Discussion Paper Series

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DP/54/2005

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KIPPRA Discussion Paper No. 54
July 2005

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Published 2005

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ISBN 9966 949 98 4

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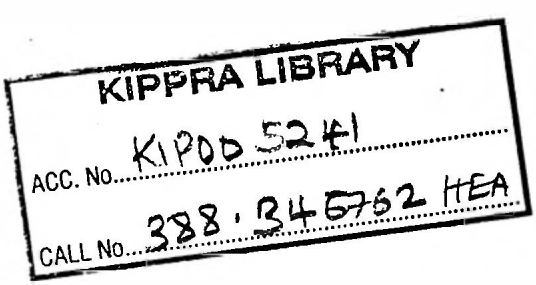
KIPPRA acknowledges generous support from the European Union (EU), the African Capacity Building Foundation (ACBF), the United States Agency for International Development (USAID), the Department for International Development of the United Kingdom (DfID) and the Government of Kenya (GoK).



Abstract

This paper assesses the current regulatory framework in the heavy commercial vehicles industry sub-sector. The transport sector constitutes a major component of the services sector in Kenya and has a big potential as one of the engines of economic growth for the economy. Quality transport systems are central in attracting investment, spurring economic growth, creating wealth and reducing poverty. Despite its importance, the roads transport sector faces a number of challenges, among them multiplicity of taxes and licenses, inadequate funding, and poor maintenance. Using both field survey and secondary sources of information, the study focused on taxation and licensing of heavy commercial vehicles. It reveals that though the previous regulatory measures were designed and implemented to ensure that operations in the sub-sector are orderly and create facilitative business environment, the measures have acted as constraints on business. Most existing laws and regulations have caused not only a high cost of compliance to the entrepreneur but also diverted skilled resources away from productive activities, as much time is spent in obtaining and renewing licenses. This has been worsened by the fact that most of the registration functions are centralized at the Registrar's office in Nairobi and therefore acquiring the multiplicity of licenses is an added cost to the business.

The field survey showed that there are several obstacles to the efficient and smooth running of the operations of the road transport sector: long documentation procedures resulting to bribery; the bureaucracy of obtaining the relevant permits and exemptions; poor road conditions that result in high cost of maintenance and occasional theft of goods on transit as trucks either slow down or stall along the dilapidated sections of the roads; delay at weighbridges; the requirement that goods on transit be transported under police escort; and multiplicity of taxes and licensing in the sector that increases the cost of doing transport business. The study recommends that deregulatory measures such as one-stop licensing window, modernisation/commercialisation of the weighbridges, and computerisation of customs procedures, among others that reduce the negative effects arising from the delays caused by bureaucracies and regulatory measures in road transport be introduced in heavy commercial vehicles industry.

Abbreviations and Acronyms

AA Kenya	Automobile Association of Kenya
AIA	Appropriations in Aid
CDR	Centre for Development Research
CIF	Cost Insurance Freight
CKDs	Completely Knocked Down
COMESA	Common Markets for Eastern and Southern Africa
DL	Driving Licences
EAC	East African Community
GoK	Government of Kenya
IGAD	Inter-Governmental Authority on Development
JICA	Japan International Co-operation Agency
KBS	Kenya Bureau of Standards
KIPPRA	Kenya Institute for Public Policy Research and Analysis
KPA	Kenya Ports Authority
KRA	Kenya Revenue Authority
KRB	Kenya Roads Board
LATF	Local Authority Transfer Fund
MNPD	Ministry of Planning and National Development
MOF	Ministry of Finance
MOTC	Ministry of Transport and Communication
NCTA	Northern Corridor Transit Agreement
PDL	Petroleum Development Levy
PSI	Pre-shipment Inspection
PSV	Public Service Vehicle
RML	Road Maintenance Levy
RTD	Roads Transport Department
SMEs	Small and Micro Enterprises
TLB	Transport Licensing Board
UN	United Nations
VAT	Value Added Tax

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1. Introduction

Kenya's road transport subsector accounts for over 80 percent of the country's total passenger traffic and about 76 percent of freight traffic (Budget Speech, 20002/03). Transport services also constitute a major component of the service sector in both their contribution to employment and trade (Wasike, 2001). Despite its importance, the roads sector faces a number of challenges, for example, inadequate funding, lack of enforcement of standards in road construction and usage, corruption in tendering, lack of co-ordination of roads development and poor maintenance (Budget Speech, 2002/03). The road transport sector is inefficient, unreliable, and uncompetitive[1]. Operations in the sub-sector are compromised by bureaucracies and structural inefficiencies within the public sector. As a result, there are major delays in operations, which leads to under-utilization of capital and therefore an unfavourable return on investment. The full potential of the sub-sector remains unexploited and maintaining the status quo means burdening the economy because to a large extent the sub-sector passes over most of the costs to the consumers through highly priced goods and services.

Efficient, reliable and cost-effective transport systems are necessary for economic growth and development. Quality transport systems are also central in attracting investment, spurring economic growth, creating wealth and reducing poverty. Road transport operations require heavy capital investment in prime movers and trailers' lifting and loading equipment, spares and consumables and weighbridges. In addition, acquisition of various licenses, indemnity covers and bonds is required.

[1] 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).

In the past, the government put in place several regulatory measures to address the challenges of deterioration of the sector. These include:

- The establishment of 'Public Road Toll Act' in 1984, which levied a charge on motor vehicles using major roads to supplement road maintenance funding
- The signing of the Northern Corridor Transit Agreement in 1985
- The introduction of the Road Maintenance Levy in 1993
- The establishment of Kenya Roads Board in 2000/01 to manage the road maintenance levy fund and to co-ordinate road development and maintenance.

Given the importance of the transport sector in Kenya, previous regulatory measures implemented to ensure operations in an orderly manner have acted as constraints on business in general and also on creating a facilitative business environment. Most existing laws and regulations have a high cost of compliance to the entrepreneur. They divert skilled resources away from productive activities, as much time is spent in obtaining and renewing licenses. Also, since most registration functions are centralized at the Registrar's office in Nairobi, the multiplicity of licenses is an added cost to the business. Since regulations impose a cost on the business, there should always be a presumption against regulation unless it is strictly necessary to protect the interests of stakeholders and the entire public. Nevertheless, deregulation could act as a powerful tool for improving efficiency, raising economic growth and increasing employment opportunities. Other benefits would include facilitation of more extensive and stronger linkages between the sector and other sectors of the economy, thus maximizing the impact of investments.

The Transport and Licensing Act provides for the licensing to authorize the use of motor vehicles on roads for the carriage of goods and people,

and for the use of ships on any inland Kenyan waters. Some of the problems concerning this law emanate from:

- Part II Section 7, which gives discretion to the licensing officer to refuse licensing, and at the same time it gives either the county council or municipal council freedom to grant access of vehicles to their jurisdiction
- Part III Section 8 (2a), which restricts the movement of vehicles or ships to certain areas or specific routes
- Part III Section 8 (2f), which places the licensee to the same conditions although this time in districts and specific places
- Part III Section 8 (3c), which requires the licensee to have a timetable and fare tables for their vehicles available for inspection (Government of Kenya, 1997).

The proposed changes to this Act were: reduction of the discretion in the Act to facilitate efficiency; review of Part III Section 8 (2a) with a view to liberalizing all routes; and review of all sections mentioned above.

Further, in recognition of the adverse impact of poorly maintained road network on the Kenyan economy, there is renewed emphasis on the financing needs of the transport sector. The current study was a flexible response to the request by the National Transport Policy Taskforce for a survey on multiplicity of taxes and fees in the heavy commercial transport sector. The motivation of the study is that multiple taxes increase the regulatory burden on taxpayers, making the country uncompetitive in the regional and global markets. The recommendations from this paper are akin to the single business permit under the Local Authorities, and are an input into the development of the road transport policy.

1.1 Research Objectives

The objectives of the study are:

- To carry out a review of the laws, regulations, policies and practices that control/ inhibit lawful business or affect the entry and growth of business in the transport sector
- To review trends in road transport licensing and other operations, and also consider the sector's contribution to government revenue
- To carry out a review of other issues that constrain the growth and development of the heavy commercial vehicles industry as highlighted in earlier reports
- In light of the above observations, give policy recommendations on how the heavy commercial vehicles industry can be made more competitive and profitable for it to act as an engine of growth.

1.2 Methodology

The study used both secondary and primary data. Secondary data and information was collected after an intensive desk survey of literature on regulatory and deregulatory policy measures. Most of the literature was sourced from the Kenya Revenue Authority (KRA), Ministry of Transport and Communication, Kenya Institute for Public Policy Research and Analysis (KIPPRA), Ministry of Finance, Ministry of Planning and National Development and the Kenya Roads Board (KRB). In addition, secondary data was used to assess the ways of financing the sector.

The study adopted the most commonly used methods of primary data collection, namely: observation, direct interview and questionnaires. A survey was carried out in Mombasa and Nairobi in February 2004 to get views of transporters (cargo and passenger) mainly on issues of taxation and licensing. The choice of Nairobi and Mombasa was mainly because

majority of the trucking companies are located in these two cities, with a few located in urban areas along the transit corridor. A total of 68 transporters were interviewed, 48 in Mombasa and 20 in Nairobi, from a total population of 88 registered transporters[2].

