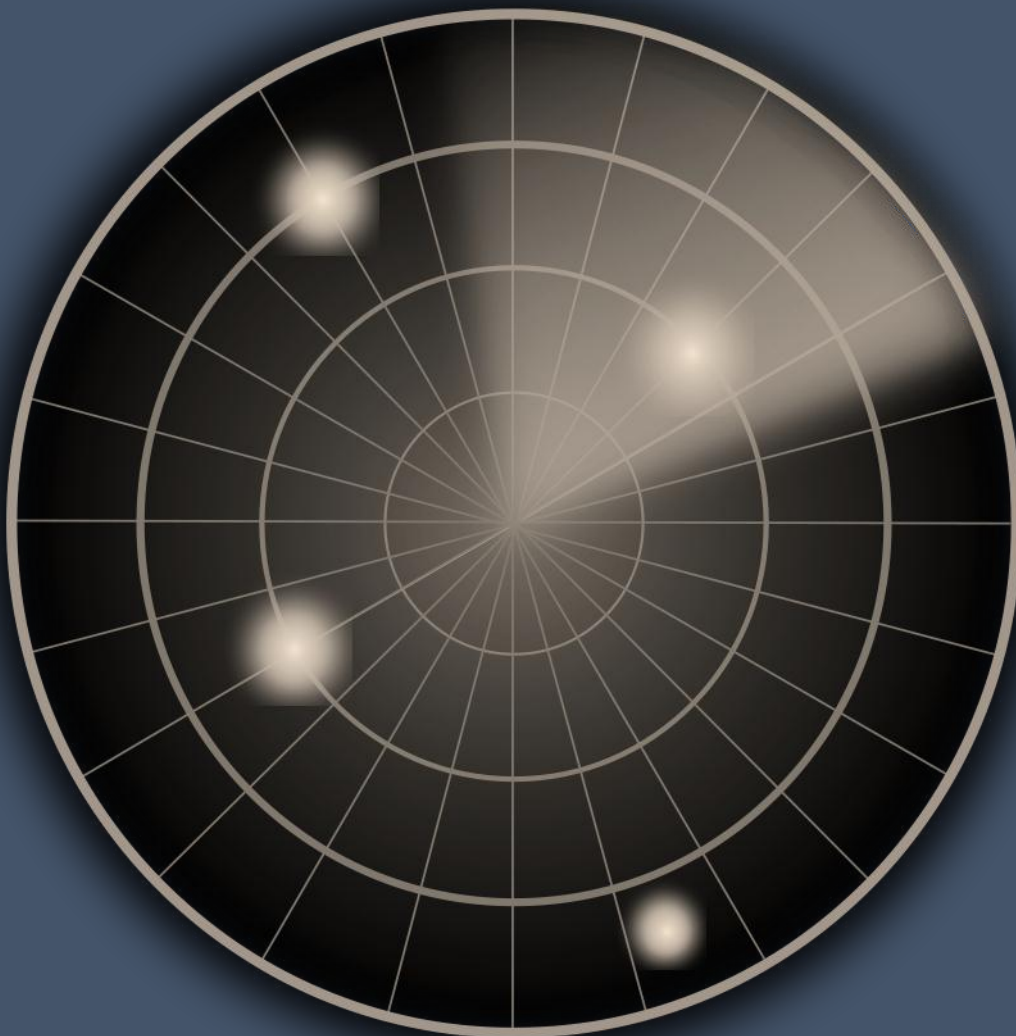




PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

SAFEGUARDING SOUTH AFRICA'S MARITIME AND AIR BORDERS

THE ROLE OF THE SANDF, SAPS, DHA & DAFF



RESEARCH UNIT

May 2016



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

SAFEGUARDING SOUTH AFRICA'S MARITIME AND AIR BORDERS

The role of the South African National Defence Force, South African Police Service, Department of Home Affairs and Department of Agriculture, Forestry and Fisheries

AUTHORS

Wilhelm Janse van Rensburg
Adam Salmon
Calvin Manganyi
Nhlanhla Ginindza
Nicolette van Zyl-Gous

EDITORS

Nadia Dollie

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EXECUTIVE SUMMARY

Border safeguarding has been increasingly prioritised by Government in recent years, including in strategic planning documents such as the National Development Plan and the Medium Term Strategic Framework. While significant focus has been placed on land border safeguarding, the domains of maritime and air border safeguarding has often been neglected. What complicates these domains is that, unlike land borders, maritime and air border control refer to a broader area of control rather than control of a single demarcated borderline. Territorial control is thus more intertwined in these domains.

Within the security realm of border control, three departments play a leading role in maritime and air border safeguarding. The South African Police Service (SAPS), the South African National Defence Force (SANDF) and the Department of Home Affairs (DHA) play the lead roles in both the maritime and air border environments, with the Department of Agriculture, Forestry and Fisheries also contributing to the security of South Africa's territorial waters. Given the need for an integrated approach to border safeguarding, cooperation between these roleplayers are envisaged through the establishment of a Border Management Agency (BMA). In terms of maritime and air border safeguarding, the BMA will see the establishment of a dedicated Coastguard and appropriate complementary capability to monitor the country's airspace along with the SANDF. The current planning for the implementation of the BMA consist of a transition phase which will conclude in December 2016. Pilot sites for such integration, such as at the Cape Town Harbour, has shown successful cooperation among roleplayers.

Despite the advances made towards an integrated approach to maritime and air border safeguarding, including under the BMA, certain challenges remain. The formalising of cooperation between roleplayers is required for effective cooperation; sharing of information between roleplayers remain lacking; the rationale for and financial implications of the establishment a Coastguard remains questionable; and, clear role definition of the various roleplayers is required. These and other overarching concerns thus require ongoing engagement between roleplayers. The study thus primarily suggest that these challenges highlight the need for increased parliamentary oversight over the domains of maritime and air border safeguarding. The study further recommends increased interdepartmental coordination; the urgent development of a Maritime Security Strategy and Policy; the addressing of port operating hours; the vetting of staff at ports of entry; community involvement of communities around ports of entry to enhance security; revisiting of the proposed creation of a Coastguard by rather developing and integrating existing resources; increasing focus on air border safeguarding; and, enhancing practical and cost-effective ways of ensuring air border safeguarding.

These recommendations are designed to assist Members of Parliament in their engagement with the relevant Departments on issues related to maritime and air border safeguarding. The study thus aims to broaden the debate on border safeguarding and ensure a holistic approach thereto and to parliamentary oversight of border safeguarding.



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List of abbreviations

ACSA:	Airports Company of South Africa
AGSA:	Auditor-General of South Africa
ALPR:	Automatic License Plate Recognition
APAP:	Agricultural Policy Action Plan
APP:	Advance Passenger Processing
BACC:	Border Affairs Coordinating Committee
BCOCC:	Border Control Operational Coordinating Committee
BMA:	Border Management Agency
BRRR:	Budgetary Review and Recommendations Report
CCTV:	Closed-circuit Television
CSIR:	Council for Scientific and Industrial Research
DAFF:	Department of Agriculture Forestry and Fisheries
DG:	Director-General
DHA:	Department of Home Affairs
DLC:	District Liaison Committee
DOD:	Department of Defence
DPW:	Department of Public Works
ECMS:	Enhanced Movement Control System
EEZ:	Exclusive Economic Zone
GDP:	Gross Domestic Product
IACF:	Inter Agency Clearing Forum
IPID:	Independent Police Investigative Directorate
IPV:	Inshore Patrol Vessel
ISPS:	International Ship and Port Facility Security
IUU:	Illegal, Unreported and Unregulated
LDV:	Light Duty Vehicles
LHD:	Landing Helicopter Dock
LSCC:	Local Sea Port Core Command
MLRA:	Marine Living Resources Act
MPA:	Marine Protected Areas
MTSF:	Medium-term Strategic Framework
NASP:	National Aviation Security Programme
NDP:	National Development Plan
NSIT:	National Specialised Investigation Team
OPL:	Off Port Limit
OPV:	Offshore Patrol Vessel
PECC:	Port of Entry Control Centre
RFMO:	Regional Fisheries Management Organisations
SAPS:	South African Police Service
SAMSA:	South African Maritime Safety Authority
SANDF:	South African National Defence Force
SAPS:	South African Police Service
SARPCCO:	Southern African Police Chiefs Coordinating Organisation
SARS:	South African Revenue Service
SCM:	Supply Chain Management
SOLAS:	International Convention for the Safety of Life at Sea
SSA:	State Security Agency
TNPA:	Transnet National Ports Authority
UAV:	Unmanned Ariel Vehicle
UNODCCP:	United Nations Office for Drug Control and Crime Prevention
UNCLOS:	United Nations Convention on the Law of the Sea
VISPOL:	Visible Policing



SECTION A: INTRODUCTION

1.1. Background and Rationale for the Study

Border safeguarding has been increasingly prioritised by Government in recent years. The National Development Plan (NDP) reflects the need for people living in South Africa to feel safe and enjoy a community life free of fear, which has a direct impact on the need for border control and effective internal control of the country. The NDP also notes regional integration as a cross-border aspect and highlights the security concerns related thereto, including cross-border crime, piracy and the smuggling of counterfeit goods.¹ Similarly, the Medium Term Strategic Framework (MTSF) 2014-2019 highlights border safeguarding. Outcome 3 notes, for example, the target of ensuring that South Africa's borders are effectively defended, protected, secured and well managed. The ultimate aim should thus be to reduce illegal cross-border activities.²

South Africa shares vast borders with neighbouring states and it follows naturally that the primary focus of managing the border environment should fall on land borders. The border environment is, however, not limited to land borders but encompasses a country's air and maritime borders as well. The maritime and air border environment is considered more complex as it cannot be conceived in the same way as land borders. Maritime and air borders involve more than simply a 'line of control' and should be viewed as a broader territory encompassing a country's entire airspace and maritime territory. The contact points between these territories and mainland South Africa are represented through the various points of entry at harbours and airports. The effective control of the vast maritime and air territories as well as the ports of entry should thus be the aim of effective maritime and air border management. In addition to the prioritisation of general border safeguarding, the maritime and air environments specifically have also been highlighted in recent Government priorities. The NDP makes pronouncements on the potential positive impact of the maritime economy to the country while the MTSF links the maritime economy directly to the New Growth Path.³⁴

Government also recently launched Operation Phakisa, which is aimed at growing the Oceans Economy from an estimated GDP contribution of R54 billion in 2010 to between R129 and R177 billion by 2033, and to increase the number of people employed from approximately 300 000 people in 2010 to between 800 000 and 1 million by 2033.⁵ Although the NDP is less clear on air border management, it does refer to the important role of air transport in integration and in economic growth through tourism.⁶ The safeguarding of South Africa's air territory was also highlighted by the 2014 Defence Review as an area in critical need of attention.

The rationale for this study stems from three aspects. First, there is a clear prioritisation of border safeguarding in official Government policies and planning initiatives. Maritime and air borders should be considered as part of this domain. Second, these policies and planning initiatives also make specific reference to the maritime and air environments as potential

¹ National Planning commission. (2013). p. 244 -248.

² Republic of South Africa. (2014). p. 19.

³ National Planning commission. (2013). p. 187.

⁴ Republic of South Africa. (2014). p. 6.

⁵ Zuma. (2015).

⁶ National Planning Commission. (2014). p. 152.



growth points for the South African economy. For the economic potential to be maximised, these maritime and air environments should be effectively managed, controlled and safeguarded. Third, there seems to be a disproportionate focus on land borders which result in the neglect of maritime and air borders. While it is accepted that land borders face significant challenges, the process of addressing these challenges ought not to happen to the exclusion of air and maritime borders. This concern is also revealed when Parliament's oversight of border safeguarding is concerned. Between 2004 and 2015, various Committees of Parliament conducted at least 18 oversight visits to ports of entry and/or borderlines around the country. However, only four of these were to harbours and airports. There is thus space to bring forward the Parliamentary debate on air and maritime borders within the broader context of border safeguarding.

This paper should be read together with the Parliament's Research Unit study titled 'Safeguarding South Africa's Land borders: The role of the SANDF, SAPS and DHA'.

1.2. Research Methodology

Given that the aim of this study is to complement a similar Research Unit study on land border safeguarding⁷, it is essential to align the research design and methodology to that of the former study. The research design follows the approach of a case study, which includes the study of events, roles and relationships.⁸ The case study-approach provides for the roles of the various agencies (Departments) executing border safeguarding to be studied. The units of analysis for this project are organisations and institutions of the South African Police Service (SAPS), the Department of Defence (DOD), the Department of Home Affairs (DHA) and the Department of Agriculture, Forestry and Fisheries (DAFF). To a lesser extent, reference is made to other roleplayers where relevant.

In terms of the nature of the study, the research project utilises a qualitative approach using multiple sources of data which is important for all case studies.⁹ The techniques or data collection methods used in the project include a literature study, factual data sources, observations at selected maritime and air ports of entry, and interviews with roleplayers in the maritime and air border safeguarding environment. The various sources used include:

- *Primary sources:* Primary sources include official publications by the respective departments/institutions. This is supported by interviews with members of the various departments/institutions involved in maritime and air border safeguarding (semi-structured interviews were conducted with departmental personnel at the ports of entry and military bases that were visited).
- *Secondary sources:* Secondary sources of data are also used. These include books and articles from accredited and non-accredited journals as well as internet articles from reliable websites.

Crucial to the substance of the research is primary data collected from semi-structured interviews with departmental personnel and observations made during visits to border areas.

⁷ Dollie and Rustin (Eds). (2015).

⁸ Babbie and Mouton. (2012). pp. 280-281.

⁹ Babbie and Mouton. (2012). p. 282.



To conduct primary research, the research team visited a port of entry and military base to obtain further information. These included:

- *Cape Town Harbour*: On 26 January 2016, the research team visited Cape Town Harbour at the Port of Entry Control Centre. The team met with a number of roleplayers, including those from the SAPS, DOD, DHA, DAFF, Border Control Operational Coordinating Committee (BCOCC) and the South African Revenue Services (SARS). The team engaged with the group of representatives as a collective and posed questions as per the semi-structured interview schedule. Thereafter, the team visited various areas around the harbour to have department-specific interaction with members of the SAPS, DHA and DAFF.
- *Simon's Town Naval base*: On 27 January 2016, the research team visited the Simon's Town Naval Base where it conducted semi-structured interviews with two delegations. Firstly, the SA Navy provided a presentation on the status of maritime border safeguarding in South Africa. Secondly, the SA Air Force provided a briefing on how the SA Air Force supports maritime safeguarding.
- *KwaZulu-Natal border regions*: From 14 to 18 September 2015, the research team formed part of the support staff to a multi-committee Parliamentary oversight visit to various border areas in the KwaZulu-Natal Province. Although this research project was not the main aim of the oversight visit, information obtained from departments during this visit is utilised in this project. Areas visited that are relevant to this study include, King Shaka International Airport, Durban Harbour, Durban Naval Station, Richard's Bay Airport and Richard's Bay Harbour.

1.3. Linking Maritime and Air Border Safeguarding with Government Priorities

As noted in the introduction, Government's medium- and long-term priorities reflect the prioritisation of border safeguarding and border management. Perhaps the clearest indication of Government's prioritisation of border safeguarding is the current efforts to establish a Border Management Agency (BMA). The BMA will replace the current coordinating structure, the BCOCC, with the aim of conducting border safeguarding along borderlines and at ports of entry to facilitate legitimate trade. Border safeguarding is further reflected in, for example, the NDP and the MTSF.¹⁰ Maritime and air border safeguarding can thus be viewed in the context of the prioritisation of border safeguarding. However, there have been further indications in the NDP, MTSF and other policies relating specifically to the maritime and air border environments. Table 1 below reflects the major Government policies and recent projects that underscore the importance of maritime border safeguarding.

Table 1: Government priorities and the maritime border environment

Plan/Policy	Impact on the maritime environment
<p>The National Development Plan¹¹</p>	<p>The NDP makes two pronouncements on maritime affairs:</p> <ul style="list-style-type: none"> • The NDP highlights the importance of the maritime environment in South Africa and identifies shortfalls in this regard by stating that "South Africa needs to reappraise the maritime sector in light of its geopolitical positioning and ask what contribution it could make to employment and regional trade."¹²

¹⁰ Border safeguarding prioritisation in the NDP and MTSF will not be discussed in this document, but an overview thereof can be found in Dollie and Rustin. (2015).

¹¹ National Planning Commission. (2013). p. 187.

¹² National Planning Commission. (2013). p. 187.



Plan/Policy	Impact on the maritime environment
	<ul style="list-style-type: none"> • The NDP aims at addressing two aspects of transnational crime that affect the maritime environment: <ul style="list-style-type: none"> - Maritime piracy which poses a threat to South African trade (the role of the SA Navy is highlighted). - Trade in counterfeit goods (the role of SARS is highlighted).¹³
The Medium-term Strategic Framework (2014-2019)	<p>The MTSF makes three pronouncements on maritime affairs:</p> <ul style="list-style-type: none"> • In order to prevent natural resource degradation, an Environmental Management Framework will be put forward. The framework will ensure that targeted coastal areas and oceans are protected. • As part of the New Growth Path, the oceans economy will be utilised as a new area for economic growth to contribute to the overall creation of 5 million jobs by 2020. • The Industrial Policy Action Plan also highlights the ocean economy as a potential growth point.
Operation Phakisa	<p>During the 2015 State of the Nation Address (SONA), President Zuma shared a nine point plan to ignite growth and create jobs. One of these points referred to Operation Phakisa, which was launched in 2014 and is based on the Malaysian “Big Fast Results” methodology, which involves bringing those responsible for implementation together to carry out detailed and practical planning, followed by disciplined and rigorous monitoring.¹⁴ The Operation Phakisa project is aimed at growing the Oceans Economy from an estimated GDP contribution of R54 billion in 2010 to up to R177 billion by 2033, and to increase the number of people employed from approximately 300 000 people in 2010 to between 800 000 and 1 million by 2033.¹⁵</p>
The SA Navy’s Project Biro	<p>The SA Navy plays the leading role in maintaining the territorial integrity of South Africa’s maritime territories. To conduct effective control, the correct equipment is required, specifically the vessels needed for extensive patrols. While South Africa purchased a number of new frigates and submarines under the 1999 Strategic Defence Procurement Package, these do not adequately address the SA Navy’s inshore and offshore patrol requirements. As such, Project <i>Biro</i> was conceived from a need to resuscitate the inshore and offshore patrol capability of the SA Navy amid maritime insecurity challenges along the African coastline. Under Project <i>Biro</i> it is estimated that three Offshore Patrol Vessels and six (60m) Inshore Patrol Vessels are required to replace the refitted strike craft and minehunters. The six Inshore Patrol Vessels consist of three more than the approved number of vessels in 2007 required in terms of the Navy 2030 blueprint. This acquisition will serve to multiply the SA Navy’s patrol capabilities and the support it can afford to other departments reliant on it.</p>

¹³ National Planning Commission. (2013). p. 248.

¹⁴ Zuma. (2015).

¹⁵ GCIS. (2014). p. 2.



Although air border safeguarding matters are less pronounced in Government priorities, there are some reference found in the NDP and MTSF while other initiatives also highlight the importance thereof. This is reflected as follows in Table 2.

Table 2: Government priorities and the air border environment

Plan/Policy	Impact on the air border environment
The National Development Plan¹⁶	The NDP makes two pronouncements on air affairs: <ul style="list-style-type: none"> • It recognises the important role of air transport in integration and in economic growth through tourism.¹⁷ • It recognises the role of the SA Air Force in anti-piracy activities (this implies thorough airspace control not only of South Africa's air territory, but also regional air control).
The Medium-term Strategic Framework (2014-2019)	The MTSF makes no specific pronouncements on air border management, but calls for effective border management in general with the aim of reducing illegal cross-border activities. ¹⁸ This will apply to airport control and airspace control as well.
The 2014 Defence Review	The 2014 SA Defence Review clearly highlights the need for improved air border control by the SA Air Force. Through its various Milestones, the South African National Defence Force (SANDF) is set to improve this capacity significantly in the medium- to long-term.
The 2006 Airlift Strategy	In July 2006, Cabinet approved the Airlift Strategy which aims to increase aviation's contribution to economic growth. The strategy will provide adequate air-service capacity and infrastructure to cater for the projected growth in air movements. ¹⁹
The South African National Airspace Master Plan	The Master Plan (2011 – 2025) aims at providing a high level of strategic guidance for use in developing and implementing airspace and associated Air Traffic Management (ATM) initiatives. The Plan provides a framework for flexible airspace management. Although reference is made to safety and security, this refers to aviation safety rather than control of the airspace. No provision is made, for example, for the role of the SA Air Force in this Plan.
The 2015 White Paper on National Civil Aviation Policy	The White Paper provides regulations for the safe, secure, efficient and orderly development of civil aviation. Section 4 of the White Paper provides for compliance with international aviation safety and security obligations. The White Paper provides for both safety and security features at airports and, of specific importance to this study, provides for the role of the SA Air Force in overseeing airspace territorial integrity. To achieve the latter it also requires robust information sharing systems between the various air environment roleplayers.

1.4. Key Overarching Concerns in the Maritime and Air Border Environments

As noted in the previous section, it is evident that border safeguarding has been prioritised by the South African Government, including maritime and air border safeguarding. However,

¹⁶ National Planning Commission. (2013). p. 187.

¹⁷ National Planning commission. (2014). p. 152.

¹⁸ Republic of South Africa. (2014). p. 20.

¹⁹ South African Yearbook. (2013). p. 635.



through the primary research conducted for this study, the review of Annual Reports of the various Departments, as well as media and other reports, it is evident that maritime and air border safeguarding face significant challenges. The identification of key concerns and challenges that straddle the various Departments is important as it sets the tone for further research in this paper.

- **Lack of an overarching strategy for maritime and air border safeguarding.** While the BMA aims to set the legislative framework for border safeguarding, there seems to be a lack of interdepartmental strategy on maritime and, to a lesser degree, air border safeguarding. The SA Navy has, for example, raised this as an urgent need in terms of maritime border safeguarding. The 2015 White Paper on National Civil Aviation Policy goes a long way in addressing this gap in the air environment. However, the White Paper focuses specifically on the facilitation of civil aviation and there seems to be a lack of focus on broader air border safeguarding, specifically in terms of illicit activities in this environment. A dedicated strategy based on the White Paper is thus needed. These strategies are needed to determine the exact roles and functions of the various departments involved and to outline how maritime/air border safeguarding will be approached.
- **Shortage of equipment, vehicles and vessels.** Across departments, the shortage of equipment, vehicles and vessels were noted as a concern inhibiting border safeguarding. The SANDF, DAFF and SAPS all face significant vessel shortages for maritime patrols. Similarly, radar technology and other equipment needed for improved air border safeguarding is costly and limited in availability.
- **Lack of interdepartmental cooperation and coordination.** While the BCOCC currently exists to facilitate interdepartmental coordination, there still seems to be a general lack of cooperation and coordination in the fields of maritime and air border safeguarding. Although working relationships exist between departments, cooperative operations are limited and very few Memoranda of Understanding are in place between departments. This hampers the interoperability of departments and leads to duplication of functions and limited successes.
- **Lack of information sharing.** Linked to the concern above, there also seems to be a lack of information sharing between departments. Where information sharing does take place at an elevated level (as is the case at the Cape Town Harbour), it is largely based on the willingness of individuals to share information. The lack of Memoranda of Understanding to formalise information sharing is thus inhibiting success. Furthermore, electronic information sharing, such as availing Closed Circuit Television (CCTV) camera systems of departments to the SAPS, is also not happening in some instances.
- **Personnel shortages.** Personnel shortages were raised as a concern across all departments featured in this study. Specialised skills shortages is of further concern and inhibits the capacity of departments to effectively engage in the maritime and air border environments (which require an elevated level of skills due to the technical nature of border safeguarding in these environments).
- **Lack of technology usage as force multiplier.** Given that the maritime and air borders encompass a significantly larger geographic area than land borders, it requires elevated levels of patrol to control these territories. The SAPS, SANDF and DAFF utilise vessels to patrol South African waters while the SA Air Force conducts aerial



patrols. However, these patrols are costly and the limited availability of vessels and aircraft inhibits patrol capability. The use of radar for effectively controlling air borders is also limited and costly.

- **Lack of monitoring of domestic sea and air ports (other than official ports of entry).** While the SAPS, DAFF, DHA and to a lesser extent the SANDF maintain a presence at the major ports of entry, smaller harbours and airports/airfields have no monitoring capacity. While it is not feasible to have Government agencies present at all domestic air and sea ports, there seems to be little coordination for the conducting of operations to monitor against security threats manifesting at smaller harbours and airfields. The SAPS' role in this is of particular importance.

1.5. Chapter Delineation

Given the overarching concerns noted above, it is necessary to expand on these concerns by evaluating the roles and functions of the various departments. Focusing on the various Departments will clarify whether they address the concerns and it may highlight further department-specific concerns as well. The study is thus structured in four parts:

Section A: *Introduction.* This section provides an introduction to maritime and air border safeguarding and highlights the rationale and methodology of the study. It further links maritime and air border safeguarding to existing Government priorities and highlights the major concerns that underpin the study.

Section B: *Maritime border safeguarding.* This section provides an overview of the maritime border environment whereafter it evaluates the role of four departments in maintaining maritime border safeguarding, namely the SAPS, SANDF, DHA and the DAFF. Departments are discussed in terms of their legislative environment, functions, challenges of infrastructure and equipment, human resources position, budgetary position and interdepartmental cooperation.

Section C: *Air border safeguarding.* This section commences with an overview of South Africa's air border environment whereafter it discusses the roles of the SAPS, SANDF and DHA in maintaining air border safeguarding. The three Departments are discussed in terms of legislative environment, functions, challenges of infrastructure and equipment, human resources position, budgetary position and interdepartmental cooperation where the relevant information is available.

Section D: *Conclusions and Recommendations.* This section concludes the study by highlighting recent overarching developments in the maritime and air border safeguarding environment, notably developments around the BMA. Concerns around the BMA in the context of maritime and air border safeguarding are also raised. The section concludes with a number of general and department-specific challenges and proposed recommendations which may be of value to Parliamentary Committees and the various departments.





