COMPETITION AUTHORITY OF KENYA

Creating efficient markets for consumers

MARITIME

BUSINESS & ECONOMIC CONSULTANTS

COMPETITION IN SHIPPING, TRUCKING AND HAULAGE SECTOR STUDY IN EAST AFRICA

FINAL REPORT

July 2019

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LIST OF ABBREVIATIONS

BIMCO:	Baltic and International Maritime Council
CAGR	Compound Annual Growth Rate
CAK:	Competition Authority of Kenya
CFSs:	Container Freight Stations
CIF:	Cost Insurance and Freight
COMESA:	Common Market for East and Southern Africa
EAC:	East African Community
ECTS	Electronic Cargo Tracking System
EU:	European Union
FFEAFFA:	Federation of East African Freight Forwarders Associations
FONA:	First Order Network Assessment
GoK:	Government of Kenya
GVM:	Gross Vehicle Mass
HHI:	Herfindahl-Hirschman Index
ICDE:	Nairobi Inland Container Depot
ICDs:	Inland Container Depots
IMF:	International Monetary Fund
IMO:	The International Maritime Organization
ISCOS:	Inter-governmental Standing Committee on shipping
INTERTANKO:	International Association of Independent Tanker Owners
ISPS:	International Ship and Port Facility Security
ITTS:	International Testing and Training Service
KAM:	Kenya Association of Manufacturers
KEBS:	Kenya Bureau of Standards
KENHA:	Kenya National Highways Authority
KENTRADE:	Kenya Trade Network Agency
KIFWA:	Kenya Int. Freight and warehousing Association
KMA:	Kenya Maritime Authority
KNCCI:	Kenya National Chamber of Commerce and Industry
KOT:	Kipevu Oil Terminal
KPA:	Kenya Ports Authority
KRA:	Kenya Revenue Authority

KRC:	Kenya Railways Corporation
KRB:	Kenya Roads Board
KSAA:	Kenya Ships Agents Association
LOS:	The Level of Service
M&A:	Mergers and Acquisitions
MGR:	Metre Gauge Railway
NAFL:	National Association of Freight and Logistics
NC:	Northern Corridor
NEMA	National Environmental Management Authority
NTBs:	Non-Tariff Barriers
NTSA:	National Transport and Safety Authority
NTTCA:	Northern Corridor Transit Transport Authority
OECD:	Organization for Economic Co-operation and Development
PMAESA:	Port Management Association of Eastern & Southern Africa
RRA:	Rwanda Revenue Authority
RVR:	Rift Valley Railways
SADC:	Southern Africa Development Community
SCT:	Single Customs Territory
SGR:	Standard Gauge Railway
TBL:	Through Bill of Lading
TEUs:	Twenty Foot Equivalent Units
TGL:	Transit Goods License
UNCTAD:	United Nations Conference on Trade and Development
URA:	Uganda Revenue Authority
USAID:	U.S Agency for International Development
WSC:	World Shipping Council

EXECUTIVE SUMMARY

Transportation plays a critical role in the global economy as it facilitates and interlinks regions across the globe. Cargo transportation is a key determinant of market access and contributes to Regional Economic Integration by creating efficient linkages that facilitate regional and global trade. For it to perform the role effectively, there is need for it to be both cost-efficient and effective (reliable, fast). On a Regional level, the Northern Corridor is a key transportation artery for goods destined to and from the East African Community (EAC) and the Common Markets of Eastern and Southern Africa (COMESA) Region.

The transport sector contributes between 5 to 15 % of the GDP among the Northern Corridor countries (KRB, 2015). However, the impact of transport goes well beyond its direct contribution to the economy as it serves as an intermediary service to all sectors and is therefore critical to economic growth and poverty alleviation. Provision of adequate transport infrastructure and comprehensive functioning of transport markets is a key component of a country's competitiveness.

The overall objective of this study is to identify potential competition concerns occasioned by the infringement of the competition law and government regulation, with a view of proactively addressing them and hence minimizing the cost of doing business in Kenya and in the Region. The study assesses, analyses and documents evidence of the status of competition in the liner shipping industry using the Port of Mombasa, the trucking and haulage industries operating along the Northern Corridor, and proposes recommendations.

Shipping Sub-Sector

Shipping is the principal mode of transport capturing more than 80% of the global trade by volume. The role of maritime shipping in the development of the global economy is therefore critical. The shipping industry has two major segments, namely liners that operate on a fixed route and schedule, next to tramp services that have no fixed route and mainly transport bulk and liquid cargoes.

In Kenya, seaborne trade routes are generally covered by feeder services originating in major hubs (such as Dubai) as major alliances do not call at the Port of Mombasa. Nevertheless, the market structure of the shipping industry in Kenya is an oligopoly with only seven sector players controlling approximately 97% of the total market. The Herfindahl-Hirschman Index (HHI) computation for 2017 indicates that the market is moderately concentrated.

Carriers set their prices individually on the basis of the prevailing market forces. The issue of price wars is prevalent with clients going for the lowest freight rates. To this end, Shipping Lines aim at offering quality service and differentiated value-added services in a bid to retain clients and enhance customer loyalty. This is achieved through attractive transit times, extensive routings as well as competitive freight rates.

There was minimal vertical integration in the Shipping Lines industry and the operation model for the Port of Mombasa mainly on combination of shipping, clearing and forwarding. However, while KPA enjoys a vertically integrated monopoly on both port infrastructure development and port terminal operations, vertical integration practices of combining shipping and port operations through equity participations of shipping lines in terminals, as is the case in many other countries, is not practiced. In the future, should the governance of the Port be changed towards a landlord model, elements of the concession contracts awarded to private terminal operators, should be scrutinized against non-discriminatory access and preferential treatment of some Shipping Lines.

The Ministry of Transport, Infrastructure, Housing and Urban Planning and Development should continuously monitor the shipping services offered, including tariffs from/to the Port of Mombasa, on the main maritime trade corridors. It should also develop guidelines for approving shipping line alliances and consortia that may have a local impact on competition in maritime transport services. This will include development and implementation of a monitoring and evaluation framework that checks and identifies any discriminatory, unjustified and other anti-competitive behaviour in the shipping sector in Kenya. Impact studies on block exemptions for shipping alliances in other parts of the world might inspire CAK to develop its own monitoring and evaluation framework for Kenya and the Northern Corridor.

Port Services

The Northern Corridor that serves the East African Community originates from the Port of Mombasa and terminates at Bujumbura, Kisangani and Juba. In essence, the Port of Mombasa has no logical competitor within the Northern

Corridor in that cargo meant to ply along the Corridor cannot logically be expected to originate or be destined to any other port. Within the Port of Mombasa, there is also no competition between terminal operators as the regulatory framework in Kenya foresees a National Port Authority operating under a Service Port model for cargo handling. It is therefore difficult to address the element of competition for the Port of Mombasa within the context of the Northern Corridor alone.

KPA offers a level, competitive playing field through non-preferential, unrestricted access to port users (shipping lines) and use of standard, across-the-board tariffs. It also ensures impartial regulatory enforcement without any undue considerations. Yet, the port operations were found to be below best practice despite the huge investments that have been undertaken in the last couple of years. The efficiency levels in terms of the number of container moves, the ship waiting time and the average time spent in port is much higher than the UNCTAD calculated averages.

There is need for continuous attention to the port services and governance framework, which is currently characterized by a monopoly for cargo handling and relative lack of competition from neighboring ports. The monopoly status in cargo handling could be monitored to establish if a gradual shifting to a landlord model with more involvement of private players is useful.

Rail Haulage Sub-sector

Kenya Railways Corporation has the mandate to run the rail system, which connects the Port of Mombasa to Uganda. The study reveals that SGR transport accounts for around 30% of the total container traffic. The government had since January 2018 instituted regulatory measures to ensure that all Nairobi bound cargo is transported by SGR. It is indicated that cargo allocation is done to aid the government to achieve the SGR cargo targets especially because of the loan repayments for this critical infrastructure. However, this distorts free trade and choice by shippers as to which mode of hinterland transportation they will choose for their import cargo.

Pre-determined, pre-discounted and non-negotiable freight rates and levies on import cargo to promote SGR use are all considered anti-competitive by truckers. Based on the European practice, it is recommended a transition to a regime where rail transport is subsidized and supported to the extent of the environmental benefits it generates (incl. lower emissions, better safety/avoidance of road accidents), and proportional to the total cost of transport.

Trucking Sub-sector

The trucking companies operating within the Northern Corridor vary widely in terms of their fleet size, number of employees and the types of cargo they transport across their various route networks. Kenyan firms seem to be larger in terms of fleet size, number of employees and the range of cargo types they transport. Kenyan road transport is fully liberalized, and prior to the launch of the SGR, it accounted for more than 96 per cent of the total traffic flow along the Northern Corridor.

There is free entry and exit of operators (large and small companies) to the industry but with attendant compliance not to stifle competition. In addition, licenses are granted freely to the trucking companies and the fees charged are largely uniform. Furthermore, transit road user charges levied by the road development agencies have been harmonized within the EAC as each truck pays according to its capacity and the distance traversed in the host country. Lastly, non-tariff barriers still exist causing unnecessary trucker delays.

Price setting in the trucking industry is based on considerations such as direction of trade and not necessarily the size of the fleet. Besides, even though trucking companies are members of Associations, these trade Associations have no role in price setting. Generally however, the logistics costs in East Africa are on average still about 50 per cent higher than in the US and Europe.

It is thus of importance that the freight transport sector provides the Region with adequate, effective, and efficient services at the lowest cost to society. This also includes attention to reductions of the negative impact of freight transport on the environment and society in general.

1 INTRODUCTION

1.1 Background

Transportation plays a critical role in the global economy as it facilitates trade, exchange and travel to interlink regions across the globe. Goods are rarely consumed where they are produced, and transportation services are essential in the supply chain. The ship was the earliest form of transportation to have a significant effect on trade, and maritime transport continues to play a crucial role as 80% of the world trade by volume and 70% by value of traded goods is carried by sea (UNCTAD, 2017). The goods are then conveyed to final destinations through road, pipeline, and inland waterway transport or by train. Hence effective and efficient transportation, both on the maritime and hinterland sides, helps to enhance trade, and growth of world economies.

Cargo transportation is a key determinant in market access and contributes to Regional Integration, by creating efficient linkages that facilitate regional and global trade. On a Regional level, the Northern Corridor is a key transportation artery for goods destined to and from the East Africa Community (EAC) and the Common Markets of Eastern and Southern Africa (COMESA) region. The efficient operation of the Corridor is therefore a crucial element in enabling Kenya penetrate the markets and increase her share of trade. As at 2017, intra -regional trade amongst the Northern Corridor countries - Kenya, Uganda, Rwanda Burundi and Democratic Republic of Congo- stood at approximately 10.1 per cent which is relatively low compared to e.g. some EU countries that are above 13% with centrally and well-connected countries such as e.g. Belgium being above 27%. Transportation costs along the Northern Corridor account for about 30 percent of the value of goods traded within the region, hence it is a significant component in the supply chain.

The East Africa Community Competition Act, 2006 prohibits anti-competitive and concerted practices (EAC, 2006), which covers the shipping industry terminating at the Port of Mombasa and the trucking and haulage sector in Kenya. A sub-optimal functioning of the market for transport services contributes to higher transport costs; adding those to the high costs of doing business further undermines regional integration and hampers welfare creation. This study evaluates the shipping, trucking and haulage sectors on the level of the existence of anti-competitive practices, policies or instruments with a view to recommend corrective measures to improve efficiency in the sectors, as well as suggest actions at the level of regulatory oversight (CAK) to proactively support the efficient functioning of the freight transportation services market.

Regionally, the relationship between member states served by the Northern Corridor is guided by the Treaty for the establishment of the East African Community (EAC) and its Protocols. The Charter outlines in detail the need for co-operation in development of infrastructure and services within the EAC and identifies the key aspects of this co-operation and recognizes the improvement of competitiveness as a critical component of promoting trade.

The transport sector in Kenya is relatively well developed in terms of both infrastructure and services. The transport sector in Kenya combines international quality operators and services. The various infrastructural components (road, rail, ports) have been developed continuously, but there remains ample scope for further improvement as high-quality infrastructure only creates its benefits when the transport services markets are efficiently organized (i.e. functioning like markets, including necessary government corrections in the case of sub-optimal market function). The latest addition to infrastructure and service development is the Standard Gauge Railway (SGR) which at the time of this study connects the Port of Mombasa and the Inland Container Depot (ICD) in Nairobi.

The transport sector contributes between 5 to 15 % of the GDP among the Northern Corridor countries (KRB, 2015). However, the impact of transport goes well beyond its direct contribution to the economy as it serves as an intermediary service to all sectors and is therefore critical to economic growth and poverty alleviation. Within many international competitiveness indices, such as the World Economic Forum's Global Competitiveness Index (GCI), as well as the Logistics Performance Index (LPI) of the World Bank, the provision of adequate transport infrastructure and adequate functioning of transport markets is a key component of country competitiveness. Kenya has made good progress within a longer-term perspective rising from position 122 in 2012 to 42 in 2016 as shown below;

Table 1-1: Positions held by Kenya and LPI Score

YEAR	*2012*	*2013*	*2014*	*2015*	*2016*
LPI RANK	122	76	99	74	42
LPI SCORE	2.43	2.52	2.59	2.81	3.33

Source: LPI WB 2016

It is thus of paramount importance that the freight transport sector continues to provide the region with improving and adequate, effective, and efficient services at the lowest cost to society. This also includes attention to reductions of the negative impact of freight transport on the environment and society in general (such as: air emissions, noise, accidents). The overall objective of this study, in the broader framework presented before, is to review any potential competition concerns that need to be addressed with a view of minimizing the cost of doing business in the Region and thus promote intra-regional trade.

1.2 Statement of the Problem

As explained in the previous section, the freight transport sector plays a crucial role in economic development of countries as it facilitates movements of goods in the supply chain. The sector has been identified among key factors that are crucial to trade in the EAC region. Previous research on the transport sector in Africa has recognized that both regulatory and infrastructure developments, as well as competition between transport service providers are important in reducing transport costs (Teravaninthorn and Raballand, 2009). A study conducted by Gwaro (2011) established that there was a need to continuously innovate in the transport sector to achieve operational efficiency, cost reduction, improved customer services, and competitive advantage. Thus, as part of these improvements, an evaluation of the supply chain in the shipping, trucking and haulage sector will help to identify factors contributing to inefficiency with a view to propose policy interventions to address the issues.

The EAC committee on Non-Tariff Barriers (NTBs) in its evaluations established that most of the NTBs complaints that arose, required administrative interventions to be resolved (Tralac, 2016). This study will examine among others, if there are any specific NTBs that could be an impediment in the efficient of operation of the shipping, trucking and haulage sectors on the Northern Corridors countries.

Inefficiencies in the total logistics chain such as higher transport costs, time delays, and access to information, bring about higher prices of imported/exported raw materials and thus final manufactured products and services. This in turn makes the products from the Region uncompetitive in world market. Further, this hinders the development and growth of the EAC Region.

Also, in other world regions, in particular in single markets like the European Union, substantive legislative processes have been put in place towards fair competition in the road, rail, inland waterway and air transport markets.

1.3 Objectives of the Study

The overall objective of the study is to identify potential competition concerns occasioned by the infringement of the competition law and government regulation, with a view of proactively addressing them and hence minimizing the cost of doing business in Kenya and in the Region.

The focus of the assignment is to assess, analyze and document evidence of the status of competition in the liner shipping industry using the Port of Mombasa, and the trucking and haulage industry operating along the Northern Corridor, and propose recommendations on the way forward.

The specific objectives of the study and the Terms of Reference are attached in Appendix 1.

1.4 Organization of the Report

This Report is structured as follows:

Chapter one introduces the study by highlighting the role of transport from the global and regional perspectives. The chapter also presents the "Statement of the Problem".

Chapter two provides a detailed Literature Review of the industry, structure and characteristics in shipping, ports, rail, road sub-sectors and trade in intra-regional exports.

Chapter three consists of the description of the Methodology for Data Collection, including the identification of the stakeholders and how the data acquisition strategy was implemented.

Chapter four presents the Data Analysis and Findings of the Study based on the information obtained from the field work and concludes with the Regulatory Regime impacting on the sector.

Chapter five consists of overall conclusions and policy recommendations based on the analysis and findings of the study undertaken in chapter four.

2 LITERATURE REVIEW AND SECTOR PERSPECTIVE

2.1 Global and Regional Perspective

2.1.1 The Shipping Sub-sector

2.1.1.1 Introduction

The International Maritime Organization (IMO) reported that shipping is the principal mode of transport capturing more than 80% of the global trade by volume. In view of this, the role of maritime shipping in the development of the global economy is very critical, (IMO, 2018).

The shipping industry in East Africa and indeed globally has experienced profound changes in the last thirty years in areas such as structure of vessel ownership and operation, and in terms of the vessel deployment and routing especially under the traditional liner services. Growth in industrialization has also increased global trade in both raw materials and manufactured products, hence sustaining the importance of seaborne trade.

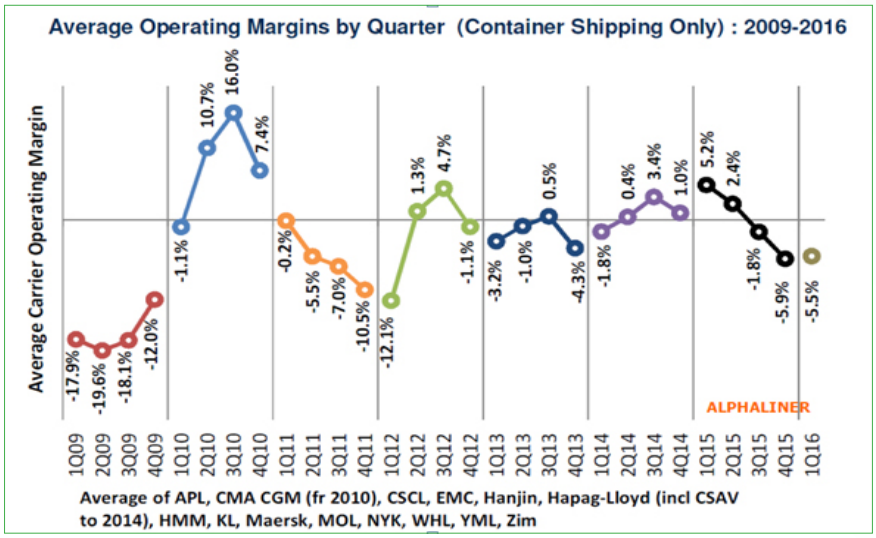
Transportation of cargo at sea is carried out by different types of ships depending on the nature of cargo. The main types of ships are container vessels, tankers, bulk carriers, car carriers, Ro-Ro (Roll On - Roll Off) and specialized vessels such as those designed to carry heavy lifts.

The shipping industry has two major segments, namely liner and tramp services. Liner services operate within a fixed route and schedule mostly transporting containerized cargo. On the other hand, tramp services do not have fixed routes, itinerary or schedule and mainly transport bulk and liquid cargoes.

The tramp shipping market is a highly competitive market where no individual ship-owner or shipping company can decide the level of the freight rates. The tramp market comprises of thousands of ship-owners who operate and compete with each other. On this market segment no ship-owner acting alone is in a position to influence the freight rates significantly by increasing or decreasing their capacity, as the market is comprised of very many ship-owners whose individual share of the market is not significant. Freight rates in tramp shipping are mainly determined by global demand and supply of the maritime services.

Liner shipping Market is different from tramp shipping in many aspects, including the characteristics of the freight mechanism. Prices of liner services are fairly stable as the market is not a pure competitive one, since liner shipping companies are getting fewer and bigger, and have also installed alliances between them. While there is free entry and exit, the financial, technical and organizational complexities as well as the requirement of economies of scale for operating a liner service have prevented many ship-owners from entering the market. Besides this, there still exists restrictive and protectionist practices in liner shipping by cabotage regimes, although the current global liberalization trends have seen disappearance of some of these practices. Despite practices of consolidation and horizontal integration, liner shipping has historically remained with subpar financial performance as shown in the figure below.

Figure 2-1: Average Operating Margins by Quarter (Container Shipping Only): 2009 -2019



Source: Notteboom and Rodrigue, 2017; based on Alphaliner data

2.1.1.2 Global Shipping Outlook

Since its inception, the ocean liner shipping industry has been governed by Shipping Conferences, which are agreements among carriers to fix prices and regulate capacity. These cartel-like agreements have benefited from exemptions from antitrust laws in several jurisdictions for a very long time. The claimed rationale on the benefits of the conference system is that they are necessary to avoid the aggressive price wars amongst carriers that would stem from the fixed-cost nature of the industry and the existence of excess capacity. Recently, several competition authorities have called for an abolition of the conference system, arguing that it did not yield the claimed benefits. E.g. the European Commission is expected to express itself on the continuation of the Block Exemption for liner shipping during 2019. Furthermore, as result of the proliferation of other forms of cooperation (consortia and strategic alliances) and the regulatory changes that have taken place in many jurisdictions, the relevance of the conference system has eroded. Indeed in some jurisdictions the conference system has been effectively undermined (in the US in 1998) or abolished (in the EU in 2008).

Cooperation agreements are called consortia in the EU while elsewhere they are referred to as "vessel sharing agreements" ("VSAs"). A strategic alliance is a vessel-sharing agreement covering many services/routes. There is a wide spectrum of operational co-operations ranging from highly flexible slot charter agreements and unilateral slot sales to full cooperation on an integrated consortium that involves operational, technical, commercial and even financial decisions. Consortia and strategic alliances have been gaining increased relevance in the industry since the early 1990s and are currently the dominant forms of agreement in the global liner shipping.

The main economic drivers underlying consortia and strategic alliances relate to the economies of scale achieved through the joint operation of large vessels, which contributes to capacity utilization and sharing the risk associated with investment in bigger vessels consequently increasing productivity. These agreements also allow individual carriers to broaden the geographic coverage of their service networks, enter new markets and offer a high frequency of services in line with shippers' preferences, economic considerations, cost control and in the earlier stages freight stabilization. (OECD, 2018)

For a shipping company to remain competitive in any port, they must offer at least a weekly service. In the Kenya shipping market, slot sharing is the common agreement among the shipping lines especially those with a small market share. Some of the shipping lines have a smaller market share on some trade routes and it will be uneconomical for them to maintain a weekly service using their vessels, as they will not have enough cargo to fill them that creates an imbalance on the cost per unit. Thus, slot sharing enables them offer cost-competitive services against better-established shipping lines with higher market shares.

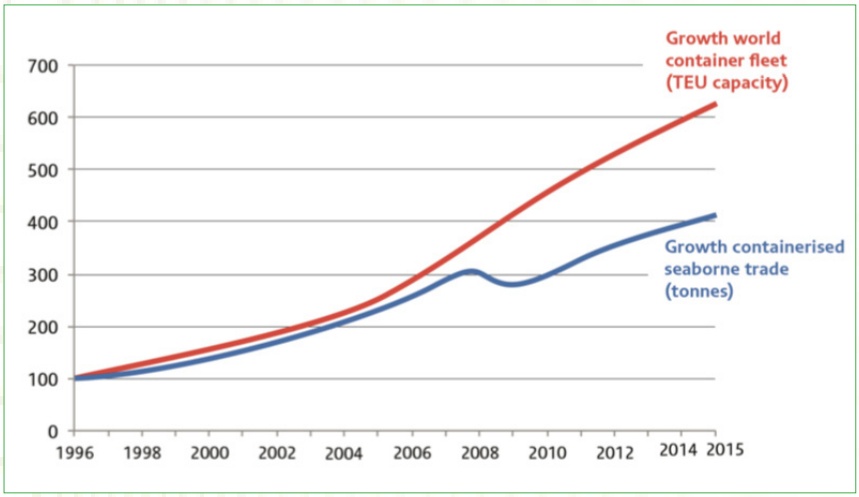
Recently a new form of cooperation took shape under the name Alliance, although some experts refer to it as a form of consortium. Lines with similar philosophies and scale of operations including main container lines supported by feeder services, cooperate on major trade routes to form an Alliance.

These Alliances aim at achieving economies of scale and wider service coverage by operating mega ships on the major trade routes, further reducing unit costs. However, according to analyses by both UNCTAD and the OECD, they have contributed to lower service frequencies, fewer direct port-to-port connections, declining schedule reliability, longer waiting times and have also fueled liner overcapacity.

The International Transport Forum reported that, although overcapacity in the liner sector has lowered freight rates, the cost savings are partly offset by a number of additional costs for shippers. Moreover, by limiting shipping options, alliances have frustrated the risk diversification strategies of shippers and freight forwarders.

According to a 2017 report by FITCH Ratings, the global outlook for the shipping industry remains negative for 2018 due to lingering overcapacity in most sectors. The overcapacity in shipping undermines the current rebound in dry bulk and container shipping rates and puts in doubt its longevity.

Figure 2-2: Disconnection of container ship size developments and seaborne trade growth (1996-2015)



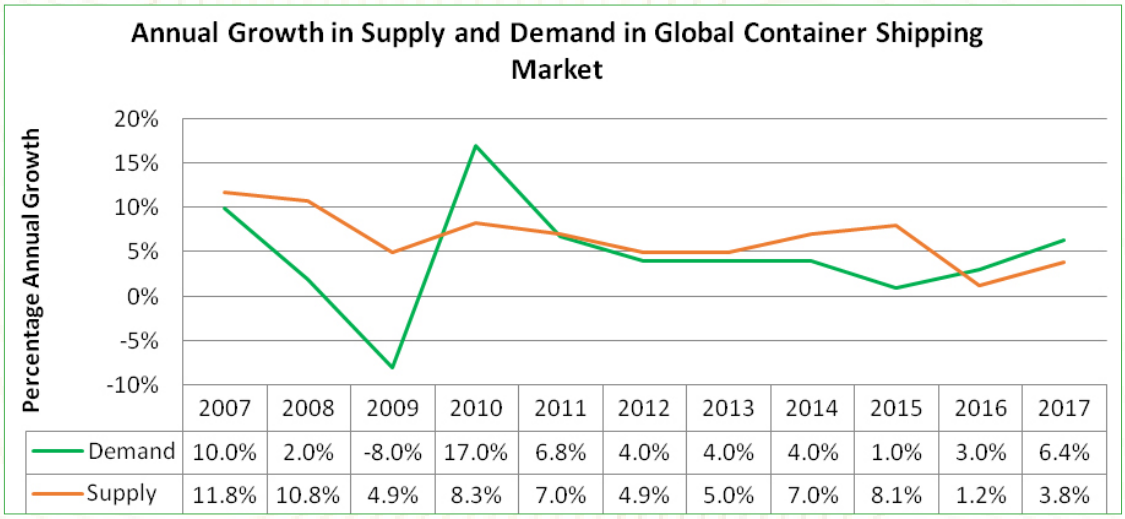
Source: OECD/ITF (2015)

The chart above illustrates the widening gap between growth in the world container fleet capacity and the containerized seaborne trade.

The world fleet of container ships by January 2017 consists of 5,098 container ships with a total capacity of 19.7 million TEUs. According to Clarkson Research Services, total container trade volumes amounted to 175 million TEU (about 1.7 billion tons) in 2015.

Growth in capacity (in deadweight tons) of the world's merchant shipping fleet has outpaced growth in global export volumes according to data from the United Nations Conference on Trade and Development (UNCTAD) and the International Monetary Fund (IMF). The IMF has forecast global trade growth of 4% for 2018, compared with 4.2% in 2017 and 2.4% in 2016 (Lloyd's Loading List, 2017). This would leave the prevailing excess capacity in shipping industry unattended, hence the prevailing low freight rates in shipping are unlikely to go up in unforeseeable future.

Figure 2-3: Growth in demand and supply in global container shipping market 2006 – 2017



	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Demand	10.0%	2.0%	-8.0%	17.0%	6.8%	4.0%	4.0%	4.0%	1.0%	3.0%	6.4%
Supply	11.8%	10.8%	4.9%	8.3%	7.0%	4.9%	5.0%	7.0%	8.1%	1.2%	3.8%

Source: Review of Maritime Transport 2018, UNCTAD

Between 2016 and 2019, the global container market demand is projected to increase by a compound annual growth rate (CAGR) of approximately 4.7% according to analysis conducted by Statista. As other shipping segments are faced with headwinds, the global tanker market has outperformed its counterparts. Moreover, the scope of growth for this market will be broadened by increasing demand for shipping services, thereby improving regulatory environment and accelerating economic growth.

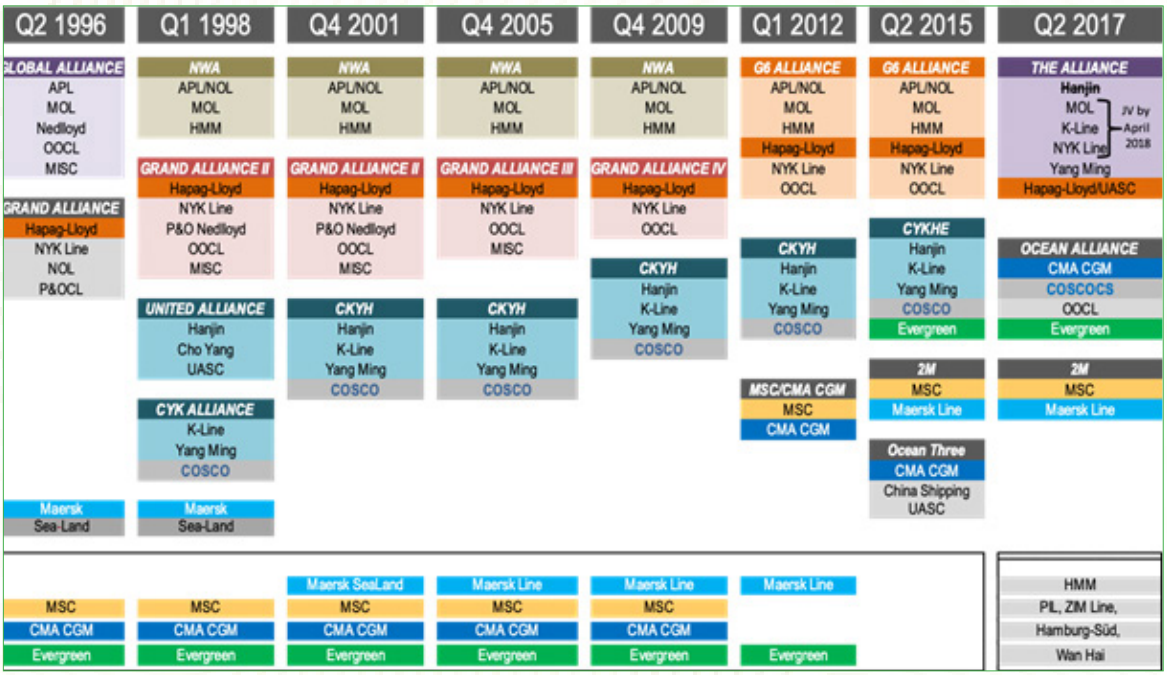
The major trends expected in the global shipping market include increasing consolidation of key players, advancements in container shipping, increasing fleet management techniques and growing intermodal freight transportation (Global Container Shipping Market: Industry Analysis & Outlook, 2017-2021).

However, the growth of this market is constrained by challenges such as product miniaturization, high cyclicality of the industry, industry fragmentation, fleet management, safety, cost management, environmental regulations, emergence of 3D printing technology and rising trade protectionism (Koncept Analytics, July 2017). In addition, at the heart of the industry's challenges, is a persistent global supply-and-demand imbalance.

Since the Global Financial Crisis of 2007-2009, carriers have struggled to find feasible solutions to this systemic problem. Most chose to act independently, embracing such initiatives as slow steaming, vessel idling, organizational cost cutting, and information technology (IT) modernization. Although those initiatives have provided some tangible benefits, the carrier community is finally becoming cognizant of the need for significant industry consolidation. Such consolidation will most likely happen operationally, through more-powerful alliances, and financially, through mergers and acquisitions (M&A).

Evidently over the last decade, container carriers have significantly drifted financially in comparison to other industries and that forced them to focus on optimization of all processes through vertical and horizontal integration (e.g. trade agreements like liner conferences, operational agreements like slot chattering agreement, consortia and mergers and acquisitions). This has resulted in a significant consolidation, causing 70% of the market to be controlled by the seven largest operators in 2016 namely Maersk Shipping Company, Mediterranean Shipping Company, Pacific International Line, CMA CGM, Evergreen, China Ocean Shipping Company and Hapag-Lloyd (ISL, 2017).

Figure 2-4: Nature and types of alliances entered into by the biggest shipping operators



Source: Notteboom, 2015 & 2016

Moreover, the competition among liner shipping companies, the need for cost-savings per TEU transported, and the desire to increase the market share resulted in the construction and operation of mega-vessels, which led to a negative balance sheet to most of them. Consequently, in a market under slowdown, they rushed towards mergers, acquisitions and alliances to save their existence as well as to strengthen their businesses in port operations in an effort to reduce cost and gain control (El Kalla, 2017).

The Hanjin bankruptcy in combination with recent mergers, such as Maersk's acquisition of Hamburg Süd, was viewed as an indicator of the lack of certainty that was roiling the industry. In light of growing protectionism and political instability, the dynamics of world trade begun to affect the global supply chain. While it remains difficult to change the capacity of a vessel, ship scrappage levels are high and demand for smaller vessels appears to be on the increase (Statista).

