



Distr.: LIMITED
TRANSCOM/1096

December 1996
Original: ENGLISH

ECONOMIC COMMISSION FOR AFRICA

THE ASSESSMENT OF IMPLEMENTATION OF INTERNATIONAL TRANSIT TRANSPORT FACILITATION AGREEMENTS ALONG THE NORTHERN CORRIDOR

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**ASSESSMENT OF IMPLEMENTATION OF
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I. INTRODUCTION

1.1 Objectives of the Study

1. The report is part of wider study covering eight other corridors namely: (i) Dar-es-Salaam - Zambia; (ii) Nacala - Malawi; (iii) Beira - Zimbabwe; (iv) Dar-es-Salaam - Rwanda - Burundi - Eastern Zaire; (v) Duala - Central Africa Republic - Chad; (vi) Cotonou - Niger - Burkina Faso; (vii) Abidjan - Ougadougou - Niamey; and (viii) Abidjan - Bobo - Dioulasso - Bamako. Studies on each of these corridors including the one on Northern Corridor aims at assessing how transit and land-locked countries have benefited from the various multinational and bilateral transit agreements which they have jointly negotiated and signed for the improvement of transit transport.

1.2 Methodology

2. This report on assessment of progress in implementation of the Northern Corridor Transit Agreement has been prepared on the basis of: (i) Desk studies on information available in ECA, and (ii) Data collected during field missions to Rwanda 3 - 7 September 1996; Uganda 9 - 14 September 1996; and Kenya 16 - 21 September 1996. The list of persons met and organizations visited while on mission are shown on Annex I. The list of reference documents used is Annex II. Although the content of this document will be consolidated with those from other corridors, the document stands on its own for distribution to various institutions in the Northern Corridor countries dealing with transit transport especially the relevant ministries and organizations where the missions were undertaken.

3. The Kenya Ministry of Transport and communications attached Mr. Paul Macharia, a Transport Economist, to the mission undertaken in Kenya.

1.3 Existing Transit Agreements in the Northern Corridor

4. The current generation of transit or corridor agreements in African encompass no more than a negotiated package of rights and duties under which land-locked countries are permitted to use the transit facilities owned and operated by their respective neighbors. The transit transport operations in the Northern Corridor which comprise Kenya (the transit country) Uganda, Rwanda, Burundi and Eastern Zaire (the land-locked countries), is basically governed by an international agreement which is supplemented by national legislations as appropriate. The most important transit transport instrument for the Northern Corridor is the Northern Corridor Transit Agreement (NCTA).

5. The Agreement was signed by the ministers of Transport and Communications of Burundi, Kenya, Rwanda at a ceremony held in Bujumbura, Burundi in 19 February 1985. The Agreement entered into force in 1986. Zaire acceded to the agreement in 1987. The basic part of the Agreement consists of provisions laying down principles of the rights of transit, the use of port facilities, the definition of transit routes, documentation and procedures, customs control, regulation of transport facilities for transit, employees and tariffs including changes and payment of regulations. The Agreement also contains provisions regarding its implementation and settlement of disputes. Although the Agreement addresses essentially administrative and technical issues, its main significance lies in the fact that it represents a political expression of goodwill and a commitment for co-operation between the land-locked and their transit neighbors in the sub-region.

6. The Railways Agreement between Kenya Railways Corporation (KRC) and Uganda Railways Corporation (URC) is applied along the Northern Corridor and cover also the Lake Victoria steamer services which are operated by both railway organizations within the framework of the NCTA. The UNDP/UNCTAD Transit Traffic and Support to Transport Sector Project in East and Central Africa (RAF 88/015) prepared in 1994 a draft "Inland Waterway Transport Agreement (IWTA) to be considered by member countries namely: Burundi, Kenya, Rwanda, Uganda, Tanzania and Zaire. The Agreement aimed at providing a legal framework for lake services in the sub-region. The initial draft was circulated to these countries for comments, but no conclusive decision has been taken by the member States. Moreover, the Permanent Technical Committee set up in 1990 by the then PTA Council of Ministers to formulate a co-ordinated development programmes on inland waterway transport has never become functional.

7. The need for such a legislation has been seen as a pre-requisite to the development of inland waterway transport, particularly lake services.

8. Since the KRC and URC Railway Agreement is operating under the framework of the NTCA and; because the IWTA is still not in force, this report is limited to progress in the implementation of the NCTA.

II. THE TRANSPORT ROUTES OF THE NORTHERN CORRIDOR

2.1 Rail routes

9. The main line: In terms of the quality of the rail infrastructure to Uganda is the Mombasa-Malaba-Jinja-Kampala route, a total distance of 1,338 km. The section Nakuru-Malaba-Jinja now carries, however, insignificant levels of transit traffic.

10. The operational route: Almost all Ugandan rail transit traffic on the Northern Corridor now uses the wagon ferry service across Lake Victoria, between Kisumu and Jinja, a 12-hour voyage of 233 km. The Kisumu branch of Kenya Railways connects with the Malaba line at Nakuru. Despite the need for an additional transfer, this routing has several advantages for Uganda:

- shorter overall distance, approximately 100 km;
- shorter distance within Kenya, 150 km;
- utilizes available ferry capacity, releasing locos for other traffic; and
- more efficient interchange system between the Uganda Railways Corporation (URC) and Kenya Railways Corporation (KRC).