SECTION B: MARITIME SAFEGUARDING

2.1. Introduction to South Africa's Maritime Border Environment

South Africa's maritime border environment encompasses a vast area that proves difficult to control effectively. Measured at the high-water line, the total maritime borderline stretches 3 924km. However, maritime borders cannot be conceived in the same way as land borders as it relates to more than simply a 'line of control'. Maritime borders should be viewed as a broader territory in need of control, extending over the entire Exclusive Economic Zone (EEZ). An EEZ, as defined by Article 57 of the United Nations' (UN) Law of the Sea, extends 200 nautical miles (370km) from a country's defined land territory.²⁰ In the case of South Africa, territorial waters around the 3 924km coastline should be considered in conjunction with the EEZ's of Prince Edward and Marion Islands. These islands, located approximately 1 769km south of the South African mainland, form part of South Africa's sovereign territory. In total, South Africa's EEZ encompasses an area of 1.553 million square kilometres.²¹

The nature and extent of South Africa's maritime territory may change drastically in future. This stems from a governmental claim to the UN for the extension of South Africa's continental shelf. In 2002, the Minister of Energy convened a steering committee to manage the claim with a number of roleplayers involved. The Committee consisted of representatives from the Department of Minerals and Energy, the Department of Foreign Affairs, Petroleum Agency South Africa, the Council for Geoscience, the South African Navy, the Hydrographic Office, the Department of Environmental Affairs (Marine Coastal Management), the Department of Science and Technology, and the South African Maritime Safety Association.²² An official claim for the extended territory was lodged with the UN on 6 May 2009.

South Africa's claim for an extended continental shelf comprises an area of some 1.87 million square kilometres (See Figure 1). If successful, this will bring South Africa's total maritime territory to more than 3.4 million square kilometres, roughly three times the size of its land territory. Given the large number of continental shelf claims made by nations around the world, the claim has yet to be finalised.²³

While understanding South Africa's maritime zone is essential to conceptualising broader border security, the inclusion of maritime ports of entry is also important. These ports mark the contact point between the broader maritime environment and mainland South Africa and are thus essential in terms of migration and custom controls. These harbours play a crucial role in terms of container processing, ship repair, limited ship construction, maintenance facilities and dry-dock facilities. In excess of 90 per cent of exports and imports from/to South Africa pass through its maritime ports of entry.²⁴

²⁰ United Nations.

²¹ Defence Review (2014). p. 1-2

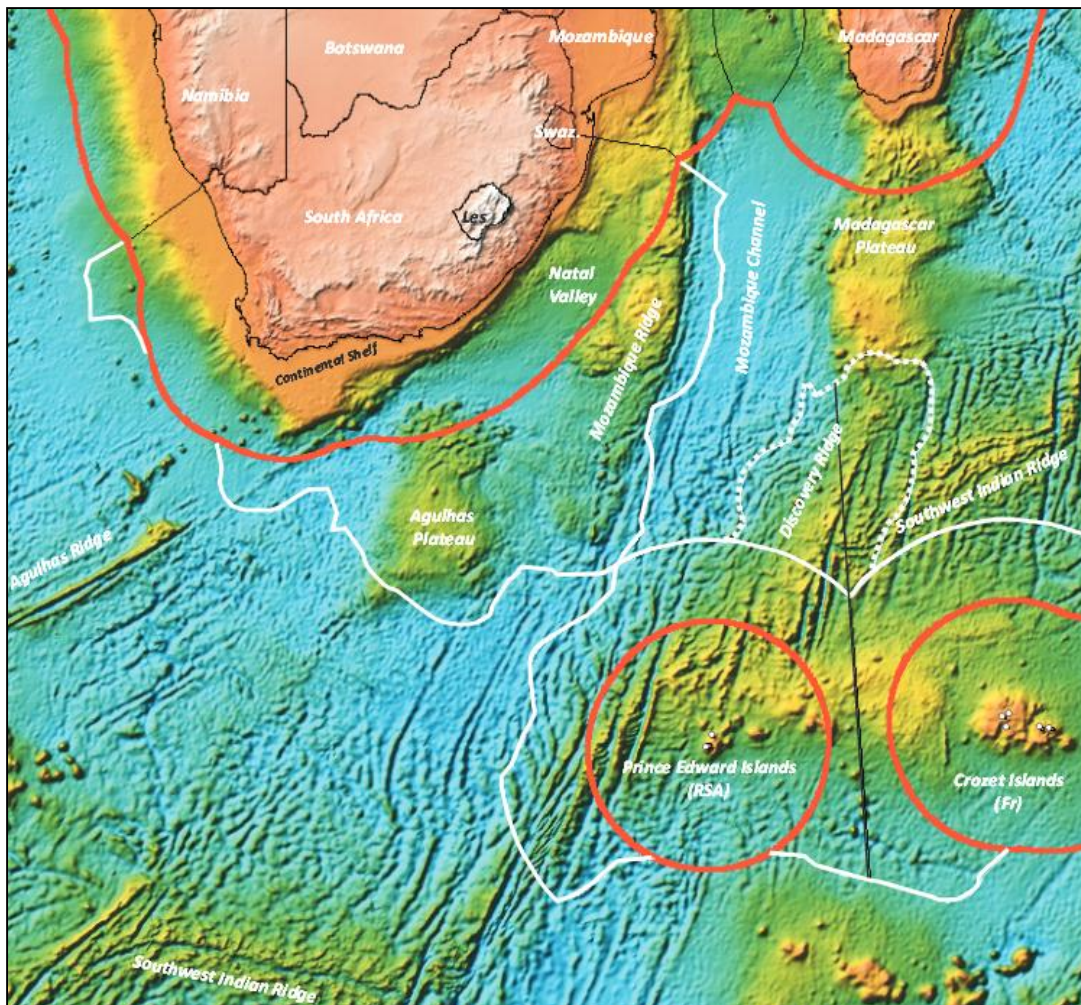
²² PetroSA (2013).

²³ PetroSA (2010).

²⁴ SA Navy. (2006) p. 17.



Figure 1: South Africa's current EEZ and Continental Shelf claims



Description: The red lines indicate South Africa's current EEZ around its mainland territory and the Prince Edward Island group. The white lines indicate its continental shelf claims.
(Source: PetroSA)

Several government departments are involved in the maritime border environment, covering an array of security and non-security aspects of border management. Given that the focus of this study is on the security paradigm of border management, the roles of the SAPS, SANDF, DHA and DAFF are focused on in the sections to follow.

2.2. The Legislative Environment

Maritime border safeguarding features strongly in government priorities. As such, it is also reflected in legislation. While the relevant department-specific legislation is discussed in the various subsections to follow, there are a number of influential international conventions and laws to which South Africa is party and which inform domestic legislation. Department-specific legislation as well as their roles and functions should thus be read together with the following:



- *The United Nations Convention on the Law of the Sea (UNCLOS)*²⁵

The UNCLOS was established to provide “a legal order for the seas and oceans which will facilitate international communication, and will promote the peaceful uses of the seas and oceans, the equitable and efficient utilization of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment.” The document further provides for regulations on limits of the territorial sea, innocent passage in the territorial sea, the usage of straits for international navigation, regulations regarding EEZs, regulations regarding the continental shelf, regulations regarding the high seas, regulations on the conservation and management of the living resources of the high seas, settlements of disputes regarding maritime territorial claims, global and regional cooperation, maritime research, the development and transfer of maritime technology, and general provisions which allow for the peaceful use of the seas.

- *International Convention for the Safety of Life at Sea (SOLAS)*²⁶

The SOLAS Convention was convened by the International Maritime Organization (IMO) in 1979 whereby signatory governments aimed at “promoting safety of life at sea by establishing in a common agreement uniform principles and rules directed thereto.” The Convention and its amendments provide for regulations on construction of vessels, lifesaving appliances, radio communications, safety navigation, carriage of cargoes including dangerous goods, nuclear vessels, management for the safe operation of vessels and special measures to enhance maritime safety and security. Furthermore, it provides standards for the global and uniform implementation of the harmonised system of survey and certification (HSSC) and the certificates and documents required to be carried on board vessels. These are of particular importance in terms of maritime border safeguarding as South Africa will be required to maintain these standards of its own vessels and vessels entering South African territorial waters.

- *The International Ship and Port Facility Security (ISPS) Code*

The ISPS Code is an amendment to the SOLAS Convention and provides for minimum security standards for vessels, ports and government agencies involved in the maritime domain. The primary objective of the ISPS Code is “to establish an international framework involving co-operation between Contracting Governments, Government agencies, local administrations and the shipping and port industries to detect security threats and take preventive measures against security incidents affecting ships or port facilities used in international trade.” The ISPS Code is crucial to South Africa’s maritime border safeguarding as it sets standards for South African vessels and government agencies that need to be adhered to in an effort to curb safety and security concerns. It also integrates South Africa’s maritime border safeguarding with that of the rest of the world that makes use of the ISPS Code. The correct implementation of the ISPS Code is further crucial to economic development as non-adherence could have negative implications for maritime trade.

²⁵ United Nations. (2011).

²⁶ IMO. (1979).



The following sections will provide an overview of the legislative environment, roles, functions and challenges faced by the SAPS, SANDF, DHA and the DAFF in terms of maritime border safeguarding.

3. The South African Police Service (SAPS)

The SAPS has an established history in border security and maintains a presence along South Africa's borders and at designated ports of entry, including sea ports. This section provides an overview of the legislation guiding the SAPS's involvement in maritime border safeguarding, the functions of the SAPS in ensuring maritime border safeguarding, infrastructure, equipment and human resource challenges facing the SAPS as well as interdepartmental cooperation and budgetary considerations.

3.1. Legislative environment

The legislative foundations for the SAPS involvement in border safeguarding is provided through the South African Police Service Act, 1995 (Act 68 of 1995) (hereafter the SAPS Act). This also impacts on the SAPS's involvement in the maritime border environment. Specifically, Section 13(6) of the SAPS Act (as amended) provides that any member of the SAPS may search any person, premises, other place, vehicle, vessel or aircraft, or any receptacle of whatever nature. These powers may be executed within the following jurisdictions:

- At any place within 10 kilometres (or any reasonable distance) from any border between the Republic and any foreign state; or
- In the territorial waters of the Republic, or inside the Republic within 10 kilometres, or any reasonable distance from such territorial waters.

The SAPS Act further provides that members of the SAPS may seize anything found in the possession of such person or upon or at or in such premises, other place, vehicle, vessel, aircraft or receptacle which may lawfully be seized.²⁷

From the above, it is clear that the SAPS Act grants members of the SAPS extensive search and seizure powers within and outside the territorial borders of the Republic. However, in terms of regulating the conduct of SAPS members outside the borders of the Republic, Section 40 of the SAPS Act provides that disciplinary proceedings may be instituted in the prescribed manner against a member on account of misconduct, whether such misconduct was committed within or outside the borders of the Republic.

The maritime border environment is heavily regulated by domestic legislation and international instruments that set out specific standards and recommended practices to which signatory countries must comply. The SAPS is compliant to these international instruments, key amongst which is the UNCLOS, including the ISPS Code and the SOLAS Convention (in terms of maritime border safeguarding).

²⁷ [Sub-s. (6) substituted by s. 3 (a) of Act 41 of 1997.]



3.2. The SAPS and the maritime border environment

The SAPS performs an array of functions in the maritime border environment, notably at sea ports of entry. Anti-crime operations at these ports have seen various levels of success in recent years.

3.2.1. Functions

The SAPS is responsible for the control of the legal/illegal cross-border movement of all persons and goods at all ports of entry, which include seaports. There are 72 ports of entry, including 53 land ports, 10 international airports and nine (9) seaports, including one dry port (located at City Deep, Johannesburg). The focus of the border policing component is on conducting border safeguarding functions at these declared ports of entry. However, this SAPS component is also responsible for conducting border policing functions at domestic harbours and across the country, through capacity at local police stations.

The policing function of the SAPS are threefold. Firstly, the SAPS has a static security presence at sea ports of entry (harbours), which focusses mainly on the profiling of containers to identify possible risks to the security of the Republic leading to the search and seizure of 'at risk' containers. Secondly, most harbours have a Community Service Centre (CSC) from which the SAPS perform day-to-day policing functions within the perimeter of harbours. The third function of the SAPS is that of crime-combatting operations along the South African coastline. Since the function of borderline safeguarding was handed over from the SAPS to the SANDF in 2009, the focus of the maritime border function of the SAPS shifted largely to the harbours and its perimeters.²⁸

Prior to 2010/11, the SAPS accommodated harbour patrols under Programme 5 (Protection and Security Services Subprogramme). After 2010/11, this function was shifted to the Visible Policing Programme, specifically under the Border Policing subprogramme. The mandate of the SAPS under this subprogramme is for "police stations to institute and preserve safety and security, and provide for specialised interventions and the policing of South Africa's borders."²⁹

The SAPS involvement at harbours is determined by the type of sea port. Two types of sea ports can be identified. The first is characterised by a high level of trade activity, where there is a constant movement of commercial ships and passenger vessels. The second category has medium trade activity. SAPS personnel deployment in sea ports are based on the level of activity within the port as well as the status of the port.³⁰ Further operational responsibilities of the SAPS at harbours include vehicle patrols, searching vessels, policing slipways and small harbours, enforcing the Marine Living Resources Act (No. 18 of 1998) and the Shipping Act (No. 57 of 1951), observation and way-laying operations, as well as operational assistance to other departments and organisations and the policing of the coastline up to 200 nautical miles.³¹

²⁸ Land based SAPS operations along the coastline (such as operations against abalone poaching) is not considered as part of border safeguarding operations as it would most likely be managed at regional level and not form part of broader maritime border management. Janse van Rensburg, WK. (2015).

²⁹ SAPS. (2014).

³⁰ Janse van Rensburg, WK. (2015).

³¹ Janse van Rensburg, WK. (2015).



Further functions include the enforcement of the Firearms Control Act (Act 60 of 2000), specifically in terms of the issuing of in-transit firearm permits, and the subsequent inspection of the firearms that are on board vessels. In recent years, this function has increased as the piracy threat increased along the African coastline. An increasing number of cargo ships are employing armed private security guards to secure cargo while in-transit. The request for in-transit firearm permits is most frequent at the port of Durban, and less so at the port of Cape Town. The Central Firearms Registry (CFR) can issue an in-transit permit, but the firearms must be inspected by the SAPS. This is problematic when cargo vessels are moored in 'off port limit' (OPL) areas, but still within the territorial waters of the Republic.

3.2.2. Profiling

The profiling of shipping cargo is one of the main functions performed by the SAPS within the maritime border safeguarding environment. Profiling forms an integral part in the identifying of crime risks and policing in maritime security. However, the process of accessing shipping line manifests for profiling and the conducting of searches has been a challenge for the SAPS over many years.³² This is largely due to the reliance of the SAPS on information that remains the preserve of other departments and agencies, such as Customs and shipping lines.³³ The SAPS has, however, prioritised profiling for the 2015/16 financial year as part of its annual performance.³⁴ Handwritten information from the manifests are recorded in the Profile of Manifest Document. The lack of electronic systems to manage ship manifest delays the profiling process significantly.

Profiling is used as a tool, based on skills and experience, to narrow down the possibility of criminal activities while considering factors such as shipping manifests. Searches include physical searches, utilisation of specialised units, such as the dog units (for narcotic and explosives), scanners, intelligence and any other equipment. A profiling register is completed for all profiled cargo. The profiling process include the obtaining of relevant documentation, analysing such information, recording the information (profile register), identifying the risks concerned (source country, agent code etc.), attending to the risks (conduct search) and finally the outcome (enquiry, case docket).³⁵ There are many factors influencing the profiling of containers at sea ports of entry, including the following:

- Profiling members have six (6) weeks to carry out an enquiry;
- Bad weather conditions prohibit vessels from entering the Harbour for the loading and offloading of containers;
- Busy ports have no place for berthing vessels;
- Human factors, e.g. resource availability affected by mass action of unrest, labour disputes;
- Shipping lines have three (3) days grace to move containers to depots for physical examinations; and
- Transshipment (more than one destination), which is often used to hide the identity of the port or country of origin.

³² SAPS (2015).

³³ SAPS (2015).

³⁴ It would be of value to track whether the number of profiled cargo increases in the 2015/16 financial year and MTEF.

³⁵ SAPS (2015c).



The table below shows the profiling statistics at Durban Harbour for the 2013/14 and 2014/15 financial years. It is clear that the statistics increased significantly in 2014/15 compared to the previous financial year. For instance, the number of profiled containers increased with 178 per cent from 4 694 in 2013/14 to 13 066 in 2014/15. The number of positive profiles also increased with 525 per cent from 74 positive profiles in 2013/14 to 463 in 2014/15. The reason for the increase in statistics is mainly due to the increase in the focus of the police to positively identify cargo.

Table 3: Profiling statistics at Durban Harbour 2013-2015

Procedure	2013/14	2014/15
Shipping line manifests received	399	1 059
Manifests perused	255 206	644 696
Profiles containers detained	5 676	18 660
Containers inspected	4 694	13 066
Random containers detained (Cargo Search Teams)	954	2 702
Detained	183	713
Positive (Profiled)	74	463

Source: SAPS (2015)

In order to put the above profiling statistics into perspective, the scale of the Durban Harbour should be understood. The port of Durban is the largest shipping terminal on the African continent and the fourth largest in the southern hemisphere. Due to its strategic location along international shipping routes, the port handles about 32 million tons of cargo annually and 4 500 commercial vessels per year.³⁶ Most vessels carry an average of 3 500 containers, meaning that more than 15 million containers pass through the port of Durban annually. As an extremely small percentage of total cargo, the 13 066 containers inspected and 463 containers positively profiled by the SAPS in 2014/15 is thus perturbing.

3.2.3. Crime trends and successes

To enhance the national security and territorial integrity of the Republic, in 2014/15 the SAPS conducted 3 775 planned crime prevention and combating operations at ports of entry (land, sea and air), comprising of 977 roadblocks, 50 191 vehicle patrols, 1 297 vehicle check points, 53 214 foot patrols, 784 borderline patrols, 1 500 vessel patrols and 13 592 perimeter inspections (inspections done on the boundary of an area surrounding the structures of the port). These operations and day-to-day activities contributed to the successes achieved at ports of entry.

The table below shows the successes achieved by the SAPS at sea ports of entry between the 2012/13 and 2014/15 financial years. The successes are varied and no clear trend is visible across the past three financial years, especially in terms of illicit drugs.

³⁶ SouthAfrica.net. (2015).



Table 4: Successes achieved at sea ports of entry (2012/13 – 2014/15)

Firearms and Ammunition			
	2012/13	2013/14	2014/15
Arrests	22: firearms 3: ammunition	16: firearms 7: ammunition	14: firearms 6: ammunition
Number of firearms and ammunition recovered	16 firearms 799 rounds	15 firearms 1 099 rounds	12 firearms 4 649 rounds
Illicit Drugs			
	2012/13	2013/14	2014/15
Arrests	384	523	416
Drug Seizures:			
<i>Heroin</i>	7kg	166kg	42kg
<i>Cocaine</i>	415kg	53 744kg	7 555kg
<i>Crystal Meth (Tik)</i>	718kg	588kg	7 315kg
<i>Cannabis (dry)</i>	122 906.42kg	62 162kg	40 998kg
<i>Cannabis (plants)</i>	1 plant	11 plant	0
<i>Ecstasy tablets</i>	0	124 tablets	0
<i>Mandrax tablets</i>	71.5 tablets	147 tablets	747 tablets
<i>Crack cocaine rocks</i>	2 pieces	2 pieces	0
Stolen and Hijacked Vehicles			
	2012/13	2013/14	2014/15
Arrests	24	12	18
Number of vehicles recovered	16	9	10
Violations in terms of the Immigration Act (undocumented persons)			
	2012/13	2013/14	2014/15
Arrests	2 143	1 085	1 162
Transnational commerce-related crimes (illegal goods)			
	2012/13	2013/14	2014/15
Arrests	44	74	67
Maritime-related offences			
	2012/13	2013/14	2014/15
Arrests	184	188	150
Other crimes			
	2012/13	2013/14	2014/15
Arrests	872	763	599
Human Trafficking			
	2012/13	2013/14	2014/15
Arrests	0	0	0

Source: SAPS (2015b).

Corruption is a major challenge at sea ports of entry. According to the American Federal Bureau of Investigation (FBI), border corruption poses a significant threat to national security and it is currently the greatest threat that the FBI is trying to address.³⁷ In recent years, significant resources have been allocated to address the threat of corruption at South African borders. The South African Government has taken a strong stand against corruption and made

³⁷ Byers, K.



it a performance target for the medium term. In line with the NDP, anti-corruption agencies should have adequate resources and be staffed by highly skilled and experienced officers by 2030. The MTSF further states that the criminal activities threatening border security is exacerbated by the presence of some corrupt border officials at ports of entry.

The table below provides statistics of SAPS members involved in corruption cases at sea ports of entry between the 2011/12 and 2015/16 financial years countrywide. Over the five-year period, ten (10) SAPS members have been arrested for suspected corruption-related crimes. Most of the cases have been filed, but it is unclear what steps were taken against the SAPS members involved, either criminally or departmentally.

Table 5: SAPS Members involved in corruption cases: 2011/12-2015/16

Year	Name of Port	Case no	Arrests	Members involved	Outcome of cases
2011/12	Durban Harbour	201/11/11	2	2	Filed
	Durban Harbour	89/10/12	4	4	Filed
2012/13	Durban Harbour	12/12/12	2	2	Filed
2013/14	-	-	-	-	-
2014/15	-	-	-	-	-
2015/16	Durban Harbour	69/06/14	1	1	Remanded to 2016-01-08
	Durban Harbour	116/09/15	1	1	Remanded Outcomes pending

Source: SAPS (2015e)

Efforts to curb corruption are underway and some headway has been made in recent years. One of the main organisations in place to detect and combat corruption within the SAPS is the Independent Police Investigative Directorate (IPID), which was established in 2012 to increase the level of independent oversight of the SAPS. The Directorate conducts investigations into allegations of criminal offences committed by SAPS members, which includes investigation of individual acts of corruption as well as systemic corruption involving the police. The mandate of investigating systemic corruption involving members of the SAPS is specifically provided for in section 28 (2) of the IPID Act, 2011 (Act 1 of 2011) and that of individual cases of corruption involving members of SAPS by section 28(1)(g) of the Act. In 2013, The IPID developed a Systemic Corruption Strategy, which is currently under review. The 2013 strategy defines systemic corruption as follows:

“Systemic Corruption can be defined as an institutionalised, endemic manipulation of a system by individuals or networks/organisations, taking advantage of weaknesses in the process and systems for illicit gains, where there are leadership deficiencies, collusion and/or abuse of power.”³⁸

Until recently, the IPID did not have a dedicated structure for the investigation of systemic corruption, despite the complex nature and socio-economic impact thereof.³⁹ In 2014/15, the Directorate established its own specialised unit, known as the National Specialised Investigation Team (NSIT) to focus on the investigation of systemic corruption within the SAPS

³⁸ IPID (2016).

³⁹ IPID (2016).



and Municipal Police Services. Over the medium term expenditure framework (MTEF) 2015/16 to 2018/19, the Directorate will strengthen its investigative capacity through the NSIT. Together with conducting specialised investigations, the NSIT will also facilitate the training of IPID Investigators on systemic corruption and other specialised investigations. The lack of focus on systematic corruption cases has been a concern of the Portfolio Committee on Police over the past two years. A total of 14 of the 18 posts in the team have been filled (as at November 2015) and total spending on the NSIT, as at the beginning of January 2016, amounted to R1.5 million.⁴⁰

Since April 2012, a total of 30 systemic corruption cases have been registered by the Directorate. It is important to note that these cases are not isolated to borders, but includes all systemic corruption cases investigated by the IPID where the SAPS has been involved. Out of the 30 cases registered, six (6) cases were identified in 2012/13, twelve (12) cases in 2013/14, five (5) cases in 2014/15 and seven (7) cases in 2015/16. Of the 30 registered cases, 14 cases are still active, while seven (7) cases are decision ready (with the NDPP) and nine (9) cases are closed. The provincial distribution of systemic corruption cases identified by the IPID is very uneven. Out of the 30 cases identified over the past four years, most were in the Free State Province (seven cases), followed by the Northern Cape Province (six cases) and the Gauteng and Mpumalanga Provinces (each four cases). Between 2012/13 and 2015/16, no systemic corruption cases have been identified in the Western Cape Province.⁴¹ It is improbable that no SAPS officials were involved in corruption over the past four years, especially having a major sea port in the Western Cape Province. The IPID currently lacks focused investigations into corruption at ports of entry, especially sea ports of entry.

3.3. Infrastructure challenges

3.3.1. SAPS Vessel fleet

In the immediate post-1994 period, the Supply Chain Management (SCM) function of South Africa was highly fragmented and not well regulated.⁴² Similarly, the procurement systems of the SAPS were in disarray and control over moveable and immovable assets were deficient. In 2011/12, the Portfolio Committee on Police shifted its focus to this deficiency and raised it as a significant threat to effective service delivery in its Budgetary Review and Recommendations Report (BRRR). The Committee found that contracts entered into between the SAPS and suppliers had little if any support from the SAPS Legal Service Component, which led to suppliers usually benefitting more from a contract than the SAPS.⁴³ During these early days, contracts for the purchase of vessels did not include maintenance plans and need specifications were largely ignored by manufacturers.⁴⁴ The identified deficiencies have been addressed by the SAPS in recent years and many reform processes have been introduced to better control the SCM environment.

In 2014/15, the SAPS had 56 530 transport assets, which consisted of 52 347 vehicles, 1 152 motorcycles, 50 aircraft, 127 boats, 122 pieces of machinery (e.g. forklifts) and

⁴⁰ National Treasury (2016).

⁴¹ IPID (2016).

⁴² National Treasury (2015).

⁴³ Portfolio Committee on Police 2011/12 BRRR

⁴⁴ SAPS (2015c).



