, my co-authors, Wendy de Goede, whose specialist inputs from a trade perspective and Soraia Issufo whose inputs from a legal perspective, have ensured that this project could be completed within the very tight time frames of the project. . Their dedication, team work and passion for the region made coordinating and managing this project a pleasure.

The continued good work being facilitated and funded by the SSATP regional integration program and the opportunity to bring this project with its report in both English and Portuguese to fruition is greatly appreciated.

Brenda Horne-Ferreira

Project Manager

EXECUTIVE SUMMARY

The objective of this MCLI Mozambique Transit Regime Project (Phase 1) was to carry out a diagnostic study of the existing Mozambican transit customs regime and to compare it to that of the South African government and SADC protocol and relevant international treaties. The customs transit legislation currently in force in the Republic of Mozambique was approved by Ministerial Diploma 10/2002 of 30 January, which approves the Customs Transit Regulations. This document identifies those areas which have a negative impact on the Maputo Corridor and Port of Maputo cargo flows with regard to costs, time, complexity and other negatives, and proposes changes to the Mozambican Revenue Authority with regard to legislation, policies and procedures. Transit imports through the port of Maputo for the SA hinterland have to compete with direct imports through South African ports where there are no transit regimes, and fewer costs and complexities. Another area of lost opportunity for Mozambique is encapsulated in the present complexities of the transshipment legislation, policies, processes and procedures in Mozambique through the port of Maputo, which drives importers in Beira and Nacala and their transit flows to neighbouring countries to rather have their freight transhipped in South African ports instead of utilising the port of Maputo. It is estimated that every additional vessel calling a Mozambican port adds around US\$ 250K revenue to the Mozambican economy which ultimately contributes to job creation and poverty alleviation.¹

MCLI has utilised a number of stakeholder meetings, expert inputs and other consultative mechanisms to ensure that this document presents the clear, consolidated voice of relevant industry stakeholders for the revisions to the Mozambican transit regime, which recommendations are contained in this report. We are gratified to find that these are in line with the proposals tabled by the Government of Mozambique regarding revisions already undertaken to facilitate the implementation of the Single Electronic Window System in Mozambique. If implemented in tandem, we are certain that these revisions will unblock substantial transit flows to Mozambican ports, release further investment and growth and ultimately make a substantial contribution to the economy of Mozambique and to the region.

¹ MPDC Presentation at MCLI workshop February 2010

The key recommendations for changes to the Mozambican transit regime are reflected as a summary at the end of this executive summary and are detailed under the five universal components of a transit regime:

- Customs Transit Regulations (CTR's),
- Bonds
- Manifests
- Transit process authorisation
- Stakeholder engagement

The implementation of these recommendations will have a significant impact on the competitiveness of the Maputo Corridor, and will have positive spill over effects on the other transit corridors of Mozambique, especially through the ports of Nacala and Beira.

We believe that not only the aforementioned diploma (i.e. 10/2002) needs revision, but also that amendments to any other legislation that impacts on the over-all efficiency of transit cargo movements, such as, but not exclusively, customs definitions, bonded areas, acquittal processes and the like, will ensure simplicity, enable benchmarked timelines and will ensure reduced costs.

Even though this project has been initiated by MCLI, which has as its core focus the promotion of increased cargo flows on the Maputo Corridor, it is clearly understood that proposals for revision of legislation, policy, process and procedures will impact on all Mozambican ports, hence it is the intention of this project to focus on the bigger picture which will ensure that Mozambique's bi-directional transit corridors become the first choice for the region's importers and exporters.

1. GENERAL CUSTOMS TRANSIT REGULATIONS (CTR's)

It is recommended that CTR's be amended to ensure that they are consistent with the relevant provisions and definitions of the SADC protocol as a first step to harmonise the procedures with the neighbouring countries.

2. BONDS

It is recommended that the definitions of RISK valuation be clarified to clearly establish the risk to be insured is that which is physically in transit at one time and at risk for loss of revenue to the state, with the preamble that for low risk, the requirement for a bond can be waived and that for continuous transit business an approved, authorised operator may operate under a comprehensive guarantee with the reference amount increased to \$25 Million fixed for a term such as a year and not with repeat applications to the General Director of Customs (DGA). Furthermore that the bonded status of the railways be clarified as not requiring a

bond in the same way as what transshipment goods ought to be acquitted at the last port of destination with no additional bond requirement.

3. MANIFESTS

It is recommended that the vessel manifest be submitted three days prior to arrival of vessel and that partial manifest be accepted, in order to facilitate pre-clearance and reduce the cost of time delays in the port.

4. TRANSIT PROCESS AUTHORISATION

It is recommended that copy documents and electronic submissions for all processes be accepted with clear time frames in order to speed up risk assessment, approval, pre-clearance, processing and acquittals of transit and transshipment cargo and that the charging of fees be abolished in line with the South African practice or be greatly reduced so as not to inhibit regional transit traffic. It is further recommended that the relevant power of authority of approval of the DGA be delegated to an appropriate senior official in order not to delay special transit approval processes.

5. STAKEHOLDER ENGAGEMENT

It is recommended that a customs team entirely dedicated to in-transit cargo be established and that this team, in its entirety, be located in one office close to the port of Maputo with all transit stakeholders, i.e. all customs departments, customs clearance agents, clearing and forwarding companies, shipping lines and terminal staff be located in one building and be linked to a common electronic system to ensure single entry and payment in order to shorten processing times and also to establish a regular operational transit customs forum, which MCLI can facilitate for the Maputo Corridor, whereby operational matters can be discussed and resolved with effective feedback into the corridor transit community.

Once the recommended changes to legislation have been adopted by the Government of Mozambique, the next phase (Phase 2) of the project will be required to produce an electronic manual of the said transit customs legislation, processes and procedures and to present the manual at a validation and training workshop aiming at enhancing the capacity of the Mozambican forwarding community to assist shippers, and ultimately increase the attractiveness of Mozambique as a bi-directional transit country.

CHAPTER 1: INTRODUCTION AND OVERVIEW

By definition a transit regime refers to the movement of goods on land corridors into a customs territory but which goods are not for local clearance and consumption; hence no payment or delayed payment of import duties, domestic consumption taxes or any other such charges normally due on imports apply. The purpose of the transit regime is thus to protect the revenues of the country through which the goods are transported (transit country) to avoid leakage into the domestic market.²

Transit regimes are based on three universal components, and this project seeks to make recommendations for improvements to the current Mozambican transit regime, namely bonds, manifest and the process for authorising transit operations, with the clear understanding that for optimised efficiency there needs to be trust, strong compliance and no motive to accommodate local interest.³

Mozambique is a signatory to GATT⁴ - General Agreement on Tariffs and Trade Resolution 31/94, of 20 September, which ratifies the final minutes incorporating the results of the multilateral commercial negotiations of the Uruguay Round/ General Agreement on Tariffs and Trade (GATT) which in article V provides for the freedom of transit states “There shall be freedom of transit through the territory of each Contracting Party, via the routes most convenient for international transit, for traffic in transit to or from the territory of other Contracting Parties”. Further, it affirms that: “except in cases of failure to comply with applicable customs laws and regulations, such traffic coming from or going to the territory of other contracting parties shall not be subject to any unnecessary delays or restrictions and shall be exempt from customs duties and from all transit duties or other charges imposed in respect of transit, except charges for

² Extensive reference of the World Bank publication - Border management modernisation – Editors - Gerard Mc Linder, Enrique Fanta, David Widdowson, Tom Doyle – chapter 17 – Transit regimes – Jean-Francois Arvis who is also extensively reference in this chapter to numerous other publications on transit regimes- Page 279

³ Extensive reference of the World Bank publication - Border management modernisation – Editors - Gerard Mc Linder, Enrique Fanta, David Widdowson, Tom Doyle – chapter 17 – Transit regimes – Jean-Francois Arvis who is also extensively reference in this chapter to numerous other publications on transit regimes- Page 280

4. GATT

transportation or those commensurate with administrative expenses entailed by transit or with the cost of services.”

Jean-Francois Arvis⁵ makes the comment that a transit regime is in essence, a public private partnership by which operators are authorized for transit when they meet a set of criteria and provide financial guarantees. In exchange, customs allows unimpeded transit for trucks or trains. The key requirements for a well-functioning transit system, developed over centuries, are universal and include:

- Customs should make sure the cargo is secure by sealing appropriately designed vehicles (closed trailers or containers).
- The principal of the transit operation—the owner of the goods, or, more often, his agent (a freight forwarder or trucker)—should deposit a guarantee (or a bond) covering the value of taxes and duties that would be due in the transit country.

The guarantee may depend on the fiscal risk of the operation: for instance, some products (such as alcohol) are considered high risk. The guarantee may be set according to the transit operator, and in some cases (such as railways) it may be waived.

- The regulation of transit operators is needed from both a customs and transport perspective, since the transit operator provides a service that includes both brokerage and transport.
- Customs should properly manage the information on goods in transit and, specifically, should reconcile information on entries into and exits from the customs territory. This is necessary to identify violations and potential leakages.

In the same spirit of the public private partnership alluded to by Arvis, a process of stakeholder engagement facilitated by MCLI with the Policy and Procedures Department, the Southern Region, as well as the Single Electronic Window team of the Mozambique customs department over a period of time has culminated in this project to identify current constraints and bottle necks as well as recommend workable solutions, (legal, policy, process and procedures) to ensure simplicity with regard to benchmarked timelines and minimum costs which will ensure that Mozambican ports become the first choice for the regions importers and exporters.

With the objective to deliver a well-documented report with recommendations for transit legislation revision, and to produce an electronic manual which will enhance the competitive

⁵ World Bank publication - Border management modernisation – Editors - Gerard Mc Linder, Enrique Fanta, David Widdowson, Tom Doyle – chapter 17 – Transit regimes – Jean-Francois Arvis – page 281

edge of the bi-directional, bi-lateral transit corridors of Mozambique, this report will cover the following:

Chapter 2 will cover the SSATP regional integration program, the Maputo Corridor as key transport corridor linking South Africa and Swaziland to the port of Maputo, MCLI as the multi-lateral, multi-stakeholder corridor institutional framework on the Maputo Corridor and the implementation agency for this project, and will include a section on the project activity background.

Chapter 3 prepared by the trade specialist will focus on container transit traffic, and will include detailed tables and a report on the findings of the diagnostic study of the current transit regime practices and identifies the negative impact of the Mozambique Transit Customs Regime on the Maputo Corridor and Port of Maputo cargo flows and provides a comparison to that of a prominent SA port with regards to costs, time, complexity and other negatives and details the economic impact of this on Mozambique and the regional economies. The best practice proposals and recommendations from a trade facilitation perspective are then reported on in detail. These will become the core drivers for the recommendations for changes to legislation for submission to the Mozambican Revenue Authority as well as the electronic policy and procedures manual which will be carried out as phase 2 of the project once the said legislation has been changed through the Mozambican Government protocol.

Chapter 4 on legislation which has been compiled by the legal experts in the project team, Sal e Calderia, will firstly review customs transit legislation currently in force in the Republic of Mozambique which was approved by Ministerial Diploma 10/2002 of 30 January, which approves the Customs Transit Regulations (the CTRs) and appendices, and will tabulate the documents studied during the legal review. Secondly, this chapter look at the CTR's scope; payment of customs duties and tariffs; guarantees; documents and procedures for transit and customs clearance and procedures for road, rail, air, maritime and "pipeline" transit. This is then followed by a high level review of international treaties and regional protocols on Transit Regimes. A table with the current provisions of Ministerial diploma 10/2002 as well as the proposed amendments already tabled by the customs authority, along with the proposals of the legal experts, and more general proposals from a legal perspective, are included.

In view of the commitment by revenue authorities within SADC who are signatories to the relevant protocol for greater harmonisation, and considering the extent of economic bi-lateral engagements between Mozambique and South Africa, then follows a section by a special research team of the South African Revenue Authorities (SARS) of the current bond and guarantees principles and procedures with a comparison table relevant to Mozambique and South Africa. This is then followed by recommendations from a legal perspective to improve on the Mozambique transit regime.

In conclusion a summary is given of the consolidated recommendations emanating from both a trade facilitation and legal perspective and are outlined under the five transit customs

focus areas, namely General CTR's, bonds, manifests, transit process authorisation and stakeholder engagement.

The report concludes with a copy of the letter of recommendation which MCLI under signature of the CEO and Chairman, will table through CTA to the DGA of customs for onward submission to the Mozambican Revenue Authority

CHAPTER 2: BACKGROUND

2.1 The SSATP Regional Integration Program

The following is an extract from the SSATP terms of reference July 2011

The SSATP program has obtained a Trade Facilitation Facility (TFF) of US\$4.1 million to finance a Corridor Facilitation Program over a period of two years starting June 2011. The TFF is a multi-donor trust fund administered by the World Bank, focusing on trade and transport facilitation activities in low income countries in Africa. Regional Economic Communities (RECs) and countries have embarked on a comprehensive program laying the foundation for efficient transport by strengthening the policy setting organizations for regional integration notably through the adoption of a proper institutional framework (corridor management authority) and the monitoring tools used (transport observatories). Performance indicators are critical for the design of trade facilitation interventions, and equally to measure the impact of current and future initiatives.

In a dialogue with RECs and Corridor authorities facilitated through SSATP program during a meeting held in Kigali in February 2011, a strong consensus emerged on the need to obtain and share between all stakeholders reliable and adequate data on corridor efficiency. As a result, the SSATP Corridor Facilitation Program (the “Program”) has been designed jointly with the RECs and the corridor authorities in response to that need.

The aim of the Program is to identify and prioritize interventions to reduce trade costs along key corridors in Sub-Saharan Africa. This will be achieved by pursuing two interrelated objectives:

- a) Develop systems to collect and manage data on the performance of key trade corridors and to assess the impact of trade facilitation initiatives by the private sector, governments and development agencies; and
- b) Promote mechanisms for the participation of all main stakeholders in the management of trade corridors, taking notably into account the specific needs of all the countries served through the corridor, coastal and landlocked.

Activities to be conducted on the corridors are related to:

- a) Developing Corridor Transport Observatories to collect and manage data on the performance of key trade corridors and to assess the impact of trade facilitation initiatives by the private sector, governments and development agencies:

- i. The NCTTCA (Northern Corridor Transit Transport Coordination Authority), comprising Kenya, Uganda, Rwanda, Burundi and DR Congo) is the authority for the Mombasa corridor
 - ii. The CCTTFA (Central Corridor Transit Transport Facilitation Agency, comprising Tanzania, Rwanda, Burundi, Uganda and DR Congo) is the authority for the Dar-Es-Salaam corridor serving East Africa landlocked countries
 - iii. The Dar-Es-Salaam Corridor is the authority for the corridor serving the Southern Africa countries of Zambia, DR Congo and Malawi
 - iv. The WBCG (Walvis Bay Corridor Group) is the group of corridors radiating from the port of Walvis Bay in Namibia, and serving Botswana and South Africa through the Trans-Kalahari; Zambia and DR Congo through the Trans-Capriivi; and Angola through the Trans-Cunene
 - v. The Douala Corridors serving from the port of Douala in Cameroon the landlocked countries of CAR and Chad
 - vi. The Abidjan Lagos Corridor Organization (ALCO) is the corridor body for the coastal road corridor stretching from Ivory Coast to Nigeria, through Ghana, Togo and Benin
 - vii. The West Africa Gateway Corridors, serving the three landlocked countries of Mali, Burkina Faso and Niger, from the West Africa coastal ports from Dakar in Senegal to Cotonou in Benin.
- b) Promoting mechanisms for the participation of main stakeholders in the management of trade corridors:
- i. Carry-out a facilitation diagnostic on the corridor linking the landlocked Ethiopia to the port of Berbera in Somaliland; and
 - ii. ***Review of the transit regime for MCLI (Maputo Corridor Logistics Initiative), which is the corridor group for the hinterland of the port of Maputo (Mozambique and South Africa)***

Source: SSATP

2.2 Maputo Corridor Background

The Maputo Development Corridor (MDC) is located in the lower south eastern region of Sub-Saharan Africa and primarily links the South Africa, Mozambique and Swaziland. The Corridor starts at the Port of Maputo in Mozambique and cuts across the Provinces of Maputo in Mozambique, and Mpumalanga in South Africa. It not only links the economic hub of Gauteng to the Port of Maputo, but incorporates growing economic

centres along the Corridor such as Witbank, Middleburg, Nelspruit and Komatipoort. It also provides access to other centres of economic activity such as Swaziland, Phalaborwa (South Africa) through “branches”.

The World Bank’s World Development report for 2007 listed Mozambique as the African country with the highest economic growth levels, with an average of 6% between 1995 and 2005. Real GDP growth was 7% and 6,5% in 2007 and 2008 respectively. Supporting this growth, to-date the private sector has committed more than US\$5 billion worth of investments in Southern Mozambique and Mpumalanga, South Africa.

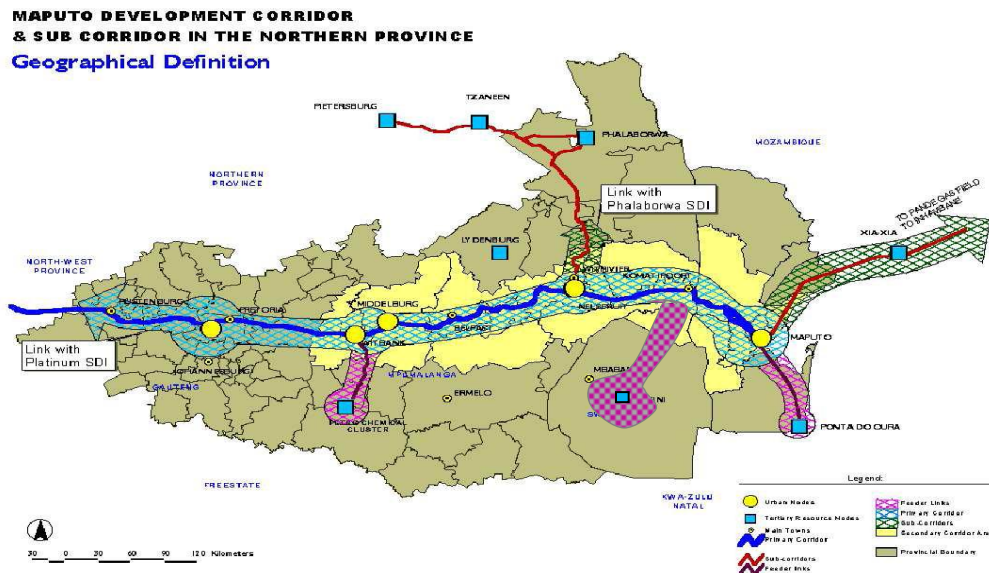
The growth outlook for Mozambique is significantly more favourable than for the overall group of sub-Saharan African countries,” with GDP in 2011 growing by 7.2 percent, or 1.7 percentage points above the regional average.

| Country | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
|----------------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Mozambique | 10 | 3.8 | 9.2 | 8 | 7 | 8.2 | 7.5 | 7.9 | 7.3 | 6.5 | 6.3 | 7 |

Definition ⁶ of GDP - real growth rate: This entry gives GDP growth on an annual basis adjusted for inflation and expressed as a percentage (%)

⁶ Source: [CIA World Fact book](#) - Unless otherwise noted, information in this page is accurate as of January 1, 2011

Detailed geographical definition of the Maputo Development Corridor MDC Source: SDI CSIR



The N4 National Road extends westward beyond Gauteng linking up to the Trans-Kalahari Corridor which cuts through landlocked Botswana and ends in Walvis Bay, Namibia. The MDC therefore forms part of larger east-west link across the southern tip of the continent. The other key infrastructural elements of Maputo Corridor include the rail line extending from Gauteng to the Port of Maputo, and various branch lines in South Africa and leading to Swaziland, as well as the Port of Maputo itself.

Source: SSATP Good practice series MCLI (2011)

2.3 Background to the Maputo Corridor Logistics Initiative

The organisation known as the MAPUTO CORRIDOR LOGISTICS INITIATIVE (MCLI) is a voluntary association not for gain, with legal personality and perpetual succession. MCLI is the formation of a grouping of infrastructure investors, service providers and users focused on the promotion and further development of the Maputo Corridor, as a contribution to the aims and objectives of the Maputo Development Corridor, namely:

- To rehabilitate, in partnership with the private sector, the primary infrastructure network along the Corridor, including road and rail links between South Africa and Maputo, the border post between the two neighbours, and the Port of Maputo.
- To maximise investment in the potential of the Corridor area and in added opportunities that infrastructure rehabilitation would create.
- To maximise social development and employment opportunities, and increase participation of historically disadvantaged communities.

- To ensure sustainability by developing policy, strategies and frameworks that ensure holistic, participatory and environmentally sustainable approaches to development.

MCLI is incorporated in South Africa as a non-profit membership organisation, with private and public sector members drawn from South Africa, Mozambique and Swaziland, with the mission to co-operate closely with organised business to engage with relevant authorities in order to coordinate and represent the combined views of all stakeholders involved in the investment, utilisation and provision of the infrastructure and services of the Corridor.

The strategic goal is to promote the Maputo Corridor as first choice for the region's importers and exporters and to facilitate the unblocking of trade constraints and bottlenecks on the corridor through a mutual platform with the governments of both South Africa and Mozambique and other neighbouring countries that stand to benefit by using the port of Maputo.

Substantial successes have been experienced on the corridor with constant increases in passenger and freight flows on the corridor through the road, rail border post, port and terminals. However MCLI's various stakeholder forums have shown that there are a number of legal and operational issues which impact negatively on the efficiency of the bi-directional flow of freight on the corridor, and MCLI, with the relevant public sector stakeholders, aspires to finding a solution to one such barrier, namely the un-competitive bi-directional transit cargo flow through the port of Maputo on the Maputo Corridor, due to the additional costs resulting from Mozambique transit customs legislation and the operationalization thereof

MCLI has been the main advocacy body on the Maputo Corridor for all aspects of freight moving along the Maputo Corridor and as such is well suited to managing this project; as evidenced by its access to key specialists required for this project.

Source: Some content of this chapter was taken from the SSATP Good Practice MCLI publication of 2011

2.4 Activity Background

The Maputo Corridor primarily serves its close South African hinterland. Compared to direct routing through South African ports, passing through Mozambique implies a

Customs Transit Regime. The freight forwarding community in Mozambique is less advanced than that of South Africa, and the constraints of transiting an international border, with the still comparatively low volumes and the imbalance in trade, are obstacles for the development of traffic along the corridor and for economic growth in Mozambique. The current Customs legislation for transit, and its implementation by the freight forwarding community in Mozambique, presents several constraints which need to be identified and addressed through adjustments of the legislations on one hand, and dissemination of training material on the other hand.

Furthermore, transit imports through the port of Maputo for the SA hinterland have to compete with direct imports through South African ports where there are no transit regimes, and fewer costs and complexities. Another area of lost opportunity for Mozambique is encapsulated in the present complexities of the transshipment legislation, policies, processes and procedures in Mozambique through the port of Maputo, which drives importers in Beira and Nacala and their transit flows to neighbouring countries to rather have their freight transhipped in South African ports instead of utilising the port of Maputo. It is estimated that every additional vessel calling a Mozambican port adds around US\$ 250K revenue to the Mozambican economy which ultimately contributes to job creation and poverty alleviation.⁷

The review and recommendations for changes to the transit regime, will, once implemented, have a significant impact on the competitiveness of the Maputo corridor, and will have positive spill over effects for the other transit corridors of Mozambique, specifically through the ports of Nacala and Beira.

In understanding the importance of collaboration between MCLI, the stakeholders and the customs department of the Mozambican Revenue Authority, the project was launched at a meeting on the 8th of September 2011 which was chaired by the Director General of Alfandegas, Dr. Domingo Tivane, and attended by MCLI representatives, senior representatives of the Policy and Procedures department, the Single Electronic Window project and the director for the Southern Region where the project objectives

⁷ MPDC Presentation at MCLI workshop February 2010

were clarified and the project outline presented to the Revenue Authority. Full support was given to the project.

This meeting was then followed up by a number of technical and hands-on stakeholder meetings which then culminated in the final joint stakeholder meeting with Mozambican Customs where the findings of the study, the recommendations and further discussions were tabled to form the final basis for the proposal to the Mozambican Revenue Authority.

The **key stakeholder workshop**⁸ of this phase of the project was held on the **5th of October 2011**, in Maputo and was well supported by 77 participants of whom >60 were present and participated to receive an update of progress and to validate and provide further inputs into the project findings and recommendations. The following stakeholders were represented at the workshop:

- MCLI Chairman
- DGA of Mozambique Customs
- MCLI relevant directors (Port & terminals & CFM)
- Key clearing and forwarding transit agents & despatchantes
- Shipping Lines
- CTA President of Customs affairs
- Representative from ACIS
- Representative from Single Electronic Window System
- Representative from the Ministry of transport and communication
- Relevant Transit customs representatives
- Project leader and Consultants

Also relevant was a presentation given by the head of the Mozambique Revenue Authority Manager for the Single Electronic Window System (SEWS) Project to give an

⁸ The meeting proceedings were simultaneously translated and also voice and DVD recorded. The relevant attendance registers, agendas, minutes, and presentations will be available on the MCLI website

update and understanding of the SEWS, with the focus on transit transactions, and which is in the process of being rolled out in a pilot phase. It was clear that many of the challenges faced by earlier transit importers and exporters will be addressed through this system and MCLI used the opportunity to encourage all industry participants to buy into the system with support and commitment.

The project driver to make recommendations to the transit regime is very timely as the same is being done to facilitate the SEWS and hence there is a lot of pressure on the project team to present the recommendations timely to the Mozambique Revenue Authorities, in order to have it mandated around the end of March 2012.