For KRC, however, the present traffic routing has significant disadvantages. The Kisumu line has lighter rail than the main line, and locomotive and train weights are restricted by the bridges and viaducts. Class 62 locos are used and their lack of availability is creating problems for KRC. An investigation of the strengthening requirements to eliminate these constraints is necessary in view of the new ICD in Kisumu.

11. The Kasese Line: Transit traffic ceased to use this 332 km Kasese-Kampala line in the mid-1970s, and it is now in a seriously deteriorated condition. The Ugandan Government has expressed its intention to upgrade the line and Rwanda authorities have interest in using the line as an alternative route for Rwandese traffic.

2.2 Lake services

12. The wagon ferry operations on Lake Victoria have been strengthened by a Danida project which has constructed a new ferry terminal at Port Bell and a short rail (9 kms) link to Kampala. The international rail traffic to Kampala should now avoid the steep gradients and train weight restrictions on the Jinja-Kampala section.

13. Lake services continue to play an increasingly important role in the movement of transit cargo over Lake Victoria serving both the Central and Northern Corridors. The problem is that there have not been any efforts to co-ordinate lake services in the sub-region. Services are not scheduled and ferries sail on demand. Operationally it would appear that there are no major problems in the rail/lake interface, probably arising from the current excess capacity of the ferries. However, investment and rehabilitation of lake facilities has been minimal. This has led to deterioration of these facilities and lack of some basic equipments needed for safety and communications in marine operations. It is understood that the lake services are run without internationally accepted standards necessary to ensure safety of life, navigation and prevention of pollution. There have also been cases of accidents arising from improper handling of ferries by unqualified personnel. Another major problem is the lack of an up-to-date and enforceable legislation to govern safe maritime activities particularly on Lake Victoria. An inland waterway transport agreement providing minimum internationally accepted standards for the conduct of safe maritime activity that should form the basis of harmonized national legislation has been prepared, but not yet discussed.

2.3 Road routes

14. The Malaba Route: This forms the main artery of the Northern Corridor road route:

Mombasa-Nairobi-Malaba-Kampala-Mbarara - Kabale - Gatuna - Kigali - Bujumbura
- Kagitumba - Kayonza -

The route, except for short sections on the Rwanda - Uganda border, has been paved. However, several sections in Kenya have deteriorated, some sections of the route in Uganda have been in poor condition, and parts of the route in Rwanda and Burundi are also in a bad condition. Road distances between the major traffic centers on the route are:

	Kampala	Kigali	Bujumbura
Mombasa	1,200 km	1,800 km	2,100 km
Nairobi	710 km	1,310 km	1,610 km

2.4 The Kenya Pipeline

15. The Petroleum, Oils and Lubricants (POL) traffic generally originates from the Kenya Oil Refineries in Mombasa from where the white oil products are carried by pipeline to Nairobi, Kisumu and Eldoret. There is a plan in place to construct an oil terminal jetty on Lake Victoria at Kisumu which would promote the use of oil barges across the lake to Kemondo Bay in Northern Tanzania and also to Uganda ports. The Eldoret terminal is gaining popularity with transit tankers which are now taking short turns near the Uganda border thus increasing their turn-round. The Kisumu terminals is operational and is also being used by oil tankers through Busia and Kampala to Kigali and Bujumbura. Rwanda has reported a quick turn-round in their oil tanker fleet following the completion of Kisumu oil terminal.

2.5 Air transport

16. There are no scheduled air freight/flights between the main airport at Mombasa, Nairobi, Entebbe and Kigali. Most of the cargo is air-freighted under scheduled passenger flights, which connect these major airports almost on a daily basis. However, air transport is used on emergency cases to deliver food stuffs, medicine and other urgently required relief supplies.

17. Only in 1979 Air Rwanda acquired a Boeing 707 cargo aircraft to operate on the Mombasa and Europe route. This aircraft was the source of losses due to bad management. The Boeing 707 was eventually sold in March 1994 after having been grounded for six months due to lack of funds for its insurance.

III. TRANSIT TRAFFIC OPERATIONS ON THE NORTHERN CORRIDOR

18. Although the railways carry about 250,000 tons of international Ugandan traffic, the majority of traffic using the Northern Corridor routes is carried, at present, by private road transporters contracted by private forwarding and clearing agents. Some parastatal road companies do play an important role: i.e.

STOR: a Rwanda government-owned trucking company, established in 1972, which now also undertakes C/F activities. In addition to its own fleet, the company controls and often manages sub-contracted vehicles and has a key role in the control of Rwandese cargo movements through Kenya.

TRANSOCEAN: a Uganda government clearing and forwarding (C/F) company which also used to be a major transport company on the route. Recently the company has been given a monopoly for the clearing of all government and parastatal import cargo. TRANSOCEAN would like to re-establish its transport capacity and take over C/F for the export of coffee.

19. The participation of national transport operators varies considerably between the LLC. The majority of Rwandese traffic on the Northern Corridor is now carried in Rwandese trucks, mainly organized by STIR and CORWACO, a private trucking company which also has a fleet of sub-contractors. Burundi had developed a local international trucking capability, sufficient for 60% - 70% of Burundi traffic on the Northern Corridor.