2 732 trailers.⁴⁵ Of the 127 boats owned by the SAPS, 33 vessels are deployed within the maritime ports of entry, which means that the bulk of SAPS vessels (94) are deployed for day-to-day in-land policing activities outside of the dedicated border safeguarding environment. Most of the vessels used by the SAPS in the sea border environment are Rigid Inflatable Boats (RDIB), or commonly known as rubberducks. The current vessel fleet of the SAPS is ageing, with the last vessel purchased in the 2007/08 financial year.⁴⁶ The table below provides a summary of the current vessel fleet of the SAPS deployed within the sea border environment, per province and harbour or port of entry:

Table 6: Vessel status of the SAPS

Province	Port of Entry	Operational	Non-operational	Boarded	Total
KwaZulu Natal		4	6	1	11
	Durban Harbour	1	3	1	5
	Richards Bay Harbour	3	3	-	6
Western Cape		12	4	0	16
	Cape Town Harbour	5	-	-	5
	Simons Town Harbour	2	1	-	3
	Saldanha Bay Harbour	2	2	-	4
	Mossel Bay Harbour	3	1	-	4
Eastern Cape		4	0	2	6
	East London Harbour	3	-	-	0
	Port Elizabeth Harbour	1	-	2	3
	Port of Ngquara	0	0	0	0
Total		19	10	3	33

Source: SAPS (2015c)

The table above shows that of the 33 vessels deployed within the sea border environment, 19 vessels are operational, 10 vessels are non-operational and three (3) vessels are boarded.⁴⁷ One (1) of the 20m vessel (the Indlovokaza), which is deployed at the Simons Town Harbour does not have a seaworthy certificate (it is currently expired). Thus, at the time of writing, the SAPS has 18 operational vessels deployed for maritime border safeguarding along the coastline of the Republic. In terms of the provincial breakdown, the Western Cape has the largest vessel fleet at 16 vessels of which 12 are operational and four (4) are non-operational. This larger than average distribution of vessels is because of the extent of the Western Cape Coastline and a focus on maritime crime, including abalone smuggling.

The KwaZulu-Natal Province has eleven (11) vessels deployed at two (2) ports of entry (harbours), namely Durban and Richards Bay, of which a total of seven (7) vessels are non-operational. This means that only 36.6 per cent of the SAPS's KwaZulu-Natal vessels are operational. The Eastern Cape Province has six (6) vessels, of which four (4) are operational. The East London harbour has three (3) operational vessels, while the Port Elizabeth harbour only has one (1) operational vessel. The Port of Ngquara has no vessels deployed. In order to be effective in border policing, the SAPS indicated that it needs two (2) 6m RHIB, two (2) 9m and one (1) 20m patrol boats and one (1) 7.8m RHIB to be deployed at the Port of Ngquara.

⁴⁵ SAPS 2014/15 AR, p. 99

⁴⁶ Two (2) 20m patrol vessels were procured from France.

⁴⁷ Non-operational vessels refers to those vessels currently not in operation, e.g. being serviced or broken down, but not boarded.



The Northern Cape Province does not have a declared sea port of entry, but has several domestic seaports. Because the province does not have a declared port of entry, no dedicated SAPS vessels are deployed along the Northern Cape coastline and border policing functions are performed by local police stations.

The SAPS has not kept pace with the changing responsibilities and legislative mandates within the border safeguarding environment over the past two decades. Most of the current SAPS vessels were originally designed and procured for harbour patrol, instead of coastal patrols, as is required by the SAPS Act. There is a growing number of incidents of poaching along the South African coastline and local police stations do not have the capacity or resources to deal with coastal patrols. To address the capacity constraints, the SAPS needs to revitalise its entire vessel fleet.

It is vitally important that procurement contracts must include maintenance plans and bidders situated along the coast should be recommended (to ensure the required maintenance for vessels). Required specifications must strictly be adhered to when tender documentation is approved. The Cape Town Maritime Border Police Unit has an internal workshop where basic maintenance work is done on its vessels on a regular basis. This availability of the maintenance capability is arguably the reason for the fact that 100 per cent of its allocated vessels are currently operational.

3.3.2. SAPS Vehicle fleet

The vehicle fleet available to SAPS Border Policing Units to conduct border policing functions effectively and efficiently is under severe strain at most ports of entry. Vehicles needed to conduct visible policing patrols are seldom available. The precincts of harbours are often large and the SAPS must, amongst others, patrol the perimeter fences of harbours, which can be in excess of 10 kilometres. As at the end of December 2015, the Cape Town Border Police Unit has a total of 13 vehicles available, of which one (1) vehicle has a support function and twelve (12) vehicles are operational.

Of the 12 operational vehicles, seven (7) vehicles have odometer readings in excess of 200 000km and a further four (4) of the operational vehicles have odometer readings of more than 100 000km. As such, the vehicle fleet at the Cape Town harbour is both inadequate and old, which means that most of the vehicles will have to be boarded and replaced in the near future. The SAPS currently have a fixed establishment of 132 personnel at the Cape Town Border Policing Unit, with a vehicle availability of 12 vehicles. The SAPS has an approved norm of an average of 4.51 personnel per vehicle for effective policing in the country.⁴⁸ The ratio of personnel to vehicles for the 2014/15 financial year was 3.7:1, meaning that for every 3.7 SAPS members, there was one operational vehicle available. The current ratio of personnel to vehicles at the Cape Town Border Police Unit is 11: 1, which is far higher than the approved norm of 4.5:1 for effective policing. The lack of operational vehicles available at sea ports of entry is having a significantly negative impact on the effective policing of sea ports of entry across the country.

⁴⁸ SAPS (2015f).



3.3.3. SAPS Buildings

In a previous research paper by the Parliamentary Research Unit⁴⁹ it was found that the built infrastructure environment at land ports of entry are generally inadequate and ineffective. In 2008, the Auditor General highlighted the fact that SAPS infrastructure, especially at harbours, were inadequate.⁵⁰ Although only one SAPS Border Policing Unit was visited during the primary research data collection phase of this study, the building was in a state of serious disrepair, as illustrated by the figure below.

Figure 2: Border Policing Unit Building: Cape Town Harbour



Source: Research Unit, Parliament (2016)

The offices of the Cape Town Harbour Border Police Unit is located on a heritage site (former SA Navy Training College), which adds a uniquely complex nature to the refurbishment of the building. The building is not weather resistant with most of the windows on the western side of the building broken or removed. This leads to regular flooding of the building, especially the hall, during winter months. The hall of the building has an asbestos roof, which renders it unsafe for human occupation. This could ideally be used for parades or converted into open-plan offices for the use of the SAPS.

The location of the Border Unit is ideally suited in the Cape Town seaport in terms of operational capabilities. On the northern side of the building (towards the harbour), the berths have floating pontoons that adapt to ocean tides and allow for easy loading of equipment and people. It is not recommended that the unit should be moved out of the building and housed elsewhere as this will have a negative impact on the operations of the Cape Town Harbour Policing Unit.

3.3.4. SAPS Specialised equipment and ICT

Specialised equipment deployed within the maritime border environment must be regarded as a force multiplier. The SAPS employs a wide range of specialised equipment within the maritime border safeguarding environment, including the following:

⁴⁹ Mangani, et al. (2015)

⁵⁰ Auditor General (2008).



- Fibre scope inspection kits;
- Infrared telescopic camera system;
- Hand held drug detection;
- Hand held explosive/ammunition detection system;
- Live scan mobile pallet x-ray scanner;
- Live scan static baggage x-ray scanner;
- Live scan auto van;
- Body scanner;
- Document verification equipment;
- Astro search II metal detector;
- Mobile connectivity;
- Max ID;
- Backscatter van;
- Binoculars;
- Telescopes;
- Geographic Positioning System (GPS); and
- Closed Circuit Television (CCTV).

The provincial distribution of the specialised equipment used by the SAPS within the maritime border environment is uneven and inadequate.⁵¹ The SAPS is currently not using innovative or technologically advanced equipment within maritime border safeguarding. Specialised equipment is generally outdated and not in good operational condition. Equipment should be used effectively and efficiently, while understanding that technology cannot catch perpetrators.⁵²

Internationally, new technologies are being implemented within the border safeguarding environment, including the following:

- Cameras and sensors;
- Identification Systems;
- Unmanned Ariel Vehicles (UAVs) commonly known as drones;
- Automatic Licence Plate Recognition (ALPR);
- Radiation Detectors;
- Tethered Aerostat Radar System (TARS) and Radar Coverage; and
- Electronic Language Translators: Language barriers is one of the biggest stumbling blocks when dealing with people from other countries at borders. This has been an ongoing concern within the South African border security environment.

The cruise liner tourist industry creates unique challenges for the SAPS at sea ports of entry. A variety of passenger liners dock at the Durban and Cape Town Harbours. Although these harbours are declared ports of entry, they do not have a designated international arrivals and departures hall such as found at international airports. Temporary departure and arrival halls have to be created to accommodate passengers embarking on and disembarking from passenger liners when docked at the Cape Town and Durban Harbours. Yet, the SAPS does not have scanning equipment to secure the contents of baggage and has to borrow equipment from either the Victoria and Alfred Waterfront or the Parliamentary Protection Services in Cape

⁵¹ For security reasons, details on the distribution of specialised equipment is not provided.

⁵² Mason, MT (2006).



Town. The passenger line tourism industry in South Africa is an example of the balance between law enforcement and tourism (trade facilitation). The SAPS also relies heavily on other equipment and facilities of the Victoria and Alfred Waterfront.

3.4. Human Resources and Specialised units

3.4.1. SAPS Human Resources

The human resource capacity of Border Policing Units are severely under resourced. This is most visible at the Cape Town Border Policing Unit. The fixed establishment allocation of personnel should be 764 members, but the actual establishment is 132, which is a difference of 632 personnel. Most of the personnel deployed to Border Policing Units also perform detached duties at other SAPs units, which takes them away from this environment on a regular basis.

3.4.2. SAPS Dog Unit / K9 Service

The SAPS have 104 Visible Policing K9 Units, including dedicated units at the OR Tambo International Airport and Durban harbour.⁵³ From 1 April 2014 to 31 March 2015, the K9 Units performing duties at the South African borders conducted 66 743 searches, recovered 26 stolen vehicles, 11 firearms, and made 334 serious and less serious crime arrests.⁵⁴ Recently, the SAPS appeared before the Portfolio Committee on Police regarding identified issues with the SAPS K9 Unit (26 January 2016). During the briefing, the SAPS indicated that it currently has a critical shortage of operational police dogs, as a total of 215 old operational dogs are to be boarded over the medium term (2018/19).⁵⁵ Additionally, the SAPS has 224 trained K9 handlers without dogs and 197 members at units awaiting K9 course training.⁵⁶ The largest proportion of old operational dogs are within the narcotics, explosives and patrol categories.

During the primary research visits to the Cape Town Harbour, the lack of a dedicated K9 capacity was highlighted as a critical challenge. Police dogs are usually used during rummaging operations on board vessels. The presence of police sniffer dogs (both narcotics and explosives) significantly expedites rummaging operations. Additionally, using sniffer dogs increases the SAPS chances of making successful discoveries of illicit goods, like drugs and explosives.

3.4.3. SAPS Diving Services

Police divers provide a diving-related response service, which involves search, rescue and recovery operations. It entails the recovery of the bodies of drowned victims, exhibits submerged in water, hazardous liquid or substance and ensuring adherence to water safety regulations.⁵⁷ The SAPS currently has 176 trained and active divers and 97 trained vessel handlers. During 2014/15, the police divers conducted 1 025 dive-related operations, amounting to 17 763 hours in which 773 bodies of drowned victims were recovered.⁵⁸ The

⁵³ SAPS (2015f).

⁵⁴ SAPS (2015f).

⁵⁵ SAPS (2016).

⁵⁶ SAPS (2016).

⁵⁷ SAPS (2015f), p 143

⁵⁸ SAPS (2015f), p 143



delineation between in-land and maritime diving operations are not available. The nearest diving unit to the Cape Town Harbour is located at 35 Squadron at Ysterplaat Air Force Base. In the maritime security environment, divers are usually used to inspect vessels below sea level for illicit goods stuck to the hull of ships. A dedicated dive capacity is not needed at the Cape Town harbour, although lack of availability of divers often delays search operations.

3.4.4. The Directorate for Priority Crime Investigation (DPCI)

The Directorate for Priority Crime Investigations (DPCI) (commonly known as the Hawks) focusses on level 4 and 5 crime investigations, which concentrates on the higher value chain of criminality, such as crime syndicates and transnational crimes. The DPCI derives its mandate from section 17A of the SAPS Act, which defines “national priority offence” as:

- Organised crime;
- Crime that requires national prevention or investigation; or
- Crime that requires specialised skills in the prevention or investigation thereof, as referred to in section 16(1) of the SAPS Act.

Organised crime is defined as criminal entities that are designed for the commission of serious national and transnational crimes geared towards profit achieved through illegal activities. They operate within an organised criminal business system with a structure greater than any individual member and the potential for corruption and/or violence to facilitate the criminal activities and processes

Further to the mandated priorities, the following types of National Threat problems demonstrate the diversity of problems that were identified and are being addressed by the DPCI:

- Narcotics;
- Human Trafficking;
- Rhino Poaching;
- Illicit Mining;
- Non Ferrous Metals;
- Specific Violent Crimes;
- Vehicles Crimes;
- Illicit Cigarettes; and
- Economic Crimes.

During the President’s reply on the 2016 State of the Nation Address (SONA) he announced the establishment of two new specialised crime investigation units, namely the South African Narcotics Enforcement Bureau and the National Bureau for Illegal Firearms Control and Priority Violent Crime, to be included under the DPCI. The proliferation of firearms and drug smuggling across the border by international crime syndicates remains a major challenge to the territorial integrity of the Republic. These two units will possibly have a significant impact on transnational crimes.



3.5. The budgetary environment

The budgetary environment of SAPS illustrates the extent of prioritisation of maritime border safeguarding within the SAPS. Of specific interest is the border security subprogramme, the vessel fleet and the K9 Units

3.5.1. *The Border Security Subprogramme*

The Border Security Subprogramme of the SAPS (located within the Visible Policing Programme) has been allocated R1.84 billion during the 2016/17 financial year growing by 5.9 per cent over the medium term (2018/19). The budget allocation made towards the Border Security Subprogramme is 4.5 per cent of the total budget allocation of R40.6 billion made towards the Visible Policing Programme for 2016/17 in comparison to 2015/16.

3.5.2. *SAPS Vessel Fleet*

As mentioned earlier, the SAPS vessel fleet is rapidly aging and additional needs have been identified to address the evolving crime trends within the marine border safeguarding environment. The SAPS Border Security Subprogramme needs an estimated R137 million to address the shortcomings identified in its vessel fleet, which consist of the following:⁵⁹

- Four (4) twenty (20) meter vessels: R100 million
- Five (5) nine (9) meter vessels: R20 million
- Four (4) 7.8 meter speed boats: R2 million
- Estimated survey and maintenance cost of current fleet: R15 million

3.5.3. *Specialised K9 Units*

The estimated budget to replace boarded police dogs is in excess of R2 million over the medium term (2018/19), yet the budget allocation for *biological assets* (police dogs) shows a significant decrease in real terms in 2016/17, compared to the previous financial year. Over the medium term, the allocation to this item decreases with 14.1 per cent.

3.6. Interdepartmental cooperation

Despite the recognised risks, many countries, including South Africa, continue to operate a disjointed system of immigration and border control. Various departments manage discrete aspects of control with ineffective sharing of information and intelligence, which leads to border insecurity that is vulnerable to criminal pressures.⁶⁰ Secure and efficient border security is best achieved through an integrated and intelligence-led approach which is delivered through integrated technology enabling effective sharing of data, assured identity management and strong inter-agency co-operation and business processes.⁶¹

The MTSF 2014-2019 states that the “plethora of government departments and State agencies working in the border environment has contributed to security loopholes, poor

⁵⁹ SAPS. (2015c).

⁶⁰ Manson, TM (2006).

⁶¹ Manson, MT (2006).



coordination of planning, monitoring and oversight, the non-alignment of critical systems and weak integrated risk management initiatives.”⁶² This came to light during the primary research phase of this research project, where the lack of information sharing was highlighted by stakeholders as a major challenge. Most departments and agencies keep their information confidential and do not share with other departments and agencies.

The integration of information systems has many benefits for the territorial integrity of the Republic, including the following:

- Enhanced border security;
- Improved facilitation of legitimate trade and travel; and
- Improved efficiency, by reducing costs and providing a more flexible system.

However, the integration of systems is a complex process involving organisational change, restructuring, people development, new processes and technology that affects multiple agencies and stakeholders.⁶³ The integration of processes is one that South Africa has been battling with for several years through the Criminal Justice System (CJS) Revamp and Integrated Justice System (IJS) Modernisation project.

On 7 November 2007, Cabinet approved the Seven-Point Plan to revamp the CJS. The Plan’s focus was on how to improve and streamline the overall impact, effectiveness and efficiency of the CJS, with reference to budgets, procedures, practices and laws governing the system, and with a specific focus on the co-ordination and co-operation between role-players - specifically, the National Prosecuting Authority (NPA), Department of Correctional Services (DCS), Department of Justice and Constitutional Development (DOJ&CD), and the South African Police Service (SAPS).

The outcome of this process (a modernised and transformed CJS) should result in:

- The delivery of quality and professional services in an integrated, coordinated, effective and efficient criminal justice system;
- The provision of swift, equitable and fair justice in criminal matters; and
- An effective deterrent to crime on a sustainable basis.⁶⁴

Since then, there has not been many successes within the implementation of the CJS/IJS projects despite large budget allocations made towards it. In 2014/15, the CJS projects under the SAPS Technology Management Services (TMS) received an allocation of R813.5 million, of which it managed to spend 50.5 per cent at the end of the third quarter. One of these projects included the Automatic Fingerprint Identification System (AFIS), which is of specific relevance to the border safeguarding environment.

The SAPS has a legislative mandate to have access to the Home Affairs Identification System (HANIS) because not every citizen would be on SAPS’ database because it only houses those with a criminal record. For purposes of identification, HANIS should be electronically accessible, but this capability does not currently exist.

⁶² MTSF (2014)

⁶³ <http://www.paconsulting.com/industries/government-and-public-sector/protecting-our-borders-and-streamlining-immigration/smarter-borders-strengthening-border-security-through-integration/>

⁶⁴ Criminal Justice System Review Terms of Reference (2014)



The Movement Control System (MCS) and Enhanced Movement Control System (EMCS) are systems of the DHA. The SAPS's Circulation System is linked to the EMCS electronically. All wanted persons, as well as stolen/robbed vehicles, will reflect automatically on the EMCS. There are 14 ports that operate the MCS and 57 ports that operate the EMCS. City Deep, the only dry port in South Africa, does not operate the MCS or the EMCS. City Deep only monitors the movement of cargo and not persons, and profiles cargo in accordance with the received manifesto. The EMCS was rolled out to Bothashoop and Emahlatini in Mpumalanga during 2014/15 and the process is ongoing for the remaining 14 ports.⁶⁵

4. The South African National Defence Force (SANDF)

While the SAPS places specific focus on the sea ports of entry, the maritime border environment encompasses a much broader geographic area. Maritime border safeguarding is inextricably linked to maritime territorial control and the SANDF, through the SA Navy and SA Air Force, takes primary responsibility for territorial control. The following sections will provide an overview of the legislative environment directing SANDF involvement in maritime border safeguarding, the SANDF's capabilities in this regard, cooperation with other departments and its budgetary and human resources environments.

4.1. The Legislative and Policy Environment

SANDF involvement in the maritime border environment is guided by legislation and has received increasing attention in recent policy developments. The most prominent legislative and policy directives include:

- Constitution of the Republic Of South Africa, (Act No. 108 of 1996)

The Constitution provides the foundation for all SANDF activities inside and outside of the Republic. Chapter 11 of the Constitution, which deals with the security services, states that "the defence force is the only lawful military force in the Republic".⁶⁶ In Section 200(2), the SANDF is mandated to provide for the defence and protection of the Republic, its territorial integrity and its people in accordance with the Constitution and the principles of international law regulating the use of force.⁶⁷ Provision is thus made for the SANDF's involvement in border safeguarding (including in the maritime sphere) as it forms part of the broader maintenance of the country's territorial integrity.

- Defence Act, (Act No. 42 of 2002) and the Defence Amendment Act, (Act No. 22 of 2010)

While the Constitution provides for the broader application of the SANDF, the Defence Act provides more specifics on deployments. Section 18 of the Act expands on the constitutional duty of the President, by stating that the Minister of Defence may, in certain instances, also deploy the SANDF for internal purposes. Section 18 (d) makes specific reference to the deployment of the SANDF "to effect national border control." Furthermore, Section 88 of the

⁶⁵ SAPS AR 2014/15, p178

⁶⁶ Constitution of the Republic of South Africa. (1996). p. 20.

⁶⁷ Ibid. p. 21.



Act provides permission for any SANDF member to enter private land for the purpose of border control. While this will have limited application to maritime border safeguarding, it does illustrate the extent of powers given to the SANDF for the purpose of border safeguarding.⁶⁸

- The 1996 White Paper on Defence

The White Paper on Defence notes as a regional threat the cross-border trafficking in drugs, stolen goods and small arms. The White Paper further recognised the role of the SANDF in border safeguarding, but argued that this role would be fulfilled by the SAPS. This eventually culminated in the withdrawal of the SANDF from border safeguarding in favour of the SAPS between 2003 and 2009.⁶⁹ In terms of maritime border safeguarding, the White Paper notes the role of the SA Navy in particular, including their role in the protection of maritime and marine resources.⁷⁰

- 2015 South African Defence Review

The return of the borderline safeguarding function to the SANDF in 2009 seems to form part of a broader shift to cement this role in the SANDF. This is apparent in the 2015 Defence Review which states that, as part of Task 4, that “Defence will assume full responsibility for land, air and maritime border safeguarding. This will be pursued with Defence leading all collaborative efforts concerning safeguarding on the border-line and the immediate rear areas”.⁷¹ Within this obligation, the SA Navy is responsible for maritime border safeguarding, which encompass maritime security.⁷² The Defence Review serves as a long-term planning guide for the SANDF. In terms of maritime capabilities, the Defence Review envisages a “maritime defence concept involving deterrence and powerful intervention through surface, sub-surface and air capabilities.”⁷³

The Defence Review further highlights a number of concerns with the current state of maritime security. It states that the SA Navy is undermined by the operational tempo (rotational use) of the country’s Frigates, the urgent need for the replacement of Offshore Patrol Vessels (OPV), the need for critical maintenance and repair, the depletion of the primary war-fighting capabilities, the absence of static and airborne maritime sensors and the need for intelligence-driven operations.⁷⁴

4.2. The SANDF and the Maritime Border Environment

South Africa’s position on maritime security and piracy is depicted in various policy and other documents including the NDP, the MTSF, and the Annual Performance Plan of the DOD. South Africa is undoubtedly a maritime nation. As such, maritime security is important for the country and the region. More importantly, South Africa is located in a geostrategic position along three vital sea routes of the world namely the South Atlantic, the Indian and the Southern Oceans. This geostrategic position and maritime borders need protection from piracy and

⁶⁸ Defence Act 2002 (Act No. 42 of 2002).

⁶⁹ For more on the changing roles in border safeguarding, see Dollie and Rustin. (2015). p. 4-7.

⁷⁰ Department of Defence. (1996). p. 23.

⁷¹ Department of Defence. (2015b). pp. 6-1,6-3.

⁷² Department of Defence. (2015b). p. 5-1.

⁷³ Department of Defence. (2015b). p. 9-12.

⁷⁴ Department of Defence. (2015b). p. 9-5.



other maritime security threats in order to maintain territorial integrity. In terms of trade, seaborne trade contributes about 50 percent of South Africa's Gross Domestic Product (GDP). The country also has a vibrant fishing industry. Furthermore, several land locked states in the region also depend on South Africa for their trade.

From the above it is clear that South Africa recognises the need to address maritime security threats. This is also reflected in, for example, the NDP which illustrates the importance of maritime security to the development of the nation. Chapter 7 of the NDP (Position South Africa in the World), highlights the importance of maritime security in preventing Transnational Crime such as piracy and counterfeit goods smuggling.⁷⁵ Piracy poses a significant threat to South Africa's trade routes and the transit of shipping goods through South African waters. Further, goods smuggling affects established commerce while counterfeit drugs amplify the humanitarian crisis in communicable diseases. Human trafficking poses an additional concern in the maritime border environment. Accordingly, the NDP notes that the SA Navy should be equipped in order to deal with maritime insecurity. It also supports naval patrols and recommends the inclusion of Kenya in the agreement between South Africa, Mozambique and Tanzania in terms regional of maritime safeguarding patrols.⁷⁶ The MTSF also focuses on maritime security, albeit indirectly, through Sub Outcome 3 (South Africa's borders effectively defended, protected, secured and well-managed), of Outcome 3 (All people in South Africa are and feel safe), which extends to the protection of maritime borders.⁷⁷

Currently, one of the SA Navy's primary maritime safeguarding operations is Operation COPPER, which includes naval patrols along the coast of Tanzania and in the Mozambique Channel. This operation is ongoing and its importance has gained significance following the launch of Operation PHAKISA, which aims at implementing the NDP by expanding the country's oceans economy.⁷⁸ Evidently, maritime security is a pillar to ensure the success of Operation PHAKISA.

4.3. Infrastructure challenges

For the SA Navy the major challenges with regard to infrastructure relate to the Dockyard in Simons Town, which is responsible for certain maintenance and repairs. During an oversight visit in 2013, Members of Parliament witnessed the challenges faced by the Dockyard ranging from underfunding to the lack of skilled personnel. The then Chief of the South African Navy, Vice Admiral Johannes Mudimu, stated in his State of the Navy address in Simon's Town in April 2013 that there was a crisis in the Dockyard and "(f)or us to avert this crisis the dockyard must be run by the Navy. While the dockyard is one of Africa's biggest, its labour force is virtually non-existent". He further reiterated that "(f)or our fleet to survive we need to control the dockyard. If we don't the Navy is sunk".⁷⁹ The 3rd Draft Defence Review concurs by stating that "(t)he position of the Dockyard as an entity managed by ARMSCOR has not produced the hoped for results".⁸⁰ In addition, it is stated that "(s)imply transferring it back to the Navy may, however, restrict its ability to carry out work that could reduce the cost of ownership to the

⁷⁵ National Planning Commission. (2013). p. 248.

⁷⁶ National Planning Commission. (2013). p. 249.

⁷⁷ Republic of South Africa. (2014). p. 11. And Department of Defence. (2015). p. 42.

⁷⁸ Zuma. (2015).

⁷⁹ Helfrich, K. (2013).

⁸⁰ South African Defence Review. (2013). p. 23.