The rest of the paper is organized as follows: In section two, the paper discusses the theoretical justification for regulatory and deregulatory measures that are adopted in both developed and developing countries and also highlights the policy options in road transport. Section three gives an overview of the road transport sector in Kenya, including licensing, road transport sector revenues and policy options. Section four gives the survey findings, while section five looks at road transport sector financing needs and the level of earmarked revenues. Section six looks at whether there is a case for deregulation of the trucking industry and section seven gives the conclusion and policy recommendations. It should be noted that section three deals with the road transport in general but not heavy commercials specifically because it has not been possible to consolidate such data into the relevant components.

[2] The interviewed sample also contained some few small-unregistered transporters.

2. Regulation and Deregulation of the Transport Sector

2.1 Meaning of Regulation and Deregulation

There is no accepted or straightforward definition of regulation, but the term can be used to denote, at one extreme, specific legal mechanisms to make good deficiencies or curb abuses on the part of particular producers or service providers and, on the other extreme, to denote regulatory regimes for an entire economy or particular type of capitalism (Turnbull, 1999). In order to protect and promote public interests, regulation seeks to ensure equity and efficiency of the markets and provision of social rights. In most cases, social regulation is secondary to economic regulation.

The principal economic arguments for regulation are:

- Guaranteed provision – providers may be unable or unwilling to offer the service
- Market power – economies of scale or other features of a particular market could lead to monopoly power where providers put barriers to free entry
- Externalities – where the well being of an agent gets adversely affected by the actions of another agent
- Information deficiencies – where service providers possess more information than the customers
- Excessive competition – if there are too many service providers in the market, then prices will be too low and revenue insufficient to cover costs and to ensure future investment.

The principal social arguments for regulation are to ensure security of employment, safeguard workers' terms and conditions of employment including health and safety, guarantee appropriate training to minimize

accidents and maximize productivity and service quality, and provide effective representation of employee interests. The effectiveness of regulatory policy can be assessed by how well it promotes competition and efficient use of roads while meeting safety and environmental concerns.

According to Holleboom (1996), regulation is necessary for basically two reasons:

- Rules are necessary to correct unwanted outcomes of market forces. A complete free market can endanger road safety, destroy the environment, damage infrastructure and undermine the protection of drivers more than the society thinks is reasonable
- Regulation is necessary to fight unfair competition between transport operators, even though there is no global consensus on this issue, except within the European Union.

Deregulation, on the other hand, can be defined as 'the liberalization or removal of laws, regulations, statutory instruments and other instruments of government policy, which restrict or distort the operation of markets' (Turnbull, 1999). The overall objective of deregulation is the creation of sustainable economic growth by the provision of a more facilitative legislative framework. The framework should provide for the development of a more liberalized, market-oriented and self-reliant private sector.

The impact of deregulation depends on the extent to which the industry was regulated before (Phillips, 1988). In cases where the effects have been monitored, it has often been found that the number of common carriers operators increases, especially in regard to the truckload business, which becomes increasingly dominated by competitive small operators. Common carriers offer more effective transport services; larger trucking companies specialize in broad-based or network services; and

tariffs for truckload freight decrease significantly because of the increased number of operators, ensuring that operators who offer higher levels of service can achieve higher levels of profitability.

Regulatory reform has in many cases resulted into significant benefits, especially from deregulation of both trucking and inter-city bus businesses. However, the extent of the benefits also depends on the degree to which the former regulatory regime imposed harmful constraints.

2.2 Best Practice Experiences in Deregulation

In Mexico, it was almost impossible to enter the trucking industry before deregulation, an industry that was largely controlled by a small number of family companies (Phillips, 1988). The industry was regarded as a public service with controls on entry, marketing and loading/unloading. In anticipation of general economic reforms and the need for the Mexican economy to be internationally competitive, trucking entry and market controls were largely eliminated and tariffs liberated in the year 1989. As a result, the number of trucks increased by about 21 percent, the average tariff decreased by about 25 percent, monopoly rents were eliminated, the trucking sector became more responsive to customer needs by offering higher quality services, and private companies also began sub-contracting trucking services instead of providing these services themselves.

Deregulation in Chile was done during the 1970s as part of a series of measures taken in response to the economic crisis that the country was facing at the time (Phillips, 1988). The market was previously monopolized by a multitude of government-approved local trucking associations whose members were small truck operators. In general, transport deregulation in Chile was quite successful and there has been little political pressure to reintroduce regulation. The main lessons that

can be learnt from the Chilean experience are that: non-urban and trucking markets can be made more efficient by removing government regulation on access, services and prices; with deregulation, the industry tends to move towards creation of trucking companies, often specializing in specific markets; the government should develop antimonopoly controls to prevent collusion between operators and predatory action by financially strong operators for deregulation to be sustainable; and lastly, care should be taken to ensure that overall competitive conditions between different modes of transport remain fair after deregulation.

In the Netherlands, road haulage has always been performed by private enterprises (Holleboom, 1996). Until mid 1980s, state intervention in the road haulage sector was based on the 'General Transport Interest' principle, which meant balancing the interests of those in the road haulage sector and the society in general. This was done through a quota system whereby permits were only awarded to haulers who demonstrated that a need for their transport already existed. This regulated market was always in disequilibrium and therefore led to a growing black market for transport. A new Road Haulage Act was then enacted in the year 1992 to curb this problem, as the quantitative restrictions were replaced with qualitative ones. The qualitative requirements were aimed at ensuring reliability, credit-worthiness and professional competence. Major deregulation of the transport sector was achieved with the new Act.

In Ghana, the government and a number of trade unions and associations organize commercial trucking industry jointly, and there is limited regulation in the industry (Pedersen, 2001). There are no licenses and anyone with a vehicle can operate it commercially. The only fees are the initial registration fees and two annual roadworthiness tests. The Ministry of Transport publishes the transport rates, even though they

are not legally binding. Trade unions and associations play an important role in the organization of the industry in the absence of deregulation.

Baum (1996) argues that deregulation does not mean freedom based on total anarchy, and should therefore be undertaken within a suitable policy framework aimed at ensuring that the benefits of deregulation are secured while the disadvantages and possible adverse trends are avoided. Deregulation in the transport sector ensures improvement in the supply of qualitative goods and services, reduction in costs and therefore, not only improving the road sector but also using this sector to give an impetus to the economy as a whole. It should consist of liberalization of the market and prices, abolition of licenses and permits, and opening up of the commercial transport market so that firms no longer limit their activities to own-account transport. However, qualitative, technical, social and safety regulations should be left in place to ensure efficiency. Liberalization should not be seen as a philosophy of the absolute aimed at achieving a completely free market. Some regulations can still be in place, with a certain degree of state supervision and control, which can involve monitoring of the market to determine whether there is need for intervention.

2.3 Policy Options under Road Transport Sector

From the existing literature, there are three major policy objectives arising from road transport sector worldwide. These are:

- Use of economic mechanisms to pursue environmental, social and economic goals. These can include outcome objectives (which can be specific quantitative goals for transport mode patterns, reductions of emissions, air and water quality, road safety, accident reduction, etc) and activity objectives (which can be used to induce specific economic/environmental/social behaviour,

environmental awareness, raise environmental and social sensitivity in individual and public decisions, etc)

- Recovery of costs of transport, which can be implemented via a system of either equal contribution (given that over 50% of the infrastructure costs are fixed, implying that actual road use should not be the basis of taxation) or differentiation by vehicle in pursuit of equity/social and environmental goals. In Kenya, tax rates vary with engine capacity and also vehicle type
- Creation of additional revenue to finance public expenditures.

To achieve the objectives, most road transport sub-sector policies are structured into four main elements:

- Regulatory and planning instruments
- Co-operation agreements
- Economic agreements
- Information instruments.

Under regulatory and planning instruments, standards, restrictions, and administrative procedures are administratively set to regulate the sector. Co-operative agreements ensure that stakeholders are involved in a process of voluntary communication and negotiation. The aim of co-operative agreements is, therefore, to reach a consensus on policy goals and to design voluntary measures to reach these goals. Economic instruments, on the other hand, are market-based and use economic incentives/disincentives to pursue a policy goal, whereby the price mechanism serves as the vehicle for policy enforcement. The two basic economic instruments are price and quantity instruments. Price instruments have an immediate influence on prices (for example, imposing a tax on goods), while quantity instruments restrict the availability of a good. Information instruments serve as a basis for more

rational transport decisions. The choice of transport modes, acceptance of policy measures and the use of vehicles can be improved through moral suasion and transport-related education.

Traditionally, regulatory instruments played a major role in the transport sector, with many countries regulating the provision and use of transport infrastructure and services (Schwaab and Thielmann, 2001). However, many policy makers are increasingly supplementing the use of regulatory instruments with co-operative and economic instruments because these instruments allow them more flexibility in their pursuit of sustainability, with more emphasis on price instruments such as taxes and charges.

Economic instruments are used for various reasons:

- They are used for revenue generation. In many countries, fuel and vehicle taxes play a major role in financing road development programmes
- Instruments are used as a means of cost internalization, thereby ensuring that market allocation processes are not distorted
- Economic instruments ensure the enforcement of the "user-pays" principle. Only transport users will pay for the costs of their mobility if they are charged for the use of infrastructure and vehicles
- Economic instruments can contribute towards reducing transport demand, changing the modal split by inducing substitution and changing the transport behaviour. On the supply side, economic instruments can enable fair competition among the transport modes and induce incentives for technical change and higher efficiency of vehicles
- "User-pays" principle can be reached efficiently by using the price information. Economic instruments ensure individual optimization and thus allow for cost minimizing transportation

- Economic instruments could be a dynamic incentive for substitution and technical change
- Economic instruments offer more flexibility than regulatory instruments as individuals and firms can more flexibly adapt to economic incentives than to administratively set restrictions.