20. This traffic no longer exists partly because of the closure of the border between Rwanda and Burundi and partly because of the current embargo on Burundi. The majority of Uganda international road traffic is carried by Kenyan-registered and Uganda vehicles.

21. The volume of transit traffic through the Northern Corridor to and from landlocked countries of Eastern and Central Africa for the period 1991-1995 are shown on Table 1 below. The trend of traffic for the period shows an annual increase of traffic to all destinations served by the Northern Corridor transport systems. This can be understood as a positive indicator for NTCA performance.

TABLE 1: NORTHERN CORRIDOR TRANSIT TRAFFIC: 1991 - 1995 DWT

PARTICULARS		1991	1992	1993	1994	1995
UGANDA:	Imports	153,872	321,159	336,309	710,707	910,221
	Exports	149,328	145,987	139,659	204,893	145,622
	Total	303,200	467,146	475,968	915,600	1,055,843
TANZANIA:	Imports	15,904	9,542	17,272	138,464	75,662
	Exports	1,865	5,281	6,561	9,344	15,696
	Total	17,769	14,823	23,833	147,808	91,358
BURUNDI:	Imports	11,411	33,104	18,365	35,231	45,172
	Exports	1,654	8,565	3,409	1,065	3,056
	Total	13,065	41,669	21,774	36,296	48,228
RWANDA:	Imports	53,899	76,866	56,455	169,373	474,851
	Exports	47,762	36,592	67,952	8,593	18,718
	Total	101,661	113,458	124,407	177,966	493,569
SUDAN:	Imports	1,480	35,225	35,822	69,692	25,576
	Exports	10	0	0	0	0
	Total	1,490	35,225	35,822	69,692	25,576
ZAIRE:	Imports	14,175	30,158	44,142	226,236	116,222
	Exports	56,095	31,460	33,790	34,096	26,770
	Total	70,270	111,618	77,932	260,332	142,992
OTHERS:	Imports	19,963	425,682	347,285	92,870	78,121
	Exports	-	356	19,410	9,778	1,100
	Total	19,963	426,038	366,695	102,648	79,221
TOTAL:	Imports	270,704	981,736	855,650	1,442,573	1,725,825
	Exports	256,714	228,241	270,781	267,769	210,962
	Total	527,418	1,209,977	1,126,431	1,710,342	1,936,787

SOURCE: *Monthly Review of Mombasa Port Working*

22. All countries of the Northern Corridor are contracting parties to the COMESA treaty. They, therefore, use the RCTD which has been adopted by all transporters along the corridor as the sole customs document for transit traffic. Other subregional activities that are envisaged include: introduction of a single goods declaration document (SGD) covering export/import/transit trade; and implementation of a sub-regional bond guarantee system.

23. The RCTD works well except for Rwanda where customs agents at the borders are new and will require training on the customs documentation and procedures especially the RCTD system.

IV. TRANSPORT ISSUES UNDER NCTA REQUIRING URGENT SOLUTIONS

4.1 Transit-traffic security arrangements

24. The NCTA taking as a guide various international Conventions (the International Convention on the Simplification and Harmonization of Customs Procedures, the Customs Convention on Containers, 1972 and the Convention on Transit Trade of Land-locked States, 1965) provides detailed rules for the flow of transit traffic along the Northern Corridor. However, although transit countries under the NCTA and under the customs Convention have the right to require financial bonds or guarantees in respect of transit goods and where necessary apply other measures, including escort of transit by police, the extent to which such control measures have been applied in the Northern Corridor and in particularly within transit countries, has given interruption of transit traffic resulting into delays and increase in transit costs.

4.2 Rail transport liability

25. The NCTA lays down a framework for co-operation between KRC and URC. The Agreements between the two railway provides for the setting up of detailed rules on administration and operation of rail traffic in a Working Agreement between KRC and URC. The Protocol, and the railway working agreement established under it, permit rail carriers of the two neighboring countries to pool wagons. Nevertheless, shippers in Kenya and Uganda are required to enter into separate transport contracts, paying freight to each railway separately, a situation which is cumbersome and which leads to difficulties in pursuing claims because the Protocol neither establishes uniform liability rules for KRC and URC nor imposes collective responsibility of railways in the event of loss, damage or delay to transit goods cannot be considered satisfactorily.

4.3 Road transport coordination

26. The NCTA, under its Protocol No. 6, has provisions related to three main aspects of road transport: (a) the liability of road carriers; (b) vehicle weights and measures; and (c) road charges.

27. The liability regime (under section 3 of the Protocol) takes as a model the Convention on the Contract for the International Carriage of Goods by Road (CMR). It provides for compensation in case of loss or damage to goods as well as delay in delivery. Compensation is payable in hard currency, (SDRS). The uniform liability rules under the Protocol are particularly suited to transit transport where goods pass through several territories. Pursuant to the Protocol, a shipper, would be entitled to a uniform rules regarding assessment of compensation no matter where the goods have been lost, damaged or delayed.

28. Maximum axle loads and gross vehicle weights are also stipulated. This provision lets transit authorities refuse entry or sanction road carriers who exceed the limits.

29. The matter of road charges, however, was left to national regulations. For lack of co-ordination and harmonization, this discretionary power has resulted in different practices and different levels of road charges.