Navy”.⁸¹ Examples of such work would include refit, repair, modernisation, conversion or upgrading of naval and Coastguard vessels of other countries, working in conjunction with the industry, in some cases as the prime contractor and in others as a sub-contractor; and support for the complex vessels of the offshore diamond and gas/oil exploration industries which may include working in conjunction with specialist companies in those sectors. Contrary to the Chief of the Navy’s sentiment, the Defence Review proposes that a Denel Maritime Division might prove to be the optimal approach to this dilemma. Regardless of the option considered, resources would have to be allocated to ensure a functioning dockyard that will culminate in the readiness of South African warships to effectively ensure maritime border safeguarding. This remains a short-, medium- and long-term challenge that requires a swift but permanent solution.

Furthermore, the SANDF is currently in the process of upgrading the Naval Station in Durban to a fully-fledged naval base. This is crucial to the SA Navy’s patrol capabilities around the South African north coast. It also serves as a valuable platform from where to launch patrols of the EEZ and patrols along the coastlines of neighbouring countries as is currently the case under Operation COPPER. The upgrade of this base has been prioritised and additional funds allocated over the MTEF.⁸²

4.3.1. Vessel fleet and patrol capability

South Africa’s geostrategic position and its maritime territory requires naval power to be able to patrol. Based on the 2012 Force Design of the SA Navy, vessel patrol capacity consist of Valour Class frigates, submarines, support vessels, Warrior Class strike craft (now converted to OPVs), minehunters, minesweepers, and the T-Craft IPV’s as well as harbour patrol boats.⁸³ It is important to provide an overview of these vessels in order to provide a clear picture of the patrol capability and related challenges.

Frigates. As part of the 1999 Strategic Defence Procurement package, the SA Navy procured four Valour Class frigates, the SAS *Amatola*, the SAS *Isandlwana*, the SAS *Spioenkop* and the SAS *Mendi*. These vessels are considered the work horses of the SA Navy.⁸⁴ The frigates provide a crucial blue-water naval patrol capability as they can function for extended periods of time away from a support base. It thus allows for patrols of South Africa’s EEZ and other territorial and non-territorial waters.

Submarines. As part of the Strategic Defence Package, the SA Navy also procured the SAS *Manthatisi*, the SAS *Charlotte Maxeke* and the SAS *Queen Modjadji I* diesel powered submarines.⁸⁵ These submarines replaced the three Daphné Class submarines procured from France in the late 1960s.⁸⁶ The value of submarines to South Africa lies largely in deterrence. It thus adds to the SANDF’s primary mission to prevent external military aggression against the state, referring in this case to the prevention of a maritime threat. Submarines further add to the Navy’s patrol capability through conducting patrols in territorial waters.

⁸¹ South African Defence Review. (2013). p. 24.

⁸² National Treasury. (2016). p. 331.

⁸³ SA Navy. (2015b)

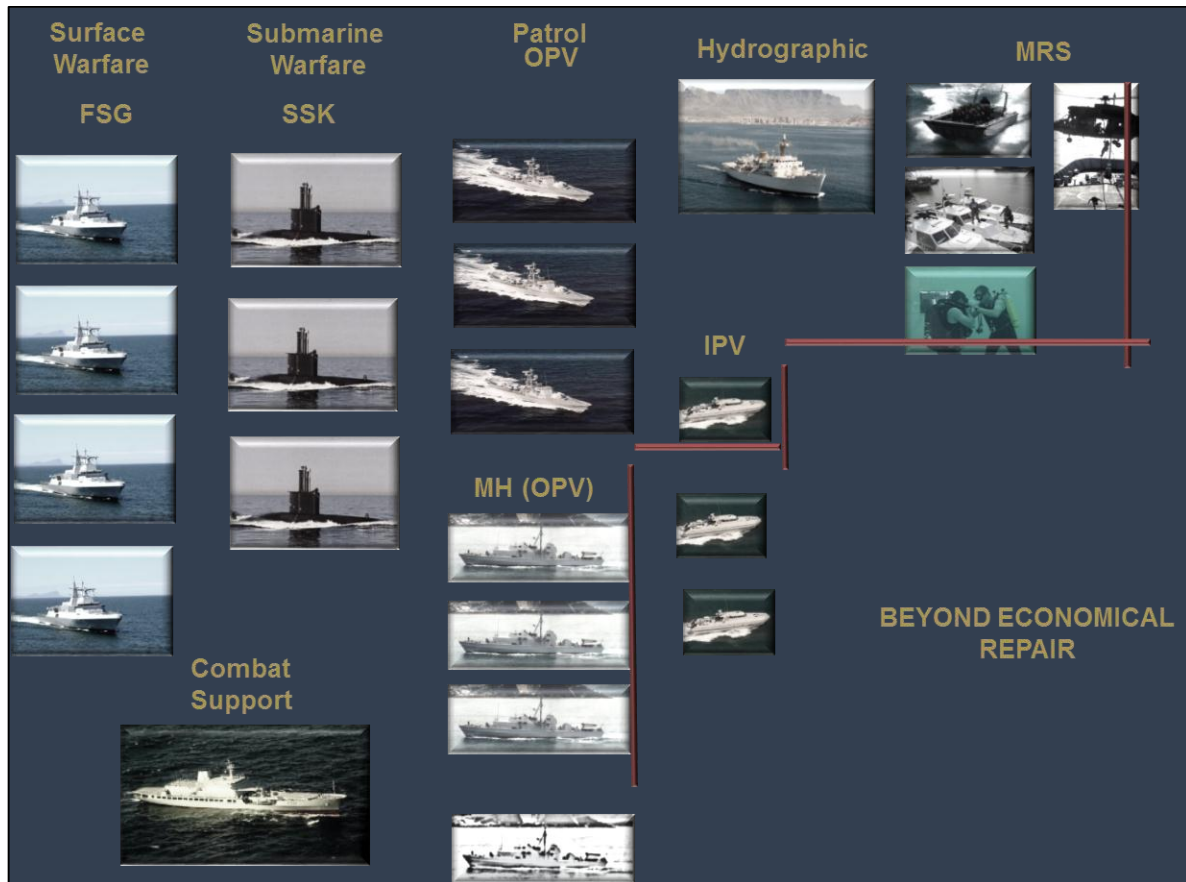
⁸⁴ Bennett & Söderlund. (2008). p. 81; and Edmonds & Mills. (1998). p. 96.

⁸⁵ Manganyi. (2014). pp. 51-52.

⁸⁶ Potgieter. (2004). p. 129.



Figure 3: SA Navy Force Design



(Source: SA Navy. (2015b))

Support Vessels. Currently, the SAS *Drakensberg*, which is a proudly South African constructed vessel, is the only support vessel of the SA Navy. However, SAS *Protea*, which is the hydrographic survey vessel, also plays a supporting role. The SAS *Protea* was launched on 14 July 1971 and is in a process of being replaced under Project HOTEL.⁸⁷ In the 2016 Estimates of National Expenditure (ENE) it is stated that provision is made in the 2016/17 allocation for the Maritime Defence programme for replacing the hydrographic vessel by 2019/20.⁸⁸ The value of support vessels to maritime safeguarding lies primarily in its extension of the reach of other naval vessels. These vessels can also be used on their own to conduct maritime patrols, as has been proven with the deployment of the SAS *Drakensberg* under Operation COPPER.

Strike Craft ('Offshore Patrol Vessels'). The SA Navy procured nine Warrior Class strike crafts between 1976 and 1985 which were fitted with surface to surface missiles. These vessels remained credible deterrent vessels until 2007 when most were decommissioned. Currently, only the SAS *Isaac Dyobha*, the SAS *Galeshewe* and the SAS *Makhanda* are operational after being refitted as OPVs rather than strike craft (attack craft).⁸⁹

⁸⁷ Potgieter. (2012a). p. 159.

⁸⁸ National Treasury. (2016). p. 2.

⁸⁹ Edmonds & Mills. (1998). p. 41.



The SA Navy is in the process of replacing the aged strike craft with dedicated OPVs under Project BIRO, which was conceived from a need to resuscitate the inshore and offshore patrol capability of the SA Navy.⁹⁰ It is estimated that three OPVs and six (60m) Inshore Patrol Vessels (IPV) are required to replace the strike craft and minehunters. According to Rear Admiral Hans Teuteberg, Chief Director Maritime Strategy in the SA Navy, “the current strike craft [converted into OPVs] will be able to cover the gap for borderline security for approximately five years, after which it will be critical to replace the vessels”.⁹¹ This is concerning given the fact that the first offshore patrol vessel is only expected in 2018, but the completion date of the project remains unknown. Meanwhile, the SA Navy will have no other choice but to re-extend the life span of the OPVs by another five years. This will mean that the strike craft would have been in service for about 40 years.

Mine Hunters. Although minehunters and minesweepers are not designated as patrol forces in the SA Navy, they are instrumental in ensuring the safety of the country’s waters from mines and other deadly weapons. Mines are some of the cheapest but deadliest weapons that can cause both physical and psychological damage to humans. To effectively counter mines, mine countermeasures vessels are a prerequisite. Mine countermeasures vessels have two main groups; minesweepers and minehunters.⁹² Only two vessels were operational by 2013.⁹³ In March 2001, South Africa procured pre-owned six Ton Class minesweepers worth R31 million from Germany.⁹⁴ The rationale for acquiring the minesweepers was to strengthen maritime safety and security in South African waters by increasing offshore patrols as well as conducting search and rescue operations.⁹⁵ It should be noted that the SA Navy has a future project to replace both minehunters and sweepers as discussed later. It is worth noting that before they became obsolete, the minesweepers improved the SA Navy’s coastal patrol capabilities by assisting the strike craft vessels and other small boats.⁹⁶

Inshore Patrol Vessels. In many navies of smaller states that lack Coastguard capabilities, the main roles of the IPVs and Harbour Patrol Boats (HPB) are to prevent illegal importation of illicit goods such as drugs and other substances, deterring piracy and other illegal activities in the EEZ.⁹⁷ The SA Navy has only one IPV that is operational.⁹⁸ It should be noted that the SA Navy is in the process of acquiring IPVs under Project BIRO. The single IPV is currently supported by about 26 smaller HPBs, popularly known as Namacurras.

SA Air Force maritime patrols. The SA Air Force assists the SA Navy with its maritime border safeguarding function primarily through the conducting of maritime air surveillance capabilities. The SA Air Force currently has only five Dakota aircraft that are being used for this purpose, all of which have low serviceability due to the age of these aircraft. During 2015, a very limited number of maritime border patrol sorties were flown by the SA Air Force due to a lack of serviceable aircraft as well as a lack of tasking from the Chief of Joint Operations.⁹⁹

⁹⁰ Baker. (2012). p. 157.

⁹¹ Campbell. (2013).

⁹² Navy International. (1991a). p. 407.

⁹³ South African Navy. (2011b).

⁹⁴ McGowan. (2006). p. 316.

⁹⁵ Sverdloff. (2001). p. 15.

⁹⁶ McGowan. (2006). p. 316.

⁹⁷ Navy International. (1991b). p. 67.

⁹⁸ SA Navy. (2015b).

⁹⁹ SA Air Force. (2016).



The SA Air Force further supports the SA Navy with air patrols of maritime territory by means of Hercules C-130 transport aircraft. These are the only aircraft that can do patrols beyond South Africa's EEZ, including patrols to the country's offshore territories. Furthermore, Oryx and Lynx helicopters as well as the Gripen fighter aircraft provide a maritime patrol capability if required. In terms of search and rescue operations, all these aircraft can assist, but would require vessels in the area to execute the actual rescue.¹⁰⁰

Lack of Strategic Sealift Capability (Landing Helicopter Dock). The lack of a strategic sea lift capability, in the form of Landing Helicopter Dock (LHD), may be identified as one of the weaknesses in platforms geared for maritime security. Sea lift capability is extremely important for the transportation of naval forces and equipment, such as the Forward Deployable Base of the Maritime Reaction Squadron, for the success of operations in distant regions. Apart from maritime security, sea lift capabilities may be utilised for operations such as diplomatic missions, landing operations, evacuation operations, search and rescue, and development support and post conflict reconstruction.¹⁰¹ As acknowledged by the SA Navy:

The SA Navy does not have a suitable platform to carry out the missions described above. By acquiring a suitable platform to project forces ashore, and to provide the necessary medical and logistic support in times of disasters mentioned above, the SA Navy will be in a better position to satisfy the Military Strategic objective to promote peace, security and stability in the region. For this reason the acquisition of a Landing Platform Dock or Landing Helicopter Dock is planned for (the) future.¹⁰²

It seems that the problem might be solved in the future through Project MILLENNIUM aimed at acquiring sea lift capabilities for the SANDF.¹⁰³ It should be noted; however, that Project Millennium seems to have lost momentum and currently its completion date is unknown.

4.3.2. Capability challenges

Based on the aforementioned capabilities and shortcomings, two questions should be raised:

- First, does the SA Navy possess adequate patrol capabilities to ensure the territorial integrity of the country as well as to protect the country's commercial interests and ensure maritime security? Simply put, can the SA Navy protect South Africa from threats at sea, and threats emanating from sea?
- Second, and more importantly for this study, what is the current state of these patrol capabilities in the SA Navy?

As can be observed, the SA Navy has some patrolling capacity, but there are clear constraints in terms of the number and age of vessels. As such, it is important to focus on solutions to ensure that the SA Navy has the necessary vessels required to perform both its primary and secondary functions, which include maritime border safeguarding. Accordingly, the 2015 Defence Review states that a "maritime patrol capability is required to contribute to the defence and protection of South Africa". In terms of Force Design for the SA Navy, a Patrol

¹⁰⁰ SA Air Force. (2016).

¹⁰¹ African Armed Forces Journal. (2008). pp. 10-13.

¹⁰² South African Navy. (2006). p. 99.

¹⁰³ Heitman. (2009). p. 53.



Squadron will comprise patrol vessels and will provide patrol support to other states as foreseen by the South African Development Community (SADC) Maritime Security Strategy and the 2050 African Integrated Maritime Strategy.¹⁰⁴ It is imperative to note that the medium term budgetary allocations for Maritime Combat Capability will determine whether the SA Navy is able to capacitate itself to ensure maritime security. The intent in the Defence Review undoubtedly illustrates a political will to ensure that there are adequate patrol capabilities in the SA Navy. In this regard, the completion of Project BIRO, as well as the other projects such as Project HOTEL and Project MILLENIUM is imperative.

Although a good working relationship exists between the SA Navy and SA Air Force, the Air Force's support function to the Navy is severely crippled. First, the age and limited serviceability of the Dakota aircraft has reduced maritime air patrols to a level of irrelevance. Second, there are concerns regarding the availability of aircrew and aircraft to operate the Lynx fleet, with only two aircraft available at any given time. Similarly, there is also limited crew available for operating Oryx aircraft in conjunction with naval platforms. If used correctly, the SA Air Force's capabilities can add significant value to maritime safeguarding and maritime border safeguarding specifically.

4.4. The budgetary and Human Resources environment

4.4.1. Budgetary allocation and constraints

Even though much is being done to ensure maritime security by the Government, budgetary constraints remain. According to the Defence Review, the SA Navy is experiencing pressure on its operating budget due to increased costs associated with the operational tempo (rotational requirements) of the frigates, the ongoing need for refurbishment of obsolete OPVs and personnel costs. This impacts on the SA Navy's ability to fulfil its operations (including maritime patrols) effectively.¹⁰⁵

The allocation to the maritime border safeguarding environment comprises three facets within the DODs budget allocation. First, the Regional Security subprogramme of the Force Employment programme allows for the funding of maritime operations such as Operation COPPER. Second, the Maritime Combat Subprogramme of the Maritime Defence Programme provides funding for mission-ready and supported maritime combat capabilities in accordance with the force design. Third, the Transport and Maritime Capability subprogramme of the Air Defence Programme provides funding for transport and maritime aircraft and aircrew. These allocations are reflected in the table below.¹⁰⁶

¹⁰⁴ Department of Defence. (2015b).

¹⁰⁵ Defence Review. (2014) p. 9-5

¹⁰⁶ National Treasury. (2016). p. 11, 17 and 19.



Table 5: Overview of Budget Allocation

Sub-programme (R million)	Audited Outcome			Appropriation	Expenditure Estimate			Real Percent change
	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2016/17
Regional Security (Force Employment)	1 147.5	1 608.5	1 638.6	1 599.2	1 484.6	1 495.3	1 517.3	-12.91 %
Maritime Combat Capability (Maritime Defence)	558.3	585.1	1 129.3	1 252.5	1 707.9	1 857.0	1 651.1	27.92 %
Transport and Maritime Capability (Air Defence)	551.8	485.3	1 138.7	794.8	672.5	740.3	817.6	-20.63 %

(Source: National Treasury. (2016). pp. 1-26.)

When focusing on the overview of the budget in Table 5, several trends can be observed. Firstly, the Regional Security subprogramme received increased allocations for 2012/13, 2013/14 and 2014/15. However, the allocations decreased from 2015/16 and the projected allocations for the medium term have also been decreased. From the previous financial year, the allocation for this subprogramme decreases by 12.91 percent in real terms. However, this does not imply that less funds will be used for maritime security. The decreased allocations are related to the reduction of peace missions around the Continent, notably the withdrawal of SANDF forces from Sudan (Darfur).

Secondly, the Maritime Combat Capability subprogramme has received increased allocations from 2012/13 with a total allocation of R558 million in that financial year. In fact, the allocation for this programme doubled in 2014/15 when R1.129 billion was allocated. When compared to 2015/16, the allocation has increased by 27.9 percent in real terms. For the medium-term, the allocations are set to steadily increase to R1.7 billion in 2016/17, R1.8 billion in 2017/18, and then decrease to R1.651 billion in 2018/19. The increased allocations are for various projects. According to the National Treasury:

Provision is made in 2016/17 for replacing the hydrographic vessel by 2019/20 and the heavyweight torpedo capability by 2022/23, for the acquisition of offshore patrol vessels by 2024/25, and for updating static communication in the South African Navy by 2017/18. This is also the main reason for the large increase in expenditure in the *Maritime Combat Capability* subprogramme over the medium term.¹⁰⁷

¹⁰⁷ National Treasury. (2016). pp. 2-3.



This means that Project BIRO for the OPVs, Project HOTEL for hydrographic survey, and other similar projects should be completed within the next few years.

Thirdly, the allocation for the Transport and Maritime Capability subprogramme (SA Air Force) has fluctuated since 2012/13 with R551.8 million allocated for the year. For 2013/14, R485.3 million was allocated, followed by R1.138 billion for 2014/15, and R794.8 million for 2015/16. Reasons for the fluctuations were not provided. For 2016/17, R672.5 was allocated which is a decrease of 20.63 percent compared to the previous year. For the medium-term, the estimates indicate that this subprogramme will receive R740.3 and R817.6 for 2017/18 and 2018/19 respectively.¹⁰⁸ The fluctuating and insufficient budget allocation impacts on the ability of the SA Navy and the SA Air Force to maintain their platforms as well as the seagoing and flying hours.

Table 6 illustrates the hours spent at sea and the flying hours for 2010/11, 2011/12, 2012/13, 2013/14, 2014/15, and 2015/16 as well as projections for 2016/17, 2017/18 and 2018/19. It is important to note that the hours shown include all hours by the two services, and not only those that relate to maritime security and/or border safeguarding. However, there has been a major reduction in hours due to budget constraints and other challenges. For instance, the target for hours spent at sea for 2012/13 was projected at 35 000; yet, only 7 339 hours were recorded. This led to the reduction of the target for hours spent at sea to 22 000 for 2013/14, 2014/15 and 2015/16.¹⁰⁹ It is important to note that the set target for 2013/14 and 2014/15 was also underachieved.¹¹⁰ More importantly, the 22 000 hours set were further reduced to 12 000 for the medium-term.

Table 6: Overview of Seagoing and Flying Hours

Performance Indicator	Audited Outcome					Current	Projections		
	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Number of force employment hours/year	8 279	11 256	11 697	4 471 (6 300)	5 026 (6 985)	6 500 (6 985)	5 000 (6 985)	5 000	5 000
Number sea hours/year	8 286	14 088	7 339 (35000)	11 081 (22 000)	8 951 (12 000)	12 000	12 000	12 000	12 000

(Source: Department of Defence. (2014). p. 26.)

In terms of force employment hours flown per year, a total of 4 471 force employment hours were flown in 2013/14 instead of the planned 6 300. Similarly, for 2014/15, a total of 5 026

¹⁰⁸ National Treasury. (2016). p. 17.

¹⁰⁹ Department of Defence. (2014). p. 8.

¹¹⁰ Department of Defence. (2014). p. 8.



force employment hours were flown which was lower than the planned target of 6 985.¹¹¹ For 2015/16, a total of 6 500 force employment hours was set as target while this target is further reduced to 5 000 for 2016/17.¹¹² Although, one of the challenges is the availability of aircraft, budgetary constraints mainly lead to the underachievement of flying hours and sea going hours.

4.4.2. Human resources allocation and constraints

In 2015/16, the total number of funded posts in the SA Navy was 7 651 and this is set to decline to 7 601 in 2016/17. However, the number of posts are set to rise again over the MTEF to a total of 7 927 in 2018/19.¹¹³ Of more significance, however, is the vacancy rate in terms of critical skills. The White Paper on Defence stresses that the maintenance of technical, managerial and organisational skills and resources is instrumental in achieving the objectives of the SANDF.¹¹⁴ The SA Navy faces several challenges including the loss of skills.¹¹⁵ By the end of the Third Quarter of 2015/16, the following critical vacancies that will affect maritime border safeguarding is reflected:

- Air space control: 12 per cent vacancy rate
- Aircrew: 42.7 per cent vacancy rate
- Combat Navy: 40.1 per cent vacancy rate
- Engineer: 62.5 per cent vacancy rate
- Technical: 32.2 per cent vacancy rate

Although the SA Navy is the smallest component of the SANDF's arms of service, it is a highly technical environment and requires specialised equipment and personnel to function optimally. The high vacancy rate in terms of critical skills, notably that of naval combat officers, is thus a major concern as it impacts on deployment capacity. Similarly, the lack of aircrew to operate SA Air Force platforms in conjunction with SA Navy platforms has also been noted as a concern and this is reflected in the high vacancy rate for aircrew.

4.5. Interdepartmental cooperation

The SANDF (through the SA Navy and SA Air Force) has set responsibilities in the maritime domain, which focuses mainly on maritime border safeguarding (and maintaining territorial integrity), anti-piracy operations, hydrography (by means of the SAS Protea) and providing defence against aggression emanating from the seas. However, these roles do not provide for the entire scope of safeguarding the maritime environment and the SANDF thus functions alongside a multitude of state departments with various functions, the most significant of which include:

- The Department of Transport through the South African Maritime Safety Authority (SAMSA) provides an administrative and regulatory authority.
- The National Treasury through the SARS which is responsible for customs and fiscal regulation.

¹¹¹ Department of Defence. (2015b). p. 12.

¹¹² Department of Defence. (2015b). p. 12.

¹¹³ National Treasury. (2016). p. 21.

¹¹⁴ Department of Defence. (1996). p. 8.

¹¹⁵ Thiar. (2010). p. 90.



- The Department of Home Affairs which is responsible for immigration.
- The National Sea Rescue Institute (NSRI) is a voluntary Search and Rescue operation.
- The National Ports Authority provides security to ports and port limits and ensures the implementation of the ISPS Code.
- The DAFF is responsible for fisheries protection.
- The Department of Science and Technology is responsible for scientific research in the maritime zones.
- The Department of Environmental Affairs and Tourism is responsible for maritime pollution control.
- The SAPS is responsible for maritime crime in the Territorial Seas.

The departments above are noted by SA Navy commanders as those with whom the Navy most frequently interacts and cooperates. A positive working relationship exists between the SA Navy and these roleplayers.¹¹⁶ In practical maritime border safeguarding terms, this cooperative relationship sporadically results in joint operations as was, for example, the case in November 2015. Over a period of two weeks, the SA Navy was requested by the DAFF to assist in combating the poaching in the Western Cape between Hangklip and Rietfontein. Accordingly, the SA Navy deployed to Gansbaai to assist in the efforts to prevent abalone and crayfish poaching, which is an increasing environmental hazard in coastal areas, posing a threat to maritime resources.¹¹⁷ Some practical and operational problems in terms of interdepartmental cooperation have, however, been identified by the SA Navy and SA Air Force. Examples include:¹¹⁸

- The lack of a National Maritime Security Strategy and/or a National Maritime Security Policy. While the Department of Transport is in the process of developing this strategy, progress is slow and it leaves uncertainty regarding the implementation of maritime border safeguarding measures and how departments should cooperate in this regard. It further leads to weak doctrine, and unhealthy competition between government departments and affiliated organisations.
- There is often a duplication of patrolling by vessels from the various departments.
- There is, in general, insufficient resources to patrol South Africa's territorial waters. Without maritime presence, effective control of the territorial waters and effective border control cannot be executed.
- In terms of the SA Air Force's maritime patrols, there is limited communication between enforcement agencies and SA Air Force personnel. For example, the Air Force would fly a reconnaissance patrol and if the pilot notices suspicious behavior (such as illegal poaching), there is no enforcement agencies on the ground with whom to communicate the transgressions. Suspicious behavior is only noted in the pilot's log and then reported after the fact.

¹¹⁶ SA Navy. (2016).

¹¹⁷ SA Navy. (2015a).

¹¹⁸ SA Navy. (2016).



Figure 4: Suspected poachers photographed from a SA Navy submarine



(Source: Thompson (2016))

5. The Department of Home Affairs (DHA)

The DHA's role in maritime border safeguarding has been amplified in recent years with the Department's addition to the JCPS Cluster and its delegation as lead department of the BMA currently being established. In practical terms, the DHA is primarily responsible for clearing entrants from visiting vessels at the various harbours that serve as ports of entry around the country.