The desk study that preceded these meetings looked at information from the following sources:

Various meetings with leadership and team of Policy & Procedures Department of Alfandegas

- Inputs from Ports & Container shipping line forum
- Field Visit to Beira Port & Customs & Agents & ACIS
- Engagement with Alfandegas Single Electronic Window System Team
- MCLI transit customs workgroup minutes & notes (since 2008)
- MCLI Members & CTA relevant communication over time (since 2008)
- Presentations done at MCLI events
- SADC Protocol on Trade
- WTO – GATT section 5 and 7
- World Bank Reports/studies pertinent to corridors, transport, trade facilitation and customs transit regimes
- UNCTAD reports pertinent to trade facilitation and customs transit regimes
- Participation & reports at numerous regional trade facilitation platforms
- Non Trade Barriers lodged in Trademark System

The project was concluded with the presentation of the MCLI recommendations under the signature of the MCLI Chairman Dr Antonio Matos, through Dr Kekobad Patel, the CTA president for customs matters to The Head of Customs for submission to the president of the Mozambique Revenue Authority on 24 October 2011 as per the below submission,

Early indications are that the adoption process may not be concluded prior to the end of March 2012, due to the upcoming December holiday period and the SSATP program is requested to consider to change the expiry date of the project contract from the 31 March 2012 to be 45 days after government adoption and signatory date of the revised TCR's, should Phase 2 of the project still to be implemented.

CHAPTER 3: IMPORT, EXPORT AND TRANSHIPMENT VIA MAPUTO AND DURBAN

Cost, Time, Complexity and Financial Impact Comparison

Overview

This chapter is addressed from a trade facilitation perspective and will outline the cost, transit time, complexity and financial impact to shippers importing and exporting to and from Johannesburg, South Africa using the ports of Durban, South Africa versus Maputo Mozambique with the objective of understanding where the barriers to trade exist and proposing recommendations to unblock the potential of the Maputo Corridor, the Port of Maputo and, most of all, the economy and people of Mozambique and South Africa impacted by the corridor.

At present, the only mode where cargo is flowing from South Africa via Maputo is exports in which large volumes of coal, magnetite and chrome are shipped, primarily to China and India.

Transit imports and transshipments have been inhibited due to the lack of clear regulation by customs which has, in turn, posed an additional burden on the port. It is however widely held by the port and shipping industry that a revision to have the final port of destination the acquittal port, will greatly contribute to a reversal of this position and see substantial volumes currently being transhipped in Durban for Beira and Nacala reverting to the port of Maputo.

The top three cost differences⁹ between Durban, South Africa and Maputo, Mozambique, per mode were identified and evaluated. This highlighted the major areas that require focus in order for the corridor to attract additional cargo flows.

⁹ See table 1 below

While this study focuses primarily on transit cargo, some of the recommendations raised encompass general procedures such as the pre-clearance of cargo as this relates to all cargo being transported via Mozambique.

The largest single cost, time and complexity contributor relates to the interpretation and implementation of the current customs transit regime and the following 18 tables will demonstrate this. This study has been done in collaboration with the Policy and Procedures Department of the Mozambique Customs and recommendations for changes are being tabled for review.

It is to be noted that Mozambique Customs have already identified that legislation, processes and procedures require review and the Single Electronic Window System (SEWS) is in advanced stages of piloting its first phase. With the Single Electronic Window System in place, many of the issues in terms of time delays and efficiencies should be solved as the acquittal time frame will be reduced from 10 days to 2 days; pre-clearance as well as partial manifest clearance will be facilitated, to name but some of the practical improvements.

The aim of the Single Electronic Window System Project¹⁰:

- Provides a centralized electronic platform for trade;
- Reduces clearance times at land borders, port and airports;
- Increases revenue collection and;
- Reduces the cost of doing business in Mozambique.
- Provides real time tracking of all customs operations and ensure secure information about customs clearance process for each and any consignment;
- Insures the implementation of administrative and customs procedures;
- Centralizes and consolidates all the supply chain information;
- Compares expected data with real data and reveals discrepancies;

A major factor to consider with this study is that South Africa has a coastline with its own ports and shippers are not subject to any of the inherent complexities associated with a transit regime that land-locked countries have. While the streamlining and adopting of WCO, GATT, SADC and other global standards for a transit regime is essential as Mozambican ports serve many land-locked countries, when trying to attract South African cargo where shippers do not have to

¹⁰ Presented by SeWS team at stakeholder workshop 5 October 2011

deal with any transit regime at all, immediately Mozambique is competing against additional costs as a result of transit bonds and border and acquittal procedures and hence additional time and risk.

It is not easy to change shipping patterns, especially when there is no cost or transit time incentive. Add risk to the equation and cash flow issues in terms of the raising of bonds and the release of same, and it will be practically impossible to convince importers in South Africa to consider Maputo as a viable alternative to Durban.

In order for Mozambique to compete with Durban for Johannesburg region import cargo, many of the issues in terms of cost, time and complexity will have to be streamlined and reduced so the Johannesburg shipper experiences a cost-effective, regular, fast and reliable service via Maputo,

3.1 Import Transit Evaluation

3.1.1 Transit Import Costs

At present, there is very little containerised import transit moving via Maputo, Mozambique to South Africa. One of the main reasons is that import cargo is subject to transit bonds under the current transit regime, which increases the cost and transit time of the cargo and hence make it unviable as South African cargo moving via a South African port is not subject to any transit regime.

3.1.1.1 Shipment Assumptions

| | |
|--------------------|--|
| Commodity | Rail Equipment |
| Commodity value | USD50,000 |
| Container Size | 20'and 40' |
| Container Type | General Purpose or Dry containers |
| Container Weight | 21 mts / 20' and 22 mts / 40' |
| Port of Load | Shanghai, China |
| Port of Discharge | Durban, South Africa Maputo, Mozambique |
| Container Delivery | Isando, Johannesburg, South Africa |
| Terms of Sale | FOB Shanghai to DDU, Isando, South Africa |

3.1.1.2 Shipment Notes

General assumptions throughout this report

| | |
|-----------------|---|
| Rand to USD | A Rate of Exchange (ROE) of R7 to 1 USD has been used throughout this chapter |
| Costs at Tariff | This is an indication ONLY |
| Rate Validity | September, 2011 ONLY |

Transport Charges

Rail Charges Empty and Full cross-haul, CTO and Rail cost

Road Charges Empty cross-haul, Transport Order and Road cost

Road Cost No bi-directional flow. Round trip rates apply.

3.1.1.3 Transit Import Costs**TABLE 1: Cost Comparison between Maputo and Durban**

| CHARGE DESCRIPTION | 20' DRY/GP | | | | | | 40' DRY/GP | | | | | | | |
|-----------------------------|---------------|--------------|---------------|--------------|---------------|--------------|---------------|--------------|---------------|--------------|---------------|--------------|---------------|--------------|
| | Port Currency | | Durban | | Maputo | | MPO vs DUR | | Durban | | Maputo | | MPO vs DUR | |
| | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD |
| TRANSPORT | | | | | | | | | | | | | | |
| Empty 20'/40' Cross-Haul | 409 | 58 | 409 | 58 | 0 | 0 | 627 | 90 | 627 | 90 | 0 | 0 | 0 | 0 |
| Full 20'/40' Cross-Haul | 1 005 | 144 | 1 005 | 144 | 0 | 0 | 1 515 | 216 | 1 515 | 216 | 0 | 0 | 0 | 0 |
| Transport Order | 80 | 11 | 80 | 11 | 0 | 0 | 80 | 11 | 80 | 11 | 0 | 0 | 0 | 0 |
| Rail | 3 822 | 546 | 4 513 | 645 | 691 | 99 | 4 090 | 584 | 6 991 | 999 | 2 901 | 414 | 2 901 | 414 |
| Road * | 9 000 | 1 286 | 19 500 | 2 786 | 10 500 | 1 500 | 9 000 | 1 286 | 19 500 | 2 786 | 10 500 | 1 500 | 10 500 | 1 500 |
| RAIL CHARGES * | 5 316 | 759 | 6 007 | 858 | 691 | 99 | 6 312 | 902 | 9 213 | 1 316 | 2 901 | 414 | 2 901 | 414 |
| ROAD CHARGES * | 10 494 | 1 499 | 20 994 | 2 999 | 10 500 | 1 500 | 11 222 | 1 603 | 21 722 | 3 103 | 10 500 | 1 500 | 10 500 | 1 500 |
| CLEARING | | | | | | | | | | | | | | |
| Interest on Bond (1%) | 0 | 0 | 896 | 128 | 896 | 128 | 0 | 0 | 896 | 128 | 896 | 128 | 896 | 128 |
| Bond Cost - Finance (4%) | 0 | 0 | 3 675 | 525 | 3 675 | 525 | 0 | 0 | 3 675 | 525 | 3 675 | 525 | 3 675 | 525 |
| Guarantee Charges (4.1%) | 0 | 0 | 3 584 | 512 | 3 584 | 512 | 0 | 0 | 3 584 | 512 | 3 584 | 512 | 3 584 | 512 |
| Acquittal Charges (1%) | 0 | 0 | 896 | 128 | 896 | 128 | 0 | 0 | 896 | 128 | 896 | 128 | 896 | 128 |
| Border Transit Clearance | 0 | 0 | 200 | 29 | 200 | 29 | 0 | 0 | 200 | 29 | 200 | 29 | 200 | 29 |
| Transit Port Clearance | 0 | 0 | 700 | 100 | 700 | 100 | 0 | 0 | 700 | 100 | 700 | 100 | 700 | 100 |
| CLEARING CHARGES * | 0 | 0 | 9 951 | 1 422 | 9 951 | 1 422 | 0 | 0 | 9 951 | 1 422 | 9 951 | 1 422 | 9 951 | 1 422 |
| PORT | | | | | | | | | | | | | | |
| Cargo Dues / Port * | 1 052 | 150 | 602 | 86 | -450 | -64 | 2 105 | 301 | 1 078 | 154 | -1 027 | -147 | -1 027 | -147 |
| Terminal Handling - Line | 1 073 | 153 | 945 | 135 | -128 | -18 | 1 586 | 227 | 1 855 | 265 | 269 | 38 | 269 | 38 |
| Security Scanning Fee | 0 | 0 | 175 | 25 | 175 | 25 | 0 | 0 | 350 | 50 | 350 | 50 | 350 | 50 |
| PORT CHARGES | 2 125 | 304 | 1 722 | 246 | -403 | -58 | 3 691 | 527 | 3 283 | 469 | -408 | -58 | -408 | -58 |
| LINE - LOCAL | | | | | | | | | | | | | | |
| Container Release Fee | 175 | 25 | 1 050 | 150 | 875 | 125 | 175 | 25 | 1 295 | 185 | 1 120 | 160 | 1 120 | 160 |
| Bill of Lading | 300 | 43 | 0 | 0 | -300 | -43 | 300 | 43 | 0 | 0 | -300 | -43 | -300 | -43 |
| LINE - LOCAL CHARGES | 475 | 68 | 1 050 | 150 | 575 | 82 | 475 | 68 | 1 295 | 185 | 820 | 117 | 820 | 117 |
| LINE - FREIGHT | | | | | | | | | | | | | | |
| Freight | 3 150 | 450 | 4 760 | 680 | 1 610 | 230 | 4 900 | 700 | 9 520 | 1 360 | 4 620 | 660 | 4 620 | 660 |
| BAF | 5 950 | 850 | 5 950 | 850 | 0 | 0 | 11 900 | 1 700 | 11 900 | 1 700 | 0 | 0 | 0 | 0 |
| PSS | 2 100 | 300 | 0 | 0 | -2 100 | -300 | 4 200 | 600 | 0 | 0 | -4 200 | -600 | -4 200 | -600 |
| ISPS | 56 | 8 | 56 | 8 | 0 | 0 | 56 | 8 | 56 | 8 | 0 | 0 | 0 | 0 |
| FREIGHT CHARGES | 11 256 | 1 608 | 10 766 | 1 538 | -490 | -70 | 21 056 | 3 008 | 21 476 | 3 068 | 420 | 60 | 420 | 60 |
| TTL FOB-DDU BY RAIL | 19 172 | 2 739 | 29 496 | 4 214 | 10 324 | 1 475 | 31 534 | 4 505 | 45 218 | 6 460 | 13 684 | 1 955 | 13 684 | 1 955 |
| TTL FOB-DDU BY ROAD | 24 350 | 3 479 | 44 483 | 6 355 | 20 133 | 2 876 | 36 444 | 5 206 | 57 727 | 8 247 | 21 283 | 3 040 | 21 283 | 3 040 |

This table reflects: The high cost of transit regime as well as the high land transport cost due to empty haul and rail tariff policies

3.1.1.4 Bond / Guarantee Calculations

CIF, DUTY and IVA Calculation

The current means of calculating the customs value of goods by customs in order to determine the duty and VAT are applicable in Mozambique

CIF (Cost, Insurance, Freight) Calculation

| CIF CALCULATION | DESCRIPTION | USD | CALCULATION |
|------------------|-----------------|---------------|----------------------------|
| | Commodity value | 50 000 | Value of the commodity |
| | Freight | 5 000 | 10% of the commodity value |
| | Insurance | 1 000 | 2% of the commodity value |
| CIF Value | | 56 000 | |

Duty Calculation

| DUTY CALCULATION | DESCRIPTION | USD | CALCULATION |
|-------------------|--------------|--------------|-----------------------------------|
| | CIF Value | 56 000 | Cost, Insurance and Freight value |
| | Duty Percent | 5% | 5 % for the sample commodity |
| Duty Value | | 2 800 | |

IVA Calculation

| IVA CALCULATION | DESCRIPTION | USD | CALCULATION |
|------------------|------------------|--------------|----------------------|
| | CIF + Duty Value | 58 800 | CIF plus Duty values |
| | IVA Percent | 17% | IVA |
| IVA Value | | 9 996 | |

Risk Value and Bond Calculation

Risk Value Calculation

| RISK VALUE | DESCRIPTION | USD | CALCULATION |
|-------------------|------------------|---------------|---------------------------------|
| | Duties | 2 800 | 5 % for the sample commodity |
| | IVA | 9 996 | 17% of the CIF plus Duty values |
| Risk Value | CIF Value | 12 796 | |

Bond Amount in Meticas

| BOND AMOUNT | DESCRIPTION | MET | CALCULATION |
|-------------------------------|------------------|----------------|-----------------------------------|
| | Duties + IVA | 12 796 | 5 % for the sample commodity |
| | Rate of Exchange | 27.40 | Rate of Exchange. September, 2011 |
| Bond Amount in Meticas | | 350 610 | |

Individual Bond Cost Calculation

When cargo is moving on an individual bond, the below charges are applicable. There have been many different calculations that have been noted throughout the exercise.

It is recommended that the new legislation clearly stipulates what the applicable charges are for transit cargo and that these are aligned throughout the country.

| BOND COSTS | DESCRIPTION | USD | CALCULATION |
|------------------------------|--------------------|---------------|---------------------------------|
| | Amount to Lodge | 12 796 | Value of the commodity |
| | Bond Admin Fee | 525 | 4.1 % of the value to be lodged |
| | Bond Cost | 512 | 4% of the value to be lodged |
| | Acquittal Fee | 128 | 1% of the value to be lodged |
| | Interest on Amount | 128 | Interest rate at 12% |
| BOND COSTS TO BE PAID | | 14 088 | |
| COST EXCLUDING BOND * | | 1 292 | |

* Bond Refund

1. The bond amount lodged is returned, currently 10 days, after the shipment has been acquitted
2. The lodging of a bond hinders cash flow and has a direct cost in terms of interest lost
3. The length of time of acquittals hinders the flow of goods, especially for volume shippers

Bond Deduction Mechanism

At present, when a bond has been lodged with customs, the CIF value of a shipment is the amount used to reduce the bond amount. This means that a limit of 2-3 containers can move under that bond amount at a time.

If the risk value of the goods in transit was deducted instead of the CIF value, a greater volume of shipments could be moved under the same bond amount

Current Bond Deduction Mechanism

| BOND DEDUCTION | DESCRIPTION | USD | CALCULATION |
|-----------------------|---------------|---------------|-----------------------------------|
| | Amount Lodged | 150 000 | USD150,000 (see bond table) |
| | CIF Value | 56 000 | Cost, Insurance and Freight value |
| Bond Remaining | | 94 000 | |

Bond Deduction Mechanism based on Risk Value

| BOND DEDUCTION | DESCRIPTION | USD | CALCULATION |
|-----------------------|---------------|----------------|-----------------------------|
| | Amount Lodged | 150 000 | USD150,000 (see bond table) |
| | Risk Value | 12 796 | Duty and VAT |
| Bond Remaining | | 137 204 | |

3.1.1.5 Top 3 Import Cost Barriers

Bond/Guarantee Costs

The bond is one of the largest single barriers to importing to South Africa via Maputo. The bond cost is more than the freight cost for a 40' container, which makes it cost prohibitive with no savings on transit time to compensate.

The high bond cost is one of the factors contributing to the fact that very little transit import cargo is moving between Port Maputo and the South African markets, which has a direct effect on road transport costs since no bi-directional flow means that round trip road trip charges are applicable on the corridor

TABLE 2: Bond Cost Calculation

| CHARGE DESCRIPTION | Port Currency | 20' DRY/GP | | | | 40' DRY/GP | | | | | | | |
|--------------------------|------------------|------------|----------|--------------|--------------|--------------|--------------|----------|----------|--------------|--------------|--------------|--------------|
| | | Durban | | Maputo | | MPO vs DUR | | Durban | | Maputo | | MPO vs DUR | |
| | | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD |
| CLEARING | | | | | | | | | | | | | |
| Interest on Bond (1%) | | 0 | 0 | 896 | 128 | 896 | 128 | 0 | 0 | 896 | 128 | 896 | 128 |
| Bond Cost - Finance (4%) | | 0 | 0 | 3 675 | 525 | 3 675 | 525 | 0 | 0 | 3 675 | 525 | 3 675 | 525 |
| Guarantee Charges (4.1%) | | 0 | 0 | 3 584 | 512 | 3 584 | 512 | 0 | 0 | 3 584 | 512 | 3 584 | 512 |
| Acquittal Charges (1%) | | 0 | 0 | 896 | 128 | 896 | 128 | 0 | 0 | 896 | 128 | 896 | 128 |
| Border Transit Clearance | | 0 | 0 | 200 | 29 | 200 | 29 | 0 | 0 | 200 | 29 | 200 | 29 |
| Transit Port Clearance | | 0 | 0 | 700 | 100 | 700 | 100 | 0 | 0 | 700 | 100 | 700 | 100 |
| CLEARING CHARGES | | 0 | 0 | 9 951 | 1 422 | 9 951 | 1 422 | 0 | 0 | 9 951 | 1 422 | 9 951 | 1 422 |

Note: This example is based on a commodity with a low duty % of 5% whereas the duty can be between 20-25%. With increased duty values, the cost barrier increase.-,

Road Transport Rates

Given that there is no bi-directional flow of cargo, currently round trip rates are applied to the corridor. This makes the cost prohibitive.

TABLE 3: Round Trip Road Costs

| CHARGE DESCRIPTION | Port Currency | 20' DRY/GP | | | | 40' DRY/GP | | | | | | | |
|--------------------------|------------------|--------------|--------------|---------------|--------------|---------------|--------------|--------------|--------------|---------------|--------------|---------------|--------------|
| | | Durban | | Maputo | | MPO vs DUR | | Durban | | Maputo | | MPO vs DUR | |
| | | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD |
| TRANSPORT | | | | | | | | | | | | | |
| Empty 20'/40' Cross-Haul | | 409 | 58 | 409 | 58 | 0 | 0 | 627 | 90 | 627 | 90 | 0 | 0 |
| Transport Order | | 80 | 11 | 80 | 11 | 0 | 0 | 80 | 11 | 80 | 11 | 0 | 0 |
| Road | | 9 000 | 1 286 | 19 500 | 2 786 | 10 500 | 1 500 | 9 000 | 1 286 | 19 500 | 2 786 | 10 500 | 1 500 |
| ROAD CHARGES | | 9 489 | 1 356 | 19 989 | 2 856 | 10 500 | 1 500 | 9 707 | 1 387 | 20 207 | 2 887 | 10 500 | 1 500 |

For road transport the 20' rate is used based on a weight class of 13 metric tons per 20' as the majority of cargo moves in this category, even though a truck can carry 1 x 40' at 26 metric tones or 2 x 20'

Table 4 demonstrates that if there were bi-directional flows, this cost would be far more competitive in comparison to South Africa.

TABLE 4: Standard Road Costs

| CHARGE DESCRIPTION | Port Currency | 20' DRY/GP | | | | | | 40' DRY/GP | | | | | |
|--------------------------|------------------|--------------|--------------|---------------|--------------|------------|------------|--------------|--------------|---------------|--------------|------------|------------|
| | | Durban | | Maputo | | MPO vs DUR | | Durban | | Maputo | | MPO vs DUR | |
| | | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD |
| TRANSPORT | | | | | | | | | | | | | |
| Empty 20'/40' Cross-Haul | | 409 | 58 | 409 | 58 | 0 | 0 | 627 | 90 | 627 | 90 | 0 | 0 |
| Transport Order | | 80 | 11 | 80 | 11 | 0 | 0 | 80 | 11 | 80 | 11 | 0 | 0 |
| Road | | 9 000 | 1 286 | 9 750 | 1 393 | 750 | 107 | 9 000 | 1 286 | 9 750 | 1 393 | 750 | 107 |
| ROAD CHARGES | | 9 489 | 1 356 | 10 239 | 1 463 | 750 | 107 | 9 707 | 1 387 | 10 457 | 1 494 | 750 | 107 |

Rail Transport Rates

While 20' rail costs are competitive, the 40' rail costs are significantly different. The majority of import cargo to Johannesburg is in 40' containers, so this cost has an enormous impact for the corridor.

The rate differential is due to the fact that South African rates for 40' containers are aligned with 20' container costs as South African imports are in 40' containers while the majority of exports are 20' containers. Rates are geared to making exports in 40' containers more attractive and to direct 40' containers to South Africa rather than Mozambique ports

TABLE 5: Rail Transport Costs

| CHARGE DESCRIPTION | Port Currency | 20' DRY/GP | | | | | | 40' DRY/GP | | | | | |
|--------------------------|------------------|--------------|------------|--------------|------------|------------|-----------|--------------|------------|--------------|--------------|--------------|------------|
| | | Durban | | Maputo | | MPO vs DUR | | Durban | | Maputo | | MPO vs DUR | |
| | | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD |
| TRANSPORT | | | | | | | | | | | | | |
| Empty 20'/40' Cross-Haul | | 409 | 58 | 409 | 58 | 0 | 0 | 627 | 90 | 627 | 90 | 0 | 0 |
| Transport Order | | 80 | 11 | 80 | 11 | 0 | 0 | 80 | 11 | 80 | 11 | 0 | 0 |
| Rail | | 3 822 | 546 | 4 513 | 645 | 691 | 99 | 4 090 | 584 | 6 991 | 999 | 2 901 | 414 |
| RAIL CHARGES | | 4 311 | 616 | 5 002 | 715 | 691 | 99 | 4 797 | 685 | 7 698 | 1 100 | 2 901 | 414 |

3.1.2 Transit Import Transit Time

The major areas impacting the transit time via Maputo is the fact that no pre-clearance of cargo takes place prior to the vessel in arrival in port. The last process, which can take between 24-36 hours after the vessel arrives, results in immediate delays to cargo, compared to South Africa. Furthermore, shipping line calls to Maputo are export and not import driven, resulting to extended transit times.

TABLE 6: Import Transit Time Comparison

| TASK DESCRIPTION | DURBAN | | MAPUTO | | MPO vs DUR | |
|----------------------------|-----------|-----------|-----------|-----------|------------|-----------|
| | Mode | Days | | Days | | Days |
| | Rail | Road | Rail | Road | Rail | Road |
| TRANSPORT TIME | | | | | | |
| Container Terminal Order | 0 | 0 | 0 | 0 | 0 | 0 |
| Rail Stack Time | 3 | 0 | 3 | 0 | 0 | 0 |
| Transit | 2 | 1 | 3 | 2 | 1 | 1 |
| TRANSPORT TIME | 5 | 1 | 6 | 2 | 1 | 1 |
| CLEARING TIME | | | | | | |
| Port Transit Clearance | 0 | 0 | 3 | 3 | 3 | 3 |
| Border Transit Clearance | 0 | 0 | 1 | 1 | 1 | 1 |
| CLEARING TIME | 0 | 0 | 4 | 4 | 4 | 4 |
| PORT TIME | | | | | | |
| Security Scanning Time | 0 | 0 | 1 | 1 | 1 | 1 |
| PORT TIME | 0 | 0 | 1 | 1 | 1 | 1 |
| LINE - LOCAL TIME | | | | | | |
| Import Release | 0 | 0 | 0 | 0 | 0 | 0 |
| LANDSIDE TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| LINE - FREIGHT TIME | | | | | | |
| Ocean Transit Time | 19 | 19 | 27 | 27 | 8 | 8 |
| FREIGHT TIME | 19 | 19 | 27 | 27 | 8 | 8 |
| TOTAL TRANSIT TIME | 24 | 20 | 38 | 34 | 14 | 14 |

3.1.3 Top 3 Import Time Barriers

3.1.3.1 No Pre-clearance of Cargo

The last process to complete the documents for clearance can only be done when the vessel number is allocated by the port authorities. This can take from 24hrs to 36 hours after the vessel has arrived.

Legislation requires that the master of the vessel submits the shipping line manifest on arrival. This is in the process of being changed to ensure that the manifest is submitted in advance of the vessel arrival in order for all processes to happen in advance to ensure that the cargo can be released on arrival for delivery to the consignee.

3.1.3.2 Clearance Procedures

Original Documents required for Clearing

In South Africa, clearance takes place on presentation of e-mail copies of original documents except in cases where EUR1 or other tax rebate programmes are in place. Original documents are only called for if the shipment comes under scrutiny.

