TRAINING WORKSHOP
FOR KENYA & TANZANIA
27-28 March 2017 – NAMANGA BORDER

TOPIC:
THE OSBP CONCEPT, OPERATIONS
& PROCEDURES

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Resource Person

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Main Topics

- Definition and objectives of OSBPs

- Pillars for OSBP Operations

- Key Operating Principles and Features

- Border Crossing Procedures

- Economic Impact of OSBPs

Introduction

Objectives

To highlight and share basic knowledge on the OSBP concept, key operating principles and border crossing procedures to enable participants competently execute their functions or provide services under the OSBP framework.

Methodology

Workshop presentations, plenary discussions and case studies.

Introduction

Definition of an OSBP

- Narrowly defined, an OSBP is a border crossing point where travelers, goods, and the means of transport stop once to undertake exit formalities from one country and entry formalities into the other.

Objective of an OSBP

- An OSBP is a trade and transport facilitation tool that is designed to expedite border crossing operations through simplified and harmonised international trade and transport procedures at border posts.
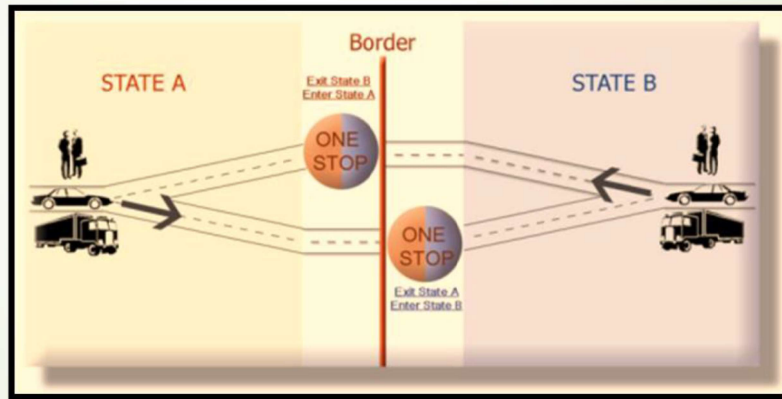
OSBP Models

There are three common models:

- Juxtaposed Model
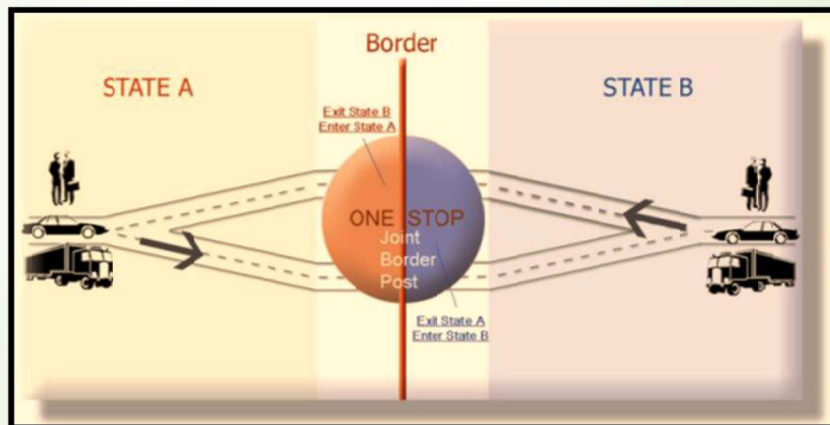- Straddling Model
- Single Country or Wholly Located Model

Juxtaposed Model

Straddling Model

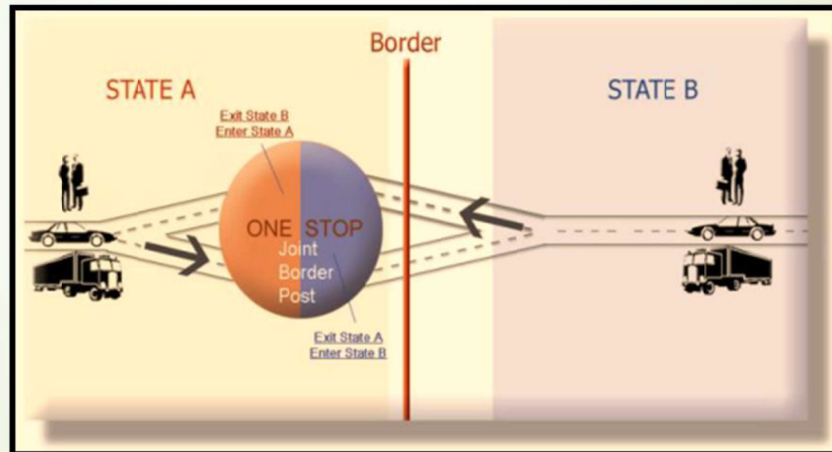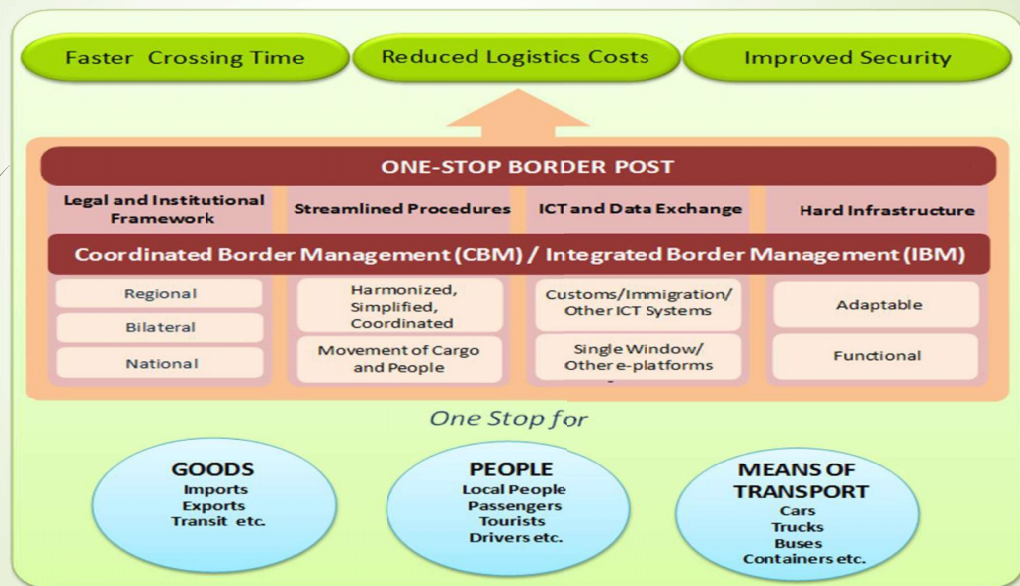# Single country Model

Pillars for OSBP Operations

The four key pillars for successful OSBP operations are:

1. Legal and institutional framework
2. Streamlined procedures
3. Hard Infrastructure
4. ICT and data exchange systems

Pillars for OSBP Operations

Legal & Institutional Framework

- To be successful, OSBP operations should be anchored on a strong and robust legal and regulatory framework .

- Required to facilitate the coordination of several agencies from one state, on one hand and with agencies of the adjoining state, on the other.

- In particular, the framework is required for the application of OSBP principles on extraterritorial application of laws, hosting arrangements, observation of jurisdiction, implementation of joint controls, exchange of information, maintenance of law and order, etc.

Legal & Institutional Framework

- A mix of legal and regulatory instruments may be required for optimal OSBP operations.

- The process involves interventions at national, bilateral and regional levels.

- Other provisions may be influenced by multilateral/international requirements.

- The initial activity involves negotiating and signing a bilateral agreement or equivalent with the adjoining state.