5.1. Legislative and Policy Challenges

The underlying migration and border security policy challenge for South Africa is that it presents a mixture of characteristics. South Africa is undoubtedly a developing country, but with a higher level of prosperity relative to the rest of its continent, which makes it a target of migratory influxes, therefore raising the need for management and control measures which are typical of developed countries.¹¹⁹ The mixed characteristics of the DHA are accentuated since on the one hand it is an administrative provider of documents to South Africans and migrants which provide access to the territory and services in the country. On the other hand the DHA is guardian of the security of the population register, identity and territorial integrity from undocumented or illegal influx of migrants. The increasing emphasis in South Africa on control and security of migration within the contemporary global context of prevention of terrorism and trafficking is indicated by the Cabinet approval of the inclusion of the DHA within the JCPS Cluster in 2016 (the DHA was formerly primarily part of the Governance and Administration Cluster).¹²⁰

¹¹⁹ DHA (2002) in Carciotto and Mavura (2016)

¹²⁰ Government Communications (2016)



Policy challenges related to the maritime environment relate to the abovementioned secondary emphasis of this aspect of the land, air and sea border triad. This is due to significantly higher numbers of travellers in the land and air alongside substantial budgetary and related capacity constraints. The significant differences in the three arenas have meant that changes in the border related legislation driven by land and air considerations have benefitted the maritime sector least. The delay in the finalisation of an overall migration policy for the country since 2007 has meant that both an overarching vision as well as specific amendments and implementation thereof have had more of a negative effect on DHA operation at harbours.

In the maritime environment the primary impact created by additional administrative burdens and delays resulting from the 2014 immigration regulations were on the cruise ship industry. However the numbers of foreign travellers by sea accounts for less than one percent (1%) of all arrivals. Problems are also different from the land borders in that there is far less human trafficking, illegal immigration and drug trafficking at harbours.¹²¹

Gaps in the legislative environment related to the DHA pertains to the need for formalisation of interdepartmental cooperation including the sharing of information and infrastructure. A well-constructed definition of the scope, permission and meaning of 'off port limits (OPL)', 'stowaways' and 'port jurisdiction' do not exist in law and thus make it administratively difficult to process ships out at sea. Ships are OPL due to being too big, under quarantine, in danger resulting from weather and the restrictive cost of being berthed in the harbour. At present up to 50% of ships are being serviced off port. The problem of stowaways on ships has, however, declined significantly since specific initiatives to explain the relevant laws were conducted with ship captains.¹²²

5.2. Infrastructure challenges

The infrastructure challenges for Home Affairs in the maritime port environment are similar to that of other departments. This is largely due to the size, spread and diversified traffic of harbours which is a significant administrative and logistical challenge. The DHA is responsible for the processing of travellers at seven of the eight sea ports found at Durban, Richards Bay, East London, Port Elizabeth, Mossel Bay, Cape Town and Saldanha. Due to an exemption for the need for travel permits for the Military, the DHA does not operate at Simons Town harbour.¹²³

Maritime ports have many infrastructural problems as a result of having been neglected as compared to land and sea ports. Another challenge is that sea ports of entry are only designated international arrival ports as and when needed since the numbers of persons travelling by sea are significantly less.¹²⁴ Transnet maintains fences and cameras at harbours and all property belongs to Transnet National Ports Authority (TNPA) and is leased to the DPW and other departments, including the DHA. An upgrade at the Cape Town Harbour cost R30 million and was conducted by DPW through the DHA. Many buildings at harbours are on

¹²¹ StatsSA (2016)

¹²² Parliament (2016)

¹²³ DHA (2016b)

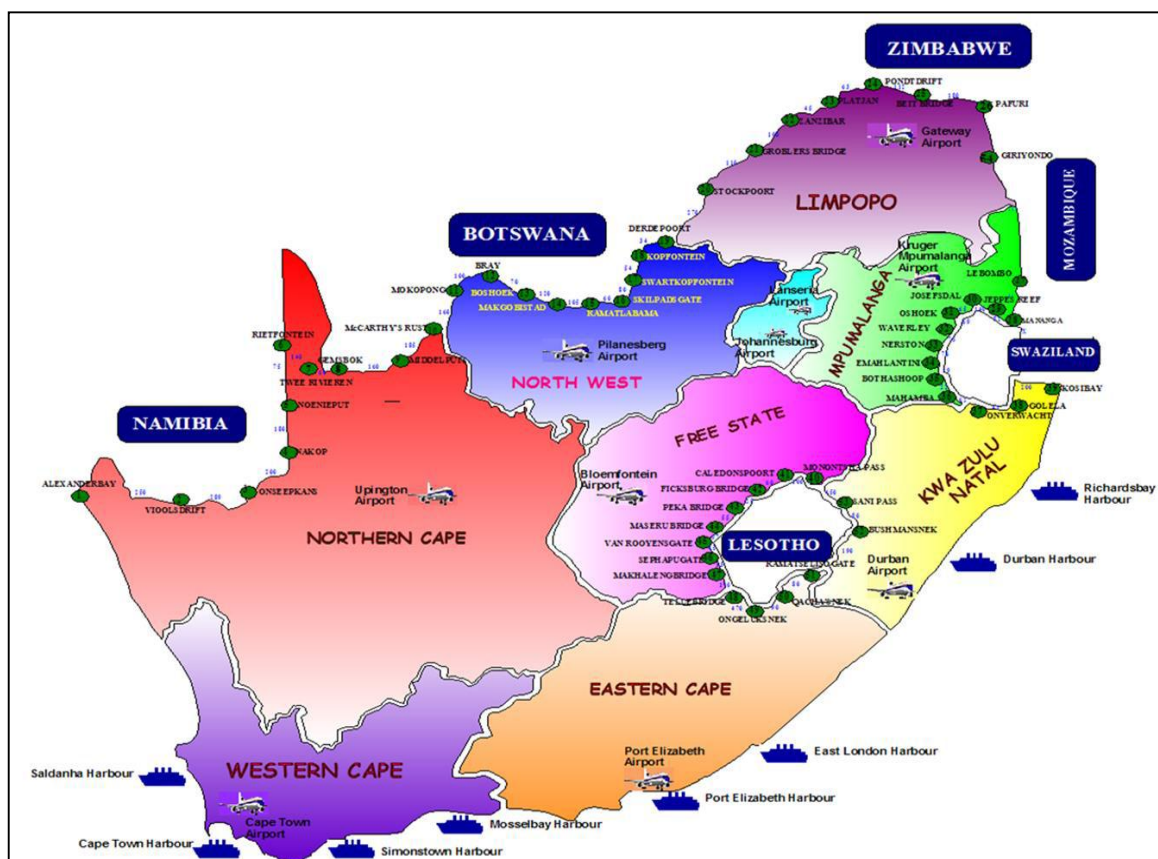
¹²⁴ Parliament (2015)



reclaimed land and exposed to the elements and are in need of constant repair, leading to dilapidation amidst the relative scarcity of resources¹²⁵.

Durban and Richard's Bay were in line for an integrated Port of Entry control centre but have not received this yet since the focus has rather been on the Skilpadshek (land) and King Shaka International (air) ports of entry. As mentioned above, infrastructure challenges also arise from information systems that have not been integrated between departments and cannot be until enabling legislation (such as the BMA Act) is in place. For instance there is no integrated communication system which leads to departments needing to use private email to communicate between one another. At present the Port of Entry Control Centre (PECC) facility in Cape Town is managed by the DHA but participating departments need to bring their own equipment and related support.¹²⁶

Figure 5: Overview Map of Ports of Entry including Harbours with Home Affairs Capacity¹²⁷



Source: BCOCC (2015)

¹²⁵ Parliament (2015b)

¹²⁶ Parliament (2016)

¹²⁷ BCOCC (2015)



5.3. The budgetary and Human Resources environment

South Africa, as a developing country, finds itself operating under extreme budgetary restraints and social pressures which do not allow the DHA sufficient resources towards documenting its own people, let alone for enhanced migration control. Any of its measures in this field must rely on and require minimum administrative capacity and be aimed at maximum simplification, objectivity and transparency in order to achieve maximum efficiency and effectiveness.¹²⁸

The Harbour environment is complex and differs from land and air ports of entry. Ocean vessels are often OPL for several days, months and even years. Security is thus significantly more difficult. A medium size vessel takes four hours to search properly. Due to the comparatively small amount of persons travelling through harbours, funding has been all the more limited. The DHA lack resources to conduct all inspections of personal traveling in by commercial vessel and so joint operations are critical to investigate foreigners' documents, which in the case of violations, adds to the docket against a person but not to immediate arrest. At present up to 50 per cent of vessels are being serviced off port for which there is even less capacity given the need to be away from the harbour for longer. If the port/border was the main priority of the government staff seconded there, it would work far more efficiently. These concerns were evident at the Harbours visited for primary research:

- Durban Harbour

The DHA at the Durban Harbour port of entry is responsible for clearing two categories of people entering the country namely crews from visiting vessels and passengers entering predominantly through passenger liners or private vessels. In 2014, 44 856 crew arrived and departed at the harbour while 213 796 passengers arrived and departed over the same period. The DHA further focuses on law enforcement related to stowaways, trespassers and human trafficking. To fulfil its functions, the DHA has 44 staff members based at the harbour. In terms of addressing corruption, the DHA has launched awareness campaigns, drafted Standard Operating Procedures (SOP) regarding the collection of fines, and it maintains a close relationship with the SAPS' Crime Intelligence division, the State Security Agency and the DHA's Counter Corruption division.

- Cape Town Harbour

The Cape Town Harbour transitioned to a 24 hour service in 2015 but retained the same number of staff as for the former 8 hour service period. Not all persons are thus necessarily checked and there is a requirement to rely on shipping agent cooperation. Some vessels are thus stricter and others could easily have persons stay behind on board if they do not want to be checked.¹²⁹ Saldanha and Mossel Bay are satellite harbours for Cape Town. Staff need to travel hours from Cape Town to clear ships. This stretches resources and capacity further, however, separate office infrastructure and capacity are planned in those two harbours.

Furthermore, Port Health (officials from the Department of Health) in Cape Town only has four staff members to serve the Cape Town International Airport, the Cape Town Harbour and

¹²⁸ DHA (2002) in Carciotto and Mavura (2016)

¹²⁹ Parliament (2016)



Saldanha Harbour which makes servicing near impossible. This impacts on the harbour's ability to remain compliant with the ISPS code. Capacity constraints combined with the need to compete in the global market for efficiency and speed in processing of ships, tourists and cargo, have meant that security measures are compromised which allows for abuse by criminal cartels.¹³⁰ The right to seize contraband and arrest is an enforcement that serves as the best deterrent and presence of officials is paramount. Shared intelligence between SAPS, DHA and SARS and an expansion of usage rights on their respective network along with the SSA would ensure more effective patrolling within limited resources.¹³¹

R7.0 billion has been allocated through programmes such as Operation Phakisa, to ensure that South Africa has the equipment and infrastructure needed to optimise the use and protection of the coastline. The DHA, as lead department in the forthcoming BMA, will need to ensure that it is at the centre of planning, budgeting and policy initiatives in the maritime environment. Operation Phakisa includes promoting maritime transport through promoting investment in new and existing port facilities with Richards Bay and East London being strategic prioritised projects.¹³²

5.4. Interdepartmental cooperation

As mentioned above, the DHA is the lead agency of the BCOCC mandated to strategically manage the South African border environment in a coordinated manner. In addition, the Director-General of Home Affairs chairs regular meetings of all heads of departments active in the border environment through the Inter-Agency Clearing Forum (IACF). The IACF was established in 2010, to facilitate arrangements for the FIFA World Cup Soccer Tournament and continued with the addition of other departments over and above the initial Immigration and Customs components. An assessment by the IACF indicated that there was insufficient service delivery, compliance and law enforcement across departments in the maritime environment. This is in part due to the fact that at airports it is easier to coordinate functions between government and other stakeholders due to close physical proximity. For example, until 2014 at Cape Town Harbour all departments except SAPS had their offices located outside the harbour precinct. The country's two largest harbours have tried to address these challenges in cooperation in different ways:

- Cape Town Harbour (BMA Pilot Project)

A pilot project in 2014 established a PECC at the Cape Town Harbour and now all government department stakeholders are within the port in one facility. Now all arrivals and departures are processed in one building apart from the special arrangements for passenger liners which is within walking distance. Thus, although the procedures at the harbour are the same as the other sea ports in the country, their operations are significantly more efficient. There is still a struggle to get the 25 departments involved at the border to sign a multi-party agreement (only 9 have signed so far) in order to improve capacity, security and service delivery. The IACF and PECC manager have not been permanently appointed, but have rather continued service after the initial project. At present, coordination is reliant on the goodwill of member department

¹³⁰ Parliament (2016)

¹³¹ Thomson (2016)

¹³² Operation Phakisa (2015)



employees. Harbour staff indicated that it would be best if permanent secondment of staff to immigration functions was done once the BMA is established.¹³³

Despite the PECC, at present only SARS Customs gets passenger customer manifests but cannot by law share this with other agencies at the Cape Town or other harbours. There is also no shared access to the TNPA closed circuit security cameras found throughout ports despite several efforts to do so. Port control systems under Transnet are also not accessible to the State Security Agency and the BCOCC operations centre.¹³⁴

An area where *ad hoc* cooperation at the Cape Town harbour is functioning well is with the processing of passenger liners, which are being now being addressed more professionally. South Africa's oldest working harbour is set to get a luxury cruise terminal with the V&A Waterfront being announced as the preferred bidder by TNPA. An estimated final investment of R179 million is contained in an agreement that includes operation, maintenance and transfer of ownership back to TNPA after 20 years. The terminal facility has already opened an upgraded terminal and is providing better infrastructural support and faster processing of tourists since the awarding of the tender in June 2015.¹³⁵

- Durban Harbour

The Durban Harbour BCOCC manages the port through Joint Operational Coordination, focusing on land-based operations, cargo control operations, person control operations and sea control operations. To ensure safety and security, joint operations focus on the enforcement process and the prevention and combatting of crime and corruption. Given the large scale of operations at the harbour, intelligence-driven operations are essential to enhance efforts for law enforcement. The BCOCC further fulfils its coordination role in the port through bi-weekly meetings with the Local Sea Port Core Command (LSCC). It also engages a number of other key role-players including, inter alia, MARSECO (Maritime Security) and the Durban Port Liaison Committee, the Policing Business Community Forum, and the Infrastructure Committee of the DPW. In terms of the safety and security, these interventions of the BCOCC focus on access control; person movement control; vessel rummaging; small craft and water surface policing and security; foreign yacht control; off port limit movements; cargo interventions; access gate checks; depot cargo checks; X-Ray scanning; passenger liner operations; and visible policing and security of recreational areas.

6. The Department of Agriculture, Forestry and Fisheries (DAFF)

Although the DAFF falls outside the traditional framework of border safeguarding and it does not have a prominent role in the security sector, its functions in the maritime environment has significant bearing on border safeguarding. While focussing on the management of marine resources, it operates in the maritime border environment and as such serves as an additional tool at Government's disposal to enforce border safeguarding.

¹³³ Parliament (2016)

¹³⁴ Parliament (2016)

¹³⁵ Traveller24 (2015)



6.1. The Legislative and Policy Environment

The management of fisheries resources and the environment are the main requirement for a successful fisheries sector. The success of fisheries management is based on the balance between the socio-economic needs, ecological sustainability and meeting market needs. The responsibility of fisheries management often require financial and human capacity beyond that of the responsible department (the DAFF in this case). The state of intergovernmental relations is often a measure of successful implementation of policies and legislation that governs fisheries management. Prior to the 2009 Cabinet restructuring, the then Department of Environmental Affairs and Tourism was the sole competent authority responsible for marine fisheries management in South Africa as mandated under the Marine Living Resources Act (MLRA), 1998 (Act No. 18 of 1998) and the Sea Fisheries Act, 1988 (Act No. 12 of 1988).¹³⁶

The 2009 Cabinet restructuring resulted in the reconfiguration of departments that, among others, resulted in the formation of the DAFF. The transfer of fisheries functions happened through three separate Presidential Proclamations. Proclamation No 44 of 2009 transferred the administration and the powers and functions entrusted by the MLRA from the Minister of Environmental Affairs. The powers and functions entrusted by sections 12, 13, 18, 25, 26, 28, 77 (with respect to marine aquaculture and other matters pertaining to any of the provisions of the Act mentioned in this paragraph), 78, 79, 80, 81 and 83 of the Act had also been transferred. Regulations 60 to 73 of the Regulations of the MLRA were also transferred.¹³⁷ The second proclamation, Proclamation No 1 of 2010 transferred the administration, powers and functions entrusted by the Sea Fisheries Act, 1988 (Act No 12 of 1988) and MLRA together with relevant regulations.¹³⁸ In May 2013, another proclamation was signed to transfer powers and functions relating to marine protected areas, whales, dolphins, sharks and turtles from the DAFF to the Department of Environmental Affairs. This last proclamation was mainly to clarify and correct some confusion that was created by the February 2010 proclamation in relation to the powers of managing the Marine Protected Areas (MPA) as well as the marine tour operations such as boat-based whale watching.¹³⁹ Although the Proclamations are understood, the actual roles still require the same tools that were applied prior the restructuring. In some instances, the very same resources had to be managed as though there were no Proclamations, for example, the patrols on MPAs and fishing grounds.

The DAFF is guided by several overarching policies that seek to strengthen the ocean governance. The NDP seeks to improve human security through effective transnational natural resource management, sophisticated scientific research and monitoring systems, subjecting role players to stringent fisheries compliance measures, fisheries resource protection and sustainable management. The MSTF 2014-2019 seeks to address natural resource degradation and depletion of ecological for the long-term benefits and offset environmental resource losses through effective and efficient protection.¹⁴⁰ Under the Marine Protection Services and Governance of Operation Phakisa, it is acknowledged that there is a need to have an integrated approach to ocean governance in the form of establishing a single regulatory agency as proposed in the Draft Border Management Agency Bill. The Integrated

¹³⁶ Department of Agriculture Forestry & Fisheries (2012).

¹³⁷ Government Gazette No. 32367 (Proclamation No 44 of 1 July 2009).

¹³⁸ Government Gazette No. 32945 (Proclamation No. 1 of 10 February 2010).

¹³⁹ Government Gazette No. 36527 (Proclamation No 16 of 31 May 2013).

¹⁴⁰ National Planning Commission (2012); The Presidency (2014).



Growth and Development Plan further recognised that monitoring, surveillance, control and enforcement are difficult and costly when considering the geographical spread of the fisheries sector, and hence the Agricultural Policy Action Plan (APAP) prioritised upgrading of the Vessels Monitoring System and the provision of the required surveillance technology and patrol boats in order to strengthen fisheries protection. In line with the APAP, the DAFF is implementing the Integrated Fisheries Security Strategy that seeks to draw from other government departments, agencies and the general public to strengthen fisheries compliance, monitoring and enforcement efforts.¹⁴¹

The priorities are not limited to national programmes. International and regional participation is increasingly playing a role in maritime governance that involve fisheries resources. South Africa, a member of some Regional Fisheries Management Organisations, share the responsibility of fisheries management and protection. The South African Government had prioritised the increasing of its role in the regional and international fisheries management bodies, such that the country acceded to some of the Conventions in recent years. Some of the critical Conventions acceded to in 2015 have the potential to be a cost-effective and efficient means of combating Illegal, Unreported and Unregulated (IUU) fishing within and beyond South African maritime territory. In line with the binding 2009 Food and Agriculture Organisation (FAO) of the United Nation's Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA), South Africa is striving to implement the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU). Some examples of the shared fisheries management responsibility are in the tuna and tuna-like fisheries around the South African waters that are managed through the Indian Ocean Tuna Commission (IOTC), International Convention for the Conservation of Atlantic Tunas (ICCAT) and the Convention for the Conservation of the Southern Bluefin Tuna (CCSBT).¹⁴²

6.1.1. Legislative challenges

The lack of a centralised maritime security authority at regional and national level is the main crippling factor in combating fisheries crimes. If this body existed, there would perhaps be a national maritime security strategy to tackle the weak maritime governance, legislative loopholes and observed duplications and overlaps. During the interactions with officials from the various government departments, it emerged that the UNCLOS has not been fully domesticated in a harmonised way, hence the incoherent legislation, and complex and unaligned maritime security programmes among the various role players.

There are significant gaps in South Africa's ocean knowledge which hampers effective planning. This is a challenge faced in varying degrees by all maritime nations and there is increasing global cooperation to better understand the ocean in order to promote sustainable use of resources. In light of this cooperation, there are some fisheries and other oceanic activities that are governed outside the EEZ of a particular country by Regional Fisheries Management Organisations. In this instance, South Africa needs to have a legislative framework to govern cooperation.

¹⁴¹ Department of Agriculture, Forestry & Fisheries (2012, 2014a, 2015b); Department of Home Affairs (2015).

¹⁴² FAO (2010a, b).



6.2. The DAFF and the maritime border environment

The oceans surrounding the South African land mass are rich in marine resources and in some areas remain relatively pristine. The ocean represents a significant asset for current and future generations of South Africans. The use of various marine resources in the ocean space has increased over time and there remains significant potential for the unlocking of further economic development opportunities. As such, South Africa needs to continuously balance the economic opportunities which the ocean space avails while maintaining its environmental biodiversity, security and integrity. The challenge for South Africa is how best to encourage research, investment and use of the ocean resources in order to contribute to job creation and economic upliftment while at the same time protecting the ocean asset for present and future generations. This responsibility is made difficult because there is only a partial understanding of the marine ecosystem, responsibilities and capacity under South Africa's jurisdiction. Over the years, the understanding of maritime issues have diversified along with opportunities, complications and challenges. South Africa is not immune to this global challenge as many criminal activities have taken foothold in the fishing industry and are increasingly threatening the governance of the maritime environment and its associated activities ¹⁴³ The DAFF plays a key role in the protection of the maritime environment and the effective governance of the fishing industry.

6.3. Main challenges facing the DAFF

The phenomenon of marine IUU fishing is very broad, however, on the main it entails: the violation of fishery laws and regulations under the jurisdiction of a coastal State or high seas; misreporting or not reporting to competent fishing authority of the concerned fishing waters; and irregular and ineffective monitoring or flagging of both authorised and unauthorised fishing vessels. As is the case with other environmental crimes, the driving force are the economic incentives. The short supply or high demand of scarce fisheries resources drives the high value of such resources.¹⁴⁴

IUU fishers launch multi-vessel fleets on lengthy voyages to all the corners of the globe. They employ sophisticated and coordinated strategies to launder money and fish, and evade taxes. Along the way they enable their activities through the violation of labour and environmental standards, corruption, bribery and violence. Case studies also reveal connections between IUU fishing, human trafficking and drug smuggling.¹⁴⁵ IUU leads to the loss of both short and long-term social and economic opportunities and to negative effects on food security and environmental protection. IUU fishing can lead to the collapse of a fishery or seriously impair efforts to rebuild stocks that have already been depleted. Existing international instruments addressing IUU fishing have not been effective due to a lack of political will, priority, capacity and resources to ratify or accede to and implement them.

The expanse of the South African marine territory creates a conducive environment for IUU fishing that is mainly characterised by:¹⁴⁶

- Unauthorised fishing in closed areas/seasons;

¹⁴³ GCIS (2015); National Planning Commission (2012); Sundström (2012).

¹⁴⁴ Agnew et al., (2009); FAO (2014).

¹⁴⁵ Bondaroff et al., (2015)

¹⁴⁶ Department of Agriculture Forestry & Fisheries (2014b, c); FAO (2014); MRAG & CapFish (2008).



- Illegal fishing by foreign vessels and failing to operate a vessel monitoring;
- Non-reporting/misreporting of catches in areas far from regular monitoring;
- Fishing protected species and taking fish in excess of quota (total allowable catch or total applied effort);
- Using prohibited gear and methods; and
- Fishing without an observer on board.

The listed challenges continue to threaten the sustainability of the entire marine ecosystem and the country at large. The recent 2014 Report on the Status of the South African Marine Fishery Resources paints a worrying, yet optimistic picture on the status of high-value fisheries resources. Fifty percent of the resources are either depleted (22 per cent) or heavily depleted (28 per cent), while the other half is deemed to be at optimal (37 per cent), under-utilised (11 per cent) or unknown (2 per cent) state. In some instances, certain resources such as hake, yellowtail and snoek are healthy or recovering when comparing with the status of the previous years. However, the status of some high value species such as abalone, West Coast rock lobster and Patagonian toothfish are desperately low. IUU fishing is the primary cause of the over-exploited or depleted state of the high-value fisheries resources, thus impacting on potential economic returns and sustainability of the marine ecosystem. Fisheries resources available to bona fide fishers are poached in a ruthless manner by IUU fishing, often leading to the collapse of local fisheries, with small-scale fishers being particularly vulnerable. In trying to arrest IUU fishing, some South African fisheries had to be temporarily or permanently closed or listed as protected species – a classic example being the abalone industry.¹⁴⁷

The socio-economic costs of IUU fishing are so vast, although they cannot be accurately quantified because perpetrators apply complex, dynamic and evolving strategies to evade detection or being dismantled. IUU fishing has escalated globally in the past two decades, especially in high seas fisheries. Rough global estimates indicate that IUU fishing removes between 11 and 26 million tonnes of fish each year with an estimated value of between US\$10 billion and US\$23 billion. A 2009 study tried to quantify the value of fish that is illegally caught and exported from South Africa's major commercial fisheries. The 2008 illegal catches were worth R6 billion (US\$790 million), of which R4.4 billion was constituted by abalone and Patagonian toothfish. The R6 billion value was approximately R1 billion above the value of legally caught fish from the commercial sector. The considered sectors included, abalone, West Coast rock lobster, Patagonian toothfish, hake, small pelagics and shark that are poached from South African waters annually. It is worth mentioning that the social impact goes much further than the quantified R6 billion as livelihoods were jeopardised by the complete closure of the abalone fishery in 2008 subsequent to annual catch reductions. Abalone fishery is currently at experimental scale in an effort to build stock; however, poaching has not been reduced.¹⁴⁸ For context purposes, the sport and recreational fishing has approximately 2.5 million participants annually, translating to over R18 billion worth of direct and indirect economic impact in terms of jobs, salaries and businesses. The marine commercial fishing industry is worth at approximately R6 billion annually.¹⁴⁹

¹⁴⁷ Ibid.

¹⁴⁸ de Coning & Witbooi (2015); Moolla (2009).

¹⁴⁹ Leibold & van Zyl (2008); Department of Agriculture, Forestry & Fisheries (2014b, 2015b).