No Telex Releases or Waybills allowed to be presented to Customs

In Mozambique, waybills and telex releases are not acceptable and only Bills of lading are acceptable. This means that there are no express clearing documents accepted. Particularly when considering areas with short transit times, this often results in delays to the clearance process as Bills of lading have to be submitted, sent to banks for approval and then couriered to destination which requires time.

Security Scanning Process

The scanning of cargo for security purposes is a separate process and only cash payments are accepted. Agents have to pay and get a stamp for every container scanned prior to release taking place.

At present, no agents are allowed to operate on account so it is a physical process per container and a cash transaction. Having the payments automated through electronic bank payments, even possibly through the SeWS or having accounts with large agents to facilitate the process is recommended.

3.1.3.3 Shipping Line Transit Time

The major difference in transit time is due to Maputo calls being scheduled as export calls and not import calls as imports are limited. This means that ships call Durban to discharge imports before calling Maputo where the majority of cargo is destined for exports. Increased imports will justify shipping lines calling Maputo first and reduce shipping time and costs

3.1.4 Transit Imports Complexity Indicator

The below table evaluates processes between South Africa and Mozambique to understand where the complexities lie.

Given that South Africa has no transit regime requirements when importing via South Africa ports, the process via Maputo will immediately add a lot of complexity to shipments.

In the table below, 0 indicates not complex, while 1 means that that process is complex.

TABLE 7: Import Transit Complexity Indicator

| TASK DESCRIPTION | DURBAN | | MAPUTO | |
|----------------------------------|-------------------|----------|-------------------|----------|
| | Complexity Rating | | Complexity Rating | |
| Mode | Rail | Road | Rail | Road |
| Transport Complexity | | | | |
| Mode | 1 | 0 | 1 | 1 |
| Transport Complexity | 1 | 0 | 1 | 1 |
| Clearing Complexity | | | | |
| Bond Requirement | 0 | 0 | 1 | 1 |
| Port Transit Clearance | 0 | 0 | 1 | 1 |
| Border Transit Clearance | 0 | 0 | 1 | 1 |
| Clearing Complexity | 0 | 0 | 3 | 3 |
| Port Complexity | | | | |
| Security Scanning | 0 | 0 | 1 | 1 |
| Port Complexity | 0 | 0 | 1 | 1 |
| Line - Local Complexity | | | | |
| None | 0 | 0 | 0 | 0 |
| SL Landside Complexity | 0 | 0 | 0 | 0 |
| Line - Freight Complexity | | | | |
| None | 0 | 0 | 0 | 0 |
| SL Freight Complexity | 0 | 0 | 0 | 0 |
| TOTAL Transit Complexity | 1 | 0 | 5 | 5 |

3.1.5 Transit Imports Financial Impact

Table 8 highlights all the additional costs that apply when shipping to South Africa via Maputo.

Furthermore, when there are delays in the shipping or transport supply chain, costs are incurred in the form of port storage, truck demurrage and container detention. These costs pose a serious risk to shippers as they accrue on a daily basis and in many cases can render goods being transported unviable commercially once they have been subjected to charges as a result of delays.

Included in Table 8 are the following costs:

Truck detention costs: 1 day delay costs ZAR4500 or USD643

Container Detention: 1 day costs ZAR350 or USD50

Port storage costs: 1 day storage per container is ZAR98 or USD14/28

Rand to USD A Rate of Exchange (ROE) of R7 to 1 USD has been used

Indirect costs to shippers in terms of delays are very difficult to calculate, however these are considerable, especially when financing has to be obtained to purchase goods which cannot be recovered until the goods are sold.

TABLE 8: Import Transit Financial Impacts

| CHARGE DESCRIPTION | Port Currency | 20' DRY/GP | | | | | | 40' DRY/GP | | | | | |
|-----------------------------|------------------|--------------|--------------|---------------|--------------|---------------|--------------|--------------|--------------|---------------|--------------|---------------|--------------|
| | | Durban | | Maputo | | MPO vs DUR | | Durban | | Maputo | | MPO vs DUR | |
| | | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD |
| TRANSPORT | | | | | | | | | | | | | |
| Rail Differential | | 3 822 | 546 | 4 513 | 645 | 691 | 99 | 4 090 | 584 | 6 991 | 999 | 2 901 | 414 |
| Road Differential | | 9 000 | 1 286 | 19 500 | 2 786 | 10 500 | 1 500 | 9 000 | 1 286 | 19 500 | 2 786 | 10 500 | 1 500 |
| Truck Detention (per day) | | 0 | 0 | 4 500 | 643 | 4 500 | 643 | 0 | 0 | 4 500 | 643 | 4 500 | 643 |
| RAIL CHARGES | | 3 822 | 546 | 4 513 | 645 | 691 | 99 | 4 090 | 584 | 6 991 | 999 | 2 901 | 414 |
| ROAD CHARGES | | 9 000 | 1 286 | 24 000 | 3 429 | 15 000 | 2 143 | 9 000 | 1 286 | 24 000 | 3 429 | 15 000 | 2 143 |
| CLEARING | | | | | | | | | | | | | |
| Bond / Clearing Charges | | 0 | 0 | 9 951 | 1 422 | 9 951 | 1 422 | 0 | 0 | 9 951 | 1 422 | 9 951 | 1 422 |
| Clearing Time | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| CLEARING CHARGES * | | 0 | 0 | 9 951 | 1 422 | 9 951 | 1 422 | 0 | 0 | 9 951 | 1 422 | 9 951 | 1 422 |
| PORT | | | | | | | | | | | | | |
| Port Storage (Per day) | | 0 | 0 | 98 | 14 | 98 | 14 | 0 | 0 | 196 | 28 | 196 | 28 |
| Scanning Time | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| PORT CHARGES | | 0 | 0 | 98 | 14 | 98 | 14 | 0 | 0 | 196 | 28 | 196 | 28 |
| LINE - LOCAL | | | | | | | | | | | | | |
| Container Release | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| LINE - LOCAL CHARGES | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| LINE - FREIGHT | | | | | | | | | | | | | |
| Detention (Per day) | | 0 | 0 | 350 | 50 | 350 | 50 | 0 | 0 | 700 | 100 | 700 | 100 |
| FREIGHT CHARGES | | 0 | 0 | 350 | 50 | 350 | 50 | 0 | 0 | 700 | 100 | 700 | 100 |
| TTL FOB-DDU BY RAIL | | 3 822 | 546 | 14 912 | 2 130 | 11 090 | 1 584 | 4 090 | 584 | 17 838 | 2 549 | 13 748 | 1 964 |
| TTL FOB-DDU BY ROAD | | 9 000 | 1 286 | 34 399 | 4 914 | 25 399 | 3 628 | 9 000 | 1 286 | 34 847 | 4 979 | 25 847 | 3 692 |

Cost of Delays

Certain instances have been noted where large numbers of containers have been remained un-cleared in port for up to 21 days. The financial impact per container is outlined in Table 9

Port Free Time 10 days

Container Free Time 5 day

TABLE 9: Costs of Delays

| CHARGE DESCRIPTION | Units Currency | 20' DRY/GP | | | | 40' DRY/GP | | | | | | | |
|-------------------------|-------------------|------------|--------|------------|-----------|--------------|------------|------------|------------|---------------|--------------|--|--|
| | | Days | | Unit Cost | | Cost per 20' | | Unit Cost | | Cost per 20' | | | |
| | | Freetime | To Pay | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | | |
| Delay Cost Areas | | | | | | | | | | | | | |
| Port Storage | | 10 | 11 | 200 | 14 | 2 200 | 154 | 196 | 28 | 2 156 | 308 | | |
| Container Detention | | 5 | 16 | 200 | 50 | 3 200 | 800 | 700 | 100 | 11 200 | 1 600 | | |
| Total Costs | | | | 400 | 64 | 5 400 | 954 | 896 | 128 | 13 356 | 1 908 | | |

The risk to shippers of any delays is enormous if delays occur and this element would need to be eliminated for shippers to gain confidence in using the Maputo Corridor.

Again, the above charges do not include any charges to the shipper of interest on the goods not received and in many cases paid for, or the direct loss to business of lost orders

3.2 Export Transit Evaluation

At present, transit exports represent the bulk of the cargo moving on the Maputo Corridor from South Africa, via Maputo to international destinations. The main markets that are attractive are the eastern markets, such as China and India, owing to geographic location and shipping line trade routes. Cargo going to many western destinations is still, in many cases, transhipped in Durban for on-carriage on mainline vessels to Europe, the USA and South America.

The main driver for exports via Maputo instead of Durban or other South Africa ports is the distance and hence transport costs from the producer to Maputo, versus to a South African port as many of the other charges such as the port and shipping costs are as competitive as when shipping via South Africa. The closer to Maputo the producer is, the further he is from a South African port and hence the cost saving on trucking and rail justify the increased complexity inherent in shipping via another country with prescribed transit controls and procedures.

It is to be noted that when shipping via Maputo, South African exporters are not required to provide bonds or guarantees and goods are required to be taken directly into the port precinct which is as such considered a bonded facility. This has greatly facilitated the movement of cargo via Mozambique, by both road and rail.

The focus of this study is to compare the costs for a Johannesburg based shipper, the largest container catchment area for cargoes on the corridor, that are not commodity based, such as mining houses that are based further on the corridor towards Maputo and have the added benefit of shorter distances and hence lower costs.

3.2.1 Transit Export Costs

3.2.1.1 Shipment Assumptions

| | |
|----------------------|--|
| Commodity | Rail Equipment |
| Commodity value | ZAR250,000 |
| Container Size | 20'and 40' |
| Container Type | General Purpose or Dry Containers |
| Container Weight | 21 mts / 20' and 22 mts / 40' |
| Container Collection | Isando, Johannesburg, South Africa |
| Port of Load | Durban, South Africa Maputo, Mozambique |
| Port of Discharge | Shanghai, China |
| Terms of Sale | FOB Johannesburg to DDU, Shanghai |

3.2.1.2 Notes

General

| | |
|-----------------|---|
| Rand to USD | A ROE of 7 has been used in this exercise |
| Costs at Tariff | This is an indication ONLY |
| Rate Validity | September, 2011 ONLY |

Transport Charges

| | |
|--------------|---|
| Rail Charges | Empty and Full cross-haul, CTO and Rail cost |
| Road Charges | Empty cross-haul, Transport Order and Road cost |
| Road Cost | No bi-directional flow. Round trip rates apply. |

3.2.1.3 Transit Export Costs

TABLE 10: Export Transit Cost Comparison

| CHARGE DESCRIPTION | Port Currency | 20' DRY/GP | | | | 40' DRY/GP | | | | | | | |
|-----------------------------|------------------|---------------|--------------|---------------|--------------|---------------|--------------|---------------|--------------|---------------|--------------|---------------|--------------|
| | | Durban | | Maputo | | MPO vs DUR | | Durban | | Maputo | | MPO vs DUR | |
| | | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD |
| TRANSPORT | | | | | | | | | | | | | |
| Empty 20'/40' Cross-Haul | | 409 | 58 | 409 | 58 | 0 | 0 | 627 | 90 | 627 | 90 | 0 | 0 |
| Full 20'/40' Cross-Haul | | 1 005 | 144 | 1 005 | 144 | 0 | 0 | 1 515 | 216 | 1 515 | 216 | 0 | 0 |
| Transport Order | | 80 | 11 | 80 | 11 | 0 | 0 | 80 | 11 | 80 | 11 | 0 | 0 |
| Rail | | 4 197 | 600 | 4 513 | 645 | 316 | 45 | 4 486 | 641 | 6 991 | 999 | 2 505 | 358 |
| Road * | | 9 000 | 1 286 | 19 500 | 2 786 | 10 500 | 1 500 | 9 000 | 1 286 | 19 500 | 2 786 | 10 500 | 1 500 |
| RAIL CHARGES * | | 5 691 | 813 | 6 007 | 858 | 316 | 45 | 6 708 | 958 | 9 213 | 1 316 | 2 505 | 358 |
| ROAD CHARGES * | | 10 494 | 1 499 | 20 994 | 2 999 | 10 500 | 1 500 | 11 222 | 1 603 | 21 722 | 3 103 | 10 500 | 1 500 |
| CLEARING | | | | | | | | | | | | | |
| Border Transit Clearance | | 0 | 0 | 200 | 29 | 200 | 29 | 0 | 0 | 200 | 29 | 200 | 29 |
| Transit Port Clearance | | 0 | 0 | 700 | 100 | 700 | 100 | 0 | 0 | 700 | 100 | 700 | 100 |
| CLEARING CHARGES * | | 0 | 0 | 900 | 129 | 900 | 129 | 0 | 0 | 900 | 129 | 900 | 129 |
| PORT | | | | | | | | | | | | | |
| Cargo Dues / Port * | | 1 052 | 150 | 602 | 86 | -450 | -64 | 2 015 | 301 | 1 078 | 154 | -937 | -134 |
| Terminal Handling - Line | | 1 073 | 153 | 945 | 135 | -128 | -18 | 1 586 | 227 | 1 855 | 265 | 269 | 38 |
| Security Scanning Fee | | 0 | 0 | 175 | 25 | 175 | 25 | 0 | 0 | 350 | 50 | 350 | 50 |
| PORT CHARGES | | 2 125 | 304 | 1 722 | 246 | -403 | -58 | 3 601 | 527 | 3 283 | 469 | -318 | -45 |
| LINE - LOCAL | | | | | | | | | | | | | |
| Container Release Fee | | 375 | 54 | 0 | 0 | -375 | -54 | 515 | 74 | 0 | 0 | -515 | -74 |
| Bill of Lading | | 320 | 46 | 700 | 100 | 380 | 54 | 320 | 46 | 700 | 100 | 380 | 54 |
| LINE - LOCAL CHARGES | | 695 | 99 | 700 | 100 | 5 | 1 | 835 | 119 | 700 | 100 | -135 | -19 |
| LINE - FREIGHT | | | | | | | | | | | | | |
| Freight | | 2 450 | 350 | 2 450 | 350 | 0 | 0 | 2 940 | 420 | 2 940 | 420 | 0 | 0 |
| BAF | | 2 555 | 365 | 2 555 | 365 | 0 | 0 | 5 110 | 730 | 5 110 | 730 | 0 | 0 |
| ISPS | | 63 | 9 | 63 | 9 | 0 | 0 | 63 | 9 | 63 | 9 | 0 | 0 |
| FREIGHT CHARGES | | 5 068 | 724 | 5 068 | 724 | 0 | 0 | 8 113 | 1 159 | 8 113 | 1 159 | 0 | 0 |
| TTL FOB-DDU BY RAIL | | 13 579 | 1 940 | 14 397 | 2 057 | 818 | 117 | 19 257 | 2 764 | 22 209 | 3 173 | 2 952 | 422 |
| TTL FOB-DDU BY ROAD | | 18 382 | 2 626 | 29 384 | 4 198 | 11 002 | 1 572 | 23 771 | 3 409 | 34 718 | 4 960 | 10 947 | 1 564 |

This table reflects: The high land transport cost due to empty haul and rail tariff policies, based on the assumption that due to the costly transit regime there is very little transit imports.

3.2.1.4 Top 3 Cost Barriers

Road Transport Round Trip Rates

Empty cross-haul, Transport Order and Road cost

TABLE 11: Round Trip Road Rates

| CHARGE DESCRIPTION | Port Currency | 20' DRY/GP | | | | 40' DRY/GP | | | | | | | |
|--------------------------|------------------|--------------|--------------|---------------|--------------|---------------|--------------|--------------|--------------|---------------|--------------|---------------|--------------|
| | | Durban | | Maputo | | MPO vs DUR | | Durban | | Maputo | | MPO vs DUR | |
| | | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD |
| TRANSPORT | | | | | | | | | | | | | |
| Empty 20'/40' Cross-Haul | | 409 | 58 | 409 | 58 | 0 | 0 | 627 | 90 | 627 | 90 | 0 | 0 |
| Transport Order | | 80 | 11 | 80 | 11 | 0 | 0 | 80 | 11 | 80 | 11 | 0 | 0 |
| Road | | 9 000 | 1 286 | 19 500 | 2 786 | 10 500 | 1 500 | 9 000 | 1 286 | 19 500 | 2 786 | 10 500 | 1 500 |
| ROAD CHARGES | | 9 489 | 1 356 | 19 989 | 2 856 | 10 500 | 1 500 | 9 707 | 1 387 | 20 207 | 2 887 | 10 500 | 1 500 |

However, this would be reduced to a competitive rate were there bi-directional flows as demonstrated in Table 11.

TABLE 12: Standard Road Rates

| CHARGE DESCRIPTION | Port Currency | 20' DRY/GP | | | | | | 40' DRY/GP | | | | | |
|--------------------------|------------------|--------------|--------------|---------------|--------------|------------|------------|--------------|--------------|---------------|--------------|------------|------------|
| | | Durban | | Maputo | | MPO vs DUR | | Durban | | Maputo | | MPO vs DUR | |
| | | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD |
| TRANSPORT | | | | | | | | | | | | | |
| Empty 20'/40' Cross-Haul | | 409 | 58 | 409 | 58 | 0 | 0 | 627 | 90 | 627 | 90 | 0 | 0 |
| Transport Order | | 80 | 11 | 80 | 11 | 0 | 0 | 80 | 11 | 80 | 11 | 0 | 0 |
| Road | | 9 000 | 1 286 | 9 750 | 1 393 | 750 | 107 | 9 000 | 1 286 | 9 750 | 1 393 | 750 | 107 |
| ROAD CHARGES | | 9 489 | 1 356 | 10 239 | 1 463 | 750 | 107 | 9 707 | 1 387 | 10 457 | 1 494 | 750 | 107 |

Rail Transport Rates

There is a small difference in rates for 20' containers. As the majority of exports from South Africa are in 20' containers, the rate difference does not impact as heavily on exports as it does on imports,

TABLE 13: Rail Transport Rates

| CHARGE DESCRIPTION | Port Currency | 20' DRY/GP | | | | | | 40' DRY/GP | | | | | |
|--------------------------|------------------|--------------|------------|--------------|------------|------------|-----------|--------------|------------|--------------|--------------|--------------|------------|
| | | Durban | | Maputo | | MPO vs DUR | | Durban | | Maputo | | MPO vs DUR | |
| | | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD |
| TRANSPORT | | | | | | | | | | | | | |
| Empty 20'/40' Cross-Haul | | 409 | 58 | 409 | 58 | 0 | 0 | 627 | 90 | 627 | 90 | 0 | 0 |
| Transport Order | | 80 | 11 | 80 | 11 | 0 | 0 | 80 | 11 | 80 | 11 | 0 | 0 |
| Rail | | 4 197 | 600 | 4 513 | 645 | 316 | 45 | 4 486 | 641 | 6 991 | 999 | 2 505 | 358 |
| RAIL CHARGES | | 4 686 | 669 | 5 002 | 715 | 316 | 45 | 5 193 | 742 | 7 698 | 1 100 | 2 505 | 358 |

Transit Clearing Rates

In addition to the South African clearing process, there is a customs process at the border and at the port of exit in Mozambique as agents are required to process the documentation. With improved efficiencies, reduced time and increased volumes, we believe that these costs can be reduced.

TABLE 14: Transit Clearing Rates

| CHARGE DESCRIPTION | Port Currency | 20' DRY/GP | | | | | | 40' DRY/GP | | | | | |
|---------------------------|------------------|------------|----------|------------|------------|------------|------------|------------|----------|------------|------------|------------|------------|
| | | Durban | | Maputo | | MPO vs DUR | | Durban | | Maputo | | MPO vs DUR | |
| | | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD |
| CLEARING | | | | | | | | | | | | | |
| Border Transit Clearance | | 0 | 0 | 200 | 29 | 200 | 29 | 0 | 0 | 200 | 29 | 200 | 29 |
| Transit Port Clearance | | 0 | 0 | 700 | 100 | 700 | 100 | 0 | 0 | 700 | 100 | 700 | 100 |
| CLEARING CHARGES * | | 0 | 0 | 900 | 129 | 900 | 129 | 0 | 0 | 900 | 129 | 900 | 129 |

3.2.2 Transit Export Transit Time

Exporting via Maputo instead of Durban has transit time advantages, especially for companies closer to Maputo than Durban. However, while rail has been indicated as a comparison, the reality is that there is no reliable rail service yet for containerised cargo between Johannesburg and Maputo. This can also be attributed as one of the reasons why there is hardly any bi-directional flow of traffic.

TABLE 15: Transit Export Transit Time Comparison

| TASK DESCRIPTION | DURBAN | | MAPUTO | | MPO vs DUR | |
|----------------------------|-----------|-----------|-----------|-----------|------------|-----------|
| | Mode | Days | | Days | | Days |
| | Rail | Road | Rail | Road | Rail | Road |
| TRANSPORT TIME | | | | | | |
| Container Terminal Order | 0 | 0 | 0 | 0 | 0 | 0 |
| Rail Stack Time | 0 | 0 | 0 | 0 | 0 | 0 |
| Transit | 2 | 1 | 3 | 2 | 1 | 1 |
| TRANSPORT TIME | 2 | 1 | 3 | 2 | 1 | 1 |
| CLEARING TIME | | | | | | |
| Port Transit Clearance | 0 | 0 | 3 | 3 | 3 | 3 |
| Border Transit Clearance | 0 | 0 | 1 | 1 | 1 | 1 |
| CLEARING TIME | 0 | 0 | 4 | 4 | 4 | 4 |
| PORT TIME | | | | | | |
| Security Scanning Time | 0 | 0 | 1 | 1 | 1 | 1 |
| PORT TIME | 0 | 0 | 1 | 1 | 1 | 1 |
| LINE - LOCAL TIME | | | | | | |
| Export Release | 0 | 0 | 0 | 0 | 0 | 0 |
| LANDSIDE TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| LINE - FREIGHT TIME | | | | | | |
| Ocean Transit Time | 32 | 32 | 31 | 31 | -1 | -1 |
| FREIGHT TIME | 32 | 32 | 31 | 31 | -1 | -1 |
| TOTAL TRANSIT TIME | 34 | 33 | 39 | 38 | 5 | 5 |

3.2.2.1 Top 3 Export Time Barriers

No Pre-clearance of Cargo

Only once containers arrive in port can the clearance process begin. Clearance takes up to 3 days to obtain.

Security Scanning Process

The scanning of cargo for security purposes is a separate process and only cash payments are accepted. Agents have to pay and get a stamp for every container scanned prior to release taking place.

At present, no agents are allowed to operate on account so it is a physical process and a cash transaction per container... Having the payments automated through electronic bank payments, even possibly through the SeWS or having accounts with large agents to facilitate the process is recommended.

Border Transit Time

An additional day has to be allowed in the process for transit clearance and border processes. This is further hindered by border opening and closing times. Many of these challenges will be addressed once a one stop, 24 hour border is operational which will reduce time needed significantly.

3.2.3 Transit Export Complexity

In the table below, where a process or function is not complex a 0 value has been used and a complex process a value of 1 has been used.

In terms of exports, even though there are inherent transit processes that require additional time and add complexity, the small difference is out-weighed by cost factors such as the road transport costs for companies where Maputo is much closer in terms of distance.

Rail in itself immediately makes the process much longer and adds complexity and risk as the service is still irregular and unreliable. There is a change of operators and locomotives on the Maputo Corridor at the border between Transnet to CFM and vice versa. Furthermore, customs procedures required for empty container movements between countries adds delays in terms of time when placing containers from Maputo to South Africa

TABLE 16: Transit Export Complexity Indicator

| TASK DESCRIPTION | DURBAN | | MAPUTO | |
|----------------------------------|-------------------|----------|-------------------|----------|
| | Complexity Rating | | Complexity Rating | |
| | Mode | Rail | Road | Rail |
| Transport Complexity | | | | |
| Mode | 1 | 0 | 1 | 1 |
| Transport Complexity | 1 | 0 | 1 | 1 |
| Clearing Complexity | | | | |
| Port Clearance | 0 | 0 | 1 | 1 |
| Border Transit Clearance | 0 | 0 | 1 | 1 |
| Clearing Complexity | 0 | 0 | 2 | 2 |
| Port Complexity | | | | |
| Security Scanning | 0 | 0 | 1 | 1 |
| Port Complexity | 0 | 0 | 1 | 1 |
| Line - Local Complexity | | | | |
| None | 0 | 0 | 0 | 0 |
| SL Landside Complexity | 0 | 0 | 0 | 0 |
| Line - Freight Complexity | | | | |
| None | 0 | 0 | 0 | 0 |
| SL Freight Complexity | 0 | 0 | 0 | 0 |
| TOTAL Transit Complexity | 1 | 0 | 4 | 4 |

3.2.4 Transit Export Financial Impacts

Table 17 highlights all the additional costs that apply when shipping to South Africa via Maputo.

Furthermore, when there are delays in the shipping or transport supply chain, costs are incurred in the form of port storage, truck demurrage and container detention. These costs pose a serious risk to shippers as they accrue on a daily basis and in many cases can render goods being transported unviable commercially once they have been subjected to charges as a result of delays.

Included in Table 17 are the following costs (ROE) of R7 to 1 USD

Truck detention costs: 1 day delay costs ZAR4500 or USD643

Container Detention: 1 day costs ZAR350 or USD50

Port storage costs: 1 day storage per container is ZAR98 or USD14/28

Indirect costs to shippers in terms of delays are very difficult to calculate, however these are considerable, especially when financing has to be obtained to purchase goods which cannot be recovered until the goods are sold.