- This processes is followed by a review of all the laws on border operations at national/regional level to facilitate amendments and alignment in line with the requirements for OSBP operations

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Legal & Institutional Framework

- Secure adequate funding and use suitable venues for the workshops is of paramount importance;

- Provide continuous briefs and consultations with all levels of the parent ministries and private sector associations for continuous buy-in to the outcomes of the process;

- Involve the legal officers from the Attorney General's Office from the outset so that they can provide expert guidance and oversight of the process;

- You may opt to involve a consultant as an independent third party with the requisite experience to drive the process; and

- considering the close interaction and linkage between the legal and technical aspects of the process, both technocrats and policymakers should participate in the development of the legal framework.

Legal & Institutional Framework

■ **http://www.eala.org/uploads/EACOneStopBorderPostAct.pdf**

Institutional Framework

■ OSBP institutional framework refers to the various organizational structures for managing OSBP projects and operations.

■ During the project phase, these institutions are responsible for ensuring timely and cost effective implementation of the project.

■ After operationalization, the OSBP institutions are responsible for ensuring smooth execution of OSBP operations.

Institutional Framework

Vertical Coordination

Regional Level

National Level

Local Level

Border Level
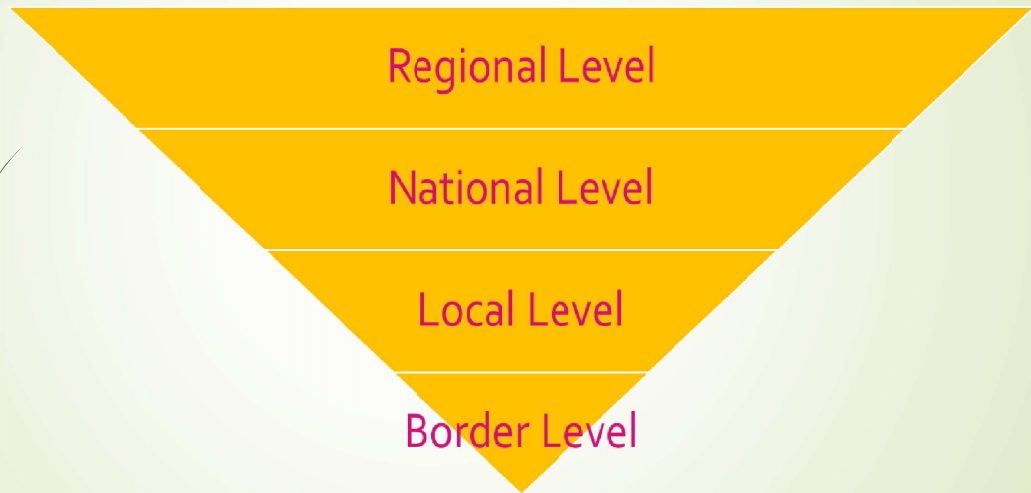
Institutional Framework

Horizontal Coordination

Public Sector	Private Sector	Civil Society/Community Representatives

Institutional Framework

Structures may broadly follow the outline below:

Steering Committee (Ministers and/equivalent)

Coordination Committee (Permanent Secretaries or equivalent)

Technical Committees (Infrastructure, Legal, Procedures, ICT, Procedures, Security etc.)

Operations Committee (Border agencies)

Specific experts may be coopted as required.

Institutional Framework

The Lead Agency

To achieve coordinated implementation of OSBP projects and operations, it is advisable to consider appointing a Lead Agency.

The role of a Lead Agency is to provide **coordination** functions at the OSBP

The lead agency should be the focal point for all operational and administrative matters among border agencies.

The lead agency is the focal point for all other stakeholders e.g. users, the community,

* Caution: Each border agency still retains its full mandate!!!!

Key OSBP Operating Principles and Features

1) Application of national laws
2) Common Control Zone
3) Exclusive Use Areas
4) Extraterritoriality and Hosting Arrangements
5) Sequencing of Controls
6) Exercise of Jurisdiction
7) Conducting Joint Controls
8) Maintenance of Peace, Security, Law and Order

OSBP Procedures

Main operations at a border crossing:

1. Clearance of travelers
2. Clearance of goods
3. Clearance of the means of transport

OSBP Procedures

⮞ OSBP procedures should take into consideration the following aspects:

1. To the extent possible, Partner States sharing an OSBP should harminise documents and procedures for joint controls.

2. To the extent possible, allow for electronic pre-lodgement of clearance documents;

3. Expedite controls for small scale traders;

4. Take into account the requirements of border communities

OSBP Procedures

⮞ OSBP procedures should take into consideration the following aspects:

1. To the extent possible, Partner States sharing an OSBP should harmonise documents and procedures for joint controls.

2. To the extent possible, allow for electronic pre-lodgement of clearance documents;

3. Expedite controls for small scale traders;

4. Take into account the requirements of border communities

Simplifying and Harmonising Procedures

1. Border procedures should be simplified and harmonized for the following reasons:

2. To align procedures to OSBP principles and objectives.

3. To address outdated and cumbersome procedures.

4. To take advantage of new tools and technology e.g. for processing documents, verification of cargo, transmission of information etc.

5. To improve processing time and accuracy to enhance supply chain efficiency.

6. To promote transparency and predictability in order to achieve reduced border crossing time and costs.

Simplifying and Harmonising Procedures

Simplifying and Harmonising Procedures

Simplifying & Harmonising Procedures

1. Documentation
2. Information and directional signs
3. Process flows and sequence of controls
4. Physical searches by Immigration and security agencies
5. Physical verification of luggage and cargo
6. Logistical equipment and storage facilities
7. Enforcement and compliance activities
8. Payment systems
9. Operating hours
10. Identity and visibility of staff at the borders
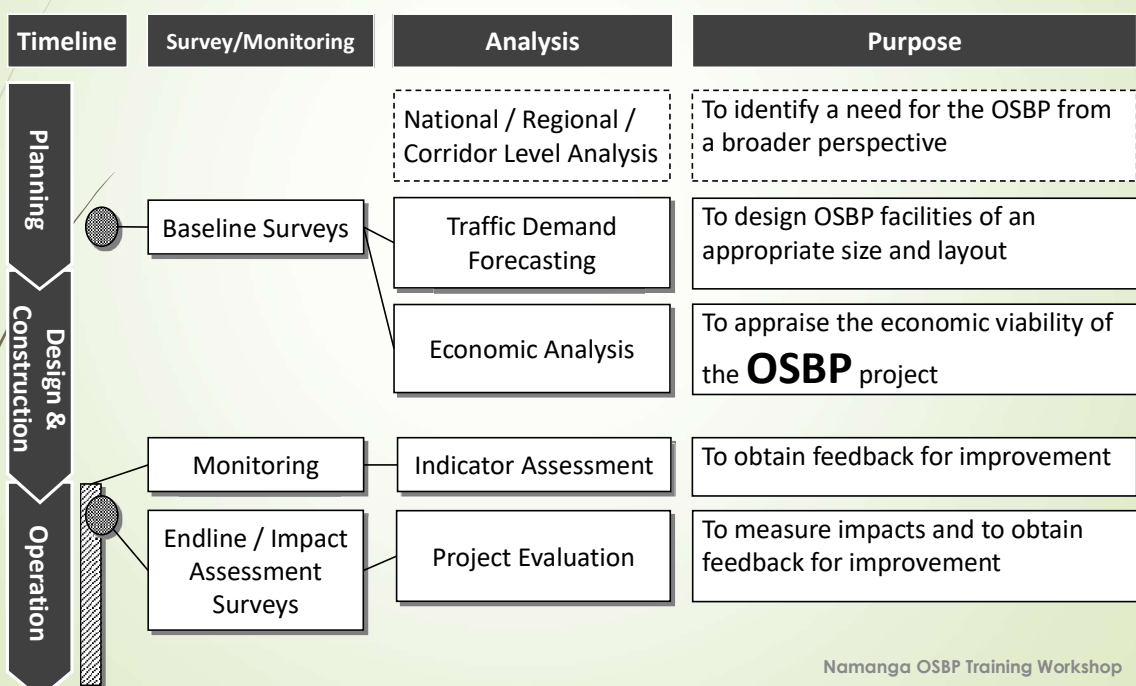11. Access controls
12. Traffic circulation

Simplifying & Harmonising Procedures

Key steps for simplifying and harmonizing border procedures involve:

- Reviewing existing procedures.
- Involving all border agencies and private sector operators responsible for border operations.
- Revising procedures to remove redundancy and duplications, and to align to legal requirements and standards.
- Training officers and sensitizing users on new procedures.
- Where possible, automating procedures.
- Conducting continuous performance reviews to assess impact on operations.
- Improving procedures.

