

RAPID Task Order 2.1 Activity

End of Assignment Report:
Consultant: Giorgio Radesich
Position: TKC MOU / Legal Specialist
Dates of Consultancy: March – June 2002

Submitted to:
Chemonics International, Inc.

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Purpose of the assignment and expected result

- 1.1 The objectives of Task Order 2.1 are, amongst others, to:
 - (a) develop the regional and national capacity to implement and monitor compliance with the SADC Transport Protocol;
 - (b) ensure that the regional momentum for reform in transport harmonization is maintained; and
 - (c) build public-private partnerships and capacity to engage in and influence the policy dialogue, implementation, monitoring and evaluation.

- 1.2 With a view to supporting implementation of the objectives, the assignment entailed execution of the following generic tasks that unpacked into a number of specific activities described under paragraph 2:
 - (a) Preparation of final draft TKC MoU;
 - (b) Ongoing technical support to elicit national approval for the TKC MoU; and
 - (c) Ongoing technical support to the TKC Secretariat.

Highlights of the assignment

2.1 Preparation of final draft TKC MoU and supporting documentation

2.1.1 Description of service and deliverable

During the period of the assignment, 3 substantial revisions of the TKC MoU were delivered accompanied by amended packages of supporting documentation comprising:

- Draft ministerial briefing memoranda
- Draft Cabinet memoranda
- Draft ministerial delegations
- Draft Presidential proclamations

The MoU revisions were informed by the various public-private stakeholder inputs received as part of the consultative process conducted on an ongoing basis.

In particular, the MoU revisions focused on:

- Linking the TKC MoU objectives with NEPAD objectives
- clarifying definitions
- clarifying the provisions relating to border post hours
- introducing police services into the formal consultative and reporting network
- clarifying the role and membership of the institutions
- clarifying quota provisions

2.1.2 Issues, constraints and opportunities

The final draft TKC MoU and package of supporting documentation represents regional consensus up to 22 July 2002. Whilst Botswana, Namibia and South Africa have largely completed their consultative processes, South Africa has indicated that it will undertake one final round of consultation with the Department of Home Affairs and Border Post Police to ensure their complete buy-in. Botswana submitted final public sector comments on 9 July 2002 that have already been accommodated in the final draft TKC MoU that was circulated to all the country representatives on 22 July 2002.

It is envisaged that the country representatives will have one final round of interactions on the final draft MoU which, depending on the nature of comments, require an additional revision of the TKC MoU prior to the agreed date of signature in September 2002.

2.1.3 Recommendations and follow-up

It is recommended that RAPID management consult with the 3 co-chairs of the TKC MoU initiative towards the end of July 2002 to obtain final outstanding comments and conduct one final revision of the TKC MoU, if required.

In order to ensure that final comments are submitted by the end of July, consideration could be given to notifying the co-chairs early in July of the intended plan and to track progress on a weekly basis by way of the tracking package prepared under the assignment under discussion.

2.2 Ongoing technical support to elicit national approval for the TKC MoU

2.2.1 Description of services and deliverables

Services

Technical support and facilitation to Government coordinators to pilot the draft TKC MoU through national approval processes which included:

- Daily telephonic progress tracking with Mr James Chiumya of the Department of Transport, South Africa
- 9 progress meetings with the South African coordinator, Mr James Chiumya (7/03; 11/03; 15/03;10/04; 11/04; 19/04; 26/04;9/05; 10/05)
- 7 stakeholder interviews with:
 - Department of Foreign Affairs (11/03; and 15/04)
 - Department of Justice (12/03; and 15/04)
 - SARS (01/03)
 - Department of Home Affairs (10/04)
 - Border Post Control Operations Coordinating Committee (12/04)
- 7 sets of telephonic progress surveys with Mr Moses Sebolai (Botswana);
- 4 sets of telephonic progress surveys with Mr Philip Amunyela (Namibia);
- Namibian country visit that involved:
 - Full briefings to Mr Philip Amunyela and the Under Secretary for Transport;
 - Working session with Adv Samson of the Attorney General's Chambers to familiarise her with the impact of Botswana and South African stakeholder comments to date;
 - Briefing session with the Ministry of Justice; and
 - Working session with Mr Frank Gschwender of the Walvis Bay Corridor Group; and
- Attendance of the Ministerial TKC meeting in Luanda, Angola that involved individual meetings with the different country delegations.