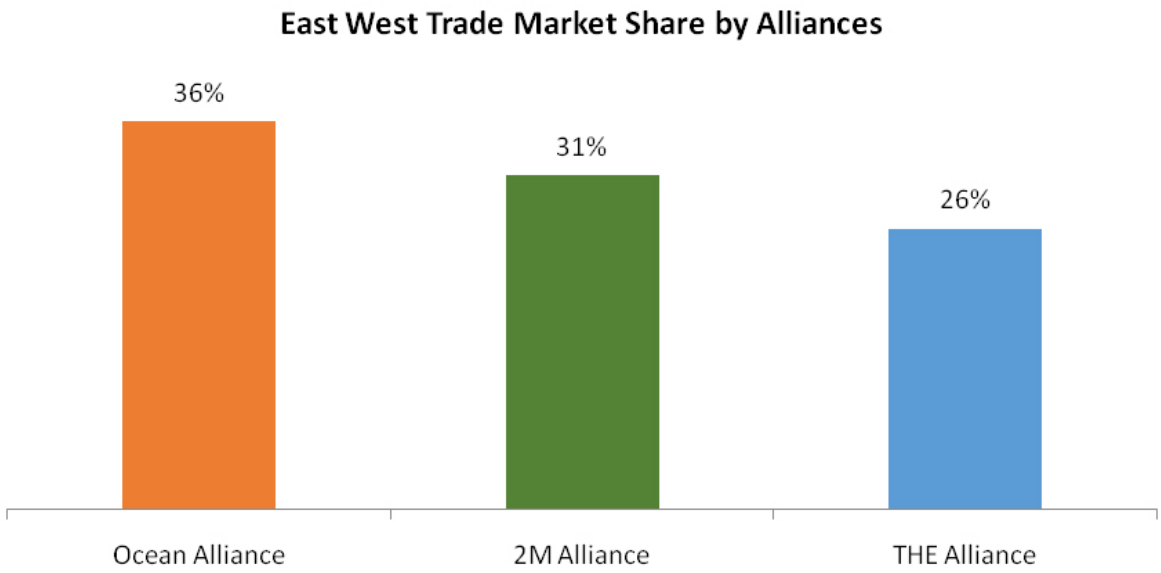
Some of other notable examples of consolidation in the market include:

- **2M Alliance:** Maersk Line and MSC formed an alliance and subsequently also included Hyundai Merchant Marine on a slot purchase option;
- **Ocean Alliance** consisting of CMA CGM, OOCL, COSCO and Evergreen was formed;

- **The Alliance:** Hapag-Lloyd, MOL, K Line, NYK, Yang Ming joined together to form an Alliance;
- Maersk Line's completed its acquisition of Hamburg Süd;
- Hapag-Lloyd's completed its acquisition of UASC; and
- COSCO acquired OOIL (holding company of OOCL)

These three Alliances represent 77.2% of global container capacity and a whopping 93% of all East-West trades (UNCTAD, 2018).

Figure 2 5: Market Share of East-West Trade



In Kenyan seaborne trade, routes are generally covered by feeder services meaning vessels covered under these major alliances do not directly call at the Port of Mombasa. For instance, the Asia – East Africa routes Maersk and MSC operate independently using their specific vessels and the Alliance arrangement is currently not applicable. However, as trade and port infrastructure expand, one cannot deny that these alliances will eventually spread to the Kenyan trade routes.

Currently, some of the shipping lines calling at the Port of Mombasa have entered into a service partnership under the form of slot sharing arrangements. Under this type of arrangement, the shipping lines reserves some cargo space to its partner as a means of supplementing and optimizing their vessels capacities, ensuring a wider service network giving them a cost competitive edge.

The following shipping lines calling at the Port of Mombasa are in slot sharing arrangements with their individual 2017 market shares in bracket;

- "School-bus arrangement" - Emirates Shipping Line (<1%), CMA-CGM (7.1%), Evergreen (10.5%), COSCO (<1%) and Express Shipping (<1%).
- Pacific International Lines (12.8%) and COSCO (<1%).
- CMA-CGM (7.1%) and Emirates Shipping Line (<1%).
- Hapag Lloyd (<1%), CMA-CGM (7.1%) and Emirates Shipping Line (<1%).

The recent acquisition of Messina lines (2.9%) by MSC (16.4%) highlights an increase in supply capacity of MSC.

Vertical Integration has also resulted in the shipping lines significant involvements in terminal operations (through partial or full ownership of terminals) and logistic activities (through either the establishment of subsidiaries for road and rail transport, or takeovers of existing suppliers) (Parola, F., Satta, 2015). This has been done so as to reap the benefits from economies of scale, customer retention as well as stabilization of revenue. Consequently, this has increased competition on the whole supply chain (Rodrigue, J.P., Notteboom, T., 2010).

Figure 2-6: Vertical Integration of selected carriers in the global maritime logistics chain

Carrier	Shipping, Short-sea	Terminal	Logistics	Equipment	Towage	Rail	Barge	Truck
Maersk	✓	✓	✓	✓	✓	✓	✓	✓
MSC	✓	✓	✓			✓	✓	✓
CMA CGM	✓	✓	✓	✓		✓	✓	✓
Cosco	✓	✓	✓			✓		
Evergreen	✓	✓	✓	✓		✓		✓
Hapag-Lloyd	✓	✓	✓	✓				
ONE[8]	✓	✓	✓	✓	✓		✓	✓
Yang Ming	✓	✓	✓					✓
HMM	✓	✓	✓			✓		✓

Source: OECD/ITF (2018) derived from the companies' annual reports

In 2017, the global container shipping consortium 'The Alliance' announced that DP World, the Dubai-based global ports and logistics Services Company would handle all of its mainline UK calls. The Alliance consists of Hapag-Lloyd, K-Line, MOL, NYK Line and Yang Ming. Such a move is detrimental to a healthy competitive environment and would only hurt the competitors operating in a similar space as DP World. Port Authorities could instead nominate terminal operators based on certain criteria such as discharge capacity, berth availability etc. in order to promote equity and fairness.

As of October 2017, the world's leading container shippers included the Danish owned company, APM-Maersk, the Swiss registered company, Mediterranean Shipping Company (MSC) and the French owned company, CMA CGM Group. APM-Maersk is the world's leading container ship operator with a fleet of over 600 container ships. APM's terminal segment is counted among the leading marine terminal operators worldwide. While APM belongs to the same group as Maersk, it is however operating separately and can pursue their own opportunities.

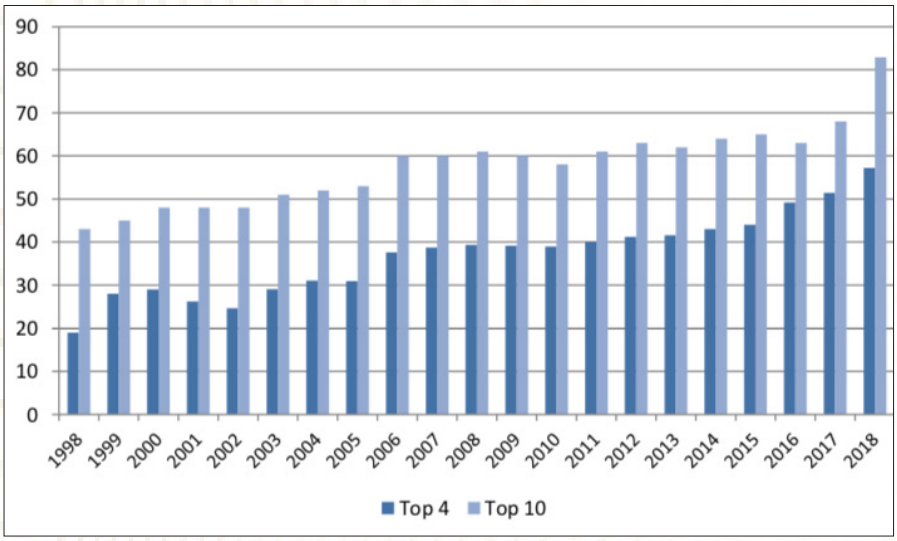
In particular the leading terminal operating companies such as e.g. PSA, DP World, Hutchinson have achieved significant financial performance over the long term, irrespective of the increasing vertical integration between shipping lines and terminals (as a lot of independent terminal operators remain), and have reaped the benefits of consolidation. Minimum-efficient scales for container terminal operations have not been researched extensively (see Kaselimi, 2011), but are supposed to be above 500.000 TEU for a single terminal (with recent research pointing to even higher levels), and this leading to barriers of entry. However, with regard to competition on a port level, concentration of container terminal operations within one port (so a low level of intra-port competition) is not considered problematic as long as there is a sufficient degree inter-port competition (i.e. terminals located in different ports competing for the same traffic).

2.1.1.3 Global Competition

The ITF report on the Impact of Alliances in Container Shipping 2018, reported that, since the emergence of global alliances, the container shipping industry evolved into a concentrated industry, especially over the last five years. Whereas the top four carriers in 1998 had a market share of less than 20%, this share increased to almost 60% in 2018. Maersk Line the largest carrier registered a global market share of 19% in 2018, which is a larger market share than any global alliance ever had before 2012. The Herfindahl-Hirschman Index (HHI), confirms the concentration condition, as it was 300 in 1998 increasing to almost 1 400 in 2018. These indexes point to a global market situation that could be considered an oligopoly and "moderately concentrated". In comparison, container-shipping clients form a highly fragmented demand base. Even carriers' largest clients – large global freight forwarders and multi-national shippers with high-containerized cargo volumes – reach at maximum 1%-2% of the total global container shipping capacity.

The graph below illustrates the growth of the market share of the top shipping lines.

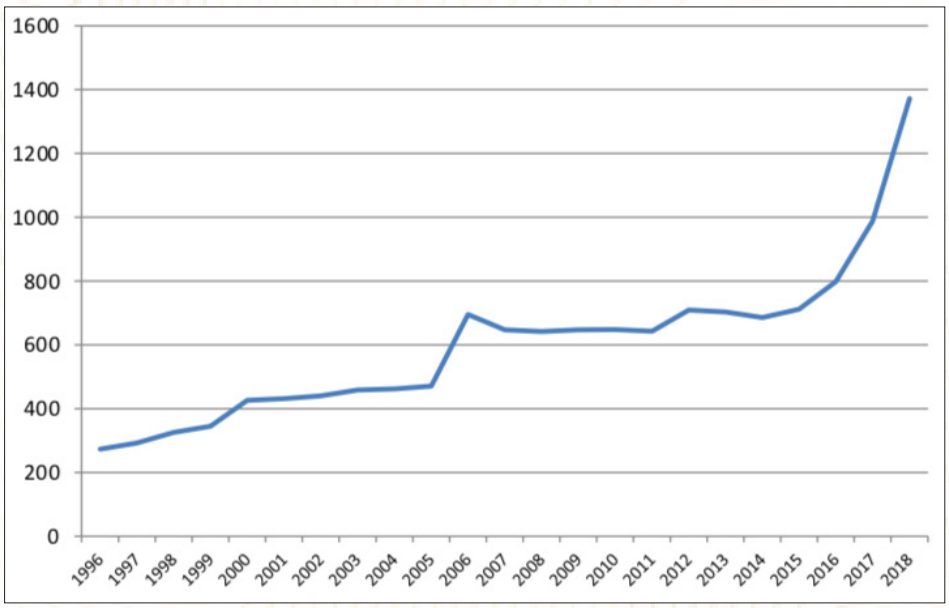
Figure 2 7: Accumulative market share (%) of top container shipping lines (1998-2018)



Source: OECD/ITF Report on the Impact of Alliances in Container shipping (2018)

The graph below illustrates the Herfindahl-Hirschman Index (HHI) growth in the liner market.

Figure 2 8: Concentration in container shipping: Herfindahl-Hirschman Index (1996-2018)



Source: OECD/ITF Report on the Impact of Alliances in Container Shipping (2018)

In an article by All Answers LTD in November 2017, it was observed that global container shipping industry was mainly an oligopoly. Moreover, big alliances controlled majority of the total market share and also high concentration existed even in the trade routes. Highly concentrated markets led in many occasions to collusions or cartels. It was very dangerous due to anti-trust laws, especially after the abolishment of the anti-monopoly immunity exposing them to legal risks. (All Answers Ltd, November 2017 - The Global Container Shipping Industry Economics Essay)

As discussed earlier, in the eighties and nineties, the global container shipping industry was characterized by collusions, which were commonly known as “shipping conferences”. The principal activity of shipping conferences was to fix freight rates in certain routes and set barriers in the entry of new firms. Conferences were cartels acting like monopolists, because there were substantial scale economies in the industry that led to a small number of firms (Marshall, 1921) after the abolishment of the anti-monopoly immunity of freight conferences (October 2008, EU Regulation 4056/86). Given the trend of growing consolidation the market has become more collusive where operational agreements such as vessel sharing arrangements replaced the Conferences. The market has become more concentrated and the smallest operators have a market share of less than 1% each.

The novelty of cooperation agreements vis-à-vis the conference system is that they do not entail hard-core restrictions to competition, thus they are regarded as a less restrictive solution to the specificity of the cost structure in the industry. However, while these agreements can bring important efficiencies, they contribute to increased cooperation and consolidation in the industry (OECD, 2018).

One key concern is that while consortia and alliances are, in essence, operational agreements, they could lead to an alignment in costs and strategies and could entail capacity discussions. It is important to consider the share of trade of these alliances, as well as the fact that they can promote their members' access to key strategic information regarding competing carriers, which are not members of the same agreement. The potential increased transparency and scope for information exchange within cooperation agreements may raise competition concerns to suggest collusion as concentration increases and requires a vigilant eye from competition authorities.

Concentration in the industry is however higher if one considers the links between firms through alliances and consortia agreements. To this respect, an important aspect that may be raised is whether concentration measures should consider the effect of consortia and alliances. On one hand, members of these agreements maintain independent marketing and pricing strategies, but on the other, the competitive interaction between members of the same consortia or alliance may be softened to some extent. As such, the impact of these cooperative arrangements should be taken into account, for example, when analyzing a merger's impact on the competitive conditions in the relevant trade lanes, avoiding a move that sways towards excessive concentration and interdependency. For example, two recent EC merger decisions, concerning the Maersk-P&O Nedloyd merger in 2005 and the Hapag Lloyd-CSAV merger in 2014, explicitly took into account, the competitive assessment the consortia and strategic alliances in which the merging parties were involved. These mergers were cleared subject to commitments designed to eliminate concerns stemming from the creation of new structural links between the merging parties and existing cooperation agreements.

Nevertheless, there was agreement that, so far, consortia and strategic alliances have mainly been pro-competitive and that competition authorities could intervene if needed. Such a view is embedded in the current regulatory approach. For example, in the EU, consortia are covered by a block exemption regulation for market shares up to 30 %. In the US, all agreements are allowed as long as they were filed with the Federal Maritime Commission (FMC), and they are subsequently assessed and monitored. But similarly, sometimes alliances are not allowed, as it was the case of the planned P3 alliance between Maersk Line, MSC and CMA CGM, which was blocked by the Ministry of Commerce of China. Subsequently, two of P3 parties, Maersk and MSC, formed the "2M" alliance.

2.1.1.3.1 Recent Highlights on Cartel Practices in the Shipping Industry

1. ONE Alliance: Japanese lines Kawasaki Kisen Kaisha (K Line), Nippon Yusen Kabushiki Kaisha (NYK), and Mitsui O.S.K. Lines (MOL) announced an alliance in 2017 in a bid to improve flagging profits. The consortium was granted approval in Singapore but awaits its fate in the USA as the Federal Maritime Commission handed the case over to the Department of Justice, whose Antitrust Division is investigating the extent of the union to ensure it doesn't eliminate competition.

2. The EU, as regulator of competition in Europe fined shipping groups CSAV, K-Line, WWL-EUKOR and NYK 395 million euros for having formed a cartel in sea transport of new cars and trucks.

3. In South Africa two shipping companies were fined by the Competition Commission of South Africa for restrictive horizontal practices including; fixing a purchase or selling price of a product or service, dividing markets and collusive tendering in the transport of vehicles, equipment and/or machinery by sea on the route between Japan and South Africa. Nippon Yusen Kabushiki Kaisha (NYK) admitted to 14 instances of restrictive practices listed in section 4(b) of the Competition Act and was fined an administrative penalty of close to R104 million. Wallenius Wilhelmsen Logistics (WWL) agreed to a settlement of R96 million for taking part in the cartel and engaging in 11 instances. The settlements follow an investigation into the collusive behaviour of a number of shipping firms including Mitsui O.S.K Lines, Kawasaki Kisen Kaisha Ltd, Compania Sud Americana de Vapores, Hoegh, Autoliners Holdings AS, Wallenius Wilhelmsen Logistics, Eukor Car Carriers, and NYK between 1999 and 2012.

4. Luxury car manufacturer BMW is pursuing damages claims in South Africa against international car-shipping companies, including Japanese-based Mitsui O.S.K. Lines (MOL) and K-Line Shipping South Africa, the local subsidiary of Kawasaki Kisen Kaisha (KL), for anti-competitive practices. The claims stem from collusive tendering, price fixing and market division in the roll-on/roll-off (Ro-Ro) in the vehicle-shipping industry, including to and from

South Africa. There had been a number of anti-competitive practices among automotive suppliers that resulted in fines being imposed by several competition authorities worldwide, including South Africa's Competition Tribunal.

5. In light of cartel sanctions on shipping companies, Australia saw its first criminal prosecution (against NYK) under the criminal cartel prohibitions introduced in 2009, the A$25 million fine imposed on NYK in August 2017 incorporated

2.1.2 The Port Sub-sector

2.1.2.1 Global Port Overview

As cargo clearing houses for a major portion of the world's international trade flows, ocean ports and their efficiency have become an ever more important player (Bruce A. Blonigen, 2006). Poorly performing ports can substantially reduce trade volumes and may have a greater dampening impact on trade. (Clark et al., 2004, and Wilson et al., 2003).

2.1.2.2 Market Structure

Despite modest improvement in world seaborne trade volumes in 2016, weaker world economic growth and dwindling merchandise trade volumes, rising cost pressures continued to weigh in the performance of world seaports. While these trends affected all ports, container ports were affected the most.

Throughout 2016 and until mid-2017, world container ports continued to deal with the deployment of ever larger ships, cascading of large vessels from main trade lanes to secondary routes, growing concentration in liner shipping, heightened consolidation activities, a reshuffling of liner shipping alliances and growing cyber security threats. (UNCTAD, 2017)

Table 2.1 below illustrates the world container port throughput by region from 2014 to 2016.

Table 2-1: World Container Throughput 2014 - 2016

Region/Year	2014	2015	2016
Africa	28,027,967	28,122,893	27,909,132
Asia	429,641,660	439,573,985	446,813,796
Developing America	45,615,876	45,804,387	45,915,853
Europe	109,018,957	108,359,396	113,831,821
North America	51,659,185	53,689,663	54,120,207
Oceania	11,017,084	11,139,239	11,112,739
Total	**674,980,729**	**686,689,563**	**699,703,548**
Annual Percentage Change	5.7%	1.7%	1.9%

Source: OECD/ITFreport on the Impact of Alliances in Container Shipping (2018)

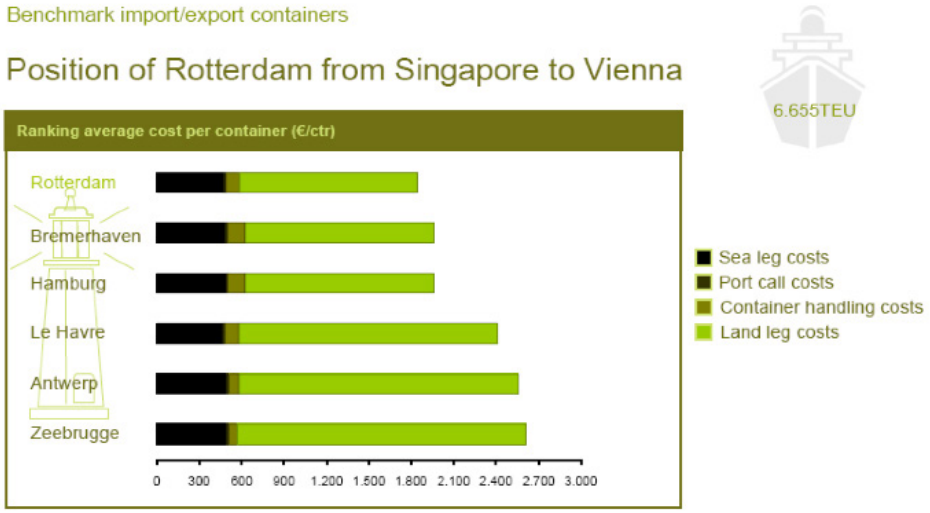
The growth in world throughput in TEUs between 2014 and 2017 slowed down from 5.7% to 1.9% per annum. This partly explains the excess capacity in shipping vessels occasioned by the construction of the mega, 13 to 18,000 TEU capacity vessels and the slowdown in economic growth which did not really come out of the 2008/2009 depression.

2.1.2.3 Increasing Port Competition

Although ports serve hinterlands that now run deep into continents, competition among ports is increasingly intense and their bargaining power in the supply chain has consequently weakened.

Increasingly, competition between ports is played along the hinterland supply chain (land transport) as port costs are not the largest determinant of the total supply chain cost. An example from the Port of Rotterdam, in a highly competitive container market, shows that hinterland transportation has become a major driver for the port's competitiveness, as sea leg, port call and container handling costs do not differ much among destinations within the range of competing ports.

Figure 2-9: Increasing importance of the land leg costs



Source: Port of Rotterdam Internal Study (2013)

The same applies to the Port of Mombasa. For example for cargo destined to Nairobi, a 20ft Container, the Port Costs account for 17% of the total land leg costs when cargo is cleared within the stipulated time (NCTTCA Observatory 2018).

2.1.2.4 Port Overview in Kenya

The Port of Mombasa is owned, managed, administered and operated by the Kenya Ports Authority amongst other nine small scheduled ports that are not involved in international trade, a wholly government owned State Corporation. It was established through an Act of Parliament, Cap 391, and Laws of Kenya in 1978. It is a service port wherein it provides handling services to both cargo and ships except for some few bulk products that are dealt directly to the premises of third parties. The Port is ranked fifth in Africa after Egypt's Port Said, Durban in South Africa, Tangier Med in Morocco, and Alexandria in Egypt.

A recent, 28th - 01st March 2018 Trade Development Forum (Trademark) was informed that *"The East Africa maritime ports, just as others in the world, are gateways to international (import and export) trade"*. It is a convergence of various public and private stakeholders that facilitate the movement of cargo. The notable players are the Customs departments through the East African Management Act, Shipping Lines, Cargo Agents, and government agencies such as KEBS, KEPHIS, Police, Railways, Road Transporters and County government among others.

2.1.2.5 The Port of Mombasa

The Northern Corridor that serves the East African Community radiates from the Port of Mombasa all the way to Bujumbura through Nairobi, Kampala and Kigali. In essence, the Port of Mombasa has no logical competitor in that cargo meant to ply on the Northern Corridor cannot logically be expected to originate or be destined to any other port. It is therefore difficult to address the element of competition for the Port of Mombasa within the context of the Northern Corridor alone.

Nathan Associates observed that *"The Northern Corridor anchored on the Port of Mombasa in Kenya and Central Corridor anchored on the Port of Dar es Salaam in Tanzania are principal and critical transport routes for national, regional and international trade of the five East African Community (EAC) countries namely, Burundi, Kenya, Rwanda, Tanzania and Uganda."* (Nathan Vol1)

Furthermore, even intra-port competition is difficult to countenance in that the operating terminals are under the same management and operating regime. The foregoing was underlined by the Transport Policy document where it observed that *"the present institutional framework of the Port whereby Kenya Ports Authority acts both as a landlord and service provider exacerbates inefficiencies"* (GoK; May 2009). It is noted that there was a danger of abuse of monopolistic powers by the service providers within the Port: no competition to moderate pricing of port services and discouragement of private investment. It went on to recommend that restructuring of KPA into a landlord Port Authority and regulated private sector participation in stevedoring, storage and shore handling be provided for. However, there was no explicit duty placed on KPA to assume a landlord role which can only be achieved by revising the KPA Act (Nathan Vol 2).

2.1.2.6 Port Traffic

The Port of Mombasa is a multipurpose common user port handling various cargoes. It handled 26.73 million tons in 2015 compared to 27.46 million tons in 2016. This volume has, according to the latest Annual Review and Bulletin of Statistics, increased significantly to 30.34 million tons including restows (Kenya Ports Authority, 2017). There was a sizeable volume of containerized, dry and liquid bulks and conventional cargoes that included steel coils and motor vehicles (Nathan Vol I).

The relative contributions have changed over time with the containerized category gaining more prominence over the period, (MBEC 1; 2017). However, the overall rate of growth has averaged 6.2% per annum. Table 2.2 below shows the traffic handled through Port of Mombasa for the period 2007 to 2017.

Table 2.2: Traffic through the Port of Mombasa in '000 Tons

Year/Type	Dry General	Dry Bulk	Liquid Bulk	Containerized	Total
2007	1,273	2,927	5,641	6,121	15,962
2008	1,319	3,091	5,641	6,374	16,415
2009	1,618	4,703	6,580	6,143	19,062
2010	1,589	3,949	6,476	6,967	18,934
2011	1,469	3,929	6,765	7,790	19,953
2012	1,455	4,929	6,825	8,723	21,920
2013	1,854	4,978	6,637	8,838	22,307
2014	1,938	5,653	7,237	10,042	24,875
2015	2,256	6,928	7,272	10,276	26,732
2016	1,968	7,053	7,728	10,615	27,464
2017	2,136	8,467	8,259	10,536	29,398
Average	**1,760**	**5,368**	**6,941**	**8,630**	**22,706**
% Share	**7.8%**	**23.6%**	**30.6%**	**38.0%**	**100%**

Source: Maritime Business and Economic Consultants, 2017. Impact Assessment Study of Recent Port and Rail Infrastructure Developments in Mombasa on Freight and Logistics in Kenya, October 2017

The share of imports compared to that of exports continues to have predominant significance. The respective shares stood at 83.7% and 13% in 2016. Transhipment traffic on the other hand contributed a meagre 3.3 % (NTCCA, Corridor Observatory Study Report, May 2017).

An important component of port traffic is the transit traffic. This is cargo meant for other hinterland countries except Kenya. This component contributed 7.7 million tons out of 27.3 million tons handled in 2016 which translated to 28%. This is a sizeable share of the market and has consistently called for strategic consideration while addressing possible lines of growth of port traffic (KPA Strategic Plan, 2013/2017).

Admittedly, focus is on the countries in the EAC served by Northern Corridor. Hence, transit trade from Tanzania, South Sudan and DR Congo, has to be disregarded which nevertheless does not impact greatly, as the three landlocked countries served through the Port of Mombasa raised about 85% of the total transit traffic (NTTCA, Corridor Observatory Study Report, and KPA, Annual Review and Bulletin of Statistics, 2017).

2.1.2.7 Operational Improvements

The Port of Mombasa has seen continued growth in container traffic and overall cargo throughput. Over the last three years, the Port handled over one million TEUs each year thus enabling Mombasa to feature in the global map of top container Ports. In 2016, the Port handled 1.091 million TEUs and the overall throughput grew by 2.4 per cent to post average best-ever performance of 27.36 million tons, against a backdrop of slower than expected global and regional economic growth (NTTCA, Corridor Observatory Study Report, 10th Issue, May 2017, p2).

The foregoing dramatic changes were witnessed because the Port adopted a fixed berthing window arrangement in 2015. Furthermore, the joint verification of cargo in CFSs and enhanced pre-clearance of cargo before the vessel docked have also taken roots (Observatory Study Report, 10th Issue, May 2017). Some delays are however still witnessed at the DPC due to instability of the Simba System, documents awaiting processing between shifts and poor quality of declaration by agents and stakeholders (ibid).

2.1.2.8 Port Efficiency

The services provided in the port with regard to operations are for two principal actors: to the cargo and vessel owners. Port efficiency is a function of Container Dwell Time, Vessel Turnaround Time, Ship Waiting Time and Average Crane Moves per Hour. The following section sheds some light on the performance of the Port of Mombasa, which suggests that there is some distance to cover when compared with ports in developed, emerging and well-run ports in the developing economies.

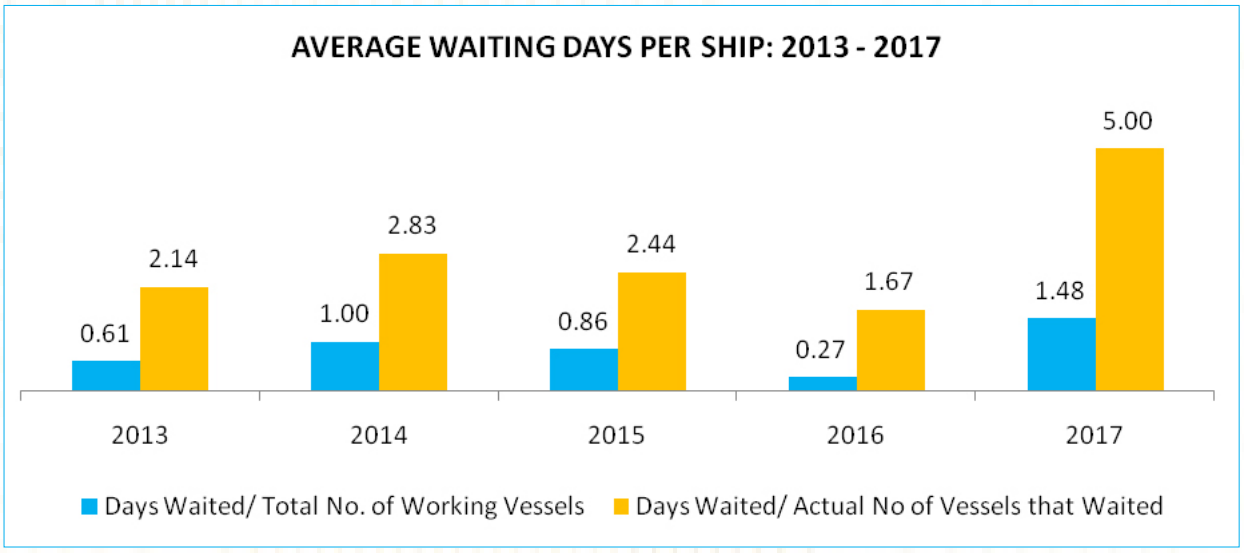
2.1.2.8.1 Vessel Turnaround Time

The average vessel waiting time was 10 hours for the period March 2016 to similar month in 2017. However, the vessel turnaround time of 75.3 hours in March 2016 compared to 78.4 hours in March 2017 was beyond the target of 72 hours, and well above the 32.9 hours of the global benchmark for 'time spent in port' that UNCTAD established in 2017 (based on Marine Traffic data).

2.1.2.8.2 Ship Waiting Days

Compared to best international standards, the Port of Mombasa is not highly efficient despite achieving tremendous gains over the years. The number of days waited per vessel that actually waited was 2.14 days in 2013. The number rose to 2.83 days in 2014. In 2015 and 2016, operational efficiency rose and the days dropped to 2.44 days and 1.67 days respectively. The operational efficiency however dropped in 2017 to 5 days due to the turbulent political environment in Kenya, which affected trade and the overall economy. International benchmarks for 'time spent in port' based on a sample of more than 1 million port calls worldwide indicated that on average, container ships spend 0.87 days, with all shipping markets included (dry and liquid bulk, etc.) the global average is 1.37 days (UNCTAD, 2017).

Figure 2-10: Average Waiting Days



2.1.2.8.3 Average Crane Moves per Hour

The average number of lifts a crane can perform in an hour into and out of a ship popularly referred to as average gross moves per hour at berths 16, 17, 18 and 21 of the Port of Mombasa was 17 moves in 2013. The number of moves has since increased to 31 per hour in 2017. This is mainly attributed to investment in more reliable cranes at the Port of Mombasa which has increased operational efficiency considerably (Kenya Ports Authority, Annual Review and Bulletin of Port Statistics, 2017).

The Durban Container Terminals, which features in the International Top 100 container terminals, have recorded the highest moves per ship working hour in the South Africa (SA) System. The overall performance of SA terminals places them with a majority of other global terminals in the range of 40 – 80 moves per ship working hour (Port Benchmarking Report: SA Terminals 2015/16). Gavin van Marle in his article "Container Shipping and Trade Top 20 Ports: The Productivity Challenge" observed that for terminals to hit 36 crane moves per hour is an easy target. He further noted that cranes are designed to do 40 crane moves per hour.

2.1.2.8.4 Container Dwell Time

In 2009, it was observed that the container dwell time was nine days and accounted for 60-80% of total lead time (CPCS, May 2015). And as if derived from this, extra inventory costs due to delays accounted for 10-25% of the goods

costs (Nathan vol1). A recent study by CPCS observed that the dwell time has been reduced significantly in the last five years and is now 3-6 days compared to 12 days in 2007/08 (CPCS, Impact Assessment of the Northern Corridor Performance Improvement Activities, May 2015).

This container dwell time is fairly good as the average container dwell time in major ports terminals was 5 – 7 days in 2016. However, when looked at closely, the foregoing dwell time is for transit containers, which should ideally not exceed 24 hours as observed by the USAID Trade Project, Dwell Time Study, August 2014. Domestic import containers which average 65% of total imports are allowed 48 hours of free storage before their evacuation to the Container Freight Stations (MBEC 2, 2017)

2.1.2.9 Tariff

The Port of Mombasa is competitive with regard to the tariff. For stevedoring services paid by the vessel, Mombasa charges US $ 105 per TEU while operators in the port of Rotterdam charge US$ 134 and a similar amount is charged in the Port of Riga; Thames Port charges US$ 151; a similar amount is charged by Port of Helsinki while Djibouti charges US$135. Singapore on the other hand charges US$ 55, (Rob Harrison et al, 2013)

In summary and to the extent the Port of Mombasa is operated by KPA, it has the potential of being a monopolistic service provider setting its own non-regulated prices. This phenomenon is strengthened by the absence of a strong industry regulator. However, this can be cured by adopting and implementing the landlord model of port management.

2.1.3 The Trucking Subsector

2.1.3.1 Introduction

The road sector globally provides one of the key modes of transport conveying freight between ports and their hinterlands. It consists of a large number of trucking companies that lift cargo directly to or from the port to final destinations and also serve the first and last first mile for railheads. The concept of stable freight rates together with reliable and efficient services in the provision of transport services is enshrined in the principle of liner services in sea transport that was considered a key issue in the development of the UN Code for Liner Conferences Convention which came into force in 1978 (UNCTAD, 1986). In developing the trucking industry along the Northern Corridor, it is important that in addition to real competition among service providers the stability in rates, reliability and efficiency in services are ensured.

The trucking industry worldwide is largely provided by private operators owning and operating their vehicles but riding on public road infrastructure that is constructed and maintained by states or local governments. The state of road infrastructure and en route interventions at weighbridges, road blocks and delays at border posts are important factors in determining the operating costs and the quality of service in the trucking industry.

Most of the transport service providers are contracted by cargo owners though some large manufacturing or trading concerns may establish their own forwarding and transport units carry their own cargo. In addition, shipping lines, railway companies and airlines may set up road transport units to interface with their ports of call, railheads and terminal respectively. Freight forwarders may also establish road transport units to carry cargo on behalf of their principals. Similarly, large road transport companies may also set up their own freight forwarding units, warehouses and cargo depots and container storage and repair facilities. The fact that there are many other additional services that trucking companies may provide creates opportunities for vertical integration across the logistics chain (not necessarily within the road transport industry itself e.g. even large global companies such as DHL e.g. do not build or even own their own vehicles).