4.4 Lake services safety

30. The NCTA has no special provisions relating to lake services. The omission perhaps reflects the limited role which lake services played in the mid-1980s. The expansion of lake services recently provides compelling reasons for changing former attitudes because of the increased concern for safe navigation and control of marine pollution.

4.5 Third party motor vehicle insurance

31. As a complement to the provisions governing carriage of transit goods by road, the NCTA, under Protocol No. 9 has established a third-party motor vehicle insurance. Since the insurance scheme must, under article 5, "provide at least all the guarantees required by the laws and regulations governing compulsory motor vehicle third-party insurance in the country or countries of transit of destination", the scheme covers a wider range of guarantees than that of individual country third-party motor insurance schemes.

32. However desirable, this may be the very reason why the NCTA insurance scheme has not been able to impose itself in the Northern Corridor. Moreover, the implementation of the NCTA insurance scheme is likely to be further undermined by the rigorous implementation of the COMESA third-party motor vehicle insurance scheme in East-Central Africa.

4.6 Institutional arrangements and decision making

33. The annex to the NCTA establishes a three-tier institutional mechanism for the monitoring and implementation of the Agreement. The two decision-making bodies, the Ministerial Transit Transport Co-ordination Authority and the Executive Board, are supported by a Permanent Secretariat which prepares studies and proposals which form the basis of decision-making by the intergovernmental bodies.

34. Although the Agreement provides that decisions by the Transit Transport Co-ordination Authority and the Executive Board must be reached by consensus, there is no real symmetry in decision-making. Since land-locked countries do not participate in the ownership of infrastructure located in the neighboring coastal State these countries can exert very little pressure concerning the creation or extension of transit facilities. This may be somewhat counter-balanced by the fact that although the coastal State has more influence, its heavy reliance on external financing for major investment in infrastructure means that donors may have the last word on proposed infrastructure development.

4.7 The Rwanda situation

4.7.1 The rehabilitation programme

35. Rwanda is currently going through a phase of post-war recovery and rehabilitation. The area of internal and external transport has suffered like all other sectors. The vehicle fleets of local transporters have diminished and their workshops were extensively damaged or looted. Furthermore, the movement of relief supplies has put considerable pressure on the existing transport capacity in the region. Many of the experienced workers in the sector died while others were still outside the country as refugees during the period the mission was conducted.

36. The quantity of cargo handled for Rwanda through the port increased from 124,407 tones in 1993 to 177,866 tones in 1994 mainly due to emergency relief supplies. In addition to goods passing through the port, there is considerable export trade from Kenya to Rwanda including fuel products which are considered as re-exports.

37. The government is presently giving priority to:

- restoring efficient road maintenance using funds generated through the Road Fund;
- improving road safety due to the increasing incidences of accidents and particularly in Kigali where the number of passenger vehicles and minibuses is very high;
- restructuring public transport enterprises which include STIR, Air Rwanda and ONATRACOM. Options being considered include privatization and liquidation;
- developing cost effective regional links and in particular development of the rail/road Isaka route on the Central Corridor as an alternative to the traditional Northern Corridor; and
- filling of vacant positions in the ministries and training of all cadres in the transport sector including civil servants, transporters, drivers and vehicle mechanics.

4.7.2 Present international transit routes for Rwandese traffic

38. Two basic corridors which serve Rwanda's external trade and these are the Northern and Central Corridors which have their origins at the ports of Mombasa and Dar-es-Salaam respectively. The two corridors are essentially a collection of different routes with various modal choices including road, rail, inland waterways or a combination of any of the three.

39. In general Northern Corridor is still the preferred transit route because of its developed road infrastructure and communications, despite the fact that use of the Northern Corridor entails two border crossings (Kenya and Uganda) compared to the single crossing on the Central Corridor (Tanzania). The Northern Corridor accounts for about 65% of Rwanda's total international traffic. It should be noted that road transport is the dominant mode for Rwanda on the Northern Corridor.

40. A major constraint on the Northern Corridor with respect to Rwanda is the condition of the 30 km Ntungamo - Kagitumba road within Uganda. Feasibility and detailed engineering studies for upgrading the road to bitumen standard have been completed with funding from ADB.

41. Another bottleneck is the Gatuna bridge which was destroyed during the war. The European Union has allocated regional funds for the reconstruction of the bridge. The project will be executed by the Ministry of Works Transport and Communications of Uganda. Tender documents have been prepared by consultants.

V. FACTORS AFFECTING THE IMPLEMENTATION OF THE NCTA

5.1 Structure of the NCTA

42. The structure of NCTA embodies a wide-ranging substantive provisions, a three tier institutional arrangement and a mechanization for dispute settlement. The structure of NCTA provides an adequate framework for regulating transit transport operations through member States. While the basic structure is adequate, however, the agreement needs a few new elements, i.e. protocol for pipeline transport ICDs operations, and some streamlining so as to eliminate those provisions which have become inoperative or redundant. Several meetings have approved a number of recommendations coupled with resolutions which could form the basis for the revision of the Agreement as has been called for by many officials contacted during field mission.

5.2 Perceived status of the Agreement

43. The NCTA has been signed and ratified by Governments at the highest levels but its full implementation is still problematic because of interferences from national laws and decrees made by its member States. Member States are more loyal to their national rules and regulations to an extent that many middle class officials who are supposed to assist in the implementation of protocols of the NTCA are ignorant of those protocols. This requires that where new national regulations are drafted, they should not conflict or duplicate the provisions of NTCA. Organization of workshops to educate operational and junior staff in member States on NCTA should be carried out periodically.