However, the use of economic instruments has some limitations, for example:

- Uncertainties about the right level of levies. With inadequate information about costs (both external and internal), it is difficult to determine the required/optimal level of levies
- Uncertainties about the reaction lags. Reaction times to policy actions could be very long, undermining the effectiveness of the policy objective. For example, fuel price elasticity is most likely to be much smaller in the short run as compared to the long run elasticity.

3. Road Transport Sector in Kenya

3.1 Overview of Road Transport Licensing

Kenya's road transport sector falls under the Road Transport Department, which was initially under the Ministry of Transport and Communication before being absorbed by the Kenya Revenue Authority on 1 July 1995 through an Act of Parliament. The major roles of the Road Transport Department are to:

- Undertake registration and licensing of all motor vehicles and trailers in the country
- Maintain records relating to registration and offer safe custody of all accountable documents in its possession. The records may be subject to inspection by authorised individuals and can also be used for management decisions by the government
- Collect revenue for the government
- Promote road safety by effectively administering the traffic and transport licensing.

The operations of the transport sector are governed by Acts of Parliament, for example: Traffic Act Chapter 403, Transport Licensing Act Chapter 404, and Second-hand motor Vehicle Purchase Act Chapter 484, as shown in Table 1.

The Traffic Act (Cap. 403) of the Laws of Kenya stipulates provisions for licensing, and issuance of original and duplicate driving licenses as well as conversion of foreign driving licenses to Kenyan driving licenses. The main purpose of Transport Licensing Act (Cap. 404) is the coordination and control of the means of, and facilities for, transport. The Second-hand Motor Vehicles Purchase Act (Cap. 484), on the other hand, provides the guidelines on importation, duties and tax payments by persons who import a second-hand motor vehicle.

Table 1: Road transport licensing requirements in Kenya

Act	Type of license	Purpose	Payment
Traffic Act (Cap. 403)	• Road license • PSV license • Driving license • Foreign driving license	• Licensing of vehicles and drivers • Conversion of foreign driving license to Kenyan driving license	***Licensing fee for commercial and public vehicles:*** • ≤1,000kg: Ksh 1,250 for 12 months • 19,500 to 20,000kg: Ksh 24,650 for 12 months • Any additional 500kg : Ksh 410 for 12 months ***Licensing fee for commercial trailers:*** • ≤500kg: Ksh 750 for 12 months • 7750 to 8,000kg : Ksh 25,760 for 12 months • Any additional 250kg : Ksh 815 for 12 months ***Licensing fee for tractors:*** • ≤500kg: Ksh 565 for 12 months • 7,500 to 7,750kg : Ksh 16,750 for 12 months
Second-hand Motor Vehicle Purchase Act (Cap. 484)		• Purchase tax in respect of the purchase of second-hand motor vehicles	≤1,000 cc: Ksh 1,035 ≥ 3,000 cc: Ksh 5,290
Transport Licensing Board Act (Cap. 404)	• Transport Licensing Board license	• Regulate the road transport industry • Ensure that public and commercial transport services are well managed • Improve safety on the roads.	8-18 passengers: Ksh 2,000 Over 26 passengers: Ksh 3,000

Source: Author's compilation

3.2 Trends in Road Transport Sector Revenues and Licensing

On average, the annual total road transport collections have remained small, accounting for less than 1 percent of total revenue. A month-by-month analysis of collections by the exchequer from the road transport sector shows that road licenses and Public Service Vehicle licenses have

Table 2: Exchequer revenue

Fiscal year	Road license and PSV	Driving license	TLB	Registration and transfer	Secondhand motor vehicle purchase	Road safety council fund	Total collections
In millions (Ksh)							
2000/01	472.82	206.45	86.33	111.31	67.29	40.18	984.39
2001/02	499.25	227.61	95.46	131.64	91.07	61.32	1,106.34
2002/03	661.27	240.51	0.56	144.26	87.06	59.60	1,193.25
2003/04	927.37	300.18	183.98	240.74	120.56	74.71	1,847.53
2004/05	1,232.70	377.54	249.96	299.43	186.67	94.53	2,440.82
In percentages							
2000/01	48.0318	20.9724	8.7699	11.3075	6.8357	4.0817	100.00
2001/02	45.1263	20.5732	8.6285	11.8987	8.2316	5.5426	100.00
2002/03	55.4176	20.1559	0.0469	12.0897	7.2960	4.9948	100.00
2003/04	50.1951	16.2476	9.9582	13.0304	6.5255	4.0438	100.00
2004/05	50.5035	15.4678	10.2408	12.2500	7.6478	3.8729	100.00

Source: Kenya Revenue Authority, Roads Department

been accounting for the largest share in total road transport collections over the past three years, with about 55 percent in 2002/03 (Table 2).

Analysis of collections by the Commissioner of Police shows that vehicle inspection fees contribute the largest share of total collections (Table 3). Number plates, on the other hand, contribute the largest share to total Appropriation in Aid (AIA), while Transport Licensing Board collections have been minimal.

The number of trucks, lorries, heavy vehicles and trailers with current licenses has been consistently increasing since the year 1997 (Figure 1).

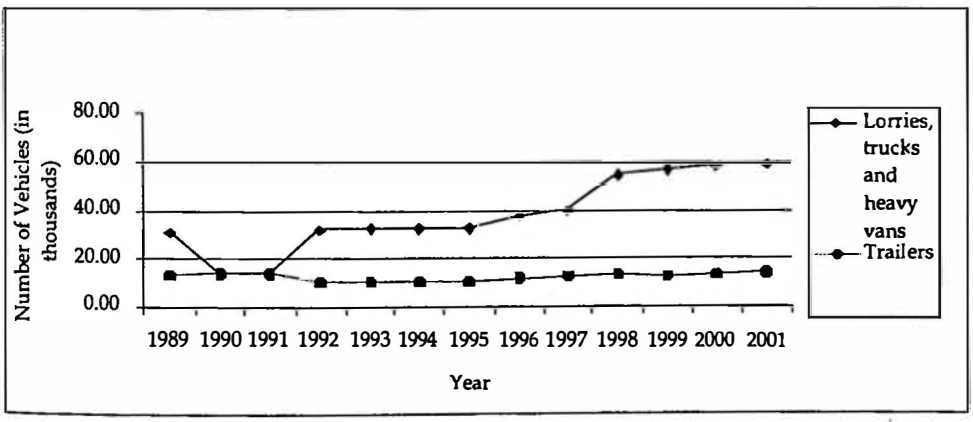
The number of trucks, lorries and heavy vehicles increased from 31,183 in the year 1997 to 58,501 in the year 2001, as compared to an increase in the number of trailers from 13,533 to 13,897, respectively. Statistics on

Table 3: Collections by Commissioner of Police and Appropriation in Aid

Fiscal year	Driving test application	Vehicle inspection fees	Total	Number plates	TLB application	PSV badges	Miscella-neous	Total
In millions (Ksh)								
2000/01	25.10	105.72	130.82	45.67	14.99		0.00	60.65
2002/02	31.44	114.15	145.59	60.25	17.88		0.08	78.21
2002/03	30.46	122.07	152.53	63.81	0.83		0.17	64.81
2003/04	37.41	143.31	180.72	74.30	36.47	19.92	0.61	131.30
2004/05	46.41	150.55	196.96	90.31	42.47	20.36	0.26	153.40
In percentages								
2000/01	19.1867	80.8133	100.00	75.3009	24.7156		0.0000	100.00
2002/02	21.5949	78.4051	100.00	77.0362	22.8615		0.1023	100.00
2002/03	19.9698	80.0302	100.00	98.4570	1.2807		0.2623	100.00
2003/04	20.7005	79.2995	100.00	56.5880	27.7761	15.1714	0.4646	100.00
2004/05	23.5632	76.4368	100.00	58.8722	27.6858	13.2725	0.1699	100.00

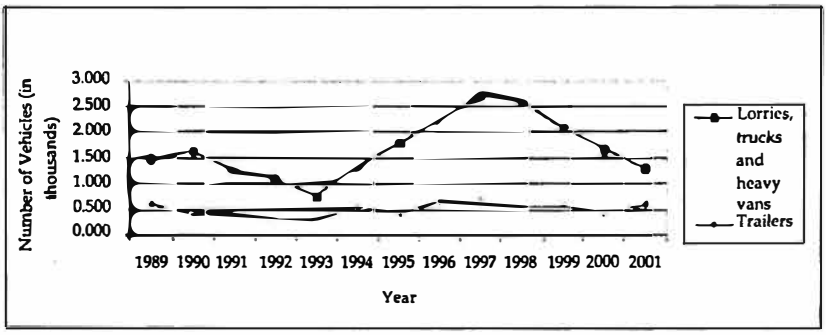
Source: Kenya Revenue Authority, Roads Department

Figure 1: Vehicles with current licenses



Source: Statistical Abstract, various issues

Figure 2: New registration



Source: Statistical Abstract, various issues

new registrations indicate that the number of new registrations declined consistently between the years 1990, 1993 and 1997 to the present for trucks, lorries, heavy vehicles and trailers (Figure 2).