The introduction of ICT in the transport industry has lagged behind other industries, but creates opportunities for existing and new players such as “supply chain orchestrators” or “Fourth Party Logistics Providers” (4PL) who offer superior logistics coordination services based on data platforms (such as Damco, part of the Maersk Group), reducing the number of distance covered and increasing load factors (and thus contributing to more efficient and reliable logistics chains), while not owning any assets such as trucks but contracting trucking companies and other logistics providers on behalf of the shipper.

While not being considered as vertical integration in its own right, new players adding these vertical service layers to the existing industry are fundamentally changing the organization of the industry. Finally, large shippers such as Amazon or AliBaba.com might also consider further penetrating the logistics industry (incl. road and rail transport) in the future to have more control over their logistics chain (cfr Amazon’s current ownership of an airline), as well as offer their logistics services (including their own 4PL capabilities) to third parties. Technological advances such as Internet of

Things, Blockchain and AI might thus substantially change the structure of the industry over time and warrant attention of competition authorities.

The size of firm in trucking sector varies with larger operators owning large vehicle fleets to small ones who own and operate just a few trucks. This serves the transport industry as there are also many small shippers, who may require customised services for their businesses.

Trucking operators worldwide establish their own associations primarily to enable them harmonise standards, negotiate with shippers and advance their interests through lobbying governments in policy making and legislation. As explained before, supply chain brokers and orchestrators (4PL) increasingly negotiate with 3PL providers (such as trucking and logistics companies) on behalf of their customers (shippers), and design the service offerings. Overall, this is expected to lower transport costs significantly but might lead to dominant positions in the future based on the control of data flows by these 4PL (hence the need for 'open' technology platforms offering transparency such as blockchains).

This part of the literature review, covers issues concerning the regulatory regimes obtaining in the trucking industry, the existence and level of competition in the industry. It reviews the regulatory conditions in the licensing of service providers and examines whether there are any barriers to entry into the market, the existence of dominant position, collusions in tariff fixing, service frequencies along designated routes.

2.1.3.2 Regulatory Regimes in the Trucking Industry

The trucking industry is regulated by states in order to ensure that it is conducted in accordance with parameters such as fair competition, safety, security and to secure national interests. Road transport like other modes of transport has been regulated by governments for reasons of equity and to lay down acceptable safety and environmental standards. It is noteworthy to realize that governments tend to intervene when market forces do not produce either the desired efficiency or quality of services together with appropriate levels of safety and environmental impacts.

In a paper authored by Sudarsanam Padam (1998), he states that the goals of regulation in transport sector include protection of public interest and promotion of the best possible system of transportation.

He further states that the goals of regulation consider business viability, attracting capable service providers, supporting national and strategic interests and generally the protection of public interest. The common areas of regulation cover economic, infrastructure and equipment and social policy.

The paper further states that economic regulation relates to market entry, quality of service and pricing of transport services. Infrastructure and equipment regulation relates to the quality of vehicles and carriers and maintenance efficiency. This particularly as in road transport, the fitness of vehicles is a major factor in accident prevention.

Social policy regulation relates to balanced regional development, equity, energy and environmental issues and consumer protection.

International trucking was originally based on bilateral agreements between states where restrictions were imposed on the number of trucks, the commodities they were permitted to carry and the routes they would provide services. The existence of restrictions in these bilateral agreements meant that capacity was not optimally used.

Over the last decades, liberalization of international trucking has taken place in the EU and North America though cabotage still remains restricted in many countries. The EU has passed various directives which seek to facilitate the liberalization of trucking in the Community and has developed various standards to harmonize road transport operations.

In Kenya, prior to the removal of licensing requirements that were in place since the colonial times, market entry was regulated through the Transport Licensing Board (TLB) which had to receive applications from operators who intended to enter the trucking business. The TLB requirements were stringent and often encouraged rent seeking by its officials. The regime of stringent TLB licensing requirements for trucks was discontinued in 2004 and currently, an operator just needs to provide road worthiness inspection certificates for his vehicles and truck driving licenses for drivers.

Currently to get into trucking business in Kenya, one requires a business registration certificate, vehicles that have been certified roadworthy and insured and competent drivers. Entry has therefore been made much easier for service providers.

In the case of transit and cross border service providers, the Kenya Customs original requirements were that those Kenyan trucks that were licensed to carry transit and cross-border goods could not provide domestic transport services and if they wanted to do so, they had to apply for a permit from the Commissioner of Customs. The rationale was to avoid diversion of transit goods into the domestic market.

This resulted in idle capacity for trucks which had been licensed to carry transit and cross border trade. Similarly, foreign transporters had to be licensed in partner states and were only permitted to carry cargo originating from or destined to their home countries.

In the Eastern and Southern Africa region, the Regional Economic Communities (COMESA, EAC and SADC) have been pushing for increased liberalization in transit and cross border trucking under the trade and transport facilitation programmes. This agenda is vigorously being pursued as a joint programme of facilitation by the three RECs under Tripartite Trade and Transport Facilitation Programme (TTTFP).

2.1.3.3 Trucking Services Providers

The trucking industry along the Northern Corridor is undertaken by transport companies either on hire or as own cargo carriers. The largest proportions of transporters are carriers on hire and depend on the freight paid by shippers for their services. The transporters vary in size from those that own well over 1,000 trucks to those who own less than 5 trucks.

It has been reported in studies carried out in the recent past that the trucking sector of the transport industry is growing very rapidly in the Northern Corridor countries (Barak, Hoffman & Kidenda, 2014). Kenya has the largest fleet of trucks in the region, followed by Uganda. The fleet owners are principally registered transport companies though there may be single individuals who provide transport services. This is not surprising taking cognizance of the fact that they are the larger economies in the hinterland served by the Northern Corridor.

Statistics available in the Kenya National Bureau of Statistics Annual Statistical Abstract 2017 indicates that the number of trucks registered in Kenya was approximately 100,000 as at 2016, while from the Uganda Bureau of Statistics, the latest Uganda's registered fleet was 33,425 trucks. For Rwanda the number was 3,134 trucks.

A research conducted by the World Bank in 2006 under the Sub Saharan Africa Transport Policy (SSATP) indicates the majority of the transport operators surveyed had expanded their vehicle fleets in previous years, and were planning further expansion. The financing of fleet expansion is primarily through cash flow and short term bank loans, which requires high gross profit margins, or alternatively a rapid demand growth, or both.
It was further noted that in a competitive environment such as the one prevailing in East Africa, where enterprises are highly sensitive to the cost of the inputs in their activities, the growth of the industry was largely sustained by the growth of the demand.

The SSATP surveys further revealed that a high proportion of trucking companies had direct access to freight, either when transporting their own goods or when handling third party goods with regular contracts (with shippers or clearing and forwarding agents).

In addition, the ownership of trucks in the road transport industry in East Africa is concentrated with 5% of the enterprises operating about 45% of the truck fleet in Kenya and 40% in Tanzania. The market for trucking services is also segmented where large enterprises co-exist and compete with much smaller ones. It was further noted that 50% of the enterprises in Tanzania operate 7 trucks or less, and 4 trucks or less in Kenya, while in Rwanda, almost 80% of the enterprises operated only one truck (Hartmann, Olivier Asebe, 2012). The existence of both large and small firms all coexisting in the industry may imply ease of entry into the market.

However, the situation above does not differ much from other trade blocks worldwide. For example, the road freight transport market in the European Union consists of ca. 600,000 predominantly small enterprises, with an average size of four employees per company (EC, 2014). Over time, this average has remained quite stable.

2.1.3.4 Trucking Costs and Tariffs

The cost of transport is not necessarily related to the freight charges, which are the prices charged by truckers to shippers (cargo owners). The cost of transport consists of fixed and variable costs incurred by operators. These costs may include unofficial charges levied by various entities along the route who exercise their property rights in ports, terminals, border posts or along the transport route. Transport costs can thus be defined as the costs that the transporter incurs when transporting cargo, whereas transport prices are the rates charged by a transport company or forwarder to the shipper or importer (Raballand & Macchi, 2008).

It is noted from research conducted by the World Bank that transport costs are not abnormally high in Sub-Saharan Africa, but transport prices (freight rates)are high on some corridors (Raballand & Macchi, 2008). Several studies have tried to explain why the freight rates might be high compared to other regions in the world.

From the literature, transport related expenses have proved to be the major contributors of costs related to both exports and imports. Transportation cost along the Northern Corridor is not exceptional, it accounts for about 30 percent of the value of goods traded within the region. This has spillover effects to the prices of consumer goods thus affecting consumer welfare. This is also bound to make Kenya's exports relatively costly and thus uncompetitive in the international markets.

Over the last two decades, many reviews have been undertaken to determine the real causes for the high costs of road freight in the Eastern and Southern Africa region. The reviews have examined factors such as regulations restrictions of entry and participation of operators, the role of national and regional transport associations, inefficient borders, poor road infrastructure and lobbying and rent-seeking by powerful local transport interests (Arvis et al. 2010).

Additionally, in West Africa there are freight sharing schemes, whereby there is a formal/informal queuing system to allocate freight to transporters requiring that each transporter be affiliated with a transport association or pay bribes. Argent & Milanovic (2014) also pointed out the influence transport associations have in informing policies and rules governing the sector in Kenya and Tanzania, whereby, they lobby and maintain control over the policies and rules governing the road transport sector.

Other studies have discussed factors related to infrastructure and regulation as drivers of high transport costs, although Raballand & Macchi (2008) have argued that the transport corridors in Southern Africa were the most advanced relative to other regions in Africa in terms of providing competitive and efficient services. Along with governance and rent-seeking behaviour, Ward & Barreto (2011) found out that high costs were driven by: industry structure and low levels of competition between service providers; low productivity in the trucking industry due to infrastructure constraints; and, regulation of regional and international trade in transport services.

In terms of low levels of competition, the authors argue that the informal transport sector (which would typically include owner-driver operators) is a significant source of price competition (e.g. in Namibia, and to a lesser extent in Malawi) although often at the expense of quality - vehicle maintenance and adherence to regulations such as overload limits. International comparative studies have confirmed some of the findings above regarding the challenge faced in logistics sectors in Africa.

In a study that specifically addressed high logistics costs in landlocked developing countries, Arvis (et al, 2010) found that high logistics costs were actually less affected by conditions of poor road infrastructure, and more by the market structure and organization of trucking industries, low logistics reliability and predictability including at ports, and rent-seeking and governance issues. The study finds that unpredictability and delays can be more costly to users than transport costs.

The foregoing raises an interesting dimension – although there have been significant investments in transport infrastructure and measures to reduce the costs of transportation, the costs of transport (especially for international transport to landlocked developing countries) are actually comparable across different regions of the world. This is because transporters from developing landlocked countries usually have access to the same inputs as their counterparts in coastal countries in terms of fuel, tires, and vehicle purchases (Arvis et al, 2010).

In developing countries where there are higher variable costs due to the use of older trucks, they compensate for this by providing low labour costs. Further, it was pointed out that differences in the overall logistics costs only arise when comparing the prices which are passed on to customers (Arvis et al, 2010).

The above findings would seem to be consistent with those in other studies where it has been argued that although transport costs in Africa are not necessarily high, the prices or rates paid by buyers of these services are high.

In an article examining the issue of competition in the road sector by Lebogang (2014), it was noted that in the SADC negotiations on trade in services, road transport was one of the primary areas which required trade policy harmonization, including improving competitive outcomes in the sector. As a result, of these findings, it was noted that the Competition Authority of Malawi conducted a market inquiry in the road transport sector. The Malawi study found substantial evidence that suggested the existence of price-fixing cartels. It also provided evidence that competition in the transport sector is impeded due to existing regulations which create barriers to entry and do not incentivize market players to behave in a competitive manner. These were found to contribute to poor performance in the transport industry.

The Lebogang article further states that much of the literature on the transport of goods by road in Africa had identified infrastructure constraints and the inconsistent application of regulation as some of the main drivers of poor sector outcomes.

It was also noted that in a study conducted by the Centre for Competition, Regulation and Economic Development (CCRED, 2014) on competition in the road freight sector in Malawi, Tanzania and Zambia the outcomes in terms of price and quality of service were affected by the implementation of pro-competitive regulation and the vertical relationships that prevailed between large users of road transport such as copper exporters and transport operators.

Further, it was observed that in addition to high transport prices, the trucking sector in West and Central Africa was characterized by unreliability, small informal operators, old vehicles, and policies and regulations that do not encourage efficiency.

It was observed that the cost of conveying freight from the port of Tema in Ghana to Ouagadougou in Burkina Faso was five times as much as transporting goods from Newark to Chicago in the US, the two distances being roughly the same. Table 2.3 below provides a schedule of cost estimates for operating an eight-year old truck procured through credit in East Africa.

Table 2-3: Estimated Costs per Kilometer Operated in East Africa (Bank-Financed 8 Year Old Truck)

Cost Item	Cost (USD)	Percentage Cost (%)
Truck and Trailer	0.25	19
Fuel	0.51	38
Repairs and Maintenance	0.08	6
Tyres	0.13	10
Driver and Crew	0.25	19
Indirect Costs (e.g. Insurance)	0.12	9
Overheads (Office, Staff etc.)	0.12	9
Total	**1.35**	**100**
Cost Breakdown	-	-
Fixed Costs	0.49	37
Variable Costs	0.84	63

Source: Political Economy of Transport Sector Integration in the East African Community

In a competitive market, the producer is a “price-taker”, hence the profit he receives depends on his costs which are determined by his efficiency in operations.

Table 2.4 below provides the freight rates captured by a survey conducted by the NCTTCA for a container of 20’ (1TEU) to various destinations from Port of Mombasa.

Table 2-4: Transport Rates to various Destinations (USD)

Route		Distance	Average Transport Rate		Average Transport Rate/ Km		N° of Round trips per Month	
From	*To*	*Kilometres*	*March 2015*	*March 2017*	*March 2015*	*March 2017*	*March 2015*	*March 2017*
Mombasa	Nairobi	481	1,057	800	2.20	1.66	11	10
Mombasa	Kampala	1,170	2,751	2,500	2.35	2.14	4	3
Mombasa	Kigali	1,682	4,350	3,300	2.59	1.96	3	2-3
Mombasa	Bujumbura	1,957	4,990	3,984	2.552	2.04	3	2
Mombasa	Goma	1,840	5,058	6,127	2.75	3.33	2	2
Mombasa	Juba	1,662	5,030	4,800	3.03	2.89	2	2

Source: Northern Corridor Transport Observatory Report: 10th Issue, May 2017

2.1.3.5 Non -Tariff Barriers (NTBs) Along the Northern Corridor

While Non-Tariff Barriers (NTBs) are by definition refers to trade barriers that restrict imports or exports of goods or services as well as movement of traders across borders through mechanisms other than the simple imposition of tariffs. The NTBs cause delays especially on trucks turnaround time, low utilization of the means of transport and reduction in the number of trips that vehicles can make per year.

The main NTBs found along the Northern Corridor and other Eastern and Southern Africa (ESA) Regions arise primarily because of licensing, documentation, procedures of agencies at border posts, enroute or at Customs controlled cargo terminals and delays at weighbridges. These NTBs are currently part of the ones monitored under the Northern Corridor Observatory Dashboard and others along corridors in the ESA region

The partner states have enacted the East African Community Elimination of Non-Tariff Barriers Act, 2017 to resolve the problem of NTBs. The Act contains provisions on the following:

- Prohibition of activities that create NTBs by partner States or activities by public officers and institutions of partner States;
- Establishment of national monitoring committees and national focal points to handle the NTBs; and
- Establishment of Procedure for elimination of NTBs through mutual agreement or through the long reporting and reference to the Council.

For some of the NTBs, monitoring mechanisms have been developed using information gathered from their operations. In the case of Customs and weighbridges, the levels of delays caused by their procedures can be tracked through the Northern Corridor Transport Observatory. This observatory has a dashboard that shows the level of performance of agency operations against agreed targets and benchmarks

The Observatory tracks the indicators using raw data collected from the stakeholders in all the member states. Information provides clear picture on various indicators, enabling to identify the bottlenecks that needs to be resolved to improve on the efficiency and sequentially improving in the trade and operations along the corridor.

2.1.4 Rail Transport

2.1.4.1 Introduction

Rail transport is the second most important mode of transport after road and offers the best alternative for transporting bulky products for both local and export markets (Irandu E.M, 2000). It is more environmentally friendly and tends to profit from economies of scale especially over long distances and is also less risky than road transportation when it comes to accidents. In this regard, it tends to be cheaper in transportation of merchandise. Kenya, before 2016, the rail network essentially comprised of a single line, overland rail track from Mombasa through Nairobi, Nakuru, Kisumu/ Eldoret, Jinja, Kampala to Kasese in western Uganda totalling to 1,650 kilometers. The key rail track for transit cargo runs from Mombasa to Kampala via Malaba comprising of 1,330 kilometers.

2.1.4.2 Cargo Transported by the Rail (Meter Gauge Rail)

In the past few decades the railway has been losing market shares in freight transportation, despite a rapid and general increase in freight volume. Of this increase in volume, the greater part has gone to road transport. However it would appear that this scenario was not unique to East Africa only. In Sweden for example, in 1970, the share of cargo was 43%, this declined to 32% in 1995 and 28% in 2000 (Bo-Lennart Nelldal, 2000).

The enormous and general drop in rail transport in Europe since 1970 (in part due to the loss of industrial production activities) pushed the EU legislators to adopt, since the 1990s, a number of *"Railway Packages"* enhancing the competitiveness of the sector, inter alia by liberalizing rail freight services (by splitting up the national vertically integrated monopolies into infrastructure managers and railway undertakings/service providers), allowing competition on the national and international network, increasing interoperability of railway systems, etc. The foregoing was accompanied by flanking measures to modernize and build new infrastructure, through the establishment of the *"Connecting Europe Facility"* as well as the identification of key transnational projects. In some EU countries, in particular those who liberalized early, this has led to a reversal of the trend of rail losing market share. On the level of ports, a large amount of ports have set ambitious targets to increase the rail market share, and are taking active roles as investors and facilitators.

2.1.4.3 Transport costs and Kenya' exports to the EAC

The transport costs in East Africa are on average still about 50% higher than in the US and Europe. Landlocked countries like Rwanda, Uganda, South Sudan and Democratic Republic of Congo are not able to export much because the costs are just so high. The high trade cost is holding back these economies, as revealed by Trade Mark East Africa in November 2015.

A study on the harmonization of road user charges in EAC, case of Kenya, attributes the high transport costs in the East African region to poor infrastructure, bureaucratic transit procedures and generally inefficient transport facilities and logistics. They are also blamed for the heavy reliance on road transport due to low capacity of railway transport which handles less than 10% of the cargo in the two corridors (Northern and Central corridors). Other hurdles were slow adoption of modern technologies that facilitate more efficient communication and automation of cargo handling and the limited pool of appropriately skilled personnel involved in various direct and indirect transport operations. It is also felt that disharmonized transport policies and regulations within the EAC region among others have a role to play (Ministry of transport and infrastructure, state department of transport 2015).

The study further showed that freight costs per km were more than 50 percent higher than in the USA and Europe and for the landlocked countries such as Uganda, Burundi and Uganda; transport costs can be as high as 75 percent of the value of exports. While modernization of transport infrastructure and removal of non-tariff barriers along these corridors is critical for trade expansion and economic growth, addressing the disharmonized transport road user charges that characterizes the transport industry in East Africa is even more critical (Ministry of transport and infrastructure, state department of transport 2015).

Empirical evidence has proved that transport costs are a major determinant of the volume of trade and that time saved in transit is a major contributor to transport costs. For instance, delays at borders crossings along the Northern Corridor have been estimated to cost $250 per day for a truck company. According to the Northern Corridor Observatory Report 2015, distribution and transportation costs along the Northern Corridor have been more than 35 to 40 percent of final product costs. It is estimated that the total indirect (hidden) costs per day for delays are approximated at $384.4 for a loaded truck along the Northern Corridor.

Road condition also plays a vital role in determining transport rates and costs. Kenyan registered trucks would pay road user charges based on harmonized COMESA road user charges of $10 per 100Km for transit trucks. Kenya registered trucks travelling from Malaba to Kampala a distance of approximately 250km pay a Road User Charge of US $50 for the return journey. From Mombasa to Bujumbura and Goma, the transport costs per kilometre are higher with the road user charges taking about 8.1% and 11% of the total cost of transport.

The high transport costs have made Kenya's exports along the northern corridor less competitive. Recent statistics shows a great improvement of Uganda's exports to her neighbouring countries, Rwanda, Burundi and Southern Sudan. These are also Kenya's main markets, and the declining trend of Kenya's exports to the region can be partly attributed to this evolution. In addition to differences in distance between Kenya and Uganda to these markets, Uganda is a major beneficiary of Kenya's challenges.

2.2 Kenyan Perspective: Shipping, Trucking and Haulage

2.2.1 Shipping

2.2.1.1 Maritime Transportation in Kenya

The liner business through the Port of Mombasa is serviced by about 20 shipping companies with the five big companies namely Maersk, PIL, CMA-CGM, Mediterranean Shipping Company (MSC) and Evergreen Shipping Company controlling over 80% of the total traffic. This scenario is also replicated globally.

Recently, Liner Shipping companies have gone through mergers and acquisition to strengthen their market positions. The shipping market is very volatile with freight rates fluctuating regularly. Over the last five to ten years, a number of shipping companies have collapsed due to Global recession and intense competition while others continue to post negative balance sheets.

Below is a market structure of the major shipping lines calling at the Port of Mombasa in volumetric percentages and their vessel sharing arrangements.

Table 2-5: Market Structure of the Major Shipping lines in Kenya with their vessel Sharing arrangements

Market Share	2017	Slot Sharing / Charter
MAERSK	35.7%	N/A
MSC	16.4%	N/A
PIL (K)	12.8%	COSCO (<1%) + Express Shipping (<1%)
RSS	11.6%	N/A
EVERGREEN	10.5%	Emirates (<1%) + CMA CGM (7%)+ COSCO (<1%)+ Express Shipping (<1%)
CMA CGM	7.1%	1. Emirates (<1%) + Evergreen (10.5%)+ COSCO (<1%)+ Express Shipping (<1%). 2. Emirates Shipping Line (<1%).
MESSINA	2.9%	Recently Acquired by MSC (35.7%)
OTHER	3.0%	N/A
TOTAL	100%	N/A

Source: Kenya Ports Authority, Annual Review and Bulletin, Shipping Agents and Consultant Analysis

Most Shipping lines serving Kenya offer weekly services, meaning that minimum one ship calls every week. These services are mostly feeders that directly connect the Port of Mombasa with the major transhipment hubs such as Salala, Singapore, Dubai, and Antwerp. Shipping Lines with smaller trade volumes tend to form vessel-sharing arrangements (VSA) in the form of slot charter/sharing.

There has been an increasing tendency towards slot sharing among shipping lines to reduce escalating costs. A good example in the Port of Mombasa is the *"school bus"* arrangement between Emirates, CMA-CGM, Evergreen, COSCO and Express Shipping. This ensures a gain on higher capacity to fend off lower capacities in certain trade lanes and also allowing competitive freight rates without the need to account for empty spaces on their ships.

The Second largest player in Kenya MSC, with a market share of 16.4%, recently acquired Messina lines that had registered 2.9% market share in 2017. Inevitably, MSC will register an increase in its market share post 2017. COSCO and Hapag Lloyd have made a serious market entry this year indicated by the slot sharing arrangements with other lines and offering generally lower freight rates as a market entry strategy for the South East Asia/ Far East routes.

The key players of service provision in the shipping Industry in Kenya include shipping companies, Shipping Agents (these are locally registered, but the majority are owned by foreigners), cargo consolidators (Non Vessel Owners Common Carriers-NVOCC), Clearing and forwarding agents, Container Freight Stations, road and rail transporters, and empty container depots. Other companies, which offer auxiliary services to the shipping sector include ship-contractors, cargo tallying, ship chandlers, ship repairers, garbage collectors etc.

Shipping Agents look after the interests of Ship owners and charterers in the Port. There are two categories of Agents – Port Agents and Liner Agents. Liner Agents usually act on behalf of a specific Principal whilst the Port Agent is a general Agent for different Shipping Lines mostly tramp Liners. Examples of Liner Agents in Kenya are Maersk (K), PIL (K), and CMA-CGM (K) whilst general Port Agents include Sea bulk, Seaforth, Inchcape and NISOMAR. The roles of the Liner Agents include:

Port Agency Operations - Arranging ships' stay in Port, cargo operations and other vessel requirements during Port stay.

Commercial/Sale - selling and marketing cargo-carrying space in line with the trade routes.

Documentation - Prepare and attend to all commercial documentation requirements including manifests, Bill of Ladings, Shipping Orders, Mates Receipts, Delivery Orders, etc.

Shipping Agents are the starting points of the cargo clearance process in Kenya as they make all arrangement for ship berthing and cargo operation in Kenya. They also lodge the cargo manifest, which is the mother document that facilitates clearance, storage and transportation of cargo from the Port of Mombasa. When a shipping line requires a service from another maritime auxiliary service providers like ship contractors and ship chandlers, then shipping agents negotiate and fix contracts on behalf of the lines.

Below are the other maritime service providers in the industry;

i. Ship Contractors - These are companies that provide assorted services to ships at the Port of Mombasa that include tallying, watchman (security), minor ship repairs, lashing, cargo trimming among others. The ship contractors are either engaged for short term that is for a single ship call or for a long-term, that is one or two-year contract. In tramp shipping most of the engagements are short-term basis while in liner shipping the engagement are on long term basis. The ship contractors are mostly appointed by the shipping agent on behalf of the ship-owner and the ship agents negotiate the tariffs on behalf of the ship-owner. Kenya Ports Authority currently does the licensing of the ship contractors and there has been a fairly easy entry to sector by new players. The ship contractors in Kenya face a number of challenges and some of these challenges can be linked to unfair competition or abuse of dominance,

- Rampant undercutting of prices, due to the large number in the market, the cutthroat competition has led to massive tariff undercutting among the ship contractors, this has led to poor remuneration for their workers and poor service delivery standards. The Kenya Ship Contractors Association was granted an exemption to set a minimum tariff for their various services with the objective to safeguard their members from the unfair practice by the shipping agents/ship-owners.
- Some of the foreign shipping companies have also started opening ship-contracting companies; these practices may run the local owned companies out of business. A good example is Messina Shipping Line that is said to have opened Kusi shipping to offer ship contracting services

ii. Ship chandlers -these are companies that supply food provisions, stores, spares and other supplies to ships calling at the Port of Mombasa. The entry to this market is also fairly easy as one needs to just get a permit from KPA, the customary business licenses and they are in business. Market penetration may be a challenge as those within the market have established strong bonds with the shipping lines and sometime the ship-owners. As a normal practice the shipping agents or the ship-owners will request for quotations from several ship chandlers and will engage the lowest bidder. Currently there is no formal framework to monitor and capture business volumes for the ship chandlers.

iii. Cargo consolidators - These are service providers who offer consolidation and deconsolidation services for Less Than Container Load Shipments (LCL). LCL shippers are shippers who have small parcels of cargo that do not fill a full container load hence engage the services of cargo consolidators who consolidate cargo from different shippers to fill a container load. Currently, about 50,000 containers come under LCL annually and the Kenya Maritime Authority licenses the cargo consolidators. Currently there are over 30 consolidators who affiliate to the Kenya groupage cargo handling association. The objective of this association is to advocate members' interest in relation to licensing, tariffs, internal dispute resolution mechanism, promotion of self-governance and policy implementation. The association developed a tariff that provides minimum and maximum tariff that can be charged by the members. Stakeholders in the maritime sector have termed these charges as 'punitive' and that they have no cost justification, the industry regulator has not been able to address these concerns adequately as they lack legal capacity to intervene on matters relating to tariffs.

iv. Clearing and forwarding agents -There are over 700 licensed clearing and forwarding agents in Kenya, the licensing Authority is Kenya Revenue Authority. The industry has a mixture of big and small industry players where the big companies represent big industrial importers while the small companies represent the small importers whose business may not be regular. Entry and exit from the market is easy and pricing for services is unregulated although the study has revealed to serious underpricing of services among the small firms, which is impacting on the quality of service. Most of the big clearing and forwarding firms peg their fees on the value of the goods meaning the fees are a percentage of the value of the goods.

v. Empty container depots -These are companies that offer a number of services towards management of empty containers in Kenya, these services include empty container storage, transportation, repairs, inspection and tracking among others. The empty container depots require business permits to operate in the port, and the operators need to have adequate land within the vicinity of the port for effective operations. The depots also faced a period of stiff competition where some of the companies even went out of business due to price undercuts and unfriendly tariffs. The empty containers depots are appointed directly by the shipping lines however some of the Shipping Lines/Agents have opened their own depots like the Mediterranean Shipping Company (MSC), Maersk Shipping Company and Inchcape Shipping Services. Entry to this market has a cost barrier for many local investors as the cost of land and equipment is high while on the other hand the rates being paid by the shipping lines are said to be on the lower side, for example shipping lines demand a free period for 30 days from the empty depot operators while the port offers only a free period of 4 days.

vi. Container Freight Stations (CFSs)- These are companies that act as a secondary customs area and tax collection points. They provide additional storage space and offer relief to Port operations away from the ship/ land interface. CFSs are licensed by KRA after gazettement (Gazette Notice No. 1125 of 2010) in accordance with certain requirements i.e. must have a total area of more than 2.5 hectares, located within 10km from the port, generate at least Kshs. 100 million in customs revenue annually and have adequate office facilities and equipment for CFS operations. This highlights the high barrier to entry of the business.

The main services of the CFSs are:

- Receipt, transfer, handling, storage and delivery of containers and other goods and facilitation of Customs and other government Authorities cargo clearance processes.
- De- consolidation/ consolidation of LCL (Groupage cargo), holding un-cleared or abandoned goods for purposes of Customs and other government authorities' treatments.

There are three categories of CFSs in as far as their utilization is concerned. The first category handles containers only while the second category handles mixed cargo including containers, motor cars and general cargo. The final category handles motor car units only.

With the current situation of the governmental drive to prioritize cargo for the SGR, most of the cargo nominations to the CFSs are done by KPA only. This drive threatens their existence, as a significant percentage of the cargo is hinterland cargo meaning the cargo is transferred via SGR for clearance at the Inland Container Depot Nairobi. In 2016, there were sixteen CFSs, however, this number is currently on a sharp decline due to the impact of SGR on their business.

2.2.1.2 Shipping Industry Services Terminating at the Port of Mombasa

2.2.1.2.1 Shipping Line Charges

Shipping Line charges include handling fees that are separate from the sea freight. These include terminal handling, delivery order fees, cleaning and lift on/ lift off charges, International Ship and Port Facility Security (ISPS) charges and bill of lading, among others.

Most shipping lines do not disclose in public their freight rates for the various routes. This is because most of the shipping agents view this information as their trade secret and more so, the rates are determined abroad by their principals. However, some information on the components of the freight rates charges has been gathered locally through networks at KPA, KMA and Shipping Council of East Africa.

Approximately 20 different costs are charged by the shipping lines upon arrival of goods at the Port of Mombasa. Some of these costs are high and unjustifiable because either some have already been taken care of as a part of freight or simply unjustifiable services by the shipping lines. These costs are however not charged for all products, while not all shipping lines charge them. The average costs charged at the Port of Mombasa are described below:

1. **Delivery Order fee (USD 70):** The delivery order fee is charged in exchange (documentation fee) for the negotiable Bill of Lading. The levy varies from one shipping line to another.
2. **Terminal Handling Charges – 20Ft. – USD 99; 40Ft. – USD148:** The shipping lines argue that the purpose of levying this particular charge is to recover third party costs which they incur in the cargo account. This is double payment as importers pay the freight charges to the lines, terminal handling charges and the KPA fees. These charges are however not charged in some ports including the Port of Dar es Salaam. This charge also makes the Port of Mombasa expensive.
3. **Lift on/Lift off Charges – 20Ft. – USD 32; 40Ft. – USD 38**: Although shipping lines charge for these services, the services are provided by KPA.
4. **Container Cleaning Charges (USD 20 – 30):** All shipping lines collect cleaning fee whether the container is dirty or not in advance. This charge may only be justified if the container is returned in a dirty state. The charge also varies from one Shipping Line to another.
5. **Container Deposits: Local – "20 Ft." – USD 500 – 1,000; "40 Ft." – USD 1,000 – 2,000**: All shipping lines collect a deposit for containers depending on the size and destination. Collecting the deposits at the port of discharge contravenes the contract of carriage because it is assumed that those issues were addressed when entering into the contract of carriage with a shipper. For transit containers, the shippers are charged equipment management fee in addition to the deposit.
6. **10 per cent Administration Fee (USD 40 minimum):** This charge is levied by some of the shipping lines or their agents for processing or collecting container demurrage charges exceeding deposits. Some of the lines have already incorporated this fee in their demurrage charges.
7. **Container Handling Charge (USD 35):** Only Some shipping lines and agents make these charges.
8. **Container Demurrage Charges:** The shipping lines provide a free period of 10 - 14 days for local containers while for Uganda it is 30 days and 45 days for the other countries. Upon the expiry of the free period, containers attract charges for late return. USD 5.0 – 18.00 is usually charged for the local containers for the first seven days, USD 6 - 20 for the next seven days and USD 6 - 30 per day thereafter for a 20 Ft. container. For the 40 Ft. container, the first 7 days attract a charge of USD 10 – 36 per day, USD 12 – 40 per day for the next seven days and USD 12 - 60 per day thereafter.

It is worth noting that MSC and MESSINA charge a flat daily rate of USD 6.0 per TEU and USD 12.0 per FEU and 10 and 14 free days respectively. This could possibly be the reason behind the sharp rise in MSC's market share in 2017 that led to replacement of PIL in the second position. These charges are higher than the container rental rates of USD 2.5 per day.

9. Container Repair Charges: These are levied on damaged containers. However, some of the shipping lines/agents have been charging high rates that are not justifiable and perceived as dishonesty by the shippers. The rationale for charging wear and tear for the containers has also been questioned by the shippers.

10. High Exchange Rates (Currency Adjustment): Import and export business is conducted using foreign currency – in most cases the US dollars. The shipping lines however use rates that are much higher than the market rates, for instance, using a USD/KES rate of 107, when the actual market rate is KShs 101. This in effect makes the cargo less competitive and is not a good business practice.

11. Transit Service Charge (USD 60 per TEU): This is a new charge that was introduced by some shipping lines and applies to transit containers.

12. Break-Bulk Agents for Overseas Consolidators: Overseas consolidators or their agents have been charging for breaking bulk and issuing their own ship manifests and delivery orders. The Customs and Excise Act and the E.A Harbors regulations 1970 do not legally recognize these documents. These charges are not justified and are actually making

the Port of Mombasa expensive. The agents have also formed an association that issued tariffs which members are expected to comply with contrary to the Competition Act, 2010. The break bulk agents are a new phenomenon that has emerged since 2016.