5.3 Limited capacity of the Permanent Secretariat

44. Some aspects of the agreement namely the RTCD, the Axle Tax, the Insurance Bond, and the Third Party Agreement are only partially implemented. Strengthening the manpower resources of the NCTA Secretariat would help a great deal towards the implementation of outstanding and new unforeseen provisions of the Agreement. In this regard it would be instrumental to consider strengthening the capacity of the Secretariat in way that would entail an increase in the Secretariat budget. There is need also for a strong political will and loyalty to the Agreement from member States.

5.4 Overlap of NCTA with other agreements

45. The co-existence of the NCTA with COMESA, IGADD, ISCOS and lately with revived East African Community (EAC) has led to considerable overlap of mandates and activities. Although the circumstances under which these sub-regional agreements/arrangements were established may explain why they all came to deal with transit transport, it is time that Governments together with Secretariats of sub-regional organizations rectify the overlap.

46. The task of nationalizing, harmonizing or streamlining these sub-regional agreements would not prove to be too difficult, given the fact that nearly all NTCA States in the sub-region are contracting parties to COMESA. While this may simplify the task, this fact will not bring about the needed changes. There will be no change until the Governments decide to take deliberate concrete activities. In this connection, the mood in the subregion indicates that it would be useful for the EAC to have a desk for addressing NCTA matters.

5.5 Ignorance about the Agreement

47. The need for public knowledge is acute with regards to the existence of the NCTA. An announcement over the national public media or a notice in an official Gazette regarding ratification or accession to a new Agreement certainly does not suffice if the public at large is to be informed. In the content of a transit agreement like the NCTA which deals with a wide-ranging aspects of transport, documentation, administrative and customs procedures and formalities the various control agencies as well as all public and private operators involved in transit traffic and trade must be fully knowledgeable concerning the scope and content of the Agreement. Conducting policy seminars for NTCA member States would help in overcoming the gaps in the knowledge about the Agreement.

VI. PROPOSALS FOR STRENGTHENING NTCA

6.1 Importance of strengthening NCTA

48. Transit traffic which constitutes the bulk of the external trade of the NCTA countries is crucial for their economic and social development. As the external trade of these countries is part of the international trade, it is essential that it should benefit from modern transport arrangements and modalities (thorough bills of lading, containerization and multi-modal transport). However, no shipping company or other

operator would be willing to issue through bills-of-lading or engage in door-to-door container trade or undertake multi-modal transport operations to inland destinations whose transit routes are unreliable and where transit agreements are based on antiquated or inadequate regulatory regimes. Hence the establishment of an effective transit transport agreement which takes account of the requirements of modern transport is critical. The strengthening of the Secretariat for the NCTA agreement is therefore mandatory.

49. It would be short-sighted to regard transit traffic as being of importance only to land-locked countries. The truth is that it is equally important to transit countries as it may provide them with substantial benefits in the form of generation of employment, tax revenues and foreign exchange.

50. Because of the burden of building and maintaining the transport infrastructure is heavy, all options for co-operation, including opportunities for joint ownership of transit facilities should remain open. The NCTA countries should better exploit the revival of the EAC. Work towards improving the NTCA should, therefore, include consideration of the new forms of institutional co-operation under EAC arrangement.

51. Findings of the mission on steps to be taken in strengthening NCTA are outlined below.

6.2 Improvements of NCTA security arrangements

52. The operation of transit-traffic security arrangements under the NCTA has proved to be cumbersome and costly. Although there are noticeable improvements recently in the verification of transit cargo at the Mombasa Port, there is deep dissatisfaction with irregularities in the police escort of sensitive cargo, and the operation of the national bond system and border formalities. Freight forwarders using the Northern Corridor propose that if the security system could be improved there would be no need for the bond, meaning that the two are mutually exclusive. Others have indicated that the adaption of the Belbase Agreement transit pass system would be much better. Another possibility is to establish an inter-governmental guarantee bond similar to the COMESA bond system.

53. It has also been observed that there is little respect for seals among operators and security offices along the corridor and some border posts behave like ports.

54. The correction of some of these measures would certainly require a revision to the NCTA.

6.3 Harmonization of rail transport liability regimes and operations of ICDs

55. Continued rehabilitation of the railway network and rolling stock should be given high priority by KRC, URC. For KRC priority should be given to rehabilitation of the Nakuru-Kisumu line which has been a bottleneck limiting the operating characteristics of trains along the line. It limits also the effective use of the line as an alternative route connection to the Lake Victoria Services. With the opening up of the Kisumu ICD, effective operations of block/unit container trains on the line will still remain a problem before complete rehabilitation of the line. The same applies to the Kampala-Kasase branch line which Rwanda would wish to use as an alternative route to Kampala - Kigali road.

56. Users of KRC have registered improved services resulting from the recent restructuring of the railway organization, gearing the railway to commercial operations. This has also resulted into privatisations of some aspects of KRC operations including private ownership of some railways rolling stock which are interfaced with those of KRC. But some users have shown concern regarding the marketing functions of the railways.

