Tripartite - COMESA-EAC-SADC

Meeting of Legal and Technical Experts – Harmonised Cross Border Road Transport Regulations and Standards

Johannesburg, South Africa

17-19 August, 2015

CONCEPT NOTE
Background

The regulatory environment for road transport in the Eastern and Southern African (ESA) region is currently defined by the Protocols, Treaties, Bilateral Agreements and Memorandums of Understanding between the different Member States of the Regional Economic Communities (RECs). The Treaties, Protocols and MOUs that have been established by the RECs describe a broad commonality of purpose and objectives that include the main issues of:

- market integration
- fair access to transport markets by carriers of goods and passengers
- promotion of competition to encourage efficiency
- definition of conditions (levels of freedom) for cross-border movements
- establishment of permit management agencies
- coordinative institutions between Member States
- prohibition of cabotage
- simplification of regulatory processes

Additional issues included in some of the agreements are:
- definition of cross-border transport market volumes by authorities
- quotas and management of numbers of permits
- harmonisation of rates
- harmonisation of road usage recovery charges

Regulation of cross-border road transport of passengers and goods is a significant issue in all the agreements between the countries due to the high proportion of freight and passenger transport by road throughout the region and the importance of transport services to the social and economic activities in all the countries.

The processes defined in the bilateral agreements and the current procedures and the perspectives of the regulators do not fully support the principles of liberalisation, as they are currently based on assumptions of quantity regulation and "supply side" control of the movements of freight and passenger transport vehicles. International best practice in developed regions has shifted from quantity to quality regulation as the means to enhance efficiency and reduce costs.

This workshop focuses on the development of the transport regulatory measures to improve operational quality that have been developed by the harmonisation processes in the region. The focal point of the quality regulation is Operator Registration, as the means to control commercial transport operations whilst reducing the transport related non-tariff barriers to inter-state trade.

It is recognised that all the countries in the region have their own internal road transport and traffic regulations that are intended to control the quality of transport operations. It is however obvious that, vehicles must necessarily travel within countries to reach and cross borders and that harmonisation of transport regulations is therefore important for effective cross-border trade between countries.
The quality regulations, standards and legal instruments that will be addressed are:

1. Harmonised Tripartite Vehicle Regulations and Standards
   a) Vehicle Dimensions and Equipment Standards
   b) Vehicle Testing Stations and Procedures
   c) Transportation of Abnormal Loads
   d) Transportation of Dangerous Goods
   e) Training and Licensing of Commercial Drivers
2. Harmonization of Cross Border Third Party Motor Vehicle Insurance Schemes
3. Self-Regulation Standard – Road Transport Management Scheme
4. Tripartite Transport Registers, Information Platform and System
5. Multilateral Cross Border Road Transport Agreement [MBCRTA].

**Tripartite Transport and Transit Facilitation Programme**

The Heads of State and Governments of the countries of COMESA, EAC and SADC signed the **Tripartite Agreement** in October 2008, which seeks to establish a single "grand Free Trade Area" (FTA) covering the countries of all three organisations. The agreement represents an effort to rationalise the challenges of overlapping and multiple memberships of regional organisations in the region. The second COMESA-EAC-SADC Tripartite Summit held on 14 June 2011 in Johannesburg, South Africa, adopted a developmental approach to the Tripartite integration process anchored on three pillars namely: 1) market integration based on the Tripartite Free Trade Area (FTA); 2) infrastructure development to enhance connectivity and reduce costs of doing business; 3) and industrial development to address the productive capacity constraints.

The Tripartite has prioritized infrastructure development in the ESA-IO region through their respective treaties, protocols and agreements. Infrastructure is seen as a prerequisite and catalyst for trade, industrial development, regional integration and economic development. The goal is to achieve efficient, seamless, integrated and cost-effective cross-boundary infrastructure networks and services that will enable economic development, regional integration and poverty alleviation to take place. This can be achieved through the development of a single integrated regional road transport market characterized by harmonized policies, laws, regulations, standards and systems. This will facilitate efficient provision of competitive and efficient international transport and logistics services.

Seeking to develop Transport and Infrastructure on a coordinated manner, the Tripartite adopted the Comprehensive Tripartite and Trade Facilitation Programme (CCTTFP). The programme, which was initially supported by DFID, has slowed down due to closure of the Trademark Southern Africa Programme in 2014.