13. In-house Clearing Departments or Bill of Lading Service: Some Shipping Lines have either put into place in-house clearing departments or appointed their own clearing and forwarding agents to handle their cargo or through the Bill of Lading service. They use various levies to solicit for business. Those who give them business (clearing business) regularly are charged lower freight charges than those who do not.

14. ISPS Code Security Surcharge (USD 6 - 12): The International Ship and Port Facility Security (ISPS) Code is an amendment to the Safety of Life at Sea (SOLAS) Convention (1974/1988) on minimum security arrangements for ships, ports and government agencies. This surcharge is for the ISPS code that is collected by some shipping lines. This was introduced when the ISPS code came into force.

15. Equipment Management Fee (USD 18 – 30): This fee is charged on transit cargo.

16. Dangerous Cargo Surcharge (USD 11): This charge is levied on dangerous/poisonous cargo such as drugs, paints and chemicals among others and is a variable.

17. Amendment to Bill of Lading (USD 30 – 50): This is charged for amending the Bill of Lading.

18. Manifest Correction (USD 30): This is charged for any correction in the manifest.

19. Handing over Fee (USD 100).

Table 2.6 below illustrates the average destination shipping services charges at the Port of Mombasa.

Table 2-6: Average destination shipping services charges at the Port of Mombasa

Name of Item	20 Ft. Container (USD)	40 Ft. Container (USD)
Delivery Order Fee (per Bill of Lading)	70.00	70.00
Terminal Handling Charges	99.00	148.00
Lift On/ Lift Off	32.00	38.00
Container Cleaning Fee	20.00	30.00
Equipment Monitoring Fee (Transit)	57.86	102.00
Stripping	149.00	210.00
Amendment Fees	60.00	60.00
I.S.P.S Charges	8.00	8.00
Piracy Surcharge	25.00	50.00
Risk Surcharge (Particular Routes)	75.00	150.00
Container Handling Charge	35.00	35.00
Removal	25.00	25.00
Hazardous Surcharge	11.00	11.00
I.T.S	50.00	100.00
Other Administrative Fee (Transit Cargo)	5.00	5.00
Container Deposit Fees	500 – 1,000	1,000 – 2,000
Equipment Management Fee	15.00	15.00
Container Release Fee	5.00	10.00
MAFI Charges	50.00	50.00
Bank Charges	50.00	50.00
Handing Over Fee	100.00	100.00

Source: Shippers Council of East Africa

Table 2.7 below illustrates the fees charged by the various Shipping Lines that ply the Mombasa route.

Table 2-7: Destination charges in USD at the port for the various Shipping Lines terminating at the Port of Mombasa per 20 Ft. Container

Shipping Line	Delivery Order Fee (Bill of Lading)	Terminal Handling Charge	Lift On/ Lift Off	Container Cleaning	Equipment Monitoring Fee	Equipment Management Fee	ISPS Surcharge
MAERSK	70.00	99.00	40.00	10.00	50.00		
PIL	70.00	99.00	30.00	10.00			
INCHCAPE	70.00	99.00	30.00	10.00	100.00		
MESSINA	60.00	99.00	40.00	40.00			
RSS	70.00	99.00	35.00	15.00		25.00	12.00
CMA CGM	70.00	99.00	30.00	20.00			11.00
SEVEN SEAS	70.00	99.00	40.00	25.00			7.00
EMIRATES	70.00	99.00	35.00	30.00		10.00	9.90
SEA TRADE	65.00	99.00	19.00				10.00
MSC	60.00	99.00	30.00	15.00			6.00
SEA BULK	70.00						
EXPRESS	70.00						
DSS	70.00	99.00	40.00	20.00	20.00		9.00
SEAFORTH	70.00	90.00					
SOCOPAO	70.00	110.00					
EACS	70.00	99.00	30.00	20.00			
WSS	70.00	99.00	20.00	10.00			

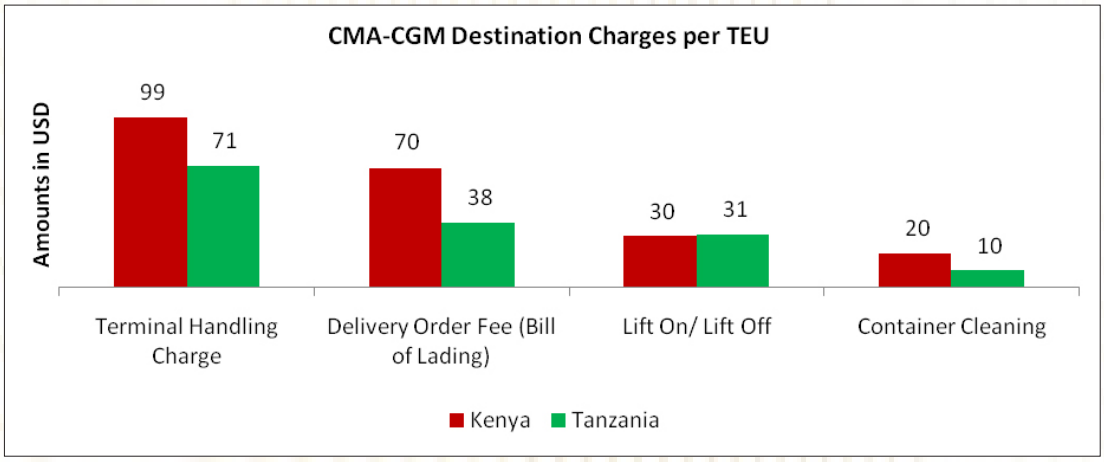
Source: Shippers Council of East Africa

MESSINA and MSC charge importers the lowest delivery order fees i.e. USD 60 per container while the majority charge USD 70 per container.

For lift on/lift off, the majority of Shipping Lines charge USD 30 – 40 while WSS and Sea Trade charge in the USD 19 – 20 ranges. Terminal Handling is charged at USD 99 per TEU and USD 148 per TEU.

Figure 2.11 below compares the destination charges levied by CMA-CGM in Kenya and Tanzania. From the tariffs, it is evident that CMA-CGM charges higher in Mombasa when it comes to Terminal Handling, Delivery Order Fee and Container Cleaning. However, Dar es Salaam Port is more expensive by a dollar per TEU as far as lift-on/lift-off is concerned as illustrated.

Figure 2-11: CMA-CGM Shipping Services Destination Charges per TEU



Source: CMA-CGM Tanzania Tariff Book 2018, Shippers Council of East Africa

Table 2-8: Destination charges in USD at the port for the various Shipping Lines terminating at the Port of Mombasa per 40 Ft. Container

Shipping Line	Delivery Order Fee (Bill of Lading)	Terminal Handling Charge	Lift On/ Lift Off	Container Cleaning	Equipment Monitoring Fee	Equipment Management Fee	ISPS Surcharge
MAERSK	70.00	148.00	40.00	15.00	100.00		
PIL	70.00	148.00	45.00	20.00			
INCHCAPE	70.00	148.00	40.00	20.00	200.00		
MESSINA	60.00	148.00	40.00	25.00			
RSS	70.00	148.00	35.00	30.00		50.00	12.00
CMA CGM	70.00	148.00	40.00	30.00			
SEVEN SEAS	70.00	148.00	45.00	35.00			7.00
EMIRATES	70.00	148.00	40.00	30.00		10.00	14.80
SEA TRADE	65.00	148.00	38.00				10.00
SEA BULK	70.00						
MSC	60.00	148.00	30.00	20.00			6.00
EXPRESS	70.00						
DSS	70.00	148.00	40.00	40.00	40.00		9.00
SEAFORTH	70.00	135.00					
SOCOPAO	70.00	110.00					
EACS	70.00	148.00	40.00	40.00			
WSS	70.00	148.00	40.00	12.00			

Source: Shippers Council of East Africa

2.2.1.3 Demurrage Charges in USD

Table 2-9: Demurrage charges at the Port of Mombasa in USD for 20 Ft. and 40 Ft. Containers for the various Shipping Lines that call at the Port of Mombasa

Shipping Line	Free Days - Local	Free Days - Transit	Daily Rate per TEU (1st Seven Days)	Daily Rate per FEU (1st Seven Days)	Daily Rate per TEU (Next Seven Days)	Daily Rate per FEU (Next Seven Days)	Daily Rate per TEU (Thereafter)	Daily Rate per FEU (Thereafter)
MAERSK	9	38	10.00	20.00	20.00	40.00	30.00	60.00
PIL	14	30	8.00	16.00	16.00	32.00	24.00	48.00
INCHCAPE	14	30	7.00	14.00	14.00	28.00	28.00	56.00
MESSINA	10	30	6.00	12.00	6.00	12.00	6.00	12.00
RSS	14	30	6.00	12.00	12.00	24.00	24.00	48.00
CMA CGM	14	30	14.00	28.00	14.00	28.00	14.00	28.00
SEVEN SEAS	10	21	8.00	16.00	16.00	32.00	25.00	50.00
EMIRATES	14	30	7.00	14.00	13.00	26.00	15.00	30.00
SEA TRADE	10	30	6.00	12.00	6.00	12.00	12.00	24.00
MSC	14	45	6.00	12.00	6.00	12.00	6.00	12.00
HANJIN	10	14	7.00	14.00	14.00	28.00	21.00	42.00
EACS	14	30	18.00	36.00	18.00	36.00	18.00	36.00
WSS	10	30	5.00	10.00	10.00	20.00	30.00	60.00

Source: Shippers Council of East Africa

Free demurrage period offered by CMA-CGM to the local importers is 14 days in Kenya and Tanzania. However, CMA-CGM charges higher demurrage costs per day in Tanzania of USD 14 per TEU and USD 6 in Kenya. For 40 Ft. containers, CMA-CGM charge the shippers USD 28 in Tanzania and USD 12 in Kenya as illustrated in Table 2.10 above.

Delivery order fee, lift on/lift off, container cleaning charges and free days are almost the same across all shipping line charges, and the main reason is that the shipping Agents through their industry association agree on minimum charges to be levied by the members. The industry stakeholders, on the justification of these charges have raised concerns, as some are higher than other Regional Ports. The industry lacks a proper mechanism to guide the introduction or amendments of destination charges that are levied for services terminating at the Port of Mombasa. The Maritime regulators lack the legal capacity to monitor and intervene on matters relating to fees and charges imposed by the maritime service provider.

Table 2-10: CMA-CGM Demurrage Costs Comparison between Ports of Mombasa and Dar es Salaam

CMA-CGM	Free Days – Local	Free Days - Transit	Daily Rate per TEU (USD)	Daily Rate per FEU (USD)
Kenya	14	45	6	12
Tanzania	14	30 - 55	14	28

Source: CMA-CGM Tanzania Tariff Book 2018, Shippers Council of East Africa

2.2.1.4 Benchmarking of Shipping Industry Services Terminating at the Port of Mombasa

The table below illustrates the latest benchmarking study conducted by the Ghana's Shippers Authority for West and South Africa markets.

Table 2-11: Benchmarking of Shipping Services Charges in Tanzania, West Africa and South Africa

Charges (USD)	Tanzania	Ghana	Cameroon	Gabon	Congo	Togo	Benin	Nigeria	Senegal	
Shipping Lines	Import from China	Import from China					Import from N. Continent			
1. Basic Freight (per TEU)	1700 - 2200	1,164					900			
2. Currency Adjustment Factor (CAF)		285 (24%)					390 (43%)			
3. Bunker Adjustment Factor (BAF)		962 (82%)					728 (80%)			
4. Port Congestion Surcharge (per Day)			55							
5. Terminal Handling Charges	100	194								
6. Demurrage Free Days (in Days)	14	7	15	11	11	10	10	5	10	3

Charges (USD)	Tanzania	Ghana	Cameroon	Gabon	Congo	Togo	Benin	Nigeria	Senegal	South Africa
Shipping Lines	Import from China	Import from China					Import from N. Continent			
7. Demurrage Per Day (1st Seven Days after Free Days	14	25	18			12	9	42		48
8. ISPS Code/ Security Charge (per TEU)		250					11			
9. Guarantee Fees (per TEU)	1000						39			

Source: Ghana Shippers Authority, CMA-CGM Tanzania Tariff Book 2018

Demurrage free days stood at three days in South Africa and five days in Ghana. This indicates that the free days accorded to Kenyan shippers are relatively higher since in Kenya it averages to around 10 – 14 days. Other parts of West Africa such as Cameroon offer 15 free days while Togo, Benin and Senegal offer 10 demurrage free days. Ghana offered 7 days. In Tanzania, MSC offers 14 free demurrage days to the local importers per 20 Ft. containers.

In Ghana, the daily demurrage charge for the first seven days after the free days expire was USD 25 per container while in South Africa it was USD 48 and Nigeria USD 42 as shown in Table 2.11 above.

One trend that is clearly evident is that relatively developed ports such as the ones in South Africa and Nigeria offer lower free demurrage days compared to ports that are less developed and highly inefficient. These ports charge higher demurrage fees in order to discourage delays in cargo clearance and congestion at the port.

In normal situations a low demurrage-free period would lead to a short dwell time at the ports, as is the case in Durban, South Africa.

Unfortunately, all other factors that must be in place to ensure that benefits are derived from a short demurrage-free period are non-existent in Kenya. Therefore any attempt to reduce the free days in Kenya would only worsen the congestion situation at the ports and add to the existing high cost of doing business at the port.

In Ghana, terminal handling charges stood at USD 194 per container. This is higher than what is charged in Kenya as shown in Table 2.11 above.

2.2.1.5 Shipping Agent Charges

Table 2-12: Benchmarking of Shipping Agent Charges in Tanzania and West Africa

Fee Category (USD)	Tanzania	Ghana	Cameroon	Togo	Benin	Nigeria	Senegal
1. Administrative Charges (per TEU)		180			40	505	161
2. Container Cleaning Charges (per TEU)	10	65		11	6	7 - 15 (per TEU)	3
3. Equipment Cleaning Charges (per TEU)						16	
4. Reefer Monitoring Charges (per TEU)	7	75				233	191
5. Container Deposit Fees (per Container)	500 -1,000	211	88	1,000	606	2,525	

Fee Category (USD)	Tanzania	Ghana	Cameroon	Togo	Benin	Nigeria	Senegal
6. Amendment Fees (per B/L)	25	51		15	71	164	19
7. Bill of Lading Fees (per B/L)	38	5	13	15	65	38	12
8. Release Fees/ Delivery Order (per B/L)		180	73	24	65 (per TEU)	47	
9. Documentation Fee (per B/L)	60	5	86	80 (per TEU)		31	10
10. Shipping Agency Fee						145	
11. Stamp Duty Fees (per B/L)						0.15	

Source: Ghana Shippers Authority, Shippers Council of East Africa

2.2.1.6 Administrative Charges

Only Ghana, Benin, Nigeria and Senegal in the table above imposed Administrative Charges. Benin charges USD 40.00 per TEU, Ghana charges USD 180.00 per TEU and Senegal USD 161.00 per TEU. Nigeria's charge of USD 505.00 per TEU is unbelievably high and an outlier. In Benin the Government sets this charge in consultation with the stakeholders and is strictly complied with.

2.2.1.7 Container Cleaning Charges

For container cleaning fee, which applies to only 'dirty' cargo, Ghana's charge was the highest. Ghana's charge was USD 65 per TEU compared to a range of between USD 3 and USD 15 in the other applicable countries. It is important to note that there were no Container Cleaning Fees in Cameroon, Gabon, Congo and South Africa. In Kenya, the average container cleaning charge is USD 17 per TEU and USD 26 per FEU. In Tanzania, Shipping Lines charge USD 10 per TEU on average for container cleaning.

2.2.1.8 Container Deposit Fee

Container Deposit Fee ranges from USD 88 in Cameroon to USD 2,525 in Nigeria. Ghana's Container Deposit Fee of USD 211 per container may seem to be reasonable. However, the problem is the length of time it takes for the refund to be given to the shipper after he/she has returned the container. There are indications that due to the cumbersome nature of the refund many shippers leave their refund uncollected.

In Senegal an Insurance and Bank Guarantee system has been adopted to deal with the issue of Container Deposit Fee. In Nigeria, the Nigeria Shippers' Council has been monitoring and requesting for the list of shippers who have not collected their container deposit fee refunds, and has been making efforts to get their monies returned to them. This is a good practice that can be emulated by Kenya to ensure that shippers are not exploited by the shipping agents. In Kenya, shippers pay USD 500 – 1,000 as container deposit for 20 Ft. containers and USD 1,000 to 2,000 for 40 Ft. containers. This is similar to what shipping lines charge the shippers in Tanzania.

2.2.1.9 Bill of Lading Fee

Bill of Lading Fee ranges from USD 5 in Ghana to USD 65 in Benin. Whilst in all the other countries the payment is for the telex release of the Bill of Lading, in Ghana, it applies whether you requested for a telex release or not. This is not a healthy situation for Ghana. Indeed, the cost of a Bill of Lading is inherent in the freight charge, and therefore there is no justification for additional fees for a Bill of Lading by the Shipping Agent. In Kenya, the Bill of Lading fee averages to USD 70 per 20 Ft. container while in Tanzania the charge is around half of Kenya at USD 38 per TEU.

2.2.1.10 Amendment Fee

Amendment fees apply when Cargo Manifest and/or Bill of Lading information have to be corrected due to an error or changed for separation among shippers. An Amendment Fee ranging from USD 15 in Togo to USD 51 in Ghana to USD 164 in Nigeria, per amendment. Kenya's Amendment Fee of USD 60 per amendment may be considered reasonable if compared to Nigeria although still very high compared to Tanzania which charges USD 25 per TEU. However, the major concern is that shippers should not be made to pay an Amendment Fee if the shipper did not occasion the error being corrected.

2.2.1.11 Release Fee

Release Fee in ranges from USD 24 per bill of lading in Togo to USD 180 per bill of lading in Ghana. Kenya's release fee is low compared to Ghana and stands at USD 5 - 10. Ghana's Release fee is unbearably high.

2.2.1.12 Container Handling Charges

Ghana's container handling charges of USD 150 is very high compared to Kenya where the rate averages at USD 25 per TEU.

2.2.1.13 Cargo Consolidators

With emergence and growth of containerization, a special segment of liner service users have emerged. These are LCL (less than container load) shippers. The cargo consolidator also known as Non-Vessel Owners operating common carriers consolidates the small parcels under LCL into a full container load and undertakes deconsolidation once the container arrives at the destination. In Kenya, cargo consolidators are licensed by Kenya Maritime Authority and also undergo registration process with KRA. Currently there are over 30 licensed consolidators who handle around 4,000 TEUs per month. Importers have raised concerns on the high charges levied by these consolidators. Table 2.13 below illustrates the charges levied by the cargo consolidators discussed above.

Table 2-13: Charges Levied by Cargo Consolidators at the Port of Mombasa

Tariff (USD)	Minimum LCL Charges	Maximum LCL Charges
Break Bulk Handing Over Fees	75.00	85.00
Terminal Handling (per DWT or Cubic Meter)	20.00	23.00
Stripping (per DWT or Cubic Meter)	21.00	24.00
Destination Documentation Fee (per B/L)	60.00	60.00
Amendment Fee (per B/L)	20.00	30.00
Terminal Transfer (per B/L)	25.00	30.00
A VAT of 16% will be applied to all the above charges		

Source: Kenya Groupage Cargo Handling Association

It is worth noting, that the Kenya Ships Agents Association, which is the umbrella body representing the shipping lines and agents, has put in place a minimum tariff for services rendered by the members. Theses tariffs are deposited to KMA who are the industry regulators but there is no proper framework for approval of these tariffs. The same practice has also been replicated by other service providers like cargo consolidators.

The majority of Kenyan shippers import under CIF terms, meaning that they do not play an active role in choosing shipping line services. International trade transactions are mostly conducted under the international commercial terms (INCOTERMS), which specify the roles and responsibilities of the buyer and the seller in the contract of sale. Most of the Kenyans importers lack broad knowledge of international trade, hence they prefer importing under the CIF terms (Cost, Insurance & Freight) meaning the seller abroad will choose and contract the insurer and the carrier, and consequently have the responsibility of ensuring that goods are delivered at the agreed port. Hence, the competition for business is mainly at the sellers' port that contracts the shipping line. The destination charges for all the shipping agents are almost the same, therefore, there is a need to sensitize the importers and forwarding agents on payments of the freight locally or importation on free on board (FOB) terms as this will provide them with an opportunity to negotiate terms for the shipping services. It is also necessary to establish modality on introduction or adjustment of tariffs to ensure the stakeholders are fully engaged.

Importers in other regions are able to negotiate for better rates as compared to local shippers as some countries have developed policies that promote importation on FOB terms or other similar terms and export on CIF terms where the responsibility of procuring maritime transport services is vested on the importer or exporters of these countries. Information asymmetry also exists as most of the importers and freight forwarders in Kenya lack the basic knowledge of maritime business hence the seller abroad procures both the freight and insurance.

2.2.1.14 Market Structure of the Shipping Industry in Kenya

The market structure of the shipping industry in Kenya is an oligopoly with only seven sector players controlling approximately 97% of the total market in 2017.

Approximately 20 shipping lines called at the Port of Mombasa in 2017 and transported a total of 1,189,957 TEUs. Maersk accounted for 424,866 TEUs followed by MSC that dealt 194,599 TEUs. Other sector players who recorded high container throughput included PIL (K), RSS and Evergreen which recorded 152,410, 138,609 and 124,500 TEUs respectively.

Maersk Line also recorded the highest number of vessels calling at the Port of Mombasa in 2017, closing the year with 182 vessels out of a total of 666 vessels. Coming in second, was MSC with 136 vessels followed by PIL (K) with 102 vessels. Table 2.14 below shows the total number of vessels that called at the Port of Mombasa in 2017 and the annual TEUs handled by the various sector players from 2013 to 2017.

Table 2-14: Annual TEUs handled by Various Shipping Lines 2013-2017

Annual TEUs	2013	2014	2015	2016	2017	5-Year Total
MAERSK	328,403	387,094	394,692	409,733	424,866	1,944,788
MSC	141,948	136,940	140,629	158,655	194,599	772,771
PIL (K)	117,116	173,788	174,169	168,325	152,410	785,808
RSS	15,026	30,239	72,612	82,639	138,609	339,125
EVERGREEN	52,730	61,856	117,777	130,143	124,500	487,006
CMA CGM	117,887	129,410	126,910	103,021	84,705	561,933
MESSINA	31,501	33,280	32,586	30,043	34,762	162,172
WSS	2			29	27,482	27,513
SEVEN SEAS (SSA)	3,853	11,603	11,501	6,547	5,794	39,298
ALPHA LOGISTICS	95	59	7	71	885	1,117
SECO	85	648	186	303	440	1,662
EACS	384	356	374	223	321	1,658
ISS/INCHCAPE	15,633	312	316	430	202	16,893
STURROCK	40				137	177
CFS/ SEAFORTH	28	172	690		70	960
EXPRESS	225	2,198	181	27	60	2,691
DSS	177	83	99	52	48	459
SEA TRADE	71		1		38	110
SOCOPAO	142	34	28	16	24	244
SEA BULK	49				5	54
SMK				2		2
AMT				45		45
EMIRATES	40,439	37,174	1,544			79,157
SOUTHERN			8			8
HAL			44			44

Annual TEUs	2013	2014	2015	2016	2017	5-Year Total
ESL				1,053		1,053
ZAM ZAM	3		9			12
DIVERSE		4				4
SIMATECH	17,247	3,033				20,280
ETK		35				35
SPANFREIGHT	461					461
HANJIN – SHARAFF	8,396	3,647				12,043
TSA		36				36
BSL	59					59
STORM	4					4
TOTAL	**892,004**	**1,012,001**	**1,074,363**	**1,091,357**	**1,189,957**	**5,259,682**

Source: Kenya Ports Authority, 2018

It is evident from the table above that the annual container traffic has been growing steadily year on year basis from 892,004 in 2013 to 1,189,957 TEUs in 2017, representing a compound annual growth rate of (CAGR) of 7.5%. Table 2.15 below illustrates the annual growth in TEUs among the major various sector players.

Table 2-15: Annual Growth in TEUs among Various Shipping Lines Sector Players

Annual TEUs	2013	2014	2015	2016	2017	5-Year Total	CAGR
MAERSK	328,403	387,094	394,692	409,733	424,866	1,944,788	6.7%
MSC	141,948	136,940	140,629	158,655	194,599	772,771	8.2%
PIL (K)	117,116	173,788	174,169	168,325	152,410	785,808	6.8%
RSS	15,026	30,239	72,612	82,639	138,609	339,125	74.3%
EVERGREEN	52,730	61,856	117,777	130,143	124,500	487,006	24.0%
CMA CGM	117,887	129,410	126,910	103,021	84,705	561,933	-7.9%
MESSINA	31,501	33,280	32,586	30,043	34,762	162,172	2.5%
OTHER	87,393	59,394	14,988	8,798	35,506	206,079	-20.2%
Total Annual TEUs	**892,004**	**1,012,001**	**1,074,363**	**1,091,357**	**1,189,957**	**5,259,682**	**7.5%**

Source: Consultant Analysis

From the Table 2.15, above, despite Maersk's commandeering role in the market, RSS recorded the highest CAGR of 74.3% from 2013 to 2017 followed by Evergreen Shipping Line, which recorded a CAGR of 24.0% in the same period under review. While RSS and Evergreen have been able to increase their market shares over the last five years, CMA-CGM including other smaller sector players has been losing its market share. CMA-CGM recorded a CAGR of -7.9% in the period under review.

For the shipping industry, volume is mostly used to compute market share, as revenues of the Shipping Lines are not readily available. The Table 2.16 below illustrates the evolution of market shares in volumes handled from 2013 to 2017.

Table 2-16: Evolution of Market Shares 2013 - 2017

Market Share	2013	2014	2015	2016	2017	5-Year Average
MAERSK	36.8%	38.3%	36.7%	37.5%	35.7%	37.0%
MSC	15.9%	13.5%	13.1%	14.5%	16.4%	14.7%
PIL (K)	13.1%	17.2%	16.2%	15.4%	12.8%	14.9%
RSS	1.7%	3.0%	6.8%	7.6%	11.6%	6.4%
EVERGREEN	5.9%	6.1%	11.0%	11.9%	10.5%	9.3%
CMA CGM	13.2%	12.8%	11.8%	9.4%	7.1%	10.7%
MESSINA	3.5%	3.3%	3.0%	2.8%	2.9%	3.1%
OTHER	9.8%	5.9%	1.4%	0.8%	3.0%	3.9%
TOTAL	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**

Source: Kenya Ports Authority, Annual Review and Bulletin, Various Issues and Consultant Analysis

Using the 2017 market shares of the sector players at the Port of Mombasa, the resulting Herfindahl-Hirschman Index (HHI) was 2,016. This is a clear indication that the market is neither competitive nor highly concentrated. Rather, the market is moderately concentrated.

As illustrated above, MAERSK Line had a market share of 35.7% in 2017 followed by MSC with 16.4% and PIL with 12.8%. The seven largest players controlled 97% of the shipping market in Kenya, out of the 20 Shipping Lines that called at the Port of Mombasa during the same period. This is a clear indication that the market is oligopolistic in nature and may end up to be highly concentrated as few strong players are controlling the market and hence could collude to fix prices if no measures are taken. This can make the situation even worse if some of these strong players merged as the smaller players will not be able to compete and will go out of business.

Industry consolidation of the smaller players is highly likely. With increasing overcapacity, decreasing margins and cut-throat competition, smaller players will either be bought out by larger players, die natural deaths, change travel routes or consolidate to benefit from cost synergies and stay afloat.

Furthermore, a number of shipping lines have extended to other logistics services, which include shipping agency, ship contractor, container freight stations, clearing and freight forwarding companies and trucking companies. The sentiments from the local service providers indicate that, by allowing shipping lines to extend their service inland will lock out small companies offering similar services. With fivelargest shipping companies controlling over 87% of freight market, there is a risk of control of 70% of the auxiliary services by the big lines. On the other side the global trend is now on door-to-door services where importers may prefer dealing with one logistic partner in movement of their goods in the logistic chain.

Section 16 of the Merchant Shipping Act 2012 has limited vertical integration by shipping lines where it prohibited their investment in shipping agency, clearing and forwarding, terminal operation among others. However this section was challenged in court and suspended.

Table 2-17: Vertical Integration along the Logistics Chain by major shipping lines which terminate in Port of Mombasa

Shipping Line	Services Along the Logistics Chain Integrated				
	Shipping Agency	Clearing and Logistics	CFS/Terminal Operators	Empty Depot	Trucking
MAERSK	x	x	x	x	
MSC	x	x		x	
PIL	x				
CMA-CGM	x				
MESSINA	x		x		
WSS	x				
ISS/INCHCAPE	x	x		x	x
DSS	x	x	x		

Source: Consultant Analysis

While vertical integration is very beneficial to importers who prefer dealing with one service provider for door-to-door services, some actors (e.g. empty container depots and clearing and forwarding agents) along the logistics chain have complained of dwindling business due to Shipping Lines who are well integrated further down the chain providing door to door services. This can be achieved via the Through Bill of Lading (TBL) where one carrier bears full responsibility and risks of moving cargo until it reaches the client's destination.

According to a 2018 Report by International Transport Forum (ITF):

"Vertical Integration might increase switching costs for customers and could thus reduce competition. A choice for a carrier could thus also imply an immediate choice for the feeder, terminals, rail and even towage services. Customers could thus be locked into one holistic supply chain solution that does not necessarily represent the best combination of different parts but that are chosen because they belong to the same company. Customers would in many cases have difficulties avoiding this lock-in as they would be confronted with switching costs. In addition, carriers might be using their client information systems as another way to lock-in clients, as these impose human capital costs for shippers in case of switching. Vertical integration also increases the risk that carriers use their market power as a carrier to distort competition in other segments, e.g. terminal operations or towage, vis-à-vis non-integrated service providers."

From a competition policy perspective, and in line with the impact assessments executed elsewhere such as Europe, close monitoring of the pricing of logistics services, and the associated service quality and reliability is needed to assess whether the vertical integration effectively leads to cost efficiencies for importers and exporters, as well as other broader societal benefits such as higher load factors, and the use of more environmentally friendly transport modes such as rail.

In a reaction to the ITF report on liner shipping alliances, the World Shipping Council (WSC) has rejected some claims on e.g. decreases of service quality.

2.2.1.15 Routes Segmentations

There are six major trade routes traversing through the Port of Mombasa categorized regionally as follows:

1. India Sub Continent, Persian Gulf and Red Sea regions
2. South East Asia, Far East and Australia regions.
3. North America, South America and Central America regions
4. East Africa, South Africa and Indian Ocean Island regions.
5. West Africa, North Africa and Black Sea regions.
6. Mediterranean, UK & North West Continent regions.

The Lines move in voyages that entail calling to a number of ports and therefore dropping and picking cargo as they proceed to the next port of call. Figure 2-12 and 2-13 below illustrate the import and export share of the various Shipping Lines by routes.

Figure 2-12: Route Segmentation by Shipping Line based on 2016 Import Tonnage

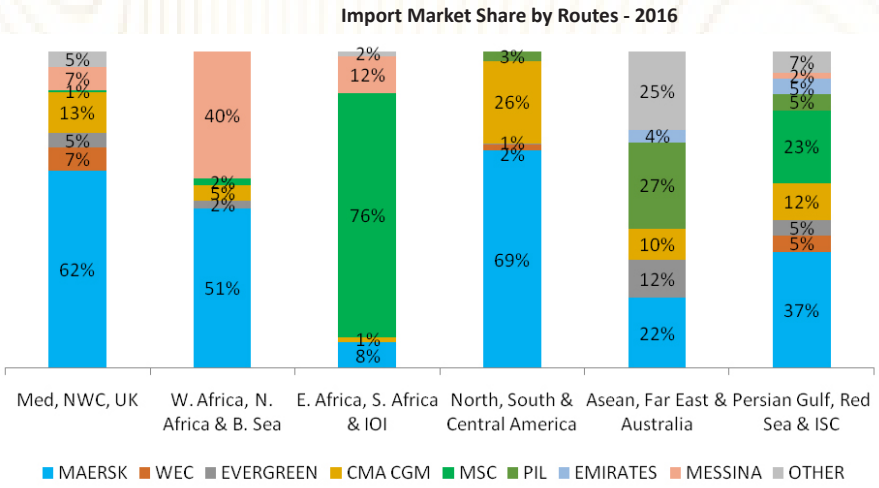
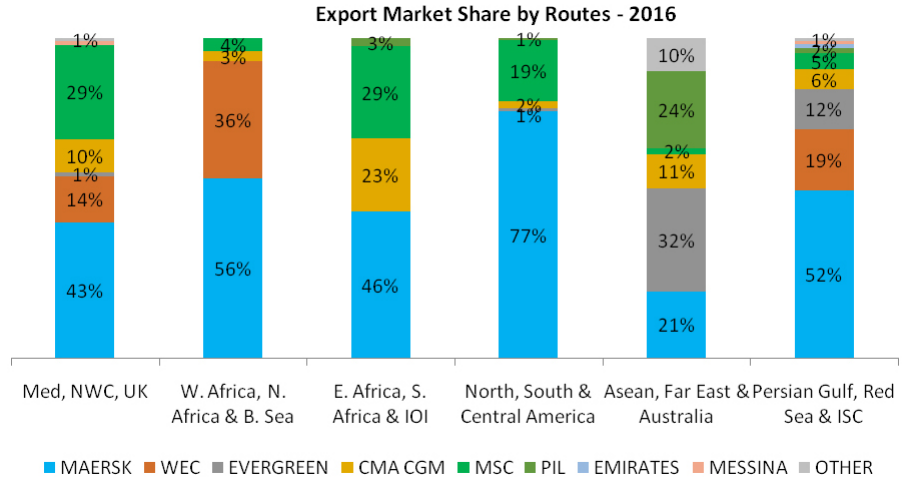


Figure 2-13: Route Segmentation by Shipping Line based on 2016 Export Tonnage



Source: KMA Annual Seaborne Trade Report, 2016 – (Based on Shipping Lines' Manifests Received by KMA in 2016)

Based on the 2016 data from table 2.18, the HHI's computed indicate that on the export market, all of the routes were highly concentrated with the exception of Asean, Far East and Australian route which had an HHI of less than 2,500 i.e. 2,269. MAESRK had the highest market share for all the export routes with the exception of Asean, Far East and Australian route, which EVERGREEN had a share of 32%, with PIL coming in second at 24% and MAERSK Line at 21%.

For the import routes, the HHI's computed based on the 2016 KMA data, the HHI's computed pointed to a high concentration in all the import routes with the exception of Asean, Far East and Australia (HHI: 2,109) and Persian Gulf, Red Sea and India routes (HHI: 2,157).