57. Although existing inter-railway working arrangements make it possible for railway wagons to be exchanged, thus avoiding transshipment at interchange stations, there is no collective responsibility of railways vis-a-vis the shipper - who must conclude a separate transport contract with each of the railways. This procedure is not only cumbersome but it is also involves different liability regimes, making it difficult to pursue claims in the event of loss or damage to goods.

58. The introduction of collective responsibility of railways would eliminate this problem. Under such a system, the railway which accepts goods for carriage under a consignment document would be responsible for the carriage over the entire route up to final delivery. Each succeeding railway, by the very act of taking over the goods with the original consignment document, would thereby participate in the performance of the contract of carriage in accordance with the terms of that document, and as such would be subject to the obligations arising therefrom.

59. The introduction of collective responsibility of railways would require amendment to the NCTA and possibly the inter-railway **Working Agreements** between URC and KRC in order to introduce a uniform liability regime for the railways along with mechanisms for settlements of accounts between participating railways.

60. The Kisumu and Eldoret ICDs are basically railway based in their operations. KPA and KRC should ensure that they fully operate the ICDs such that wagons and containers leaving the depots do not undergo another customs procedures at the Malaba, Busia and Kisumu pier. A second bonding should also be avoided between the ICDs and Kenya/Uganda border posts.

6.4 Streamlining documentation and uniform rules for carriage by road

61. Great efforts have been made to regulate road transport under the NCTA, notably, through the establishment of uniform liability rules for road carriers in the event of damage, loss or delay of goods. The aspects of vehicle weights and attendant road charges, however, continue to be problematic despite efforts to find an acceptable formula. Work undertaken by COMESA on resolving these concerns may offer acceptable solutions but if this should prove not to be the case immediately, then the NCTA Governments should continue to maintain a flexible approach with regard to these aspects, pending the formulation of an acceptable formula.

62. Users of the corridor maintain that the RTCD is not yet fully implemented. The RTCD is the sole COMESA transit document that replaced all national transit documents. COMESA has now developed a Single Goods Declaration Document (COMESA - SGD) which will cater for the needs of all COMESA member States. The Northern Corridor Secretariat should consider the introduction of the SGD along the corridor in the near future because some Corridor member States do not so far accept the RTCD as a single document unless its use is segmented on a national basis.

63. Overloading is a major factor of road transport along the corridor. This is causing premature deterioration of the road network. This calls for organization of sensitization seminars for road haulers to examine the relationship between transport costs, overloading and road deterioration and to emphasize on the need for axle load controls.

6.5 Improvement of lake services operations and safety rules

64. The random lake services operating on Lake Victoria satisfy nobody. Not only are the under-utilized shipping vessels on the lake a drain on the resources of the Governments which own them, but their hit-and-miss services are a constant headache to the cargo owners who use them. This mutuality of interest should indeed spur urgent action to improve lake services.

65. Two actions need to be taken to improve lake service operations, are the introduction of scheduled lake services and of roll-on/roll-off operations. Scheduling of services could be introduced through a pooling arrangement of the three lake services operated by KRC, URC and TRC. These three railway networks would then operate roll-on/roll-off services involving both rail wagons and trucks. Such an arrangement has proved feasible in experiments already conducted in Tanzania under the auspices of DANIDA.

66. Operationally it would appear that there are no major problems in the rail/lake interface, probably arising from the current excess capacity of the ferries. However, investment and rehabilitation of lake facilities has been minimal. This had led to deterioration of these facilities and lack of some basic equipment needed for safety and communications in marine services and operations. It is understood that the services are operated without internationally accepted standards necessary to ensure safety to life, navigation and prevention of pollution. There have also been cases of accidents arising from improper handling of ferries by unqualified personnel. Another major problem is the lack of an up-to-date and enforceable legislation to govern safe maritime activity particularly on Lake Victoria. An inland waterway transport agreement providing internationally accepted standard for the conduct of safe maritime activity that should form the basis of harmonized national legislation has been prepared by UNCTAD, but not yet discussed.

67. All these issues remain valid even if the marine services are privatized as is likely to be the case in Kenya in the near future. It should be noted that with the oil jetty to be constructed in Kisumu, lake traffic is likely to increase for the advantage of NCTA land-locked countries who may use of barges to connect to Kemondo Bay and Port Bell.

68. Actions to improve lake operations should be embodied in an international agreement which will also regulate matters related to liability of vessel owners, safe navigation, pollution control. On-going efforts to control the spread of water Hyacinth weed on the lake should also be intensified because the weed is already a major threat to marine operations over the lake.

6.6 Speedy settlements of third-party motor vehicle insurance claims

69. The NCTA countries have adopted the COMESA third-party motor insurance. This being the case improvements should be made on speedy settlement of claims across borders; and elimination of difficulties in settling accounts among insurance companies.

70. The NCTA should also be amended to cater for the third party motor vehicle insurance system.

6.7 Introduction of cargo insurance scheme

71. The NCTA did not attempt to establish a cargo insurance scheme although the merit of having one in the subregion was self-evident, given the inability of small-scale road carriers to pay compensation in the event of loss, damage or delay to cargo not to mention the low compensation payable under the various sets of national railway legislations.

72. Ideally, cargo insurance should be established under the COMESA rules, because of its greater country coverage and the nature and scope of its activities. Should the COMESA renege on this, the NCTA should be prepared to establish schemes covering not only the transit transport leg to the sea ports but also offering cargo insurance for the entire transport to the point of destination. Such a scheme would require a new Protocol under the NCTA.