Economic Impact of OSBPs

Necessity of Impact Measurement and Monitoring

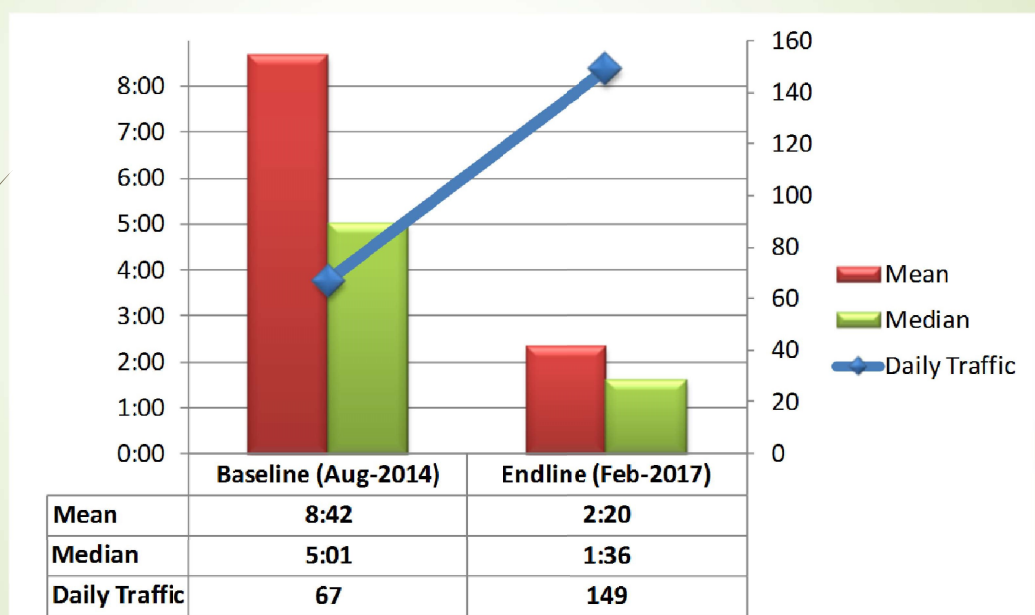| Timeline	Survey/Monitoring	Analysis	Purpose
Planning		National / Regional / Corridor Level Analysis	To identify a need for the OSBP from a broader perspective
	Baseline Surveys	Traffic Demand Forecasting	To design OSBP facilities of an appropriate size and layout
Design & Construction		Economic Analysis	To appraise the economic viability of the **OSBP** project
Operation	Monitoring	Indicator Assessment	To obtain feedback for improvement
	Endline / Impact Assessment Surveys	Project Evaluation	To measure impacts and to obtain feedback for improvement

Benefits at Various Levels
Local Community/Businesses

Objective/Impact to Be Measured (Reception of Benefit)	Scope	Order of Ease of Measurement	Evaluation Method
Reductions in average times and costs of transport (benefit of user/transporter)	Corridor or border post	1	Transport cost-benefit analysis
Reductions in variability of time and cost of transport (benefit of user/transporter)	National/regional or corridor	2	Supply chain analysis
Increases in trade (benefit of national economy)	National/regional or corridor	3	Trade impact analysis
Improvements in other aspects of national economies (benefit of national economy)	National/regional	4	Macroeconomic modeling

Performance of Rusumo OSBP

	Baseline (Aug-2014)	Endline (Feb-2017)
Mean	8:42	2:20
Median	5:01	1:36
Daily Traffic	67	149

Saving Transport Costs by Faster Border Crossing (Preliminary Assessment)

Time Savings	×	Traffic Volume	×	Value of Time	=	Cost Savings
6:22 h/veh.		149 veh./day		200-500 USD/24h /veh.		7,900-19,800 USD/day

2.9m-7.2m USD/year

Namanga OSBP Training Workshop

Benefits of OSBPs
[Ref.] Case Study of the North-South Corridor

-11.4 hrs
(-27.5%)

-16.7 hrs
(-40.3%)

-16.4 hrs
(-39.4%)

-29.0 hrs
(-69.8%)

Hours

- Entry Side
- Exit Side + Bridge
- Before Gate

[Base] Status Quo   [Case 1] Physical   [Case 2] Procedures   [Case 3] Joint Operation   [All] Packaged
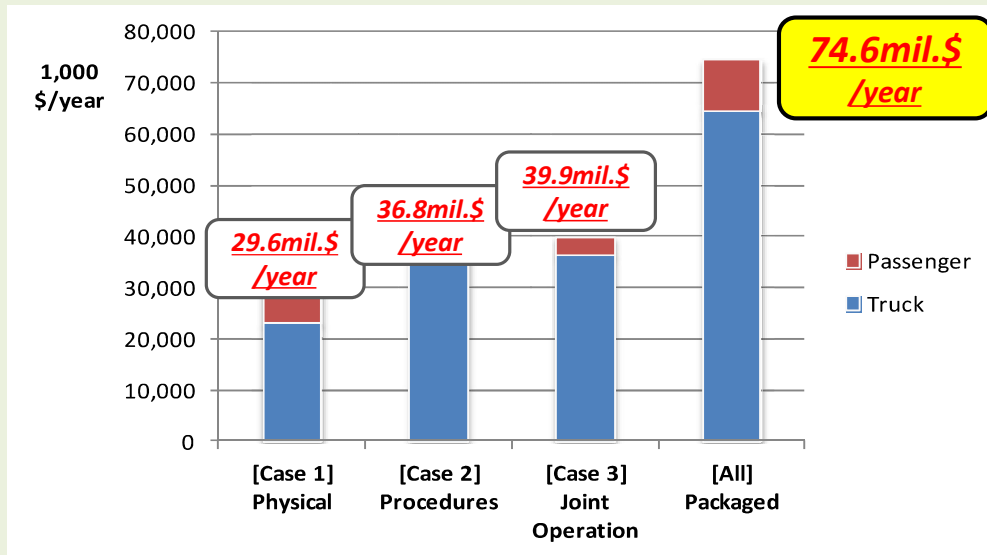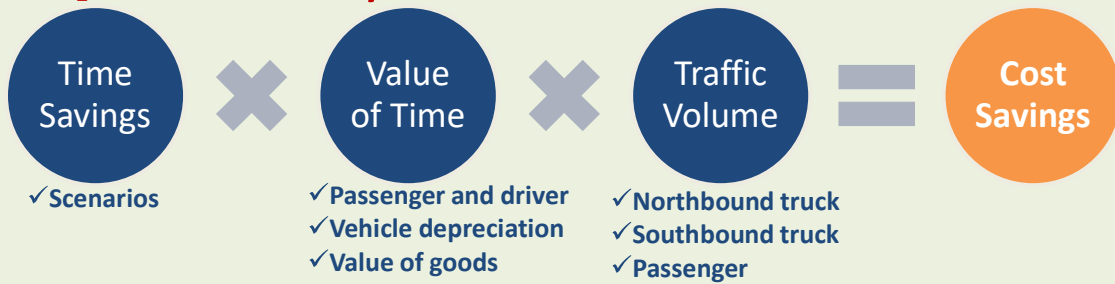
Time Reduction of Northbound Truck
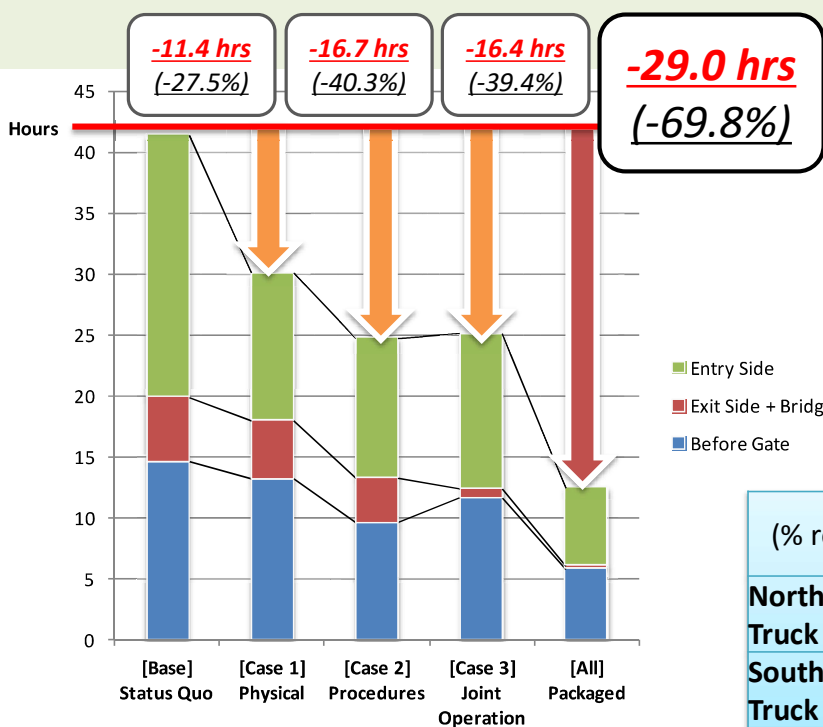
[Case 1] Physical improvement
[Case 2] Streamlining procedures
[Case 3] Joint operation (=OSBP arrangement)
[All] Package of cases 1-3