MAERSK Line commanded the highest market share in all the routes with the exception of East Africa, South Africa and Indian Ocean Island routes which MSC had the highest market share of 76% and the Asean, Far East and Australian route which PIL had the market share of 27%.

Table 2-18: HHI Computations for the export and import markets for the various shipping routes terminating at the Port of Mombasa

EXPORTS	Mediterranean, North West Continent, UK	West Africa, North Africa & Black Sea	E. Africa, S. Africa & Indian Ocean Islands	North, South & Central America	Asean, Far East & Australia	Persian Gulf, Red Sea & India
MAERSK	1,813	3,133	2,099	5,913	439	2,750
WEC	204	1,311				371
EVERGREEN	1			1	1,027	154
CMA CGM	107	11	521	5	115	37
MSC	864	16	822	370	3	26
PIL			7		577	2
EMIRATES						2
MESSINA	1					1
OTHER	1				108	1
EXPORTS HHI	**2,992**	**4,471**	**3,449**	**6,289**	**2,269**	**3,344**

IMPORTS	Mediterranean, North West Continent, UK	West Africa, North Africa & Black Sea	E. Africa, S. Africa & Indian Ocean Islands	North, South & Central America	Asean, Far East & Australia	Persian Gulf, Red Sea & India
MAERSK	3,885	2,553	68	4,706	492	1,350
WEC	52			3		28
EVERGREEN	23	6			148	24
CMA CGM	165	22	2	665	94	134
MSC		5	5,849			521
PIL				10	744	29
EMIRATES					14	22
MESSINA	51	1,607	135			4
OTHER	25		2		616	45
IMPORTS HHI	**4,201**	**4,193**	**6,057**	**5,384**	**2,109**	**2,157**

Source: KMA Annual Seaborne Trade Report, 2016 – (Based on Shipping Lines' Manifests Received by KMA in 2016)

Services linking the Port of Mombasa to the major trading partners are very competitive among the shipping lines while services linking the less active trading zones like North America, South America and Central America regions are less competitive as they attract less interest.

Imports from Asean, Far East and Australia and Persian Gulf, Red Sea and India routes recorded 41% and 39% respectively of the total imports while for the export market, Asean, Far East and Australia and Persian Gulf, Red Sea and India routes recorded 24% and 41% respectively as illustrated on table 2.19 below.

Generally, most shipping lines offer a global service which enables them to deliver containers to all major maritime ports across the globe. In view of this, Shipping Lines can only differentiate among themselves on freight rates and transit times.

Trade volumes with African continent and the Americas are low as shown in the table below.

Table 2-19: Route Segmentation Analysis based on 2016 export and import data from KMA

EXPORTS (DWT)	Mediterranean, North West Continent, UK	West Africa, North Africa & Black Sea	E. Africa, S. Africa & Indian Ocean Islands	North, South & Central America	Asean, Far East & Australia	Persian Gulf, Red Sea & India
MAERSK	81,575	26,148	5,737	38,512	42,495	185,574
WEC	27,369	16,912	7	87		68,157
EVERGREEN	2,267	193		434	64,961	43,925
CMA CGM	19,816	1,516	2,857	1,109	21,713	21,411
MSC	56,305	1,884	3,589	9,635	3,391	18,155
PIL	7		331	251	48,682	5,527
EMIRATES					373	4,680
MESSINA	2,184	31				3,180
OTHER	2,041			56	21,105	3,254
TOTAL	**191,564**	**46,715**	**12,521**	**50,083**	**202,720**	**353,864**
% Route	*22%*	*5%*	*1%*	*6%*	*24%*	*41%*

IMPORTS (DWT)	Mediterranean, North West Continent, UK	West Africa, North Africa & Black Sea	E. Africa, S. Africa & Indian Ocean Islands	North, South & Central America	Asean, Far East & Australia	Persian Gulf, Red Sea & India
MAERSK	293,027	111,677	20,673	52,135	470,558	737,820
WEC	33,977	278	132	1,309		105,525
EVERGREEN	22,357	5,252	355	385	258,339	98,258
CMA CGM	60,331	10,450	3,746	19,594	206,151	232,539
MSC	3,046	4,709	191,513	3	624	458,420
PIL	192		980	2,362	578,681	108,088
EMIRATES					80,676	93,451
MESSINA	33,619	88,605	29,093			38,688
OTHER	23,569	47	3,923	209	526,315	135,327
TOTAL	**470,119**	**221,018**	**250,415**	**75,997**	**2,121,344**	**2,008,115**
% Route	*9%*	*4%*	*5%*	*1%*	*41%*	*39%*

Source: KMA Annual Seaborne Trade Report, 2016 – (Based on Shipping Lines' Manifests Received by KMA in 2016

2.2.1.16 Level of Concentration of the Shipping Industry in Kenya

Notwithstanding that the top five sector players' controlled 87% market share in 2017 based on TEU volumes, the shipping industry in Kenya is moderately concentrated. The shipping and logistics industry is a volumetric game and market share controlled by the different players have a strong correlation to TEU volumes handled.

The Herfindahl-Hirschman Index (HHI) is a commonly accepted measure of market concentration and is mainly applied when evaluating potential merger issues. A market with a HHI of less than 1,500 is a competitive marketplace, a HHI of 1,500 to 2,500 is a moderately concentrated market and a HHI of 2,500 or greater is a highly concentrated market.

Table 2-20: Computation of the HHI using 2017 TEU Volumes

Shipping Line	2017 TEU Volumes	Market Share	Market Share Squared
MAERSK	424,866	35.7043%	1,274.80
MSC	194,599	16.3534%	267.44
PIL (K)	152,410	12.8080%	164.05
RSS	138,609	11.6482%	135.68
EVERGREEN	124,500	10.4626%	109.47
CMA CGM	84,705	7.1183%	50.67
MESSINA	34,762	2.9213%	8.53
WSS	27,482	2.3095%	5.33
SEVEN SEAS (SSA)	5,794	0.4869%	0.24
ALPHA LOGISTICS	885	0.0744%	0.01
SECO	440	0.0370%	0.00
EACS	321	0.0270%	0.00
ISS/INCHCAPE	202	0.0170%	0.00
STURROCK	137	0.0115%	0.00
CFS/ SEAFORTH	70	0.0059%	0.00
EXPRESS	60	0.0050%	0.00
DSS	48	0.0040%	0.00
SEA TRADE	38	0.0032%	0.00
SOCOPAO	24	0.0020%	0.00
SEA BULK	5	0.0004%	0.00
Total	**1,189,957**	**HHI**	**2,016.21**

Source: Kenya Ports Authority, Consultant Analysis

Based on the above computation of HHI as illustrated on table 2.20 above, the market place is moderately concentrated since the HHI falls between 1,500 and 2,500.

Another criterion used in assessing market concentration is the Four-Firm Concentration Ratio method. The market shares of the top four firms are summed and if the total is below 50%, the market is taken to be highly competitive as the concentration level is low. Ratios between 50% and 80% imply that the market concentration level is medium while above 80% is highly concentrated. Using the 2017 market shares as shown on the table above, the Four-Firm Concentration Ratio is 74.5%. This suggests that the market concentration level is medium.

2.2.2 The Port of Mombasa

2.2.2.1 Introduction

The Port of Mombasa was established more than a century ago, when it was developed by the British Colonial Government as part of the means of opening up the East African Region but much so Uganda. It now has 20 deep water berths and two bulk oil handling facilities. There is also a bulk grain handling facility at berth No 3 and three bulk-handling berths at Mbaraki Wharf. Of the 20 berths, six are home to Container terminal operations. These facilities are complemented by the Nairobi Inland Container Depot while the other two Depots in Kisumu and Eldoret are not operational.

The Port has liaison offices in Kampala, Kigali and Bujumbura and most of the facilities are adequately equipped with fairly modern cargo handling equipment.

2.2.2.2 Cargo Throughput

The Port of Mombasa is the only port of international repute in Kenya and the entire international maritime trade is transacted through this port, which raises its profile greatly. It is the natural sea route for Ugandan cargo and serves other hinterland countries such as Rwanda, Burundi, DR Congo, South Sudan, and North Eastern Tanzania and to some limited extent, Somalia. The international maritime trade facilitated through the Port of Mombasa is provided in Table 2.21 below.

Table 2-21: Cargo Traffic through the Port of Mombasa 2008 to 2017 in '000 DWT

Category	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Imports										
Domestic	8,840	11,895	11,197	11,772	12,531	12,954	14,086	15,513	15,899	17,701
Transit	4,430	4,612	5,004	5,166	6,201	6,196	6,691	7,167	7,217	7,903
Total	13,270	16,507	16,201	16,938	18,732	19,150	20,777	22,680	23,116	25,604
Exports										
Domestic	2,281	2,082	2,198	2,358	2,620	2,470	2,858	3,034	3,128	3,060
Transit	404	368	377	430	425	513	508	500	531	734
Total	2,685	2,450	2,575	2,788	3,045	2,983	3,366	3,534	3,659	3,794
Total Transit	4,874	4,989	5,382	5,596	6,626	6,709	7,199	7,667	7,748	8,637
Total Domestic	11,121	13,977	13,555	14,130	15,151	15,424	16,944	18,547	19,027	20,761
Transhipment	419	105	158	227	143	174	732	518	589	874
TOTAL	16,415	19,062	18,934	19,953	21,920	22,307	24,875	26,732	27,364	30,345
% of M	80.8	86.6	85.6	84.9	85.4	85.8	83.5	84.8	84.5	84.4
% of Kenya Imports	79.5	85.1	82.6	83.3	82.7	84.0	83.1	83.6	83.6	85.3

Source: Kenya Ports Authority, annual Review and Bulletin of Port Statistics, Various Issues and Own Computation

The average share of imports for the period 2008/2017 was 84.6%, which from a volume perspective is a challenge to merchandise trade because it means shipping back empty vessels, which can constrain trade flows. The scenario is however grossed over when one looks at the whole port. It is worse for the hinterland countries even though no major improvement is recorded for Kenya. The share of import trade averages 83.3% which leaves a complement of 16.3% for exports. When one recalls that Kenya subscribes nearly 72% of total trade through the Port of Mombasa, the challenges towards running financially healthy and stable transport services become apparent.

2.2.2.3 Great Lakes Region

The Port of Mombasa, to a very great extent serves the Great Lakes Region and the traffic to this region for the last ten years is presented in the table 2.22 below.

Table 2-22: Transit Traffic Handled Through the Port of Mombasa in '000 DWT

Country	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Uganda	3,701	3,980	4,233	4,376	4,845	4,932	5,222	5,977	6,345	7,113
DR Congo	304	289	430	355	482	512	408	396	377	360
S Sudan	223	167	223	417	767	775	761	703	598	674
Rwanda	293	250	288	226	260	240	236	292	190	180
Burundi	57	20	7	2	39	67	79	76	36	22
Tanzania	251	253	179	161	186	192	188	205	182	272
Others	44	21	21	58	45	11	5	19	15	17
Total Transit	4,874	4,981	5,382	5,596	6,626	6,709	7,199	7,677	7,749	8,638
Transhipment	419	105	158	227	143	174	732	518	589	874
Kenya	11,122	13,976	13,394	14,130	15,151	15,424	16,944	18,537	19,026	20,760
Total	16,415	19,062	18,934	19,953	21,920	22,307	24,875	26,732	27,364	30,345
% Transit	30	26	28	28	30	30	29	29	28	28

Source: Kenya Ports Authority, Annual Review and Bulletin of Port Statistics, Various Issues Own computation

The share of transit traffic, traffic to other hinterland countries except Kenya where the Port is homed, has remained more or less the same at about 28.6% for the last ten years. The trend has also been reminiscent of that of the entire port, as it has grown at a rate of 6.6 %, while the whole port grew at 7.1%. The lower rate of growth could be as a result of political strive in some of the countries while improved other supportive infrastructural facilities could explain change in the fortunes. This is literally true for most of the countries especially in the recent past few years except for Uganda.

Table 2-23: Transit Exports and Imports through the Port of Mombasa ('000 DWT)

Country	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Uganda M*	3,374	3,687	3,942	4,028	4,499	4,508	5,132	5,593	5,922	6,590
Exports	327	294	290	347	346	404	390	384	424	523
Total	3,701	3,980	4,233	4,376	4,845	4,912	5,522	5,977	6,347	7,113
Tanzania M*	236	231	168	150	168	180	173	191	171	244
Exports	15	22	11	10	18	12	15	14	11	27
Total	251	253	179	161	186	192	188	205	182	272
Burundi M*	55	19	6	1	39	66	79	76	36	22
Exports	1	1	1	1	0	1	0	0	0	0
Total	56	20	7	2	39	67	79	76	36	22
Rwanda M*	277	236	276	216	248	223	221	274	180	167
Exports	17	14	12	10	12	17	14	18	14	12
Total	294	250	288	226	260	240	236	292	194	180
S. Sudan M*	220	156	190	376	736	716	697	652	552	546
Exports	3	12	33	41	30	59	64	50	46	128
Total	223	168	223	417	766	775	761	702	598	674
DR Congo M*	264	263	402	339	465	491	383	363	342	317
Exports	40	26	29	16	17	20	24	33	35	43
Total	304	289	431	355	482	512	408	396	377	360

Country	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Others M*	44	20	20	54	45	11	4	19	14	17
Exports	1	0	1	5	0	0	0	0	1	0
Total	45	20	21	59	45	11	4	19	15	17
Total Imports	4,430	4,612	5,004	5,166	6,201	6,196	6,691	7,167	7,217	7,903
Total Exports	404	368	377	430	425	513	508	500	531	734
Total	4,874	4,989	5,382	5,596	6,626	6,709	7,199	7,667	7,748	8,637
%M in Total	91	93	93	92	94	92	93	93	93	92

Source: Kenya Ports Authority, Annual Review and Bulletin of Port Statistics, Various Issues and Own Computation. **(M*: Imports)**

The maritime trade for all the transit countries is heavily influenced by imports, which averaged 92.6% leaving a balance of only 7.4% attributable to exports. This imbalance is likely to affect the cost of transportation because of absence of return loads by most trucks, which have to endure empty runs on their trips from the hinterland. Furthermore, the imports have grown at annual rate of 6.64%, which largely explains the growth in total transit traffic.

It is evidently clear that Uganda is the principal source of the growth in transit traffic because it carries the lion's share averaging 80% for the last ten years. The growth for Ugandan traffic alone averaged 7.5%, which further supports our assertion that Uganda appears as the engine of growth along the Northern Corridor. The contribution by Kenya grew by 7.2%, which is fairly robust given that Kenya contributes in excess of 70% of the total port traffic.

In the last two years, the contribution by DR Congo, Rwanda and Burundi has decreased possibly following the infrastructural development along the Central Corridor and Tanzania at large. It is apparent that the Port of Dar es Salaam has a competitive advantage from a spatial dimension perspective, in that the three countries are nearer by road not to mention the number of border crossing points with associated requirements.

This study is focused on the Northern Corridor countries that are members of the East African Community, namely Kenya, Uganda, Rwanda and Burundi (KURB). In this regard, Table 2.24 below details contribution of these four countries to the total port traffic.

Table 2-24: KURB Traffic through the Port of Mombasa in '000 DWT

Country	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Uganda M*	3,374	3,687	3,942	4,028	4,499	4,508	5,132	5,593	5,922	6,590
Exports	327	294	290	347	346	404	390	384	424	523
Total	3,701	3,980	4,233	4,376	4,845	4,912	5,522	5,977	6,347	7,113
Tanzania M*	236	231	168	150	168	180	173	191	171	244
Exports	15	22	11	10	18	12	15	14	11	27
Total	251	253	179	161	186	192	188	205	182	272
Burundi M*	55	19	6	1	39	66	79	76	36	22
Exports	1	1	1	1	0	1	0	0	0	0
Total	56	20	7	2	39	67	79	76	36	22
Rwanda M*	277	236	276	216	248	223	221	274	180	167
Exports	17	14	12	10	12	17	14	18	14	12
Total	294	250	288	226	260	240	236	292	194	180
S. Sudan M*	220	156	190	376	736	716	697	652	552	546
Exports	3	12	33	41	30	59	64	50	46	128
Total	223	168	223	417	766	775	761	702	598	674
DR Congo M*	264	263	402	339	465	491	383	363	342	317
Exports	40	26	29	16	17	20	24	33	35	43
Total	304	289	431	355	482	512	408	396	377	360

Country	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Others M*	44	20	20	54	45	11	4	19	14	17
Exports	1	0	1	5	0	0	0	0	1	0
Total	45	20	21	59	45	11	4	19	15	17
Total Imports	4,430	4,612	5,004	5,166	6,201	6,196	6,691	7,167	7,217	7,903
Total Exports	404	368	377	430	425	513	508	500	531	734
Total	4,874	4,989	5,382	5,596	6,626	6,709	7,199	7,667	7,748	8,637
%M in Total	91	93	93	92	94	92	93	93	93	92

***Source: Own computation,* M*: Imports.**
URB: Uganda, Rwanda and Burundi.

The contribution of the three landlocked East African Community partner states averages 24% of the total port traffic, which is a very significant contribution. When one adds Kenya's share, the contribution by the concerned states served by the Northern Corridor, rises to an average of 93% thereby diluting the contribution by transhipment and the share of the other transit countries namely Tanzania, DRC Congo, South Sudan and Somalia. Indeed, this share relegates the other hinterland States to individually marginal contributions. It is possibly for this reason that Mombasa can be considered as more of an EAST African Community Port.

The share of traffic subscribed by the four East African Community states of Kenya, Uganda, Rwanda and Burundi is summarized in Table 2.24 above. As expected, the contribution of the four states masks that of the other four transit countries of Tanzania, DR Congo, South Sudan and Somalia.

2.2.2.4 Cargo Treatment

All the transit cargoes in the Port are treated the same. There are no preferential treatments for all transit traffic except for South Sudan bound import cargoes where they have to be channeled through two specific Container Freight Stations for purposes of easing management from a Customs point of view. All other cargoes are grouped together, even though unlike Kenyan imports that are required to be channeled through CFS, the import transit containers stay in the Port awaiting delivery to the consignees.

2.2.2.5 Container Freight Stations

The CFSs have contractual arrangements with the Port to receive and store import containers on its behalf, are allowed two days of free storage before they can evacuate the containers. However, they are to extend to four days of free storage to the clients before they can levy storage charges, which are based on the Published Tariff.

The services provided to cargo are receipt/delivery and storage; the relevant charge is shore-handling, which is charged as stipulated in the Tariff Book. Other charges such as remarshaling and storage charges, which is a penal charge for overstayed cargoes, is also charged as provided for on a per container/ton basis as detailed in the published KPA Tariff Book.

2.2.2.6 Free Period of Storage

Transit containers enjoy longer periods of free storage before penal storage charges kick in. However, when they start accruing, the rate is the same for both domestic and transit cargoes and is based on the container or ton per day. Domestic import containers are allowed four days of free storage, while the transit ones are allowed nine days. For loose cargo, they are allowed 7 and 11 days of free storage respectively. The storage charges are graduated through bands and rise progressively with a maximum rate reached and maintained at 30 days.

2.2.2.7 Rebates on Storage Charges

The Port can grant rebates on storage charges once a consignee applies for the same. There are guidelines on this and there is a threshold established against which the request is gauged and approved. Some stakeholders consider the storage period as a marketing tool where longer free periods of storage are used as baits to attract cargo. This tends to contradict the need for faster transit times including cargo dwell time.

2.2.2.8 Port Tariff

The Port is a common user facility where the service is provided on a non- discriminatory basis. It is provided on first-come first-served basis. The charges for services to both ships and cargo are based on a published tariff, which is reviewed periodically. Such comprehensive review was last done in 2009. In this connection, one can aver that the port services have in real terms been falling over time despite the fact that they are denominated in dollars.

As a pragmatic way of appreciating the challenges faced by the hinterland countries, the Port Authority allows a rebate on both their exports and imports almost at the level of 20% of the rates enjoyed by the Kenyan products. In the same vein, exports are offered a 20% rebate over that of imports even in the Kenyan case, which is understandably meant to make them more competitive in the world markets.

For dry bulk products that are delivered directly from the vessel, they enjoy a lower rate but this rate is applicable to all, transit or domestic cargoes.

For the cargo services provided to the vessel, i.e. stevedoring, the service charge is the same regardless of whether export or import. In Mombasa, this service is paid for by the Shipping Line or agent even though the final burden lies with the consignee. It is based on container or weight per ton for loose cargoes and cubic measures for motor vehicles. Other charges such as pilotage or tug services are based on registered tonnages as is universally the case.

2.2.3 Trucking Services

2.2.3.1 Trucking Evolution along the Northern Corridor

The transportation of goods into or from the hinterland can be undertaken through road, rail or conveyed by pipelines. The carriage of goods by trucks on road is deemed as trucking and in this regard, it will address the carriage of goods from and into the Port of Mombasa by road trucks from and into the hinterland served by the Northern Corridor as defined within the East African Community protocols.

The provision of competitive, reliable and stable transport services for international and regional trade is crucial for the countries of the Northern Corridor. This is necessary for the entire transport logistics chain covering both the surface and maritime segments and in all transit terminals that goods pass through.

It should be noted that the primary mode of transport from the Port of Mombasa to its hinterland was dominated by rail until the mid-1960's when the Mombasa/Nairobi highway was constructed to bitumen standard. In subsequent years the rail lost their share of traffic due to non-competitive services arising from poor infrastructure that ensued due maintenance backlogs for both track and rolling stock. While rail controlled most of share of the Mombasa borne traffic prior to independence, gradually the road sector took over the largest share reaching up to over 95 per cent prior the commencement of the SGR operations in January, 2018.

The road sector continues to handle the bulk of freight beyond Nairobi and to provide most of the last mile freight transportation along the vicinities of the operational segment of the Kenyan SGR.

2.2.3.2 The Northern Corridor Transport Networks

The Northern Corridor consists of the hinterland served by the Port of Mombasa and covering six countries that are signatories to the NCTTCA Agreement plus other countries such as Tanzania and Ethiopia whose traffic passes through the Port of Mombasa. It is served by rail, road, pipeline and inland water transport on Lake Victoria.

The Corridor also has a number of transit terminals such as the Container Freight Stations (CFSs) based close to thePort of Mombasa and Inland Container Terminals (ICDs) based in the hinterland in the various countries.

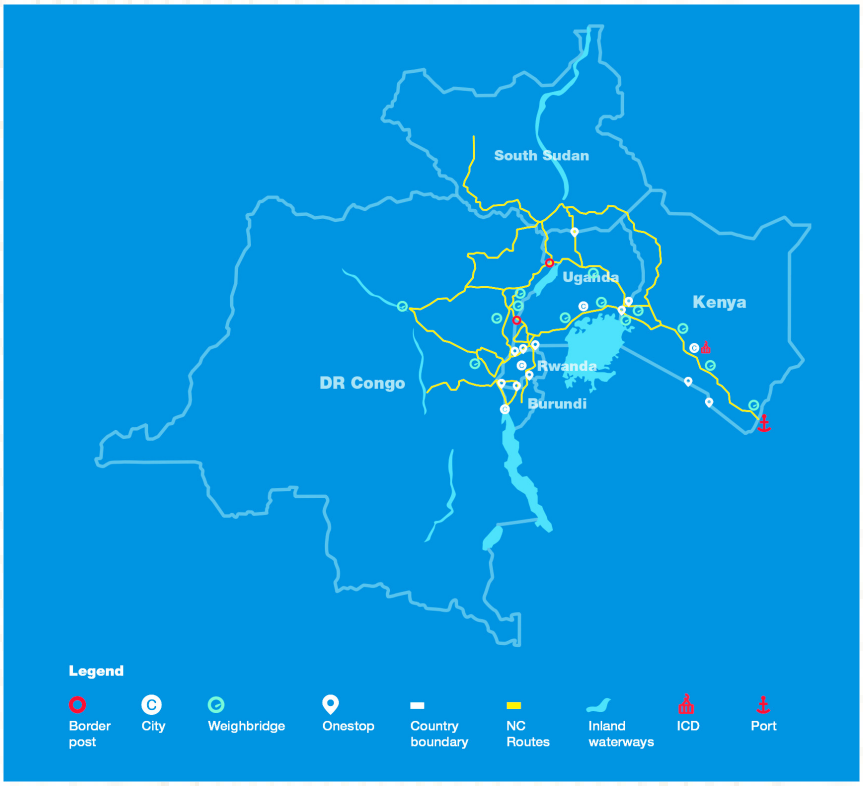
The major inland container terminals are located in Nairobi, Kisumu, Kampala and Kigali. There are also container handling facilities in Port of Bujumbura and Juba that are fed by traffic flowing along the Northern Corridor.

2.2.3.3 The Northern Corridor Road Network

The Northern Corridor is served by a trunk road network that stretches from Mombasa through the hinterland and branches into a number of segments, which terminate in cities such as Bujumbura, Kisangani, Goma, Butembo and Juba respectively.

The road network is paved to most of the designated destinations in Kenya, Uganda, Rwanda and Burundi but links to some designated cities in DR Congo and South Sudan are not yet paved. The map contained in Figure 2.14 below shows the road network serving the Northern Corridor.

Figure 2-14: Northern Corridor Road Network



Source: Northern Corridor Transport Observatory

The last major assessment of the Corridor road network was carried out in 2010 under the East African Transport Strategy and Regional Road Sector Development Programme. This assessment consisted of two major elements namely; road capacity and road condition. The state and quality of the road infrastructure varies widely along the Corridor with some paved segments being dilapidated due to lack of regular maintenance. On the other hand, the volume of traffic has increased in some segments requiring capacity expansion or the construction of bypasses around large cities like Nairobi, Eldoret, Jinja, Kampala and Kigali.

2.2.3.4 Factors affecting the Liberalization of transport Services within the EAC

The EAC Common Market Protocol lays down the rulebook for the economic integration of EAC Partner States. Part F of the Protocol contains the obligations with respect to trade in services. The Protocol provides that Partner States will progressively remove all barriers to trade in services and shall not introduce any new restrictions.

The Protocol further provides for a guarantee of National Treatment where by each Partner State shall give service providers from other Partner States the same treatment as service providers from their own country. This effectively will mean free competition for service providers across the EAC.

The Protocol commits Partner States to guarantee the free movement of services supplied by nationals of Partner States, and the free movement of service Suppliers who are nationals of the Partner States within the Community – this is a broad commitment to free movement of all service suppliers in all sectors in all Partner States. The EAC Treaty provides for co-operation to harmonize policies on key services sectors which include, transport.

However, liberalization of a service sector does not mean that the sector will not be regulated. The Protocol allows for regulation of service sectors in accordance with national policy as long as they are consistent with the Protocol and do not constitute barriers to trade in services.

Regulation will therefore still apply to many service sectors, for example, regulation of transport services to ensure that the quality of means of transport is maintained. EAC countries made commitments to liberalize subsectors in seven key services: business, communication, distribution, education, financial, tourism and travel-related and transport services. The liberalization period was envisaged to be between 2010 and 2015.

While the EAC acknowledges the need to rationalize rail development within the region and to harmonize road and rail transport operations along the main corridors, the lack of harmonized transport policies among the partner states has been a major hindrance to the liberalization of the sector.

While COMESA, EAC and SADC have had some successes in trade facilitation through individual REC programmes, there have been challenges, including the requirement to implement different trade facilitation programmes and different instruments in countries that belong to more than one REC. Some of the divergent transport policies include:

- In Rwanda Companies applying for licenses are subject to a minimum fleet size requirement (i.e. if a company owns less than the specified number of vehicles, no license may be issued). The Licensing Board is empowered to set tariffs and such tariffs form part of the licensing conditions. Hence, the Board may interfere in the market's price setting function ;
- The lack of implementation of the EAC hormonised road user charges among the partner states;
- Lack of implementation of the EAC Harmonised Axle Load Limits and Gross Vehicle Mass (GVM); and
- Lack of harmonization of transboundary cargo and transport equipment tracking systems.

The list of road charges applicable in the East African Community Partner States is shown in Table 2.25 below.

Table 2-25: Types of Road Charges in EAC Partner States

S/N⁰	Types of Road Charges	East African Community Partner States				
		Burundi	Kenya	Rwanda	Tanzania	Uganda
1	Fuel levy	X	X	X	X	X
2	Transit fees	X	X			
3	Road license					X
4	Road Toll			X	X	X
5	Weight distance charges					X
6	Foreign Authorization permits	X	X	X	X	X
7	Cross border fee	X	X	X	X	X

Source: Study on the harmonization of Road Transport User charges in EAC. Case of Kenya (2016)

In summary therefore although EAC Partner States have formulated transport policies, such policies differ in terms of their comprehensiveness, content and the extent to which they specifically are implemented and address issues related to corridor performance. In particular, policies do not spell out how governments will implement the commitments they have assumed in signing up to membership of RECs and corridor institutions.

Although EAC Partner States have agreed to develop a common transport policy, existing policies so far contain little evidence of this as they tend to largely reflect national pre-occupations contrary to the desired Common Transport Policy as set out in Articles 89 and 90 (East Africa Community, 2007: pp 69-64) of the EAC Treaty. In particular, the legislative and institutional measures needed to implement regional agreements domestically are inadequate.

Most EAC Partner States have, however, implemented measures to replace the former system of quantitative with qualitative regulations. In order to effectively implement the current and future regulations, governments will need to invest in personnel, systems and procedures to be able to comply with regional agreements on road transport. This also creates an opening for protectionist measures to be reintroduced and for new non-tariff barriers to be erected. For

instance, states that have not licensed foreign trucks such as Rwanda and Burundi are now contemplating introducing such requirements (which would also be a contravention of their commitments under the Tripartite Agreement).

In summary it is noted that road transport has been substantially liberalized in Kenya and in the rest of the East African Community through more liberal licensing of transport operators, removal of cargo reservations and application of common road user charges across countries. The East African Common Market Protocol which includes provisions on Trade in Services provides for progressive removal of barriers to trade in services prohibits the introduction of any new restrictions.

2.2.3.5 Regulatory Environment

The regulatory regime in road transport covers both economic and technical issues. The economic regime deals with the provision of access to cargo by truckers while the technical regime deals with safety and environmental issues. The main regulatory areas are in the road sector deal with the following issues among others:

- Safety of road transport (vehicle roadworthiness and driver competence);
- Licensing of transporters;
- Rights of access to cargo;
- Customs (payment of duty and avoidance of cargo diversion of non-duty paid cargo into local markets); and
- Environmental issues

It should be noted that economic regulation may create problems for trucking operators when they distort prices from adjusting to market conditions or constrain new entrants into existing markets and existing logistics providers entering new markets.

The work of regulators may therefore impose conditions such as nationality of operators, routes, cargo types and other licensing conditions which restrict the access to cargo for some potential service providers hence restricting competition.

2.2.3.6 Conditions for Market Entry

The conditions of entry into the trucking industry are important in creating an enabling environment for industry competition. These conditions depend on the regulatory regime, the capital investment thresholds and the skills that a new entrant needs to marshal in order to carry out efficient transport operations.

The regulatory regime involves the pertinent licensing conditions and the rights of access to the cargo potentially available along the entire Corridor. Licensing is done by the appropriate state agencies such as the road safety agencies and by the Customs authorities. While the roadsafety agencies and road development authorities consider road safety, road user charges and environmental issues, the primary objectives in Customs licensing are to protect the loss of revenue through nonpayment of duties and also to fulfil other obligations that Customs Authorities exercise under their national mandates. Licensing by various agencies may impose conditions that may preclude some operators to provide transit and cross-border transport and also impose restrictions on access to cargo. In all but a few licensing cases, there are fees to be paid to obtain the licenses.

In the four countries, the Customs Authorities issue the licenses for conducting transit transport based on the integrity of the transporters. The transporters are expected to be compliant with Customs requirements with respect to use of Northern Corridor designated routes, integrity in ensuring that while their trucks are carrying dutiable goods, cargo diversion does not take place and that Customs seals are maintained intact along the transit journeys. The Northern Corridor designated routes are provided for under the Northern Corridor Treaty and include rail, backbone road transit routes and the inland water transport on Lake Victoria.

The national transport authorities in the four countries issue licenses for compliance with road-worthiness of vehicles, environmental standards and drivers' competencies among others. While trunk-road network passes through counties and various other local authorities' domains in Kenya and other countries on the Northern Corridor, these counties and local authorities are not granted any powers or mandates to license and regulate international road transport.

Attempts by counties or local authorities to license or regulate international transport have not been granted by any country as it would constitute a non-tariff barrier (NTB). As the many of the charges raised by many licensing/regulatory agencies are not based on services rendered, their levels if high can create barriers to entry especially when they are intended to raise revenues to the respective agencies.

On the other hand, Customs licenses impose conditions on truck operators that restrict them to carry only transit cargo only to or from their respective countries and preclude them from lifting third country traffic and cabotage cargoes. Such licensing results in excess capacity as trucks are compelled to make empty runs even where cargo is available but is denied by the license conditions.

There has been consistent effort over a long period of time in the Eastern and Southern Africa region spearheaded by COMESA, EAC and SADC to liberalize transit traffic to make it accessible to all road carriers but the goal has not been achieved because of resistance by states that prefer to reserve national cargoes to their national carriers. In the case of financial requirements, it is noted that there are challenges for new entrants because of the high cost of trucks and the necessary infrastructure to set up a trucking enterprise. This is because of high prices for purchasing new trucks and high costs of borrowing.

2.2.4 Rail Haulage

2.2.4.1 Background to Rail Transport

Following the collapse of the East African Community in 1977, Kenya's portion of the railway became the Kenya Railways Corporation. Over the next 30 years, Kenya's railway network deteriorated primarily from lack of maintenance and little investment in new infrastructure in both the rail network and rolling stock. In 2006, the operations were taken over by Rift Valley Railways (RVR) under a 25-year concession agreement under whose tenure even worsened the already bad situation as freight cargo took a major dip.

With the operationalization of SGR in early 2018, there have been challenges of getting enough cargo forcing the government to introduce a promotional tariff and railing cargo destined to the hinterland to ICD Nairobi without adequate consultation with the shippers. This has brought up complaints from the affected stakeholders especially the road transporters and CFSs.

In 2016, the government of Kenya completed a new Standard Gauge Railway (SGR) to Nairobi, financed through Exim Bank of China. The Line currently runs from Mombasa to Nairobi and is expected to progress to Malaba border of Kenya/Uganda. The line to Naivasha is in progress. It is expected that the government of Uganda will also build Malaba-Kampala to complete the Line.