73. If a protocol is to be prepared on the subject, time limits for accident responses should be made clear, and provisions should be made that would enable transnational transporters to take charge of their accidents without going through their overseas headquarters, thus delaying settlements of claims.

6.8 Improvements of customs services and procedures

74. The cumbersome customs procedures at the ports are exacerbated with problems related to organization of customs services in respect of road traffic at the border posts with high traffic levels such as Busia, Malaba, Isebania, and Rusumo. These offices do not have appropriate infrastructure to serve the increasing volume of traffic and the customs personnel are inefficient due to lack of adequate training and motivation. The locations of some of the offices are inappropriate, and in many cases the working hours of adjacent customs offices vary. This results into prolonged waiting times at the border posts. Moreover, there are no adequate parking areas and trucks park at both sides of the road or in front of the offices while waiting for the formalities to be completed. It should be recalled that the same formalities completed at one exit post are repeated at the entry post of the neighboring country with all the monetary and time costs involved. These factors, which result in traffic jams at the border posts and increases costs and transit times, are exacerbated by the lack of adequate telecommunications network which would allow all the custom offices to communicate amongst themselves, as well as with their central administrations.

75. Also as had been mentioned earlier, some border posts operate like ports by initiating customs procedure afresh. The Secretariat of the Northern Corridor should consider the introduction of the Single Goods Agreement under the NCTA because it is possible under cover of the SGD, to declare a consignment for export in the country of exportation, carry it under customs transit procedures through the country transit to the country of destination and to clear it in that country. The SGD will in the long run facilitate the introduction of EDIFAC messages in the Corridor. Computerization of the customs system which is on-going in Mombasa should help in the cancellation of bonds, and cooperation between Kenya and Uganda Revenue Authorities in this regard is mandatory. The NC Secretariat should organize periodical workshops on customs issues.

6.9 Strengthening communications systems along the Corridor

76. In all the countries visited, communication was identified as one of the factors affecting the implementation of NCTA. SGD should lay down the foundation for better communications among NC countries. On-going efforts like ACIS data base should be consolidated with the Corridor framework to enable NCTA establish a transport data bank. It would also help a great deal if each member State would establish a national transport data bank that takes care of transit traffic. Uganda already has a national transport data bank. Kenya should consider establishment of a data bank as a unit of the planning section of the Ministry of Transport and Communications.

6.10 Solutions to Rwanda problems

77. Rwanda is near the end of the Northern Corridor transport chain, and is, therefore, at a slightly disadvantage position. Following the breakdown in the transport system during the recent war, it is important for Rwanda to fully implement recommendations of the January 1996 UNCTAD report which emphasized the need for:

- rehabilitation of initial sections of national roads and bridges serving international routes;
- carrying out a structural survey of Rusumo Bridge and emergency repairs to the damaged approach sill;
- establishment of an appropriate institutional framework for axle load control;
- up-grading of communications facilities at customs headquarters, MAGERWA and all border posts;
- enhancing of customs documentation procedures for cross border traffic;
- undertaking an operational study of the rail-road interchange at Kampala;
- requesting ADB for a re-appraisal of the Mombasa Warehouse project at Miritini;
- encouraging appropriate taxation and insurance policies affecting the transport sector;
- negotiating technical assistance to MINITRANSC for studies, workshops and training.

78. The same will apply to Eastern Zaire which has recently undergone a similar disruption of the transit transport system.

VII. POTENTIAL ALTERNATIVE TRANSIT ROUTES

7.1 Lake Transport: Kisumu - Kemondo Bay

79. It is considered that the potential alternative route from Mombasa is the rail/road/lake connection via Kisumu and Kemondo Bay has the greatest potential for Zaire/Rwanda/Burundi traffic. The route is technically feasible especially if some improvements were made to eliminate the steep gradients at Bukoba - Lusahumga road. The greatest benefit of the route can be derived from the use of road vehicles transshipment on to wagon ferries at Kisumu with onward journey from Kemondo Bay to ZBR countries on the same vehicle.

80. The use of bulk oil barges across Lake Victoria could be very attractive for Uganda and also Rwanda and Burundi, as the Kenyan Government has extended the pipeline from Nairobi to Kisumu, but a somewhat more extensive investment would be necessary to connect Port Bell with the existing tank farm in Kampala. The costs of oil barges and the associated infrastructure would have to be assessed against the costs of shipping fuel by tanker wagon using the wagon ferries.

7.2 Lake - River Transport: Kisumu - Kagitumba

81. The use of oil barges from Kisumu, across Lake Victoria, and up the Kagera river to Kagitumba has been suggested, and a preliminary study was undertaken by ECA in 1989. Potentially, the system might be attractive to Rwanda, but there is no information on the navigability of the river nor the improvements that would be required. There is apparently a disused hydro-electric generating plant on the river which would suggest that severe problems could be encountered on navigability of the river.

7.3 Rail Transport: Kampala - Kasese

82. The 332 kms Kasese line has same potential for North-Eastern Zaire rail traffic and can also serve Rwanda, but the line has to be rehabilitated. Transit traffic ceased to use the line in 1970s, but can be revived once the line is operating.