Deliverables

The abovementioned activities resulted in the following deliverables:

- Consolidated stakeholder comment matrix dated 04/04;
- Progress tracking matrix and weekly progress reporting format dated 05/04;

- 3 written progress reports on TKC MoU processing to the Minister of Transport (RSA) dated 01/03, 04/04 and 24/04;
- 2 presentations for use by Mr James Chiumya and Mr Philip Amunyela for the ministerial briefing, stakeholder interviews and ministerial progress reporting dated 02/04 and 18/06;
- 2 status reports reflecting the output of the monitoring of implementation on the basis of the progress tracking matrix;
- Draft letter for signature by the Namibian Minister scheduling the ministerial meeting in Angola to finalize MoU negotiations and decide on modalities for signature;
- Draft record of the Ministerial meeting in Angola and a draft covering letter for signature by the Minister to submit the record and propose a process leading to signature of the MoU in September 2002.

2.2.2 Issues, constraints and opportunities

The most important outcome of these tasks was a political commitment by the Botswana, Namibian and South African Ministers to sign the TKC MoU during September 2002 at the Walvis Bay Port.

The Ministers indicated that they could be ready to sign by August. But, given the very busy SADC meeting schedules and other regional meetings in August, they would prefer to sign during September. Their priority for July and August is to finalize amendments to the Yammasoukrou Declaration (civil aviation) and this is an African Unity priority determined by their Heads of State.

The Ministers resolved that Namibia, through Mr Philip Amunyela, must coordinate a mutually acceptable date as early as possible in September for signature.

The Ministers also accepted in principle that the signing ceremony provides an excellent opportunity for high profile marketing of the TKC.

2.2.3 Recommendations and follow-up

It is recommended that RAPID management:

- (a) periodically touch base with Mr Philip Amunyela to assist, where possible, and support efforts to schedule a mutually convenient date for signature; and

- (b) investigate the feasibility of assisting the TKCMC to exploit the marketing opportunity provided by the signing ceremony.

2.3 Ongoing technical support to the TKC Secretariat.

2.3.1 Description of service and deliverable

Ongoing technical support was provided to the TKCMC Secretariat and this resulted in delivery of the following:

- a first internal draft Secretariat Procedure Manual;
- a final draft Secretariat Procedure Manual accommodating first round comments by Mr Frank Gschwender; and
- a draft bilateral MoU between the Government of Namibia and the Walvis Bay Corridor Group formalizing arrangement for the public funding of the Group that could serve as a model for future funding arrangements for the TKC Secretariat. A model based on this MoU has been included as an exhibit in the draft Secretariat Procedure Manual.

2.3.2 Issues, constraints and opportunities

The Procedure Manual focused on and addresses the principal issues relevant to the Secretariat as it exists currently. Some innovative approaches and procedures have been proposed, but have not yet been tested in practice.

The adequacy of some of the administrative procedures will have to be tested in practice and may require review once the Secretariat starts functioning formally upon entry into force of the TKC MoU.

In particular, more attention will have to be given to dealing with the staffing arrangements of the Secretariat. In this regard, discussions were held with the Secretariat about the feasibility of concluding agreements with appropriate University faculties for the possible introduction of a mentorship programme in terms of which students in appropriate study courses could benefit academically as well as through practical experience by providing services to the Secretariat.

This concept has not yet been investigated fully and would require additional investigation.

2.3.3 Recommendations and follow-up

RAPID management should monitor the adequacy of the Procedure Manual, particularly after entry into force of the TKC MoU with a view to revising and refocusing the procedure, if necessary.

Consideration could also be given to investigating additional options for Secretariat's staffing and incorporate recommended practices in the Procedure Manual.