Statistics on licenses issued for vehicles on hire indicate that majority of those vehicles are freight transport vehicles, while very few are passenger service vehicles. For instance, a total of 11,095 vehicles were hired in the year 1989, out of which 7,752 were freight transport vehicles while 3,343 were passenger service vehicles (Government of Kenya Statistical Abstract, 1996). The number doubled between the year 1999 and 2000, from a total of 11,065 to 22,370 licensed vehicles. Out of the 22,370 licensed vehicles, 17,697 vehicles were hired for freight transport. This indicates that more vehicles on hire are used for freight transport as compared to those specifically licensed for that purpose.

3.3 Policy Direction in Motor Industry Taxation

Kenyan government has been keen on reforming the road transport sector. As seen in appendix 3, some tax reforms in the road transport sector have been undertaken for various reasons, such as:

- Promotion of local motor vehicle industry

- Enhancing fairness in tax burden
- Increased revenue mobilization
- Controlled consumption of petroleum products
- From import under-valuation to safety and environment issues
- Availability of affordable passenger cars
- Tariff simplification and rationalization.

Since the 1970s, trade policy has aimed at protecting the local motor vehicle industry. This policy was mainly aimed at lowering imports and consequently encouraging local assembly of vehicles. Some of the reforms during that time were also undertaken in a bid to make the taxes in road transport more equitable. This meant that heavier vehicles were to bear a greater tax burden than lighter passenger cars. All these reforms were based on the realization that costs of road maintenance had increased, and therefore more revenue was needed to meet the rising costs of maintaining infrastructure. As a way forward, efforts were made in the year 1979/80, under the Second-hand Motor Vehicle Purchase Act and Traffic Act, to reduce the consumption of the more expensive grades of petroleum products, thus discourage importation and use of large passenger cars. There were also efforts to simplify the tariff structure applicable to the motor industry since late 1990s. Sales tax/VAT policy measures between the year 1987/88 and 1992/93 mainly focused on making passenger cars more affordable by the middle class. In addition, the Road Maintenance Levy was introduced in 1994/95 and the rates were increased in 1996/97 and 1997/98 in order to meet the large revenue needs demanded to improve the poor condition of roads. Further, it was realized that under-valuation of imports had become quite widespread in early 1990s, which was causing major revenue losses.

3.4 Northern Corridor Transit Agreement

In addition to tax reforms, the Government of Kenya together with the governments of Burundi, Rwanda, Uganda, and the Democratic Republic of Congo signed the Northern Corridor Transit Agreement (NCTA) on 17 February 1985 in Bujumbura. The agreement became effective on 15 November 1986, after its ratification. The original NCTA was envisaged to last 10 years. However, at the end of the first ten years, the implementation matters of all aspects of NCTA had not been completed. There were still outstanding issues whose resolution required the continuation of the NCTA arrangement. Consequently, on 25 October 1996, the agreement was extended for another 10 years with effect from 15 November 1996. The objective of the agreement was to establish a rational management mechanism of the transit transport to landlocked countries from the Port of Mombasa. Within the framework of the NCTA, the contracting parties had agreed to give transit right to one another in order to facilitate the movement and flow of cargo through their respective territories. To attain this objective, the contracting countries established nine protocols relating to the various aspects of transit transport, namely:

- Port and maritime facilities
- Transit itineraries and facilities
- Custom control
- Documentation and procedures
- Transportation of cargo in transit by railway
- Facilities for forwarding agencies and their employees
- Civil automobile liability insurance.

All these have had an impact on the road transport reform in Kenya.

The problems encountered in the implementation of the NCTA were:

- Incompatibility of the security mechanisms for transit traffic with regard to guarantee
- Difficulties in establishing a standardized policy of liability in rail transport
- Absence of provisions relating to internal transport by railway
- Overlapping regarding the realization of projects aimed at developing transit transport and sub-regional institutions like Common Markets for Eastern and Southern Africa (COMESA), Inter-Governmental Authority on Development (IGAD) and East African Community (EAC)
- Lack of promotional policy in the utilization of container transport and multimode transport
- Limited capacities of the permanent secretariat to implement the agreement considering the means at its disposal
- Geo-political situations very often experienced by the member states to the agreement, for example the embargo imposed on Burundi from July 1996 to January 1999.

The proposed solutions to the above problems, as recommended by the committee, were:

- Tolls and transit tariffs were to be harmonized in the countries utilizing the Northern Corridor
- Customs policy relating to customs procedures and formalities were to be harmonized, especially regarding documents, with emphasis on the utilization of a unique document that is valid along the entire Northern Corridor

- Insurance policies were to be harmonized on goods passing through the Northern Corridor through the Port of Mombasa
- Privatization of weighbridges at various sections of the Northern Corridor while ensuring that such privatization does not result in more increase in cost of transportation
- Member states were to make an effort to establish a harmonized policy in the management of road infrastructure, especially with regard to the norms of construction and maintenance, in order to improve traffic along the Northern Corridor.

The matter of concern arising from this treaty is the implication of the treaty on Kenya's ability to maintain its infrastructure given the heavy traffic from the Port of Mombasa. The heavy trucks cause a lot of damage on the roads and strict measures are needed to ensure no overloading. Another issue of concern has been delays and inefficiencies at weighbridges, which were proposed to be privatised but are still maintained by the government. These are pending issues that NCTA still needs to address.

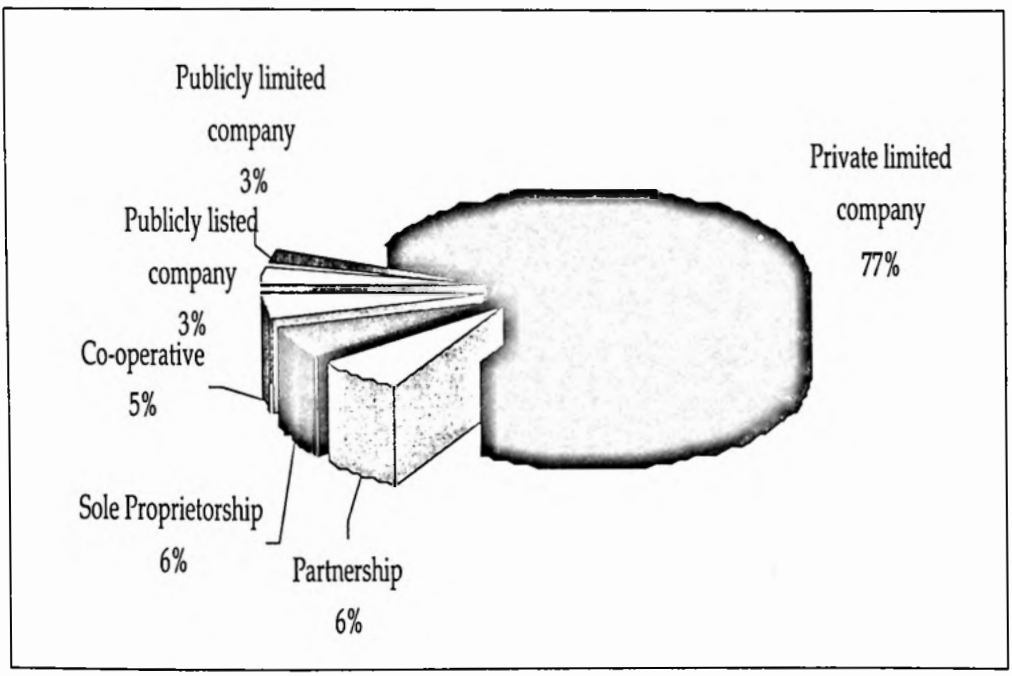
4. Survey Findings

The survey findings can be summarized under firm characteristics, investment and profitability, procedures and processes, taxation, licensing and regulations and obstacles to transport business.

4.1 Firm Characteristics

The survey established that 94 percent of the companies in trucking industry are privately-owned (including private limited companies, partnerships, sole proprietorship and co-operatives) (Figure 3), with 75.5 percent being formed after the year 1981. Most of the businesses are family businesses, with majority being Kenyans of Asian origin.

Figure 3: Firm ownership



From the survey, 40 percent of the transporters own fleet ranging between 1-10, with 17.5 percent owning between 11-20 vehicles (Table 4). Majority of the transporters own a small fleet and yet transport business is more profitable with a larger fleet. The respondents pointed out that transporters with a large fleet controlled the biggest market share of transport business and business operations were not favourable for small transporters.

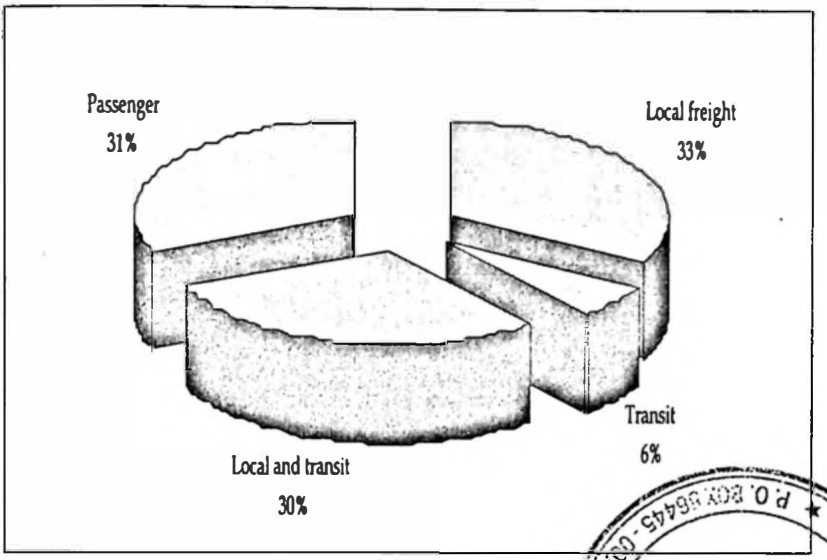
Table 4: Purchase of additional fleet

Fleet size		Whether vehicle was new or second-hand	
	Percentage		Percentage
1-10	39.68		
11-20	17.46	New	40.68
21-50	20.63	Second-hand	59.32
51-100	12.70		
101-200	4.76		
201-400	4.76		
Total	100.00	Total	100.00

The study also found that 59.3 percent of additional fleet was second-hand, while 40.7 percent were new. Whereas 56.5 percent of the additional fleet was purchased locally, 43.5 percent were imported. Majority of the transporters opted for local second-hand vehicles since they are available at a cheaper price. Imported second-hand vehicles were considered expensive because of high import and suspended duties. The age limit of eight years for imported vehicles was considered a major hindrance since majority of the transporters cannot afford newer fleet.