TABLE 17: Transit Export Financial Impacts

| CHARGE DESCRIPTION | 20' DRY/GP | | | | | | 40' DRY/GP | | | | | | | |
|-----------------------------|---------------|--------------|---------------|--------------|---------------|--------------|--------------|--------------|---------------|--------------|---------------|--------------|------------|-----|
| | Port Currency | | Durban | | Maputo | | MPO vs DUR | | Durban | | Maputo | | MPO vs DUR | |
| | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD |
| TRANSPORT | | | | | | | | | | | | | | |
| Rail Differential | 3 822 | 546 | 4 513 | 645 | 691 | 99 | 4 090 | 584 | 6 991 | 999 | 2 901 | 414 | | |
| Road Differential | 9 000 | 1 286 | 19 500 | 2 786 | 10 500 | 1 500 | 9 000 | 1 286 | 19 500 | 2 786 | 10 500 | 1 500 | | |
| Truck Standing Time | 0 | 0 | 4 500 | 643 | 4 500 | 643 | 0 | 0 | 4 500 | 643 | 4 500 | 643 | | |
| RAIL CHARGES | 3 822 | 546 | 4 513 | 645 | 691 | 99 | 4 090 | 584 | 6 991 | 999 | 2 901 | 414 | | |
| ROAD CHARGES | 9 000 | 1 286 | 19 500 | 2 786 | 10 500 | 1 500 | 9 000 | 1 286 | 19 500 | 2 786 | 10 500 | 1 500 | | |
| CLEARING | | | | | | | | | | | | | | |
| Bond / Clearing Charges | 0 | 0 | 900 | 129 | 900 | 129 | 0 | 0 | 900 | 129 | 900 | 129 | | |
| CLEARING CHARGES * | 0 | 0 | 900 | 129 | 900 | 129 | 0 | 0 | 900 | 129 | 900 | 129 | | |
| PORT CHARGES | | | | | | | | | | | | | | |
| Port Storage | 0 | 0 | 98 | 14 | 98 | 14 | 0 | 0 | 196 | 28 | 196 | 28 | | |
| Scanning | 0 | 0 | 175 | 25 | 175 | 25 | 0 | 0 | 350 | 50 | 350 | 50 | | |
| PORT CHARGES | 0 | 0 | 273 | 39 | 273 | 39 | 0 | 0 | 546 | 78 | 546 | 78 | | |
| LINE - LOCAL | | | | | | | | | | | | | | |
| Container Release | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | |
| LINE - LOCAL CHARGES | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | |
| LINE - FREIGHT | | | | | | | | | | | | | | |
| Detention (Per day) | 0 | 0 | 350 | 50 | 350 | 0 | 0 | 0 | 700 | 100 | 700 | 100 | | |
| FREIGHT CHARGES | 0 | 0 | 350 | 50 | 350 | 0 | 0 | 0 | 700 | 100 | 700 | 100 | | |
| TTL FOB-DDU BY RAIL | 3 822 | 546 | 6 036 | 862 | 2 214 | 266 | 4 090 | 584 | 9 137 | 1 305 | 5 047 | 721 | | |
| TTL FOB-DDU BY ROAD | 9 000 | 1 286 | 21 023 | 3 003 | 12 023 | 1 668 | 9 000 | 1 286 | 21 646 | 3 092 | 12 646 | 1 807 | | |

Cost of Delays

Certain instances have been noted where large numbers of containers have remained un-cleared in port for up to 21 days. The financial impact per container is outlined in Table 9

Port Free Time 10 days

Container Free Time 7 days

TABLE 18: Cost of Delays

| CHARGE DESCRIPTION | | 20' DRY/GP | | | | 40' DRY/GP | | | | |
|-------------------------|----------|------------|------------|-----------|--------------|------------|------------|------------|---------------|--------------|
| Units Currency | Days | | Unit Cost | | Cost per 20' | | Unit Cost | | Cost per 20' | |
| | Freetime | To Pay | ZAR | USD | ZAR | USD | ZAR | USD | ZAR | USD |
| Delay Cost Areas | | | | | | | | | | |
| Port Storage | 10 | 11 | 200 | 14 | 2 200 | 154 | 196 | 28 | 2 156 | 308 |
| Container Detention | 7 | 14 | 200 | 50 | 2 800 | 700 | 700 | 100 | 9 800 | 1 400 |
| Total Costs | | | 400 | 64 | 5 000 | 854 | 896 | 128 | 11 956 | 1 708 |

These kinds of additional costs make it extremely risky for shippers to contemplate the corridor as any delays can result in losses for the company.

3.3 Transshipment Evaluation

The port of Maputo does not tranship any containerised cargo. Containers have been transhipped in the port previously however this practice was stopped when the port bond was removed.

Some of the main factors that have contributed to the loss of transhipments to Durban have been the following:

- The Port of Maputo is not Bonded
- In transit bond for transshipment on vessels between Mozambican ports
- Clearance Procedures
 - Transit Import cargo cleared at first port of arrival not last port
 - Transit Export cargo cleared at the last port of exit not the first port
- Time taken to clear and obtain bonds

Transshipment cargo is essential for shipping lines to gain economies of scale so that direct services become financially viable and sustainable.

For ports, transshipment cargo provides base steady income with cargo that can be managed as cargo is on terminal and connecting vessels generally known in advance.

The loss of transshipment cargo to the port of Maputo is not just in terms of revenue, but also the loss of potential volume of scale that could have been generated and the attraction of both import and export vessel calls to the port.

When containerised cargo enters a port on one vessel and is destined to be dispatched on another vessel, without leaving the port precinct, the port precinct should be considered a bonded or custom controlled zone as with its inherent security, the risk of containers entering the local market for consumption are very low.

It is further recommended that transshipment goods be acquitted at the last port of destination and that no additional bonds be required.

In order for there to be control by customs, a designated transshipment area is recommended for the port, to facilitate the process and ensure complete control without shipping lines having to place guarantees and manage acquittal processes for cargo being transhipped via Maputo.

3.4 Financial Impacts for Mozambique

Port of Maputo Competiveness

The development of the Port of Maputo depends on transit cargo to increase volumes.

Without a bi-directional flow of transit cargo on the corridor, the implementation of the port 20 year master plan with its estimated USD 1 Billion planned investments may in some areas be greatly impeded because without the transit import tonnages for South African the expected growth will not materialise and may result in the full port master plan to be not economically viable.

Transshipment cargo is required to obtain volumes of scale to attract direct shipping lines to the port.

Impact on the Mozambique Economy

Revenue Loss

- Transshipment cargo has stopped, a loss of revenue to the economy
- Import transit flows are inhibited by bond requirements
- Fewer vessels call Maputo
- Less revenue is earned
- Fewer jobs are available
- Less tax revenue is earned from the port, rail, road and related industries
- Fewer jobs mean less individual tax is paid
- Less investment in the economy
- Less economic improvement for Mozambique and countries it serves

Financial Impact – Vessel Revenue Example

As an example, the income and income distribution of a transit pipe shipment via Maputo has been used. The income of the vessel has been distributed to ascertain the percentage that is contributed to the Mozambican economy.

The potential revenue ¹¹that could be added to the economy with increased vessel calls has been included for an additional 10, 20 and 30 vessels.

| Income | USD |
|-------------------------|---------|
| Vessel Income | 246 000 |
| Mozambique Income (90%) | 221 400 |

| Income Distribution | USD | Percent |
|---------------------|----------------|-------------|
| State | 61 500 | 25% |
| Salary | 61 500 | 25% |
| Suppliers | 98 300 | 40% |
| Other | 24 700 | 10% |
| Total | 246 000 | 100% |

| Potential Income | USD |
|------------------|-----------|
| + 10 Vessels | 2 214 000 |
| + 20 Vessels | 4 428 000 |
| + 30 Vessels | 6 642 000 |

Financial Impact – Investment at Risk

The Port of Maputo Master Plan ¹²to increase from the 12 million tons of 2011 to 48 million tons depends also on transit cargo for its implementation.

- Direct Investment USD1 billion over 20 years
- New Port Jobs +450 people +USD1.755 million per year
- Indirect Jobs +1800 people+USD4.680 million per year

A bi-direction flow of cargo is critical to the success of the Port of Maputo and the Maputo Corridor

Lack of Asset Capitalization

The government of Mozambique and private stake holders have spent an enormous amount of money rehabilitating infra-structure on the Maputo Corridor.

¹¹ Rui Santana Afonso – MPDC 2010

¹² MPDC 20year Port Master plan 2010

This includes the port, railways, roads and borders that have been upgraded and which have to be continuously maintained at considerable cost.

In order to capitalise on the asset base, unblocking of constraints on the corridor is essential to unlocking the potential for growth.

3.5 Recommendations for Legislation, Process and Procedure Review from a Trade Facilitation Perspective

3.5.1 Bonds and Guarantee

Bond Application in Mozambique

- The application of bonds is not uniform throughout Mozambique and it is recommended that this is aligned for all ports.

Transit Imports

- For land-locked countries that are served via Mozambique, it is recommended that legislation is aligned to best practise transit standards to facilitate the movement of transit goods with the least time and cost possible.
- However, if the Port of Maputo wants to compete for Johannesburg based cargo with Durban, then the application of the bond will have to be reviewed from a commercial perspective rather than a purely transit customs regime perspective as it will be extremely difficult to convince shippers to add additional costs and cash flow challenges in order to use the corridor.
- This is not an isolated case, as Walvis Bay, Namibia is also affected by the same constraint as South African shippers do not experience any transit regimes when shipping via South African ports or any additional costs as a result.
- If the rail service were bonded and reliable, then this would eliminate many of the requirements, however without a bi-directional flow of cargo, the rail service will also not function as volumes and economies of scale are required to make rail services economically viable
- .
- Reduction/elimination of customs bond should be considered as benefit to approved economic operators

Transit Transshipments in Maputo Port

- A major barrier to transshipping in Maputo is that the port is not considered a customs controlled area and shipping lines have to provide bonds for cargo being transhipped.

- Bond value limitations and the bond deduction mechanism based on CIF value, coupled with a 10 day release after acquittal, makes transshipping in Maputo onerous and costly.
- It is recommended that an area in the port is designated for vessel to vessel transshipments that do not leave the port precinct. This area is to be considered a customs designated zone whereby physical bonds are not required given the low risk of cargo entering the local market for consumption.

Transit Transshipments on vessels between Mozambican ports

- Cargo in transit between Mozambican ports is required to be bonded. Since the cargo is on a vessel and transiting between ports, there should be no bonds required.
- Transshipment goods ought to be acquitted at the last port of destination with no additional bond requirement.

Transport Mode Bond Exemptions

- Rail to be exempt from bond
- Port to be exempt from bond for vessel to vessel transshipments
- No bond for cargo in transit by vessel between Mozambican Ports
- Bonded road transporter to be established
- Cargo Risk Evaluation. Low Risk Exemptions
- Current and potential transit import cargo was identified and categorized into low, medium and high risk goods.
- Introduction of risk management based upon the approved economic operator's compliance.
- **Commodities that do not pose a risk to the Mozambique economy should be allowed to transit exempt from bonds per below table:**

| CARGO DESCRIPTION | RISK | DESCRIPTION OF RISK |
|--------------------------------------|--------|---|
| Bagged Cement by Road and Rail | High | Easy to pilfer and difficult to trace |
| Bagged Fertilizer by Road and Rail | High | Easy to pilfer and difficult to trace |
| Bagged Rice by Road | High | Easy to pilfer and difficult to trace |
| Cement | High | Easy to pilfer and difficult to trace |
| Cooking Oil | High | Easy to pilfer and difficult to trace |
| Maize | High | Easy to pilfer and difficult to trace |
| Sugar | High | Easy to pilfer and difficult to trace |
| Vehicles | High | A highly pilferable commodity |
| Fertilizer | Medium | Easy to pilfer and difficult to trace |
| Meal Meal | Medium | Easy to pilfer and difficult to trace |
| Petroleum Products | Medium | Easy to pilfer and difficult to trace |
| Used vehicles | Medium | If sealed in containers under customs supervision, the risk is low |
| Citrus | Low | Difficult to pilfer as is in specialised containers |
| Coke | Low | Not a pilferable commodity |
| Containerised Cargo by Road and Rail | Low | Container sealed and verified at both port and border |
| Ferrochrome | Low | Not a pilferable commodity |
| Metcoke | Low | The only application for use is in ferro chrome smelters |
| Molasses in bulk by Road | Low | Not a pilferable commodity |
| Mono Amonium Phosphate Granuals | Low | Fertilizer - Is only a proper fertilizer once blended with other grades |
| Petroleum in bulk by Road and Rail | Low | Not a pilferable commodity |
| Sodium Amonium Phosphate Granuals | Low | Fertilizer - Is only a proper fertilizer once blended with other grades |
| Steel pipes / tubes by Road | Low | Very heavy, require machinery to off load, well secured on truck |
| Sulphur | Low | Only applicable in the manufacture of copper at copper mines and |
| Sulphur | Low | Not a pilferable commodity |
| Sulphur in Bulk | Low | Not a pilferable commodity |
| Urea Granuals | Low | Fertilizer - Is only a proper fertilizer once blended with other grades |

DGA Rulings validity period

- At present, DGA rulings are valid on a shipment by shipment basis. This adds additional time and complexity for cargo that is being imported for transit purposes.
- It is recommended that rulings are valid for a period of a year and once a ruling has been passed, it is then only required to proceed with the normal clearance process with no additional steps to be taken.

Single Bond Costs and Calculation

- This cost is the single biggest inhibitor to the bi-directional flow of transit cargo.
- During this exercise, numerous ways of calculating individual bond charges were received, each different. Once the new legislation is in place, it is advisable for a full transit tariff and bond cost calculation to be made available to the industry to ensure that no further confusion exists.
- It is also recommended that all charges are aligned with global best practice costs and procedures.

Comprehensive Bond Costs and Calculations

- It has been established that the comprehensive bond amount is not high enough to sustain volume business.
- This has been dealt with extensively in the legal analysis done.

Bond Deduction Mechanism

The Risk value and not the CIF value to be deducted from reference amount of the bond lodged

- At present, once a bond has been lodged and a shipment is going to be transported, the CIF value of the goods is deducted from the bond amount. This means that bonds are quickly used up.
- It is recommended that the Risk Value is used to reduce bond amounts as it is the duties and VAT that are at risk, not the value of the goods

Bond to cover goods in transit

- Currently, bonds are reduced on the basis of shipments and not on the basis of goods in transit at one time. Hence, if a large volume of containers is received and these are transported in stages, the total shipment has to be bonded
- It is recommended that bonds are required for goods in transit and not for the full shipment.

Acquittal Time and Cost

- The current acquittal process and the release of bond payments once acquitted poses serious challenges for transit shippers and transporters. Bonds are released 10 days after stamped documents are submitted and approved.
- The Single Electronic Window System will enormously assist with the acquittal system and ensure that bonds are released immediately that trucks cross the border. The new recommended deadline for the release of bonds is 2 days from acquittal.
- Cumbersome time consuming tasks such as going to the border to get the documents stamped and erratic flows of documents back will be eliminated when the Single Electronic Window System is in use.

- At present, a recommendation for legislation review is to allow rail operators to transport customs documents from the borders to Maputo via rail, in an attempt to speed up the physical movement of documents in order for bonds to be released and cargo to flow smoothly.
- It is also recommended that charges for the acquittal of transit cargos is aligned with global standards so no unnecessary charges or delays are imposed on transit cargoes.

3.5.2 Shipping Line Manifest Submissions & Pre-clearance

- **Shipping Line Manifest**

Import Manifest Submission

For any vessel arriving Maputo on or after 01 July 2011, shipping lines may present cargo manifests prior to vessel arrival, and it is no longer necessary for the ship's captain to present the same upon vessel arrival in Maputo.

Time Lines for Submission

- Any container vessel entering Maputo, where its last port of call is of an origin other than South Africa, due to the short transit, cargo manifests may be presented 3 days prior to the vessel arrival in a Mozambican port.
- Any container vessel entering a Mozambican port where the last port of call was a South African port, the current process of presenting cargo manifests at time of vessel arrival remains as is.

Hardcopy Submissions in Quadruplet

- Hardcopy paper manifests still have to be presented in quadruplet to the following parties: Alfandegas (Customs), Autoridade Tributaria, Port (DPW) and Kudumba.
- It is highly recommended that the Single Electronic Window System is used in future to eliminate the need for hard copy submissions in the future

Partial Manifest Submission

- Information used to compile manifests is obtained from shippers. If the information has not been received from 1 out of 100 shippers, the entire manifest gets held up.
- In order not to delay all shippers, it is recommended that partial manifest submission is allowed and manifest correctors used to correct or add any information once submission of the partial manifest has been made.

Export Manifest

- At present, manifests are required to be submitted before vessels sail. Shippers have 3 days after vessel sailing to submit shipping instructions to shipping lines. This information is required for the manifest.
- It is recommended that export manifests are submitted 3 days after vessel sails to ensure that information is as accurate as possible.

- **Clearance and Pre-clearance**

Pre-Clearance of Cargo

- All required processes should take place prior to the vessel arrival in port in order for the cargo to be immediately available once the vessel has completed discharge to be transported to the final user.
- Pre-clearance should apply to border transit procedures and port procedures across all modes.

Clearance of Cargo

- Known shipper/Authorised economic operator concept to be introduced
- In South Africa, shippers are issued with a unique reference numbers which identify them to customs. Just as commodities can be categorised on a risk basis, so can shippers which allows legitimate operators to enjoy a free flow of goods

Clearance to be done with copies of original supporting documents, unless there is a duty rebate

- The process of obtaining a bill of lading, sending this to banks for verification in the event of letters of credit and having the documents couriered to destination for clearance is time consuming. Especially where short transit times are applicable, getting the original documents to destination in time to avoid penalties is often impossible.
- In South Africa, clearance of cargo takes place electronically on the basis of copies of original documents. Only where duty rebate certificates are relevant, are originals required.
- The original documents can be called for at any time, should customs wish to verify them should suspicions of any nature arise.

Waybills and telex releases to be accepted by Customs

- Waybills are essentially non-negotiable Bills of Lading and are used between parties who trust each other to ease the onerous legal requirements and regulations inherent to Bills of lading and are express documents. These are legally recognisable documents and should be accepted as a means of doing business in Mozambique.
- A telex release is when the shipping line at origin retains the original Bill of lading and sends a 'telex release' to the office at destination confirming that they have the Bill of lading in their possession and authorising the cargo release to the consignee. This is the fastest means of obtaining release and eliminates the need to courier documents for clearance purposes as well as safe guards against original Bills of lading being lost or arriving late.
- Shipping lines cannot release cargo without proof that all customs and other charges have been obtained and paid for hence this is a sound mechanism to use for clearance purposes.

Location of Clearance

- At present, import cargo has to be cleared at the first port of entry or cargo has to move under bond to the final destination.
- Export cargo is cleared at the final port of exit and not the first port of exit, which means that transit containers have to move under a bond between ports.

- It is recommended that clearance of goods takes place at the port or final destination location of the goods for imports and the first port of exit for exports, which is normally determined by the shipper's location, without any bond requirements

3.5.3 Recommendations for Process and Procedure Review

The industry embraces the Single Electronic Window System soon to be rolled by the MRA

- All efforts should be made to get the industry to embrace and implement the Single Electronic Window System as soon as possible. This will instantly resolve many of the process and procedure challenges being experienced, especially with regards to bonds and acquittal processes which is a key barrier to trade on the corridor.
- It is recommended that the MCLI send a news flash to the corridor stakeholders, asking for relevant members to commit to implementation strategies and set target dates for implementation in consultation with the Single Electronic Window System team.
- Another consideration could be for the MCLI to set up a Single Electronic Window System Stakeholder Focus Work Group, much like the Shipping, Customs and Border Focus Workgroups undertaken at the inception of the MCLI to facilitate the implementation process. This group could assist with implementation experiences, systems bugs and deal with any and all barriers encountered during the roll out to the industry.

Security Scanning (Kudumba) fees to be paid electronically

- The scanning of cargo for security purposes is a separate process and only cash payments are accepted. Agents have to pay and get a stamp for every container scanned prior to release taking place.
- At present, no agents are allowed to operate on account so it is a physical process per container and a cash transaction. Having the payments automated and having accounts with large agents to facilitate the process is recommended.
- While I understand that investigations have been made with respect to the Port of Maputo or shipping lines collecting this fee on behalf of shippers to ease the

process, legal complexities the conclusion of investigations was that this was not possible.

- The recommendation would be for payments to be made possible via accounts; electronic bank transfers or even via the Single Electronic Window System

Ease Transit import, export and transshipment procedures

- With the aim of attracting additional import, export and transshipment volume for the port, a streamlining of processes and procedures will be required.
- To compete with Durban, cargo would have to be discharged, cleared, railed, border cleared and delivered to City Deep within 5 days from vessel discharge. It is recommended that this is used for a target when procedures are implemented

Empty Container Clearance

- When containers have to be evacuated empty from Mozambique, clearance documents require the quantity of containers and not the container number.
- It is recommended that container numbers are used as otherwise reconciliation becomes problematic.

Empty Container Transit Clearance

- Procedures surrounding the release of empty containers to be positioned to South Africa and return to Maputo for shipment are time consuming.
- It is recommended that this is reviewed to encourage the collection of containers from Maputo, thereby creating bi-direction flow, instead of containers being collected in South Africa and shipped via Maputo.

Acquittal Procedures to be improved

- Procedures surrounding acquittals will be addressed by the Single Electronic Window System. This has also been addressed under the legislation section of this report

3.5.4 Other Recommendations

Negotiation of 40' rail rates with Transnet and CFM

- The majority of imports to South Africa are in 40'containers. There is a significant difference in cost between Durban and Maputo rates (ZAR2500 or USD350 / 40').
- In itself, this could become a serious stumbling block to the success of the Maputo Corridor and would need to be resolved for Maputo to be cost competitive with Durban.
- Customs Controlled Transit Transshipment Area in The Port of Maputo allocated a separate zone in the port for transit transshipment cargo, so this can be managed from a customs perspective without bonds being required.
- Transshipment cargo provides volume of scale for shipping lines as well as a base income for the port.
- In order to increase volumes, encourage additional vessel calls and create volumes of scale, it is recommended that the Port of Maputo develops a strategy around transshipment opportunities.

Published Tariffs

- A full set of tariffs for all areas of operation is published. This will assist in avoiding the confusion that is currently in the market with respect to charges relating to bond costs and calculations.

Border Operation Focus

Continued engagement with border post departments of both countries to have freight clearing hours extended from the present 6:00 AM to 22:00PM to a 24 Hour clearing process in order to better optimise the improvements obtained through the freight bypass road where already we operate within the OSBP principles of both countries clearing freight jointly in each other's territory.

- **Procedures Manual**
- The undertaking of the procedures manual is done in conjunction with the Single Electronic Window System.
- It is imperative that all industry focus is placed on the implementation and roll out of the system, which will have related procedures which should be endorsed.

CHAPTER 4: LEGISLATION REVIEW COMMENTS AND RECOMMENDATIONS

4.1 Mozambique transit regime

The transit legislation currently in force in the Republic of Mozambique was approved by Ministerial Diploma 10/2002 of 30 January, which approves the Customs Transit Regulations (the CTRs) and appendices, and revokes Ministerial Diploma 94/2000 of 2 August and all other inconsistent provisions.¹³

In terms of Article 4 of the Preamble to the CTRs, the CTRs “are effective from their publication date.” The CTRs were published on 30 June 2002, in Official Gazette, 1st Series, Number 5.

The CTRs are currently under review by a team from the Customs Service in order to facilitate the implementation of the Single Electronic Window System. The reasons for this include one of the objectives set out in the CTRs itself, namely, the harmonization of procedures with those of neighboring countries for the treatment of goods transported in a customs transit regime, and the facilitation of transit, while retaining the precautions necessary for the protection of revenue at risk.

This report intends to:

- analyze the requirements and procedures set out in the CTRs;
 - compare these with the requirements and procedures set out in the legislation of a neighboring country, namely, the Republic of South Africa;
 - verify the applicable treaties;
 - review the draft proposal for the new CTRs;
- i) offer some specific recommendations on this proposal;
 - ii) contribute with some remarks; and
 - iii) present some general recommendations and suggestions.

For this report the following documents were studied:

¹³Preamble to the CTRs, Article 3

- i) Constitution of the Republic of Mozambique (2004);
- ii) Resolution 31/94, of 20 September, which ratifies the final minutes incorporating the results of the multilateral commercial negotiations of the Uruguay Round/ General Agreement on Tariffs and Trade (GATT);
- iii) Resolution 44/99, of 28 December, which ratifies the Protocol on Trade in the SADC;
- iv) Resolution 41/2001, of 18 June, which ratifies the amendments of the Protocol on Trade in the SADC;
- v) Law 6/2009, of 10 March, which approved the text of the customs tariff schedules and the respective preliminary instructions;
- vi) Decree 38/2002, of 11 December, which approves the Rules on the Determination of the Customs Value of Merchandise;
- vii) Ministerial Diploma 21/2003, of 19 February, which approves the Regulations on Customs Value Merchandise;
- viii) Decree 34/2009, which approves the general rules for the customs clearance of merchandise, and revokes Decree 30/2002, of 2 December;
- ix) Ministerial Diploma 12/2002, of 30 January, which approves the Regulations of Bonded Customs Warehouses;
- x) Ministerial Diploma 10/2002 of 30 January, which approves the CTRs;
- xi) Ministerial Diploma 262/2004, of 22 December, which approves the Regulations on Customs Clearance;
- xii) Development of the Maputo Corridor through improved customs procedures for containerized transit and transshipment cargo, from MAERSK, dated July 2010; and
- xiii) McLINDEN, Gerald; FANTA Enrique; WIDDOWSON David, and DOYLE Tom, Border Management Modernization, The World Bank, Washington, D.C

Below, we analyze the main aspects of the CTRs.

4.1.1 Scope

The CTRs apply to the national and international customs transit of goods.

The transport of goods in terms of a customs transit regime may constitute:

- a) International Transit;

- b) Transit into Mozambique;
- c) Transit out of Mozambique; or
- d) Internal or transfer transit.

Interior customs offices are understood to include customs offices in the strict sense, customs terminals, IFZs, customs warehouses, and any other authorized premises or establishment.¹⁴

4.1.2 Payment of customs duties and tariffs

Merchandise transported in a transit regime is not subject to the payment of customs duties and other taxes on imports and exports.