ANNEX A: LIST OF KEY MEETINGS AND CONTACT INFORMATION

Meeting with	Date (s)	Contact Particulars	Outcomes
James Chiumya, South African Department of Transport	07/03; 11/03; 15/03; 10/04; 19/04; 26/04; 9/05; 10/05	Tel: 012- 309 3480 Fax: 012- 309 3631 E-mail: chiumyaj@ndot.pwv.gov.za	Stakeholder comment of TKC MoU
Ms Tandeka Lujiza, Department of Foreign Affairs	11/03; 15/05	Tel: (012) 351 1000	Stakeholder comment of TKC MoU
Department of Justice	12/03; 15/04		Stakeholder comment of TKC MoU
Mr Theo Ruiters, South African Revenue Services	01/03	Mobile: 082 468 3540	Stakeholder comment of TKC MoU
Ms Marie Greyling, Department of Home Affairs	10/04	Tel: 012- 314 8525 Fax: 012-326 6309	Stakeholder comment of TKC MoU
Director AZB Gous, Border Post Control Operations Coordinating Committee	12/04	Tel: 012-421 8015 Fax: 012- 421 8108	Stakeholder comment of TKC MoU
Mr Moses Sebolai, Botswana Ministry of Works, Transport and Communications	18/03; 15/05	Tel: 09267-305-422 Fax: 09267-300 930 E-mail: msebolai@gov.na	Stakeholder comment of TKC MoU
Mr Philip Amunyela, Namibian Ministry of Works, Transport and Communications	18/03; 15/05; 05/06; 06/06	Tel: 09264-61-208 8711 E-mail: pamunyela@mwtc.gov.na	Stakeholder comment of TKC MoU
Adv Mandi Samson, Namibian Attorney General's Chambers	06/06	Tel: 09264-61-281 2251 Fax: 09264-61-222-428 E-mail: msamson@moj.gov.na	Stakeholder comment of TKC MoU
Mr Frank Gschwender, Walvis Bay Corridor Group	07/06	Tel: 09264-61-251 669 Fax: 09264-61-251 683 E-mail: wbcg@mweb.com.na	Stakeholder comment of TKC MoU
Daphne Matlakala, Botswana Attorney-General's Chambers	18/03	Tel: 09267-354 765 Mobile: 71307627 E-mail: dmatlakala@gov.bw	Stakeholder comment of TKC MoU

ANNEX B: LIST OF DELIVERABLES

DATE	DELIVERABLES
01/03	Written progress report on TKC MoU processing to the South African Minister of Transport
02/04	Presentation for use by Mr James Chiumya for stakeholder interviews and progress reporting
04/04	Written progress report on TKC MoU processing to the South African Minister of Transport
04/04	Consolidated stakeholder comment matrix
05/04	Revised draft MoU text accommodating principal stakeholder comments
05/04	Progress tracking matrix and weekly progress reporting format
24/04	Prepared revised Cabinet Memorandum and updated Ministerial progress report for South Africa
	Monitored implementation of progress tracking matrix and submitted two status reports
	Prepared draft letter for signature by Namibian Minister scheduling Ministerial meeting to finalise MoU negotiations and decide on modalities for signature
	Prepared outline for Government of Namibia’s letter of commitment to partially fund the Walvis Bay corridor group (final draft letter to be finalised)
30/04	Revised draft MoU text accommodating additional South African stakeholder comments
10/06	Revised draft MoU text accommodating final Namibian stakeholder comments
	Prepared presentation on behalf of the three TKC co-chairs for ministerial briefing to be held in Luanda, Angola
	Prepared brief hand-out for ministerial briefing
	First internal draft Secretariat Procedure Manual prepared and discussed with Mr Frank Gschwender and preliminary comments accommodated.
	Prepared outline for Government of Namibia’s letter of commitment to partially fund the Walvis Bay corridor group (final draft letter to be finalised)

24/06	<p>Draft ministerial covering letter and record of ministers meeting in Luanda confirming:</p> <ul style="list-style-type: none"> (i) Minister's approval in principle of the TKC MoU (ii) Minister's decision to sign TKC MoU during September 2002 at the Walvis Bay Port
27/06 (revised on 23 July 2002)	Final draft Secretariat Procedure Manual based on comments of Mr Frank Gschwender