Freight traffic on the Kenya and Uganda's railways in 2008 was only 1.65 million metric tonnes. Traffic has dramatically dropped over the past twenty years. While the traffic of Kenya Railways only was 4.5 million in the early 1980s, the current Northern Corridor rail traffic represents one third of that tonnage. At that time, the railway market share of freight transport exceeded 40%. In its present condition, the capacity of the Northern Corridor main railways (MGR) could be estimated at less than 5 million tonnes per annum. The actual tonnage railed in the recent times is hardily 4% of the total port traffic, (KPA, Annual Review and Bulletin of Statistics 2017). With the investment in SGR, rail traffic is expected to increase to 7 million tonnes shortly rising to 15 million tonnes by 2030.

2.2.4.2 Rail Freight Cargo

The first Phase of SGR project is directed towards movement of freight and passengers between Mombasa and Nairobi with emphasis on freight of cargo. It is further underscored that the cargo expected to dominate the freight is the containerized category. The Feasibility study conducted by CRBC concedes that the considered traffic is actually the port throughput.

The over-dominance of imports over exports by a factor of almost 4.9 leads to a serious imbalance that certainly affects the cost of transporting goods in either direction. Table 2.26 below shows the traffic volumes and the share of exports for seaborne cargo passing through the Port of Mombasa for which the railway had access to but transported only a minor share.

Table 2-26: Exports Share between 2013 and 2017

Year	2013	2014	2015	2016	2017
Imports (m DWT)	19.2	20.8	22.7	23.1	25.6
Exports (m DWT)	3.0	3.4	3.5	3.7	3.8
Transhipment (m DWT)	0.2	0.7	0.5	0.6	0.9
Total Throughput (m DWT)	22.4	24.9	26.7	27.4	30.3
% of Exports	13.39%	13.65%	13.11%	13.50%	12.54%

Source: KPA 2017, Annual Review and Bulletin of Statistics, Various Issues

2.2.4.3 Rail Tariffs

Much as volume could be there, the most important consideration is the competitiveness of the SGR. According to the feasibility study, the RVR charges about US$ 0.05/ton/km. This translates to US$ 1080 per TEU. The road on the other hand charges US$ 0.15 to 0.20/ton/km. SGR will charge 0.08/ton/km.

2.2.4.4 Cost of Transporting a 20-ft Container to the Customer

The cost of transporting a 20-ft container as per the tariff is $500. To compare the total cost to the customer's premises, it is necessary to add all the other associated costs.

(i) The Shipping Lines/Agents add a mark-up for the Through Bill of Lading (TBL) containers railed by RVR to ICD Nairobi. As a matter of practice, most shipping lines quote this mark-up at US$ 300 per TEU. This has been adjusted to US$ 150 for rail served cargo.

(ii) The containers delivered to ICD will suffer the US 100.00 per TEU for the last mile;

(iii) KPA has reduced the tariff by $30 in Mombasa but retained the ICD handling charges of $35.00 and Terminal Handling Charges of US$ 25.00 respectively. The total incidental costs for passing through the ICD will be $180 for both fully loaded; and

(iv) The empty being railed back to Mombasa is quoted at US$ 100.

Table 2-27: The True Price Tabulation for transporting a TEU

Price for Transporting a TEU	
Upward direction (Msa-ICD)	500.00
KPA handling charges in Msa and Nrb	180.00
Last Mile including return of empty	150.00
Downward direction (ICD-Msa)	100.00
Shipping Line Charges on TBL	100.00
Total	**1,030.00**

Source: MBEC 2017

For a client who will use the new railway to transport cargo in containers through the ICD, one will have to incur US$1030 per TEU. The current price by the road sector is about $800 for a door to door service.

2.2.4.5 Promotional Tariff between 4th January 2018 and 30th June 2018

To promote usage of the rail, KRC issued a promotional tariff for six months as shown in Table 2.28 below.

Table 2-28: Promotional Tariff

Size	Weight Range in Tonnes	Rate USD for Loaded Container		Empty Container Return Rate USD	
		Up Direction	Down Direction	Ex UP Direction by Rail	Ex UP Direction by Road
20' Container	Full range	250	150	100	150
40' Container	Full range	300	200	100	150

The minimum chargeable distance for all types of goods for up and down direction is 300 km

Value Added Tax (VAT) is levied by the Government at 16% on domestic freight. Others are taxed as below:

1. Transit cargo is zero rated

2. Export cargo is zero rated

3. Transportation cost to and from the Inland Container Depot - Embakasi is zero rated .

Source: Kenya Railways Corporation

The above price is complemented by reduction in Tariff in port handling charges for SGR bound containers by $40 for 40ft and $30 for 20ft. This is indeed competitive for the customer as it reduces the overall total cost by about $240 same rate with road. These promotional rates have were extended to December 2018

A review of the volumes of cargo carried out over the last 20 years reveals that RVR was carrying 10% in 2006 when they took over, declining to 2% of the freight volumes from the Port of Mombasa in 2017. Available data shows that RVR carried 1.7 million tons of cargo in 2013 compared with 1.6 million tons in the previous year. However, this was far below the freight volumes that were carried in the years prior to the concession.

2.2.4.6 Pricing by RVR

The Northern Corridor railway route was operated by Rift Valley Railways, which charged USD 500 per twenty-foot container, and 1,000 for a forty-foot container from the Port of Mombasa to the Nairobi Inland Container Depot (ICDE) yard in Embakasi. For the Kampala route the rates were USD 1,250 and USD 2,200 respectively. The Shipping Lines/ Agents by practice added a markup of $300 for the Through Bill of Lading (TBL) for containers railed by RVR to ICD Nairobi which has become entrenched as a practice.

The return route had lower rates since most of the containers were empty. For Kampala the rate was USD 600 and USD 700 for a twenty foot and forty foot container respectively. Similar rates from Nairobi to Mombasa were USD 200 and USD 400 dollars.

Table 2-29: Rift Valley Railways Rail rates between Mombasa, Nairobi and Kampala

	From Mombasa		To Mombasa	
Ft/Route	***Nairobi***	***Kampala***	***Nairobi***	***Kampala***
20 Ft.	USD 500	USD 1,250	USD 200	USD 600
40 Ft.	USD 1,000	USD 2,200	USD 400	USD 700

Source: KRC Tariffs

The actual price thus for a Nairobi bound 40 foot container is $1,300 in addition to the last mile approximated to be $200 making it is a total of $1,500. This price excludes return of empty container to the shipping line nominated yard in Mombasa.

These prices when compared to those for road are expensive probably explaining why RVR could not effectively compete with road. A survey by Shippers Council of East Africa in 2015 revealed the following prices by the road sector.

Table 2-30: Pricing by Road Transport

Year	Nairobi	Kampala	Kigali	Bujumbura	Goma	Juba
2015	1000	2500	4500	6900	6900	5500
2014	1045	3700	4800	6500	7000	7500
2013	1200	3000	4900	9000	7500	7200
2012	1200	3000	4900	9000	7500	7200
2011	1300	3400	6500	8000	9500	9800

Source: 2015 East Africa Performance Survey

The price for a Nairobi bound 40 foot container is $1,000 for a door to door service that includes a return of the empty container. The tariff for Kampala bound container is fairer ($2,200 plus shipping line charges of $300) at $2,500 similar to what was being charged by road except that for road, it included return of the empty container while for rail, one has to add $600.

2.2.4.7 Railway Concession (Rift Valley Railways -RVR)

Prior to 2006, the operation of the railway in Kenya and Uganda was run by Kenya Railways Corporation (KRC) in Kenya and Uganda Railways Corporation for Uganda. Because of poor uptake of cargo, it was deemed fit that the Kenya-Uganda railways be operated under a concession (KRC). Thus, in November 2006, the Rift Valley Railways Consortium took over the operation of railways under a 25-year concession. However, RVR was unable to turnaround railway operations, hampered by inept management and aging infrastructure. As a result, by early 2017, both the Kenya and Uganda Railways Corporations had terminated the concession. Kenya Railways has since stopped the operation of the metre gauge rail between Mombasa and Nairobi, leaving only the SGR.

The Table 2.31 below shows three years prior to the Concession, rail transport accounted for 10% of the cargo freight.

Table 2-31: Mode of Container Transport in TEUs between 2006 and 2006

Details	2004	2005	2006
TEUs by Road	320,552	312,592	334,269
TEUs by Rail	37,285	37,285	37,285
Total TEUs	**357,837**	**349,877**	**371,554**
Percentage Share			
Road	89.6%	89.3%	90.0%
Rail	10.4%	10.7%	10.0%
Total	**100.0%**	**100.0%**	**100.0%**

Source: Kenya Ports Authority. Annual Review and Bulletin of Statistics, Various Issues

However, after the concession to RVR, as cargo increased the volume freighted by the railway decreased as shown on table 2.32 below.

Table 2-32: Mode of Container Transport in TEUs between 2007-2017

Details	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
TEUs by Road	415,780	432,437	422,849	420,857	489,945	699,258	730,603	799,827	875,069	945,347	978,353
TEUs by Rail	37,285	32,494	21,668	24,478	25,268	24,997	26,653	21,672	21,642	21,902	19,571
Total TEUs	**453,065**	**464,931**	**444,517**	**445,335**	**515,213**	**724,255**	**757,256**	**821,499**	**896,711**	**967,249**	**997,924**

Details	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Percentage Share											
Road	91.8%	93.0%	95.1%	94.5%	95.1%	96.5%	96.5%	97.4%	97.6%	97.7%	98.0%
Rail	**8.2%**	**7.0%**	**4.9%**	**5.5%**	**4.9%**	**3.5%**	**3.5%**	**2.6%**	**2.4%**	**2.3%**	**2.0%**
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Source: Kenya Ports Authority, Annual Review and Bulletin of Statistic, Various Issues

2.2.5 Trade along the Northern Corridor

2.2.5.1 Trade and Transport on Northern Corridor

Road transport is the main means of transportation in the East African region, for both goods and people. This is because the road network is relatively more developed than other means of transportation such as the railways system, which has remained still since the colonial period until recently. Mombasa is the major port, with most goods destined for the East African region (and beyond) transiting through the Northern Corridor, making it the major transit route handling about 75 per cent of the trade volume destined for the EAC region.

Table 2.33 provides the Northern Corridor intra-EAC exports. (Kenya's exports in value and volume to other NC partner states) for the fourth quarter of 2015.

Table 2.33: Northern Corridor intra-EAC Exports

Country	October 2015		November 2015		December 2015	
	Volume in DWT	Values in USD	Volume in DWT	Values in USD	Volume in DWT	Values in USD
Burundi	3,951,434	3,888,976	4,359,305	4,353,752	5,758,606	5,226,983
DRC	14,215,581	16,475,393	13,656,057	18,221,813	15,771,102	19,955,359
Rwanda	19,199,065	13,694,428	14,802,987	12,889,489	19,033,581	14,758,002
South Sudan	18,178,722	10,319,286	18,078,819	10,944,144	22,076,043	15,451,372
Uganda	94,491,136	54,020,610	86,913,277	47,486,952	104,018,350	45,502,498

Source: Northern Corridor Transit and Transport Authority /www.ttcanc.org 2018

A substantial volume of intra-regional trade is handled by the Northern Corridor, given that most of the main markets are in Kenya's neighborhood.

2.2.5.2 Trade between Kenya and Other NC partner States

Kenya is the leading player in terms of exports to the NC region. Kenya's main exports through the Northern Corridor are manufactured exports consisting of mainly tobacco, machinery, transportation equipment, petroleum products, oils, motor vehicles, iron and steel, agricultural products, paper and paper products, pharmaceuticals, fertilizer, construction materials among others. Uganda accounts for about 49.85% of Kenya's exports to the NC Region. Imports are minimal compared to exports, with Uganda accounting for about 93.9% percent of the imports (Table 2.34).

Table 2-34: Trade between Kenya and other NC member states between January and July 2017

Country	Exports (USD)	Imports (USD)	Trade Balance (USD)
Burundi	52,589,689	349,680	52,240,009
Rwanda	110,607,470	10,901,319	99,706,151
South Sudan	116,626,319	139,446	116,486,873
Uganda	399,275,245	205,033	399,070,212
DRC	121,831,098	1,935,654	119,895,444

Source: Computations from Northern Corridor Transit and Transport Authority /www.ttcanc.org 2018/Kenya National Bureau of Statistics

The following factors, other than the price of the product and incomes, influence the volume of Kenyan exports along the Northern Corridor:

(i) Delays

Delays caused by stoppages along the Corridor occasion high administrative and operation costs. The stoppages lead to inefficient utilization of trucks thus increasing substantially the cost of exports, rendering them uncompetitive. These stoppages are occasioned by weighbridge checks, police checks and road blocks and vehicle breakdowns due to poor road.

(ii) Freight charges

The road freight charges are still high at approximately US$2.23 per Km for containerized cargo between Mombasa and Kigali. Mombasa to Kampala is 1.79 US$ per container per kilometer while Mombasa to Bujumbura recorded US$3.07 for every container per kilometre. According to the Northern Corridor Observatory Report, 2015, this increases the cost of transportation by about 30 to 40 percent.

(iii) Disharmonized Road transport policies

Road policies and transport user charges are not harmonized within the NC countries. Each country charges differently even though there are common rates established for Transport. Transport rates from Bujumbura are charged per ton with rates ranging from 0.07 USD per ton per kilometre to 0.15 USD for each ton per kilometre (Northern Corridor Transport Authority 2016 indicators).

(iv) Distance

Distance impacts on transport costs as it affects truck turnaround time. High truck turnaround time implies high volumes of cargo transported along a particular road, thus low transport rates. The average fixed costs are higher for shorter distances like the case for Kigali to Bujumbura/Goma.

(v) Transit Procedures

Transit procedures such as Customs clearance, police road blocks, weigh bridge checks and other administrative requirements, especially those related to security, escalates the cost of transportation as it also adds up to accommodation of drivers, parking fees and security for trucks spending overnight due to delays occasioned by these procedures. Inefficiencies witnessed at border points causes delays, thus increasing Transit times.

2.2.5.3 Transport costs and value of exports

The Bulk transportation of exports in Kenya and along the northern corridor are operated by the Railway network and private trucks. The Railway network operates on a two rates system. The upward direction from the Port of Mombasa to the mainland and border points of Kenya and Uganda and down direction from the mainland and the border points to the Port of Mombasa. The up-direction rates are higher than the down direction rates reflecting the demand pattern determined by the Kenyan pattern of trade; there is a higher tonnage of imports to be ferried in the up direction than the exports in the down direction.

The competition from roads is much stiffer in the down direction, the trucks usually have no tonnage after delivering imports and they charge very low rates for downward bound cargo and thus drive down the down direction rates even for railway. They are often interested in covering their fuel costs since 70% of the down direction traffic is empty trucks.

The rail line has two corridors to Uganda, the southern corridor through Kisumu and the Northern corridor through Malaba. The southern corridor is considered a more efficient route because of the Wagon ferry service over Lake Victoria. Through this corridor it is possible to transfer wagons from rail to ferry. However, the axle limit to 36 metric tonnes along the Nakuru—Kisumu route constrains the potential of a profitable route. The Northern Corridor Mombasa-Malaba-Kampala which has a higher axle load limit poses specific challenges; the rates within Uganda, Malaba – Kampala are very high to the extent they deter potential users off the line. Some transporters use the line to Malaba and then switch to trucks which again reduce efficiency through transhipment and double handling.

Other transporters opt to use the rail rates as a benchmark in determining the transport tariffs for transporting cargo in the upward direction. Though the railway system has a higher capacity, it is inefficient as it lacks door to door delivery. Since the major industries do not have warehouses along the railway line, the option entails transhipment and double handling—from wagons to trucks and from trucks to warehouse, this increases costs and lead time in delivery.

2.3 Regulatory Regime

The regulatory regimes governing the shipping, trucking and haulage services along the Northern Corridor are well documented depending on the mode of transport. All the service providers are subject to standard licensing procedures for business while the following are subject to specific licensing:

- Shipping lines pay a once for all registration by the Kenya Maritime Authority and are subject to the Kenya Merchant Shipping Act for both flag state and port state control;
- The trucking companies operate subject to respective national road safety regulations and also to the regional axle load and GVM standards and vehicle dimensions. The regional axle load and GVM standards and vehicle dimensions are harmonized for the Northern Corridor Partner States; and
- The rail corporations in Kenya and Uganda operate under their respective national Acts establishing them and the respective ministries responsible for railways in the two countries exercise the safety and commercial regulatory functions over the railways or their contractors.

In terms of competition among the various service providers along the Northern Corridor the East African Community Protocol together with individual national legislations apply across the Northern Corridor region.

2.4 Summary of the Literature Review

2.4.1 Shipping

IMO (2018) report considers shipping the main mode of transportation, accounting for 80% of global trade volume, making maritime shipping a very critical component in the development of the global economy

The global shipping industry, including East Africa, has changed profoundly especially on vessel ownership and operation, besides vessel deployment and routing specifically under the traditional liner services. Growth of industrialization has also driven seaborne trade in both raw materials and manufactured products.

Global Shipping Outlook

The global outlook for the shipping industry remains negative for 2018 for lingering overcapacity in most sectors (Fitch Ratings, 2017). However, The IMF has forecast global trade growth of 4% for 2018, compared with 4.2% in 2017 and 2.4% in 2016 (Lloyd's Loading List, 2017). Furthermore, Statistica (2016) analysis projects that the global container market demand will increase by a compound annual growth rate (CAGR) of approximately 4.7% from 2016 to 2019. The major trends expected in the global shipping market include increasing consolidation of key players, advancements in container shipping, increasing fleet management techniques and growing intermodal freight transportation (Koncept Analytics, 2017). Yet challenges linger, including product miniaturization, high cyclicality of the industry among others (Koncept Analytics, 2017), and global supply-and-demand imbalance. Cognizant of these dynamics, container carriers have had to optimize by vertical and horizontal integration.

Global Competition

Over the last five years the container shipping industry has become more concentrated, moving from a less than 20% share by the top four carriers in 1998 to about 60% in 2018 (ITF, 2018). The concentration changed from 300 in 1998 to 1400 in 2018 (HHI). There are lingering concerns about concentration, but so far, consortia and strategic alliances have proven to be mainly pro-competitive and open to necessary intervention by competition authorities, according to specific jurisdictions.

Recent Highlights on Cartel Practices in the Shipping Industry

Developed countries like the USA, the Europoean Union and Australia, have adequate legal framework and capacity to deal with matters relating to restrictive horizontal practices, collusive behaviour and other anti-competitive practices, this is evident by the hefty fines that have been imposed from time to time on various shipping lines in their respective jurisdiction.

2.4.2 Port Sector

The Port industry is there to serve the shipping industry and provides the interface between surface and maritime transportation. Developments in the shipping and maritime industries shape development of Ports. Many ports tend to compete at the level of service because each port tends to enjoy some spatial monopoly. Poorly performing ports can substantially reduce trade volumes and may have a greater dampening impact on trade.

The Port of Mombasa is owned and managed by the Kenya Ports, a wholly government owned State Corporation. It is a service port wherein it provides services to both cargo and ships except for some few bulk products that are dealt directly to the premises of third parties.

The Northern Corridor that serves the Great Lakes Region radiates from the Port of Mombasa which is a multipurpose common-user facility handling various types of cargo. In 2017, it handled 30.34 million tons which rose by 1.9 % to 30.92 million tons in 2018.

The Port of Mombasa is competitive with regard to the tariff. For stevedoring services, it charges US $ 105 per TEU while operators in theport of Rotterdam charge US$ 134 and a similar amount is charged by Port of Riga; Port of Helsinki charges $ 151 while Djibouti charges US$135. Singapore on the other hand charges US$ 55, (Rob Harrison et al, 2013)

The service levels are poor: cargo dwell time was 3 to 6 days while vessel turnaround time was 64.8 hours in 2018 compared to the world standard of 32.9 hours. Containers moved per hour averaged 31 in 2018 compared to 40 and above witnessed in ports of similar capacities. The berth occupancy was 78% at the Container Terminal thereby outstripping the 60 –70 percentage, largely globally acceptable limit.

2.4.3 Trucking

From the literature review conducted at national, regional and global levels, the following observations are made and are summarized below:

Under the Regulatory Regimes in the trucking industry, it is noted that globally, road transport is regulated to promote competition by removing barriers to market entry for transport services providers, enhance safety and reduce negative environmental impacts.

In the case of firm sizes, it is noted that the road transport industry consists of large numbers of service providers with differentiated capacities in terms of the sizes of vehicle fleets. Notwithstanding the size of their fleets, the transport operators are able to provide services with the large and small ones competing across various transport routes

With regard to tariffs, it was indicated that trucking tariffs, it was indicated that, where there was competition in the road transport sector, tariffs were comparable among service providers along common routes. The general tariffs were largely known to all transporters and access to business was primarily through the quality services offered if the regulatory regimes were transparent and non-discriminatory.

In summary, it was noted that NTBs exist along many transport corridors. These NTBs increase the cost of doing business through unofficial payments, delays at border posts and enroute and affect both shippers and road transport service providers. It was further noted that in the Eastern and Southern Africa region, various initiatives had been put in place to monitor and report NTBs along the main transport corridors in order to address them.

Road transport was the primary mode of surface transport along the Northern Corridor having overtaken the rail mode of transport in the late 1970s.The rail had initially dominated the carriage of cargo along the main rail served routes. Following the construction of the SGR, the railways may reclaim a substantial part of its share though road transport will continue to serve the areas not served by rail and also continue to provide services for the first and last miles to rail.

Regarding the Northern Corridor Road Network, it was noted that road infrastructure remains a challenge along the Northern Corridor and there is need to invest in regular maintenance to avoid pavement degradation. In addition, where design capacities cannot cope with increasing traffic volumes, there is need to upgrade the road capacity by dualling the busy segments and constructing bypasses especially around the busy cities.

On liberalization, it was noted that road transport has been substantially liberalized in Kenya and in the rest of the East African Community through more liberal licensing of transport operators, removal of cargo reservations and application of common road user charges across countries. The East African Common Market Protocol which includes provisions on Trade in Services provides for progressive removal of barriers to trade in services prohibits the introduction of any new restrictions

On market entry, it was noted that whereas the licensing regimes in countries on the Northern Corridor had been liberalized to provide and ease for the flow of transit traffic, some challenges still obtain especially with respect to access to third country cargo and on cabotage. Market access to road transport service providers is also constrained by financial challenges to new entrants as the costs of procuring trucks and other infrastructure are high.

2.4.4 Railway and Haulage

Rail transport is the second most important mode of surface transport after road and offers the best alternative for transporting bulky products for both local and export markets (Irandu E.M, 2000). It is more environmentally friendly and tends to profit from economies of scale. Rail is also less risky than road transport when it comes to accidents and tends to be cheaper in transportation of general merchandise.

Prior to 2016, the rail network in Kenya comprised of a single line, overland rail track from Mombasa through Nairobi, and Kampala to Kasese in western Uganda The key rail track for transit cargo runs from Mombasa to Kampala via Malaba.

In the recent past, railway sector has been losing market shares in freight transportation despite a general increase in freight volume. However it would appear that this scenario was not unique to East Africa only. In Sweden for example, in 1970, the share of cargo was 43% which has declined to 32% in the recent years. This realisation caused European Union to come up with a number of “Railway Packages” directed at enhancing the competitiveness of the sub-sector by for instance, liberalizing rail freight services. Furthermore, a number of large seaports have set ambitious targets to increase the rail market share, and are taking active roles as investors and facilitators.

2.4.5 Trade along the Northern Corridor

Transport costs remain a major determinant of the volume of trade and that time saved in transit is a major contributor to transport costs. Delays at borders crossings along the Northern Corridor have been estimated to cost $250 per day for a truck company. According to the Northern Corridor Observatory Report 2015, distribution and transportation costs along the Northern Corridor have been more than 35 to 40 percent of final product costs. It is estimated that the total indirect (hidden) costs per day for delays are approximated at $384.4 for a loaded truck along the Northern Corridor. This has greatly undermined trade expansion along the northern corridor.

Most companies in the region prefer to outsource their logistical transport services independently, possibly in ease of accessing these services and not to tie their finances with investment.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CONNECTING NATIONS,
PROSPERING PEOPLE

3 METHODOLOGY OF DATA COLLECTION

3.1 Introduction

The research involved a desktop review of existing studies and research findings, collation of publicly available data and face to face interviews using a questionnaire with key industry participants, policy makers, regulatory authorities and various other relevant stakeholders.

The stakeholders were identified, specific questionnaires were prepared and data was collected through direct face-to-face interviews. In a few cases, the respondents, especially the Shipping Lines/or Agents, remained with the questionnaires to consult further with their principals before completing and sending them back.

3.2 Stakeholder Mapping

Stakeholder mapping involved identification of a key stakeholders list (service providers, shippers, various agents, advocacy groups, organizations, government departments, regulatory and licensing agencies etc.) across the entire stakeholder spectrum of the sub sectors under study and directly related to shipping, trucking and haulage industry and the study objectives.
Following the above, the Consultant identified and listed the stakeholder groups as indicated in Figure 3.1 below;

Figure 3-1: Stakeholder groups

3.3 Target Population

The target population was 20 Shipping Lines/Agents that called at the Port of Mombasa in 2017, the Trucking companies, Shippers, Government Agencies, Freight Forwarders and Associations. For trucking companies, a target population of 2,000 companies registered by NTSA and the Revenue Authorities in the partner states were identified. Four transporters' Associations from each partner state and Government bodies that cut across the entire sector. Other stakeholders included Clearing & Forwarding Agents, Shippers (Cargo owners) registered at the East African Shippers Council and CFSs.

The table below presents the population of study;

Table 3-1: Target Population

No.	Sector	Target population
1	Shipping Lines	20
2	Shipping Agents Association	1
3	Trucking companies	2,000
4	Transporters Associations	4
5	Shippers (Manufacturers, Exporters & Importers)	127
6	Shippers Councils	1
7	Manufacturers Associations	4
8	Traders Associations	1
9	Railway Corporation (KRC & URC)	2
11	Port Authorities	1
12	Police (in the four countries)	4
13	Regulatory Authorities	4
14	Federation of East African Freight Forwarders	1
15	Clearing & Forwarding Association	4
16	Freight Forwarders members	100
17	National Treasuries	4
18	Ministries of Transports	4
19	Trade Ministries	4
20	Counties	1
Total		**2,267**

3.4 Sample Size

Purposive sampling was applied to ensure that the sample represented a cross section of respondents constituting of large, medium and small companies. For shipping lines, five respondents were selected from each category to make a total sample of 15 shipping lines/agents. A total of 90 trucking companies was sampled. The total sample is as per the Table 3.2 below;

Table 3-2: Sample Size

No.	Sector	Global Sample Size
1	**Shipping Lines/Agents**	**15**
2	**Trucking companies** *Kenya: 50* *Uganda: 20* *Rwanda: 10* *Burundi: 10*	**90**
3	Other Stakeholders	**60**
	Shippers (Manufacturers, Exporters & Importers)	
	• *Kenya: 30 - Nairobi* • *Uganda: 10 - Kampala* • *Rwanda: 10 - Kigali* • *Burundi: 10 - Bujumbura*	
	Clearing and Forwarding • *Kenya: 10* • *Uganda: 5* • *Rwanda: 5* • *Burundi: 5*	**25**

No.	Sector	Global Sample Size
	Government Agencies • *Kenya: 11 (KR 1, KPA 1, Regulatory 1, NT 1, CGM, 1, Police 1)* • *Uganda: 7 (URC 1, Regulatory 1, NT 1,)* • *Rwanda: 5 (Regulatory 1, NT 1)* • *Burundi: 6 (Regulatory 1, NT 1)*	**29**
	Associations • *Kenya: 12 (Manufacturers Association 4, Shippers Council 4, Federation of Freight Forwarders 1, transporter 1, CFS 1, C&F Ass. 1)* • *Uganda: 6* • *Rwanda: 4* • *Burundi: 4*	**26**
Total		**245**

3.5 The Actual Sample size per Country/City

The following was the identified sample size for each city and Partner State under study.

Table 3-3: Schedule of data collection dates and sample sizes in each city

Date	City	Sample Target
26th June- 4th July 2018	Mombasa	85
26th June – 29th June 2018	Nairobi	45
2nd July – 6th July 2018	Kampala	45
25th June – 28th June 2018	Kigali	35
30th June – 4th July 2018	Bujumbura	35

3.6 Data collection tools

Data was collected by means of detailed questionnaires through face to face interviews.

3.7 Piloting of the questionnaire

A pilot study to test the validity and reliability of the questionnaires was undertaken in Mombasa and Nairobi on 22nd June 2018, with questionnaires administered as shown in the table below:

Table 3-4: Pilot study

City	Category	No. of Respondents
Mombasa	Trucking companies	5
Mombasa	Clearing and Forwarding	3
Mombasa	Shipping Lines	1
Nairobi	Manufacturing Firms	5
Total		**14**

The questionnaires were then amended accordingly after the study to cure the shortcomings and inconsistencies identified.

3.8 Actual Data Collection

Actual data collection took place between June 24, 2018 and July 7, 2018 in Mombasa for Trucking companies but all the rest of the data collection was progressed to Nairobi, Kampala, Kigali and Bujumbura.

Table 3-5: Target and actual response rate

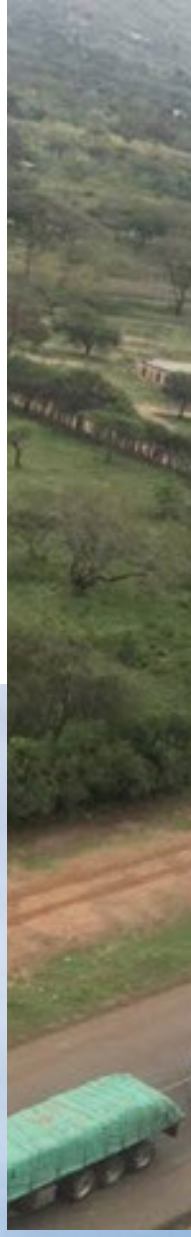
Country	Respondent	Target	Response	%
Kenya	Trucking	50	48	96
	Clearing	10	10	100
	Shippers/ Manufacturing	30	18	60
	Shipping Line	15	11	73
	Associations	9	6	67
	Government agencies	14	10	71
Uganda	Trucking	20	16	80
	Clearing	5	5	100
	Manufacturers	10	10	100
	Associations	6	6	100
	Government agencies	7	4	57
Rwanda	Trucking	10	6	60
	Clearing	5	5	100
	Manufacturers	10	6	60
	Associations	4	2	50
	Government agencies	5	2	40
Burundi	Trucking	10	9	90
	Clearing	5	4	80
	Manufacturers	10	4	40
	Associations	4	3	75
	Government agencies	6	4	67
Total		**245**	**188**	**0.77**

3.9 Data Entry

Data entry was done using SPSS Software version 20, which was preferred due to its ability to capture both the numerical and qualitative data, making it easier for the consultant to analyse opinions and suggestions in text form.

3.10 Data analysis

Data analysis was based on the SPSS Version 20 providing specific outputs that were envisaged under the Terms of Reference. Various responses were analysed, and the outputs tabulated or graphically presented in charts and graphs.



4 DATA ANALYSIS AND FINDINGS

4.1 Shipping and Port Services

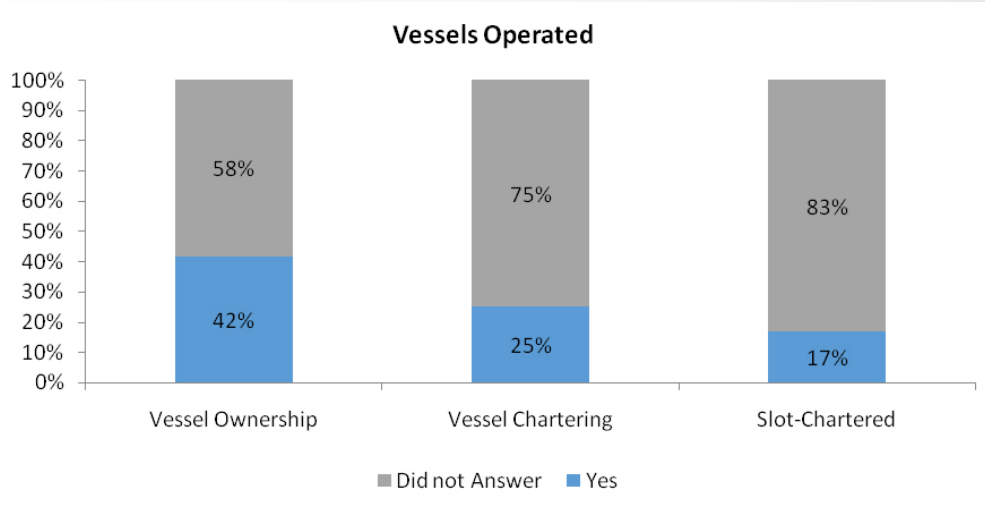
Liner shipping in Kenya is served by about 20 shipping lines that provide a scheduled weekly service either directly using own vessels or use of space on board other vessels under slot sharing partnership. Competitiveness of shipping lines depend on a number of factors such as tariff rates, frequency of services, destination charges, documentation requirements and other supporting services. Some of the shipping lines offer other logistical services apart from the traditional maritime transport services which include clearing and forwarding, container freight stations, inland haulage, empty container storage and other quayside services like tallying and lashing among others.

The objective of the field work was to gather data and information from the shipping lines on the nature of their services, supply capacities, ports of call, horizontal integrations, vertical integrations, linkage of industry association, tariff or pricing setting mechanism and the regulatory framework governing competitiveness of the shipping industry. The information gathered from this exercise was used to gauge the competitiveness of maritime shipping services in Kenya.

4.1.1 Container Shipping

The number of vessels owned by shipping companies varied significantly according to the study. Out of the Shipping Lines interviewed, 42% stated that they operated own vessels, 25% chartered vessels and 17% chartered slots from other operators to service their maritime routes to the Port of Mombasa.