However, Article 3(2) of the CTRs provides that a transit fee, for services rendered by Customs, must be set by the Ministry of Finance, and may not exceed the equivalent of 10 United States Dollars for each declared transit.¹⁵

To date, no diploma has been issued by the Ministry of Finance, determining the exact amount of the transit fee for the services rendered by Customs.

The order (despacho) of the Minister of Finance, of 11 October 1992, establishes the charge of a customs transit fee of USD15. Under the terms of said despacho, the transit fee shall be charged at the border posts of Cuchamano; Zóbwe; Machipanda (central region); Ressano Garcia e Namaacha (south region), for each heavy vehicle with foreign registration.¹⁶

Further to the above, in terms of Article 9(8) of Law 6/2009, of 10 March, which approves the text of the Customs Tariff Schedules and the respective preliminary instructions, the Customs Service Fee (CSF) is set at 2,500.00 Mt for each import which is exempt from customs duties, and is charged for all Sole Administrative Documents (Documentos Únicos) and Simplified Sole Administrative Documents, and paid over to the Mozambican Tax Authority. The CSF is a fee for services provided for the processing of the customs clearance.

¹⁴CTRs, Article 2(1) and (4).

¹⁵CTRs, Article 3

¹⁶ According to information obtained from the DGA.

Since the fee is applied for the Documentos Únicos it can be understood that it is also applied for transit operations, which in practice, is not accurate.

4.1.3 Guarantee

4.1.3.1 Principles

Guarantees must comply with the following principles:

- a) If the goods are intended for, or leave from, an establishment which is under customs control, and are transported by the beneficiary of the regime, the guarantee issued by that establishment must cover the transit operation;
- b) If the means of conveyance used does not belong to the establishment, the transporter must prove that he acts in the name of the establishment which has the guarantee; if not, he must make use of his own guarantee;
- c) The guarantee of the consignor or authorized consignee must cover the transit of merchandise, and may be called on in the circumstances set out in the Regulations;
- d) In the case of merchandise to be transferred from one establishment to another, it is the guarantee of the establishment which orders the release of the goods that must cover the said movement.¹⁷

4.1.3.2 Types of Guarantee

A guarantee may be:

- a) Individual, if it covers only one transit operation; or
- b) Comprehensive, if it covers a certain number of transits made during a period from 3 (three) months to 1 (one) year, renewable.¹⁸

4.1.3.4 Forms in which a guarantee may be provided

¹⁷Ibid, Article 4, (2)

¹⁸Ibid, (3)

A guarantee may be authorized by the General Director, by way of:

- A declaration of assumption of liability, which constitutes a real guarantee over sufficient property to cover the amount guaranteed by the applicant, for individual or collective persons;
- A declaration of assumption of liability for merchandise intended for State investment projects, issued by the competent entity;
- A letter of guarantee, issued by a reputable bank or financial institution;
- Treasury securities or bonds;
- A cash deposit;
- A bank-certified cheque; or
- Insurance bond (seguro de caução), in an equivalent amount. ¹⁹

4.1.3.4 Entity which provides and is responsible for the guarantee

Guarantees are provided by the customs transit declarant.²⁰

The declarant is responsible for compliance with the obligations arising from the transit.

Agents duly licensed by Customs, who represent the person who is in possession of the merchandise in question, shall be jointly liable for compliance with all of the obligations set out in the CTRs, including the provision of a guarantee and the payment of charges which are due, when applicable.²¹

In accordance with Article 9 of the CTRs, the transporter is obliged to place the merchandise at the disposal of Customs, for the purposes of verification, whenever requested to do so.²²

¹⁹Ibid, Article 4, paragraph 4

²⁰ Ibid, Article 5. A customs transit declarant is a person who signs a declaration of goods in transit, or in whose name such document is signed.

²¹ Ibid, Article 8

²²Ibid, Article 9

4.1.3.5 Amount of the guarantee

In accordance with Article 4 of the CTRs, guarantees are set in accordance with the revenue at risk.

4.1.3.5.1 Amount of an Individual Guarantee

The amount of the guarantee is 100% of the revenue at risk.²³

Article 6(3) of the CTRs provides that its calculation may be made in a simplified manner, by applying the parameters determined by the General Director of Customs, calculated on the customs value of the goods, to guarantee the revenue at risk.

4.1.3.5.2 Amount of a Comprehensive Guarantee

Comprehensive guarantees must be provided in accordance with the following table:

| Customs value of merchandise (USD) | Comprehensive guarantee amount (USD) |
|------------------------------------|--------------------------------------|
| Up to 500 000 | 50 000 |
| From 500 001 - 1 000 000 | 75 000 |
| From 1 000 001 - 2 000 000 | 150 000 |

In cases in which the customs value of merchandise is greater than 2 million USD, comprehensive guarantee amounts may be set by the General Director of Customs, on request of the interested party, taking into account the revenue at risk, the

²³Ibid, Article 6, (1)

customs compliance record of the interested party and the type of merchandise to be covered by the guarantee, also taking the asset of the company into consideration.²⁴

4.1.3.5.2.1 Customs value of merchandise

According to Decree 38/2002, of 11 December, which approves the Rules on the Determination of the Customs Value of Merchandise - Regras sobre a Determinação do Valor Aduaneiro – (D38/02), the customs value of imported merchandise is the value of the transaction, i.e., the price effectively paid or to be paid for the merchandise, when sold for export to a particular destination country, in accordance with Article 8 of the Rules, provided that:

- a) there is no restriction on the transfer or utilization of the merchandise by the buyer, except for restrictions which:
 - (i) are imposed or required by law, or by the public administration of the country;
 - (ii) limit the geographical area in which the merchandise may be resold; or
 - (iii) do not substantially affect the value of the merchandise.
- b) neither the sale nor the price is subject to conditions or payments of a value which cannot be determined, as regards the merchandise to be valued;
- c) no part of the product of any subsequent resale, transfer or utilization of the merchandise by the purchaser reverts to the seller, whether directly or indirectly, except if an appropriate adjustment may be made, in accordance with the provisions of Article 8; and
- d) the buyer and the seller are not related to each other, or if they are, that the value of the transaction is acceptable, for customs purposes, in terms of the law.²⁵

²⁴Ibid, Article 7, (1) and (2)

²⁵D38/02, Article 1. This method is listed as Method 1: value of transaction as basis for customs value. In addition to Method 1, this diploma also makes provision for the use of the following methods: Method 2 – Value of transaction of identical merchandise, as basis for customs value; and Method 3 – Value of transaction of similar merchandise, as basis for customs value.

When determining the customs value, irrespective of the conditions for the delivery of the merchandise which have been negotiated between the importer and the exporter, and the method and valuation used, the following shall be included only when they involve offshore payments:

- a) The cost of the transport of imported merchandise to the customs port or airport of discharge, or the border customs office at which the formalities for entry into the customs territory must be complied with;
- b) Costs relating to loading, offloading and handling, connected to the transport of imported merchandise until its arrival at the locations referred to in the previous paragraph; and
- c) The cost of merchandise insurance, during the operations referred to above.²⁶

In the determination of the customs value, the following are added to the price effectively paid, or to be paid, for the imported merchandise:

- a) The following, to the extent to which they have been paid by the purchaser, but have not been included in the price effectively paid or to be paid for the merchandise:
 - (i) Commissions and brokerage expenses, with the exception of purchase commissions;
 - (ii) The cost of packaging and containers, which, for customs purposes, are deemed to form part of the merchandise; and
 - (iii) The cost of packaging, including labor and materials.
- b) The value, properly distributed, of the following goods and services, when provided directly or indirectly by the buyer, free of charge or at reduced prices, and utilized for use in the production and sale for export of the imported goods, and to the extent to which that value has not been included in the price effectively paid or to be paid:

²⁶Ibid, Article 2

- (i) Materials, components, parts and similar items, incorporated into the imported merchandise;
 - (ii) Tools, patterns, molds and similar items, utilized for the production of the imported merchandise;
 - (iii) Materials consumed in the production of the imported merchandise;
 - (iv) Engineering work, studies, investigations and the development of art and designs, plans and diagrams, executed outside of the country and necessary for the production of the imported merchandise.²⁷
- c) Royalties and license fees relating to the merchandise being valued, which the purchaser is obliged to pay, whether directly or indirectly, as a condition for the sale of the merchandise being valued, to the extent to which those royalties and license fees have not been included in the price effectively paid or to be paid;

²⁷ In accordance with D38/2002, (8), (3) (a), the value of supplies is equal to the sum of:

- (i) The adjusted cost of acquisition or production, when this is appropriate because of prior utilization, or of value adding, by way of repair or modification after the acquisition or production.
- (ii) The costs of transport and insurance, until the place at which they are used in the production of the imported merchandise, when the importer incurs these costs, and
- (iii) Customs duties, taxes and other charges incurred in the country of export, as well as of the costs associated with the transport of these goods offshore.

The cost of acquisition or production of goods or services is determined on the basis of:

- (i) The cost of acquisition or lease, when acquired or leased by a person not related to the importer, at the time of acquisition or lease;
- (ii) The cost of acquisition or lease, incurred by a person related to the importer at the time of acquisition or lease, who does not produce them, and had acquired or leased them from an unrelated third party; or
- (iii) The cost of production, when produced by the importer or by a person related to him at the time of acquisition.

- d) The value of any part of the result of the resale, transfer or utilization for the seller, directly or indirectly.²⁸

For reference purposes only, we note that, according to Article 7 of GATT²⁹, which relates to values for customs purposes:

- a) The value for customs purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed, or of like merchandise, and should not be based on the value of merchandise of national origin or on arbitrary or fictitious values.
- b) "Actual value" should be the price at which, at a time and place determined by the legislation of the country of importation, such or like merchandise is sold or offered for sale in the ordinary course of trade under fully competitive conditions. To the extent to which the price of such or like merchandise is governed by the quantity in a particular transaction, the price to be considered should uniformly be related to either (i) comparable quantities, or (ii) quantities not less favorable to importers than those in which the greater volume of the merchandise is sold in the trade between the countries of exportation and importation.

From our analysis of applicable Mozambican legislation, we may conclude that customs values, in Mozambique, are determined on a C.I.F. basis.

²⁸Ibid, Article 8 (2)

²⁹Mozambique ratified the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations /General Agreement on Tariffs and Trade (GATT) by way of Resolution 31/94, of 20 September

4.1.4 Documents and Procedures for Transit

4.1.4.1 Documents to be submitted to the Customs Office of Departure

The following documents must be submitted to the Customs Office of Departure:

- a) Means of conveyance;
- b) Merchandise;
- c) Manifests or other commercial documents pertaining to the goods, from each customs office at the place of destination of the merchandise which is being transported; and
- d) Transport declarations corresponding to each manifest.

The customs office of departure may verify the merchandise which has been declared, and if necessary, seal off compartments or trailers.³⁰

4.1.4.1 Declaration of Merchandise in Transit

Merchandise in customs transit shall be accompanied by a transit declaration, on the form contained in the CTRs (Annexure I), which must be signed by the declarant.

The presentation of a declaration of merchandise in transit, for each transit movement, is obligatory.

It is also obligatory to make reference to the guarantee, in the declaration of merchandise in transit.

The declaration must be submitted to the customs office of departure.

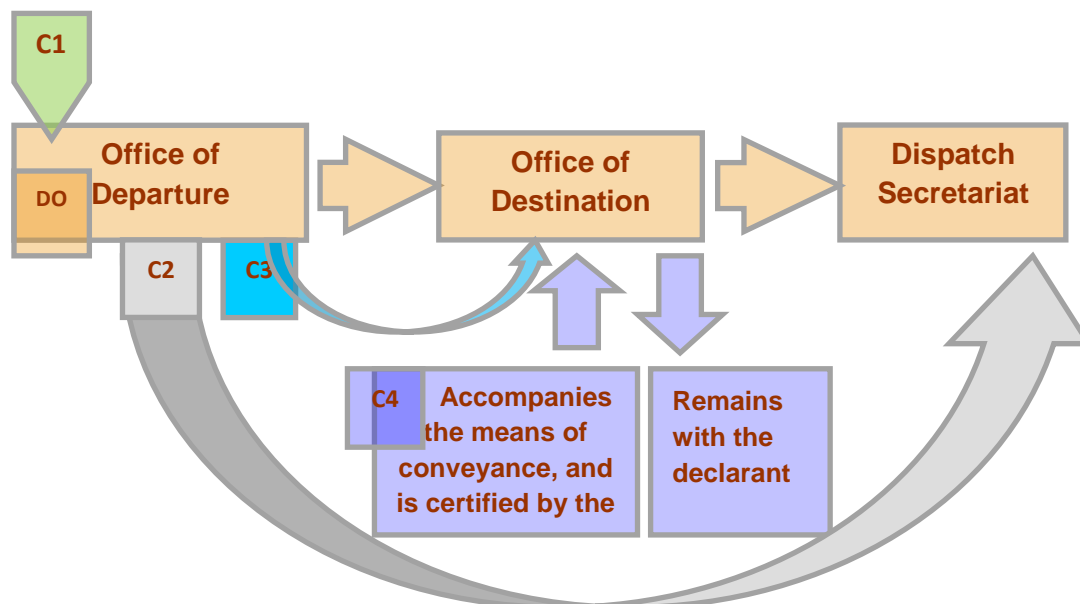
The customs office must indicate the route to be followed on the declaration, and details of seals, i.e., by stamping the original (“DO”) and 4 copies, to be sent to the following entities:

³⁰Ibid, Article 13, (1) and (2)

- a) The original is sent by the customs office of departure to the customs office of destination. After the purpose of the transit has been certified by the customs office of destination, it is sent by such office to the Dispatch Secretariat(Secretaria de Despacho)
- b) Copy 1 (C1) accompanies the means of transit conveyance, under the responsibility of the declarant. After the purpose of such transit has been certified by the customs office of destination, it remains with the declarant;
- c) Copy 2(C2) is sent by the customs office of departure to the Dispatch Secretariat;
- d) Copy 3 (C3) is sent by the customs office of departure to the office of destination, and, after having been certified, must be archived by this office;
- e) Copy 4 (C4) is archived at the customs office of departure.³¹

³¹Ibid, Article 14

The following diagram illustrates the process indicated above:



4.1.4.3 Cargo Manifest

It is obligatory to provide a cargo manifest for each consignment in transit.

Merchandise in transit must be described on the manifest, and the details required by the form contained in the CTRs (Annexure II) must be provided, the manifest being completed by way of an original and two copies. Customs may accept a format different from that prescribed by the CTRs, provided that the manifest contains the information required by the form.

The General Director may authorize alternative commercial documentation, for the same purpose. The manifest is sent to the following entities:

- a) The original remains with the declarant;
- b) Copy 1 is archived at the office of departure; and
- c) Copy 2 is archived at the office of destination.³²

³²Ibid, Article 15

4.1.4.4 Arrival at the Customs Office of Destination

When the means of conveyance reaches the customs office of destination, the declarant, its representative or the transporter responsible for the transit must submit the documentation relating to the transit.

When applicable, seals which protect the means of conveyance shall only be opened after the authorization of Customs has been granted.

Merchandise in transit, intended for import, shall only be discharged at customs offices (i.e., an international goods terminal, an approved bonded customs warehouse, the premises of an authorized consignee, IFZ or other location approved by Customs).³³

4.1.4.5 End of Customs Transit

When certifying the end of the transit movement, the customs office of destination must note the conclusion of the transit on the following documents:

- Original and copies of the transit declaration; and
- Manifest or other equivalent document.

Release / acquittal from a guarantee, is granted by the Dispatch Secretariat at the customs office of departure, after:

- i) the receipt of C2 of the declaration, sent to it by the office of departure;
- ii) the receipt of the original declaration, sent to it by the customs office of destination, after certification that the movement has complied with the rules established in the CTRs.³⁴

Release from the coverage of a comprehensive guarantee, in connection with a specific transit operation, is given after the transit movement has been concluded. A comprehensive guarantee is deemed to have been discharged 10 working days after the date of confirmation given by the customs office of destination, on the transit declaration, that this must take place, in compliance with what is set out in the CTRs.

Situations in which the customs office of destination does not certify

³³Ibid, Article 18 (1)

³⁴Ibid, Article 19, paragraphs 1 and 2

the declaration, because it detects irregularities, or if the transit does not reach the customs office of destination within the envisaged time period, are excluded from the general rule set out above.³⁵

4.1.5 Customs escorting

In very exceptional circumstances, and when a transit operation represents a high level of risk, and conveyance means do not meet the conditions set out in Regulations, the head of the customs office may decide on the appropriateness of escorting by the tax authorities, or other security measures.

Customs escorting is paid for by the owner, his representative or the declarant, at the cash desk of the departure office, prior to the commencement of the transit movement. The cost of the tax escort, in accordance with the CTRs, is established by the head of the customs office of departure, in accordance with the parameters defined by the General Directorate of Customs.³⁶

4.1.6 Procedures for Rail, Air, Maritime and “Pipeline” Transit

Merchandise transported by rail, maritime and pipeline transit must comply with the basic procedures mentioned above, with some adaptations.

In accordance with the CTRs, the General Director of Customs must issue the instructions necessary for the putting into operation of that which is set out in the CTRs.³⁷

³⁵ Ibid, Article 7, (4) and (5).

³⁶Ibid, Article 25

³⁷Ibid, Article 26, (1) and (2), Article 27, (1) and (2), Article 28, (1) and (2) and Article 29, (1) and(2)

4.2 International Treaties and Regional Protocols on Transit Regimes

Over the years, transit provisions have been codified by a number of international conventions – the most important being the agreement on transit in the General Agreement on Tariffs and Trade (GATT), the World Custom Organization’s amended International Convention on the Simplification and Harmonization of Custom Procedures, or Revised Kyoto Convention (WCO 1999), and the 1982 International Convention on the Harmonization of Frontiers Control of Goods (sometimes called the Geneva Convention, UNICEF Inland Transport Committee 1982).³⁸

The international treaties or regional protocols of the following table were ratified by Mozambique:

| Item | Agreement | Diploma |
|------|---|---|
| 01 | GATT - General Agreement on Tariffs and Trade | Resolution 31/94, of 20 September, which ratifies the final minutes incorporating the results of the multilateral commercial negotiations of the Uruguay Round/ General Agreement on Tariffs and Trade (GATT) |
| 02 | Protocol on Trade in the SADC | Resolution 44/99, of 28 December (the “SADC Protocol”) ³⁹ |

The objectives of the SADC Protocol are as follows:

³⁸McLINDEN, Gerald; FANTA Enrique; WIDDOWSON David, and DOYLE Tom, Border Management Modernization, The World Bank, Washington, D.C pp 284

³⁹ Resolution 41/2001, of 18 June ratified the amendments of the Protocol on Trade in the SADC

- i) To further liberalize intra-regional trade in goods and services on the basis of fair, mutually equitable and beneficial trade arrangements, complemented by Protocols in other areas;
- ii) To ensure efficient production within SADC reflecting the current and dynamic comparative advantages of its members;
- iii) To contribute towards the improvement of the climate for domestic, cross-border and foreign investment;
- iv) To enhance the economic development, diversification and industrialization of the Region; and
- v) To establish a Free Trade Area in the SADC Region.⁴⁰

In accordance with said Protocol, products imported into, or exported from, a Member State shall, as provided for in Annex IV of the Protocol, enjoy freedom of transit within the Community and shall only be subject to the payment of the normal rates for services rendered.⁴¹

It bears mention that Article 5 of the Protocol on Trade in the SADC in regard to the simplification and harmonization of the customs procedures establishes that Member States undertake to incorporate in their Customs law provisions designed to simplify Customs procedures in accordance with internationally accepted standards, recommendations and guidelines particularly those which are contained in the international instruments of:

- i) the World Customs Organisation (WCO);
- ii) the United Nations Economic Commission for Europe (UN-ECE)
- iii) the International Maritime Organisation (IMO);

⁴⁰ SADC Protocol, Article 2

⁴¹ Ibid, Article 15

- iv) the International Civil Aviation Association (ICAO);
- v) the International Standards Organisation (ISO); and
- vi) the International Chamber of Commerce (ICC); and -the International Air Transport Association (IATA).

It also establishes that Member States undertake to adopt in their Customs Laws, common principles for the Customs procedures which, in the opinion of CMC⁴², are particularly important in intra-Community trade, including among others, the customs transit.⁴³

The SADC Protocol, Annex IV concerning the Transit Trade and Transit Facilities, establishes that all SADC transit traffic operations carried under the cover of the SRCTD⁴⁴ or any other transit document approved by CMT shall be covered by Customs bond and sureties arrangements.⁴⁵

It is worth noting that said Annex states that the provisions thereof shall apply to transit goods being carried by whatever means of transport, except that in the case of air, water and rail transport, the aircraft, vessel or train in transit shall be exempted from the application of the provisions of this Annex. However, it also mentions that the aircraft, vessel or train will be subject to the national laws and regulations of the transit country.⁴⁶

⁴² “CMC” means the Committee of Ministers responsible for trade matters according to Article 1 of the SADC Protocol.

⁴³ SADC Protocol, Annex II, Article 5(1) and (2) (d)

⁴⁴ “SRCTD” means the SADC Road Customs Transit Declaration, in accordance with SADC Protocol, Annex IV, Article 1.

⁴⁵ SADC Protocol, Annex IV, Article 6

⁴⁶ Ibid, Article 3 (3)

That being said, it leads one to think that bond sureties arrangements, according to the spirit of the SADC Protocol, are not be applied to aircraft, vessels or train but only to roads, and national laws are left to govern such other means of transport.

Any person intending to be engaged in the operation of transit traffic under the provisions of this Annex shall be licensed for that purpose by the competent authorities of the Member State in whose territory he is normally resident or established, and the competent authority shall inform all the other Member States of all the persons so licensed. The conditions for the issuance of these licenses are as follows:

- a) the means of transport used in transit trade shall be licensed by the appropriate licensing authorities of the Member States in accordance with their national laws and regulations;
- b) the means of transport, together with their cargo, have been presented at the Customs offices of origin for examination to ensure that they comply with the technical conditions stipulated in the SADC Protocol, before each transit traffic operation is undertaken;
- c) the applicant has not during the previous three years been convicted of a serious offence including accepting, receiving or offering bribes, smuggling, theft, destroying documents of evidence, and failing or refusing to give information relating to interstate transportation of goods.⁴⁷

Said Annex also establishes the obligations of Member States and Sureties, being among others, the undertaking of each Member State, to facilitate the transfer to the other Member States of the funds necessary for payment of premiums or other charges claimed from sureties under the provisions of this Annex, or for payments of any

⁴⁷ Ibid, Article 4(2)

penalties which the transitor may incur in the event of an offence being committed in the course of transit transport operations.⁴⁸

Lastly, it is important to mention that the Member States undertake to establish or facilitate the establishment of bonded, transit or Customs areas or bonded warehouses for the temporary storage of transit goods where the direct transshipment of goods from one means of transport to another is not possible. The management and operation of such bonded, transit or Customs areas and such bonded warehouses shall be in accordance with the Customs rules and regulations of the Member States concerned in accordance with said Protocol.⁴⁹

The abovementioned provision is pertinent, to the extent to which, in accordance with Mozambican legislation, a guarantee which covers the revenue at risk is already required for the constitution of a bonded warehouse. Such guarantee may be constituted by way of a cash deposit, security deposits, or treasury bonds, a guarantee issued by a bank or reputable financial institution, or by way of a statement of acceptance of responsibility which constitutes a real guarantee over property which is sufficient to guarantee the amount in question. The amount of the guarantee is calculated at 20% of the duties and other charges due, corresponding to the maximum authorized stock.⁵⁰

One of the treaties approved by South Africa which Mozambique up to date did not, is the Kyoto Convention of 1974 which was revised in 1999 (WCO 1999). While the convention is worded very broadly, its annexes define customs terms and recommended certain practices. An annex section in the amended convention (WCO 1999, Specific Annex E, chapter 1), focusing on applicable customs formalities and seals, informs the discussion of these topics later in this chapter.⁵¹

⁴⁸ Ibid, Article 10 (a)

⁴⁹ Ibid, Article 11(1)

⁵⁰ Ministerial Diploma 12/2002, of 30 January, which approves the Regulations on Customs Warehouses, Article 7 (1), (2) and (3)

⁵¹McLINDEN, Gerald; FANTA Enrique; WIDDOWSON David, and DOYLE Tom, Border Management Modernization, The World Bank, Washington, D.C pp 284

4.3 General provisions applicable to customs transit as codified by international conventions ⁵²

4.3.1 General

- Freedom of transit.
- Normally, no technical standards control.
- No distinction based on flag or owner origin.
- No unnecessary delays or restrictions

4.3.2 Custom diligences in transit

- Exemption from custom duties.
- Normally, no escort of goods or itinerary.
- No duty on accidentally lost merchandise.
- No unnecessary delays or restriction.
- The transit regime applies to multimodal transport when part of the journey is by road.
- Flat rate bonds are used for transit goods

4.3.3 Health and safety

- No sanity, veterinary, or phytosanitary inspection for goods in transit if no contamination risk.

4.3.4 Security offered by the carrier

- Declaration to choose the form of security, within the framework affordable by legislation.
- Customs should accept the form of security from declarants who regularly declare goods in transit in their territory.
- On completion of the transit operation, the security should be discharged without delay.⁵³

⁵² Border management modernisation – Editors - Gerard Mc Linder, Enrique Fanta, David Widdowson, Tom Doyle – chapter 17 – Transit regimes – Jean-Francois Arvis

4.4 Review of the draft proposal for the new CTRs

This is a table listing current provisions of the CTR per ministerial Diploma 10/2002, proposals already being work on by the DGA team to facilitate the Single Electronic System and the additional proposals made by MCLI for consideration.

