North-South Corridor
Transforming Regional Infrastructure and African Trade

Cross-Border Transport Regulation in the Tripartite Region- The case for introducing Self-Regulation.

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Contents.

DEFINITIONS

North-South Corridor
Transforming Regional Infrastructure and African Trade

COMESA-EAC-SDC TRIPARTITE

Regulation

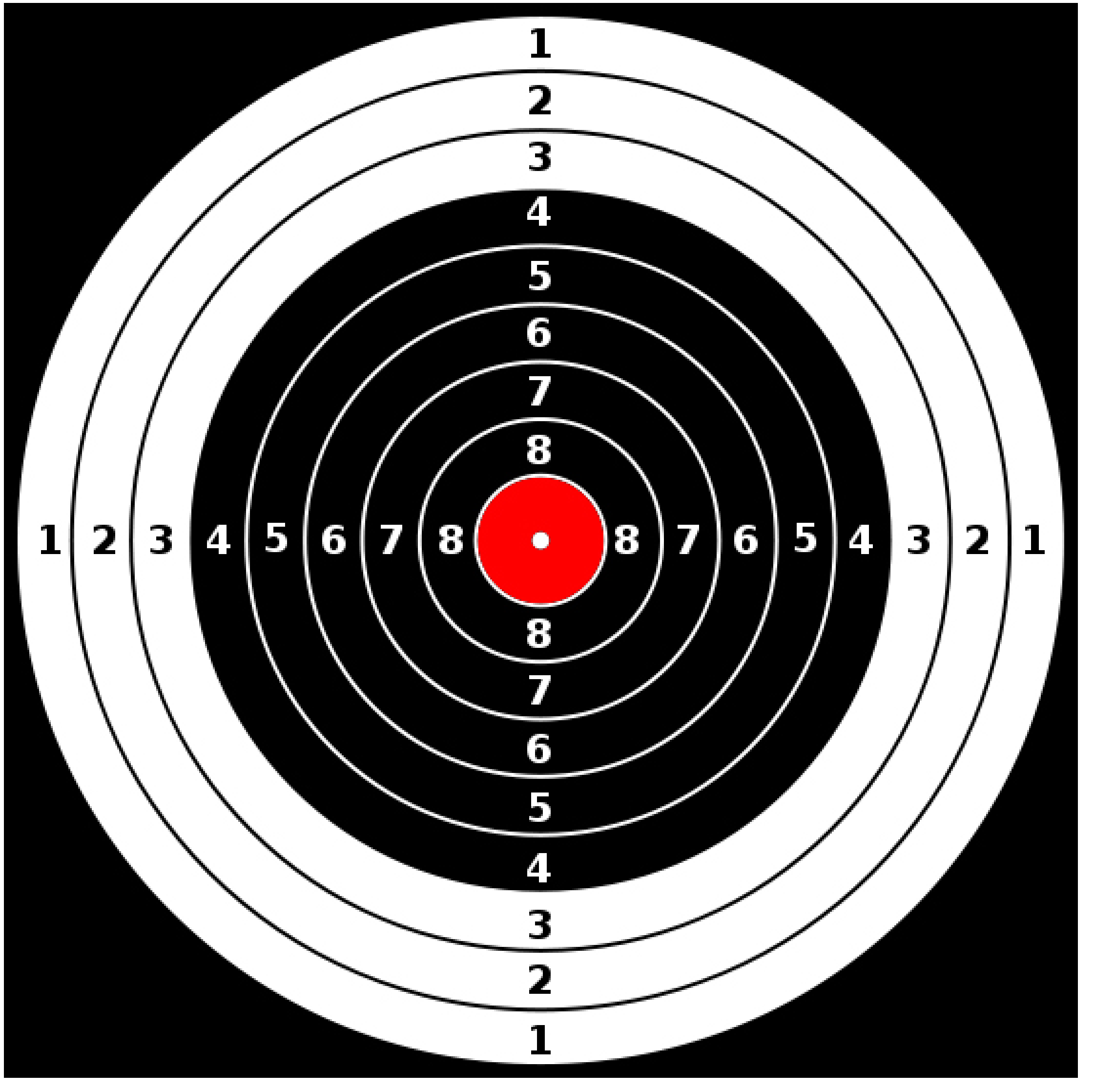
From Wikipedia, the free encyclopaedia

A regulation is a legal provision that creates, limits, or constrains a right, creates or limits a duty, or allocates a responsibility. **Regulation can take many forms**: **legal restrictions promulgated by a government authority,** contractual obligations that bind many parties ..**self-regulation [voluntary] by an industry such as through a trade association**, social regulation (e.g. norms), co-regulation, or market regulation.

Regulation mandated by the state attempts to produce outcomes which might not otherwise occur, produce or prevent outcomes in different places to what might otherwise occur, or produce or prevent outcomes in different timescales than would otherwise occur. In this way, **regulations can be seen as implementation artifacts of policy statements.** Common examples of regulation include controls on market entry, prices, wages, development approvals, pollution effects, employment for certain people in certain industries, standards of production for certain goods, the military forces and services.

Road Transport Regulation

WHERE DO WE WANT TO GO?



