


**SADC PROTOCOL ON THE FACILITATION OF MOVEMENT OF PERSONS**

A Presentation to the  
Portfolio Committee

National Immigration Branch  
Department of Home Affairs

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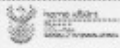
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**SADC PROTOCOL ON THE FACILITATION OF MOVEMENT OF PERSONS**

**Background**

- Protocol negotiated over many years, with consensus reached on 23-24 May 2005.
- Draft protocol presented at Summit meeting of August 2005 in Gaborone, Botswana and endorsed by the Summit.
- Out of 14 member States, nine (9) have signed thus far (South Africa, Botswana, Mozambique, Lesotho, Namibia, Tanzania, Democratic Republic of Congo, Swaziland, Zimbabwe).
- Not signed: Angola, Malawi, Zambia, Mauritius and Madagascar.
- Only one (1) Member State, i.e. Mozambique, has already ratified the Protocol.
- Only after ratification of the protocol by nine (9) Member States, will the instrument enter into force.

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**SADC PROTOCOL ON THE FACILITATION OF MOVEMENT OF PERSONS**

**Main objective**

- Develop policies that would progressively eliminate obstacles to the movement of persons generally into and within the territories of State parties

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SADC PROTOCOL ON THE FACILITATION OF MOVEMENT OF PERSONS

**Specific objectives**

- Facilitate entry, for lawful purpose and without a visa, into the territory of another state party for a maximum period of ninety days per year for bona fide visit and in accordance with the law of State parties concerned;
- Facilitate permanent and temporary residence in the territory of another State Party;
- Facilitate the establishment of oneself in the territory of another State Party.



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**Visa free entry**

- No visa, but a valid passport is needed to enter a state;
- The maximum period of stay is ninety (90) days per year. Extensions will be subject to national laws;
- Sufficient means of support for the period of stay;
- Visitors must not be prohibited persons under the laws of the host state;
- Entry must be through a port of entry;
- Bilateral agreements will guide the admission of persons without any travel documents.



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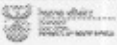
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**Visa free entry (cont.)**

- A State party may be exempted from these requirements;
- The requirement/ imposition of visas will be on condition that
- Visitors may apply for a visa at a port of entry
- Such a visa will be issued free of charge
- The exemption from visa free travel will not be for longer than twelve months
- Summit may extend the period of exemption of a State party upon consideration.



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SADC PROTOCOL ON THE FACILITATION OF MOVEMENT OF PERSONS

**Implementation of the Protocol**

- After at least nine Member States have signed the Protocol, an Implementation Framework must be agreed upon by Member States within six months after signature;
- All national laws, statutory rules and regulations must be in harmony and promote the objectives of the Protocol;
- Member States must act as a community in implementing the Protocol.



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SADC PROTOCOL ON THE FACILITATION OF MOVEMENT OF PERSONS

**Conditions for success**

- The maintenance of a population register for the identification of status of citizens and permanent residents; (article 8)
- Cooperation and mutual assistance in the spheres of policy formulation, awareness raising, exchange of crime, security and intelligence related information, training; sufficiently equipped ports, the prevention of illegal migration within and into the region; (article 11)
- Availability of travel documents, machine readable passports and related facilities. (article 12)



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SADC PROTOCOL ON THE FACILITATION OF MOVEMENT OF PERSONS

**Conditions for successful implementation**

- Harmonisation of laws and administrative practices;
- Standardisation of immigration forms;
- Establishment of a SADC Desk at each major port of entry;
- Establishment of border crossing points with identical opening hours, one operational on a twenty four hour basis;
- Issuing of border permits/border passes;
- Abolition of visas, or issue them free of charge in cases where these are considered as necessary;
- Provision of training for senior immigration, customs, police and security officials



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**Residence**

- Permission to reside in the territory of a Member State in accordance with its national laws
- There should be no undue delay with residency applications;
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**Establishment**

- Permission granted by a State party, in accordance with its national laws, to a citizen of another State Party to:
  - exercise an economic activity and profession either as an employee or self-employed person;
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### Settlement of disputes

- Disputes regarding the interpretation of the Protocol will be resolved through negotiation by the Chairperson of the Organ, or by Summit;
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### Amendments to the Protocol

- Written proposals must be submitted to the Executive Secretary for amendments or review.
- The Executive Secretary will notify the Committee of Ministers and all Members States within thirty days;
- Council will consider the amendments following ninety days after notification to Member States;
- The Organ recommend amendments, which adoption will be subject to three quarters of Member States.