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
|--|--|--|--|--|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| Clause 2 of Rationale | The Director General of Customs shall issue the necessary guidelines for the execution of this diploma. | The President of the Mozambican Tax Authority shall issue the necessary guidelines for the execution of this diploma. | Alignment of powers in relation to the subject matter | No comments |
| Article 1 Definitions | Customs transit declarant: a person who signs a declaration of goods in transit, or on whose behalf it is signed. Not included | Customs transit declarant: a person who submits and signs a declaration of goods in transit, or on whose behalf it is signed. Surety provider: a person who provides a forwarding agent with the surety necessary for the provision of the guarantee. | The word “submits” was included so as to adapt the provision to the practice of the (online) lodging of the customs declaration provided for in the "single window" (SW). In the customs guarantee management | To include the following terms in the definitions section, which require definition if the diploma is to be correctly understood: i) Revenue at risk; ii) Customs value of merchandise (at least, very |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
|--------------------|---|--|---|---|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | <p>A definition of a customs office has not been included</p> <p>Domestic customs transit: a transit operation which takes place when the customs offices of departure and destination are within the Mozambican customs territory.</p> | <p>Customs office – place/body with the administrative jurisdiction to attend to customs formalities.</p> <p>Transfer: the movement of goods, free of excise and any other charges which takes place between a customs office of departure and one of destination, within the customs territory, and is subject to the provision of a guarantee.</p> | <p>chain, the figure of surety provider is extremely important for the credibility of the surety.</p> <p>Domestic customs transit is defined in Decree 34 as</p> | <p>briefly and clearly, Method 1 described in D38/02);</p> <p>iii) Transshipment; and</p> <p>iv) Individual Guarantee.;</p> <p>v) Comprehensive Guarantee</p> <p>vi) Bonded Areas: (to include ports and rail)</p> <p>The definition of surety provider should be consistent with the</p> |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
|--------------------|---|---|--|--|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | <p>International customs transit: a transit operation which takes place when the customs office of departure and the customs office of destination are borders of the Mozambican customs territory.</p> <p>International customs transit: the transit operation which takes</p> | <p>Removed</p> <p>Customs transit: the customs framework applicable to the movement, within the domestic customs territory, of merchandise of offshore origin, destined for another offshore location, whereby merchandise is transported, under customs control, from one customs office to another.</p> <p>Forwarding agents: natural or juristic persons</p> | <p>“transfer”.</p> <p>The definition of international customs transit, apart from being repeated in different ways, is incorrect.</p> | <p>SADC Protocol which is as follows: “any person who gives an undertaking to the Customs authorities of a Member State to answer for or be collaterally responsible for the debt, obligation, default or miscarriage of the transistor and for the payment to transit States of import duties and any other sums of money due and payable to them in the event of non-compliance with the terms and conditions of transit relating to transit traffic introduced into the transit State by carriers</p> |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
|--------------------|---|---|--|---------------------------|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | <p>place in all remaining situations not classified as international transit between a customs office of departure and a customs office of destination.</p> <p>Forwarding agents: natural or juristic persons licensed by the Ministry of Transport and Communications to process international customs transit movements, under the supervision of Customs.</p> | <p>licensed by the Ministry of Transport and Communications and the General Directorate of Customs (DGA) to process international customs transit movements, under the supervision of Customs.</p> <p>Transport Unit:</p> <ul style="list-style-type: none"> a) containers; b) vehicles, including trailers and semi-trailers; | <p>In this definition, an attempt was made to highlight the key entities involved in the process of licensing these activities, which include the General Directorate of</p> | <p>of such goods”</p> |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
|--------------------|---|--|---|---------------------------|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | <p>Transport Unit:</p> <p>a) Containers with a capacity equal to or greater than 1m³, including their parts;</p> <p>b) Road vehicles including trailers and semi-trailers;</p> <p>f) Pipeline conduits.</p> | f) gas pipelines and cables. | <p>Customs (DGA), in terms of Ministerial Diploma 16/2002.</p> <p>Refinement of definition.</p> <p>For the purpose of operations, it is only necessary to refer to the unit, because sizes and capacities may change.</p> <p>Replace “pipeline conduits” with the words “gas pipelines and cables”, so as to be more inclusive.</p> | |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
|------------------------|---|--|--|---------------------------|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | | | | |
| Article 2 Scope | <ol style="list-style-type: none"> 1. These regulations are applicable to operations involving the domestic and international customs transit of merchandise. 2. Movements carried out in terms of the customs transit regime referred to in subparagraphs a) and c) of the following paragraph shall be deemed to constitute international customs transit when they form part of one and the same customs transit movement, in the course of which one or more borders are crossed, in accordance with a bilateral or multilateral agreement. 3. Customs transit movements | <ol style="list-style-type: none"> 1. These regulations are applicable to the customs transit of merchandise. 2. Removed 3. Removed 4. Definition of internal customs office removed | <p>Alignment with Decree 34 (customs transit only)</p> <p>Defined and provided for in Decree 34</p> <p>Regulated under transfers, in Decree 34</p> | No comments |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
|--------------------|--|--|---------|---------------------------|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | <p>may be classified as:</p> <ul style="list-style-type: none"> a) international transit (from a customs office of departure, to a customs office of destination); b) internal transit (from a customs office of departure, to an internal customs office of destination); c) offshore transit (from an internal customs office of departure, to a customs office of destination); d) Interior or transfer transit (from an internal customs office to another internal customs office). <p>The term “internal customs</p> | | | |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
|--|--|---|--|---|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | <p>office” is deemed to mean:</p> <ul style="list-style-type: none"> a. A customs office, per se; b. Customs terminals; c. Industrial free zones; d. Customs warehouses; and e. Any other authorized premises or establishment. | | | |
| Article 3 – Payment of Charges and Fees for Services Rendered by Customs. | <p>2. For services rendered by Customs, the Minister of Planning and Finance may determine that transit operations be subject to a service fee not exceeding the equivalent in Meticais of 10 (ten) United States Dollars per transit declaration.</p> | <p>2. For services rendered by Customs, the Minister of Planning and Finance may determine that transit operations be subject to a fee.</p> | <p>The equivalent in Meticais of up to 10 USD, has been removed. However, it is incumbent upon the MF to establish the fee for transit operations.</p> | <p>The diploma should contain an annexure containing applicable service fees.</p> <p>Thus, prior to the entry into force of the new diploma, the applicable fee should be determined.</p> |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
|--------------------|---------------------|--|---------|---|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | | | | <p>Article 3 (2) would need to be reformulated, in the following manner:</p> <p>“The fees to be charged for services rendered by Customs are as indicated in Annexure 1 and are valid throughout the Mozambican territory.”</p> |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
|------------------------|---|---|---------|---|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| Article 4 Guarantee | <p>2. The transit operations referred to in Article 2 may only take place when covered by a guarantee. Such guarantee must comply with the following principles:</p> <p>a) If the goods are intended for, or leave from, an establishment which is under customs control, and their transport is effected by the beneficiary of the regime, the guarantee issued by that establishment must cover the transit operation;</p> <p>b) If the means of conveyance used does</p> | <p>Transit operations must be covered by a guarantee. Such guarantee must comply with the following principles:</p> | | <p>Convert the principles into rules as follows:</p> <ul style="list-style-type: none"> ▪ The guarantee of the consignor or authorised consignee must cover the transit of merchandise, and may be called up in the circumstances set out in the Regulations; ▪ In the case of merchandise to be transferred from one establishment |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
|--------------------|--|--|---------|--|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | <p>not belong to the establishment, the transporter must prove that he acts in the name of the establishment which has the guarantee; if not, he must make use of his own guarantee;</p> <p>c) The guarantee of the consignor or authorised consignee must cover the transit of merchandise, and may be called up in the circumstances set out in the Regulations;</p> <p>d) In the case of merchandise to be transferred from one establishment to another, it is the</p> | | | <p>to another, it is the guarantee of the establishment which orders the release of the goods, that must cover the said movement;</p> <ul style="list-style-type: none"> ▪ The goods which leave from an establishment which is under customs control such as ports and railways, bonded Warehouses, among others, do not need to be covered by any guarantee other |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
|--|---|--|---------|---|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | guarantee of the establishment which orders the release of the goods, that must cover the said movement | | | <p>than the guarantee of such establishment</p> <ul style="list-style-type: none"> The transporter which proves that he is acting on behalf the establishment which has the guarantee abovementioned, do not require providing any additional guarantee. |
| Article 5 (Person providing the | The guarantee shall be provided by the customs transit declarant. | | | Insert an article with the following heading: “Persons who may act as declarant”. |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
|---------------------------------------|---|---|--|--|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | guarantee) | | | Proposal for the wording of this article: “Any person who has a right to dispose of the merchandise in question, may act as a declarant.” |
| Article 6 – Isolated Guarantee | 1... 2. When the guarantee is provided by way of a bank certified check issued by a financial institution, it will be returned to the endorser ten days after the completion of the transit, if the transit movement has complied with the | 1... 2. When the guarantee is provided by way of a bank certified check issued by a financial institution, it will be returned to the endorser two days after the completion of the transit, if the transit movement has | Reduction of the guarantee obligation, due to the use of ICTS. | Please see our general recommendations |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals | | | | | | | | | | |
|--|---|--|----------------------|---------------------------|--------|--------------------------------------|--------|---|--|-----------------------|----------------------|-----------|---|---|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments | | | | | | | | | | |
| | provisions of these regulations. | complied with the provisions of these regulations. | | | | | | | | | | | | |
| | | | | | | | | | | | | | | |
| Article 7 – Comprehensive Guarantee | <p>1. A comprehensive guarantee is to be provided in accordance with the following table:</p> <table border="1"> <thead> <tr> <th>Customs value of the goods covered by the guarantee in USD (?)</th> <th>Guarantee in USD (?)</th> </tr> </thead> <tbody> <tr> <td>up to 500.000, 00</td> <td>50.000</td> </tr> <tr> <td>from 500.001, 00 up to 1.000.000, 00</td> <td>75.000</td> </tr> </tbody> </table> | Customs value of the goods covered by the guarantee in USD (?) | Guarantee in USD (?) | up to 500.000, 00 | 50.000 | from 500.001, 00 up to 1.000.000, 00 | 75.000 | <p>1. A comprehensive guarantee is to be provided in accordance with the following table:</p> <table border="1"> <thead> <tr> <th>Customs value of the goods covered by the guarantee, in Meticaís</th> <th>Guarantee in Meticaís</th> </tr> </thead> <tbody> <tr> <td>up to 20.000.000, 00</td> <td>2.000.000</td> </tr> </tbody> </table> | Customs value of the goods covered by the guarantee, in Meticaís | Guarantee in Meticaís | up to 20.000.000, 00 | 2.000.000 | <p>A temporary reduction of the guarantee obligation has been proposed, so as to reduce operating costs resulting from the immobilization of financial resources.</p> | <p>1. A comprehensive guarantee is to be provided in accordance with the following table:</p> |
| Customs value of the goods covered by the guarantee in USD (?) | Guarantee in USD (?) | | | | | | | | | | | | | |
| up to 500.000, 00 | 50.000 | | | | | | | | | | | | | |
| from 500.001, 00 up to 1.000.000, 00 | 75.000 | | | | | | | | | | | | | |
| Customs value of the goods covered by the guarantee, in Meticaís | Guarantee in Meticaís | | | | | | | | | | | | | |
| up to 20.000.000, 00 | 2.000.000 | | | | | | | | | | | | | |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals | | | | | | | | | | | | | | |
|---|---|--|---------|---|--|-----------|--|-----------|--|---|---|-----------------|----------------------|-----------|--|-----------|--------------------------------------|-----------|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments | | | | | | | | | | | | | | |
| | <table border="1"> <tr> <td>from 1.000.001 up to 2.000.000, 00</td> <td>150.000</td> </tr> </table> <p>2. A comprehensive guarantee may, in cases in which the customs value of the merchandise exceeds two million USD, be established by the Director General of Customs on the request of the applicant, taking into account the risk involved to the income, resulting from the customs cadaster of the interested party and the type of goods to be covered by the guarantee, and taking into consideration the property of the company in question.</p> | from 1.000.001 up to 2.000.000, 00 | 150.000 | <table border="1"> <tr> <td>from 20.000.001, 00 up to 40.000.000, 00</td> <td>3.000.000</td> </tr> <tr> <td>from 40.000.001, 00 up to 80.000.000, 00</td> <td>6.000.000</td> </tr> </table> <p>2. A comprehensive guarantee may, in cases in which the customs value of the merchandise exceeds eighty million Meticaïs, be established by the Director General of Customs on the request of the applicant, taking into account the risk involved to the income, resulting from the customs cadaster of the interested party and the type of goods to be covered by the guarantee, and taking into consideration the property</p> | from 20.000.001, 00 up to 40.000.000, 00 | 3.000.000 | from 40.000.001, 00 up to 80.000.000, 00 | 6.000.000 | | <table border="1"> <tr> <td>RISK VALUE OF GOOD AS (MT)Meticaïs</td> <td>Guarantee in MT</td> </tr> <tr> <td>up to 20.000.000, 00</td> <td>2.000.000</td> </tr> <tr> <td>from 20.000.001, 00 up to 40.000.000, 00</td> <td>3,000,000</td> </tr> <tr> <td>from 40.000.001, 00 up 1,000,000,000</td> <td>6,000,000</td> </tr> </table> <p>Greater than [USD25 or MTN 1,000.000,000 Equivalent] million: may be set by the DGA, on request of the interested party taking into account the risk involved to the income, resulting from</p> | RISK VALUE OF GOOD AS (MT)Meticaïs | Guarantee in MT | up to 20.000.000, 00 | 2.000.000 | from 20.000.001, 00 up to 40.000.000, 00 | 3,000,000 | from 40.000.001, 00 up 1,000,000,000 | 6,000,000 |
| from 1.000.001 up to 2.000.000, 00 | 150.000 | | | | | | | | | | | | | | | | | |
| from 20.000.001, 00 up to 40.000.000, 00 | 3.000.000 | | | | | | | | | | | | | | | | | |
| from 40.000.001, 00 up to 80.000.000, 00 | 6.000.000 | | | | | | | | | | | | | | | | | |
| RISK VALUE OF GOOD AS (MT)Meticaïs | Guarantee in MT | | | | | | | | | | | | | | | | | |
| up to 20.000.000, 00 | 2.000.000 | | | | | | | | | | | | | | | | | |
| from 20.000.001, 00 up to 40.000.000, 00 | 3,000,000 | | | | | | | | | | | | | | | | | |
| from 40.000.001, 00 up 1,000,000,000 | 6,000,000 | | | | | | | | | | | | | | | | | |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
|--------------------|--|---|---------|--|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | <p>4. The obligation to provide coverage by way of a comprehensive guarantee, in connection with a certain transit operation, cease to exist after the conclusion of the transit movement, in terms of Article 19. For the practical purposes of the application of this rule, the obligation to provide a comprehensive guarantee is deemed to cease to exist 10 working days after the date on which confirmation is given, by the customs office of destination, in the transit declaration, that the transit</p> | <p>of the company in question.</p> <p>4. The obligation to provide coverage by way of a comprehensive guarantee, in connection with a certain transit operation, cease to exist after the conclusion of the transit movement, in terms of Article 19. For the practical purposes of the application of this rule, the obligation to provide a comprehensive guarantee is deemed to cease to exist 2 working days after the date on which confirmation is given, by the customs office of destination, in the transit declaration, that the transit movement took place in accordance with the</p> | | <p>the customs cadaster of the interested party and the type of goods to be covered by the guarantee, and taking into consideration the property of the company in question</p> <p>. (This on an annual basis)</p> <p>In essence the risk value covered by a nominal bond is what is to be tracked and acquitted and should there be “pilferage” that can be recovered from the nominal bond (in our example the nominal bond is .6% of</p> |

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| | movement took place in accordance with the provisions of these regulations. | provisions of these regulations. | | the risk value – however this amount can still be determined by DGA – but it ought to be lower than 7.5%.. Please see example on Annexure III. |
| Article 8 (1) (Obligations of the declarant) | 1. The declarant is responsible for compliance with the obligations flowing from the customs transit, and shall, in particular, ensure the presentation of the merchandise, intact, at the customs office of destination, as well as the documents which must accompany it, in accordance with the provisions of these Regulations. | | | Altering the title of the article on "Obligations of the Declarant" to "Responsibilities of the Declarant". Adding the following to one of the paragraphs of this article: |

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| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | | | | The declarant shall be responsible to Customs for the correctness of the information provided in the declaration of merchandise. |
| Article 9 – Obligations of the Carrier | 1. Without prejudice to the obligations set out in special legislation, the carrier shall be obliged to place the merchandise at the disposal of Customs, for the purpose of verification, whenever such a request is made. | 1. Without prejudice to the obligations set out in special legislation, the carrier shall be obliged to place the merchandise at the disposal of Customs, for the purpose of examination, whenever such a request is made. | 1. Alignment with the remaining diplomas. | No comments. |

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| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | 2. | 2. The carrier shall be obliged to present the merchandise to the customs office of destination or departure, in a timely manner, using the prescribed routes. | 2. The need to present the merchandise in in the interests of the customs authority and the consignee and/or user. | |
| Article 10 – Obligations of the Surety Provider | | <p>Article 10 – Obligations of the Surety Provider</p> <p>1. The surety provider shall provide and make available an acceptable</p> | A surety provider is essential, which is why it is necessary to incorporate the concept into this legal diploma. The customs guarantee management system should ensure | Please see general recommendations. |

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| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | | <p>guarantee.</p> <p>2. The surety provider shall be obliged to declare himself, at Customs, to be the main person responsible for the surety needed for the establishment of the guarantee, and that he will be jointly and severally liable, in the case of liability for customs taxes.</p> <p>3. It shall be the responsibility of the surety provider to facilitate the transfer of funds through the</p> | <p>the safety and accuracy required.</p> | |

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| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | | banking system. | | |
| Article 14 – Declaration of Goods in Transit | <p>5. The declaration must be submitted by the declarant at the customs office of departure, duly filled in. The customs office must indicate, on the declaration, the route to be followed, details of seals utilised, any other relevant details, and the time of departure, stamping the original and four copies, which must be distributed as follows:</p> <p>a) The original is to be sent by the customs office of departure to the customs office of destination. After the certification of the conclusion of the transit by the customs office of destination, it must be</p> | <p>5. The declaration must be submitted by the declarant at the customs office of departure, duly filled in. The customs office must indicate on the declaration, the route to be followed, details of seals utilised, any other relevant details, and the time of departure.</p> | | |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
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| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | <p>submitted by the latter to the Dispatch Secretariat.</p> <p>b) Copy 1 accompanies the means of transport in transit at the expense of the declarant. After the certification of the conclusion of the transit at the customs office of destination, the copy is kept by the declarant.</p> <p>c) Copy 2 is to be sent, by the customs office of departure, to the Dispatch Secretary.</p> <p>d) Copy 3 is to be sent by the customs office of departure to the customs office of destination and after certification, it must be filed at the latter; and</p> <p>e) Copy 4 is to be filed at the</p> | | | |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
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| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | customs office of departure. | | | |
| Article 15 – Cargo Manifest | <p>1. The drafting of a cargo manifest for each consignment in transit, is obligatory.</p> <p>2. Merchandise in transit must be described in the cargo manifest, in accordance with the content of Annexure II of these regulations, the manifest being completed by way of one original and two copies. The Director General may authorize the use of alternative commercial documentation to for the same purpose. These documents shall be distributed as follows:</p> <p>a) the original shall be kept by the declarant;</p> <p>b) copy 1 shall be filed at the</p> | <p>1. The drafting of a cargo manifest for each consignment in transit, is obligatory.</p> <p>2. Merchandise in transit must be described in the cargo manifest, in accordance with the content of Annexure II of these regulations.</p> | <p>Alignment with the SW principles – “paperless”.</p> | <p>The simplification of procedures on the basis of the "paperless" principle is clear.</p> |

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| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | <p>customs office of departure; and</p> <p>c) copy 2 shall be filed at the customs office of destination.</p> <p>3. Provided that the cargo manifest contains the data required by the form contained in Annexure II of these regulations, Customs may permit the manifest to have a format different from that set out in the said annexure.</p> | | | |
| Article 17 (Transshipment during the transit movement) | <p>1. When, as a result of factors outside of the control of the transit declarant, the merchandise must be transhipped from one means of conveyance to another, during the course of the transit, the declarant or shipper shall, if possible, advise the closest customs</p> | | | See general comments |

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| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | <p>office, and only proceed with the transshipment thereafter.</p> <p>2. If, for security reasons, the transhipper cannot wait for the authorisation of Customs in order to effect the transshipment, he may take the necessary and indispensable measures, and notify Customs as quickly as possible.</p> <p>3. In any of the situations envisaged in subparagraphs 1 and 2 of this article, the declarant or shipper must record the occurrence on the reverse of the merchandise declaration, describing the reasons for the transshipment, the place,</p> | | | |

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| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | date and time at which it took place, the details of the vehicle to which the merchandise was transhipped, and the destination of the vehicle from which it was transhipped. | | | |
| Article 19 – Termination of Customs Transit | 1. So as to certify the termination of the transit operation, the custom office of destination must note, on the original and copies of the transit declaration, as well as on the cargo manifest, or other equivalent document, the conclusion of the transit operation, in compliance with what is set out in these regulations, and shall distribute these documents as follows: | <p>1. So as to certify the termination of the transit operation, the custom office of destination must close the transit declaration, on the basis of confirmation of the data provided by the customs office of entry;</p> <p>2. The acquaintance or removal of the guarantee obligation</p> | | National legislation should not, in respect of the termination of a customs transit operation, require more than that the merchandise, and the relevant merchandise declaration, manifest and bill of lading be presented at the office of destination within any determined time limit, without the |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
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| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | <p>a) the original of the transit declaration shall be sent to the Dispatch Secretariat corresponding to the customs office of departure of the customs transit;</p> <p>b) copy 1 of the declaration and the original of the manifest or equivalent document, shall be given to the declarant; and</p> <p>c) copy 3 of the declaration and copy 2 of the manifest or equivalent document and the discharge report, in this latter case, when the goods are offloaded from the means of conveyance, shall be filed at the custom office of destination of the transit.</p> <p>2. The acquaintance or removal of the guarantee obligation shall</p> | <p>shall automatically be acknowledged by the Dispatch Secretariat for the customs office at which the guarantee had been registered.</p> <p>The head of the customs office of destination shall be responsible for the initiation of any inquiry regarding merchandise which has not arrived, and shall proceed accordingly whenever it becomes evident that expected merchandise has not arrived.</p> <p>3. to be removed</p> | | <p>goods having undergone any change and without having been used, and with customs seals, fastenings or identification marks intact.</p> <p>In addition to No. 2 of the DGA proposal, it is suggested that a No. 3 be added, with the following wording:</p> <p>“When a guarantee has been provided, it shall be cancelled within 2 working days, after Customs has certified,</p> |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
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| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | <p>be provided by the Dispatch Secretariat of the customs office of departure after receipt of copy 2 of the declaration, sent by the customs office of departure, and the original of the declaration, sent by the customs office of destination after certifying that the transit movement has been concluded in line with the rules of these regulations.</p> <p>3. At the customs office of destination, the date and time at which the means of conveyance arrives at the customs office of destination, shall always be recorded on the transit declaration.</p> <p>4. The head of the customs office of destination shall be</p> | | | <p>to its satisfaction, that the obligations which gave rise to its constitution have been duly complied with."</p> <p>.</p> |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
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| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | responsible for the initiation of any inquiry regarding merchandise which has not arrived, and shall proceed accordingly whenever it becomes evident that expected merchandise has not arrived. | | | |
| Article 23 – Authorized routes | 1. Road transit may only take place by way of routes authorized by way of a joint order of the Director General of Customs and the authority responsible for roads and bridges. Those routes shall be published in the <i>Boletim da República</i> . | 1. Road transit may only take place by way of routes authorized by way of a joint order of the Director General of Customs and the authority responsible for roads and bridges, maritime navigation, and aerial navigation. These routes shall be published in the <i>Boletim da República</i> . | Two transport regulation authorities have been included in this article - those regulating sea and aerial navigation. | |
| Article 25 – | 1. In very exceptional | Cautionary Fiscal | insert new wording | |

| Current Provisions | | DGA team proposal with the view of the Single Electronic Window System | | MCLI additional proposals |
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| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| Fiscal Escorts | <p>circumstances and when a transit operation represents a high level of risk and the means of conveyance are not in the condition set out in these regulations, the head of the customs office of departure shall decide on the appropriateness of fiscal escorting, or other security measure.</p> <p>2. The expenses arising from such fiscal escort shall be paid by the declarant, at the cash desk of the customs office of departure, before the commencement of the transit operation. The cost of the fiscal escort will be determined by the head of the customs office of departure, in accordance</p> | <p>Measures</p> <ol style="list-style-type: none"> 1. Cautionary fiscal measures shall be adopted, so as to avoid violation of the (rules pertaining to) volumes, cargo containers and supervision of the means of transport, and shall include the use of physical and electronic security devices, and fiscal escorting, in exceptional cases. 2. The security devices referred to in the previous paragraph may only be removed or deactivated in the presence of supervisors. 3. Expenses incurred as a | | |

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| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| | with the parameters defined by the General Directorate of Customs. | result of the application of cautionary fiscal measures relating to volumes, cargo containers and means of conveyance, shall be borne by the owner or consignee. | | |
| <u>Section 5 – Transit by way of pipeline conduits</u> | | Section 5 – Transit via gas pipelines and cables. | | |
| <u>Pre clearance</u> | | | | Introduce some provisions regarding pre-clearance of goods in transit operations. |
| <u>Transitional and Final</u> | | | | Include an article which provides that any previous diploma |

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|--------------------|---------------------|--|---------|---|
| Clause Number | Current Regulations | Proposed Amendment | Reasons | Proposal/Comments |
| <u>Provisions</u> | | | | which contradicts this law shall be deemed to have been repealed. |

4.5 Comparison of Customs Transit Legislation of Mozambique and South Africa

This section gives an over view of the transit regime of South Africa and also list some of the areas for proposed changes to the Mozambique transit regime with reference to the practice in South Africa for benchmarking against best practice

4.5.1 Overview of relevant transit issues as treated in South Africa by SARS⁵⁴

| | Issues to be referenced to Best practice | SA Legislation reference |
|---|--|---|
| 1 | Risk assessment/procedure to cover transit risk for SARS <ul style="list-style-type: none"> • Who determine the risk • How is risk and cover calculated • Who ensures the risk? • What forms of risk coverage is accepted? And is most dominant in SA • On what basis is TFR a bonded carrier – have they to put up a | Bonds are put in place on the basis of the value and number of transactions per day. Having a Bond is deemed a concession in itself and if the risk of granting a bond is too high then Provisional Payments may be called for or die Bond amount could vary from 10% to 100%. <ul style="list-style-type: none"> • SARS has a centralized risk unit who determine the risk. Licence removers are held responsible for consignments and should have enough surety coverage as such • Risk and cover are calculated on the applicable duty and VAT |

⁵⁴ This full section of the report has been compiled by the SARS TEAM: Leon Potgieter: Rene Hattingh; Mattie Lourens Rudi Kitching

| | | |
|---|--|--|
| | bond? | <ul style="list-style-type: none"> • Importers/exporters or agents on behalf of them • Guarantee's, consignor and ROG bonds with recognized financial institutions as well as Provisional payments when circumstances required • Not familiar with the TFR term, should it however have reference to rail we don't request surety from rail transfers |
| 2 | Guarantees & bonds | <p>Bonds are validated once a year. Failing which will result in a bond cancelation.</p> <p>Only accept guarantee's from authorized banks</p> |
| 3 | Acquittals | <p>SA has an automated system in place (IBAS) to acquit transit movement of goods, but because we don't work on a deduction of the Bond as in the past the Bond does not require re-instatement when the exit of the goods are confirmed.</p> <p>SARS system ensure efficient coverage</p> |
| 4 | <p>Treatment of transhipments</p> <p>i.e. imports for say City Deep with transhipment in Durban</p> <p>And Imports for Zambia en route to Durban via Cape Town</p> | <p>Transhipments are allowed. The details of such transhipments are recorded by the shipper of the goods and recorded on the Manifest of the transhipping vessel.</p> <p>Transhipments from Bulk to Container or between containers are only permitted in a Licensed Customs Warehouse</p> <p>Not sure on the question, but a Removal in Bond from anywhere in South Africa to Zambia will be covered by the bond and the route travelled will be specified through Customs Legislation.</p> |
| 5 | <p>Pre – clearance</p> <p>/Copy documents/Electronic clearing</p> | <p>Pre-clearance are encouraged. Almost 100% of all international trade is dealt with through EDI which includes the submission of Supporting Documents in electronic format. Copy documents are provided for in Legislation</p> |

| | | |
|---|--|---|
| 6 | What are the SARS charges for administration of transit and transshipment clearances | SARS do not have any charges for this; however a charge for Supervision may be applicable at R100 per officer per hour. |
|---|--|---|

Guarantees:

In terms of Sections 47B(6), 54E(4), 59A(2)(a), 60(1)(c), 61(1) and (2), 64A(2) and (3), 64B(3) and (4), 64C(1) and 64D(5) the Commissioner may require that security be furnished, in the form, nature or amount determined by the Commissioner in order to protect the State from any loss likely to be incurred as a result of the activities to be carried out. The amount of the security will be determined in terms of standards and assessed on an individual basis in terms of the criteria established.

a). **When are guarantees applied?**

As a condition of registration,

As a condition of licensing, and

Security may also be applied for registration in the deferment scheme.