(% reduction)	[Case 1]	[Case 2]	[Case 3]	[All]
Northbound Truck	-27.5	-40.3	-39.4	**-69.8**
Southbound Truck	-9.9	-27.2	-32.1	**-57.3**
Passenger	-39.6	-4.1	-21.1	**-60.7**

Benefits of OSBP
[Ref.] Case Study of the North-South Corridor

Time Savings ✗ **Value of Time** ✗ **Traffic Volume** = **Cost Savings**

✓Scenarios

✓Passenger and driver
✓Vehicle depreciation
✓Value of goods

✓Northbound truck
✓Southbound truck
✓Passenger

74.6mil.$ /year

1,000 $/year

- **29.6mil.$ /year**
- **36.8mil.$ /year**
- **39.9mil.$ /year**

■ Passenger
■ Truck

[Case 1] Physical | [Case 2] Procedures | [Case 3] Joint Operation | [All] Packaged

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Management of OSBP Facilities

I. **Funding Models for Construction and Rehabilitation**
➡ Public
➡ Public-Private Partnership / Private Sector Involvement

II. **Modes of Financing**
➡ User Fees
➡ Treasury

Management of OSBP Facilities

III. Funding and Management Models at Operational Stage

- (Technical) Operational Management
- Logistical Management
- Safety/Security Management and Traffic Regulation

Funding and Management Models – Operational Stage

Public Body	Pros	Cons
Lead agency at the border	It is familiar with the specific requirements, it is hands-on, and it can quickly react	It may be too "bureaucratic", it has no expertise in facility management, and it should focus on its operational tasks
Host country ministry of works	It has general expertise in facility management	It has no specific expertise in border post requirements and due to distance from the border it may require a long lead time to react
Parastatal specially created for the purpose of logistic manage	Solely focused on providing logistics for border agencies and may have strong political support for the role	It may be too "bureaucratic" and the work may be insufficient for permanent activity of the parastatal

Management of OSBP Facilities

Bilateral Arrangements: Instrument to Set Conditions

- User Fee Collection
- Sharing of Expenses for Shared Use of OSBP Infrastructure and Facilities

Management of OSBP Facilities

Part D of the Namanga OSBP Operational Manual

1. Management

1.1 <u>The host state shall manage the OSBP infrastructure and shall be responsible for the following:</u>
  - (i) Maintenance and rehabilitation;
  - (ii) Provision and replacement of office equipment, fixtures, and furniture when deemed necessary;
  - (iii) Installation of new facilities, as necessary;
  - (iv) Cleaning services;
  - (v) Security of infrastructure;
  - (vi) Water and electricity bills;
  - (vii) IT facilities, excluding software; and
  - (viii) Any other related items.

1.2 Officers using the OSBP infrastructure shall be answerable to the management of the border post to enhance sense of responsibility during working hours.

Clearance of Travelers

Broad categories of travelers include:

1. **Pedestrians** (Local or International)
2. **Passengers** (private or public transport)
3. **Drivers and Crew** of Commercial Vehicles (freight or passenger)
4. **(Border Community Residents)**
5. **(Officials of border control agencies and other service providers)**

Clearance of Goods

Categories of Goods

Imports

Exports

Goods in Transit

Clearance of Goods

Types of Goods Include:

1) General Cargo
2) Perishables
3) Live Animals/Plants
4) Hazardous Products
5) Abnormal loads
6) (Empty transport service vehicles)

Complementary Trade Facilitation Measures

Pre-Arrival Processing

a) Reduced delays at border posts;

b) Facilitates efficient use of the means of transport by transporters through scheduled deliveries;

c) Facilitates just-in time deliveries for traders thereby reducing storage costs;

d) Enables the use of risk management systems and principles by Customs agencies; and

e) Allows for better allocation and use of human resources at borders posts.

Complementary Trade Facilitation Measures

Risk Management

Benefits for compliant traders and travelers:

a) Faster clearance through better targeting of high risk cargo and travelers;

b) Facilitation of the vast majority of low risk transactions;

c) Reduced delays for industry, reducing the cost of doing business;

d) Lower transaction costs; and

e) Improved collaboration with border agencies.

Complementary Trade Facilitation Measures

Risk Management

Benefits for border control agencies:

a) Accurate selection of high risk transactions and travelers;

b) Efficient allocation of human resources; and

c) Reduction of time and resource wastage.

Complementary Trade Facilitation Measures

Trusted Trader Schemes e.g. AEO

a) Shared responsibility between trader/operator and government

b) Simplified procedures for compliant traders/operators

c) Efficient use of resources by government agencies

d) Promotes transparency and compliance

Complementary Trade Facilitation Measures

Post Clearance Audits

1. Minimises unnecessary delays at the border

2. Enables detailed scrutiny of business records

3. Provides a wider understanding of the business systems and environment

4. Directs attention on the high-risk areas, for a more cost-effective use of the available resources

5. Traders that comply with laws and regulations are subjected to fewer compliance checks

Complementary Trade Facilitation Measures

Single Window & ICT Systems

Definition: "a facility that allows parties involved in trade and transport to lodge standardized information and documents with a single entry point to fulfil all import, export, and transit-related regulatory requirements"

1) Simplified trade information exchange
2) Faster trade documentation processing - electronic
3) Reduce errors with minimized data re-entry
4) Improved efficiency & transparency – eliminates manual processes
5) Security in supply chain process -traceability

Complementary Trade Facilitation Measures

Traffic Management

Mechanisms:

1. Traffic segmentation
2. Adequate and legible signage
3. Use of traffic marshals
4. Construction of by-pass roads
5. Joint controls
6. Aligned sequencing of controls
7. Use of non-intrusive technology

Complementary Trade Facilitation Measures

➡ **Categories of Traffic**

Complementary Trade Facilitation Measures

Performance Measurement
How:

1. Baseline studies
2. End-line studies
3. Benchmarking missions
4. Set performance targets
5. Produce routine performance reports
6. Review procedures

Avoid such scenarios at border crossings

Case Studies Break Out Session

The End/.