Figure 4-1: Vessels Operated by Shipping Lines



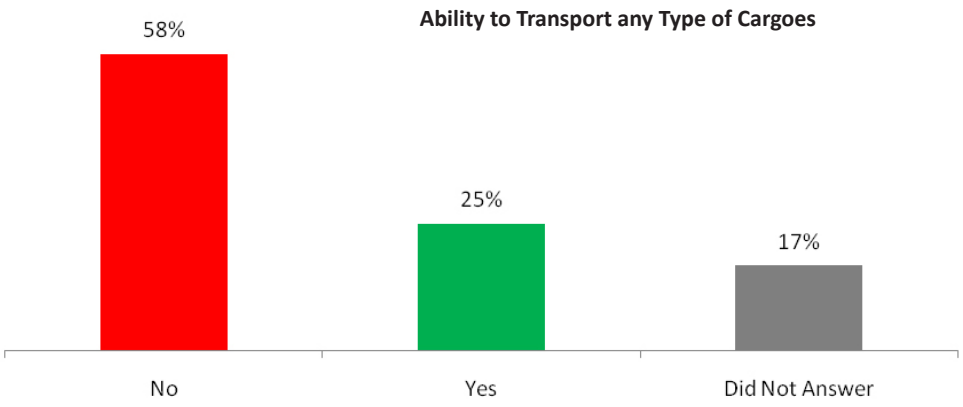
The highest number of vessels operated by a shipping line was 12 while the lowest was one. 25% of the shipping lines operated more than 4 vessels for the Mombasa trade route and when you compare supply of the vessel and volume handled, the shipping line operating the highest number of vessels controlled approximately 16.4% of the total container seaborne trade in 2017. Shipping lines that operated less than 3 vessels depended on slot sharing to supplement their capacity.

From this analysis the 42% representing vessel ownership controlled 47% of the market share in 2017 and enjoyed economies of scale and cost competitiveness. However, for the smaller shipping lines to remain afloat and ensure competitiveness, they have formed partnerships in the form of slot and vessel chartering to ensure that they are cost and service competitive.

4.1.2 Transportation of Goods

According to the study, 58% of the Shipping Lines do not transport any cargo without first establishing its nature and destination as the cargo may be prohibited in the destination port or be outside their area of specialization. Examples include pure car carriers and ships with reefer container facilities.

Figure 4-2: Ability to Transport any Type of Cargoes



The ability to transport all types of cargo provides Shipping Lines with a lot of flexibility and added advantage that could provide a significant competitive edge over other players.

4.1.3 Level of Services

The study sought to establish whether Shipping Lines could provide services to customers without limitations at any time. 66.6% of the Shipping Lines responded in the affirmative while 33.3% indicated limitations citing specialization in the form of services they provided. This was understandable given that container vessels cannot conveniently carry bulk products such as wheat or sugar. Furthermore some lead-time would be required for a specific vessel to be availed as it might require rerouting.

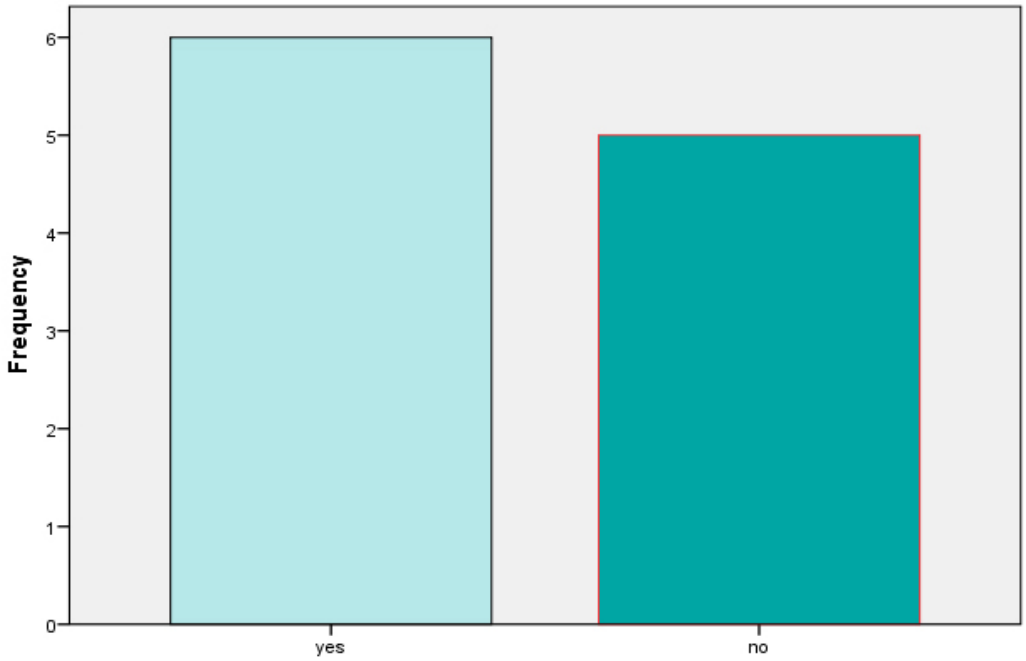
Shipping lines are at times, unable to provide services to shippers due to the unavailability of the specific route of operation required, poor service of operational network or lack of a consortium arrangement restricting their network or frequency of service.

The 66% respondents who answered in the affirmative could be in the category of shipping lines with a higher capacity and more flexibility in terms of routes, slots and areas of specialization.

4.1.4 Shipping Capability

Information was sought on the shipping lines' ability to serve any route to/from Port of Mombasa and 54.5% confirmed they had no such restriction. The remainder of 45.5% confirmed they have reservations to providing shipping services in any route as shown in the graph below.

Figure 4-3: Ability to serve any route to and from Port of Mombasa



The study found out that there must be reasonable volumes of cargo for these ships to commit themselves to call. Mombasa is highly unlikely to have an adequate payload as figures on container traffic obtained from Kenya Ports Authority 2017 bulletin of statistics indicated Imports of 554,400 TEUs and laden container Exports of 134,464 TEU's. Furthermore, most of the trade is through feeder services.

Larger Shipping Lines with larger fleets have the flexibility to ply more routes compared to smaller shipping lines but for them to venture to such routes, there must be good volume to ensure that the voyage is commercially tenable. Some shipping lines, especially the smaller ones, avoid some routes such as Africa routes, due to low export capacity rendering the routes commercially unviable. The smaller shipping lines with less than 5% market share, that is Emirates shipping line, COSCO, Express Shipping and Hapag Lloyd that are horizontally integrated, are able to offer services on more routes compared to their counterparts who are not integrated. In light of this, slot sharing should be promoted in order to increase the competitiveness of the smaller players as this leads to voyage costs optimization. The agreements aforementioned are only based on services and equipment sharing and each company maintains their own tariff and independent marketing strategies.

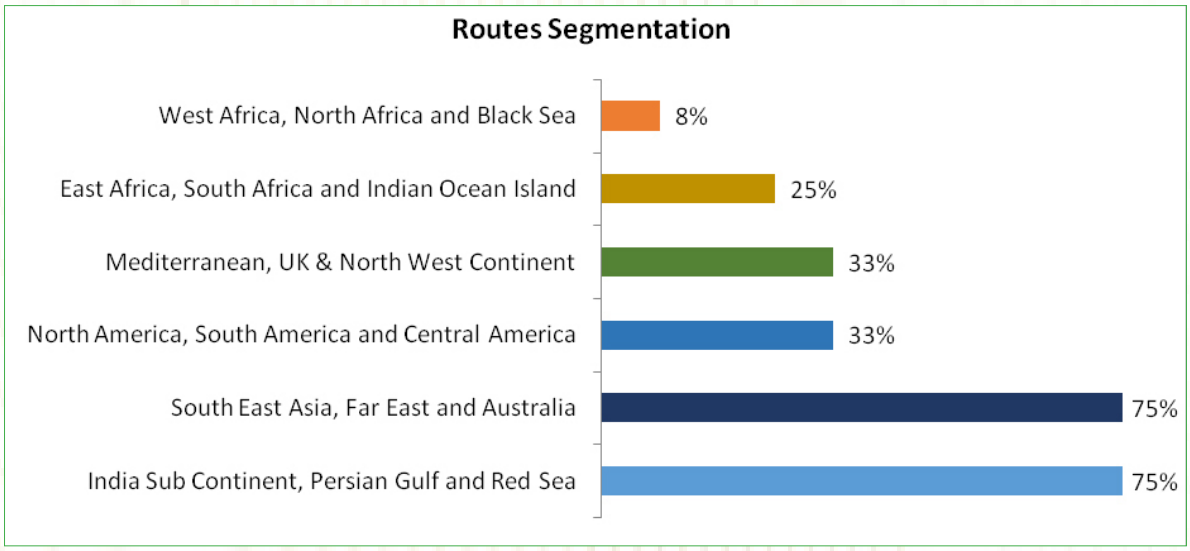
4.1.5 Routes to/from Mombasa

In terms of the most frequently used routes to/from Mombasa, the responses were as captured in Table 4.1 below:

Table 4-1: Mombasa Routes

ROUTES	MAERSK	EXPRESS	EVERGREEN	EACS	SOCOPAO	PIL	DSS	OCEAN FREIGHT	CMA CGM
India Sub Continent, Persian Gulf and Red Sea	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
South East Asia, Far East and Australia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
North America, South America and Central	Yes	Yes					Yes	Yes	
Mediterranean, UK & North West Continent	Yes	Yes					Yes	Yes	
East Africa, South Africa and Indian Ocean Island					Yes			Yes	Yes
West Africa, North Africa and Black Sea						Yes			

Figure 4-4: Routes Segmentation



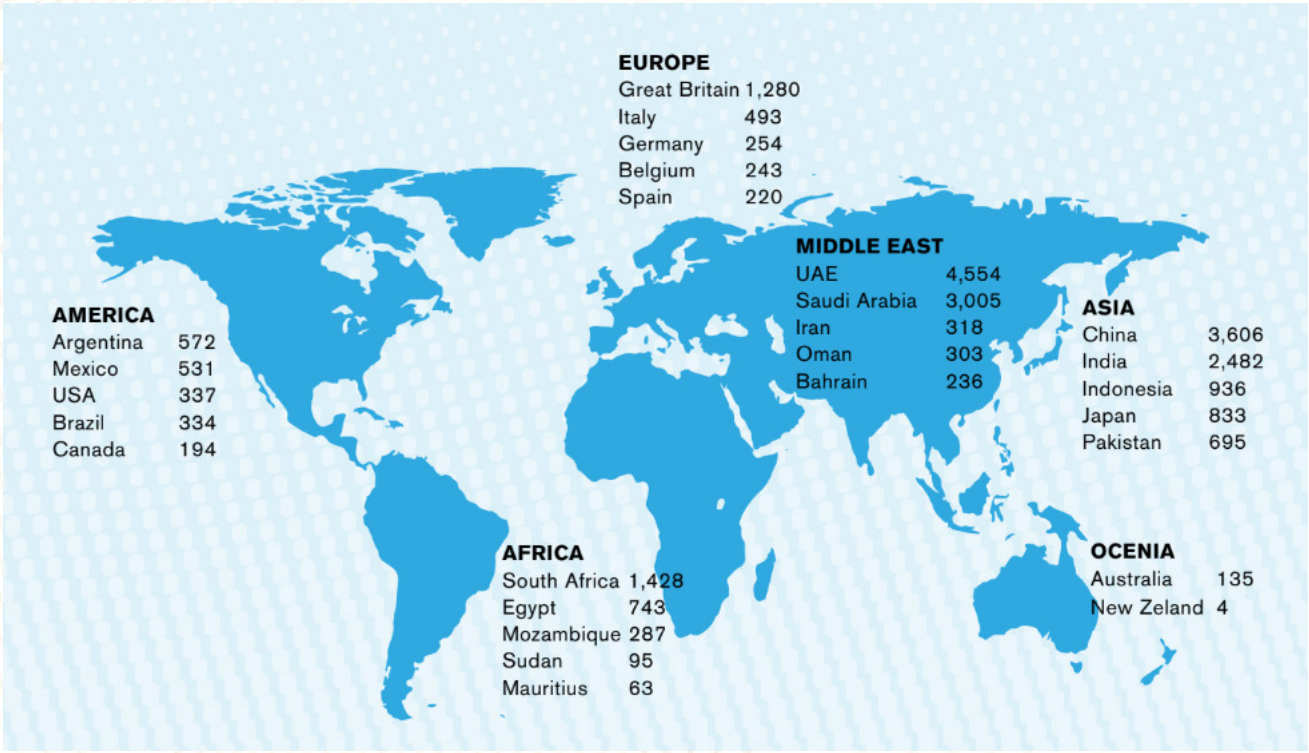
As per the study, the most popular trade routes for the Mombasa include India Sub Continent, Persian Gulf and Red Sea, the South East Asia, Far East and Australia route. This is mainly attributed to the fact that Kenya is a large trading partner with those regions as far as importation of commodities is concerned.

In Mombasa, Import volumes are significantly higher than exports almost to the ratio 1:5 and as discussed in chapter 2, competition issues are biased to the sellers' port as most of the local importers tend to import on cost insurance

and freight (CIF) terms. As for the low export volumes in Kenya, exporters benefit from lower freight rates offered by carriers as they tussle for the limited export volumes on their return voyage ensuring vessel capacity utilization.

East Africa is trading a lot more with Asian market compared to other Regions. The illustration below, extracted from the 2017 KPA Bulletin of Statistics confirms that South Asia, Far East and South East Asia are the major trading partners to East Africa. It is expected that the most popular routing voyages would be to the sources of imports because Mombasa is heavy on imports. The same routes serve the Mombasa exports and the cargo is finally trans-shipped to their respective destination. The popular routes are not any different from those felt to be originating in Mombasa and are once again spelt out hereunder:

Figure 4-5: Kenya imports 2017 in '000' DWT



Source: KPA Bulletin of Statistics, 2017

4.1.6 Pricing for Maritime Freight

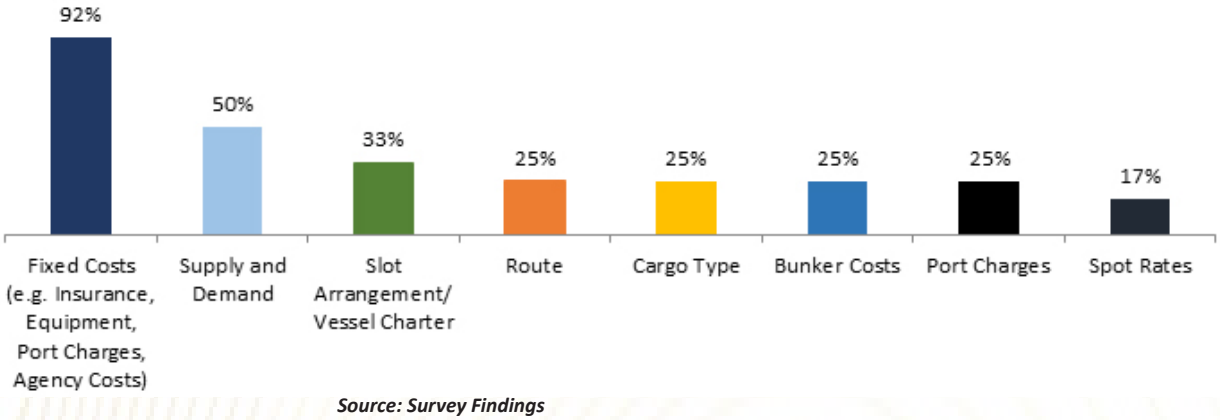
Sea freight is basically divided into two components namely basic sea freight and surcharges. Some of the common surcharges imposed by the shipping lines include Bunker Adjustment (BAF), Currency Adjustment Factor (CAF), ISPS fees, Risk and Security Surcharge among others. The basic sea freight is basically determined by global forces of demand and supply of maritime transport services. For example, the global recession in 2010 drastically affected the shipping market, where freight rates dropped by almost 80%.

All shipping lines indicated they maintain a fairly stable basic freight rates and only adjust the surcharges in cases of changes in operating cost. In most cases, regular clients know freight rates charged by other lines and a minimal variation can mean loss of business. Quotations for freight are easily obtainable from shipping lines either through their website or direct inquiry. The conditions prevailing at the port also determine the pricing of sea freight; ports that are congested or have slower cargo operations will attract higher freight rates than efficient ports.

At the global level, the supply of shipping services had exceeded the demand hence the low freight rate. For import cargo arriving at the Port of Mombasa, most of the competition lies at the load port while for export cargo most of the competition is in Kenya as the shipping lines compete to secure the limited export cargo. Due to the imbalance of trade, freight rates for imports are higher than those for export. Shipping lines also use international freight indexes to benchmark freight rates for different routes, the Shanghai Containerized Freight Index (SCFI) for the liner market or the Baltic freight index for the tramp market. Recently a global container freight index was launched, known as FBX Global Container Index (FBX), this will provide an indicative platform on basic freights and surcharge for shipping lines to apply.

The chart below shows the factors that determine prices set by the Shipping Lines according to the findings of the study.

Figure 4-6: Factors Determining Shipping Lines Freight Rates



Source: Survey Findings

According to the findings from the study, carriers set their prices individually based on the determining factors shown above. However, Shipping Lines raised the issue of price wars and clients going for the lowest freight rates as the services have been commoditized. To this end, Shipping Lines are resulting to offering quality service delivery and differentiated value-added services in a bid to retain clients and enhance customer loyalty by offering attractive transit times, extensive routings as well as competitive freight rates.

The aforementioned price wars underlined the fact that individual Lines kept an eye on the actions of their competitors. In other words, one cannot ignore the market.

Pricing for the freight especially to the East African Ports of Dar es Salaam and Mombasa is quite a balancing act because the cargo is unidirectional, in that most of the vessels make their return trip in ballast condition due to lack of or insufficient export volumes. It is therefore appropriate to ensure that the incoming vessels generate enough revenue to compensate for the return voyage. Other than the normal demand-supply relationships to determine the tariff, the issue of running costs and margins must feature in the costing model alongside other consumables such as bunkers, ship voyage costs, insurance, container related costs, distance from the loading port to the port of discharge etc. The determination of the inputs into the supply model is quite complex. What one can say with finality is that the tariffs charged are relatively high compared to other destinations such as those in China and Europe.

From an economic point of view, when there is an oversupply of a service due to many players, prices are expected to come down and conversely, when demand of a particular service is high, prices are expected to increase. These factors contribute highly to the strategies employed by the shipping lines when pricing their services. A known fact is that setting and determination of the freight charges is dealt in headquarters (abroad) for most of the Lines calling in the Port of Mombasa.

A closely guarded aspect is whether in setting their tariffs, Shipping Lines consider other competitors. Whereas tariff determination is an individual shipping line affair, it is inconceivable not to establish who are in the market and how they are fairing. Indeed knowing about your rival is one of the basic tenets of market analysis.

4.1.7 Port Related Services

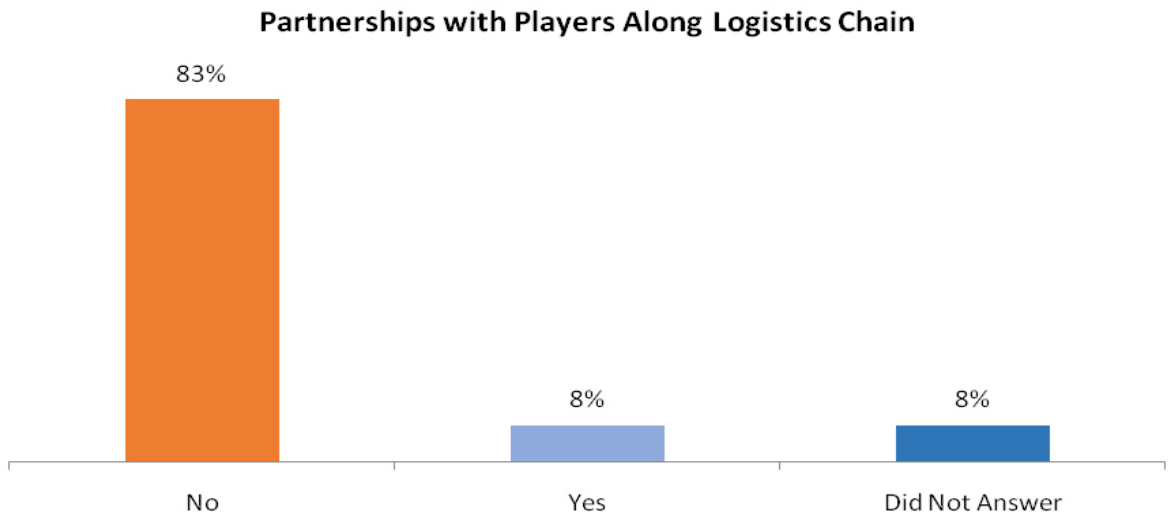
The study sought to find out whether Shipping Lines had any involvement in other port activities like terminal operation, freight forwarding, stevedoring and other quayside services. 88.9 percent of the respondents claimed no involvement while one Shipping Line did not respond.

The non-response could be from one of the larger players in the industry that is vertically integrated. Maersk Line, the largest operator in Kenya, and is said to be well invested in terminal operations globally and other logistic services such as clearing and forwarding, surface transportation and empty container storage along the logistics chain locally. Shipping Lines that are vertically integrated as far as surface transport, port operations, clearing and forwarding etc. are known to undercut prices in freight rates and recover that from the other services at the destination since some shippers would not mind paying extra for a door to door service. In sum, this can be seen as a form of differentiation strategy, offering higher reliability and lower transaction costs as the number of parties to deal with decreases for the shipper.

4.1.8 Partnership

The chart below shows the Shipping Lines Partnership with players along the logistic chain according to the findings of the study.

Figure 4 7: Partnerships with players along the logistic chain



Source: Survey Findings

The analysis indicated that 10 Shipping Lines did not partner with transport logistics chain while 2 had partnership agreements. CMA CGM and Express Shipping stated they were in partnership with local trucking companies on an annual basis. Contract agreements between shipping lines and local trucking companies are quite common for handling the through bill of lading (TBL) containers.

Shipping lines vertical integrations are set up in ways that are difficult to detect. Most subsidiaries of shipping lines dealing with road transport (or other services like terminal operations) would also offer their services to other customers or even competitors (and are sometimes even put into competition by their 'mother' company with other suppliers such as Maersk Line frequently puts its subsidiary APMT in competition with other terminal operators).

The rule of thumb globally is to fend off any legal scrutiny in jurisdictions with strict anti-trust laws thus making integration almost or completely legally untraceable.

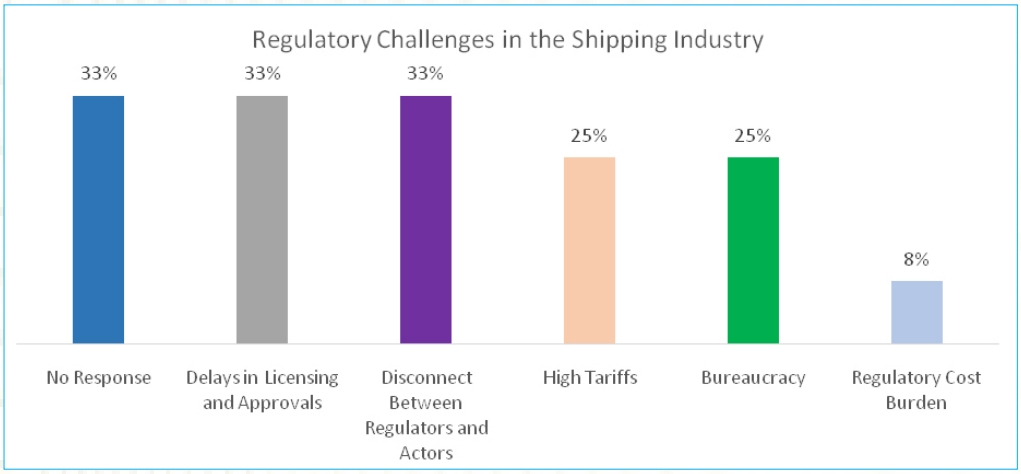
4.1.9 Shipping Challenges

Shipping Lines reported that they faced a number of challenges occasioned by regulations pertaining to shipping.

Figure 4-8 below illustrates the challenges faced by the shipping lines with regard to regulation. 33% of the interviewees did not respond. Delays in licensing and approvals recorded 33%, disconnect between regulators and the industry players recorded 33%, high tariffs by KRA/KPA/KMA etc. recorded 25% each and regulatory cost burden was 8%.

In light of these, Kenya has to be cognizant of the regulatory burden it subjects its Port of Mombasa users. Some Shipping Lines and Shippers could be lost due to regulatory restrictions that impact on competition and thereby affect adversely the cost of doing business. Some respondents indicated that they might end up shifting to the Port of Dar es Salaam.

Figure 4-8: Findings on Regulatory Challenges in the Shipping Industry



The respondents observed that they would like some policy changed or revised such as:

i. KMA should stop charging importers and exporters because it is a burden to the consumers in the country. Instead, the government of Kenya should fund KMA.

ii. More dialogue was needed with Shipping Lines/Agents, with much clearer guidelines and rules.

iii. There was need for better consideration of the complete supply chain in order to enhance trade and reduce cost of products to consumers.

iv. There was value in creating a stable port, improving manpower, and ensuring fixed regulation for good period of time.

v. It was necessary to have a national shipping policy that would cover bunkering and fishing.

vi. Vertical integration should be allowed

vii. The logistics sector needed reforms, that is, the port needed to increase efficiency and customs and other authorities needed to be sensitized on the same

There should be SLAs between the Port Authority and shipping Lines and any other service providers that will be monitored. The SLAs will be aimed at ensuring that every player is performing efficiently with clear guidelines on how to reward and penalize the realized goals depending on success or failure respectively.

4.1.10 Role of Associations

The table below illustrates memberships in associations as per the study conducted.

Table 4-2: Memberships in Local and International Shipping Associations

SHIPPING LINE	KSAA	ICS	ITTS	FONASBA	WSC	KNCC	BIMCO	INTERTANKO	NAFL	DSAA
MAERSK	Yes									
SOCOPAO	Yes									
EXPRESS	Yes									
SEA FORTH	Yes	Yes	Yes	Yes						
OCEAN FREIGHT	Yes				Yes					
EVERGREEN	Yes					Yes				
CMA CGM	Yes									
PIL	Yes									
DSS	Yes						Yes	Yes	Yes	Yes
SEABULK	Yes						Yes			
EACS	Yes									
NISOMAR	Yes									

Source: Survey Findings

All the shipping lines interviewed were members of the Kenya Ships Agent Association although membership is optional. The role of the Association is discussed in section 4.7.

With regard to membership to international Association, all respondents had a membership in at least one of the following Associations as illustrated on the table above:

i. BIMCO

ii. INTERTANKO

iii. The National Association of Freight And Logistics (NAFL)

iv. Dubai Shipping Agents Association (DSAA)

v. The Federation of National Associations of Ships Brokers and Agents (FONASBA)

vi. International Chamber of Shipping (ICS)

ICS is the principal international Trade Association for merchant ship-owners and operators, it represents all the ship owners in all the maritime sectors and its members control over 80% of the world merchant fleet.

BIMCO is the largest of the International Shipping Associations representing ship-owners; its membership controls around 65 percent of the world's tonnage and it has members in more than 120 countries, including managers, brokers and agents.

INTERTANKO's membership is open to independent tanker owners and operators of oil, chemical and gas tankers, i.e. non-oil companies and non-state controlled tanker owners, who fulfil the Association's membership criteria. As of January 2018, the organization had 204 Members, whose combined fleet comprises some 3,976 tankers totalling over 353 million DWT. INTERTANKO is a forum where the industry meets, policies are discussed and best practices developed. It is a valuable source of first-hand information, opinions and guidance. INTERTANKO stands for safe transport, cleaner seas and free competition.

There is no link to competition issues as these organizations are all about promotion of business/trade and competition in a fair manner.

4.1.11 Summary of Shipping Sector Findings

i. The Shipping sector was largely competitive as indicated in the following observations; there were no restrictions with regards to maritime transport services, route coverage, cargo carrying capacity or even freight rates applied by the shipping lines. The shipping lines deployed the number of vessels and called various ports according to their customer demands.

ii. Shipping lines entered into agreements towards sharing of their transport capacity commonly referred to as slot sharing. The objective of these agreements was to optimize utilization of the vessel capacity and also cost reduction. There was no mechanism to monitor if those agreements or partnerships infringed on fair competition.

iii. All lines indicated that they had individual mechanism for setting prices for maritime services however it was observed that almost all charges other than the freight charges levied by the shipping lines and their agents were similar and no clear justification was provided as to how those charges were arrived at.

iv. 100% of the shipping agents interviewed were members of the Kenya Ship Agents Association which is was the umbrella body representing their interest in matters relating to tariff, regulation, licensing, port operation, tax issues among others. It was also established that the Association had used legal means in addressing some regulatory matters.

v. Some of the finding contravened the actual situation on the ground; matters relating to partnerships and vertical integration did not come out accurately in the data collection mission. 99% of the shipping lines had indicated they did not offer other services along the logistic chain but the actual analysis on the ground revealed that some shipping lines offered other auxiliary services.

vi. The findings indicated minimal to no vertical integration in the operations model of the shipping lines calling at the Port of Mombasa. The issue of vertical integration remains contentious and even after the court suspended section 16, shipping lines are uneasy to disclose information of vertical integration and this is the possible reason why only two shipping lines responded to this question.
Another reason might be a lack of understanding of the concept of 'vertical integration' by the respondents in that they would consider only partial or full ownership of other companies along the logistics chain as vertical integration, leaving out other forms of partnerships.

vii. Based on 92% and 50% respectively of the respondents interviewed during the study, fixed costs and laws of demand and supply respectively, largely informed pricing of cargo transportation and other services

viii. The number of vessels per shipping line calling at Mombasa regularly was small. The maximum number of vessels was 12 only. Ships Lines always strived to maintain a weekly service at any port, this ensured that clients were able to receive their goods within a minimal lead time, Maersk has the competitive edge over all other shipping lines because they deployed more vessels to service the Port of Mombasa.

ix. Shipping Lines were regulated by international safety and commercial laws as well as National Flag and Port State requirements.

x. Port performances/services played a crucial role in Shipping Lines' commercial decisions such as freight rates and charges, selection of type and size of ships and maritime routes preferences. Infrastructure and draft restrictions determined the size of ships the port handled. If the Shipping Line could deploy bigger vessels then it meant they could use less vessels to service the trade hence reducing the operating costs and freight charges. The vessel turnaround time in port is was very crucial to its productivity, the more time a ship spent in port the higher the operating cost.

4.2 Service Levels at the Port of Mombasa

4.2.1 Service Port

It was deemed necessary to establish whether there were shipping lines that were involved in provision of port related activities.

The outcome was as expected wherein 87% of the respondents indicated that they did not provide any services in the Port of Mombasa, which was consistent with the view that the Port of Mombasawas a service port where the Port Authority under the doctrine of first-come first-served basis provided services to both cargo and ships. The lone respondent who felt that they were involved in port related activities might have construed the possible use of ship's gear and equipment as a port service-related activity. The deployment of the vessel's gear does not absolve the Port Authority from providing labour and the vessel has to pay for the provision of the service as if the Authority deployed its equipment as well.

The deployment of the ship's gear in the absence of the port's equipment is meant to complement port services and further ensure that the vessel finishes working in good time: It was in the interest of both the Shipping Line and Port Authority for the vessel to clear the port facilities so that it can start sailing while the Port Authority can provide the berthing facilities to other vessels. This is very important in ports where there is a lot of pressure on berthing services, which could be confirmed by high berth occupancy.

Strangely or coincidentally, Port of Mombasa had high berth occupancy even though deployment of the ship's gear was not widespread especially at the Container Terminal where the occupancy was in excess of 70% rightly indicating that the facility was "over-used" and could easily lead to delays and congestion.

4.2.2 Services Levels

As the major consumer of port services, the study sought to find out from the Shipping Lines their perception of the type and quality of service across the whole spectrum of the services provided at the Port of Mombasa. The majority of the Shipping Lines (66.7%) felt that the level of service was good while the complement of 33.3% felt that it was poor. This was not totally surprising in that in the Port of Mombasa, KPA was the single service provider as there were no rival terminal operators. The foregoing suggested that a vessel could, for instance load 816 containers in a day while the same number can be done in less than 16.5 hours because of the high quality, efficiency of handling the same. Experienced and well trained crane operator could discharge and load containers at the rate of 25 per hour while the counterparts with similar equipment could hardly do 20 lifts in an hour.

The only level of competition in KPA was in the grain bulk handling and the quayside bagging operations that were provided by the private sector through a concession by KPA. Those operations were deemed less efficient and expensive to be handled by KPA. One sees a possibility that the level and quality of service could be improved by opening up port services to private operators, increasing the level of surveillance or providing some benchmarks within which the Port Authority should operate.

4.2.3 Port Infrastructure

With regard to quality of port and maritime infrastructure, nearly 87% of the respondents reported that the facilities were good while the balance of 13% observed that the infrastructures was in poor condition. The observation by nearly 87% was a welcome remark in that it seemed to recognize the impact of the important investments the Port Authority had put in place in the recent years.

The infrastructure provided at the port in recent years had ranged from dredging the approach channel and turning basins that accommodated vessels with larger draughts and capacities. These were complemented with better and modern berthing facilities especially the First Phase of the Second Container Terminal together with the accompanying equipment in the form of ship to shore and rubber gantry cranes to support the yard operations. Further, the yard modeling and repairs including widening of the access roads and improved flow of vehicles had gone a long way in raising the ease of movement and doing business in the Port.

The lone, 11.1%, voice of dissent might had more to do with the status of some of the bulk handling facilities such as the oil handling piers where industry players had raised concern, coupled with inadequacies that had led to over-utilization. One was inclined to note the high usage of the Kipevu and Shimanzi Oil Terminals (KOT and SOT respectively) which both witnessed occupancy levels of 88.4% and 78.1% respectively in 2017 which were largely above the industry standards of 60 – 65%. The excessive usage was amongst other reasons, because of low levels of discharge, low load factors of the tankers that could call at these piers, inadequate storage capacities on the shore side etc. The observed high level of utilization could not enable adequate time for withdrawal for servicing the facility including husbandry. The two specialized facilities were the only ones available in the Port of Mombasa. Dr Manduku, KPA Managing Director was reported in the Daily Nation of 20th March 2019 “saying that Mombasa Port currently has only two oil terminals that are ageing and too small to handle large quantities of imported oil and gas” (pg 19).

Furthermore, Reports had indicated the challenges of the continued usage and overreliance on Kipevu Oil Terminal tended to jeopardize the industry. In the previous five years for example, 2013 to 2017, the average occupancy of KOT, the principal pier through which all petroleum oils were received by the various oil marketing companies was 85%.

4.2.4 Port Tariff

Regarding the level of port rates and fees, less than half, 44.4% of the respondents indicated that the charges were good. On the other hand, a larger proportion of the respondents returned a poor verdict with 22.2% voicing that the tariffs were very poor. The high rating on charges might be to some extent, because of other factors that influence determination of these rates, reflect on the poor customer care service, as advanced in 4.2.2 above which might be founded on some monopolistic tendencies where the Port Authority could afford a “take-or-leave it” attitude on account of being the sole provider of the services, and possibly the absence of a strong industry regulator.

