

## Multiplicity of Taxes and Licenses in the Trucking Industry in Kenya

### Is there a Case for Deregulation?

The trucking industry comprises of heavy commercial vehicles (lorries and trailers), which transport commercial products within the domestic market and on transit to the neighbouring countries within the region. The industry is mainly dominated by private investors (over 90% of the companies)<sup>1</sup> and the majority are based at the port of Mombasa. Although it is not easily possible to distill the regulatory measures specific to the sub-sector, as the government designs and implements policy frameworks for the entire road transport sector, the trucking industry in Kenya is considered overly regulated through multiplicity of taxes and license fees such as trade licenses from the Ministry of Trade and Industry; municipal license (Single Business Permit); space occupancy and parking levies; Transport Licensing Board (TLB) licence; and log-book for the registration of motor vehicles. Those involved in transit traffic must also have special transit goods licenses, which exclude the lorries and trailers from carrying local goods.

There are several taxes and fees that, though applying to the entire road transport sector, directly affect the trucking business in Kenya. These include:

#### **Corporate income tax:**

As required by law, privately registered companies have to remit their tax returns at the end of the fiscal year. Companies in the trucking industry pay corporate tax like all incorporated companies.

#### **Advance tax:**

This is a form of income tax levied on public service vehicles and commercial vehicles. It is not a final tax but is refundable upon the submission of an income tax return if the taxpayer has no chargeable income. This tax brings transporters into the tax bracket.

#### **Road maintenance levy:**

This is a levy on all petroleum fuels consumed and is reflected in the price per litre purchase.

#### **Petroleum development levy:**

This is paid indirectly through the consumed petroleum fuels.

#### **Motor vehicle inspection fees:**

All trucks are required to be inspected before licensing to ensure that they are in sound mechanical state. The inspection is conducted

*This policy brief is based on KIPPRA Discussion Paper No. 54 on Heavy Commercial Vehicles Industry in Kenya. Although the study was carried out in February 2004 and a number of policy changes have since been witnessed in the transport sector, some issues covered in these brief still remain relevant and requiring the attention of policy makers. Using both field survey and secondary sources of information, the study focused on taxation and licensing of heavy commercial vehicles. A total of 68 transporters were interviewed, 48 in Mombasa and 20 in Nairobi, from a total population of 88 registered transporters.*

by the Police Department but revenue is collected by the Commissioner of Motor Vehicles.

#### **Transport Licensing Board fees:**

Established by an Act of Parliament (Cap 404), the Transport Licensing Board (TLB) ensures harmony in the provision of road transport services. TLB was aimed at regulating the public transport vehicles in the country so as to achieve a balance on all routes and manage competition. The fee is charged on all motor vehicles engaging in transportation business, both goods and passenger.

#### **Local and international driving license fees:**

Every driver is required by law to possess a valid driving license all the time.

The myriad taxes and licenses implemented under the current regulatory framework are seen as a hindrance to the operations of the transport business. According to stakeholders in the sub-sector, the industry is inefficient, unreliable, and uncompetitive<sup>2</sup>. Operations in the sector are compromised by bureaucracies and structural inefficiencies within the public sector. As a result, there are major delays in operations, which lead to under-utilization of capital and therefore an unfavourable return on investment. The full potential of the transport sector is unexploited, and maintaining the status quo amounts to burdening the economy because the sector, to a large extent, passes over most of the costs to the consumers through highly priced goods and services.

In addition to licensing and tax measures, there are non-tariff restrictions that include: long documentation procedures; the frequent checks at the weighbridges; requirement of

police escort; and specific permits, bonds and exemptions for transit cargo. Though these measures were meant to improve the delivery of service, they have become a major hindrance to the trucking business. The tedious processes at the weighbridges lead to corrupt malpractices and unnecessary delays. This could be viewed as an implicit tax as it leads to increases in the cost of doing business. In addition, a certain class of cargo must still move under customs and police escorts. These services are not always available when needed. For instance, police escort out of the port of Mombasa to Mariakani is available only twice a day, three times a week between Mariakani and Athi River, and twice per week between Athi River and Malaba. This implies that a truck leaving the port on Monday can only make it out of Athi River the following Monday, thus losing five days of production.

Given the cumbersome licensing requirements and procedures, the question arising is whether it is possible to acquire all necessary licenses at one time instead of making several visits. Of particular concern is the possibility of consolidating the local freight and transit goods licenses acquired at the point of acquiring TLB licenses. This would remove the costly requirement of acquiring separate licenses for both local and transit goods transport and therefore ensure fair competition and optimal utilization of resources.