The implementation of this Programme in the Tripartite faced the following challenges:

1. Slow domestication of the protocols, annexes and regional agreements into national policies, laws, regulations and standards;
2. Non-compliance with regional agreements and the proliferation of transport related Non-Tariff Barriers;
iii. Weak administrative and technical capacity of Member States to implement reforms;
iv. Inadequate funding for the rehabilitation, construction and maintenance of infrastructure;
v. Lack of continuity due to funding constrains.

Since 2014, the EU has progressively taken over funding and is accelerating the implementation of the programme.

Public Policy Assessment and EU Policy Framework

This Project is consistent with the EU/ACP cooperation objectives of poverty reduction and sustainable development, economic growth and political cooperation as articulated in the Cotonou Partnership Agreement (2000, revised in 2005 and 2010), in particular with Article 23, which states: "Cooperation shall support sustainable policy and institutional reforms and the investments necessary for equitable access to economic activities and productive resources, particularly:[…….] (h) development of competitive industrial, mining and energy sectors, while encouraging private sector involvement and development[…….]. Article 29, which refers to "ACP-EU cooperation in support of regional cooperation and integration" states that in the area of regional economic integration, cooperation shall support among others "the implementation of sectoral economic reform policies at regional level".

The Special Report 17//2012 of the European Court of Auditors (CoA) examined whether the EDF has contributed to sustainability of the road network in Sub-Saharan Africa effectively, whether the road infrastructure network supported by the EDF is sustainable and whether the Commission effectively promotes the sustainability of road infrastructure. The Court concluded that "the Commission is only partially effective in its support for a sustainable road network in Sub-Saharan Africa" and pointed as one of the key factors the fact that several partner countries "have failed to demonstrate sufficient commitment to implementing effective measures aimed at reducing the incidence of vehicle overloading, which has an important impact of road life expectancy and maintenance costs". The report concludes with the following recommendations:

- On allocation of resources:
  a) focus them on road sectors in partner countries which implement appropriate sector policies for achieving sustainable road transport, including addressing vehicle overloading;
  b) focus resources in order countries on institutional support and expansion of axle load infrastructure;
- On conditions and policy dialogue: strengthen them through the definition of clear, measurable and time-bound formal conditions that address the main policy reform in relation to vehicle overloading and systematically follow up on the fulfilment of conditions and respond firmly in case of lack of commitment;
- On technical cooperation: increase efforts on root causes of vehicle overloading.
As response to the recommendations made by the CoA, the Commission has issued a set of "Best Practices" in the area of Transport Sector project preparation/implementation that need to be applied throughout the 11th EDF project cycle. These best practices can be summarised as follows:

- Focus investments on regional corridors which present high potential for economic growth;
- Enlarge the potential for EDF procedures through systematic use of blending;
- Enhance transport sector policy dialogue primarily at regional level;
- Provide support to partner countries and regional authorities focusing on preserving investments made (particular attention to be paid to maintenance and optimisation of axle load control.

This project not only confirms to these "best Practice Guidelines" but also ensures that they are put into practice.

**Project Objectives**

The **overall strategic objective** is to facilitate the development of a more competitive, integrated and liberalised regional road transport market in the Tripartite region.

The **project purpose** is to develop and implement harmonised road transport policies, laws, regulations and standards for efficient cross border road transport and transit networks, transport and logistics services, systems and procedures in the Tripartite region.

The expected **results** are:

Result 1: Tripartite Vehicle Load Management Strategy Implemented.
Result 2: Tripartite transport registers and information platform operational
Result 3: Harmonised Tripartite vehicle regulations and standards implemented
Result 4: Efficiency of regional transport corridors improved

**Progress and status of main activities**

**Result 1:**
**Validation of the Tripartite Vehicle Load Management Strategy (VLM) and Draft VLM MoU**

a) Tripartite VLM Strategy and Implementation Plan was developed and validated by Senior Officials in November 2014 at a meeting hosted by SADC. The Strategy will be implemented under the proposed Tripartite Transport and Transit Facilitation Programme 2016-2020 to be funded under the 11th EDF which SADC as lead REC. The programme is currently under formulation.

i. The VLM Strategy covers the following;
ii. Legislation and regulations;
iii. Infrastructure and equipment;
iv. Enforcement and operations;
v. Institutional/organisational structures;
vi. Human resources/training;
vii. Public support and cooperation, and
viii. Monitoring and evaluation.

b) A Study to define a Tripartite Regional Weighbridge Location Plan (RWBLP) was launched on 12 March 2015. The First Draft RWBLP was reviewed on 21-23 April 2015 at a Tripartite meeting in Addis Ababa, Ethiopia.

c) The Tripartite Draft VLM MoU was validated during 21-23 April 2015 meeting held in Addis Ababa.