6.4. Infrastructure and equipment

The Department has two fisheries research vessels¹⁵⁰ and four patrol vessels with the primary mandate of conducting scientific research that informs and guides the sustainable use of marine fisheries resources as well as ensuring compliance and enforcement of fisheries laws. To supplement these vessels, there is a fleet of rubber ducks, ski boats and land-based patrol vehicles. The fisheries research vessels are the *Africana* and *Ellen Khuzwayo* and the patrol vessels are *Sarah Baartman*, *Lilian Ngoyi*, *Victoria Mxenge* and *Ruth First*. In addition to their role as fisheries protection vessels, they are equipped to carry out sea rescues and disperse oil spills. Each is fitted with a powerful firefighting monitor as well as 10 000 litres of oil dispersant chemicals.¹⁵¹ It is the protection vessels that are expected to play a leading role in the patrols and protection of the South African waters as mandated by the MLRA. It is worth appreciating the expanse of the maritime area that is supposed to be covered by these few vessels. For example, the vessels are supposed to patrol the fishing grounds, marine protected areas and closed areas within the entire South African EEZ. Some of the fishing or protected areas are in remote locations where law enforcement cannot be done frequently. This is mainly because the three patrol vessels were built to only patrol up to the 200 nautical mile (370.4 km) limit. Only one patrol vessel (*Sarah Baartman*) has the capability of patrolling the more remote offshore parts of the EEZ as well as the Prince Edward and Marion Islands.¹⁵² The limited vessels results in limited offshore patrols, which exposes the South African waters to all sorts of fisheries violations at the high seas.

As an accepted practice in advanced maritime security environment, a department needs two vessels as a backup for every vessel that is operational at sea. Clearly, the situation that the Department finds itself is far from ideal as there is only one vessel, *Sarah Baartman*, capable of conducting remote offshore patrols without any backup available. Even within the 200 nautical mile zone, the three available vessels cannot adequately cover the entire EEZ. It is noted that South Africa has applied to increase its EEZ, yet the country is currently unable to effectively manage the current EEZ. It is clear that consolidation of resources among State departments involved in the maritime space is urgently needed. The most critical functions of maintaining order and security in the maritime environment relating to fisheries, the Department primarily employs sea-based inspections, the Vessel Monitoring System (VMS), and partnerships with local and international agencies. The work is not limited to law enforcement within the South African jurisdiction. The country plays active roles in preventing or combating fisheries crimes within regional and international bodies.

6.5. The Human Resources and budgetary environment

The Monitoring, Control and Surveillance (the MCS) chief directorate of the Fisheries branch is still in the process of populating its personnel component. As such, personnel are currently sparsely distributed along the South African coastline. The MCS participates in regional patrols to help combat IUU fishing. Their efforts are supported by patrols of the various fishery vessels as discussed. The combination of the requirements when the MCS tries to fill posts is often

¹⁵⁰ The Department had 3 vessels, however, 1 vessel (the *Algoa*) was transferred to the Department of Environmental Affairs (DEA) in September 2012.

¹⁵¹ Department of Agriculture, Forestry and Fisheries (website undated).

¹⁵² Wingrin (2015); Marine Living Resources Act, 1998 (Act No. 18 of 1998); Department of Agriculture Forestry & Fisheries, (Undated)



complex, which make filling of vacancies difficult. Most of these challenges relate to funding and scarcity of the required skills, and is unfortunately hampering service delivery, especially in the fight against IUU fishing. As a result, the available human and financial resources are thinly stretched and cannot adequately deliver on the MCS function of the DAFF.¹⁵³ It goes without saying that the recent Cabinet decision to freeze the filling of certain posts as well as the tight economic situation limits the delivery on securing the maritime environment.

The budget of the Fisheries Management Branch of the DAFF is made up of funds from the National Treasury and revenue generated from the fisheries sector. The medium term expenditure estimate shows the possibility of an increase in the National Treasury allocation from the current R458.6 million in the 2016/17 financial year to approximately R498 million in the 2018/19 financial year. A significant portion (R241.8 million or 53 per cent) of the financial allocation to the Fisheries Management Branch will be transferred to the Department's Entity, the Marine Living Resources Fund (MLRF). The estimate total revenue of the MLRF is expected to increase from the R421.8 million during the 2016/17 financial year to R465.5 million in 2018/19 financial year. The prioritised area will be enforcement and compliance operations in the priority fisheries (hake, abalone, West Coast rock lobster and linefish), job creation in rural and coastal communities, and growing aquaculture. A total of R349 million has been allocated towards the operations of the fisheries research and protection vessels in the medium term.¹⁵⁴

6.6. Additional challenges

6.6.1. Corruption

The Government has tried to strengthen law enforcement efforts to combat organised illegal fishing over the years, more especially towards high-value marine resources. These efforts were focussed on rear-end capacity like investigations which included co-operating with other enforcement bodies. There were also institutional arrangements like transferring some type of compliance role to local governments, and instituting special courts with specialised prosecutors that focuses on fisheries offences.¹⁵⁵ The aspects prompting these measures were informed by the high price on resources, small quotas and broad black-market for bartering abalone for drugs and money. Notwithstanding the implemented measures, the perception of corruption in the fisheries sector continues to be the major threat in the effective management of fisheries resources. The perceived level of corruption of fisheries officers has a direct impact on the compliance levels among fishers and this further has negative implications on the economy.

A 2012 study found that corruption in the form of bribery is rife in South African fisheries, and that radical action needs to be taken by policymakers and managers to eradicate this.¹⁵⁶ One such case involved a Korean captain who was caught fishing illegally in South African waters and tried to bribe a fishing observer. The vessel was released by a court after paying a small fine. Other forms of corruption include the facilitation of passage or falsifying licences and documentation to allow illegally caught fish such as Patagonian toothfish and abalone to be

¹⁵³ Ibid.

¹⁵⁴ National Treasury (2016).

¹⁵⁵ Hauck and Kroese (2006).

¹⁵⁶ Steinberg (2005); Sundström (2012).



sent to other countries. In 2009, a more worrying issue was the re-registration of a Spanish vessel, *Echelar*, which was deregistered following being caught fishing illegally. However, several vessels owned by the same convicted poacher, Manual Martinez, were allowed to operate in the hake industry.¹⁵⁷ During oversight visits by the Portfolio Committee on Agriculture, Forestry and Fisheries in various sites, it became clear that corruption is still rife among officials of the Department and some members of the fishing industry. One puzzling observation was that senior officials are often involved, to whom no adverse actions are taken.

Corruption can also take place to facilitate the smuggling of illegally caught fish. For instance, in South Africa, investigations concluded that fish operators in the country received bribes to falsify licenses and documentation allowing more than 600 tons of illegally caught rock lobster and more than 2.8 tonnes of Patagonian toothfish to be sent to the United States.¹⁵⁸ Furthermore, there is a perception among other law enforcement agencies that some law enforcement officials together with some officials of the Department have been co-opted by the illegal fishing syndicates to turn a blind eye to poaching activities as well as the shipment of illegally caught fish.

6.6.2. Security at facilities

During the Portfolio Committee on Agriculture, Forestry and Fisheries' oversight visit to the Eastern Cape in September 2015, the Committee was taken through the storage process and facilities where confiscated fisheries resources of high value were stored. It was reported that there were instances where a group of armed poachers followed the officials to the storage facility. In the absence of police escorts, the lives of the fisheries protection officers are in real danger, to such an extent that some officials resigned. The brazen nature of the syndicates goes beyond threatening the lives of dedicated officials. In October 2015, a group of armed and masked men overpowered security personnel tasked with protecting the storage facility located in Paarden Island. The armed men made off with an undisclosed number of bags of confiscated abalone.¹⁵⁹

6.6.3. Vessel monitoring technology

As part of various Regional Fisheries Management Organisations (RFMO), South Africa shares its list of approved vessels and IUU vessels with the regional bodies. The contribution to the vessel database enables Member States to report sightings or detection of possible or known IUU vessels during fishing or surveillance activities. Illegal fishers operating inshore, off-shore and on the high seas generally switch off their VMS when they enter unauthorised territorial waters. This makes it near impossible to track any activity and location of the vessels. Some of the licenced fishers do the same, particularly when they enter MPAs or closed fishing grounds. The sharing of the database is not only limited among RFMO members, but also other agencies such as INTERPOL. For example, the commercially valuable Patagonian toothfish fishery was plundered to near extinction levels by international poachers because of poor law enforcement. Poaching vessels could not be detected in the South African territory in the Prince Edward Islands.¹⁶⁰

¹⁵⁷ Gosling (2009); Martin (2013).

¹⁵⁸ de Coning & Witbooi (2015); Martin (2013).

¹⁵⁹ Department of Agriculture, Forestry & Fisheries (2015a),

¹⁶⁰ Isaacs & Pointer (2010); Molewa (2013); Wingrin (2015).



6.6.4. Human Trafficking

South Africa is considered to be a source, transit, and destination country for men, women, and children subjected to forced labour and sex trafficking. While the majority of trafficking victims in South Africa are labour trafficking victims, through land and air borders, there are reports of human trafficking from fishing operations. The incidents are far apart, and do not involve South African fishing companies. For the third consecutive year, foreign male forced labour victims were discovered aboard fishing vessels in South Africa's territorial waters. One of the latest was in 2014 where Non-Governmental Organisations reported an increased number of victims (ten to fifteen victims each month) disembarking in Cape Town.¹⁶¹ Malagasy men have been subjected to forced labour aboard Chinese-flagged fishing vessels in South Africa's territorial waters. In 2009, eleven Vietnamese fishers were apprehended for an attempted revolt on board an Asian fishing vessel on the high seas along the South African territory. During court proceedings it became clear that the Vietnamese were untrained fishers deceived by their recruitment agency. The fishers had been kept on board the vessel for more than 18 months against their will at which time they were physically and verbally abused, subject to arbitrary fines and erratic payments, expected to work for up to nineteen hours a day in difficult and dangerous working conditions, and accommodated in bunks that would fill with seawater.¹⁶² The commonality among the human trafficking cases is that IUU fishing vessels were involved.

A major concern is that most of the human trafficking cases from the fishing industry end up with a small fine or temporary suspension. There were no real punitive measures to act as a deterrent so that there are no human trafficking attempts to the South African shores. The *2015 Trafficking in Persons Report* found that the South African Government did not initiate prosecution or obtain convictions of many labour traffickers in 2014 and did not comprehensively monitor or investigate forced labour trafficking of adults in the fishing sector. Department of Labour's inspectors continued to use the Basic Conditions of Employment Act, 1997 (Act No 75 of 1997) as their core enforcement mechanism and mostly failed to consider trafficking crimes within this area.¹⁶³

6.7. Interdepartmental cooperation

During the conducting of the primary research, a key observation was the lack of a legislative framework that allowed for cooperation and sharing of information. For example, the lack of integration of systems in the maritime security domain often results in duplication, overlap or lack of action. If an illegal fishing vessel is apprehended, the Department will be solely responsible for managing the arrested vessel, crew and related matters even though it is not empowered to do so. The lack of cooperation limits the various agencies from getting maximum output from their limited workforce, for example joint operations without requiring approvals from cumbersome processes.

¹⁶¹ US Department of State (2015).

¹⁶² United Nations (2011).

¹⁶³ US Department of State (2015).



A further concern is the lack of trust among officials in the various agencies. For example, some agencies involved in maritime intelligence believe officials from other departments may jeopardise their investigation or even alert suspects. Furthermore, shared databases would enable the enforcement of fisheries laws without requiring the Department to be present, and thus reduce operational costs. At the moment, the Department does not have intelligence to guide their monitoring, control and surveillance. The concession that exempts agricultural products from being thoroughly searched creates a loophole for law enforcement. In some instances, the current legislation weakens the violation cases due to fragmented legislation, different sanctions therein or simply a lack of clarity. In other instances, the mere definitions enables those who violate legislation to go unpunished or get minimal sanctions.

The SA Navy does, on request, participate in joint operations with the DAFF. The biggest threat so far has been the economic losses to poaching of fisheries resources. Furthermore, the Draft Border Management Agency Bill will usher in a new season where the process of seeking approval will be rid of red tape as better command and control systems will be introduced. Furthermore, it will also ease the flow of information when requests for joint operations are put forward, instead of the current arrangement where intelligence is shared at the time of implementation. The currently outdated databases will likely be an issue of the past when all maritime databases are upgraded and integrated to ensure that all parties have real-time access to authorised fishing vessels, fishing rights and permits.

6.8. Regional and international cooperation

The South African Government acknowledges the complexity of the fisheries crimes and has thus signed numerous agreements with regional and international bodies in relation to marine and coastal management, including the exploitation of fisheries resources. As a member of the SADC, and a signatory of the 2001 SADC Fisheries Protocol, South Africa plays an active role in the management of shared fisheries resources and combating IUU fishing. In 2008, SADC signed a Statement of Commitment on IUU fishing, with the aim of strengthening inter-regional cooperation, fisheries governance, and monitoring, control and surveillance measures. Regional activities have since included heightened information sharing, the development of a regional fishing vessel register, and regional VMS framework. Additionally, they conduct joint operations with the SADC Countries, including patrols to the Prince Edward Islands MPA.¹⁶⁴ Regional cooperation in monitoring, control and surveillance bears fruit. South Africa regularly participates in regional fisheries patrols, one of the outstanding breakthroughs involved Tanzania, Kenya, Mozambique and South Africa where 41 vessels were inspected, of which 6 fishing vessels were arrested during a 31 day joint operation. Two vessels were arrested in the South African waters for non-compliance with fishing regulations – fishing without permit and violating permit conditions.¹⁶⁵

Cooperation with the Commission for the Conservation of Antarctic Marine Living Resources, and neighbouring governments such as the Australian and French governments, who regularly patrol their sovereign territories of Heard Island and the Crozet Islands (located to the East of the Prince Edward Islands), has reduced the threat in recent years. Since the Australian and French governments signed an agreement that allows joint Australian and

¹⁶⁴ Department of Agriculture, Forestry & Fisheries (Undated-b),

¹⁶⁵ Environment of Environmental Affairs (2009).



French patrols to enforce each other's fishing laws in their respective EEZs and territorial seas in the Southern Ocean, there has not been reported IUU fishing activities in their respective territories. On the South African waters, there are indications that undetected IUU fishing was still taking place as confirmed by the recovery of an illegal fishing gear and reports from Australian and French officials. It is the observed benefits between the Australian and French governments that pushed South Africa to seek entering into such formal agreements as well. The agreement between South Africa and the French government was to be concluded during a high-level ministerial visit to Europe in 2015. Besides the formal agreement, South Africa and France has had several classified joint operations.¹⁶⁶ In 2001, in cooperation with Australia, a South Africa vessel engaged in a 14 days pursuit of the Togo-registered fishing vessel. The chase resulted in arrests, forfeiture of the vessel and the sale of the 116-tonnes catch of illegal Patagonian toothfish. Similarly, in 2003, the South African icebreaker, *SA Agulhas*, together with another vessel from the United Kingdom assisted Australia in apprehending a Uruguayan-registered vessel in the Southern Oceans.¹⁶⁷

The exclusion of foreign vessels from EEZs in the Southeast Atlantic, and the imposition of national control in Southeast Atlantic coastal states in recent decades, led to a marked reduction in illegal fishing. This state was further sustained by increased cooperation among the coastal States to protect shared fisheries stocks. In light of these developments, South Africa, Namibia and Angola came together for the Benguela Current Commission, which is now responsible for ecosystem approach to ocean governance to sustain human and ecosystem well-being. The developments led to a decline in illegal fishing from 21 per cent in 1980 to 7 per cent in 2000. The decline of illegal fishing in the Western Indian Ocean reflects gradually increasing control over time by coastal states, particularly those in the countries of the SADC, and a reduction in the unreported catch estimated by the Indian Ocean Tuna Commission.¹⁶⁸ It is also worth mentioning that, not only is South Africa playing a leading role in the SADC efforts of enforcing fisheries protection, the country ends up spending more financial resources than its partner States to ensure success of the joint law enforcement efforts. There may therefore be a need to better finance the joint operations so that the funding burden is equally shared. The sharing of the costs will likely ensure the sustainability and success of all future operations.

7. Conclusion

The complexity of maritime border safeguarding lies centrally in the magnitude of the undertaking. In terms of territorial control, the vast nature of South Africa's maritime territory complicates effective patrolling thereof. In terms of sea port of entry control, the sheer magnitude of cargo vessels and containers that move through the country's ports has a major impact on effective control.

Many other departments are involved in the maritime border area in addition to the departments discussed above. However, in effect, only the SAPS, SANDF, DHA and the DAFF carry out the actual securitisation of the border regions and the ports of entry. The efforts by these departments are, however, constrained by a number of factors ranging from limited

¹⁶⁶ CCAMLR (2014); Wingrin (2015).

¹⁶⁷ Wellem (2009).

¹⁶⁸ Agnew et al., (2009); MRAG & CapFish (2008);



vessels, limited funding, limited tasking as well as personnel and skills shortages. Furthermore, despite *ad hoc* cooperative operations at border safeguarding, the efforts of these departments are characterised by limited interdepartmental cooperation. The clear governmental prioritisation of maritime border safeguarding is thus undermined by a lack of strategic direction in the execution of this function. Key to this concern is the lack of an integrated maritime security strategy for the country. The lack thereof undermines cooperation between departments and results in departments operating in silos and often duplicating functions. For a country like South Africa with a vast territory and limited resources, the optimisation of maritime border control resources is essential.



SECTION C: AIR BORDER SAFEGUARDING

8.1. Introduction to the Air Border Environment

Similar to the maritime border environment, air borders cannot be viewed as a single demarcated line of control. Air border management encompasses control over the broader airspace covering all South Africa's territory, both over land and sea. A further critical factor associated with air border management refers to landing zones for aircraft. South Africa has roughly 1200 airfields, airstrips and airports.¹⁶⁹ However, not all of these are designated ports of entry.

Figure 6: Major Airports in South Africa

South Africa has 11 airports that officially serve as ports of entry. These include international airports in Bloemfontein, Cape Town, Polokwane, Durban, Lanseria, Pilanesberg, Port Elizabeth, Upington, East London, OR Tambo International Airport in Johannesburg and the Kruger Mpumalanga International Airport (See figure 5)¹⁷⁰. It should be noted that although the Upington International Airport is a designated port of entry, it currently accommodates only domestic flights. The total number of international arrivals and departures from these airports were 8.614 million for 2013/14.

This number rises significantly when including domestic and unscheduled passengers, bringing the total number of passengers handled by airports under the Airports Company of South Africa (ACSA) to 19.135 million for 2013/14.¹⁷¹ The SAPS plays a crucial role in maintaining safety and security at the country's main airports. In addition, the SAPS is also responsible for security at smaller airports and airfields, although they do not maintain a permanent presence at these. The DHA also plays a role at the air ports of entry through migration management.

As was clear from the previous section, South Africa's maritime territories cover thousands of square kilometres. Air space control over the entire landmass and maritime territories thus also applies as per Figure 6.



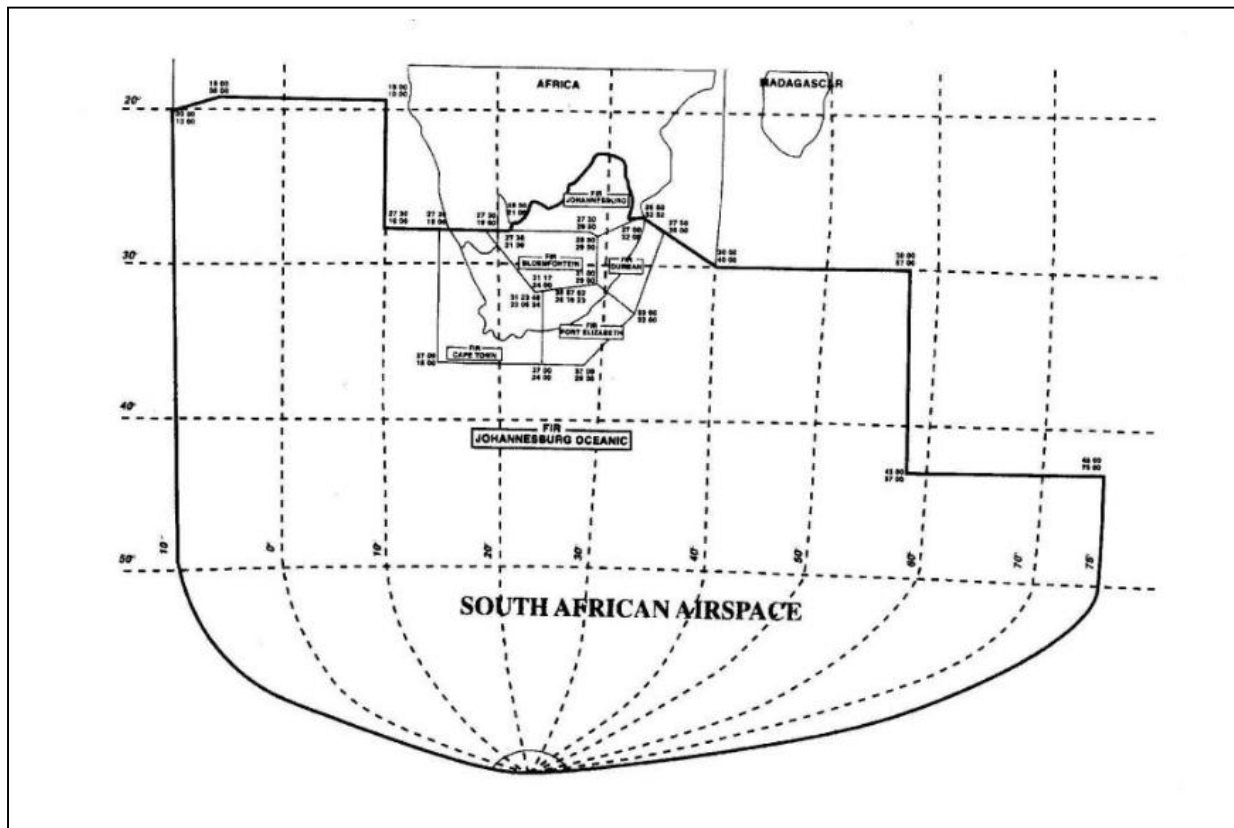
¹⁶⁹ Auditor-General. (2008). p. 3.

¹⁷⁰ DHA. (2015).

¹⁷¹ ASCA. (2014).



Figure 7: The extent of South African Airspace



Source: White Paper on National Civil Aviation Policy

The current air control picture in South Africa reveals a combination of effective control of commercial and other private air routes, but limited cover in terms of the monitoring of illegal movement. South Africa has, for example, countrywide radar coverage above 20 000 feet in terms of secondary radar. This refers to the detection of aircraft where the aircraft switches on its identification equipment and wishes to be detected. Low-level radar coverage is, however, a concern and this is generally only achieved around the country's major airports. These radar control functions are fulfilled by the Air Traffic Navigation Services (ATNS). The tracking of illicit movement through the air borders is largely the responsibility of the SA Air Force.¹⁷² While the exact nature of radar coverage cannot be revealed for security reasons, the SA Air Force has noted that its radar capabilities along the borders are insufficient. Radar coverage becomes increasingly difficult at low altitude.

9. The South African Police Service (SAPS)

The SAPS play an important role in terms of law enforcement at the various airports around the country. While it is not practical for the SAPS to maintain a permanent presence at all airports and airstrips around the country, they do maintain a presence at the busiest ports. In addition, legislative provisions are made for the SAPS to execute law enforcement at all airports and airstrips around the country.

¹⁷² Bestbier. (2015).



9.1. The legislative environment

The South African Police Service Amendment Act, 1997 (Act 41 of 1997) extended the powers of members of the SAPS to airports, in respect of search and seizure for the purposes of control over the illegal movement of people or goods across the borders of the Republic. The Act provides for this functions at any airport as defined in section 1 of the Aviation Act, 1962 (Act 74 of 1962), or within any reasonable distance from such airport.

In addition to these legislative provisions, policing in the aviation environment is regulated in terms of standards and recommended practices as contained in the Chicago Convention of 1947, specifically Annexure 9 (facilitation), Annexure 16 (safety) and Annexure 17 (security). The SAPS conforms to the Aviation Security Manual as documented by the Civil Aviation Organisation (ICAO) as the established aviation instrument of South Africa. The Aviation Security Manual states that “each contracting state shall establish and implement a written national aviation security programme to safeguard civil aviation operations against acts of unlawful interference through regulations, practices and procedures which takes into account the safety, regularity and efficiency of flights”.¹⁷³ South Africa compiled and established a National Aviation Security Programme (NASP) and, in Part 4 thereof, the roles and responsibilities of the SAPS is defined as follows:

- Prevention, detection of crimes at Civil Aviation;
- Routine surveillance and patrol airport facilities;
- Respond to and control of acts of hijacking, sabotage, bomb threats or other threats;
- Provision of specialised response including anti-terrorist units, armed interventions, hostage negotiations, explosive device disposal; and
- Provision of a rapid armed response capability.

The SAPS has the abovementioned capabilities as signatory to the international instruments that set out international standards and recommended practices. These standards and recommended practices are compulsory and any avoidance to conform to these standard may lead to any movement to and from South Africa being subjected to unnecessary scrutiny.

Generic operational support services are rendered at most air ports of entry, but may be departmentalised differently to suite the specific needs of a port of entry. These functions include:

- Community Service Centres;
- Perimeter patrols of the 10km radius (policing of port interests such as fuel farms and air traffic navigation systems);
- CCTV monitoring;
- Manning of access gates;
- Investigation of transnational crimes; and
- Reaction to incidents such as air crash investigations and facilitation of VIP visits, general aviation, sky chef facilities and exterior air craft guidance systems.

¹⁷³ SAPS (2015).



9.2. Profiling, crime trends and successes

The profiling of airline cargo by the SAPS forms an integral part in the identifying of crime risks and policing in aviation security. However, the process of accessing cargo manifests for profiling and the conducting of searches has been a challenge for the SAPS.¹⁷⁴ This is largely due to the reliance of the SAPS on information that remains the preserve of other departments and agencies such as Customs.¹⁷⁵ The SAPS has, however, prioritised profiling for the 2015/16 financial year as part of its annual performance targets.

Profiling is used as a tool, based on skills and experience, to narrow down the possibility of criminal activities, while considering factors such as flight rosters and manifests. Searches include physical searches, searches by specialised units such as the dog unit (narcotic and explosives), as well as searches by scanners and any other equipment. A profiling register is completed for all profiled cargo. The profiling process includes obtaining of relevant documentation, analysing such information, recording the information (profile register), identifying the risks concerned (source country, agent code, etc.), attending to the risks (conduct search) and the outcome (enquiry, case docket, etc.).¹⁷⁶

The key challenges in terms of criminal activities in terms of air border management relates to the prevention and combating of crime at airports. The main security threats include the following:

- Transnational crimes;
- Threat against aviation interests;
- Commercial crimes;
- Baggage pilferage;
- General theft;
- Drugs and human trafficking; and
- Organised syndicates targeting airports to move consignments.