### **Why Deregulate?**

Deregulation essentially involves the removal of laws, regulations, statutory instruments and other instruments that restrict or distort the operation of markets. As already noted, the trucking sub-sector has been operating under a highly regulated environment. Deregulation in the trucking industry would aim at providing a more facilitative legislative framework that leads to: increased operators; larger trucking companies that specialize in broad-based or network services; and decrease in tariffs for truckload freight as the number of operators increase. This would ensure that only those operators who offer higher levels of service can achieve higher levels of profitability. This has

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Unlike other licenses, the procedures of acquiring TLB licenses are tedious and lengthy. To obtain a TLB license, the documents lodged are: a duly filled and signed application form 'TLB 2'; a copy of Vehicle Inspection Report; a copy of the vehicle logbook; and a copy of certificate of compliance to the traffic rules (Speed governor and seat belts). All these are then sent to TLB headquarters in Nairobi. The applications are received and prepared for gazetting. Once gazetted, the applicants are then invited (through letters) to appear before the Transport Licensing Board for approval of their licenses upon payment of a recommended fee. The Board holds meetings in provincial headquarters and some selected regional centres around the country at different times of the year.

The process and procedures of acquiring the TLB have not only been costly to the transport operators but also to the government. According to the transporters surveyed, the TLB drives are a waste of government revenue, since TLB officers have to spend a lot of time and money holding drives all over the country, when TLB licenses can be issued at the same offices as the other licenses. Deregulation of this instrument calls for decentralization of the procedures and creation of a one-stop window for licensing in order to ease the burden incurred by operators.

## Challenges of Deregulation

Implementation of deregulated measures is not free of challenges. Since deregulation does not mean freedom based on total anarchy, it has to be implemented within a suitable policy framework aimed at ensuring that the benefits of deregulation are secured while the disadvantages and possible adverse trends are avoided. This will require amendment or appealing of some of the current laws. The laws governing the trucking industry are similar to those applied in the whole road transport sector. These include: Traffic Act Chapter 403, Second Hand Motor Vehicle Purchase Act Chapter 484 and Transport Licensing Act Chapter 404. The main challenge is to have certain sections that are specific to the trucking industry amended or appealed through Parliament to improve the business climate and reduce the cost of doing business, on the one hand, while guaranteeing qualitative, technical, social and safety regulations that enhance efficiency. Some regulations will need to remain in force, with a certain degree of state supervision and control, which can involve monitoring of the market to determine whether there is need for intervention in the sub-sector. Therefore, the main challenge of deregulation will be to balance between freedom and control in the sub-sector.

## Policy Recommendations

### ***Establish one-stop shop for licences:***

To reduce the time taken in acquiring the licenses, a one-stop shop system be established for the purpose of licensing and the merging some of the licences into a single licence for easier administration and licensing of operators. Specific focus should aim at ensuring that both local and transit goods' permits and licenses, and TLB licenses, are issued at the same place to avoid inconveniences and reduce operation costs. The procedures should be decentralized, as is the case for the issuance of trading licences. Such a 'one-stop-shop' licensing approach has several advantages. Firstly, the amount of public time currently spent on obtaining licenses and fulfilling government regulations

will be reduced and compliance will be enhanced. Secondly, the 'one-stop-shop' would considerably reduce the level of corruption as it lessens the avenues of corruption. Thirdly, the number of officers issuing and monitoring the licenses will subsequently reduce, thereby reducing the government wage bill. Lastly, a "one-stop-shop" licensing approach would help to attract more investment via an improved investment climate, which has been discouraged by the extensive licensing system and the high level of corruption.

***Streamline the load-weighing processes at weighbridges:***

The current weight control procedures are a major handicap to trucking industry and a

cause of prolonged delays to the point of destination. Since the introduction of the weighbridges was meant to control axle load weight and minimize damage on the road network, management of weigh bridges should be streamlined to avoid unnecessary delays. This could be done through commercialising the weighbridges, with strict monitoring of the performance and also ensuring frequent calibration of the weighbridge equipment to ensure consistent readings at all times. In dealing with offenders, there is need to adopt an administrative system where fines are paid and offloading is done on the spot to avoid further delays.

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**Notes**

<sup>1</sup>The survey established that 94% of the 88 companies interviewed in the field survey were privately-owned (including private limited companies-77%, partnerships-6%, sole proprietorship -6% and cooperatives 5%). The others were 3 percent publicly-listed and 3 percent public limited companies.

<sup>2</sup>Report presented by the Kenya Transport Association at the Transport Stakeholders Workshop on Formulation of the National Transport Policy, at Kenya College of Communications Technology, Mbagathi (2003).

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**About KIPPRA Policy Briefs**

KIPPRA Policy Briefs are aimed at a wide dissemination of the Institute's policy research findings. The findings are expected to stimulate discussion and also build capacity in the public policy making process in Kenya.

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