The SADC Regional Indicative Strategic Development Plan (RISDP) targets.

Target 1 – **Liberalise** regional transport markets by 2008
Target 2 – **Harmonise** transport rules, standards and policies by 2008
Target 3 – Recovery of all costs of maintenance of infrastructure by 2008 and full infrastructure investment costs by 2013
Target 4 – **Remove** avoidable hindrances and **impediments to the cross-border movement** of persons, goods and services by 2015.

VEHICLE REGULATIONS AND STANDARDS GUIDELINES

VEHICLE OVERLOAD CONTROL STANDARDS, AXLE LOAD LIMITS, BRIDGE FORMULA, TOLERANCES

ABNORMAL & AWKWARD LOADS

HAZARDOUS & DANGEROUS GOODS

ABNORMAL LOAD PERMIT

HAZMAT LICENCE

VEHICLE TEST STATIONS / EQUIPMENT /PROCEDURES

VEHICLE EXAMINERS TRAINING & CERTIFICATION

VEHICLE FITNESS ROAD WORTHINESS STDS

CERTIFICATE OF VEHICLE FITNESS/ ROAD WORTHINESS

ROAD SIDE INSPECTIONS STDS/PROCEDURES

ROADSIDE INSPECTION CERTIFICATE

OPERATOR REGISTRATION SCHEME

- LEGAL ENTITY REGISTER
- VEHICLES REGISTER
- DRIVERS REGISTER
- COMPETENT PERSONS REGISTER
- GRADING AND ACCREDITATION
- VOLUNTARY COMPLIANCE

DRIVER TRAINING & TESTING LICENCING

DRIVERS LICENCE FORMAT

PrDP DRIVER STDS/ TESTING PROCEDURE

LAW ENFORCEMENT –
STD OPERATING PROCEDURES
COMMON SCHEDULE OF OFFENCES / FINES.

OVERLOAD CONTROL GUIDELINES

WEIGHBRIDGE STDS, MANAGEMENT, ASSIZING

STRATEGIC NETWORK OF WEIGHBRIDGES

WEIGHBRIDGE OPERATIONS / MANAGMENT

WEIGHBRIDGE CERTIFICATE

CROSS-BORDER CHARGES

THIRD PARTY MV INSURANCE

DRIVER VISA/CROSS BORDER PERMITS

WHERE ARE WE COMING FROM?

?