Always remember that interagency and inter-state coordination are critical for successful OSBP operations!

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MINUTES

OF

THE FIRST REGIONAL TECHNICAL COMMITTEE MEETING

FOR

PREPARATION OF A REGIONAL ONE-STOP BORDER POST

OPERATIONAL PROCEDURES MANUAL

UNDER

THE PROJECT FOR CAPACITY DEVELOPMENT FOR INTERNATIONAL TRADE

FACILITATION IN THE EASTERN AFRICAN REGION

28 August 2015
Arusha (Ngurdoto), Tanzania

ng. Abdillah M. Mataka	Ms. Marie Jeanne Kamariza	Mr. Alfred Kitolo	Mr. Ngabonziza Theophile	Mr. Okello Cypriano
linistry of East African ooperation	Ministry to the Office of the President Responsible	Ministry of East African Affairs,	Rwanda Revenue Authority	Ministry of Works and Transport
nited Republic of anzania	for EAC Affairs Republic of Burundi	Commerce and Tourism Republic of Kenya	Republic of Rwanda	Republic of Uganda

I.   Background and Objective

1.   Responding to requests from the Governments of the Partner States of the East African Community (EAC), in December 2013 the Japan International Cooperation Agency (JICA) exchanged signatures on records of discussions (with each participating country) for the Project on Capacity Development for International Trade Facilitation in the Eastern African Region (JICA Trade Facilitation Project), covering Phase 3 components of the preceding Project on Capacity Building for the Customs Administrations of the Eastern African Region (Phases 1 and 2), including a technical cooperation project component for operationalization of One-Stop Border Posts (OSBPs) in the region. The first phase of this technical cooperation component for OSBP operationalization was conducted from April 2014 to March 2015, while the second phase commenced in June 2015 and is scheduled to continue to August 2017. The current second phase includes an activity to support preparation of a regional OSBP procedures manual for the Partner States of the East African Community.

2.   The specific background is that the third joint technical committee (JTC) meetings for the Rusumo and Namanga OSBPs in November and December 2014 called for JICA to consider supporting the harmonization of manuals of guidelines and procedures for OSBPs in the EAC (for border crossings involving the five Partner States) in the second phase of the JICA OSBP technical cooperation project component. Also, the minutes of the third Regional Joint Coordinating Committee (RJCC) meeting in November 2014 in Bujumbura called for harmonizing OSBP procedures in the EAC. Following these developments, the participants in the fourth RJCC meeting held in May 2014 in Kampala, agreed to develop a regional OSBP procedures manual for Partner States in the EAC.

3.   Therefore, the objective is to develop and reach formal agreement on harmonized EAC standard OSBP guidelines and procedures for use by the border control authorities of the EAC Partner States, drawing on the experience of OSBPs at Rusumo, Namanga, and elsewhere to provide for consistent practice throughout the EAC.

4.   A total of five regional technical committee (RTC) meetings will be held to facilitate discussions/negotiations among the five EAC Partner States to prepare and refine the EAC regional operational procedures manual. The current regional technical committee meeting ("the meeting"), held near Arusha, is the first of the five meetings.

5   **Annex 1** to these minutes presents the meeting program, while **Annex 2** provides a list of meeting participants.

II.   Opening

6.   Eng. Abdillah M. Mataka, Assistant Director (Economic Infrastructure), Ministry of East African Cooperation, United Republic of Tanzania, opened the meeting. The bureau was then constituted. Eng. Mataka, Tanzania was recognized as chair. Mr. Martin Lutaaya, Economist, Ministry of East African Community Affairs, the Republic of Uganda, fulfilled the rapporteur function. The agenda/program was adopted, and the participants introduced themselves.

7.   Mr. Kenneth Bagamuhunda, Director, Customs Directorate, EAC Secretariat, welcomed the participants to the meeting. He observed that it has taken some time to put in place the necessary infrastructure to operationalize OSBPs, but remarkable progress has been made. The EAC is putting into place the necessary legal instruments: an EAC Act, OSBP Regulations, and now an EAC OSBP operational procedures manual. Operationalization of the

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Single Customs Territory (SCT) began last year. OSBPs are a critical element in the operationalization of the SCT, since borders will not disappear. Because cross-border activities will continue, it will remain necessary to facilitate the movement of goods and people across the borders. Each OSBP will have its own peculiarities, but the manual should be developed to address all kinds of processes that take place in OSBPs. A cross-cutting framework should be developed. The EAC Secretariat recognizes the support of its development partners in operationalizing OSBPs, including African Development Bank, JICA, and Trademark East Africa (TMEA). There will be challenges in the operationalization of OSBPs, but the instruments being developed will address some of those challenges. A number of OSBPs will be launched later this year and next year. Since different agencies are not at the same level of readiness in terms of operations, he noted that an operationalization plan is critical for the various OSBPs.

8.   Mr. Makoto Uchiyama, Chief Advisor, JICA Trade Facilitation Project, noted that the meeting was being attended by representatives of the various stakeholders and users of OSBPs (e.g., Customs, Immigration, Police, Agriculture, Standards, Health, Livestock, and the clearing and forwarding fraternity). He observed that most of the meeting participants have been involved with the development of bilateral agreements and procedures manuals for key OSBPs in the region. Since many of the border crossings in the region apply OSBP models, there is a need to have a harmonized procedure and manuals that can be applied across the region. He noted that under the framework of the Tokyo International Conference on African Development (TICAD), the Government of Japan and JICA have committed to contributing to the acceleration of the African development, including the facilitation of trade and investment in the region. As part of this effort, many of the border crossings in the region will soon be commencing OSBP operations. He observed that this region may be unique in the sense that it has all three types of OSBP models and operations will start at many borders almost at the same time. Therefore, it will be important that the border officials are well-trained, and local governments and communities are sensitized on OSBP concepts and procedures as OSBP procedures change the way of operations.

9.   Eng. Mataka, Tanzania, expressed his sincere thanks to JICA and the Government of Japan for their support, and the EAC Secretariat for its strong facilitation. He expressed his hope that the Partner States will continue to work together as they did in the preparation of the EAC OSBP Regulations 2015. He noted that this is the first of five scheduled meetings to develop a regional manual. It will be important for the Partner States to provide their views based on their experience in the development of bilateral OSBP procedures manuals. He noted that the Holili/Taveta OSBP, which was visited on the second day of the meeting, began operations in May 2015; the visit was planned to enhance the meeting's thinking toward the development of the regional OSBP procedures manual.

10.   Mr. Bruce Winston, Team Leader, JICA OSBP Expert Team, discussed the planned work of the RTC and reviewed expectations from this initial meeting and subsequent meetings. He noted that the meeting will first cover the relevant legal framework, the EAC Act and Regulations. It will then consider the legal position of the manual within this overall legal framework. Next, it will consider the general approach and outline of the regional OSBP manual, and then present some draft text for the manual. In addition, he noted the planned site visit to the Holili/Taveta OSBP, which is now operating as an OSBP, was programmed to provide lessons to inform the preparation of the regional manual.

III. OSBP Act and Regulations

11. Mr. Arnold Nkoma, Border Management Expert, Customs Directorate, EAC Secretariat, presented an overview of the EAC Act and Regulations. He started by providing the background and overall history of the OSBP legislation; the current status is that one presidential assent remains before the Act enters into force. He then set out salient features of the OSBP Act (e.g., it applies only to EAC Partner States, it provides for extraterritorial application of national laws, it covers the conduct of border controls within the control zone, it prescribes the sequential application of border interventions, reversal and joint application of laws is provided). Next, he reviewed the OSBP Regulations 2015, to be approved by the EAC Policy Organs by November 2015. He noted that a draft model bilateral agreement has been drafted as one of the schedules of the Regulations. Existing bilateral agreements may be revised to address certain peculiarities and border situations. He added that the regional procedures manual will be developed with assistance of JICA in the current series of RTC meetings. He stated that the regional procedures manual as much as possible should reflect the OSBP Act and Regulations so that during implementation at the regional level it will not be necessary to revisit the work that has been done. Mr. Nkoma's PowerPoint presentation is attached as **Annex 3**.