Main challenges in terms of Implementation	Measure to address challenges
<b>Policy and Legal challenges</b>	
Coherence between our immigration legislation and provision of the Protocol	Review of immigration legislation as identified in the DHA Strategic plan 2006-2009. Currently a Policy Review process is underway to align all legislation administered by the department. This will include the Protocol.
Coherence between the provisions of the bilateral visa waiver agreements and the Protocol	Review of visa policy of member States to ensure coherence with Protocol. A task team have been appointed by the Minister to review our Visa Regime.






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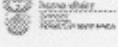
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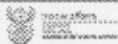
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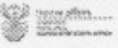
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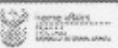
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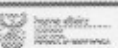
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**Expulsion (cont)**

- The principles that govern expulsion are:
- ✓ The provision of adequate notice of expulsion;
- ✓ Recourse to domestic courts and tribunals;
- ✓ Suspension of an expulsion order upon the notice of appeal;
- ✓ Sufficient time to settle personal affairs, management and disposal of business or professional practices;
- ✓ Expulsion order may not affect the status of independent family members
- ✓ Expulsion costs may be shared between the host country and the country of origin.

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SOUTHERN AFRICAN DEVELOPMENT COMMUNITY  
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SADC PROTOCOL ON THE FACILITATION OF MOVEMENT OF PERSONS

**Refugee protection**

- A Memorandum of Understanding will govern the management of refugees in the region;
- Cooperation with the United Nations High Commission for Refugees (UNHCR), the International Organisation for Migration (IOM) and other International Organisations.

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SADC PROTOCOL ON THE FACILITATION OF MOVEMENT OF PERSONS

**Institutions for Implementation of the Protocol**

- Article 9 of the SADC Treaty institutions
- The Committee of Ministers responsible for Public Security;
- Any committee established by the Ministerial Committee of the Organ.

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Main challenges in terms of Implementation	Measure to address challenges
<b>Policy and Legal challenges (cont.)</b>	
Knowledge of, and popular support from citizens for the SADC Protocol	Conduct a mass mobilisation campaign in conjunction with the GCIS. An internal communication strategy is being developed. Stakeholders (including BCOCC) and JCPS cluster have been engaged and continuous interaction is taking place.
Opening of border crossing points (Article 13)	Propose amendments to the concept to mean ports of entry Categorise RSA ports of entry for SADC Member States to ensure effective implementation of the Protocol




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SADC PROTOCOL ON THE FACILITATION OF MOVEMENT OF PERSONS	
Main challenges in terms of Implementation	Measure to address challenges
<b>Human Resource challenges</b>	
Insufficient numbers of immigration officers at all ports of entry	Ensure adequate staffing at all ports of entry, prioritising key ports of entry. A comprehensive HR plan is being developed for the NIB which will incorporate the staff requirements needed to implement the Protocol.
Training of immigration officers	Develop a training plan for immigration officers, explore the establishment/ utilisation of training facilities. The Protocol is being incorporated into the current training material for NIB.




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Main challenges in terms of Implementation	Measure to address challenges
<b>Human Resource challenges (cont.)</b>	
Establish a SADC Desk at each main port of entry	Determine the purpose of the SADC Desk, and the attendant functions of immigration officers Staffing of the SADC Desks, and efficient immigration services form part of the NIB HR plan.




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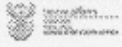
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Information Technology and Systems challenges:	
Detection of fraudulent documents at ports of entry	Ensure that all ports are equipped with fraud detection equipment, and specialised training of immigration officers in document fraud detection. Electronic database of travel documents of countries to be procured.
Non - integration of immigration systems	Accelerate the integration of all immigration systems at particularly Ports of Entry to prevent entry by prohibited persons
Contaminated population register	The restoring of the integrity of the national population register project is currently underway (eg. Back Record Conversion completed).
	

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Thank you  
 Siyabonga  
 Rea leboga  
 Ha Khensa  
 Ndi a livhuhwa  
 Dankie



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