1). Transit Imports and subsequent exports:

In terms of Section 64D of the Act a Remover of goods in bond needs to be cover by means of a security.

a) Customs clients (consignor, remover of goods or warehouse licensee) must lodge surety and undertake full liability for the movement of the consignment by means of a:

- i) Consignor bond;
- ii) Road bond;
- iii) Warehouse bond; or
- iv)Provisional payment.

b) The security required by a:

i) Licensed remover of goods is:

A) Road bond;

B) Consignor bond; or

C) Provisional payment (DA 70).

ii) Warehouse owner is a warehouse bond;

iii) Foreign hauliers:

A) Consignor bond; or

B) Provisional payment (DA 70).

iv) Subcontractors:

A) *Road bond*;

B) Consignor bond; or

C) Provisional payment (DA 70).

Security shall be produced for each consignment of bonded goods and such security shall be equal to the total amount of the duties and VAT payable.) Security may be in the form of a continuous covering bond and shall remain in full force and effect in respect of any declaration relating to the goods carried by such remover until the goods are delivered at their final destination or otherwise accounted for as required by the provision of the Act or any Rule relating to such declaration and the carriage of such goods.

e) Two (2) security means such as two (2) road bonds, or two (2) consignor bonds or / a combination of bonds and provisional payments are not allowed on one (1) single declaration.

Security By A Licensed Remover:

a) The security provided by a licensed remover in bond can be carried over to a subcontractor or foreign haulier. (Refer to the Remover of goods - Pro Forma Agreement and Pro Forma - Bond for a Remover of goods in Bond in Rule 64D).

b) The bond holder is responsible for production of the acquittal document to Customs via any third party of his / her choice i.e. clearing agent, importer etc. when SARS calls for such. The bond holder will ultimately still be held liable for the duty.

c) In the event of goods being removed by sea, air, and rail, the declarant (importer / exporter / clearing agent, etc.) will be responsible for the acquittals but the client as well as his / her agent must be scheduled for the duty..

Security By A Consignor:

- a) A consignor may provide security for any bonded goods transported by any road vehicle. (Rule 64D.11(5))
- b) A consignor bond / provisional payment cannot be carried over to another consignor it can only be used in relation to a specific remover.
- c) Any consignor who intends furnishing security in the form of a bond must furnish such bond in accordance with the pro forma bond prescribed in Rule 64D.
- d) The consignor must furnish on his / her own letterhead paper authorisation signed by him / her or his / her duly authorised representative that the security bond may be utilised as security for the consignment specified in the authorisation which must state the following:
 - i) Particulars of the bond including the amount thereof;
 - ii) Whether the bond / provisional payment is given in the capacity of a clearing agent, importer, exporter licensee or other principal;
 - iii) A draft copy of the declaration;
 - iv) Description of the goods; the duty to be secured; and
 - v) Container(s) number(s), seal number(s), number of packages in each container or the number of packages if not containerised goods.

b). **What financial mechanisms are available for Guarantees:**

The security must be in the form of a surety bond or in the form of a provisional payment where the option is given. Surety bonds shall be given by an approved financial institution:

c). **Who holds the bonds?**

SARS only accepts surety bonds issued by a South African registered bank or an insurer registered with the FSB for the purpose of issuing guarantees. A list of the insurers approved to issue guarantees can be found at <http://www.fsb.co.za/>, Insurance, List of registered insurers.

A list of South African registered banks can be found at www.reservebank.co.za, Bank supervision, South African registered banks and representative offices.

The bonds are kept by the Branch Office where the client has been registered.

d). **How are bonds calculated?**

The bonds are calculated according to the following criteria:

| Category A | |
|--|--|
| Criteria | Percentage Deduction from standard amount |
| <p>1. Small Business Corporation Status</p> <ul style="list-style-type: none"> • The gross income of the corporation for the tax year may not exceed R 14 million; • The shareholders or members must be natural persons (individuals) and must hold the entire shareholding / members interest of the company / close corporation; and • Shareholders or members may not hold any shares or interest in the equity of any other company (excluding shares in listed companies, a participatory interest in a collective investment scheme or an interest in a body corporate). • If currently licensed or registered with Customs, an appropriate record of compliance since the date of licensing or registration. | 40% |
| <p>2. Clients accredited or reviewed in terms of the Accreditation Verification and De-Accreditation Policy.</p> <ul style="list-style-type: none"> • Clients registered or licensed with Customs for the preceding 2 years and accredited in terms of the Accreditation Verification and De-Accreditation Policy; OR • Existing accredited clients registered or licensed with Customs for the preceding 2 years who have not been accredited in terms of the Accreditation Verification and De-Accreditation Policy but have been reviewed in terms of the Accreditation Verification and De-Accreditation Policy. | 60% |
| Only proceed to 3 and 4 below if the client qualifies for criteria 2. | |
| <p>4. Period of time client has been trading for (excluding small business clients)</p> <p>Greater than 10 years</p> <p>Between 5 to 10 years</p> | <p>20%</p> <p>10%</p> <p>5%</p> |

| | |
|--|-----|
| Between 2 to 5 years | |
| 4. Listed company on the stock exchange (excluding small business clients) | 20% |

e). **Acquittal Process:**

Outline of the Acquittal process:

Whenever goods are moved under duty and / or VAT suspension, the goods remain under Customs control until they have left South Africa or are duly entered. The liable party must:

- a) obtain proof in the following scenarios:
 - i) Goods removed to a place in the common Customs area have been duly entered at that place;
 - ii) Goods which were destined for any country in Africa beyond the borders of the common Customs area have been duly taken out of that area;
 - iii) Goods in transit through South Africa from any country in Africa have been duly taken out of South Africa; or
 - iv) In other cases that goods have been duly taken out of the common Customs area.
- b) The duty and VAT will become payable upon demand if:
 - i) Liability has not ceased as contemplated in subsection 18(3)(a);
 - ii) The goods have been diverted; or
 - iii) Deemed to have been diverted as contemplated in subsection 18(13).
- c) The bond holder is responsible for production of the acquittal document to Customs via any third party of his / her choice i.e. clearing agent, importer, etc. when SARS calls for such.
- d) The bond holder will still be held liable for the schedule.
In the event of goods being removed by sea, air, and rail, the declarant (importer / exporter / clearing agent, etc.)
- e) will be responsible for the acquittals but the client as well as his / her agent must be scheduled.
- f) The licensed remover of goods (ROG) transporting the goods between the warehouses is liable for payment of the relevant duty and VAT if he / she has signed for the product but fails to deliver the consignment at the indicated premises.

- g) The Commissioner may allow a licensed remover of goods in bond to subcontract the removal or carriage of goods to which Section 64D relates to **another licensed** remover of goods in bond. It may not be subcontracted to foreign hauliers. When a licensed remover of goods so subcontracts, both such licensed removers shall be jointly **and** severally liable for the fulfilments of all obligations under Section 64D(6) including the payment of duties, charges and any penalties or amounts demanded under Section 88(2)(a).
- h) Liability for duties, taxes and acquittals of goods moved in bond / transit by road will be enforced in the following order:
- i) Where the agent processed a declaration and a licensed remover removes the goods under cover of a road bond:
- A) The agent;
 - B) The licensed remover;
 - C) The guarantor (lodger of the bond / principal debtor); then
 - D) The financial institution (co-principal debtor).
- ii) Where the agent processed a declaration and a foreign haulier removes the goods under cover of a consignor bond or PP:
- A) The agent;
 - B) The guarantor (lodger of the bond / principal debtor) or lodger of the PP; then
 - C) The financial institution (co-principal debtor).
- iii) Where the agent processed a declaration and a licensed warehouse owner removes the goods under cover of a warehouse bond:
- A) The agent;
 - B) The remover, which will be the warehouse licensee;
 - C) The guarantor (lodger of the bond / principal debtor); then
 - D) The financial institution (co-principal debtor).
- iv) Where the agent processed a declaration and a subcontractor or licensed remover removes the goods under cover of a consignor bond, PP or road bond:
- A) The agent;
 - B) The licensed remover;

- C) The subcontractor;
 - D) The guarantor (lodger of the bond / principal debtor) or lodger of the PP; then
 - E) The financial institution (co-principal debtor).
- v) Where the agent processed a declaration and a licensed remover removes the goods under cover of a consignor bond or PP:
- A) The agent;
 - B) The licensed remover;
 - C) The guarantor (lodger of the bond / principal debtor) or lodger of the PP; then
 - D) The financial institution (co-principal debtor).

Documents required for acquittal purposes:

- a) A hard copy of the bill of entry and the release notification (if EDI) or an original numbered and date stamped copy of the bill of entry must be presented with the acquittal documents.
- b) If there are any differences between the acquittal document details and the import / export / transit bill of entry, a voucher of correction must be passed to amend the bill of entry before the acquittal document can be accepted. A bill of entry cannot just be cancelled. An application to cancel must be made to the Branch Office of acceptance of the bill of entry before the VOC is processed.
- c) If a bill of entry was submitted by an agent via EDI such bill of entry must be printed with the final number and date and the release notification printed on the client's own letterhead.
- d) The prescribed proof of export together with the required forms will be accepted for acquittal purposes.
- e) All goods exported / in transit for acquittal purposes will not be examined or supervised unless as required.
- f) If any in bond bill of entry was processed and the goods were not removed to its final destination the Senior Ad Hoc Specialist in a Branch Office will consider the acquittal if the following documents are submitted:
 - i) DA 490 departmental bill of entry bringing duty to account;
 - ii) Destruction notice issued by Customs;

- iii) Abandonment notice issued by Customs;
- iv) Seizure notice issued by Customs or SAPS (a detention notice cannot be used as an acquittal document);
- v) A voucher of correction or SAD 503, if the bill of entry is cancelled;
- vi) SAD 500 (WH / WE);
- vii) DA 322 – State warehouse slip; or
- viii) Bill of entry for home consumption in respect of each in bond bill of entry as per attached printout must be processed bringing the outstanding amounts of VAT and duty to account.

Type of acquittal documents which will not be valid:

- a) No acquittal document shall be valid if it is improperly or fraudulently obtained.
- b) No acquittal document shall be valid if it does not comply in all respects with the requirements prescribed by legislation and this policy and the related standard operating procedure.

When to obtain acquittals:

- a) Clients must **obtain valid proof and keep it** for record purposes (not for producing such proof to the Controller / Branch Manager) as prescribed in terms of Section 18(3)(b)(i) read with Rules 18.07, 18A.04, 120A.01(c) and 120B.04(a) within thirty (30) days from the date of the bill of entry.
- b) When calculating the above mentioned thirty (30) day period:
 - i) **Exclude** the **first** day (date of bill of entry); and
 - ii) **Include** the **last** day (30th day) unless:
 - A) The last day falls on a Sunday: then the next working day is regarded as the last day (30th day);
 - B) The last day is on a Saturday: the previous working day must be determined as the last day (30th day).

SARS TEAM: Leon Potgieter: Rene Hattingh; Mattie Lourens Rudi Kitching

4.5.2 Comparison of Customs Transit Legislation of Mozambique and South Africa

| Subject | Mozambique | South Africa | Comment | | | | |
|--|---|--|--|---------------|--------|--|--|
| Customs Service Fee and Administrative Fees | <p>Admin fee: 4.1% of revenue at risk</p> <p>Acquittal: 1% of revenue at risk</p> <p>The order (<i>despacho</i>) of the Minister of Finance, dated 11 October 1992, establishes the charge of a customs transit fee of USD15 for some border posts for each heavy vehicle with foreign registration <i>Mozambique Customs Transit Regulations, approved by Min. Dip. 10/2002 of 30 January (“CTR”), Art. 3/2.</i></p> | <p>No fees charged by SARS - Customs</p> | <p>Mozambique charges transit fees; South Africa does not.</p> | | | | |
| Guarantee amount | <p>The amount of the guarantee is 100% of the revenue which is at risk for single guarantees (for only one operation).</p> <p><i>CTR 4/1</i></p> <p>For comprehensive guarantees (more than one operation within 1 year), the table below applies:</p> <table border="1" data-bbox="411 1146 999 1421"> <thead> <tr> <th data-bbox="411 1146 680 1289">Customs value of the merchandise (USD)</th> <th data-bbox="680 1146 999 1289">Comprehensive guarantee amount (USD)</th> </tr> </thead> <tbody> <tr> <td data-bbox="411 1289 680 1421">Up to 500,000</td> <td data-bbox="680 1289 999 1421">50,000</td> </tr> </tbody> </table> | Customs value of the merchandise (USD) | Comprehensive guarantee amount (USD) | Up to 500,000 | 50,000 | <p>Security shall be provided for each consignment of bonded goods and such security shall be sufficient to cover the total amount of the duties and VAT potentially payable.</p> <p>Bonds are put in place on the basis of the value and number of transactions per day. Having a Bond is deemed a concession in itself and if the risk of granting a bond is too high then Provisional Payments may be called for or the Bond amount could vary from 10% to 100%.</p> <p>Bonds are validated once a year</p> | <p>In Mozambique, it is based on the CIF value as opposed to South Africa which is based on the revenue at risk (customs duties + VAT potentially payable) in regard to comprehensive guarantee.</p> |
| Customs value of the merchandise (USD) | Comprehensive guarantee amount (USD) | | | | | | |
| Up to 500,000 | 50,000 | | | | | | |

| Subject | Mozambique | South Africa | Comment | | | | | | |
|--|---|---|--|-------------------------------|---------|--|--|--|--|
| | <table border="1"> <tr> <td data-bbox="415 282 680 477">From 500,001 – 1,000,000</td> <td data-bbox="680 282 1003 477">75,000</td> </tr> <tr> <td data-bbox="415 477 680 607">From 1,000,001 – 2,000,000</td> <td data-bbox="680 477 1003 607">150,000</td> </tr> <tr> <td colspan="2" data-bbox="415 607 1003 1068"> <p>The comprehensive guarantee in the cases in which the customs value of the merchandise is greater than \$2 million may be set by the General Director of Customs, on request of the interested party, taking into account the risk involved for revenue, resulting from the customs record of the interested party and the type of merchandise which shall be covered by the guarantee and taking into consideration the company's assets.</p> <p><i>CTR, 7/1</i></p> </td> </tr> </table> | From 500,001 – 1,000,000 | 75,000 | From 1,000,001 – 2,000,000 | 150,000 | <p>The comprehensive guarantee in the cases in which the customs value of the merchandise is greater than \$2 million may be set by the General Director of Customs, on request of the interested party, taking into account the risk involved for revenue, resulting from the customs record of the interested party and the type of merchandise which shall be covered by the guarantee and taking into consideration the company's assets.</p> <p><i>CTR, 7/1</i></p> | | | |
| From 500,001 – 1,000,000 | 75,000 | | | | | | | | |
| From 1,000,001 – 2,000,000 | 150,000 | | | | | | | | |
| <p>The comprehensive guarantee in the cases in which the customs value of the merchandise is greater than \$2 million may be set by the General Director of Customs, on request of the interested party, taking into account the risk involved for revenue, resulting from the customs record of the interested party and the type of merchandise which shall be covered by the guarantee and taking into consideration the company's assets.</p> <p><i>CTR, 7/1</i></p> | | | | | | | | | |
| <p>Forms in which a guarantee may be provided</p> | <p>A guarantee may be authorized by the General Director, by way of:</p> <ul style="list-style-type: none"> ▪ A declaration of assumption of liability, which constitutes a real guarantee over sufficient property to cover the amount guaranteed by the applicant, for individual or collective persons; | <p>Customs clients (consignor, remover of goods or warehouse licensee) must lodge surety and undertake full liability for the movement of the consignment by means of a:</p> <ul style="list-style-type: none"> ▪ Consignor bond ; ▪ Road bond; | <p>Warehouse bond and a road bond are clearly stated as a form of guarantee in South Africa legislation. In Mozambique it is not clearly stated in the CTRs.</p> | | | | | | |

| Subject | Mozambique | South Africa | Comment |
|---------|---|--|---------|
| | <ul style="list-style-type: none"> ▪ A declaration of assumption of liability for merchandise intended for State investment projects, issued by the competent entity; ▪ A letter of guarantee, issued by a reputable bank or financial institution; ▪ Treasury securities or bonds; ▪ A cash deposit; ▪ A bank certified cheque; or ▪ Insured bond (<i>seguro de caução</i>), in an equivalent amount <p>CTR, 4/4</p> | <ul style="list-style-type: none"> ▪ Warehouse bond; or ▪ Provisional payment. <p>The security required when goods are removed by a <u>licensed remover of goods in bond</u> is:</p> <ul style="list-style-type: none"> ▪ Road bond; or ▪ Consignor bond; or ▪ Provisional payment (DA 70). <p>A <u>consignor</u> [defined in Rule 64D.03(1) of the Customs Act] must lodge security in one of the following forms:</p> <ul style="list-style-type: none"> ▪ Consignor Bond ▪ Provisional Payment <p>The security required when goods are removed by a <u>warehouse licensee</u> is a Warehouse bond.</p> <p>For removal of goods by Foreign Hauliers:</p> <ul style="list-style-type: none"> ▪ Consignor bond; or ▪ Provisional payment (DA 70). | |

| Subject | Mozambique | South Africa | Comment |
|---|---|---|---|
| | | For removal of goods by Subcontractors: <ul style="list-style-type: none"> ▪ Road bond; ▪ Consignor bond; or ▪ Provisional payment (DA 70). | |
| Customs pre-clearance | No customs pre-clearance established in the CTRs | No prohibition on customs clearance of goods prior to their arrival in the Republic provided all the documents required for making due entry are available. | Although not established in the legislations of both countries, there is no prohibition on customs clearance. |
| Documents required for transit operation | M14, manifest <i>CTR, 13 and 15</i> <i>SAD under the Single electronic Window system</i> | DA 70 - Provisional Payment DA 187 - Road Manifest SAD 500 - Customs Declaration form SAD 502 - Customs Declaration form (Transit Control) SAD 505 - Customs Declaration form (Bond Control) | |
| Customs transit procedures | The following documents must be submitted to the Customs Office of Departure: <ul style="list-style-type: none"> e) Means of conveyance; f) Merchandise; g) Manifests or other commercial documents pertaining to the goods, from each customs | <p><u>Road manifest.</u></p> <p>The original of the road manifest must accompany the customs bill of entry for removal of any goods in bond and must accompany the driver of the vehicle. A copy of each must be delivered to Customs at the place</p> | Mozambique only has one declaration form which is Model 14. South Africa has many declaration forms for different purposes. South African legislation establishes some specific rules for BLNS countries |

| Subject | Mozambique | South Africa | Comment |
|---------|--|---|---|
| | <p>office at the place of destination of the merchandise which is being transported; and</p> <p>h) Transport declarations corresponding to each manifest.</p> <p>The customs office of departure may verify the merchandise which has been declared, and if necessary seal off compartments or trailers.</p> <p>Merchandise in customs transit shall be accompanied by a transit declaration, on the form contained in the CTRs which must be signed by the declarant.</p> <p>The presentation of a declaration of merchandise in transit, for each transit movement, is obligatory</p> <p>It is also obligatory to make reference to the guarantee, in the declaration of merchandise in transit .</p> <p>The declaration must be submitted to the customs office of departure.</p> | <p>of exit.</p> <p><u>Carriage of Unsealed Goods:</u></p> <p>Customs may authorize the removal of unsealed goods, for example heavy or bulk goods, subject to certain conditions, such as:</p> <ul style="list-style-type: none"> ▪ Additional security bonds; ▪ Full examination of the goods; ▪ Means and method of sealing, fastening and securing; ▪ A precise description of the goods, supported by samples, plans, sketches, photographs, etc.; ▪ Prescribed entry and exit points, routes and time limits; and ▪ Prescribed proof that the goods were entered for customs purposes at the place of destination. <p>Where goods are removed in this manner:</p> <ul style="list-style-type: none"> ▪ The original of the road manifest and a copy of the bill of entry must accompany the driver of the vehicle; ▪ One copy of each must be retained by | <p>(Republic of Botswana; the Kingdom of Lesotho; the Republic of Namibia; and the Kingdom of Swaziland).</p> |

| Subject | Mozambique | South Africa | Comment |
|---------|--|--|---------|
| | <p>The customs office must indicate the route to be followed on the declaration, and details of seals, i.e., by stamping the original (“DO”) and 4 copies, to be sent to the following entities:</p> <ul style="list-style-type: none"> f) The original is sent by the customs office of departure to the customs office of destination. After the purpose of the transit has been certified by the customs office of destination, it is sent by such office to the Dispatch Secretariat(<i>Secretaria de Despacho</i>) g) Copy 1 (C1) accompanies the means of transit conveyance, under the responsibility of the declarant. After the purpose of such transit has been certified by the customs office of destination, it remains with the declarant; h) Copy 2(C2)is sent by the customs office of departure to the Dispatch Secretariat; i) Copy 3 (C3) is sent by the customs office of departure to the office of destination, and, after having been certified, must be archived by this office; j) Copy 4 (C4) is archived at the customs office of departure <p>Cargo Manifest</p> | <p>the licensed remover of goods in bond; and</p> <ul style="list-style-type: none"> ▪ Customs at the office of commencement. <p><u>Entry of export by road from a customs and excise warehouse of imported or locally manufactured spirits and alcoholic beverages and tobacco products.</u></p> <p>The following rules apply to the removal in bond of this category of goods:</p> <ul style="list-style-type: none"> ▪ Except in the case of the licensee of a warehouse using own transport, such goods must be removed by a licensed remover of goods in bond; ▪ Only containers which can be sealed or goods vehicles with built-up closed bodies of which the doors can be sealed shall be used. Sealing must take place before the goods leave the premises of the warehouse; ▪ The loading of such goods into a container or goods vehicle and the sealing of such container or vehicle shall, if the Controller so requires, take | |