The table below provides a breakdown of successes achieved by the SAPS at international airports between 2012/13 and 2014/15.

Table 6: Successes achieved by SAPS at Ports of Entry (Aviation) 2012/13-2014/15

Firearms and Ammunition			
	2012/13	2013/14	2014/15
Arrests	9: firearms 1: ammunition	6: firearms 3: ammunition	11: firearms 7: ammunition
Number of firearms and ammunition recovered	8 firearms 296 rounds	8 firearms 52 rounds	10 firearms 293 rounds
Illicit Drugs			
	2012/13	2013/14	2014/15
Arrests	257	177	151
Drug Seizures:			
<i>Heroin</i>	500kg	11.263kg	16.781kg

¹⁷⁴ SAPS (2015).

¹⁷⁵ SAPS (2015).

¹⁷⁶ SAPS (2015c).



<i>Cocaine</i>	323.054kg	246.360kg	337.370kg
<i>Crystal Meth (Tik)</i>	116.408kg	222.875kg	624.189kg 40lt of crystal meth
<i>Cannabis (dry)</i>	554.919kg	336.313kg	297.887kg
<i>Cannabis (plants)</i>	0	0	0
<i>Ecstasy tablets</i>	12 750 tablets	585 tablets	1 492 tablets 0.500kg powder
<i>Mandrax tablets</i>	52 tablets	16 331 tablets	297 tablets
<i>Crack cocaine rocks</i>	4 pieces	0	1 piece
Stolen and Hijacked Vehicles			
	2012/13	2013/14	2014/15
Arrests	14	14	16
Number of vehicles recovered	14	19	13
Violations in terms of the Immigration Act (undocumented persons)			
	2012/13	2013/14	2014/15
Arrests	23	1 239	1 165
Transnational commerce-related crimes (illegal goods)			
	2012/13	2013/14	2014/15
Arrests	1 281	16	55
Maritime-related offences			
	2012/13	2013/14	2014/15
Arrests	10	8	10
Other crimes			
	2012/13	2013/14	2014/15
Arrests	904	1 027	701
Human Trafficking			
	2012/13	2013/14	2014/15
Arrests	1	0	0

Source: SAPS (2015b).

Similar to the reported successes by the SAPS at sea ports of entry, successes at air ports of entry vary substantially year on year. Most crime categories show a decrease in the number of arrests, except for those relating to *Firearms and ammunition*, which shows a steady increase from 2012/13 to 2014/15. The decrease in arrests relating to *transnational commerce-related crimes (illegal goods)* from 1 281 arrests in 2012/13 to 55 arrests in 2014/15 is noteworthy.

Corruption at international airports remains a major challenge to effective law enforcement. The table below shows that a total of thirteen (13) SAPS members have been arrested over the past four financial year for corruption-related crimes (2011/12 to 2014/15). Six of the eight cases have been recorded at the OR Tambo International Airport, involving 12 SAPS members. Only one case of corruption against SAPS members has been registered at the King Shaka and Cape Town International Airports each over the past four financial years, involving two SAPS members. The outcomes of the eight reported cases are not desirable, as two of the cases have been withdrawn, one case is remanded, one case is still under investigation, one case is closed as undetected and three cases have been filed.



Table 7: SAPS Members involved in corruption-related crimes at international airports

Year	Name of Port	Case no	Arrests	Members involved	Outcome of cases
2011/12	ORTIA	56/06/11	1	1	Case withdrawn
	ORTIA	202/11/11	1	2	Filed
2012/13	ORTIA	36/07/12	1	1	Filed
	ORTIA	51/11/12	3	3	Case remanded
	ORTIA	22/06/12	3	3	Undetected
2013/14	KSIA	37/07/13	1	1	Still under investigation
2014/15	ORTIA	160/09/14	2	2	Filed
	CTIA	557/03/15	1	1	Case withdrawn

Source: SAPS (2015e)

9.3. Infrastructure and equipment

In term of specialised equipment at the international airports countrywide, the distribution seems disjointed and inadequate. There are nine pieces of specialised equipment used by the SAPS at international airports, including the following:¹⁷⁷

- 1) Ahura (Handheld Chemical Detector);
- 2) Phazir (Drug Testing /NIR Spectrometry);
- 3) Line scanner;
- 4) Hand held devices (Scanners);
- 5) Max IDs (Identification);
- 6) Telescopic cameras;
- 7) Digital Cameras;
- 8) MCD (Airport Security Scanner); and
- 9) Olympus (Camera).

Of the international airports, the Cape Town and Pilanesburg International Airports are the best equipped, with five of the above mentioned pieces of specialised equipment available at these two airports. According to the SAPS, the Upington International Airport have none of the pieces of specialised equipment available.¹⁷⁸ It should be noted that although the Upington International Airport is a designated port of entry, it currently accommodates only domestic flights and no international flights.

The scoping capabilities of the SAPS (the insertion of a telescope fibre optic camera into a sealed container) has not been very successful in the identification of illicit drugs in particular, as the scoping is a video camera system and not one that tests the air within a container for traces of chemical agents (drugs). This challenge has been met to a large degree with the incorporation of Phazir RX tests (spectrometers) that can detect trace chemicals from the air.

¹⁷⁷ SAPS (2015d).

¹⁷⁸ SAPS (2015d).



9.4. Private Security

A further concern that was raised over the last couple of years is the involvement of various private security companies in airport security. Currently, the Bosasa Private Security Company is employed by the ACSA to provide a Full Facilities Management service. The Full Facilities Management approach is based on the security company implementing and facilitating all the non-core activities of a company. Amongst others, this incorporates security, cleaning, maintenance and buildings management services. It is important to note that Bosasa Security is fully registered with the Private Security Industry Regulatory Authority (PSIRA) (Reg No 905256).

10. The South African National Defence Force (SANDF)

The SANDF contributes to air border safeguarding in three ways. Firstly, the SA Air Force aims at ensuring territorial integrity of the country's airspace through radar coverage of the airspace along the country's borders and other areas. Secondly, the SA Air Force has the means, through the availability of combat aircraft, to deter and react to instances of the violation of the country's airspace. Finally, the SA Army's anti-aircraft artillery capability provides a conventional means of preventing the violation of the country's airspace. While these capabilities exist, a number of challenges for the SANDF and SA Air Force in particular remain.

10.1. The legislative environment

Legislative directives on the SANDF's exact role in air border management are limited and should be viewed in the same context as land and maritime border safeguarding. As such, Section 200(2) of the Constitution (Act No. 108 of 1996) provides for the SANDF to defend and protect the Republic, its territorial integrity and its people in accordance with the Constitution and the principles of international law regulating the use of force. The Defence Act, (Act No. 42 of 2002) further makes provision for the SANDF "to effect national border control." Read together, the Constitution and the Defence Act thus provides a legislative framework that allows for the SANDF to ensure the territorial integrity of South African airspace. In terms of air-specific directives, the 1996 White Paper on Defence provides some input. Section 15 points to the vulnerability of the SADC region to foreign intervention from land, sea and air. In Chapter 7, it further notes the negative impact of budgetary constraints on South Africa's anti-aircraft and air capabilities. A clear prioritisation of the SANDF's airspace control capability is thus visible.

The SANDF is further provided a role in airspace control in terms of the Civil Aviation Act (Act No. 13 of 2009). Section 11 (2) of the Civil Aviation Act provides for representation of the SANDF on the Civil Aviation's Regulations Committee while Section 11 (5) includes SANDF representation on the National Airspace Committee. Furthermore, Section 8.11 of the White Paper on National Civil Aviation Policy directs the following two functions to the SANDF:

- The provision of Air Traffic Services for military purposes; and
- Any functions and responsibilities which may be assigned to the SANDF in terms of aviation legislation.



10.2. Roles and functions of the SANDF in terms of air border safeguarding

The SANDF plays a key role in ensuring that the country has safe air borders. Firstly, the SANDF provides radar coverage along South Africa's borders to ensure that air traffic is adequately tracked. This is of particular importance in the tracking of small aircraft crossing the borders illegally and out of the range of civilian air control efforts.¹⁷⁹ The provision of radar coverage is conducted jointly with the ATNS.

Secondly, the SA Air Force provides a reaction capability and air patrol capability. This comes both in the form of non-lethal patrol aircraft (such as those provided by 35 Squadron for maritime patrols) and lethal fighter aircraft.¹⁸⁰ The SA Air Force thus provides a deterrent capability as well as a reaction capability. The deterrent capability was demonstrated during the 2010 FIFA Soccer World Cup hosted in South Africa. During the World Cup, the SA Air Force and ATNS jointly provided oversight of airspace near World Cup venues and the SA Air Force had combat aircraft on standby and/or on patrol as a deterrent.¹⁸¹ The Air Force's reaction capability through intercepts is also apparent from its support role during the 2010 FIFA Soccer World Cup. This reaction capability is, however, not only limited to coercive intercepts. In December 2015, for example, a Gripen fighter aircraft was scrambled to intercept a small passenger jetliner after ATNS lost communication with the pilot near Swellendam in the Western Cape. The aim of the intercept was to establish a visual link with the jetliner and re-establish communications.¹⁸²

Finally, the SANDF provides a mobile air defence function through the SA Army's Air Defence Artillery unit. This unit supplies mobile radar coverage of specific areas and mobile anti-aircraft guns.¹⁸³ The mobile air defence units provide a valuable capacity in terms of air border safeguarding as it can be redirected to high-profile areas with suspected illicit air traffic where primary radar may not be able to detect planes. The anti-aircraft guns is more focused on defence against a conventional military threat.

10.3. Budgetary and Human Resources constraints

The SANDF's contribution to air border safeguarding should be viewed in terms of three programmes. Firstly, land border deployments provide a valuable role in terms of air border safeguarding as it provides for actual observation posts along the borderline. This is, however, not the focus of the study and will not be addressed in terms of budgetary and human resource constraints. Secondly, Programme 4 (Air Defence) constitute all SANDF air operations. The allocation for this programme was decreased from R7.168 billion in 2015/16 to R6.884 billion for 2016/7 as per the graph below. Of specific concern is the reduction in the allocation to the Helicopter, Air Combat, Command and Control as well as Technical Support Services capabilities (See Table 8). The SANDF has, however, allocated funds in the MTEF to replace the SA Air Force's medium distance 3D radar and precision guided air force ammunition by 2018/19.¹⁸⁴ The extent to which this will improve air border safeguarding is unclear.

¹⁷⁹ Defence Review. (2014). p. 2-27

¹⁸⁰ Defence Review. (2014). p. 9-5

¹⁸¹ SA Air Force. (2008) and Department of Transport. (2009). p. 6.

¹⁸² Mtyala. (2015).

¹⁸³ DefenceWeb. (2014).

¹⁸⁴ National Treasury. (2016). p. 330.



Table 8: Shifts in the allocation of the Air Defence Programme from 2015/16 to 2016/17

Programme	Budget		Nominal Increase / Decrease in 2016/17	Real Increase / Decrease in 2016/17	Real Percent change in 2016/17
	R million	2015/16			
Sub-programme 1: Strategic Direction	16.8	35.2	18.4	16.2	96.55 per cent
Sub-programme 2: Operational Direction	177.7	208.7	31.0	18.1	10.17 per cent
Sub-programme 3: Helicopter Capability	801.5	763.2	- 38.3	- 85.6	-10.67 per cent
Sub-programme 4: Transport and Maritime Capability	794.9	672.5	- 122.4	- 164.0	-20.64 per cent
Sub-programme 5: Air Combat Capability	1 437.2	1 371.2	- 66.0	- 150.9	-10.50 per cent
Sub-programme 6: Operational Support and intelligence Capability	286.4	314.2	27.8	8.3	2.91 per cent
Sub-programme 7: Command and Control Capability	901.5	606.0	- 295.5	- 333.0	-36.94 per cent
Sub-programme 8: Base Support Capability	1 818.5	1 819.6	1.1	- 111.6	-6.13 per cent
Sub-programme 9: Command Post	54.8	61.2	6.4	2.6	4.76 per cent
Sub-programme 10: Training Capability	184.4	570.0	385.6	350.3	189.97 per cent
Sub-programme 11: Technical Support Services	693.9	461.6	- 232.3	- 260.9	-37.60 per cent
TOTAL	7 167.6	6 883.5	- 284.1	- 710.3	-9.91 per cent

Thirdly, the Air Defence Artillery subprogramme of the Landward Defence Programme encompasses the SA Army's anti-aircraft capability. Although more focused on conventional military air threats, this is an important asset in terms of ensuring territorial integrity of the country's air space. The allocation for this capability shows a slight decrease in real terms from 2015/16 to 2016/17, but significant increases of 19.7 per cent in allocation is planned for the outlying years of the MTEF. This will be utilised for a new command centre for the anti-aircraft capability.¹⁸⁵

¹⁸⁵ National Treasury. (2016). p. 330.



Table 9: Shifts in the allocation of the Air Defence Artillery capability

Programme	Budget		Nominal Increase / Decrease in 2016/17	Real Increase / Decrease in 2016/17	Nominal Percent change in 2016/17	Real Percent change in 2016/17
	2015/16	2016/17				
Sub-programme 5: Air Defence Artillery Capability	580.5	588.9	8.4	- 28.1	1.45 per cent	-4.83 per cent

Given that three different SANDF programmes contribute to air border safeguarding, it is not clear how many personnel are directly involved. The fact that the Air Defence programme has a total personnel strength of 10 197 does also not accurately reflect the SANDF's air border safeguarding capacity, as not all these personnel are directly involved. A more effective means of reviewing Human Resources allocations is to look at sectors of critical skills shortages. By September 2015, significant vacancy rates pertaining to air border safeguarding are found in terms of Air Space control, Aircrew, the Engineering Capability and Technical Skills.

Table 10: Vacancy rate per critical occupation

Critical Occupations as at 30 Sept 2015	Number of posts	Number of filled posts	Number of vacant posts	Vacancy Rate
Air Space Control	601	530	71	11.8%
Air Crew	830	488	342	41.2%
Anti-aircraft	976	1001	(25)	-2.6%
Engineer	285	108	177	62.1%
Technical	10 248	6 976	3 272	31.9%

10.4. Interdepartmental cooperation and air border safeguarding capabilities

The SANDF, primarily through the SA Air Force, interacts with a number of other departments to ensure air border safeguarding. As was discussed, the primary platform for engagement is through the BCOCC. However, given that the air border environment is a highly specialised environment, the relationship between the SA Air Force and the Civil Aviation Authority (CAA) as well as the ATNS is of specific value. The SA Air Force and CAA often engage for the declaration of airspace for the purpose of security. Such declarations were made for the 2010 FIFA Soccer World Cup and Operation Rhino which focuses on air support to anti-rhino poaching operations.¹⁸⁶ The ATNS also provides valuable input to the SA Air Force through the sharing of information obtained from its radar networks. All data and communication feeds of the ATNS are available to the SA Air Force in real time.¹⁸⁷ The ATNS has the following radar capabilities:

- 22 Local Very High Frequency sites
- 41 Remote Very High Frequency sites
- 2 High Frequency sites
- 36 Very High Frequency Omni-Range sites (Navigation capacity)

¹⁸⁶ Bestbier. (2015).

¹⁸⁷ ATNS. (2015).



- 20 Distance Measuring Equipment sites (Navigation capacity)
- 2 Surface Movement Radar Systems (Surveillance Facility)
- 8 Primary radar Systems (Surveillance Facility)
- 17 Secondary radar Systems (Surveillance Facility)
- 9 Air Traffic Movement Display Systems (Surveillance Facility)

The capacity noted above is primarily located around the country's major air ports of entry and along some sectors of the country's land borders. It should be noted that these radar and other surveillance capabilities are not 100 per cent effective for the detection of all aircraft, notably low-flying aircraft and/or aircraft not engaging their VMS.¹⁸⁸

The extent of the SA Air Force's radar coverage is of operational significance and is thus not available. However, Air Force commanders have indicated that this capacity is significantly limited and of concern to the SANDF. This is corroborated by the Defence Review's claim that air sensors are a crucial capacity shortage for the SANDF. In this sense, it should be noted members of the CAA have indicated that extensive low-level radar coverage is not the answer to effective air border control as it is extremely expensive and that an extensive radar network might still not ensure effective coverage in all areas. Furthermore, the CAA is of the opinion that smuggling by low level flying aircraft represents a very limited percentage of cross-border smuggling.¹⁸⁹

In terms of the availability of primary mission equipment such as aircraft and anti-aircraft equipment, limited information is available. For security reasons, information related to operational readiness is not made available publicly. As such, the number of aircraft, anti-aircraft guns, surface to air missiles and other air-defence related munitions are not available. However, information regarding flying hours of the SA Air Force and the extent of radar coverage could provide input into air border safeguarding capabilities. There has been a gradual decline in the target for force employment hours flown per year. For 2015/16, the target was set at 6 500 hours and this will be reduced to 5 000 for 2016/17 and the outbound years of the MTEF. Of significance is that 1 000 of the 5 000 planned hours (20 per cent) has been allocated for VIP Transport flights, which means that limited hours remain for operational flights related to border safeguarding and other operations.¹⁹⁰ It should be noted that flying hours (patrols) are not an effective means of air border safeguarding. Rather, the availability of aircraft for intercept purposes prompted by radar or observation post detection is the key responsibility of the SA Air Force. The lack of flying hours does, however, impact on maritime and land border safeguarding efforts.

11. The Department of Home Affairs (DHA)

The DHA maintains a presence at various airports around the South Africa and its roles and functions are guided by the same legislation as those guiding operations at land and sea ports of entry. Its primary role related to the managing and facilitation of inward and outward migration through the country's air ports of entry.

¹⁸⁸ ATNS. (2015).

¹⁸⁹ Bestbier. (2015).

¹⁹⁰ National Treasury. (2016). p. 17.



11.1. The DHA in the air environment

The DHA has 24 hour presence at the three largest international airports (Cape Town International, OR Tambo International and Lanseria International). In addition the DHA has dedicated immigration officials with a daily presence at four further airports (King Shaka, Gateway, Kruger-Mpumalanga and Pilansberg) and is on standby for call out at another three airports (Bloemfontein, Port Elizabeth and Upington). Several of these airports were designated as international airports for the 2010 FIFA World Cup Soccer Tournament but no longer operate as such and thus have limited or no demand for a DHA presence.¹⁹¹ Security at these major airports where the DHA has a presence is considerably better than land and sea ports given that the responsibility to document and process the movement of persons is a lot more restricted by the confines of the port. The difficulty is that there are around 125 other smaller airports for which there is effectively no control of immigration.¹⁹² Although there are not high numbers of persons that can afford to illicitly travel by air charter across South Africa's international borders, the risk of higher level criminal and other undesirable travellers flying in undetected is an area of concern to DHA.

As is the case with land and sea ports of entry, a restrictive and competitive budget allocation and related capacity constraints weighed against the relatively low numbers of entrants and low perceived risk, mean that immigration officials will never be present at all airports. Collaboration and sharing of crime and risk intelligence for airports is thus as much of a critical factor as for other ports of entry.

The predominant security concerns related to the DHA can be found in the detection of so-called 'hits' at airports of travellers on record in contravention of laws. These relate to improper documents (14%), overstaying of permits (26%), persons with outstanding penalties (fines for overstaying – 25%) and person's on the Visa and Entry Stop list (V-list 35%).¹⁹³ The V-list contains persons considered undesirable or prohibited for any of a number of reasons related to contravention of local and international law. The list is formed by a combination of crime intelligence sources such as Interpol and SAPS as well as DHA data on fraud, corruption and contraventions of the Immigration Act (such as lost and stolen South African passports).¹⁹⁴ The challenge with the V-List is the lack of clarity regarding who is placed on the list and if and when to remove these individuals. As such, although serving as a means to apprehend and/or refuse entry of undesirable persons, it can also lead to the refusal of entry of persons not meant to be or no longer supposed to be on the list.¹⁹⁵

11.2. Recent developments and concerns

Advance Passenger Processing (APP) was introduced in South African in 2009. This enables an airline to advise the DHA of a person's intended travel prior to the issuing of a boarding pass. The biographical data in the traveller's passport, captured on check-in, forms the basis of this advice. This data is sent to the APP system, which then performs checks against the DHA's data sources and the business rules in the system and returns a directive to the airline

¹⁹¹ DHA (2016)

¹⁹² Wikipedia (2016)

¹⁹³ BCOCC (2015) These hits are for all ports of entry and thus relate predominantly to land ports of entry and thus predominantly Southern African travelers, but are also relevant to Airports.

¹⁹⁴ DHA (2012)

¹⁹⁵ Waters (2015)



whether or not to board the passenger. The APP checks travellers against the DHA V-List. If a negative boarding directive is provided, the airline has an opportunity to consult the DHA's 24 hours Operational Centre to verify the inadmissibility of the passenger. A government override can be performed on a possible hit and the person can be allowed to travel if they are not perceived as a risk. If the airline disregards the negative APP boarding directive, the traveller will be refused admission to South Africa and the airline will be fined a prescribed amount and ordered to repatriate the traveller at their own cost.¹⁹⁶

The APP is an additional layer of security informed by a risk based approach that enables performance of pre-clearance on travellers whilst decreasing the workload and risk involved with having to deny a person entry on arrival. The APP also serves as an early warning to the DHA and other departments of persons of interest on a particular flight. Interventions can thus be planned ahead of their arrival. The APP Policy Framework was led by the DHA on behalf of the JCPS Cluster. APP was implemented on 23 November 2009 in terms of the National Integrated Border Management Strategy (NIBMS) as a World Cup Legacy Project and is in line with the standards and recommended practices of the International Civil Aviation Organisation. Other users of the APP include the SSA, the SARS and the SAPS.¹⁹⁷

The Department of Tourism has indicated, during oversight conducted by Parliament in 2010 to land and air ports, that it wished to be included within the BCOCC, so as to ensure the consideration of their issues in the operational coordination at ports of entry. Whilst having a presence at larger airports, the continued exclusion of Tourism from the JCPS departments in the BCOCC has served as the background to the unintended negative impact on tourist numbers resulting from the Immigration Regulations introduced in 2014. A significant decline in tourist numbers of around 7.4 per cent or 535 000 between 2014 and 2015 is indicative of causes over and above the global recession when compared to the slow but growing numbers of tourists in previous years.¹⁹⁸

The additional measures in the Immigration Regulations were aimed at improving security to prevent crime such as child trafficking and the travel by undesirable persons. The measures causing the most impact on tourism included foreign travellers that require visas needing to apply for them in person at Visa Facilitation Service centres worldwide (there are a growing but limited amount of these centres). In addition children traveling with parents needed to have a separate form of document indicating the parents' relation to the child (in the South African case this is an unabridged birth certificate). The considerable impact of the visa regulation changes is indicative of the unintended side effect of security measures implemented in isolation and above all other concerns.¹⁹⁹

In response to significant outcry from the business and tourist sector, an Inter-Ministerial Committee on the Unintended Consequences of the Visa Regulations was established in 2015. As a result of the IMC recommendations, a number of interventions have been effected by the DHA in the first of three phases. These include accreditation of trusted tour operators in China to process visas on behalf of Chinese Tourists and allowing for the capture of their

¹⁹⁶ DHA (2012)

¹⁹⁷ DHA (2012)

¹⁹⁸ Department of Tourism (2016)

¹⁹⁹ DHA (2016b)



biometric details upon arrival as opposed to in advance. Several counters at the four largest airports have been equipped with the required equipment to do this.²⁰⁰

The DHA have also introduced the issuance of long-term multiple entry visitor's visas for a period exceeding 3 months and up to 3 years. The Minister of Home Affairs approved the granting of 10-year multiple entry visas to bona fide business and academics from Africa, to be implemented in the next year. The Parental Consent Affidavit required from one parent for the other parent to travel with their child, has been extended from being valid for four months to being valid for six months. The issuance of a strong advisory for travellers accompanied by minors from countries which are visa-exempt in order to ensure compliance with unabridged birth certificate, along with conferring powers on an immigration officer to exercise discretion to establish the relationship between adult(s) and the accompanying child, will be implemented in the next three years once the relevant regulations are amended. Also to be considered in the next three years is the granting of visa waivers for persons in possession of visas from countries such as Canada and Germany which has stringent visa application processes.²⁰¹

12. Conclusion

The South African air border environment consist of a vast airspace that requires an elevated level of skill, technology and capacity for the effective control thereof. Air border safeguarding in the country can be viewed in two domains, namely airport safety and security and airspace safeguarding.

In terms of airport safety and security, the SAPS and DHA (along with other roleplayers such as ACSA) have made significant strides in increasing security measures at the country's main air ports of entry. Elevated levels of cooperation can also be found at some of the larger airports. The security concerns in terms of air border safeguarding thus shift to smaller airports and airfields throughout the country where specifically the SAPS does not have a permanent presence. Limited control of these airports and airfields thus exist. It is unclear how often (if at all) the SAPS or other state organisations carry out spot-checks at these airports to ensure not only compliance with aviation standards, but also general crime prevention in terms of cross-border crimes and illegal migration. This relates specifically to airports and airfields in areas close to South Africa's international borders where there is an elevated risk of cross-border smuggling and other illicit activities by air.

In terms of airspace safeguarding, effective (or sufficient) control seems to be in place for commercial air traffic, largely due to the efforts of the ATNS. The SA Air Force remains responsible for airspace safeguarding and the tracking of aircraft in contravention of the country's airspace. This is, however, an extremely complex and expensive task as radar coverage at low level requires an expansive radar network that will be currently unaffordable. The SA Air Force does, however, have some radar coverage along the country's borders to prevent illicit aircraft movement. Nonetheless, it is clear that this capacity is facing significant challenges and that major gaps exist in airspace control.

²⁰⁰ DHA (2016b)

²⁰¹ DHA (2106b)



SECTION D: RECOMMENDATIONS

13.1. Introduction

Maritime and air border safeguarding represent complex aspects of broader border safeguarding. These aspects of border safeguarding are often neglected compared to land border safeguarding yet represent an important aspect thereof. Safeguarding these domains are complicated by the fact that it requires elevated technical skills and carries lower risks of transgressions than land borders. This is reflected in, for example, the number of foreign nationals arriving in South Africa. In December 2015, 303 268 (20 per cent) arrived by air, 1 237 896 (80 per cent) came by road and only 6 736 (0,4 per cent) arrived by sea.²⁰² Nonetheless, in the attempt at comprehensive border safeguarding, maritime and air border safeguarding cannot be ignored and according to the challenges and developments discussed in the previous sections, several general and department-specific recommendations can be made. The identification of these challenges is of the utmost importance when structuring the BMA with regard to maritime and air border safeguarding.