The survey indicated that majority of transporters are engaged in local freight (33%), passenger transport (31%), local and transit freight (30%) and transit goods (6%) (Figure 4).

Figure 4: Type of business



4.2 Investment and Profitability

Out of 68 respondents, 92 percent of the transporters established their own business while 2 percent bought the business and 6 percent inherited (Table 5). It was also found that 72 percent started their businesses from their own savings, while 21 percent got a bank loan. This is an indication of the difficulty of acquiring finance for transport business as earlier alluded to since it is considered a high-risk venture.

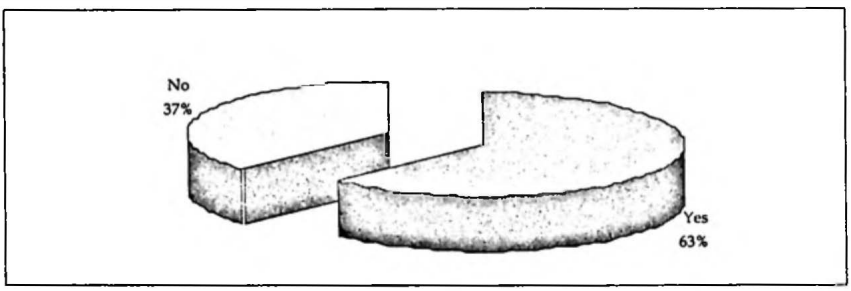
Transportation business is still profitable in Kenya as was indicated by 63 percent of the respondents while 37 percent were of the opinion that business is no longer profitable (Figure 5). In addition, 73 percent of the

Table 5: Firm investment

How firm was acquired		Start-up capital	
	Percentage		Percentage
Established	92.06	Owner savings	71.79
Bought	1.59	Equity	2.56
Inherited	6.35	Bank loan	20.51
		Other	5.13
Total	100.00	Total	100.00

respondents revealed that the time taken for the business investment to pay itself back was about 2-5 years on average. However, 84 percent indicated that business is less profitable as compared to five years ago.

Figure 5: Whether or not business is profitable in Kenya



From the survey, 22 percent of the respondents indicated that fixed costs account for about 21-40 percent of the total costs in road transport, while 37.5 percent indicated that the costs account for about 41-60 percent of total costs (Table 6). Running costs were found to be high because of vehicle repairs and maintenance, occasioned by the bad state of roads.

Table 6: Cost of doing business in Kenya

Percentage of fixed cost		What makes cost to be high	
	Percentage		Percentage
0-20%	12.50	Bad roads	10.20
21-40%	22.92	Repairs and maintenance	73.47
41-60%	37.50	Expensive manpower	2.04
61-80%	20.83	Fluctuating fuel prices	6.12
81-100%	6.25	Bad roads and high fuel prices	6.12
		Bad roads and high maintenance cost	2.04
Total	100.00	Total	100.00

Looking at the comparison between the nature of business and the proportion of fixed costs, it was found that the largest proportion of fixed costs for all types of business lies in the range of 41-60% (Table 7). For those transporters dealing in both local and transit transport, it was

Table 7: Comparison of the nature of business to the proportion of fixed costs

Nature of business	Percentage of fixed cost				
	0-20%	21-40%	41-60%	61-80%	81-100%
Local freight	13.33	13.33	33.33	20.00	20.00
Transit goods	0.00	0.00	100.00	0.00	0.00
Local and transit freight	7.69	23.08	38.46	30.77	0.00
Passenger transport	15.79	31.58	36.84	15.79	0.00

found that new trucks are used for long distance, but they are put to local use when they get older.

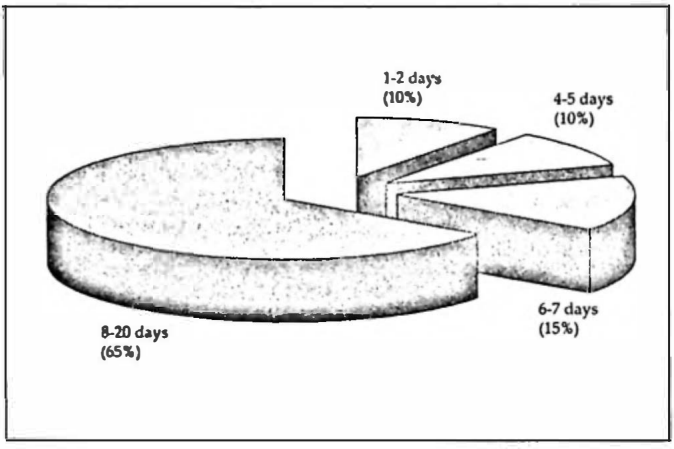
Even though there was no question regarding the trucking rates, past research[3] indicates that domestic rates in the year 1994 ranged between US$ 8.1 and 12.3 cents/ton-km, with an average of US$ 9.3 cents/ton-km, which reduced to about US$ 6 cents/ton-km for domestic transport and about US$ 7.5-8.5 cents/ton-km for transit transport in the year 2001. This decline has been attributed to the liberalisation of trade and transport in Kenya and across the region. These rates are much higher as compared to Tanzania's US$ 3.8 cents/ton-km, which are lower mainly because of lower fuel prices.

These findings were in line with the stakeholders' report, which indicated that fixed costs were more than variable costs and doubling the number of trips would reduce the fixed costs by half. Thus, road transport operators can provide the same service with less than half the current fleet's strength, assuming that the volume of freight remains the same. This in turn reduces capital investment and also the number of trucks on our roads. Currently, improving the return on the investment translates into high transport costs.

[3] See Alila *et al* (2005) and Anyango (1997) as quoted by Alila *et al* (2005).

From the survey, 65 percent of the respondents indicated that a typical trip from Mombasa to Kampala takes 8-20 days, hence only 2-3 such trips can be made in a month as compared to 4-5 such trips made five years ago (Figure 6). This confirms statistics given at a stakeholders' forum that with improved road conditions, it is practical and safe to achieve four round trips between Mombasa and Kampala per month.

Figure 6: Time taken from Mombasa to Kampala



According to the stakeholders' report, there was an average of 1.75 trips per month a year ago, when working 7 days a week and 10 hours per day, while only 1.44 trips per month can be made currently. This implies that capital utilization was about 44 percent a year ago but this has fallen to 36 percent this year.

4.3 Procedures and Processes

From the survey, 21.78 percent of the respondents said that it takes about 21-40 hours on average to process documents at the Kenya Ports Authority (KPA), while 22.22 percent indicated that they take 61-80 hours (Table 8). Further, 37.5 percent indicated that it takes 41-60 hours to process documents at the Kenya Revenue Authority (KRA) Customs

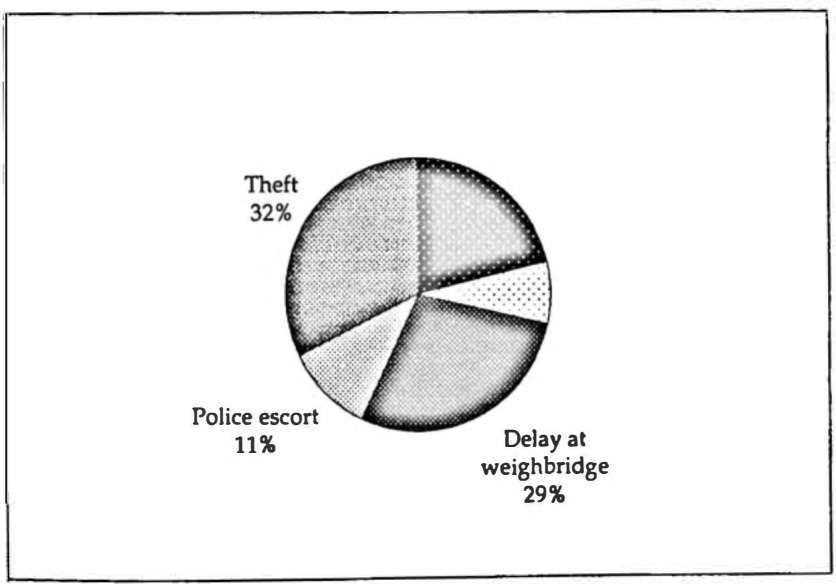
Table 8: Time taken to process documents

Time taken	KPA %	Customs and excise offices %	Loading cargo (Mombasa Port) %
1-5 hours	16.67	0.00	22.58
6-10 hours	5.56	0.00	3.23
11-20 hours	16.67	0.00	6.45
21-40 hours	27.78	31.25	29.03
41-60 hours	11.11	37.50	32.26
61-80 hours	22.22	31.25	6.45
Total	100.00	100.00	100.00

and Excise Department, while 32.26 percent said that it takes 41-60 hours on average to load cargo at the Port of Mombasa.