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COMESA-EAC-SADC TRIPARTITE-LANDSCAPE

1. **26 Member states – (separate legal and regulatory jurisdictions) 19 COMESA, 15-SADC. 5 EAC.**
2. **Overlapping trade regimes-SADC FTA, SACU, & COMESA FTA, EAC Customs Union**
3. **Transport liberalisation slow and uneven**
4. **Small fragmented markets at different stages of development**
5. **Eleven (11) landlocked countries**
6. **Transport & trade facilitation policies, laws, regulation not fully harmonised**
7. **Multiplicity of Official languages**
8. **Different legal traditions and systems**

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LEGAL AND REGULATORY FRAMEWORK FOR ROAD TRANSPORT MARKET

1. COMESA, EAC, & SADC Treaties
2. COMESA Protocol on Transit Trade and Facilities;
3. EAC Road Transport Agreement
4. SADC Transport Protocol and SADC Protocol on Trade (Annex 4),
5. Bilateral Road Transport Agreements
6. Corridor Management Agreements
7. 26 sets of National laws and regulations / jurisdictions
8. Multiple -provincial, municipal regulations

All aim to regulate trade, transport and transit systems, procedures and arrangements

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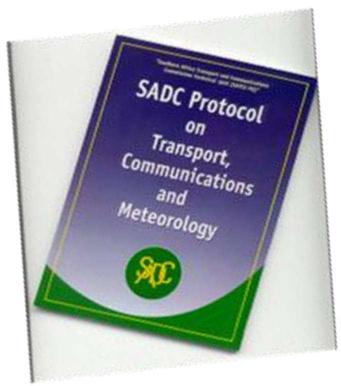
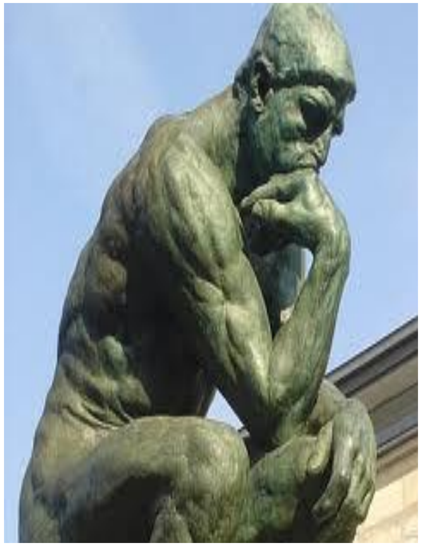
Cross-Border Transport Regulation in the Tripartite Region-current status





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HOW ARE GOING TO GET THERE?

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COMESA-EAC-SADC TRIPARTITE

To achieve the goal of **seamless cross-border transport** we need

1. **Common and Standardised International Regulation** [Market Access]
   Move from regulating QUANTITY [Permits] to regulating QUALITY.

2. **Harmonisation of Traffic Regulations** *[Vehicle & Driver licences, vehicle standards & dimensions, road user charges, inspections, certifications, offences, enforcement]*

3. **Harmonisation of Transport Infrastructure [Road & border posts design]**
   Road design standards, Vehicle Overload Control-load limits

4. **Cross-Border Procedures**
   - *transit and trade / customs procedures, requirements & charges*
   - *transit bonds & guarantees*
   - *Simplified documents & procedures*
   - *Integrated / coordinated border management; OSBP*
   - *corruption free and transparent fees and charges.*
   - *Reduced and coordinated inspection stops enroute*

