

THE IMPACT OF DIFFERENT TRANSPORT REGULATORY REGIMES ON TRANSPORT ACTIVITIES IN THE SADC REGION

Negota, G.M.

Cross-Border Road Transport Agency

1. INTRODUCTION

“Transparency and reliable procedures in the areas of customs, rights of cross-border passage for vehicles and drivers, vehicle and load specification, insurance provisions, and transit and users fees all serve to stimulate trade and private sector activity, improve trade finance and foreign investment, and generate revenues for governments” Robert Boumphrey, Director, Governance, Finance, and Trade Division, ADB’s Mekong Department (Border Barriers Eased by Truman Becker).

Different regulatory regimes within the SADC region are constraints which are felt and experienced by transport operators and users and which also cascade to affect lives of citizens in the SADC region. To maximize the economic benefits of cross border transport, constraints must be relaxed to improve efficiency in cross border access and avoid unreasonable long waiting times at borders.

The dream to achieve economic prosperity within the SADC region will never be fulfilled if the existing political unity amongst SADC member states is not translated into a regional unified economic development strategy. The SADC region is faced with difficult challenges on its road map towards economic self-sufficiency. Under development, diseases, unemployment, poor infrastructure still characterize the SADC region and hence its call for development. The region is supposed to attract foreign investment which can engender economic growth, the source of job creation and possible prosperity. Indeed it is the realization of their common problems than just their brotherhood that has brought SADC member states closer to one another. They had been victims of colonialism, wars and underdevelopment. They had awakened to the challenges of politics of development only to be confronted by massive poverty. Together member states need to travel a long journey from their current third world developing status to the first world developed status.

2. WHAT ARE THE ISSUES?

In pursuit of a quest for development, SADC member states find themselves developing legislative frameworks which reflect more of disharmony than the desired uniformity of approach to issues of economic development. Though the realization to charter together towards economic emancipation as a regional force is obvious, it is the diversity of paths pursued by different SADC member states which still darkens the desired road towards prosperity. Therefore the need to explore issues that defeat the objectives of economic development has never been so urgent than it is now. What are those issues? We have to admit that issues that make the SADC region not to pull forward together are issues of policy and legislation. Within South Africa itself the legislative landscape is permeated by provincial pieces of legislation some of which promote provincial differences than similarities. The National Land Transport Transition Act and the Road Traffic Act are the main national regulatory frameworks which concern themselves with South African transport regulatory issues than regional issues.

On the other hand neighbouring states have their own pieces of legislation. In Botswana, the Botswana Road Traffic Act provides the transport framework whereas the Lesotho Road Traffic Regulations is geared to promote the same in Lesotho. On the other hand Zimbabwe, Namibia and Swaziland also have their own national laws which lay emphasis on regulatory issues within their respective boundaries.

Free flow of goods and people across borders within the SADC region is vital to trade. This is an important regional economic development issue. Worldwide experience has proved that improved transport infrastructure and minimization of border crossing impediments are fundamental to trade facilitation. Whilst the economies of countries within SADC member states are also beneficiaries to proper management and operation at border posts, the results of poor management are also cascaded to customers. It is common knowledge that poor service and delays at border posts interfere with delivery time and thereby increase costs of the transportation of goods. Cumbersome legislation coupled with cumbersome procedures often lead to inefficiency which in monetary terms can translate to millions of rands.

Operationally activities around the conveyance of goods and the way such goods are handled had developed into a management regime of its own the effectiveness of which is negatively affected by the incoherent policies and pieces of legislation within the Region.

The issues are sustainable regional economic development, speedy delivery of goods and passengers, job creation, doing away with traffic congestion at border posts, safety, protection of road infrastructure, quality service and harmonization of current transport law within the Region. The most important issue therefore is to make all the stated concerns part of the programme of Action of the SADC Region.

3. REGIONAL BENCHMARK

The SADC region needs a benchmark alongside which each member state can develop transport policy and legislation. The fundamental objective should be to promote cohesiveness and harmony at policy and legislative levels and at operational level within the SADC governments.

The fundamental spirit of the SADC protocol is the achievement of cohesiveness, harmony and indeed the translation as well as the cascading of political unity into a unified economic development approach in order to meet the changing needs of the SADC region. Despite the well-pronounced *Protocol on Transport, Communications and Meteorology*, the following tables depict the disharmony that still exists:

Table 1.