7.4 Road: Mombasa - Isebania - Mwanza - Biharmulo

83. This route passes through Northern Tanzania to Rwanda (1,864 kms) and Burundi (2,156 kms). Most of the network within Kenya is paved and in good condition up to the Kenya/Tanzania border at Isebania, the rest of the road through Mwanza and Biharmulo is in poor condition. Transit times on this alternative route is at 17 - 20 days for both Kigali and Bujumbura.

VIII. CONCLUSION

84. The NCTA, since its inception in 1985, has served a useful purpose as an instrument for speeding up transit transport operations along the Northern Corridor. Its Permanent Secretariat has effectively served as a forum for addressing issues affecting transit traffic to and from landlocked countries using the Port of Mombasa as the gate for their exports and inputs. However, in view of recent changes which have been introduced by COMESA in the facilitation of transit transport, there is a need for the revision of NCTA to bring it in line with recent transit transport developments in the sub-region. The Permanent Secretariat also needs strengthening, and its relationships with the reactivated East African Community and IGADD should be harmonized to avoid any duplications. A review of past recommendation and resolutions made in various meetings of the NC should form a basis for the revision of the NCTA.

85. Future success of the Agreement will depend on the political goodwill of member States, because factors affecting the successful implementation of the Agreement are mainly the decrees which some member States have introduced in contradiction to agreed protocols of the Agreement.

86. Since the Northern Corridor successfully experimented on the application of COMESA-RCTD, the Corridor should also take a lead in the introduction of the SGD. This will speed up solution to the current customs and communications problems which users of the corridor are experiencing, and open up the way for computerization of transit transport data, thus speeding up the decision making process regarding the movement of transit transport along the Corridor.

LIST OF PERSONS MET ON MISSION^{1/}

(a) Rwanda (Kigali)

1. Mr. Eugène Kivunangoma
Directeur des Transports, Ministère des Transports et Communications, Kigali
2. Mr. Jean-Baptise Kanobana
Directeur Général a.i.
Société des Transports Internationaux au Rwanda (STIR)
3. Mr. Côme Nkurunziza
Directeur Général Adjoint
SONARWA
4. Mr. Emmanuel Hategeka
Chef de Service Indemnisation Transport
Société Nationale d'Assurances du Rwanda (SONARWA)
5. Mr. Masumbuko Emile
Conseiller juridique
6. Mr. Munyakazi-Juru Antoine
Secrétaire Général
Chambre de commerce et d'industrie du Rwanda
7. Mr. Eugène Twahirwa
Chef de Service Promotion Commerciale et Industrielle
Chambre de Commerce et d'industrie du Rwanda
8. Mr. Ntare Simon
Directeur Général
Ministère des finances
9. Mr. Patrick Lemieux
Economist, UNDP Office

^{1/} The list is prepared in the order in which countries and organizations were visited.

(b) Uganda (Kampala)

1. Mr. G. J. Itazi
Director of Transport, Ministry of Works
2. Mr. George Wandera
Acting Chief Planner, Ministry of Works
3. Mr. Bon T. Muriro
Ag. Operations Manager
TRANSOCEAN (UGANDA) Ltd.
4. Mr. Berna A. Ojakol (Mrs)
Ag. Company Secretary
TRANSOCEAN (UGANDA) Ltd.
5. Mr. P. Adengo
Managing Director
PANALPINA
6. Mr. Nelson F. O. Ofwono
Operations Officer
World Bank Office
7. Mr. John Okello
National Economist
UNDP Office

(c) Kenya (Nairobi and Mombasa)

1. Mr. K. Ogembo Atieno
Chief Economist and Head, Economic and Basic Infrastructure Department
Office of the President and Ministry of Planning and National Development
2. Mr. N. S. Mwanja
Senior Economist
Ministry of Transport and Communications, Nairobi

3. Mr. Jean-Berchmans Nsabiyumva
Transit Transport Co-ordinator
Permanent Secretariat of the Transit Transport Co-ordination Authority of the
Northern Corridor (TTCA), Mombasa
4. Mr. Alex Rugamba
Transport Economist
TTCA, Mombasa
5. Mr. Silas Kanamugire
Transport Economist
TTCA, Mombasa
6. Mr. E. Lisumbu
Customs Expert
TTCA
7. Mr. Krishnah Appadu
Secretary General
Port Management Association of Eastern and Southern Africa, Mombasa
8. Mr. Alex Kabuga
Marketing and Public Relations Officer
Kenya Ports Authority, Mombasa
9. Mr. Philippe Mors
Branch Manager
PANALPINA, Mombasa
10. Mr. Charles O. Halwenge
General Manager
Mackenzie Maritime Ltd.
11. Mr. Floren Van Burkom
Owners' Representative East Africa
CMBT, Mombasa
12. M. Kandole Adyeeri
Resident Representative
Uganda Railways Corporation, Mombasa

13. Mr. John Mwanza
Senior Economist
ISCOS, Mombasa
14. Mr. J. Esibwe
Transport Economist
ISCOS, Mombasa
15. Mr. J. G. Msafari
Managing Director, OCEANFREIGHT and Chairman, Kenya Clearing, Forwarding
and Warehousing Association, Mombasa
16. Mr. Callisto Guwa Jamesa
Customs and Excise Department, Mombasa
17. Mr. Douglas Odette
Divisional Manager (Business and Operations)
Kenya Railways Corporation, Nairobi



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