The delay was attributed to inadequate loading equipment at the port (61%), bureaucratic procedures (23%) and inadequate staff (12%). The survey revealed that 57 percent of the transporters rated the Port of Mombasa as inefficient, with 44 percent attributing it to poor loading equipment and 48 percent to long documentation procedures. It was unanimously agreed that upgrading equipment at the port would improve port operations. According to the stakeholders' report, delays

Figure 7: Problems encountered by long distance transporters



at the Port of Mombasa are mainly due to the use of inadequate equipment, which have been neglected for many years. On average, it takes between 4-10 hours to load or offload cargo at the port and trucks spend between 6-24 hours at the port.

The problems experienced by long distance transporters (transit) were rated as follows: theft of goods on the road (32%); delay at weighbridges (29%); poor road conditions (21%); police escort (11%); and long clearance procedures (Figure 7).

4.4 Taxation, Licensing and Regulations

It was observed that transporters pay the following taxes and license fees: trade licenses from the Ministry of Trade and Industry; municipal license (single business permit); space occupancy and parking levies; TLB license; road licence; PSV license for passenger vehicles; registration; road safety fund; and second-hand motor vehicle purchase tax. Transporters were of the opinion that the myriad taxes were hindering smooth licensing procedures as the licences are issued by different ministries or at different counters. Other than acquiring the TLB licenses, those involved in transit traffic must also have special transit goods licenses, which exclude the truck from carrying local goods. This is disadvantageous since the truck cannot operate locally incase of unavailability of transit business. This leads to idling of resources, thus depressing the return on investment.

The survey also identified several regulations that apply to the road transport sector. These included regulations under: Kenya Bureau Standards (KBS); Ministry of Health; Ministry of Transport and Communication; Ministry of Local Government; and Ministry of Trade and Industry. From the survey results, 90 percent of the transporters agreed that most of the above regulations were necessary for an affective and efficient transport sector, except for speed governors, which were

cited as unnecessary due to the low speed of heavy trucks and trailers. However, 66 percent of the respondents perceived the implementation of the registration and licensing requirements as being inefficient, while 84 percent were of the perception that the taxes they pay are too high.

4.5 Obstacles to Road Transport Sector Business

Several issues were cited as obstacles to the efficient and smooth running of the road transport sector operations:

Poor road conditions

Old age, heavy-load vehicles and lack of maintenance have occasioned the poor infrastructure. The dilapidated roads slow down the movement of both local and transit traffic. This has led to increased road transport costs.

Long documentation procedures

The long and cumbersome documentation procedures at the port and at customs offices were found to cause major delays. Also cited were organizational problems in processing transit documents in customs long-rooms by subjecting them to the same procedures as those of domestic goods. Besides, customs offices are situated far away from the port, causing further delay. Other than KPA, all the other government agencies operating within the port have not endeavoured to improve the documentation process at the port. Some of the government agencies mentioned were: Customs Kenya Police through the Regular Police Unit and the Criminal Investigation Department, and the Kenya Bureau of Standards. Policies of these agents often conflict each other, therefore causing great delays. The inefficiencies caused by delays compromise the competitiveness of the Port of Mombasa. To fasten the processing of

documents, respondents indicated that they paid bribery averaging to Ksh 1,000.

The bureaucracy of obtaining the relevant permits and exemptions to move project cargo (for example heavy lifts and out of gauge cargo) was also found to be causing delays. Previously, these permits or exemptions could be obtained from either Nairobi or Mombasa but currently can only be obtained from Nairobi, and they take up to 14 days to process, leading to great delays and losses.

Theft

The poor conditions of the roads occasionally force trucks to either slow down or stall along some sections of the roads. Robbers often take advantage of the situation to break the containers and steal the goods. This has caused the transporters great losses, as they have to pay for the stolen goods.

Delay at weighbridge

Weight control procedures were also cited as a major handicap to transport business. Whereas the introduction of weighbridges to control axle load weight was good, operational problems have continued to cause major delays. The weighing machines in use are outdated and operate in an uncoordinated fashion. For example, the weights recorded may differ from one weighbridge to another despite no additional load. Offenders of overloading are subjected to court procedures and hefty fines imposed while trucks remain idle. It was also noted that the transporters mostly have to pay a bribe to avoid delays at the weighbridge. From the survey results, 53.8 percent of the respondents said they usually pay about Ksh 1,000, while 23.1 percent pay between

Ksh 1,001-10,000. Other problems associated with congestion at weighbridges are the parking and security charges resulting from the long stay at the weighbridge. This unnecessarily increases operation costs for transporters.

Police escort

The requirement that goods on transit be transported under police escort also emerged as another cause of delay. The current policy is that all transit goods must move under bond. The clearing and forwarding agent acquires bonds to facilitate this while transporters also have to acquire separate bonds before they can be allowed to transport transit goods. In addition, a certain class of cargo must still move under customs and police escorts. These services are not always available when needed. The stakeholders' report indicates that out of the Port of Mombasa to Mariakani, police escort 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. While the objective of the police escort is noble, since it protects diversion of transit goods into the local market, the process should be streamlined to avoid delay.

High taxation

Multiplicity of taxes in the sector also increases the cost of doing transport business. Besides, the revenue collected from the sector is not geared towards improving or creating an enabling environment for transport business, apart from the Road Maintenance Levy (RML) which is meant for road network improvement. As per the Income Tax Act, the allowable depreciation rate on trailers is 12.5 percent compared to a rate of 37.5 percent on prime movers. The concern regarding this was that the two

rates should be harmonized to 37Ω% since experience has shown that the rate of wear and tear is virtually the same in both cases. Other taxation concerns were:

- Up to 40 percent of the cost of inputs in the road transport business is fuel and lubricants and yet VAT charged on these items is not a deductible input
- Advance tax (Ksh 1,500 per ton on load capacity) on anticipated revenues and profits, which was introduced in 1996/97, is considered unfair to transport concerns that are registered for taxation purposes, and was found to be a huge cost to the road transport sub-sector, causing an adverse effect on cash flows
- Duty on imported used trucks is 45 percent (as compared to 3% in Uganda and 5 percent in Tanzania), which makes it impossible for transporters to renew their fleets. Similarly, import duty on tyres and spare parts, which is at 25 percent, is considered too high.

High fuel and maintenance costs

The ever-increasing price of fuel and the high maintenance cost were also mentioned as impediments to transport business. These costs form the major component of the firms' administrative costs, and therefore lower profitability. Table 9 below shows how respondents rated the costs:

Table 9: Obstacles to transport business

Category label	Responses (%)	Rank of obstacle
Bad roads	31.8	1
Weighbridge	9.1	4
Theft	9.7	3
High taxation	9.1	4
Police harassment	6.3	8
Unfair competition	7.4	7
High fuel costs	4.5	9
Long documentation procedures	13.6	2
High maintenance costs	8.5	6
Total	100.0	

From the survey results, the poor state of roads infrastructure emerged as the biggest obstacle to transport business, with the second and third biggest obstacles being long documentation procedures and theft, respectively.

General observations from the survey were:

- The road transport sector comprises of a large informal sector. This can mainly be attributed to lack of finance or unwillingness to invest in formal business premises, thereby lowering administrative costs. Considering the size of the informal sector, advance tax is the only way of bringing these transporters into the tax net. The feeling that advance tax is punitive, if considered, can create a leeway for tax evasion.
- The survey team came across transporters registered in foreign countries but operating in Mombasa. The NCTA allows such transporters to set a temporary base, but this can be a form of tax evasion in that an individual will register a truck in the country with lower tariffs and still operate in Kenya. Several foreign registered trucks were found to be Kenyan-owned and operating in Mombasa, yet Mombasa was seen as a temporary base.

4.6 Transit Transport and Regional Integration

Apart from the NCTA, Kenya has also to comply with the transport policies under COMESA. It has been recognized that cross-border transporters (on transit) have experienced a lot of difficulties due to differing regulations across borders. Typical examples are differing axle weights and also requirement of a licence to take another cargo after offloading in a country of destination. The poor harmonisation of transport policies leads to increased transport costs. In order to reduce transport costs, COMESA introduced a number of programmes, among which include:

- Harmonized axle loading and maximum vehicle dimensions
- COMESA Carriers Licence; Harmonised Road Transit
- COMESA Yellow Card.

The Gross Vehicle Mass limit was set at 53 tonnes to limit the damage on the roads but also to allow transporters to carry sufficient profitable weight. These harmonised axle limit loads are being implemented in Kenya, Burundi, Democratic Republic of Congo, Eritrea, Ethiopia, Malawi, Rwanda, Sudan, Swaziland, Uganda, Zambia and Zimbabwe.

Rather than having to comply with different licensing requirements, a COMESA Carrier's Licence was introduced for commercial vehicles, and is valid throughout the region, Kenya included. Kenya is also among the countries that apply the harmonized COMESA transit tariffs. The COMESA Yellow Card on the other hand is a motor vehicle insurance scheme, which is valid for all participating countries. It covers third-party liabilities and medical expenses for the driver of the vehicle and his passengers. This card also facilitates cross-border movement of vehicles between COMESA member countries.