12. The delegation of the Republic of Kenya thanked Mr. Nkoma for his presentation. They stressed the interrelated nature of the Act, Regulations, and the Manual. At their request, a (soft) copy of the Act and (draft) Regulations was distributed to the participants.

13. The delegation of the Republic of Rwanda noted that they have two OSBPs in operation with the Republic of Burundi, at the Nemba-Gasenyi I and Ruhwa borders. Rwanda has also signed an operational procedures manual with Tanzania for the the Rusumo OSBP. They expressed concern whether they can continue to operate these OSBPs with their current bilateral procedures manuals.

14. Tanzania asked about the relation between the Manual and the Act and Regulations.

15. Uganda supported Kenya's request for draft copies of the Act and Regulations. They observed that the Manual ideally should have been prepared before the construction of the OSBPs.

16. Burundi inquired when the last Partner State's President will assent to the EAC OSBP Act.

17. Mr. Nkoma noted the importance of distributing the source documents, i.e., the Act and draft Regulations, so that all are "in the know". The draft Regulations were prepared not to contradict the Act. Reference may also be made to the Single Customs Territory (SCT) manual since it affects OSBP operations. He observed that the Manual to be prepared must reflect current OSBP practices. He added that the Manual will be an operational tool to guide officers in addition to the applicable laws and regulations.

18. The JICA OSBP Team informed the meeting of the schedule for the development of the regional OSBP manual set out in the concept paper, with the final meeting to be held in July 2016.

19. Mr. Nelson Goncalves, Programme Manager, International Office for Migration (IOM), stated that IOM was ready and willing to contribute its expertise on immigration matters to the process of preparing the regional OSBP procedures manual.

20.   Referring to EAC OSBP Act, Tanzania urged that the manual be developed in reference to the Act and draft Regulations.

IV.   The Position of the Manual/Procedures in the Hierarchy of EAC Laws/Regulations and A Review of Existing OSBP Operational Manuals

21.   Dr. Kristiaan Bernauw, Legal Specialist, JICA OSBP Team, presented the legal context, an overview of existing manuals, and the general approach to preparing the regional manual. Regarding the legal context, he stated that in principle the manual will rephrase the existing body of law. He then discussed the position of the manual in the supranational legislation (i.e., as an annex to and as an integral part of the EAC Regulations). He also discussed the incorporation of the manual into the Partner States' bodies of law. He then provided an overview of existing manuals. He noted that the regional manual should include two substantive parts, guidelines (informative and recommendatory) and procedures (regulatory). He stated that the regional manual should provide overarching generic precepts common to all border crossings, and specific precepts unique for particular border crossings to be expressed in bilateral agreements. Finally, he set out an initial outline of the informatory and regulatory parts of the manual.

22.   Eng. Hosea Nyangweso, Principal Civil Engineer, EAC Secretariat, stated that after the assent process for the EAC OSBP Act is complete, the Secretariat will present the draft Regulations to the Council. The Manual can be adopted thereafter. The timetable will be dependent on the assent process, but the Secretariat will be ready to bring the draft Regulations to the Council.

23.   Burundi stated that it would be useful to see how the existing OSBPs are managed now; they noted there are a large number of additional OSBP that have been planned or developed.

24.   Kenya requested clarification of several points. They asked what is meant by direct the applicability of EAC laws. The status of existing manuals is precarious. Once the regional act enters into force, the existing manuals will be applicable to specific border points. At such borders, border agencies may have 2-3 manuals to apply. Regarding the architecture and design of the manual, it will be prudent to take the OSBP Act and Regulations into account. They stated a preference for a comprehensive manual with specifics applicable at particular borders.

25.   Kenya informed the meeting that the manual for OSBPs between Kenya and Tanzania is is in force and being applied initially at the Holili/Taveta border crossing. The manual is comprehensive enough to take all issues into account. Also, it is consistent with the bilateral agreement between these two partner States, and with the EAC OSBP Act.

26.   Rwanda expressed two concerns. Since the OSBP Regulations provide for an OSBP Procedures Manual as annex, they consider that the regional manual should be adopted separately from the Regulations. Also, they asked how the existing manuals function and how they will be different from and how they will be integrated in the new regional manual. They asked how the new regional manual will replace the existing manuals.

27.   Tanzania further elucidated the issue of whether or not the Manual and Regulations should be adopted at the same time.

28.   Uganda sought clarifications on the informatory and regulatory parts of the manual. They stated the overall objective should be to develop a manual that supersedes the existing manuals.

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29.   Mr. Daniel Muturi, Programme Manager, OSBPs and Integrated Border Management (IBM), TMEA, asked about the relation between the regional law and bilateral agreements. Specifically, he asked whether the bilateral agreements will be superseded and if not to what extent will they remain in force. Also, he asked whether there is an indicative timeframe by which the regional law will be implemented.

30.   Uganda stated that the OSBPs Regulations (Article 14.3) give the manual the force of law ("hard law"). They urged submitting this draft Manual together with the draft Regulations after the Act has been assented to, but they noted that the Manual may not be ready when the Regulations are ready.

31.   Eng. Nyangweso, EAC, stated that the decision to develop the regional procedures manual arose out of bilateral meetings for the Namanga and Rusumo OSBPs, at which it was agreed that it would be beneficial to cascade this process to the regional level. He referred to Articles 89(a) of the EAC Treaty, which make the concept of harmonization clear. The harmonization process should not be a difficult one. If a particular manual appears more usable, then it may be adopted. In this case, the Act should supersede any law related to border issues. Once the Act is assented, the Regulations may be put forward. The Manual could come even after the Regulations are adopted. He stated that there should not be too much concern about the exact date on which the regional procedures are adopted.

32.   Dr. Bernauw, JICA OSBP Team, concurred with Uganda, noting Article 14(3) of the draft Regulations states that the manual will have legal force. Harmonization to reach the best result should take into account the contents of the Acts and Regulations. He noted that the main characteristics of the existing manuals have been presented. About ten existing manuals were examined in preparation of the resource paper distributed before the meeting, although a number of them are similar as they follow the same original model. He stated that the EAC Treaty does not include any provision that endows secondary legislation with direct applicability. Regarding the question of aligning the Manual to be developed with existing manuals, he observed that it is an exercise of comparison to find the best possible result(s). Probably there is no inconsistency between the draft Regulations and the existing manuals. It may be just be a matter of referring to the Manual in the context of the EAC Regulations for the common parts (i.e., the parts not unique to specific border posts). The Manual will have legal force but also contain some information. A resource paper prepared by Dr. Bernauw for the meeting is attached as **Annex 4**.

33.   Eng. Nyangweso, EAC Secretariat, observed that bilateral agreements cannot operate side by side with supranational laws. On some issues, such as the issue of lead agencies, only the two countries can agree; they cannot rely on regional law. Thus, there will need to be bilateral agreements to elaborate certain issues. However, they should follow the structure of the regional law.

34.   Ms. Penina Simba, Regional Consultant, JICA OSBP Team, clarified that bilateral agreements will still be implementable as per Section 4 of the OSBP Act.