	Steering Axle Two Tyres	Single Axle Two Tyres	Single Axle Dual Tyres	Tandem Axle Four Tyres	Tandem Axle Dual Tyres	Tridem Axle Six Tyres	Tridem Axle Twelve Tyres	Combin ation	Tolerance	
Angola	6		10		16		24	38		
Botswana	7.7	8	8.2	15.4	16.4	23.1	24.6	*50.2	5%	In practice, there is no limit. New Act due
Lesotho	7.7	8	8.2	15.4	16.4	21	21	49		
Malawi	8	8	10	16	18	24	24	56	5%/10% *	5% for static weigh bridges/ 10% for mobiles

Table 1. continued

	Steering Axle Two Tyres	Single Axle Two Tyres	Single Axle Dual Tyres	Tandem Axle Four Tyres	Tandem Axle Dual Tyres	Tridem Axle Six Tyres	Tridem Axle Twelve Tyres	Combination	Tolerance	
Mozambique	8	8	8	16	16	24	24	* 48	** Nil	* Excludes N4 corridor, which is 56 tons ** Except for Tete, Machipanda
Namibia	7.7	8	9	16	18	24	24	56	5%	
South Africa *	7.7	8	9	16	18	24	24	56	5%	* Bridge Formula in place
Swaziland *	7.7	8	8.2	15.4	16.4	21	21	50.2		Not enforced. Using South Africa limits
Tanzania *	7	8	10	12	18	15	24	56	Nil	* Does not permit interlinks
Zambia	8	* 4	10	* 8	16	12	24	56	10%	Permits more for Super Single Tyres
Zimbabwe	8	8	10	16	18	24	24	56	5%	
SADC	8	8	10	16	18	24	24	56		
COMESA *	8	8	8	16	16	24	24	53		Still to ratify acceptance of SADC limits

Table 2.

	Vehicle Combination Length	Articulated Vehicle Length	Width	Height	Rigid Vehicle Length	Trailer Length	Semi-Trailer Length	
Angola	20	18	2.5	4	15	15	15	
Botswana	22	17	2.5	4.1	12.5	12.5	12.5	
Lesotho	22	17	2.6	4.1	12.5	12.5	12.5	
Malawi	22	17	2.5	4.6	12.5	12.5	12.5	
Mozambique	18/22 *	15	2.5	4	12	12	12	22m for N4 corridor
Namibia	22	18.5	2.6	4.3	12.5	12.5	N/A	
South Africa	22	18.5	2.6	4.3	12.5	12.5	N/A	
Swaziland	20	17	2.5	4.1	12.5	12.5	12.5	
Tanzania	22	17	2.6	4.4	12.5	12.5	12.5	
Zambia	22	17	2.65	4.6	12.5	12.5	12.5	
Zimbabwe	22	17	2.65	4.6	12.5	12.5	N/A	
SADC*	22	18.5	2.6	4.6	12.5	12.5	N/A	In proposed document
COMESA	22	17	2.65	4.6	12.5	12.5	12.5	

N/A = not applicable

The role of transport regulation as envisaged in the Protocol on Transport, Communication and Meteorology for the region is to support the fluid movement of services and products to strengthen the region's economy.

The only way in which the above can be achieved is to harmonise vehicle and driver standards to achieve a free flow of transport and traffic through our borders.

Currently the biggest impediment is the fact that most countries still have their own standards and that the movement towards harmonisation is very slow and the amendments to the road transport and traffic acts in all countries are a very tedious process that could take years to achieve.

As a comparative analysis the region's axle mass loads on a steering axle differs from country to country within the SADC Region such as 6 tons in Angola and 8 tons in Zambia and Zimbabwe. The combination mass of vehicles differs from 38 ton in Angola to 56 tons in countries such as South Africa, Zambia and Zimbabwe.

The vehicle length for combinations of vehicles vary from 16m to 22m, articulated vehicle lengths vary from 17m to 18.5m, vehicle heights swing from 4m to 4.6 and widths vary between 2.5m and 2.65m between countries in the SADC-region.

The crux of the matter therefore is that the transport chain throughout the region is as strong as its weakest link and the weakest link is holding back progress in the whole region.

Therefore, as long as governments in the region's do not consider the harmonisation of vehicle standards as one of the top issues in the transport support link, the region will continue to be bogged down with vehicles that can not be optimally utilised to the standards that they are developed for.

Regional legislative disparities can be attributed to various factors such as the promotion of safety, prevention of the destruction of the infrastructure. Promotion of economic development as well as job creation within individual member states. As a product of each country's environmental factors and as a structured framework of dealing with transport related issues within the given environment, such differences and disparities should never be allowed to derail regional economic development objectives as an ultimate milestone to be achieved.

The SADC transport environment is also a product of the colonial past whose influence continues to linger on. Such colonial influence left their traces in policies and in legislation of member states.

4. OPERATING LICENCES OR PERMITS

Transport is regulated by way of permits in the SADC member states. In South Africa Cross-border road transport is regulated by the Cross-Border Road Transport Agency in terms of the Cross Border Road Transport Act No.4 of 1998 whilst in other member states such regulatory tasks are performed within their respective ministries of transport. Permits issued by the CBRTA in South Africa are different from those which are issued by the transport authorities in the neighbouring states. It therefore also follows that the type of permits issued by the Zambian and Zimbabwean transport authorities are not the same and are also different from those of South Africa, Botswana, Lesotho, Swaziland and Namibia whose permits are also different. The bitter part of disharmony is experienced at operational level where law enforcement Agencies of a member state are not able to recognize permits issued by another member state. This has resulted in arrests of drivers or impoundment of vehicles at times for offences which were never committed.