5. Financing Needs of the Road Transport Sector

The survey results rated poor roads as the biggest obstacle to the trucking industry business. The question that arises is, to what extent is revenue from the sector used to fund road maintenance? Many countries establish a specific road fund for infrastructure maintenance. However, establishment of the road fund may affect the efficient working of the economy in three ways:

- Fiscal control, which influences the efficiency with which resources are collected and allocated among activities to maximize total community welfare
- Management incentives, which determines the efficiency with which the agents of production use the allocated resources allocated to them
- Rent-seeking behaviour, which occurs when individuals attempt to secure their own specific advantage at society's expense (Gwilliam and Shalizi, 1999).

In the 1960s and 1970s, many countries in Africa, Asia and Latin America established road funds as an extra-budgetary arrangement. Earmarking of particular revenues, in many cases from fuel taxes, was introduced with the main objective of separating road maintenance revenues from the overall budgetary allocations. However, earmarking has some shortcomings.

- Poor governance and lack of fiscal discipline undermines the capacity to maintain roads using the statutory road fund. Governments may be unable to guarantee the security of assigned revenues or the designated allocation of expenditures.
- Earmarked streams of revenue are likely to generate insufficient or excessive funding.

In Kenya, several taxes and fees were introduced for various reasons, with only the Road Maintenance Levy being earmarked for road maintenance (Appendix 2). The rationale of the introduction of each tax/ fee is as follows:

Advance tax: This is a form of income tax levied on public service vehicles and commercial vehicles. This is not a final tax but is refundable upon the submission of an income tax return if the taxpayer has no chargeable income. The aim was to bring the elusive transporters in the income tax net. The Road Transport Department was used as the enforcement point because all vehicles must have a road license and so it is collected at the point of renewal of the road license.

Road Maintenance Levy (RML): This is a levy on all petroleum fuels that is levied by the marketers, who in turn remit it to the Commissioner of Customs. It was intended for repairs and maintenance of classified roads.

Petroleum Development Levy (PDL): The consumers pay this levy in respect of all petroleum fuels. The money from the levy was intended for use in supplementing distribution and retail outlets in areas not adequately served by the current oil marketing companies.

Second-hand Motor Vehicle Purchase Tax: This tax was introduced in the year 1963 with the basic intention of raising government revenue. It was presumed that anyone acquiring a car was wealthy and therefore a tax on that wealth should be levied.

Motor Vehicle Inspection Fees: All motor vehicles are required to be inspected before licensing to ensure that they are in sound mechanical state. Motor Vehicle Inspection Fees is paid by motorists and constitutes government revenue. With the decision that the police conduct the inspection, the Commissioner of Motor Vehicles continues to collect the fees on behalf of the Commissioner of Police.

Transport Licensing Board (TLB) Fees: Introduced in the year 1963, the 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 passengers. It is collected by the Commissioner of Motor Vehicles and constitutes government revenue. As indicated in the 2002/03 budget speech, the objective of TLB license fees as a measure of regulating the transport industry and in particular, reducing the congestion on Kenyan roads was not realized. These fees were seen as penalizing the transport industry. As a result, TLB fees were withdrawn in 2002/03. With the rising turbulence in the transport industry, TLB was re-introduced in 2003/04 to ensure order in the industry as the Ministry of Transport and Communication prepares the appropriate public transport policy.

International Driving License: This was introduced in the year 1948 as result of the Geneva Convention where all the nations of the world agreed to issue to drivers a document that was acceptable around the world. The Convention agreed on the format but each country was free to decide on the fees to be charged. The period of validity was to be one year. In the year 1968, the nations agreed to increase the period of validity to three years but the countries that were not represented, Kenya included, were assumed to subscribe to the earlier convention and could only issue a document valid for one year. The fees charged were initially collected by the Commissioner of Motor Vehicles as government revenue but are currently collected by the Automobile Association of Kenya.

The current sources of funding for road maintenance are the fuel levy and transit toll, with the fuel levy accounting for approximately 96 percent and road toll for about 4 percent (Ministry of Roads and Public Works and JICA, 2003). According to the report, about Ksh 401.2 billion is needed to bring up Kenya's roads up to a desirable state of being in

good condition for the maintenance lifecycle of 2001 to 2015. Other sources of funding for road maintenance are the cess (1% levy on agricultural produce) and the Local Authority Transfer Fund (LATF), which is an equivalent of 5 percent of the total tax revenue collected by the government. The Kenya Roads Board (KRB) only gets the Road Maintenance Levy (RML) for road maintenance, which is about one third of the required revenue to maintain the roads at the required levels.

Given that only about one third of the revenues from the road transport sector (Appendix 1) are earmarked for road maintenance purposes, there is need to allocate a greater proportion of the revenues to road maintenance and also identify other potential sources of revenue. The most achievable potential sources of revenue identified are:

- Tolling of highly traveled roads
- License revenue and fees from the Traffic Act
- Axle load excess fines.

6. Regulation or Deregulation of the Road Transport Sector

There has been a growing need for countries to carry out economic reform as a means of enhancing economic growth and development. The pressure for economic liberalization and adoption of free market economic principles has pushed Kenya to re-examine laws and regulations governing the private sector. One of the areas of reform has been deregulation in specific sectors, which has involved freeing enterprises from the unnecessarily cumbersome procedures and regulations. In Kenya, regulations and procedures were observed as major hindrances to the development of Small and Micro Enterprises (SMEs). The Sessional Paper No. 1 of 1986 on *Economic Management for Renewed Growth* and all subsequent development plans highlighted the promotion of the Small Scale and Jua Kali Enterprises sector as a primary means of strengthening Kenya's economic development.

Deregulation of the road transport sub-sector in this case mainly entails creation of a one-stop window for licensing of all vehicles, but not elimination of all licenses and permits. This consideration requires a clear understanding of licensing procedures. Currently, there are several types of licenses issued to motor vehicles including: Road licenses; free road licenses; foreign licenses or permits; and PSV licenses. To acquire a road license, one needs an original and copy of logbook, a copy of a valid insurance certificate and a duly filled application form 'B'. Fees payable depend on engine capacity rating (for private vehicles) or tare-weight (for commercial vehicles). A road license will then be issued upon payment of the license fees.

Free road licenses are issued according to general protocol/treaties to motor vehicles owned and operated by UN bodies and their agencies, and vehicles owned and operated by foreign missions and their agencies

in Kenya. Requirements for obtaining these free road licenses are the same as requirements for road licenses that are paid for.

Foreign permit licenses are issued to the following categories of motor vehicles:

- Seven-day temporary permit issued at entry points to vehicles pending/awaiting registration
- Free seven-day foreign permit issued to vehicles on transit to neighbouring countries
- Paid up foreign permit issued to vehicles on tour in Kenya and with international circulation permit from the country of origin
- Paid up foreign permit issued to vehicles entering Kenya on business trip under the East African Treaty.

Extensions are granted for renewal for the same rate. Application documents presented include:

- Vehicle importation papers
- Valid insurance certificate
- Vehicle inspection report (for commercial vehicles and all vehicles entering the country by land).

To obtain a TLB license, the documents lodged are:

- Duly filled and signed application form 'TLB 2'
- Copy of vehicle inspection report
- Copy of the vehicle logbook
- 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 gazettement. Once gazetted, the applicants

are then invited (through letters) to appear before the Transport Licensing Board for approval of their licenses upon payment of recommended fee. The board holds meetings in provincial headquarters at different times of the year.

The first applicantion must undergo all the process outlined above. However, subsequent applications do not repeat the whole process. Short-term licenses are also available for three months while waiting for approval of the yearly license. Proof of payment of advance tax to Income Tax Department is required for application of a PSV license.

Given the 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 acquiring road and TLB licenses at the same time and also consolidating the local freight and transit goods 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.

The 'one-stop window' not only saves time but also ensures more compliance. Transporters interviewed were of the feeling that 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. The undermining factor in the creation of a 'one-stop-window' is the fact that TLB licenses are issued only after approval from the TLB committee while road licenses are issued upon payment of the license fees. Thus, the existing regulatory framework does not allow for the creation of a one-stop-window.

The implications of creating a 'one-stop-window' are: amendment of the Traffic and TLB Acts to streamline the application procedures; disbanding of the TLB license committee; and subsequent merging of

the TLB and other roads departments, which also implies thinner licensing staff.

The 'one-stop-window' licensing approach has some advantages:

- Amount of public time currently spent on obtaining licenses and fulfilling government regulations will be reduced
- There would be effective control over money since other institutions will not be allowed to collect money from licenses and permits
- 'One-stop-window' would considerably reduce the level of corruption as it lessens the avenues of corruption
- Number of officers issuing and monitoring the licenses will subsequently reduce, thereby reducing the government wage bill
- 'One-stop-window' would attract more foreign investment because of improved investment climate, which was being discouraged by the extensive licensing system and the high level of corruption.

Deregulation under the trucking industry can follow a similar approach to the single business permit. The objectives of the reform process were:

- To simplify the policy and administrative procedures in order to improve horizontal and vertical equity
- To reduce administrative and compliance costs
- To provide more buoyant revenues for local authorities.

To improve horizontal equity, it was proposed that the fee structure be simplified and differentiated by business type and size to ensure proper classification and also larger businesses were to pay more than smaller businesses. To reduce administrative and compliance costs, the fee structure and administrative procedures were simplified to make it easier

and cheaper for local authorities to register, classify, assess and collect a single business permit. A comprehensive business register (creates a broad revenue base), a progressive fee structure (allows for buoyant revenue enhancement), and a simplified administration (strengthens ability to collect and enforce against non-compliance) were proposals for provision of buoyant revenues for local authorities.