QUALITY REGULATION : THE ESSENTIAL ALTERNATIVE

- THERE ARE PRINCIPLES OF TRANSPORT REGULATION THAT APPLY IN ALL MODES
- IN ALL COUNTRIES THERE ARE ROAD TRANSPORT OPERATOR QUALITY CONTROLS
- THE FUNDAMENTAL BASE FOR ALL TRANSPORT REGULATION IS THE "OPERATOR"
- LICENCES TO OPERATE ARE ONLY ISSUED TO OPERATORS THAT MEET SPECIFIC CONDITIONS
- COMESA INTER-STATE ROAD CARRIER LICENCE , SUMATRA ROAD SERVICE LICENCE, ETC,
- FOLLOW THESE PRINCIPLES
- ALL ASPECTS OF THE OPERATIONS MUST BE LINKED TO THE RESPONSIBLE OPERATOR
- ALL OPERATORS ARE REGISTERED : BUT ONLY THOSE THAT MEET "A LEVEL" PRESCRIBED CONDITIONS MAY PERFORM CROSS- BORDER TRANSPORT
- EFFECTIVELY, EACH COUNTRY WILL ONLY PERMIT QUALIFIED "A" LEVEL OPERATORS TO CROSS BORDERS THEREFORE NEIGHBOURING COUNTRIES CAN PERMIT THEM TO ENTER AND OPERATE.
- QUALIFICATIONS INCLUDE FINANCIAL, VEHICLES, DRIVERS, COMPETENT PERSONS, MAINTENANCE RECORDS , OPERATING RETURNS, MONTHLY REPORTS ETC
- "B" OR "C" GRADE OPERATORS THAT DO NOT WISH TO CROSS BORDERS , MAY HAVE LOWER CONDITIONS
- COUNTRY RULES CAN STILL INCLUDE SOME PROHIBITIONS E.G. CABOTAGE

OPTIONS FOR EFFECTIVE CONTROL OF ROAD TRANSPORT

- **AS SHOWN LOCALLY AND INTERNATIONALLY IT IS NOT PRACTICAL OR DESIRABLE TO TRY TO REGULATE QUANTITY (SUPPLY) OF ROAD TRANSPORT**

- **THE INTERNATIONAL TREND IS TO ENHANCE QUALITY REGULATION USING THE BASIC PRICIPLES OF TRANSPORT REGULATION SO AS TO SET AND MAINTAIN STANDARDS BY OPERATOR REGISTRATION, GRADING AND ACCREDITATION TO ENCOURAGE HIGH LEVELS OF VOLUNTARY COMPLIANCE**

- **NEED TO REVIEW ALL SYSTEMS AND ALIGN REVISED FRAMEWORK AND PROCESSES WITH THE PRINCIPLES OF EFFECTIVE REGULATION**

- **REGULATORY PROCEDURES NEED EFFICIENT IT SYSTEMS SUPPORT**

- **STANDARDISED SYSTEMS ENHANCE INTER-STATE COORDINATION, EQUITY AND COMPARISON**

- **A PRACTICAL STANDARDISED APPROACH TO OPERATOR REGISTRATION AND LICENCING WILL PROMOTE LIBERALISATION**

THE STAGES OF INCREASING LIBERALISATION

Phase	Conditions	Description	Impact on carriers	Impact on Industrial Users	Impact on Country	Impact on Authority	Example
Phase 0	No reciprocal Access	All transport in each state is performed by own carriers Cross border transport is all one way	Protection of local carriers inreases rates One way haulage means empty backhauls and increases rates	Higher transport costs Lower export competitiveness	Reduced investment in potential export industries Higher local production and distribution costs may encourage imports of made-up goods	Minimal regulation - policing only Reduced Taxation income Reduced industrial development	Mexico - USA
Phase 1	Transport between states A and B only	Transport of goods between states A and B only by carriers registered in those states	Restricted markets limited to local industries and import export demand Exclusion of some external competition May promote formation of cartels	Need to contract with specific carriers for specific routes or countries May increase rates	Limits scope of transport market and may increase transport costs	Need for regulatory action such as permits	Canada - USA
Phase 2	Transport of goods between States A and B or ; on a defined route from A in transit through B to C or D- only if journey includes travel in A	Transport by carriers from A to B, C, D in both directions starting or ending in home state	More flexibility to achieve backloads Restricts market to two way trade between home state and other states Increases comepetition among carriers	Permits contracts with carriers from more countries May improve competition and reduce rates May encourage buy-ins or buy-outs of carrier companies	Higher level of trade integration Reducing logistics costs Increased flexibility of transport market	Increased activity may need further regulation to effectively control the carrier O&D actions.	SACU
Phase 3	No restriction on carriers of State A to transport goods on defined routes between B and C or D even if the journey does not include home State travel	Transport by carriers from A to B can include backhauls and extended operations between B, C and D	Allows circular routing and optimising backhauls by pickup and drop along a multi-country routing. Increases vehicle utilisation	Increases options for contracting carriers seeking backhaul cargo along routes Reduces rates	Increased competition in the transport market Improved logistical flexibility and trade integration with neighbour States	Lessens need for monitoring carrier O&D	Mozambique - SA Zambia - SA Malawi - SA Zambia - Tanzania
Phase 4	Transport on any routes, of goods from A between B to C or D without restriction.	Transport by regional carriers between all States without restriction	Increased market opportunities Increased competition Better vehicle utilisation Increased need for logistics coordination from all origins and destinations Increased vehicle control and scheduling	More flexible market More options for contracting carriers More competition , lower rates	Promotes optimal levels of competition and freedom to develop transport systems.	Reduced monitoring and concentration on quality regulation	Zimbabwe - SA
Phase 5	Free market in region including cabotage	Any carrier registered and properly equipped, able to perform transport throughout the region	Increased competition for local carriers in all countries Likely to reduce numbers of operators but increase professionalism	Provides options for contracting best possible operators or setting up inter-country carrier operations Reduces costs	May attract FDI in transport and distribution companies Reduced logistics costs	Eliminates permits, licenses operators and concentrates on quality regulation	European Union