Activities related to Result 2:
Tripartite transport registers and information platform (TRIPS) operational

A study to define the TRIPS system architecture, institutional model and related policy, legal and regulatory frameworks was launched in January 2015 and the report and recommendations will be validated at the proposed workshop.

Activities related to Result 3: Harmonised Tripartite vehicle regulations and standards implemented

Concurrent studies coordinated by SADC and EAC (TMSA and BICO) developed harmonised road transport standards and regulations. These proposals will be reviewed and validated at this proposed workshop. The standards and regulations cover the following:

- Vehicle Dimensions and Equipment Standards
- Vehicle Testing Stations and Procedures
- Transport Operator Registration
- Transportation of Abnormal Loads
- Transportation of Dangerous Goods
- Training and Licensing of Commercial Drivers
- Third Party Motor Vehicle Insurance Schemes
- Road Transport Management Standards (Self Regulation)

Activities related to Result 4: Efficiency of regional transport corridors improved

As part of the TRIPS study Consultants will propose a Multilateral Cross Border Road Transport Agreement. The MCBRTA will supersede and replace bilateral road transport agreement and consolidate and provide a comprehensive and streamlined framework for regional road transport regulation and enforcement in the region; The Draft MCBRTA will be validated at this proposed workshop.

Following validation, by Legal and Technical Experts all the above documents and instruments will be submitted to REC Transport Sector Ministers for approval and signing as necessary.
Design of Tripartite Transport and Transit Facilitation Programme 2016-2020 to be funded under the 11th EDF

To assist member states in implementation of the above, a five programme is under design. Draft Action Document / File has been prepared and is under review.

Workshop Objective

The objective of the workshop is to validate the following draft regulations, standards and instruments

- Vehicle Dimensions and Equipment Standards
- Vehicle Testing Stations and Procedures
- Transport Operator Registration
- Transportation of Abnormal Loads
- Transportation of Dangerous Goods
- Training and Licensing of Commercial Drivers
- Cross Border Third Party Motor Vehicle Insurance Schemes
- Road Transport Management Standards (Self Regulation)

Planned Outcome

The planned outcome is validated regulations, standards and instruments, which will be ready to be submitted to REC Ministers through the statutory policy structures for approval and signing.

Participants

The participants of the workshop will come from government ministries responsible for transport and traffic policy, national regulators and implementation agencies of cross border road transport, legal experts on transport transit facilitation, and regional transport and logistics associations and corridor management institutions. The preferred delegates are;

a) Senior Legal Expert from the Ministry responsible for transport/Attorney General Chambers or equivalent body
b) Director / Manager from the government department or agency responsible for the driver, vehicle and operator registration, licencing and accreditation and the management of transport information management systems;
c) Director, higher or equivalent rank from ministries in charge of transport and traffic policy and
d) Director/Manager responsible for cross border road transport regulations and or traffic law enforcement;

Sponsorship

The participants of the workshop will be the ministries responsible for transport and traffic policy, national regulators and implementation agencies responsible for cross
border road transport, legal experts on transport transit facilitation, regional transport and logistics associations and corridor management institutions. The following is proposed as the delegation composition:

a) Director or equivalent rank from ministries responsible for transport and traffic policy who is in charge of cross border road transport regulations and or traffic law enforcement;

b) Senior Legal Expert from the Ministry responsible for transport / Attorney General Chambers or equivalent body;

c) Manager / IT Systems Experts from the government department or agency responsible for the driver, vehicle and operator registration, licensing and accreditation and the management of transport information management systems / vehicle, driver and operator registers;

The COMESA/EAC/SADC Secretariats with support from the European Union will sponsor the above three (3) delegates per Member/Partner State. The sponsorship consists of economy return ticket, airport transfers and accommodation. However, Member/Partner States are encouraged to send more delegates at their own cost.

**Venue and dates**

The meeting is hosted by the SADC Secretariat in Johannesburg, South Africa from 17-19 August 2015.