| Subject | Mozambique | South Africa | Comment |
|---------|---|---|---------|
| | <p>It is obligatory to provide a cargo manifest for each consignment in transit.</p> <p>Merchandise in transit must be described on the manifest, and the details required by the form contained in the CTRs (Annexure II) must be provided, the manifest being completed by way of an original and two copies. Customs may accept a format different to that prescribed by the CTRs, provided that the manifest contains the information required by the form.</p> <p>The General Director may authorize alternative commercial documentation, for the same purpose. The manifest is sent to the following entities:</p> <ul style="list-style-type: none"> d) The original remains with the declarant; e) Copy 1 is archived at the office of departure; and f) Copy 2 is archived at the office of destination. <p>Arrival at the Customs Office of Destination</p> <p>When the means of conveyance reaches the customs office of destination, the declarant, its representative or the transporter responsible for the transit must</p> | <p>place under customs supervision;</p> <ul style="list-style-type: none"> ▪ A remover of goods for export shall report at the border post concerned within 3 working days from the date of official sealing of the relevant container or vehicle; ▪ In cases where the exporter obtains various consignments from different customs and excise warehouses and intends to consolidate them at a central place before loading, the exporter shall obtain prior permission from the Controller in whose area of control the consolidation is to be done and such consolidation shall take place at a place approved by the Controller; ▪ If the afore-mentioned permission is granted, the consolidated consignment must be ready for packing into a container or goods vehicle and sealing under customs supervision at the approved place, within 5 working days from the date of acceptance by the Controller of the first export bill of entry in respect of the consignment; ▪ The prescribed charges (currently R100 per hour or part thereof) for extra or special attendance by a customs officer shall be payable; | |

| Subject | Mozambique | South Africa | Comment |
|---------|--|--|---------|
| | <p>submit the documentation relating to the transit.</p> <p>When applicable, seals which protect the means of conveyance shall only be opened after the authorization of Customs has been granted.</p> <p>Merchandise in transit, intended for import, shall only be discharged at customs offices (i.e., an international goods terminal, an approved customs warehouse, and the premises of an authorized consignee, IFZ or other location approved by Customs).</p> <p>End of Customs Transit</p> <p>When certifying the end of the transit movement, the customs office of destination must note the conclusion of the transit on the following documents:</p> <ul style="list-style-type: none"> ▪ Original and copies of the transit declaration; and ▪ Manifest or other equivalent document. <p>Release / acquittal from a guarantee, is granted by the Dispatch Secretariat at the customs office of</p> | <ul style="list-style-type: none"> ▪ Such exports shall only take place through the following border posts: Beit Bridge, Lebombo, Kazangulu (Botswana), Oshikango (Namibia), Lomahasha (Swaziland) and Mhlumeni (Swaziland); ▪ The exporter must produce to the Controller at the place of dispatch in the Republic any such documents relating to the export as he may require including a letter of credit or proof that the consignee has ordered or paid for such goods; ▪ The exporter by road from a customs and excise warehouse of imported or locally manufactured petrol, distillate fuel, kerosene mixed with lubricity agents and biodiesel may only be exported by the licensee of a customs and excise warehouse or by a licensed distributor. <p><u>Carriage of bonded goods by a subcontractor of a licensed remover of goods in bond</u></p> <ul style="list-style-type: none"> ▪ Adequate security must be furnished for the carriage of the goods; | |

| Subject | Mozambique | South Africa | Comment |
|---------|--|--|---------|
| | <p>departure, after:</p> <ul style="list-style-type: none"> ▪ The receipt of C2 of the declaration, sent to it by the office of departure; ▪ The receipt of the original declaration, sent to it by the customs office of destination, after certification that the movement has complied with the rules established in the CTRs. <p>Release from the coverage of a comprehensive guarantee, in connection with a specific transit operation, is given after the transit movement has been concluded. A comprehensive guarantee is deemed to have been discharged 10 working days after the date of confirmation given by the customs office of destination, on the transit declaration, that this must take place, in compliance with what is set out in the CTRs.</p> <p>Situations in which the customs office of destination does not certify the declaration, because it detects irregularities, or if the transit does not reach the customs office of destination within the envisaged time period, are excluded from the general rule set out above.</p> | <ul style="list-style-type: none"> ▪ The consignor must authorize, in writing, that the security bond may be utilized as security for the consignment; ▪ The name, address and client number of the remover who subcontracted the transport of the goods, must be inserted on the customs bill of entry; ▪ The road manifest must contain the names of both the licensed remover of goods in bond and the sub-contractor and must be signed by both parties; ▪ Where more than one sub-contractor is contracted, a separate must be processed for each sub-contractor; ▪ Where goods are transferred to the vehicle of the sub-contractor, new seals must be affixed under supervision of an officer who must endorse the original and copies of the manifest to this effect; ▪ Where more than one sub-contractor is contracted a separate bill of entry must be processed in respect of each sub-contractor. <p><u>Goods removed in transit / bond to the BLNS countries.</u></p> | |

| Subject | Mozambique | South Africa | Comment |
|---------|------------|--|---------|
| | | <ul style="list-style-type: none"> ▪ Normal in bond procedures are applicable and the bill of entry to be used for this purpose must be the form SAD 500; ▪ A SAD 500 and SAD 502 (RIB) must accompany the road vehicle carrying the cargo; ▪ Proof of clearance into the storage warehouse in these countries must be produced; ▪ The SAD 500, SAD 502's, copy of warehousing declaration in the BLNS country and a copy of the road manifest are required for acquittal purposes; <p><u>Goods removed through a BLNS country to a foreign country.</u></p> <p>In addition to the afore-mentioned requirements, the following applies:</p> <ul style="list-style-type: none"> ▪ A SAD 500 and SAD 502 (RIT) must accompany the road vehicle carrying the cargo; ▪ The declaration to the Customs officer | |

| Subject | Mozambique | South Africa | Comment |
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| | | <p>at the last place of exiting the SACU border is the proof of exiting SACU.</p> <p><u>Cargo exiting South Africa to a foreign country (Beit Bridge and Komatipoort).</u></p> <ul style="list-style-type: none"> ▪ A SAD 500 and SAD 502 (RIT) must be lodged at the port of landing for onward movement; ▪ A SAD 500 and SAD 502 (RIT) must accompany the road vehicle carrying the cargo; ▪ The SAD 500, 502 and road manifest (DA 187) must be produced for acquittal purposes. | |
| <p>Discharge of transit guarantees</p> | <p>Release / acquittal from a guarantee, is granted by the Dispatch Registry at the customs office of departure, after:</p> <ul style="list-style-type: none"> ▪ The receipt of C2 (copy 2) of the declaration, sent to it by the office of departure; ▪ The receipt of the original declaration, sent to it by the customs office of destination, after certification that the movement has complied with the rules established in the CTRs. | <p>Shall remain in full force and effect in respect of any bill of entry relating to the goods carried by such remover until the goods are delivered at their destination or otherwise accounted for as required by the provisions of the Act and any rule relating to such bill of entry and the carriage of such goods;</p> | <p>For the release from guarantees, Mozambique charges an acquittal fee. This does not happen in South Africa.</p> |

| Subject | Mozambique | South Africa | Comment |
|---|---|---|--|
| | <p>Release from the coverage of a comprehensive guarantee, in connection with a specific transit operation, is given after the transit movement has been concluded. A comprehensive guarantee is deemed to have been discharged 10 working days after the date of confirmation given by the customs office of destination, on the transit declaration, that this took place, in compliance with what is set out in the CTRs.</p> <p><i>CTR 7/4.</i></p> | | |
| <p>Rails and ports bonded</p> | <p>No, but under Customs Control.</p> <p><i>Decree 34/2009/4/2</i></p> <p><i>DM 262/2004/3 and ss</i></p> | <p>The Rails and Ports are under Customs Control, not necessarily bonded.</p> | <p>The rails and ports in South Africa are under Customs Control. It is similar to Mozambique.</p> |
| <p>International treaties or regional protocols on transit</p> | <ul style="list-style-type: none"> ▪ GATT - General Agreement on Tariffs and Trade, as ratified by Resolution 31/94, of 20 September ▪ SADC Trade Protocol, ratified by Resolution 44/99, of 28 December | <ul style="list-style-type: none"> ▪ GATT - General Agreement on Tariffs and Trade ▪ Revised Kyoto Convention (WCO 1999) ▪ SADC Trade Protocol | <p>One important document which is very important for the harmonization of transit procedures between the two countries is the SADC Trade Protocol which was ratified by both of them.</p> |

4.6 Comments and Recommendations from a legal perspective

4.6.1 Customs transit regulations

The CTRs was approved by the Ministerial Diploma nº 10/2002, of 30 January. After 9 years of being in force, there is a need to review it in order to create a diploma which is more clear and transparent about the transit procedures. This is firstly to facilitate comprehension on the rules about transit procedures; secondly to facilitate the transit; and thirdly to harmonize procedures with those of neighboring countries for the treatment of goods transported in a customs transit regime as established by SADC Protocol.

The draft of the proposal for the review of the CTRs should be consistent with the relevant provisions, including definitions of the SADC Protocol as a first step to harmonize the procedures with the neighboring countries.

The CTRs refers to the payment of a transit fee for services rendered by Customs, which will be set by the Ministry of Finance, and may not exceed the equivalent of 10 United States Dollars for each declared transit. However, to date no diploma has been issued by the Ministry of Finance, determining the exact amount of the transit fee for the services rendered by Customs. Furthermore there is also a Ministerial Order of 1992, which approves a transit fee in the amount of USD15 for some borders only. This order creates various inconsistencies to the extent that it approves the said fee only for certain border posts.

4.6.2 Bonds/Guarantees

1. The CTRs defines two types of guarantees: individual guarantee and comprehensive guarantee. The latter is based on the goods' customs value (CIF) as per the legislation in regard to goods' customs value. However, according to the spirit of CTRs, the guarantee is to cover the revenue at risk – CTR, Article 6 (1). Thus for this purpose, and considering the principle of harmonization of procedures, we would recommend that no bond be required, except for high risk value goods, and that bonds be required as per the table above, for risk values up to Mtn 1,000,000.00.
2. Another observation is that the guarantee can be provided by many forms, being one of them an insured bond (seguro de caução), in an equivalent amount. There are some insurance companies in Mozambique which can provide such insurance; it is advisable to create a document accessible to all transit operators about their prerogative to use insurance for these purposes. We also recommend that funding

be sourced for the drafting of a comprehensive procedure manual on all the various forms of sureties, with their respective costs, and benefits.

3. A further observation relates to the principles with which a guarantee must comply, in accordance with the CTR's. One of these principles states that if the goods are intended for, or leave from, an establishment which is under customs control, and are transported by the beneficiary of the regime, the guarantee issued by that establishment must cover the transit operation. One of the common interpretations of this wording is to assume that since a guarantee covering the revenue at risk must be provided in order to set up a bonded store, no other additional guarantee is necessary when the owner of the bond store intends to carry out a transit operation, in accordance with the law. In the same sense, it would be sufficient for a carrier to prove that he is acting in the name of the owner of a bond store so as to benefit from such a regime, as the bond store is itself a guarantee, and in addition, must be insured, in order to operate. At this point, the bonded warehouse should be aligned with the legislation.

4. Furthermore, there is also a position which states that since a declaration of assumption of liability, which constitutes a real guarantee over sufficient property to cover the amount guaranteed is a means of providing the guarantee, either for individual or collective persons, railways based on this are allowed to use this form of guarantee, for the transit operations on behalf of the operators.

5. For these reasons, we propose a reduction in the guarantee to be provided, and as a last recommendation, we think that the new CTRs to be proposed should include exemptions from the provision of guarantees.

4.6.3 Manifests

1. In regard to the transit procedures, it is established by the CTRs that manifests or “other commercial documents” pertaining to the goods are required. In our view, this vague formulation has given rise to uncertainty about what is in fact required. In our understanding, it should be specifically determined which documents should be required, whether it is the declaration of goods, the manifest, (bill of lading, Waybill or telex release), invoice, packing list and license when applicable and that copies are acceptable when originals cannot be provided, or when the requirement to

provided originals can be waived. This should be made clear in the revised legislation.

2. In addition, the implementation of the SEWS (single electronic window system) in this process should obviate the need for four (4) physical copies of the declaration of goods, as proposed by Customs. This is an excellent initiative, and we hope that the customs posts will be adequately equipped for the purpose. However, we hope that such technology does not represent a cost for the transit operators to bear or does not become cost effective for them which might cause an adverse consequence opposed to the one of turning the port of Maputo a competitive port. It is also expected, that the system operates in a way in which any power failure or any IT problems to not cause a delay on the transit procedures, including for the release of the bond.

4.6.4 Procedures

4.6.4.1 Transit Fees

We have been told and have a copy of a charge levied based on a percentage of the revenue at risk (4.1% on the revenue at risk for the administrative fee and a further 1% on the revenue at risk as a fee for acquittal of the guarantee). To the best of our knowledge we have not been able to establish the basis in law for that charge.

In line with practice in South Africa, and our need to be competitive, there ought to be no charge, or such charge ought to be minimal, clearly instituted and applied throughout the country.

4.6.4.1 Transshipment

We also propose that, when dealing with the transit of merchandise from one port, for example, the port of Maputo, to a means of conveyance by road, rail, air or sea, to a customs office of destination which is also within the country, no guarantee or security payment should be required, and that customs duties and other charges due for the transit merchandise should be paid at the office final destination.

When a clearing agent drafts a transit dispatch for merchandise, the relevant customs office should be required to send it, immediately, to the customs office of destination of the merchandise, where customs duties should be paid.

If the importer intends to pay the duties at the port of Maputo, (the customs office of departure), this should be authorised, without delaying payment.

We recommend that considering the high economic impact and potential of transshipment for Mozambique that it should be dealt with in its own chapter, in which the legal framework applicable to it is set out.

One of the provisions which the said framework should also contain is the following:

“Only one manifest shall be required for the purposes of transshipment.”

4.6.4.3 Pre-clearance

Finally, it is recommended that the next CTRs to enter into force also include some provisions regarding pre-clearance and respective procedures for the customs transit regime.

CHAPTER 5: CONCLUSION

This chapter envisage to consolidate the recommendations from a trade as well as legal perspective, grouped under the five headings namely, general customs transit regulations; bonds; manifest; transit approval process and stakeholder engagement.

This document presents the clear, consolidated voice of relevant industry stakeholders for the revisions to the Mozambican transit regime, which recommendations are contained in this report. We are gratified to find that these are in line with the proposals tabled by the Government of Mozambique regarding revisions already undertaken to facilitate the implementation of the Single Electronic Window System in Mozambique. If implemented in tandem, we are certain that these revisions will unblock substantial transit flows to Mozambican ports, release further investment and growth and ultimately make a substantial contribution to the economy of Mozambique and to the region.

In order to achieve the strategic goal of MCLI to promote the Port of Maputo as a bi-directional transit corridor, and to contribute to the over-all transit regime for all Mozambique ports, once the transit regime has been addressed through our various recommendations, we consider it necessary that the following points be considered:

5.1 General Customs Transit Regulations (CTR)

- It is recommended that CTR's are revised to ensure that they are consistent with the relevant provisions and definitions of the SADC Protocol on Trade as a first step to harmonise procedures with neighbouring countries

5.2 Bonds

- Clarify the definition of risk valuation to establish the risk to be ensured as that which is physically in transit at one time and not the full shipment.
- Use the English words for bonds/guarantees as a) "individual" for single clearing and b) "comprehensive" for repetitive clearing in line with world best practice.
- Encourage the practice of authorised economic operators to operate under a comprehensive guarantee, with the guarantee reference amount increased to 1 Billion Mtn against a guarantee of 6 Million Mtn, fixed for a term such as a year without repeat applications to the DGA and have a "no bond" requirement for long standing compliancy AEO's
- Look into the possibility of transporting companies undertaking the guarantee for the cargo based on the principle of bonded carriers.

- Make provision up front for rail to become a bonded carrier or a carrier under customs control without a bond requirement, with the necessary procedures in place to secure the risk of the state and communicate this to transit importers. This will also serve the purpose of moving more rail appropriate freight onto rail, which is crucial for rail operators, cost efficiency and competitiveness on the corridor and to ensure that the SADC principle of ensuring the sustainability of road infrastructure is adhered to.
- Make clear provision for the port and terminals to become bonded areas with the necessary procedures in place to secure the risk of the state so that transshipments will not need to be bonded
- MCLI submits the following example of a proposal for comprehensive guarantees for high risk transit imports based on an annual application and approval

| MCLI PROPOSAL - USD | | | MCLI PROPOSAL - METICAL | | |
|------------------------------------|----------|--|-------------------------|---------------------------------------|-------------|
| RISK VALUE/ REFERENCE AMOUNT | BOND USD | | EXCHANGE RATE | RISK VALUE/ REFERENCE AMOUNT | BOND MTN |
| 500 000 | 50 000 | | 40 | 20 000 000 | 2 000 000 |
| 1 000 000 | 75 000 | | 40 | 40 000 000 | 3 000 000 |
| 25 000 000 | 150 000 | | 40 | 1 000 000 000 | 6 000 000 |

| EXAMPLE OF COMPREHENSIVE GUARANTEE ACQUITTAL | | | | | | |
|--|------------|------------|--|--------------|------------|---------------------------------|
| CUSTOMS VALUE | DUTY | IVA | TOTAL RISK VALUE DEDUCTED FROM REFERENCE VALUE | | TEU'S | REFERENCE AMOUNT BALANCE MTN |
| Say 1 Container = | 10% | 17% | USD | MTN | | 1 000 000 000 |
| USD 100 000 | USD 10 000 | USD 17 000 | 27 000 | -108,000 | 1 TEU's | 998 920 000 |
| | | | 2 025 000 | -81,000,000 | 75 TEU's | 917 920 000 |
| | | | 25 000 000 | -917 920 000 | +850 TEU's | ZERO |

ANY PILFERAGE CUSTOMS WILL DEDUCT TOTAL RISK REVENUE FROM THE BOND VALUE OF MTN 6,000,000

5.3 Manifests

- Make provision for pre-clearance, by accepting the vessel manifest and for partial manifest submissions to speed up the clearing process and prevent costs of delays.

- Timely buy-in and roll out of the Single Electronic System by all role-players to expedite the efficiencies in the area of manifest, preclearance and partial clearance of manifests.

5.4 Transit Process Authorisation

- Establish guarantee services with the lowest possible cost impact such as comprehensive bonds or through insurance companies and train the industry to effectively use these
- Facilitate clearance by the single electronic window system and as back up, clearance by copy documents to speed up risk assessment, approval, pre-clearance, and bond acquittals
- Abolish the practice of customs charging both a bond administration fee as well as an acquittal fee on regional transit cargoes as this makes the Mozambique ports uncompetitive and negates the potential revenue benefit to the Government of Mozambique which would be accrued via transit cargo.
- Delegate power of authority of the DGA in order not to delay special approval processes.
- Abolish the practice of customs charging both a bond administration fee as well as an acquittal fee on regional transit cargoes as this makes the Mozambique ports uncompetitive and negates the potential revenue benefit to the Government of Mozambique which would be accrued via transit cargo.

5.5 Stakeholder Engagement

- Establish a customs team entirely dedicated to in-transit cargo, all located in one office close to the port of Maputo;
- Establish a regular operational transit customs forum whereby operational matter can be discussed and resolved. MCLI is willing to play this facilitation role on the Maputo Corridor.
- Work towards getting all transit stakeholders, i.e. all customs ,customs clearance agents, clearing and forwarding companies, shipping lines and terminal staff in one building and linked to a common system to ensure single entry and payment in order to shorten processing times.

MCLI will continue to monitor progress until such time as the relevant Mozambique Government process of revision and approval of the revised CTS has been concluded, whereupon phase two of the project, namely the production of an electronic manual and training workshop on the revised legislation, policies and procedures will be undertaken, should the SSATP program agree to extend the expiry date of the contract of 31 March, 2012 to say 45 days after Government approval.

LETTER OF RECOMMENDATION HANDED TO THE HEAD OF CUSTOMS ON 24 TH OCTOBER 2011 BY THE CHAIRMAN OF MCLI AND THE CTA PRESIDENT OF CUSTOMS AFFAIRS.

**General Customs Directorate
Att. General Customs Director
Rua Timor Leste nº 95
Maputo**

24th October, 2011

Dear Dr Tivane,

SUBMISSION OF REPORT CONTAINING RECOMMENDATIONS FOR THE REVIEW OF THE MOZAMBIQUE CUSTOMS TRANSIT REGIME

The MAPUTO CORRIDOR LOGISTICS INITIATIVE (MCLI) is a voluntary association not for gain, with legal personality and perpetual succession, having the strategic objective to promote the Maputo Corridor as first choice for the region's importers and exporters and to facilitate the removal of trade constraints and bottlenecks on the corridor through a mutual platform with the governments of both South Africa and Mozambique and also other neighbouring countries that stand to benefit by using the port of Maputo.

MCLI would like to express our appreciation for the spirit of cooperation between ourselves and the Mozambique Customs Department since the inception of MCLI. During this time we have seen the 24 hour customs' service at the port of Maputo, the freight bypass at the border post, the extension of the border post operational hours, continuous operational improvements at the border post, and other terminals, the continued drive to move towards a permanent 24 hour One Stop Border Post as well as the various interim interventions in order to achieve greater operational efficiencies and volume growth at the port of Maputo. Without the excellent spirit of cooperation from the policy and procedures department as well as the Single Electronic Window System team this project and report could not have been delivered of such standard and time and we highly value the fact that the Mozambique Revenue Authority embraces such strong stakeholder engagement and support.

In order to achieve the objective mentioned above, MCLI has engaged with the SSATP program of the World Bank to fund a project through MCLI, in conjunction with its public sector partners in Mozambique and South Africa, to carry out a diagnostic study of the

existing Mozambique transit customs regime in comparison to that of South Africa and in line with the SADC Protocol on Trade, and relevant international treaties, to identify the possibilities for economic growth and cost and time efficiency which could be achieved if the negative impact on Maputo Corridor and Port of Maputo cargo flows with regards to cost, time, complexity and other negatives could be addressed. This study includes proposals for changes to legislation, policies and procedures, to ensure the maximum potential of the corridor is reached. This implies simplicity of procedures, benchmarked timelines and reduced costs which will ensure the Mozambican bi-directional transit corridors become the first choice for the region's importers and exporters.

Even though this project has been initiated by MCLI in close collaboration with the Port of Maputo, the shipping industry and CTA, it is clearly understood that proposals for legislation, policy, process and procedures revision will impact on all of Mozambique ports hence it is the intention of this project to focus on the bigger picture which will ensure the Mozambique bi-directional transit corridors become the first choice for the regions importers and exporters. This will require the review of Ministerial Diploma 10/2002 as well as any other legislation requiring revision which will be impacted by our recommendations and which address the overall efficiency of transit cargo movements, .; in line with the proposed tabled revisions to facilitate the Single Electronic Window System, which is strongly supported and endorsed.

The attached document, which has been prepared in close collaboration with the Port of Maputo as well as the shipping industry presents the clear, consolidated voice of relevant industry stakeholders for the revisions to the Mozambican transit regime, which recommendations are contained in the attached report. We are gratified to find that these are in line with the proposals tabled by the Government of Mozambique regarding revisions already undertaken to facilitate the implementation of the Single Electronic Window System in Mozambique. If implemented in tandem, we are certain that these revisions will unblock substantial transit flows to Mozambican ports, release further investment and growth and ultimately make a substantial contribution to the economy of Mozambique and to the region.

The intention of this letter is thus to submit, for your consideration, the report arising from this study, with our expectation of contributing to the improvement of trade flows which is indeed the objective of both the SADC Protocol on Trade and Mozambique's own legislation. These recommendations are summarized as follows over the five areas of the transit regime, with the detail following in the report, namely General CTR's, bonds, manifest, transit process authorisation and stakeholder engagement.

1. General Customs Transit Regulations (CTR's)

It is recommended that CTR's be amended to ensure that they are consistent with the relevant provisions and definitions of the SADC protocol as a first step to harmonise the procedures with the neighbouring countries.

2. BONDS

It is recommended that the definitions of RISK valuation be clarified to clearly establish the risk to be insured is that which is physically in transit at one time and at risk for loss of revenue to the state, with the preamble that for low risk, the requirement for a bond can be waived and that for continuous transit business an approved, authorised operator may operate under a comprehensive guarantee with the reference amount increased to \$25 Million fixed for a term such as a year and not with repeat applications to the General Director of Customs (DGA). Furthermore that the bonded status of the railways be clarified as not requiring a bond in the same way as what transshipment goods ought to be acquitted at the last port of destination with no additional bond requirement.

3. MANIFESTS

It is recommended that the vessel manifest be submitted three days prior to arrival of vessel and that partial manifest be accepted, in order to facilitate pre-clearance and reduce the cost of time delays in the port.

4. TRANSIT PROCESS AUTHORISATION

It is recommended that copy documents and electronic submissions for all processes be accepted with clear time frames in order to speed up risk assessment, approval, pre-clearance, processing and acquittals of transit and transshipment cargo and that the charging of fees be abolished in line with the South African practice or be greatly reduced so as not to inhibit regional transit traffic. It is further recommended that the relevant power of authority of approval of the DGA be delegated to a relevant senior official in order not to delay special transit approval processes..

5. STAKEHOLDER ENGAGEMENT

It is recommended that a customs team entirely dedicated to in-transit cargo be established and that this team, in its entirety, be located in one office close to the port of Maputo with all transit stakeholders, i.e. all customs departments, customs clearance agents, clearing and forwarding companies, shipping lines and terminal staff be located in one building and be linked to a common electronic system to ensure single entry and payment in order to shorten processing times and also to establish a regular operational transit customs forum, which MCLI can facilitate for the Maputo Corridor, whereby operational matters can be discussed and resolved with effective feedback into the corridor transit community.

Once the recommended changes to legislation have been adopted by the Mozambique Government the next phase (Phase 2) of the project will be required to produce an electronic manual of the said transit customs legislation, processes and procedures and to present the manual at a validation and training workshop, aiming at enhancing the capacity of the Mozambique forwarding community to assist shippers, and ultimately increase the attractiveness of Mozambique as a bi-directional transit country and to ensure full compliance and operational efficiency by all.

We greatly appreciate your positive and proactive assistance to MCLI, the Port of Maputo as well as the shipping industry in drafting this document and it is our pleasure to submit this report for your consideration.

Yours Sincerely,

Dr. António Matos

MCLI Chairman : Mozambique

Barbara Mommen

Chief Executive Officer : MCLI

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