HOW FAR ARE WE NOW?

SUMMARY OF PROGRESS AND CURRENT STATUS

1. VISION AND DIRECTION –COMMON AND SHARED BETWEEN THE THREE RECs
2. LIBERALISATION AND HARMONISATION WITHIN EACH REC SLOW DUE TO PROTECTIONISM / STRONG ROAD LOBBY.
3. LIBERALISATION SHOULD BE FASTER IN EAC DUE TO EAC LEGISLATIVE PROCESS BUT STILL AS SLOW AS IN COMESA AND SADC. COMESA AND SADC REQUIRE NATIONAL LEVEL DOMESTICATION OF REGIONAL AGREEMENTS.
4. TRIPARTITE PROCESS HAS STARTED BUT LACK OF TRIPARTITE INSTITUTIONS AND LEGAL FRAMEOWORKS.
5. ENFORCEMENT POOR DUE TO CORRUPTION, LACK OF HARMONISED LAWS, CAPACITY, STANDARD OPERATING PROCEDURES AND UNIFORM TRAINING.
6. TRIPARTITE PROVIDES COMMON PLATFORM BUT MAJOR CHALLENGES STILL REMAIN.

SO WHY SELF REGULATION?

1. STATE REGULATION CAN NEVER BE FULLY EFFECTIVE / REGION LACKS A HARMOSED REGULATORY FRAMEWORK
2. IT IS IN THE INTEREST OF TRANSPORT INDUSTRY TO SELF REGULATE IN ORDER TO COMPLIMENT STATE REGULATION
3. NEED TO INTERFACE TRANSPORT REGULATION WITH AUTHORISED ECONOMIC OPERATOR SCHEMES MANAGED BY CUSTOMS
4. IMPROVE EFFICIENCY FOR SCHEME MEMBERS BY REDUCING THE IMPACT OF CONVENTIONAL REGULATORY
5. RAISE LEVELS OF COMPLIANCE FOR NON-ACCREDITED OPERATORS THROUGH MORE EFFECTIVE DEPLOYMENT

OF ENFORCEMENT RESOURCES;

6. REDUCE ACCELERATED ROAD INFRASTRUCTURE DAMAGED CAUSED BY OVERLOADED VEHICLES;
7. IMPROVE ROAD SAFETY;
8. INCREASE THE PRODUCTIVITY OF THE TRANSPORT INDUSTRY THROUGH ADOPTION OF GOOD MANAGEMENT

A LUTA CONTINUA!! ATE SEMPRE!!

THANK YOU

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