7. Conclusions and Policy Recommendations

In light of the above findings, the following recommendations can be proposed:

- The possibilities of merging some of the licences into a single licence for easier administration and licensing of operators should be explored. Specifically, the road licence (both local and transit goods license) and TLB should be issued at the same place to avoid inconveniences and reduce operation costs. This would also ensure efficient tax collection, as it would reduce administrative costs of collecting the tax/fee. There is also need to decentralize licensing procedures so that transporters do not have to travel to Nairobi to get the license.

- There is need to acquire modern and adequate loading/offloading equipment at the Port of Mombasa to ease congestion. Establishment of special locations for processing transit traffic separate from local cargo is necessary.

- The load-weighing processes at weighbridges should be streamlined to avoid delay. This could be done by commercialising the weighbridges with strict monitoring of the performance. This is in line with the recommendation by the North Corridor Transit Agreement to privatise weighbridges. There is also need for frequent calibration of the weighbridge equipment to ensure consistent readings. 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. Further, there was a proposal that axle load is weighed at the point of origin. This is due to the fact that loose cargo tends to dislocate as it is transported, thereby allowing for disparities in weight readings between different weighbridges. To avoid tampering

with cargo in between weighbridges, proper seals can be introduced at the point of origin. Also, chances of loading extra cargo are minimal since transit cargo is transported under police escort. There is also need to implement the Gross Vehicles Weight in tandem with axle load regimes in order to effectively control the axle load legal limits. Corruption at weighbridges should also be dealt with. According to the 2004/05 budget speech, the government hoped to introduce weigh-in-motion systems at Mariakani and Athi River, and later at Gilgil to facilitate faster movement of cargo. Mobile weighbridges are also to be introduced along the major roads.

- The road infrastructure should be improved to minimise breakdowns and theft along the highways and also to reduce operation costs. This implies that a greater proportion of revenues from the road transport sector should be earmarked for road maintenance.
- The customs procedures should be streamlined through computerisation to minimise face-to-face contact between customs officers and clients. Customs long-room should also be relocated to the Port of Mombasa. Further streamlining of documentation procedures should also be enhanced.
- Police escorts should be minimised by embracing modern goods tracking devices for surveillance. If not, then police escorts should be made more available/more frequent.
- Transit toll contributes minimally to road maintenance and yet the heavy transport trucks cause a lot of damage to the roads. There is need for an agreement on road maintenance under the North Corridor Transit Agreement to avoid deterioration of the major highways.

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Appendix 1: Mapping revenue to expenditure

Revenue type	Tax incidence	Revenue (2002/3, Ksh millions)	Revenue (2001/2, Ksh millions)	Revenue (2002/3, Ksh millions)	Intended user	Forwarded to	Expenditure
Road Maintenance Levy (RML)	Fuel usage	7,898	7,903	8,282	KRB	KRB	Improve road network
Petroleum Development Levy(PDL)	Fuel usage	258	269	280	KPR	KPR	Renovate & maintain the oil refinery
Road safety council fund	Importation of motor vehicles	60	61	40	RSC	Treasury	Consolidated fund
Secondhand motor vehicle purchase tax	Purchase of secondhand motor vehicles	87	91	67	Treasury	Treasury	Consolidated fund
Sales tax/VAT	Sale/importation of motor vehicles	3,747*	2,937*	3,496*	Treasury	Treasury	Consolidated fund
Excise duty	Sale/importation of motor vehicles	3,017*	2,937*	2,008*	Treasury	Treasury	Consolidated fund
Import duty	Importation of motor vehicles	8,460*	8,285*	5,682*	Treasury	Treasury	Consolidated fund
Advance tax	Charged on passenger vehicles annually	188	229	166	Treasury	Treasury	Consolidated fund
Motor vehicle inspection fee	Motor (commercial) vehicle inspection	122	144	106		CoP	Unknown
Transport Licensing Board license	Charged on public service vehicles annually	Nil	95	86	TLB	Treasury	Consolidated fund
International driving license	Collected by AA Kenya on application of international driving license				Treasury	AA Kenya	Unknown
Normal driving license	Collected by RTD from new DL applicants and yearly renewals	241	228	207	Treasury	Treasury	Consolidated fund
Road license and PSV licenses	Collected by RTD on all vehicles using the road and passenger vehicles respectively	661	499	473	Mo RPW	Treasury	Unknown
Motor vehicle registration & transfer fee	Collected by RTD at the point of registering a vehicle and on transfer of a vehicle to another person	144	134	111	Treasury	Treasury	Consolidated fund
Total		24.883	23,812	21,004			

KRB = Kenya Roads Board; KPR = Kenya Petroleum Refineries; RTD =Roads Transport Department ; DL = Diriving Licence; CoP = Commissioner of Police; PSV = Public Service Vehicle; RML = Roads Maintenance Levy; PDL = Petroleum Development Levy; MoRPW = Ministry of Roads and Public Works

* These values are an approximation based on the number of vehicles imported and the average tax/duty rate.

Source: Author's computation

Appendix 2: Rationale for introduction of taxes and fees

Fees/tax	Year introduced	Rationale	Paid by	Collected by	Intended user
Advance tax	1996	To bring the owners of public service vehicles into the tax net	Commercial and PSV operators	Commissioner of Income Tax	Treasury
Road Maintenance Levy (RML)	31 Dec.1993	For repair and maintenance of classified roads	Vehicles using classified roads	Commissioner of Customs	Kenya Roads Board
Petroleum Development Levy (PDL)	31 May 1991	To supplement distribution and retail outlets in areas inadequately served by the current oil marketing companies	Consumers of petroleum products	Commissioner of Customs	National Oil Corporation of Kenya
Second-hand motor vehicle purchase tax	13 August 1963	A tax on the wealth of a person who acquires a vehicle	Vehicle buyer	Commissioner of Motor Vehicles	Treasury
Motor vehicle inspection fees	1 January 1954	A fee for inspection of vehicles to ensure they are in sound mechanical condition	Vehicle owner	Commissioner of Motor Vehicles	Treasury (formerly)/ Commissioner of Police (currently)
Transport licensing fees	1963	To regulate PSVs so as to achieve a balance on all routes	Vehicle owner	Commissioner of Motor Vehicles	Treasury
International driving license fees	1948	A result of the Geneva Convention of 1948 where all nations agreed to issue a document to drivers that would be acceptable around the world	Driver	Commissioner of Motor Vehicles (formerly)/ AA of Kenya (currently)	Treasury
Road safety council fund			Vehicle owner		Road safety council

Appendix 3: Tax policy reform measures in the transport sector

Purpose	Tax measures
Promotion of local motor vehicle industry	• Custom's tariff in 1972/73, for un-assembled cars set at 15% and graduated tax system for assembled cars ranging from 40% for under 1200cc to 100% of CIF value if over 2250cc • Customs tariffs lowered in 1994/95 • CKDs for assembled cars were to attract a rate of 15% as compared to 45% on completely built units, while duty on CKDs for large lorries had a lower rate of 10% • CKDs were finally zero-rated in 2002/03 • Excise duty on locally assembled motor vehicles removed in 2003/4
Enhancing fairness in tax burden	• A graduated scale of license fees was introduced for heavier vehicles in 1971/72 • Customs tariffs on passenger vehicles were increased by 5% for 1500-1700 cc up to a 50% increase in the tariff for over 2250cc in 1975/76 • Graduated tax rates under the second-hand motor vehicle purchase tax were also introduced in 1976/77 • Changes under the customs tariff in 1977/78 saw four wheel drive vehicles being taxed at twice the rate as two wheel drives of the same capacity
Increased revenue mobilization	• Major amendments in the Traffic Act were mainly for revenue purposes 1979/80 traffic license fees increased • Road Maintenance Levy (RML) was introduced in 1994/95 • The increase in the sales tax on unassembled passengers and the dealers' license fees under the Second-hand Motor Vehicle Purchase

	Act in 1985/86 was mainly to maintain a fair share of exchequer revenue from the increased motor vehicle trade
Controlled consumption of petroleum products	
	• Various fees under the Traffic Act were increased in 1982/83 in line with the government's policy at the time of reducing petrol consumption and encouraging use of diesel, which was in excess supply
Tariff simplification and rationalization	
	• Customs duties on minibuses, small pickups, lorries and trucks were reduced from a range of (45-120)% to (40-100)% in 1989/90 • Measure to rationalize both import duty and VAT rates, the combined tax burden on passenger cars of over 1500cc was lowered by 17% while that on minibuses of over 1800cc by 18% in 1991/92. All passengercars and minubuses were made subject to the standard 18% VAT in 1993/94 to expand the tax base and simplify the tax structure
Availability of affordable passenger cars	
	• The rates were lowered to reduce prices of passenger cars, which had increased considerably as a result of appreciation of currencies of major trading partners and the prevailing high interest rates
From Import under-valuation to safety and environment issues	
	• The government introduced a Pre-shipment Inspection (PSI) programme in May 1995 • Ensure the quality of imported vehicles as a result of increased liberalization • Discourage importation of very old vehicles, the existing surcharge under the Second-hand Motor Vehicles Act were increased in 1998/99. Specifically, for direct imports over five years, the existing 20% was to be subject to a minimum of Kshs. 30,000, while the minimum surcharge for vehicles over eight years was to be Kshs. 60,000. These rates were also adjusted upwards in 2000/01 and 2002/03. Importation of vehicles over eight years old was also prohibited