Another example of disharmony was demonstrated when Mozambique issued a Decree that has the same force as legislation that prohibits the use of trailers larger than 3500kg towed by passenger vehicles. Because these trailers are allowed in all other SADC countries and coupled with the fact that no law enforcement was done, an industry developed with operators investing large amounts of

money in obtaining safe and reliable trailers. These trailers are suitable for this specific type of conveyance and are also SABS approved. The effect the non harmonization now has is that trailers are still loaded at point of departure and at the Lebombo border they are re-loaded on roof racks and into side booths. This practise is taking us years backwards and is also a very time consuming and unsafe practise. Through the said piece of legislation the needs of passengers conveyed by South African based buses were completely ignored. The said incident is not different from a country refusing the entry of certain vehicles which are dominant and popular in neighbouring states. Imagine the disharmony that may result if each country was to dictate which vehicles should not be allowed in her own territory and the impact this approach may have on economic activities within the SADC region.

The protection of indigenous transport operators from competition by outsiders is also a factor which leads to disharmony. Economically weak countries often feel vulnerable if they are not protected from economically stronger ones. Often the fear is that stronger countries will take away customers / passengers from local operators. Operators often organize themselves against foreign operators who bring in attractive and comfortable vehicles often at lesser fares than the one charged by local operators. It will be worthwhile in the interest of harmonization that core areas of transport should be identified and then be regarded as areas where harmonization should be promoted as a matter of priority.

Within the taxi industry, fear of competition often takes the form of violence when local operators resist competition from foreign operators. The taxi related violence in Mpumalanga, Free State which involved Lesotho and Mozambique operators is also attributable to disharmony in transport operation.

All the transport problems which are the result of disharmony continues to haunt the transport industry despite the well written SADC Protocol on Transport, Communications and Meteorology. There is therefore a need for member states to reaffirm their commitment to the provisions of the SADC Protocol.

The provisions of the said Protocol are still relevant and some of its strategic goals include the:

- Integration of regional transport, communications and meteorology networks to be facilitated by implementation of compatible policies, legislation, rules, standards and procedures.
- Elimination or reduction of hindrances and impediments to the movement of persons, goods, equipment and services.
- Broad-based investment to develop, preserve and improve viable strategic transport, communications and meteorology infrastructure within an investor-friendly environment generating adequate returns.
- Co-operative policy development facilitated by strategic partnership between government and a responsible and competent regional private sector.

The protocol promotes integrated transport which should be economically viable and which should be characterized by high performance standards, consistency and reliability. Further it also provides the framework for complementarity and co-operation between modes bearing in mind the need to preserve the region's transportation infrastructure.

By obliging themselves to be bound by the protocol, member states have agreed to develop a harmonized integrated transport policy which include the:

- Establishment of infrastructure, logistical systems and institutional frameworks;
- Establishment of appropriate legal and financial frameworks;
- Execution of research and technology transfer; and
- Development of effective communication networks.

By subjecting themselves to the terms of the protocol, member states are also obliged to apply the following principles:

- The right of freedom of transit for persons and goods;
- The right of land-locked member states to unimpeded access to and from the sea.
- The right of coastal member states to unimpeded access to and from land locked member states.
- Equality of treatment of the nationals and passengers service providers of member states with regard to the provision, access and use of infrastructure and immigration and clearance procedures.
- The right of individual Member States to negotiate access and freedom of transit rights consistent with the principles of this protocol, while recognizing that individual needs of Member States may require specific bilateral arrangements, and
- All modes of transport are allowed the necessary economic space to operate in a self-sustaining free market environment.

It is indicated in the protocol that notwithstanding the above and in the course of exercising their full sovereignty over their respective territories, Member States have the right to take all measures necessary to ensure that the application of the principles as agreed shall in no way infringe their legitimate interests. Notwithstanding the above the disparities between the vision of harmony as it is propagated through the protocol and the elements of disharmony as promoted by different transport policies and laws within the SADC region is huge and calls for special attention and effort by Transport Authorities within the SADC region.

It must be borne in mind that the NEPAD objectives can only be sustained if supported by a strong transport industry. It is a well known fact that social development, health care and the eradication of poverty depends on good transport modes to distribute medical aid products, food aid and education needs such as equipment and books.

The challenge is to place individual needs and policies on the sideline. The time has come for us to implement a harmonization program, as envisaged in the Protocol on Transport, in the SADC region. This program must be driven with patriotism for Africa and the need to build and uplift our region to the highest possible standards that can sustain and compete in a global world economy.

5. RECOMMENDATIONS

It is recommended that SADC member states convene a Regional Workshop at which the differences embodied in their transport policies and in different pieces of legislation can be identified and be harmonized in the interest of regional economic development. This of course should be preceded with by research through which the effects of such disharmony can also be analysed.

It is recommended that the Region should consider holding a Transport Conference under the banner of the Cross-Border Road Transport Agency and the SATCC-Tu to examine best transport practices which are compatible to economic development of the SADC region.

The region is urged to work out a programme of action which will serve as a benchmark against which harmonization of policies and legislation within member states can be evaluated.

Millions of our people depend on transport for their livelihood and indeed transport across our borders has to be seamless, facilitate the movement of goods and passengers, there is no need for the myriad of laws and policies such as the ones around our necks.