V.   General Approach and Outline of the Regional OSBP Manual/Procedures

35.   Dr. Bernauw, JICA OSBP Team, presented the general approach and outline of the regional OSBP manual/procedures. The manual/procedures may include informatory and regulatory parts. Overarching generic precepts common for all border crossings should be included, as well as specific precepts unique at particular border crossings, to be expressed in

bilateral agreements. The manual/procedures should offer differential regimes for respective scenarios according to the type of border post configuration and the modality of border clearance formality. He then set out a proposed broad structure for the informatory and regulatory parts, respectively. The informatory part would cover the context of transport and trade facilitation; the one-stop procedure; single-window procedures; the legal framework; guidance on functioning in OSBPs; the required infrastructure and equipment; best practices in OSBP management and border clearance facilitation; and institutional arrangements. The regulatory part would cover operational activities to implement one-stop clearance; a detailed description of the one-stop clearance process for respective categories of traffic and for the respective agencies; the manner of information exchange/sharing; the moment and manner of intervention of facilitation agents; administrative and payment harmonization and simplification; procedures for risk management; single-window procedures; standing operating procedures for maintaining, peace, order, and security; and institutional arrangements for day-to-day cooperation with counterparts.

36.   Kenya stated that there is a need to agree on the main user(s) of the document. In addition, the meeting should agree on the title of the document: is it a procedures manual, an operational manual, or an operational procedures manual? Also, there are different terms for the border coordination/ operations committee to be established. They stressed the need to avoid confusion by using consistent terminology. Further, Kenya urged that the manual be comprehensive. Regarding the proposed structure, with informatory and regulatory parts, Kenya suggested that best practices should be included in the informatory part. They asked whether the best practices will be recommendations or requirements. In addition to providing a section on single-window system procedures, they noted that addressing the SCT will be important.

37.   Rwanda noted that the content of the proposed Manual should be in line with the OSBP Act and Regulations.

38.   Tanzania asked to whom the manual should be addressed. Should it be addressed only to the officers, or also to users (e.g., passengers, facilitation agents)?

39.   Uganda asked whether best practices should be regional or national.

40.   Burundi stated that the manual should be easily understood since it will govern the day-to-day activities of border officials.

41.   Mr. Goncalves, IOM, stressed the need to provide proper information to passengers on OSBP procedures, perhaps through embassies.

42.   TMEA suggested that the regional manual address the issue of the management of border posts and sustainability. Equipment will be utilized by both adjoining Partner States. In addition, TMEA requested guidance on the issue of administrative and payment harmonization and simplification. On the subject of best practices, TMEA recommended looking at international best practices, not local ones.

43.   The JICA OSBP Team responded on the various points raised by noting that:

(i)   Different terms appear even in the OSBP Regulations.
(ii)   Article 14 of the draft Regulations specifies that the users of the manual will not only be the officers, but also the general public, although the focus can be on the officers.
(iii)   The manual to be prepared has been endowed with the force of law.

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(iv)   The manual should be aligned with the Act and Regulations. It cannot deviate from these higher-level legal instruments, but to the extent that it is not contrary it can introduce good- or best-practice procedures and techniques.
(v)   Robust, user-friendly solutions should be sought.
(vi)   The manual should make "legalese" more easily understandable to the manual user.
(vii)   The importance of coverage of the management and maintenance of border posts was recognized, with options to be provided depending on the type of OSBP.
(viii) While the informatory part of the Manual will flow from the express language of the Regulations, it can be done extensively or concisely. However, the way this task for the Manual is phrased in the Regulations it should be more than a preamble. It is not to be just an introduction providing the context of the regulatory part. The content of this part may draw upon existing bilateral manuals, e.g., provisions stating the objective of trade facilitation.

44.   Eng. Nyangweso, EAC Secretariat, observed that the EAC OSBP Act and Regulations do not use the word "manual"; rather, they refer to "operational procedures". Some delegates concurred that the term "operational procedures" should be used, while others suggested that it can be called a "manual" if a preface states that the manual sets out operational procedures.

45.   Kenya stated that the special treatment of SCT goods already cleared at the point of entry should be set out. The EAC Secretariat stated that the details are provided in the SCT Operations Manual and need not be provided in the regional OSBP manual. Kenya suggested that the SCT manual be cross-referenced in the OSBP manual. It was clarified that the OSBP procedures will still need to state how to treat goods coming to the border, SCT or otherwise. It was agreed that the issue will be considered in preparation of the draft manual/procedures.

VI.   Lessons Learned from the Holili/Taveta Site Visit

46.   On 27 August 2015, the meeting participants made a site visit to the Holili (Tanzania)/Taveta (Kenya) OSBP, which commenced operations on 4 May 2015. The site visit included an overview of passenger and cargo entry/exit procedures and a walk-through of processes.

47.   On 28 August 2015, the meeting considered lessons learned from the site visit for the preparation of the regional procedures/manual. Mr. Nkoma, EAC Secretariat, observed that the site visit raised a number of issues. What the delegates saw at the OSBP is a work in progress. One issue was the unclear control zone boundaries because of the unclear border perimeter; at present, there is only an old perimeter fence. The coordinates should be included in the bilateral agreement and transmitted to the end users. Regarding the application of controls, the model at Holili/Taveta is agency to agency; one Partner State's agency must finish its control processes before the other Partner State's agency begins its controls. He noted the importance of referring to the EAC OSBP Regulations 2015 (which are to be finalized in November 2015) in developing the regional procedures manual.

48.   Ms. Jackline Murekatete, Program Manager, Customs & IBM, TMEA, noted that TMEA has been supporting other OSBPs in addition to Holili/Taveta, which are now in the final stages of preparation. She expressed support for the development of a regional OSBP procedures manual to ensure harmonization of procedures.

49.   Mr. Sydney Chibbabbuka, Regional Consultant, JICA OS3P Team, discussed the extent that the Holili/Taveta procedures reflect the OSBP concept. Concern was expressed that two stops were required for immigration clearance, but the one-stop concept refers to the situation of

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a border post where travelers stop only once for entry and exit formalities. He noted that the two adjoining Partner States have found the existing arrangement convenient; also, it is a requirement that the traveler present his/her travel documents directly to the immigration officers.

50.   Kenya observed that the site visit enabled the delegates to learn the challenges on the ground, which will assist the meeting in developing a manual that can stand the test of time.

51.   Uganda observed that it would generally be better if the procedures manual is prepared before facility design and construction. For example, Health and Security inspections should come before others, although at Taveta these agencies are inside the OSBP building. The manual should include a standard structure and flow. Finally, they observed the excellent cooperation of the officials of the two Partner States at Holili/Taveta.

52.   Ms. Simba, JICA OSBP Team, observed that not all government agencies at Holili/Taveta have a direct counterpart on the other side.

53.   Kenya proposed that the JICA consider supporting a one-day trip to the Holili/Taveta OSBP for the Namanga joint border coordination committee members to learn about OSBP operations in practice.

54.   Uganda stated that facility standards should be the same or similar on both sides of an OSBP.

55.   Rwanda observed that there are different understandings of the OSBP concept. The Partner States should have the same understanding. A brief on the OSBP concept to the heads of institutions operating at the border could be helpful. It was observed that for this purpose the JICA OSBP Team supported training and sensitization.

56.   Kenya observed that the Holili/Taveta OSBP is a work in progress. The aim was not to critique the OSBP but to learn lessons to inform the preparation of the EAC OSBP Manual. For example, Immigration and Customs should be on opposite sides. They also discussed different management and budgetary models for operating OSBPs (e.g., creation of a specialized institution to run the OSBP, provision of a special budget to run the facility, implementation of a cost-sharing model). Currently, Kenya is applying a cost-sharing model and is considering establishing a central budget to be administered by the lead agency.

57.   Burundi confirmed that entry/exit formalities at the Holili/Taveta OSBP are similar to those at Kobero/Kabanga OSBP. Whereas the OSBP Act provides that space should be provided for clearing and forwarding agents, this has not been done at Holili/Taveta; the issue should be addressed in the regional manual.