13.2. The BMA and other recent developments

Throughout South Africa's post-1994 development, a number of coordinating institutions have been responsible for coordinating inter-departmental efforts at border safeguarding. In 2009, a BMA was first mooted by President Zuma as single executive and accounting authority that will be established through the enabling of the BMA Act.²⁰³ By December 2014, the BMA vision and key priorities were endorsed by Cabinet. However, the finalisation of the BMA remains in process as the legislative stage is yet to be finalised.

In terms of maritime and air border safeguarding, the BMA will fulfil the following functions:²⁰⁴

- **Maritime border environment:** Under the BMA, a Coastguard will be established to control the first 12 Nautical Miles of South Africa's territorial waters while the SA Navy will be responsible for the remainder of the territorial waters.
- **Air border environment:** An appropriate complementary BMA capability will be established to monitor the country's airspace along with the SANDF.

When fully operational, the BMA will also aim to achieve the following:

- Establish a National Border Risk Management and Targeting Centre.
- Assume operational responsibility for port of entry infrastructure and maintenance.
- Establish its own organisational culture, identity and conditions of service.

The current planning for the implementation of the BMA consist of a transition phase which will conclude in December 2016. This period will focus on finalising legislation, risk identification, the launching of pilot sites and the relocation of the BCOCC to the DHA. It is further envisaged that the implementation of the BMA legislation should take place beyond 2017 and that the

²⁰² StatsSA. (2016).

²⁰³ For further information on the development of coordinating bodies on border management and initial developments on the BMA, please refer to Rustin and Dollie. (2015). p. 20-22.

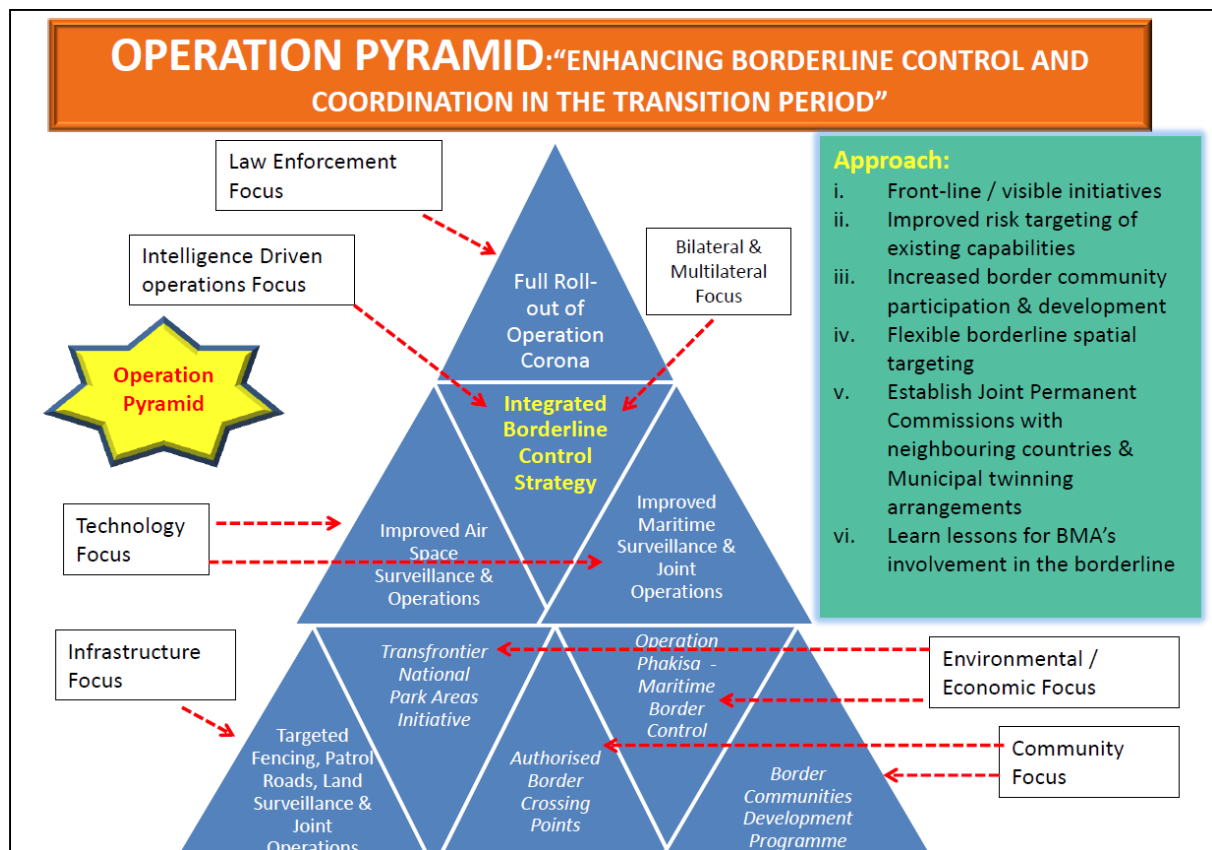
²⁰⁴ Department of Home Affairs. (2015c).



Agency be implemented through a phased approach, including the introduction of a land (border guard) and maritime (Coastguard).²⁰⁵

On 19 June 2015, the BCOCC launched Operation Pyramid to announce the start of an ongoing initiative in the borderline environment that seeks to improve the overall coordination and cooperation between government and civil society partners to better secure the land, air and maritime borderline.²⁰⁶ This operation forms part of the shift towards the BMA which focuses on integrated border control through intelligence, bilateral and multilateral relations, technology, infrastructure, environmental aspects as well as community involvement (See figure below). Pilot sites currently being established include the PECC at the Port of Cape Town (Harbour), Skilpadshok (land), the Kruger National Park (land) and King Shaka International Airport (air). These pilot sites allow for the testing of the BMA concept in land, maritime and air border safeguarding environments.²⁰⁷

Figure 8: Operation Pyramid focus areas



(Source: Department of Home Affairs. (2015c))

²⁰⁵ Department of Home Affairs. (2015c).

²⁰⁶ BCOCC (2015b)

²⁰⁷ Department of Home Affairs. (2015c).



13.2.1. Maritime and air border safeguarding concerns and the BMA

The establishment of the BMA is set to streamline South African border safeguarding which is often characterised by disjointed efforts. However, the establishment of a coherent BMA will not be without its challenges. It was already stated that the bulk of border safeguarding efforts focus on land border safeguarding. While this is justified in terms of threat levels, it may skew the BMA's focus towards land border safeguarding without due focus on maritime and, specifically, air border safeguarding. In the first Section of the study, a number of overarching maritime and air border safeguarding challenges were identified. These challenges as well as concerns identified in the various department-specific sections of the study, raise important matters that should be considered during the establishment of the BMA. These include, *inter alia*:

- *Formalising cooperation between port of entry roleplayers.* The PECC established as part of the BMA pilot project at the Cape Town Harbour highlighted the value of having all port of entry roleplayers in close proximity to each other. Regular meetings and the fostering of a healthy working relationship significantly aids the ability of departments to work together and provides a more comprehensive port of entry safeguarding outcome. However, there is still a need for the relationship between roleplayers to be formalised through Memoranda of Understanding to cement this working relationship. If not, relations will merely remain dependent on cooperative personalities within the various departments.
- *The sharing of information.* While the BMA will possibly provide a higher level of interdepartmental cooperation, effective maritime and air border safeguarding will depend on the effective sharing of information to direct border safeguarding operations. This will ensure effective intelligence-driven operations.
- *The establishment of a Coastguard.* A concern has been raised by the some members in the SANDF that the establishment of the BMA and the related Coastguard is at odds with the Defence Review and related studies that indicate that the establishment of a Coastguard is not economically viable. The findings indicated that better funding of current departmental responsibilities and better collaboration between departments would be preferable.²⁰⁸ Such collaboration could be facilitated by establishing a national maritime security authority or related security strategy/policy as required by both SADC and African Union maritime agreements.
- *Role definition in terms of maritime patrols.* A number of government departments, including the SAPS, the DAFF and the SANDF conduct maritime patrols for different reasons. The absence of a national maritime security authority or related security strategy/policy creates a vacuum which leads to unhealthy competition between government departments and affiliated organisations for resources as well as unnecessary duplication which creates significant loopholes in security.

²⁰⁸ Thomson (2016)



- *A general lack of focus on air border safeguarding.* The threat of cross-border crime, illegal migration and other security threats from the air is limited compared to the land and maritime environments. However, if air border safeguarding will form part of the BMA’s mandate, it must be ensured that this is robustly covered in legislation and practical execution. This is a highly technical border safeguarding environment and it should be ensured that the relevant departments cooperate on this, whether inside or outside the formal structures of the BMA.

Three sets of challenges related to maritime and air border safeguarding were identified in the study. First, in Section A, overarching challenges that were identified through primary research and initial reading were presented to set the tone for the study. Second, in Sections B and C, department-specific challenges relating to the SAPS, SANDF, DHA and the DAFF were raised. Finally, in Section D, challenges that may arise during the implementation of the BMA with reference to maritime and air border safeguarding were highlighted. The following tables provide further depth to these challenges and, where possible, present recommendations for Parliament’s Committees. These recommendations can be utilised by Members of Parliament during engagement with the various departments. General (overarching) recommendations as well as department-specific recommendations are provided.

13.3. General Recommendations

The table below offers a synopsis of the general challenges identified in the study related to maritime border safeguarding and presents recommendations in this regard.

Table 11: General Recommendations on maritime border safeguarding

Issue	Challenge	Recommendation
Parliamentary oversight	A potential lack of intersectoral oversight of the implementation of the Border management Agency (BMA).	While the DHA will be the lead department for the BMA, several other departments will be roleplayers. Parliamentary oversight over all involved departments should be conducted, across the various Committees overseeing these departments. Parliament can consider the establishment of an ad hoc committee to oversee the BMA, specifically during its establishment process and the first years of existence.
Maritime Security Strategy and Policy	The lack of a finalised Maritime Security Strategy and Policy limits broader cooperation on maritime border safeguarding.	The relevant department for the writing of the Maritime Security Strategy and Policy should be identified and finalise this document as a matter of urgency. The Strategy and Policy should be written with input from all maritime roleplayers, including the SAPS, DAFF and SANDF. The strategy should inform the BMA approach to maritime border safeguarding.
	South African maritime territories are not adequately protected, particularly the	There is a need to accelerate legislative reforms to ease interdepartmental planning, coordination,



Issue	Challenge	Recommendation
Interdepartmental coordination	offshore and remote offshore waters. This process is hampered by a lack of coordination and duplication of functions.	information flow and execution of joint operations and eliminate the convoluted approval processes. An interim form of coordination should be conceptualised while awaiting the finalisation of the Maritime Security Strategy. Information sharing between departments is a major concern and should be enhanced.
	Lack of coordination, responsibility and information sharing between departments.	Departments should be requested to report on areas where legislation or policy inhibit information sharing and this should be addressed. Service level agreements should further be used to enhance information sharing.
Port operating hours	Functions of one department are impacted on by the unavailability of other departments. Some departments have limited capacity to function across several shifts as compared to others.	The operational hours of agencies functioning at specific ports need to be brought in line with one another.
Vetting of staff	Security concerns around delays and lack of vetting of staff.	Improvements must be made to the lengthy time frames for the vetting of the relevant personnel by the State Security Agency (SSA).
Community involvement	Unintended negative effects on communities.	When Parliament considers legislation affecting border communities, the communities need to be consulted so that communities inform, understand and take ownership of desired legislation. Platforms, such as DHA stakeholder forums and SAPS Community Policing Forums, could be consulted when drafting the BMA legislation.
	Communities in areas around smaller harbours are not aware of the security risks related to the maritime environment.	Community platforms, such as DHA stakeholder forums and SAPS Community Policing Forums, should be used to inform communities around harbours other than ports of entry regarding the possible security threats in the maritime environment. These communities can also serve as a valuable information/intelligence source.
The proposed Coastguard	A separate Coastguard would have an overly complex and potentially chronically underfunded mandate.	The cost-effectiveness of a separate Coastguard should be evaluated against the alternative option of improving funding of the current functions within the SANDF/SA Navy and other existing roleplayers.
		The finalisation of the Maritime Security Strategy will go a long way in avoiding task duplication in the maritime environment.



Issue	Challenge	Recommendation
Interdepartmental conflict for resources	Unnecessary duplication and significant loopholes in security.	Exact roles for the different departments should be identified and appropriate resource allocation should be done to fund these competencies.

The table below offers a synopsis of the general challenges identified in the study related to air border safeguarding and presents recommendations in this regard.

Table 12: General Recommendations on air border safeguarding

Issue	Challenge	Recommendation
Focus on air border safeguarding	The BCOCC, BMA and other coordinating initiatives seem to place limited focus on air border safeguarding or limit this focus to airports.	Legislation, policies and strategies must define the roles of the various roleplayers in the air border environment. This should be captured in the BMA structure.
Practical difficulties	Given the high cost of radar coverage, it is impossible to cover the entire South African borderline/airspace.	Means of enhancing existing air border safeguarding include: <ul style="list-style-type: none"> • Declaring the entire border airspace a permanent Air Identification Zone. • Establishing observation posts by the SA Army or other institutions along the borders. • Effective utilisation of intelligence to counter air border violations. • Redirecting mobile and other radar capacity to areas of high air traffic and/or areas suspected as frequently being used for illegal air crossings into/out of South Africa.
Presence of officials at smaller airports.	Moderate risk of undocumented and or criminal entrance by air into the country due a limited presence of officials at smaller airports.	It is not financially viable to have officials from the various departments at smaller airports/airfields. However, better collaboration and sharing of information and systems between the SAPS, DHA, SANDF and Air Traffic Navigation Services (ATNS) and the Civil Aviation Authority (CAA) on the risk and occurrence of international movement of persons would help mitigate the associated risks.
The unintended side effects of concern over security in isolation and above all other concerns.	Negative impact on Tourism and Economy of overly stringent security measures around travel.	Ensure ongoing consultation with the Tourism and Business sector in crafting migration/border management policy and legislation.



13.4. Department-Specific Recommendations

This section offers a synopsis of the issues and challenges identified in the study, as well as specific recommendations relevant to the SAPS, SANDF, the DHA and the DAFF.

13.4.1. South African Police Service (SAPS)

Table 13: South African Police Service Recommendations

Issue	Challenge	Recommendation
Supply Chain Management (SCM)	Vessel fleet	An audit of the SAPS vessels should be completed.
		A needs assessment audit should be completed in order to identify the number and type of vessels needed by the SAPS to effectively perform their border safeguarding mandate. (This should be done in line with the Maritime Security Strategy that will highlight the exact functions of the SAPS in maritime security).
		Procurement of new vessels should strictly adhere to bid specifications identified as per the needs assessment audit. The SAPS should also partner with specialised agencies operating within this field, like Armscor, Denel or the Centre for Scientific and Industrial Research (CSIR) to develop the bid specifications.
	Maintenance of vessel fleet	All procurement contracts of vessels should include a maintenance clause binding suppliers to the maintenance of vessels.
		In the interim period until new vessels with maintenance contracts are purchased, the SAPS maintenance capacity should be improved in order to ensure that the available vessels are operational.
	Fit for purpose vessels	Fit for purpose vessels should be procured to capacitate the SAPS to fulfil their maritime border safeguarding responsibilities effectively and efficiently, especially taking coastal patrols into account.
	Specialised equipment	The SAPS should focus on the equitable distribution of specialised equipment to all ports of entry along the South African coast and airspace.
		Specialised equipment should be available and must be in a good operational condition at all ports of entry.
		The SAPS should invest in innovative technologies to provide increased situational awareness of borderlines, both in terms of coastal and aviation borders.



Issue	Challenge	Recommendation
		<p>At harbours and airports, the SAPS should collaborate with Transnet to ensure that Closed Circuit Television (CCTV) feeds are available to the SAPS for monitoring of the port of entry premises.</p> <p>Technology should be used as a force multiplier of the SAPS, like desktop or mobile electronic translators.</p>
	Infrastructure	Urgent attention should be given to the infrastructure (buildings) of border policing units of the SAPS at sea and air ports of entry
	Vehicle fleet	The vehicle fleet available at sea and air ports of entry should be increased to fit the norm of personnel to vehicle ratio adopted by the SAPS for effective policing.
Specialised Units	Detached duties of specialised units.	The SAPS should have dedicated K9 Services at all main maritime and aviation ports of entry. Urgent attention should be given to the aging police dog capacity of the SAPS. Strategic planning in the replacement of police dogs to be boarded is essential to ensure continued support by police dogs to SAPS members during the execution of their duties at ports of entry, especially in terms of rummaging operations.
Operations targeting illicit goods		The newly established special crime investigation units located under the ambit of the Directorate for Priority Crime Investigations (DPCI) should increase their focus on crime syndicates operating in South Africa, targeting especially narcotics, firearms and environmental resources (like abalone and rhino horn).
Information and Communications Technology (ICT)	Inadequate information sharing and protection of jurisdiction.	Information sharing should be reviewed in order for SAPS to share information with other agencies and visa-versa. Integrated Systems and hardware are essential in this regard.
Personnel	Insufficient capacity	A needs assessment audit should be done at all maritime and air ports of entry to identify the personnel needs at ports of entry. Once the needs have been identified, personnel should be deployed to the units in order for the SAPS to execute their duties effectively and efficiently.
Personnel	Detached duties (Members of the SAPS's border units are often used for Visible Policing	Many personnel deployed at border policing units have detached duties. The border policing units should have a dedicated personnel capacity.



Issue	Challenge	Recommendation
	and/or other policing functions in the adjacent urban centres)	
	Non rotation of staff leads to low morale and increased probability of corruption	The SAPS should reconsider the discontinuation of the rotation system of personnel. (Note: If a rotational system is reintroduced, the rotation of specialist personnel in the maritime and air border environments should be carefully managed to ensure skills retention).
Domestic seaports and airstrips	Lack of security at domestic airports, harbours, landing strips and slipways.	Local police stations should be capacitated to effectively secure domestic airports, airstrips and domestic harbours.
Private security at airports	Threat to domestic territory of the Republic.	The use of private security companies at ports of entry should be reviewed.
Central Firearms Registry (CFR)	Issuing of in-transit permits and inspection of firearms.	The CFR should issue in-transit permits to vessels entering the Republic's waters effectively and efficiently, adhering to all legislative requirements. The SAPS should inspect all firearms for which in-transit permits are issued.
Statistics	Inconsistency in reported successes.	The SAPS should be more consistent in the successes made at designated ports of entry through focused operations.
Corruption	Not enough focus by IPID on systemic corruption at ports of entry.	The IPID should increase their capacity and capability to investigate cases of individual systemic acts of corruption focussed on SAPS members deployed at both domestic and international harbours and airports.
Performance Targets	Measurability of performance targets	It is suggested that the SAPS introduce the following two targets in their Annual Performance Plans: <ul style="list-style-type: none"> • The percentage of all containers/cargo at a port of entry profiled. • The percentage of profiled containers/cargo checked.

13.4.2. South African National Defence Force (SANDF)

Table 14: South African National Defence Force Recommendations

Issue	Challenge	Recommendation
Naval Dockyard Simons Town	Inability to adequately provide services required for naval vessels	The operational capacity of the Dockyard should be increased to ensure effective assistance to the SA Navy. A final decision should be made whether to locate the Dockyard within Armscor, Denel or the SA Navy itself.



Issue	Challenge	Recommendation
Inadequate Patrol Capability	Completion of Project BIRO, and other similar projects	The SA Navy should report regularly to Parliament on the completion of Project Biro, Project Hotel and other future projects. It is essential that the delivery of these vessels remain within the set timeframe.
Sea hours	Inadequate maritime patrol	It is recommended that the SA Navy be adequately funded to increase its number of sea hours to ensure the effective patrolling of the Exclusive Economic Zone (EEZ). The DOD should include as a target in its annual report the number of maritime territorial patrols conducted per year (in sea hours).
Inadequate patrol aircraft	Limited number and old age of maritime patrol aircraft	The SA Air Force have only a limited number of old aircraft available for maritime patrols and the replacement of these aircraft should be prioritised as a matter of urgency.
Flying hours	Inadequate maritime patrol	The DOD should include as a target in its annual report the number of flying hours allocated to and achieved for border patrols, distinguishing between land and maritime border patrol flights.
Critical skills	Loss of critical skills such as Engineers, Combat Officers, aircrew and air traffic controllers	The DOD should brief Parliament on its plans for skills retention and addressing critical skills shortages.
Technology	The high cost of flying and sea hours	The SANDF should consider the increased usage of Unmanned Aerial Vehicles (UAV) for the purpose of maritime border patrols as a cost effective force multiplier. An effective reaction capability to this will be crucial.
	The lack of radar coverage on border areas	The SANDF should consider the use of increased mobile radar capacity to conduct ad hoc monitoring of air traffic in high risk areas along the country's borders.
	Lack of maritime and air sensors	The lack of maritime and air sensors was identified as a crucial shortfall in the Defence Review. This should, be addressed as a matter of urgency.
Interdepartmental cooperation	Lack of standing operating procedures between departments for effective reaction to border violations	The SANDF should establish standing operating procedures that will allow for SANDF forces to communicate potential threats detected to other departments for follow-up. (For example, the SA Air Force should be able to communicate suspected poaching activities to SAPS/DAFF units in the area for response. Similarly, SA Army observation posts along the borders should be able to report suspect aircraft to the SAPS/SA Air Force for follow-up).



Issue	Challenge	Recommendation
Policy	Lack of an integrated 'maritime air strategy' as part of maritime strategy	As part of the development of a Maritime Security Strategy and Policy, an integrated maritime air strategy should also be formulated with the SA Air Force and SA Navy leading this initiative.

13.4.3. Department of Home Affairs (DHA)

Table 15: Department of Home Affairs Recommendations

Issue	Challenge	Recommendation
Inspectorate staff at sea ports of entry	A lack of inspectorate staff increases the likelihood of contraventions of the Immigration Act and delays processing of illegal immigrants	The capacitation of inspectorate personnel and the staff establishment at the ports should receive urgent attention as they not only affect service delivery and trade but contribute to crime and corruption.
Dedicated staff at harbours	A lack of dedicated staff at harbours results in less secure service delivery as well as health and security risks. Staff are often working 24 hour shifts with same capacity as 8 hour shifts	The Departments of Home Affairs and Health need to have permanent and/or increased capacity at the Richards Bay, Saldanha and Mossel Bay harbours.
Interdepartmental integrations	Overlap and lack of coordination of functions on the detection, apprehension, recording and incarceration of wanted persons	Integration of systems at the appropriate level between the DHA and SAPS. Introduction of the ability to arrest, detain and confiscate by the border guard in the Border Management Agency.
Corruption	Corruption is reported by stakeholders at ports of entry but not detected by management or reported to the DHA head office and SSA. The acceptance of perceived smaller bribes by members of the DHA is a concern	Need for policy framework to allow shared and integrated access to Transnet National Port authority (TNPA) Closed Circuit Television at ports of entry. The security vetting and screening of staff as well as a focus on joint operations must be prioritised. Initiatives such as reporting on adherence to standard operating procedures each month and morning reading of mission and values and reminders of penalties for corruption by managers should be considered.
DHA personnel at smaller international airports	Under-employed officials at Airports with few international arrivals that could be better deployed elsewhere	Present findings on the impact of withdrawing the international arrival status of seven smaller airports and measures to effect changes if necessary.



13.4.4. Department of Forestry and Fisheries (DAFF)

Table 16: Department of Agriculture, Forestry and Fisheries Recommendations

Issue	Challenge	Recommendation
Human and financial capacity	Human and financial limitations	Financial resources seem to limit the fisheries protection operations in the maritime territory. In order to increase maritime patrols, financial resources have to be increased to prevent uncontrolled exploitation of fisheries resources meant to boost the South African economy. Increased finances will also enable the expansion of human capacity.
Interdepartmental cooperation	A lack of interdepartmental cooperation results in duplication and is exacerbated by limited skills/hardware in the DAFF	The scarcity of the required skills in fisheries patrol and compliance may be addressed by collaboration with other law enforcement agencies. Joint programmes can enable maximum use of available capacity within the State.
Patrolling of offshore territories²⁰⁹	Inability to patrol distant waters	The Department of Environmental Affairs considers the Patagonian toothfish fishers from South Africa as integral partner in the management of the Prince Edward Islands territory, as the fishers have become eyes and ears on these distant waters. This approach needs to be cautiously considered as the fishers essentially become responsible for fishing and law enforcement. The DAFF, in conjunction with the SANDF, should then further develop a reaction capability to deal with illegal fishing in these offshore waters.
Regional fisheries patrols and law enforcement	Funding model of joint regional fisheries patrols and law enforcement	Regional fisheries patrols and law enforcement may need to be balanced with planned national priorities and available resources to avoid carrying the bulk of the joint regional patrols at the expense of patrols within the South African territorial waters.
Corruption	Corruption in the fisheries domain	The DAFF needs to adopt a firm stance on corruption matters that will end the relationship between the Department and officials that are found to be corrupt. Initiatives such as reporting on adherence to standard operating procedures each month and morning reading of mission and values and reminders of penalties for corruption by managers should be considered.

²⁰⁹ Molewa (2013).



Issue	Challenge	Recommendation
Threats in the working environment	Safety of officials during transportation and storage of confiscated fisheries resources	The persistent threats experienced by officials during transportation and storage sites of confiscated material, particularly, fisheries products needs collaborative effort among other law enforcement agencies to escort help in improving security at facilities.
The Department's patrol vessel capacity	Shortage of patrol vessels	In light of this patrol vessels shortage and consideration of the tight fiscal environment, it would be practicable to maximise current capacity between the Department, the South African Navy and the South African Air Force.
Undetected fishing vessels	Non-compliance with Vessel Monitoring System (VMS) conditions among Illegal, Unreported and Unregulated (IUU) fishers	The sharing of database would enable other Government departments to enforce fisheries laws on behalf of DAFF in cases where patrols are conducted in the absence of DAFF where fishing vessels are identified.



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