58.   Kenya stated that the visit to Holili/Taveta was an "eye opener". A number of issues were identified. There is a need to have a standardized OSBP process flow. The Kenyan side is yet to install a scanner and carry out branding and signage.

59.   Uganda stated that baggage and cargo scanners should be provided at all borders.

60.   Kenya stressed the importance of training in OSBP operationalization to ensure consistent understanding and results on both sides of the border.

61.   TMEA noted that signage is now being procured and they hope before launch in September 2015 all signs will have been installed. External washrooms are in place on both sides. The difference in process flows on the two sides reflects the initial design; they agreed that it would have been better to have had the procedures in place at the design stage. Regarding budget, TMEA is meeting certain costs (e.g., internet for the first three months) in the initial stage. In summary, the Holili/Taveta OSBP is a work in progress and they will continue to make improvements.

62.   Mr. Chibbabbuka, JICA OSBP Team, stated that the aim of OSBPs is to achieve efficiencies and save time while enhancing control. The OSBP Act and Regulations provide the guiding principles.

63.   Mr. Nkoma, EAC Secretariat, stated that coordinates may be available from the agency responsible for construction, or otherwise from the surveyor general's office. It is important to have the coordinates because they define the control zone.

64.   Mr. Antony Munguti, Consultant to JICA on OSBP Operational Systems, presented on the Real Time Monitoring System/Cargo Control System (RTMS/CCS), which is being rolled out at Holili/Taveta. He introduced the RTMS/CCS and provided an overview. Then he discussed the RTMS/CCS pilot at Holili/Taveta. Challenges have included the training of staff in OSBP procedures, the changing of user requirements, and technical "hitches" (e.g., connectivity, power).

65.   Kenya commented that the RTMS/CCS is a work in progress. They also noted that a test of the system at Namanga showed that additional piloting may be required.

66.   Uganda and Kenya inquired about the relationship between the RTMS/CCS and customs and national single windows systems. They expressed concern about parallel systems. Also, it was asked who the custodian of the information is, and which agencies were involved in the pilot.

67.   Mr. Munguti explained that based on the experience in Namanga they re-strategized and redeveloped the system, which has been applied and improved at Holili/Taveta, although it is not perfect yet. It is expected that the system will be perfected by the end of 2015. He further explained that the system is not duplicating existing systems. Once the procedures are clear to the users, he expects that the outcome will be good.

VII.   Proposed Draft Text of the EAC OSBP Procedures Manual

68.   Dr. Bernauw, JICA OSBP Team, then presented a more detailed structure of the regional OSBP procedures manual with some initial draft text. Specifically, he made several points and raised a number of questions for the meeting:

(i)   He asked the meeting whether the first part of the manual (the informatory part) should be a concise preamble or an extensive, comprehensive handbook or aide memoire on the subject matter.

(ii)   In addition, he noted that according to the EAC Act and Regulations the second part of the manual (the core regulatory part) should provide a common system applicable to all possible border crossings with bilateral agreements addressing issues at particular borders. He explained that such an approach is difficult to follow considering the large number of possible variables foreseen in the EAC OSBP Act and Regulations, which will have an impact on the detailed procedures, e.g., (a) the choice between joint and

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simultaneous control and sequential control, (b) the choice concerning the application of single-window controls.

(iii)   Finally, he suggested possible approaches to narrowing the situations addressed in the manual so that the manual can be efficiently prepared.

69.   Uganda suggested that the text of the document should not be too detailed, so that it is not too difficult to comprehend and implement. They concurred with Burundi's earlier comment. They further stated that the informatory part could be made clearer. Also, they noted that the EAC OSBP Act leaves many choices to the Partner States, as do the Regulations; such choices should be embedded in the Manual.

70.   In addition, Uganda queried whether the ombudsman provision has any related provision in the Act or Regulations. They suggested that the ombudsman function would better be fulfilled by a committee. They further asked whether simultaneous clearance is practical. Regarding the juxtaposed model, they suggested that there should be clear direction to the users that they do not need to stop in the country of exit.

71.   Uganda also suggested that the regional manual should not refer to the bilateral agreement. They stated that emphasis should be on joint and simultaneous processes. Regarding cashiers, they asked whether there should be one for both Partner States or one for each. Live animals and dogs/cats should be addressed in the Manual. Regarding transparency, sensitization needs to be considered.

72.   Further, Uganda noted that many topics may be considered. They urged that interventions at this meeting focus on the structure rather than the "meat". Section 14 of the Regulations provides good guidance on the issues to be addressed by the Manual. Regarding the two parts of the draft structure, Part 1 should probably address the context and objectives rather than extensive rephrasing of procedures. Part 2 should clarify all of the procedures to be followed. The manual should be a book that any border control officer can read independently and execute his/her job without referring to the Act and Regulations

73.   Kenya requested that the Manual be written in simple and clear language; jargon should be avoided. A logical flow is required, from the beginning to the end. The issue of management is important and should be clear in the text. Regarding the proposed ombudsman's office, it was suggested to borrow from existing manuals that provide for joint border coordination committees. It is better not to create a new office. They further stated that if the manual is too long, it will "scare away" users. Kenya also commented on the proposal of a single payment system; they noted that the EAC does not yet have a single currency. The definitions section will need to be upgraded, to provide greater clarity. They suggested time may be required for each Partner State to examine the proposed content of the Manual.

74.   Tanzania stressed the need for simple and clear language. They stated that the ombudsman's function can be fulfilled by the border committees to be established. They also mentioned (again) the question to whom the Manual should be addressed (the guidance in the draft Regulations can still be revised). Further, they urged taking into account the existing manuals in the region.

75.   Rwanda stated that the manual should be written so that officers at the border can easily understand it. However, it is not clear whether this or another document should be provided to the general public.

76.   Burundi proposed that the Manual be a standalone document and that it be as concise as possible.

77.   Kenya suggested that the border agencies should be the main users of the Manual, although others (e.g., clearance agents) may need to refer to it. Uganda urged that it be made available to not only border agencies but others as well.

78.   Mr. Nkoma, EAC Secretariat, stated that there may be two manuals, one for governmental authorities and another for the private sector. For example, in the case of rules of origin, two sets of manuals were prepared. Simple and clear manual(s) are required.

79.   Dr. Bernauw explained the legal basis for creating an ombudsman's office (if it is to be considered) can be found in Article 41,3 of the Regulations. That said, another body can fulfill the function.

80.   It was observed that the term Procedures Manual is used in the Regulations.

81.   **Annex 5** presents the proposed relatively detailed structure of the Procedures Manual.

VIII.   Summary of Recommendations of the Meeting

82.   The meeting agreed that:

(i)   the JICA OSBP Team will distribute the initial detailed structure of the Procedures Manual (Annex 5), by **31 August 2015**;

(ii)   the Partner States will provide the JICA OSBP Team with additional views on the proposed structure of the Procedures Manual, if any, by **18 September 2015**;

(iii)   the JICA OSBP Team will provide the Partner States with draft text of a substantial part of the Procedures Manual, by **6 November 2015**;

(iv)   the 2nd RTC meeting will be held in **early December 2015**, in Uganda;

(v)   JICA should consider supporting a one-day site visit to the Holili/Taveta OSBP for the Namanga joint border coordination committee members to learn about actual operationalization of an OSBP; and

(vi)   JICA should consider rolling out the RTMS/CCS at additional border posts.

IX.   Closing Remarks

83.   Eng. Abdillah M. Mataka, Assistant Director (Economic Infrastructure), Ministry of East African Cooperation, Tanzania, made the closing remarks. Considering that this is an inception meeting, he believes that the JICA OSBP Team will be able to consider the meeting's comments, views, and suggestions during their work. He looks forward to working with the Partner States in the following RTC meetings to develop the draft EAC operational procedures manual. While facilitating traffic, the manual should not compromise safety or security at the borders and within the region.