This, so far, was the poorest score the Port had received and which it might not have done much to counter. It even became more pronounced when one noted that the Port Authority had not substantively reviewed its tariffs since 2009, except minor adjustments to dissuade very long free periods of storage of containerized cargo and which had nothing to do with the shipping lines. However, the port had also made some minor adjustments where it realigned the modalities for charging freight of motor vehicles to cubic measures as opposed to tonnage to be more in conformity with global practice. As observed elsewhere in this Report, 2.1.2.9, the cost of loading or unloading, stevedoring in shipping parlance, a standard container in the Port of Mombasa, was reasonably priced. In this regard, the tariff should have been supportive to trade along the Northern Corridor.

4.2.5 Port Efficiency

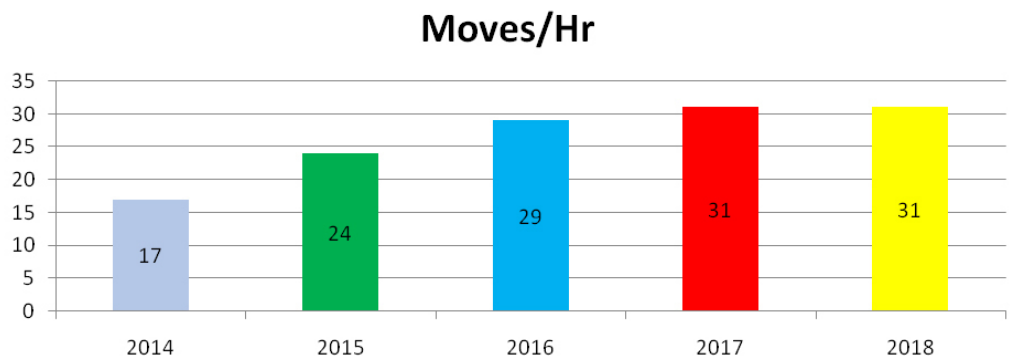
The above observation, read against the response that only 33.3% felt that the efficiency level in the port was good, was not confounding. In other words, most of those who used the port services felt that the port services were not efficient, quality of service was poor. This was not totally unfounded in ports that enjoy large latitude of monopoly power caused by lack of competing ports in the vicinity, or intra-port competition with multiple cargo-handling companies within the same port complex.

Looking at the productivity of container operations over time, it was evident that the Port of Mombasa was moderately rated which was consistent with the observations in 2.1.2.8.3

Table 4-3: Moves per hour in the last five years

Year	2014	2015	2016	2017	2018
Moves/ Hr	17	24	29	31	31

Figure 4-9: Graph showing Moves per hour in the last five years



The level of efficiency in the Port of Mombasa was not high. In 2018, the average moves per hour were 31 same as in 2017. The overall target for South African Ports was set at 35 moves per hour. The Port of Durban on the other hand managed 46 moves while Djibouti managed 35 moves per hour. A recent study, 2019, showed that the average tons per person was 3685 in Mombasa, 2843 and 5265 tons in Djibouti and TPA respectively, it underlines the fact that the Port of Mombasa has some mileage to cover.

Indeed, the poor service to the vessels is underlined by the number of ship waiting days in 2017. The net waiting time per vessel that waited, moved from 1.67 to 5.0 days between 2016 and 2017. When compared to the marginal improvement of increase in container handling productivity of 31 compared to 29 moves per berth hour between 2017 and 2016, the overall inefficiency was too high. Output productivity improved by about 7% while service productivity deteriorated by 200%. The ships were wasting an additional three days compared to the 1.7 days they waited in 2016.

Indeed, ship waiting time in the port should be as low as practically possible. The aforementioned waiting time of five days portends congestion accompanied by high berth occupancy. It was therefore not surprising that the shipping lines indicated that the port efficiency level was poor. This is rather worrying, as the port facilities and other infrastructure had improved recently, but it would appear that they were not accompanied by other landside investments that would help raise the overall level of productivity such as training of labour and wide application of Information Technology.

Much as it is indicated that there is idle or excess capacity in the Port of Mombasa, the Consultants were not convinced. Firstly Ports are developed ahead of demand. Secondly, some of the measures that were employed were rarely met thereby impacting negatively on the capacity: the expansion of the capacity of ICD Nairobi from 180,000 to 450,000 TEUs was based on a model dwell time of six days and stacking of 3.5 high. The realizable dwell time is in double digits and the stacking is largely 4.5 high. These values underline inefficiencies manifested in congestion because of lack of space thereby contradicting the notion of idle capacity. Measures of utilization indicated that the Container Terminal in Mombasa was occupied to the level of 78.8% in 2018 which was above the recommended value of 60 – 70%

4.2.6 Costs of Doing Business

Combining high costs of services as reported above with low efficiency of services to the vessel, paints a rather poor image of the maritime industry and calls for urgent attention at the institutional level because the foundation seems strong in supporting poor deployment of resources. The shipping side might not care much because of the ability to pass on the cost of inefficiency to the economy, but this would be detrimental to trade, especially exports, which would end up being uncompetitive in the global market places. It also jeopardizes the objectives of the GoK in becoming more attractive to manufacturing (and exports), as superior connectivity and reliability of maritime logistics chains are important criteria in determination of location for manufacturing investments.

4.2.7 Location of the Port of Mombasa

With regard to geographical and strategic location, the port was rated very highly by the majority of respondents. In fact, a good 44.4% were of the opinion that the port enjoyed an excellent strategic location, which might explain why close to over 80 port calls are made directly from the Port of Mombasa. Of course, looking at the greater hinterland of the Port of Mombasa that included Uganda, Rwanda, Burundi, DR Congo, South Sudan and North Eastern Tanzania can only persuade one to confirming the observation of the centrality of location. Indeed, close to 29% of the port traffic is made up of transit traffic. Furthermore, if the location was not appropriate for whatever reason, vessels would not have accepted to wait for five days. On the other hand, it also confirmed the current absence of competing ports in the region offering a better value proposition.

The one Line that reported that the location was not strategic could be voicing it from the possibility of transhipment where possibly they weighed in against Ports of Durban and Djibouti. It was also true that with the threat of piracy, terrorism and Somali intransigency, the Port of Mombasa had shown an increased vulnerability to its geographical location. However, barring man-made interferences, the port lends itself very well to global maritime trade.

4.2.8 Proximity to Markets

The foregoing ties in very well with the rating for proximity to the markets where, a total of 90% reported that the port enjoyed very good proximity to the market, and indeed half of those who felt so, observed that it enjoyed excellent proximity. One needed to recall that close to 20 Shipping Lines called into the Port of Mombasa and that there were voyages from and to nearly all corners of the globe.

The source and destination markets were well served and as already observed, the Great Lakes Region was well served by the Port of Mombasa. There was no response denouncing the market proximity. This further reinforced the strategic location of the Port of Mombasa and with it the critical importance of the Northern Corridor as a link to its hinterland.

4.2.9 Hinterland Connectivity

The Shipping Lines were asked their views regarding the number and frequency of hinterland connections. About one-third of those surveyed reported the number and frequency of the hinterland connections to be poor. This was not surprising given the long distances that cargo had to be transported into the hinterland. More than half of the respondents felt that the number and frequency of hinterland connections were good, with only one respondent reporting that they were excellent. Unless this respondent operated within the coast region only, it was highly unlikely that one would not encounter some delays occasioned by the long distances that until recently had to be covered by road transport because of lack of dependable railway services, prior to arrival of SGR. As it were, the service was only up to Nairobi and was said to have had some challenges as discussed elsewhere in this Report.

With regard to quality of the hinterland connections, in particular surface transport via road and rail, 44.4% of the respondents observed that the quality was poor and indeed, one respondent opined that the quality was very poor. And another one respondent observed that the quality was very good. The transport was basically exclusively road transport, which in some sections of the Northern Corridor was a challenge, especially with interventions that slow down the movement. However, most of the roads were accessible to trucking and nearly the whole stretch from Mombasa to Bujumbura was tarmacked.

There were some sections that were potholed but by and large, movement along the Corridor were reasonably fluid, though patching up of potholes and general repairs throughout the entire length was recommended all year round. The only consolation was that all traders were exposed to similar conditions, but this might disadvantaged those further interior. The quality of the road infrastructure seemed to deteriorate with the distance from the capital cities.

4.3 The Trucking Industry

4.3.1 Analysis of Survey Outputs

The actual responses for trucking companies selected in the four countries whereas shown in Table 4.4 below.

Table 4-4: Distribution of Sampled Trucking Companies across the Region.

Nº	Country	Responses	% of Respondents
1	Kenya	47	60
2	Uganda	16	20
3	Rwanda	6	8
4	Burundi	9	12
Total	**All Countries**	**78**	**100**

As indicated in Table 4.4 above, 78 trucking companies were interviewed with Kenya having the highest number at 60% while surprisingly Burundi had 12%. The responses to key questions on the trucking services were provided in Table 4.5 below:

Table 4-5: Primary Characteristics of Trucking Service Providers

Attribute	Percentage	Comments
Truck Ownership	91.0	Evenly distributed in the four countries
Transport of Containerised Cargo	69.6	Highest in Kenya and Uganda
Company Transporting Liquid Bulk Cargo	29.3	Higher in Burundi and Rwanda
Transport of Empty Containers	35.1	
Membership of a Business Association	71.1	Evenly distributed in four countries
Membership of association a requirement under law/ statutory provisions	19.5	Higher in Rwanda
Whether charges/taxes imposed by Revenue Authorities Influence operation in the trucking industry	75.0	Evenly distributed in four countries

4.3.2 Trucking Companies and Types of Cargo Transported

The trucking companies varied widely in terms of their fleet sizes, number of employees and the types of cargo they transported across their various route networks. Kenyan firms seemed to be larger in terms of fleet sizes, number of employees and the range of cargo types they transported.

Below is a summary showing the numbers of trucking companies in Kenya, Uganda, Rwanda and Burundi that were interviewed in the study and provided information on their services. Table 4.6 below showed the number of companies and the fleets they owned for the four countries under study.

Table 4-6: Trucking Companies, Fleet Sizes and Cargoes Transported

Country	Nº of Companies	Nº of Trucks	Types of Cargo Carried
Kenya	47	3,646	Containers, general cargo and bulk liquids
Uganda	16	1,114	Containers, general cargo and bulk liquids
Rwanda	6	371	Containers, general cargo and bulk liquids
Burundi	9	107	Containers, general cargo and bulk liquids
Total	78	5,238	Containers, general cargo and bulk liquids

Source: MBEC Analysis

4.3.3 Firm Sizes by Truck Fleets

Table 4.7 below provides the market share of truck companies per country and overall in the four EAC Partner States of Kenya, Uganda, Rwanda and Burundi.

Table 4-7: Market Shares for Truck Companies

Fleet Size (Trucks)	Kenya			Uganda			Rwanda			Burundi			All Countries		
	No. of Firms and Total No of trucks		% Share	No. of Firms and Total No of trucks		% Share	No. of Firms and Total No of trucks		% Share	No. of Firms and Total No of trucks		% Share	No. of Firms and Total No of trucks		% Share
	Firms	Trucks		Firms	Trucks		Firms	Trucks		Firms	Trucks		Firms	Trucks	
0-5	12	13	0.37	4	4	0.35	0	0	0.00	1	3	2.80	17	20	0.39
6-20	4	39	1.10	3	31	2.73	3	25	7.42	7	57	53.27	17	152	2.96
21-65	15	660	18.53	4	151	13.30	1	26	7.72	1	47	43.93	21	884	17.20
66-110	5	224	6.29	3	279	24.58	0	86	25.52	0	0	0.00	8	589	11.46
111-155	3	550	15.45	0	0	0.00	1	0	0.00	0	0	0.00	4	550	10.70
156-200	4	752	21.12	0	0	0.00	1	200	59.35	0	0	0.00	5	952	18.52
201-245	1	211	5.93	0	0	0.00	0	0	0.00	0	0	0.00	1	211	4.11
246-290	0	0	0.00	1	270	23.79	0	0	0.00	0	0	0.00	1	270	5.25
291-335	2	610	17.13	0	0	0.00	0	0	0.00	0	0	0.00	2	610	11.87
Above 335	1	502	14.10	1	400	35.24	0	0	0.00	0	0	0.00	2	902	17.55
All	47	3561	100	16	1135	100	6	337	100	9	107	100	78	5140	100

Source: MBEC Analysis 2018

The trucking companies varied in size quite widely. In the samples that were interviewed in the four countries, the firms' capacity in terms of heavy trucks ranged from 1 truck in Burundi to 400 trucks in Uganda.

While the companies in the sample interviewed had varying fleet sizes depending on their own capacities, it was established from KRA registers that there were a number of companies in Kenya that owned up to 1,000 trucks though they were not respondents in the sample taken for interviews and analysis. Bases on fleet size, the ten largest truck companies interviewed in Kenya were as listed in the Table 4.8 below.

Table 4-8: Companies interviewed and their fleet sizes

S/N⁰	Company	Fleet Size
1	Anwarali and Brothers LTD	502
2	Kyoga Hauliers LTD	310
3	Bollore logistics	300
4	Awale Transporters	211
5	Signon Group Ltd	199
6	Panal Freighters	193
7	Dakawou Transporters	160
8	Tipper Hauliers	150
9	Hakika transport service ltd	140
10	Bash hauliers LTD	138

In Uganda the three largest companies interviewed with over 100 fleet size were Pan Africa Impex with 400 trucks, Mansoms Uganda Ltd with 270 trucks and Ashraf Transporters with 105 trucks.

In Rwanda, the biggest truck companies interviewed were Trans Africa Container Transport with 200 trucks and Petracom with 120 trucks, while Matare ltd had 26 trucks.

In Burundi, the biggest truck companies interviewed were Itracom with 47 trucks and AIT SA with 13 trucks, while BMG SU Company had 9 trucks.

4.3.4 Partnerships and Associations

Partnerships may relate to trucking companies having relationships with other parties in the transport logistics chain who may include clearing and forwarding agents, shipping lines, Container Freight Stations (CFSs), terminal operators and railway companies among others. These partnerships were established through either longer-term service agreements, or in some cases through full ownership or shareholding.

From information obtained through shipping lines, the indications were that very few cases of partnerships between them and truck operators, though one respondent indicated that there was such partnerships.

It was noted that some trucking companies were members of regional trucking associations while many of them belonged to respective national trucking associations in their own countries. The regional associations of truckers included the Federation of Eastern and Southern Africa Transporters Association (FERSATA), and the National Transporters Associations in Kenya, Uganda, Rwanda and Burundi. From the interviews, 43 out of 60 respondents in the trucking business confirmed they were members of business associations.

With respect to partnerships in trucking companies, it was noted that some of them were associated with shipping agents who provided shipping agency services, clearing and forwarding, and transport in their different divisions. This was the case with large shipping agents such as Ocean freight (EA), which had a shipping division and a clearing forwarding division that dealt with freight forwarding and road transport. Further, it was known that Ocean freight (EA) was substantially owned by the Mediterranean Shipping Company (MSC), its long-term principal.

Similarly, the French shipping consortium of CMA/CGM comprising two major shipping lines had also incorporated Bolloré, a major French transport and logistics group that provided surface transport, freight forwarding and warehousing in many countries of the Northern Corridor. Maersk Line, a major global shipping line had their own local agent while NYK a large Japanese shipping line has the East African Commercial and Shipping Company that was also involved in clearing and forwarding business.

The above arrangements might provide for potential cases of both vertical and horizontal integration in the logistics chain involving shipping lines, shipping agents, forwarding agents and trucking companies. However, that situation did not seem exceptional when compared to other world regions where those companies operated. It followed a global trend towards more supply chain integration, leading to more reliable door-to-door transport, which had become a differentiator strategy for shipping lines. As stated before, frequent monitoring of prices as well as service reliability and user satisfaction formed the main indicators to assess the benefits (or costs) of both horizontal and vertical integration strategies.

Potential areas of vertical integration in the transport logistics chain involving shipping lines, their agents, freight forwarders and trucking companies might arise among service providers along the Northern Corridor as illustrated in Table 4.9 below:

Table 4-9: Potential Vertical Integration Environments

Shipping Line	Intermediary Company	Freight Forwarder	Trucking Company
MSC	Oceanfreight (EA)	Kenfreight	Kenfreight
CGM/CMA	CGM/CMA (Kenya)	Bollore	Bollore

4.3.5 Regulation and Licensing

The regulatory agencies who undertook oversight through licensing of operators, vehicles, and certification of drivers and control of movement of people across borders included dedicated government oversight agencies such as NTSA, Kenya Maritime Authority, Immigration services and police. Others included Customs and some service providers such as KeNHA who also conducted some regulatory functions.

The situation with regard to those regulatory agencies, their functions and impacts on competition were summarized in Table 4.10 below.

Table 4-10: Impacts of Governments and Regulatory Agencies

Country	Regulatory Authority	Interventions	Impacts on Competition
Kenya	National Transport and Safety Authority	Licensing of vehicles and issues driving licenses	No discrimination as all trucks are treated equally
	Kenya Revenue Authority	Licensing of transit service providers	No discrimination as transit licensing is undertaken by all partner states
	Kenya National Highways Authority	Road user charges and weighbridge management	No discrimination- all road agencies charge foreign vehicles at the agreed EAC road user rates on a reciprocal basis There are cases of rent seeking practices at weighbridges, (Nathan Associates Inc, 2010)
	Immigration Department	Issues visas to foreign drivers	Kenya issues multiple visas for truck drivers
	Police Services	Monitoring road transport regulations compliance	There were cases of rent seeking at police roadblocks (NTTCA, 2017)
Uganda	Uganda Transport Licensing Board (TLB)	Licensing of vehicles and issues driving licenses	No discrimination as all trucks are treated equally
	Uganda Revenue Authority	Licensing of transit service providers	No discrimination as transit licensing is undertaken by all partner states
	Uganda National Roads Authority	Road user charges and weighbridge management	No discrimination- all road agencies charge foreign vehicles at the agreed EAC road user rates on a reciprocal basis
	Immigration Department	Issues visas to foreign drivers	Uganda issues multiple visas for truck drivers
	Police Services	Monitoring road transport regulations compliance	There were cases of rent seeking at police roadblocks (Comparative Transportation Cost Analysis in EastAfrica, 1996)
Rwanda	Rwanda Utility and Regulatory Authority (RURA)	Licenses transport operators and drivers	No discrimination as all trucks are treated equally
	Rwanda Revenue Authority	Licensing of transit service providers	No discrimination as transit licensing is undertaken by all partner states
	Rwanda Transport Development Agency (RTDA)	Road user charges and weighbridge management	No discrimination- all road agencies charge foreign vehicles at the agreed EAC road user rates on a reciprocal basis
	Immigration Department	Issues visas to foreign drivers	Rwanda provides open multiple visas for truck drivers
	Police Services	Monitoring road transport regulations compliance	There were cases of rent seeking at police roadblocks
Burundi	Ministry of Transport and Equipment	Licenses transport operators and drivers	No discrimination as all trucks are treated equally
	Office Burundais des Recettes (Revenue Authority)	Does not license road transit transporters	No discrimination as Burundi does not license transit transport operators
	Office des Routes (Burundi Road Authority	Road user charges and weighbridge management	No discrimination- all road agencies charge foreign vehicles at the agreed EAC road user rates on a reciprocal basis
	Immigration Department	Issues visas to foreign drivers	Burundi issues multiple visas for truck drivers
	Police Services	Monitoring road transport regulations compliance	There were cases of rent seeking at police roadblocks

4.3.6 Access to Cargo

It was noted that access to cargo by trucking companies hadlargely been liberalized in all the four countries over the last two decades and cargo reservations schemes that existed earlier were no longer openly carried out.

Cargo reservation was practiced for government and parastatal cargoes when there were government owned transport companies such as KENATCO, Transocean, Stir Kigali and Outrabu for Kenya, Uganda, Rwanda and Burundi respectively.

This makes entry and exit of trucking companies much easier meaning that their existence in the trade was determined by market conditions.

4.3.7 Charges and Fees

The charges and fees raised by Revenue Authorities for registration of transit and cross border operators might have had a significant role on the cost of trucking operations especially if they were not applied equally to all trucking companies.

This might also have happened if there was is asymmetry in charges and fees where national trucking companies might be charged lower or have their charges waived as a way of achieving either political or social economic ends. Table 4.11 below showed the list of charges raised by the various agencies in the four countries for vehicles passing through their territories either on cross border or transit operations.

Table 4-11: List and Quantum of Charges in US$ for Transiting Across Borders

	Kenya/ KRA	Uganda/ URA	Rwanda/ RRA	Burundi/ BRA	Kenya/KeNHA	Uganda/ UNRA
Mean	731.9	200.0	120.0	229.5	300.0	74.2
Median	700.0	200.0	120.0	229.5	200.0	62.5
Mode	123.0	200.0	120.0	59.00a	200.0	20.0
Minimum	123.0	200.0	120.0	59.0	200.0	20.0
Maximum	731.9	200.0	120.0	400.0	500.0	140.0

Source: MBEC Analysis 2018

4.3.8 Freight Rates

Trucking freight rates charged to shippers/cargo owner for transporting goods from the Port of Mombasa to its hinterland and vice versa were quite important in determining the affordability of raw materials, manufactured products and consumer goods sourced from the region.

Price setting in the trucking industry seemed to be based on a number of considerations taking into account the direction of trade. Freight rates were usually higher on the upward leg that was from the port to the hinterland where transporters endeavoured to recover the full cost and made a profit since the return cargoes were not guaranteed. This was because freight was not balanced in both directions, as exports constituted less than 20 per cent of the traffic passing through the port. In many cases, trucks carrying containers returned empty boxes to the port or to the container yards designated for return by shipping lines.

From information received through interviews with trucking companies and the freight forwarders, the pricing models varied with carriers endeavouring to maintain loyalties with their principal customers who were either the shippers for port to port consignments or with shipping lines where there were Through Bills of Lading (TBLs). The detailed freight rates for various destinations along the Northern Corridors were provided in Tables in Annex 1 and 2.

4.3.9 Determination of Freight Rates

In terms of the criteria applied in determining freight rates in the trucking industry, a number of considerations, which the respondents ranked were highlighted. During discussions held with trucking companies and freight forwarders, it became clear that such criteria varied widely but the practice of cost recovery and making profit margins on the upward leg was critical in accepting to undertake a trip.

On the way back to the port the practice of charging “what transport can bear” was paramount since in any case the return trip had to be made in order to deliver the container to the designated yard and to pick up new consignment. Table 4.12 below showed the principal considerations taken into account by the trucking and clearing companies when determining freight rates.

Table 4-12: Freight Rates Determination Considerations

Price Setting Criteria	Yes (%)	No (%)
Price based on the Market Leader Prices	57.9	42.1
Pricing according to the government regulation or guidelines	25	75
Price based on cost and consumer willingness to pay	55.6	44.4

Source: MBEC Team Analysis

Taking into consideration the distances freight was conveyed and the total freight charges from or to Port of Mombasa provided by respondents, the average freight rates per TEU, were computed.

Table 4.13 below provides the average freight rate per TEU/Km along the primary routes along the Northern Corridor for both import and export cargoes.

Table 4-13: Freight Rate /TEU-KM (US$)

Segment	Distance in (Kms)	Freight Up/TEU (US$)		Freight- Down/ TEU (US$)		Countries Traversed
		Freight	Freight/ TEU-Km	Freight	Freight/ TEU-Km	
Mombasa/Nairobi	481	729.4	1.52	466.6	0.97	Kenya- Domestic
Mombasa/Kisumu	828	1,066.0	1.29	700.0	0.85	Kenya- Domestic
Mombasa/Eldoret	812	1,062.7	1.31	703.8	0.85	Kenya- Domestic
Mombasa/Kampala	1,170	1,760.0	1.50	1,027.7	0.88	Kenya and Uganda
Mombasa/Kigali	1,682	3,140.0	1.87	1,700.0	1.01	Kenya, Uganda and Rwanda
Mombasa/ Bujumbura	1,970	4,300.0	2.18	3,500.0	1.78	Kenya, Uganda, Rwanda and Burundi

Source: MBEC Team Analysis

From the information available on freight rates, it is indicated that the upward freight rates covering imports are significantly higher than the down freight rates covering cargo destined to the port. This might have been an obvious case taking cognizance of the imbalance between imports and exports where the latter comprises less than one third of the total port traffic.

4.3.10 Non-Tariff Barriers

The study findings showed that weighbridges and road blocks were still considered NTBs. In Kenya there were 4 weighbridges located at Mariakani, Mlolongo, Gilgil and Webuye and approximately 20 road blocks. 60% of the respondents indicated that they were affected with time delays to a large extent, while 47% indicated that the delays cost them financial losses.

In Uganda, there were 5 weighbridges and approximately 13 road blocks with 93% of the respondents indicating that it delayed them to large extent. 86% confirmed that this cost them financial losses. In Rwanda, there were 8 weighbridges and 6 road blocks reported with 60% of the respondents indicating that it delayed them to large extent. 80% of the respondents indicated that this had negative financial implications. In Burundi, the number of weighbridges reported was 3 while road blocks were 8. All respondents confirmed that this had caused great delays. 78% indicated that this had negative financial impacts.

The implication of the above findings was that, NTBs still contributed to the increase of transport costs along the corridor despite the efforts of Partner States to drastically reduce them. This was likely to frustrate Kenyan exports to the region.

4.4 Findings on the Rail Sector

At the time of conducting the survey, SGR had been in operation for six months and had been able to transport the tonnages to /from Nairobi as provided in table 4.14 below:

Table 4-14: Cargo transported by SGR since operationalization and the time of the study

TRAFFIC	IMPORTS (TEUs)	Nº. Trains (Import)	EXPORTS	EMPTIES (TEUS)	Nº. Trains (exports)	TOTAL (TEUS)
18-Jan	934	13	316	442	17	1,692
18-Feb	2,808	36	513	636	26	3,957
18-Mar	9,161	92	1,214	1,118	34	11,493
18-Apr	12,154	118	767	2,015	31	14,936
18-May	12,854	127	1,175	5,501	69	19,530
18-Jun	16,767	163	1,167	5,845	70	23,779
Total	**54,678**	**549**	**5152**	**15557**	**247**	**75,387**

Source: KPA, July 2018

During the period under review, SGR transported 75,387 TEUs that included 15,557 TEUs of empty containers brought downward from Nairobi for re-export. That traffic represented around 13% of the total container traffic of the Port during the period. When compared to the first six months of 2017, the rail only carried 2.7% as shown in table 4.15 below:

Table 4-15: The percentage of container traffic by the rail transported by the time of the study

MONTH	FULL LOAD DELIVERIES 2017 IN TEUs		
	ROAD	RAIL	ALL
JAN-2017	48,948	1,276	50,224
FEB-2017	39,589	1,226	40,815
MAR-2017	42,080	1,145	43,225
APR-2017	44,576	1,195	45,771
MAY-2017	46,589	1,053	47,642
JUN-2017	44,467	1,558	46,025
	266,249	**7,453**	**273,702**

Source KPA: July 2017

The government had since January 2018 instituted regulatory measures to ensure that all Nairobi bound cargo was transported by SGR. The measures instituted involved penalties by KRA to importers who sidestepped the SGR to ferry cargo to Nairobi by the use of falsified Mombasa addresses to avoid transfer of cargo to the Inland Container Depot Nairobi. KRA further cautioned that the use of wrong addresses was as mis-declaration, which attracted severe penalties under the EAC Management Act.

Kenya Railways extended the promotional tariff from March 2018 to December 2018 with KPA also bringing down its handling tariff for all rail bound containers to attract more customers. The shippers were therefore not given a free choice to determine their multi-modal choices of transporting their cargo since January 2018.

Multi-modal transport logistics means the activities involved in the carriage of goods by at least two different modes of transport on the basis of a multimodal transport contract from a place in one country at which the goods are taken in charge by the multimodal transport operator to a place designated for delivery situated in a different Country. The document issue for cargo being carried under multimodal transport operation is the Through Bill of lading covers both the sea and the rail transportation. When the SGR operations started in Kenya there was a great push by the government to have ten trains running within the first 8 months of operations. To achieve this ambitious modal ship, the government started forcefully nominating non TBL cargo which was to be transported to the hinterland by road and shift it to rail transportation. The non TBL cargo on rail transportation is now referred to as merchant cargo.

The term merchant cargo is a local term and does not feature in the international shipping business. The term merchant cargo basically crafted to bring out one fact that non TBL cargo which is transported on the train, the merchant will be liable for any damages to the container, delays and safe return of the container. On a TBL cargo the carrier responsibility ends at the inland depot while for non TBL the carrier's responsibility ends immediately the container is discharged from the ship. The Bills of lading contains terms of contract of carriage and are guided by international recognized laws.

The government through some of the agencies had instructed the shipping line to extend same terms for TBL to non TBL (Merchant cargo) carried on the SGR, this was rejected by the Shipping lines as it is contrary to international laws of carriage of goods by sea. The merchant containers have been a nightmare to the importers as they were forced to pay high detention charges due to delay in clearance and delays in returning the containers.

Currently there are no incentives for cargo owners to freely choose rail or multimodal transportation, some developed nations subsidizes the multimodal transportation and even impose toll charges to discourage traffic on the roads. As a recommendation the government should first develop a multimodal transport policy, which will provide for a framework to promote modal shift, the current practice of forcing importers to use the rail is not legally supported.

4.4.1 Cargo Allocation between Rail & Road

During the survey, all but one government agency indicated non-involvement with cargo allocation to the different modes of transport. They indicated that the market had no entry and exit restrictions and prices were obtained through market forces.

However, KPA indicated that they got involved in cargo allocation to aid the government to achieve the SGR cargo targets especially because of the loan repayments for this critical infrastructure. This distorted free trade and choice by shippers as to which mode of transport they chose for their cargo.

4.4.2 Analysis of Responses on Effect of SGR by Trucking Companies

All the respondents in Kenya indicated being affected by SGR. The common effects were listed as below;

- With SGR offering cheaper freight rates, the truckers had to reduce their rates to retain customers for the transit market where the shippers still had a choice. Some shippers associated SGR with safety, efficiency and more security;
- The rail took the lion share from total cargo transporters, locally leading to short-term losses of jobs within trucking companies;
- According to the respondents, the allocation to SGR was unpredictable, went against best practices, and led to unfair competition;
- All the respondents disagreed with the forced allocation and felt that the private sector should be freed to decide on the mode of transport to be used for hinterland transportation;
- There were unnecessary delays at the Nairobi ICD leading to long queues leading to loss of man-hours and financial resources; and
- There were challenges in repayment of the loans taken to finance their trucks.

The respondents were also asked if they envisaged any opportunity in collaboration with rail transport. Most Truckers were of the opinion that it was too early to envisage any partnership but were unanimous in support of the last mile.

In Uganda, 86.7% (13 out of 15) of the respondents reported that they were affected by operations of the SGR.. They indicated that the cargo volumes for their members (transporters) had reduced by being shifted to SGR between Mombasa and Nairobi. This had resulted in reductions in their revenues leading to price reduction to retain their customers. With the then inefficient cargo transfer operation at the ICDN, there was a poor service level in Nairobi, including non-traceability of containers and congestion at the ICDN. This led to costly delays when picking up the cargo and returning of empty containers.

In Rwanda and Burundi, the majority of respondents (66.7%) had a positive evaluation on their collaboration with SGR in the areas of: easy transportation of cars in customized wagons to Kampala or other market points, reduced shunting, subcontracts for unreachable areas, through linkage by the forwarders for picking of transit or delivery of cargo from SGR terminus to clients door steps, and movement of heavy as well as out of gauge cargo.

All respondents did not anticipate any opportunity for collaboration with SGR. This could be explained by the fact that there were no immediate plans by their governments to build or connect to the SGR. At any rate, they never had a railway system.

4.4.3 Effect of SGR on Clearing and Forwarding Services

The launch of the SGR impacted adversely on trade as indicated in Table 4.16 below.

Table 4-16: Impact of SGR on Clearing and Forwarding Companies in the Region

N⁰	Country	Response	Country %
1	Kenya	10	40
2	Uganda	6	24
3	Rwanda	5	20
4	Burundi	4	16
	Total	**25**	**100**

The respondents were asked as to whether their businesses were affected by the introduction of SGR. All of the Kenyan respondents were in agreement that SGR affected their businesses. That was probably because SGR then operated only in Kenya, between Mombasa and Nairobi, and the fact that the survey was carried out in Mombasa. The respondents agreed that SGR was suitable for the long distance, heavy cargo, and a safer and secure transport mode, but they deplored the manner of implementation that did not give shippers the freedom of choice of their preferred mode of transport.

Furthermore, they incurred substantial additional personnel costs, as staff members needed to move to Nairobi to clear cargo, where it was not anticipated. Some of their customers opted for clearing firms in Nairobi, with a loss of business as a consequence. For clearing and forwarding companies that also offered transport, there was a reduction in the volume of goods transported by road.

The respondents in Uganda anticipated a positive effect as it potentially created more business for the Kampala - Nairobi route and provided a more balanced and healthy competition. However, there were delays caused by the process and procedures at the ICD Nairobi that impacted negatively on cost and time. Similar concerns were expressed by the agents in Rwanda and Burundi. For Rwanda in particular, the Clearing and Forwarding fraternity that also offered transport services, expressed dissatisfaction with the SGR, due to the congestion at the ICD, which caused delays. The transfer operation from the SGR to the MGR for the Kampala route was not synchronized and containers started accumulating demurrages before they left Nairobi.

As part of the survey, the C & F Associations in the four countries were asked to enumerate the effect of SGR. The Associations that were surveyed were the Kenya International Freight and Warehousing Association (KIFWA), Uganda Freight Forwarders Association (UFFA), Burundi Freight & Forwarders Association (BFFA) and Rwanda Freight Forwarders Association (RFFA). The Container Freight Station Association of Kenya (CFSA) was also included in this category. The large majority (4 out 5) indicated being affected negatively by SGR.

The concerns of the C & FA were also reflected by the Associations. In Uganda, the respondents said they anticipated cheaper transport rates and shorter delivery times. The issues relating to poor services and congestion in the ICDN did not feature prominently despite the fact that some other industry players observed that the level of service was not good enough. For some of their members, who were also road transporters, there was a reduction in revenue and distance travelled as the collection of cargo moved closer from Mombasa to Nairobi. Overall, there seemed to be no reduction in revenue for C & FA as only the location of proving services had changed.

For Kenya, the situation was different as the SGR implementation was a reality. The KIFWA and CFSA provided adequate responses. Their main contention was the forced usage of SGR and the non-adherence to the international legal framework on cargo passages, where the shipper reserved the right to decide the mode of transport. The implementation then resulted in a situation where the government, through KRC and KPA, took over the role of cargo allocation to the different modes, other than the market forces. Additional impacts and concerns dented the image of SGR were listed as below:

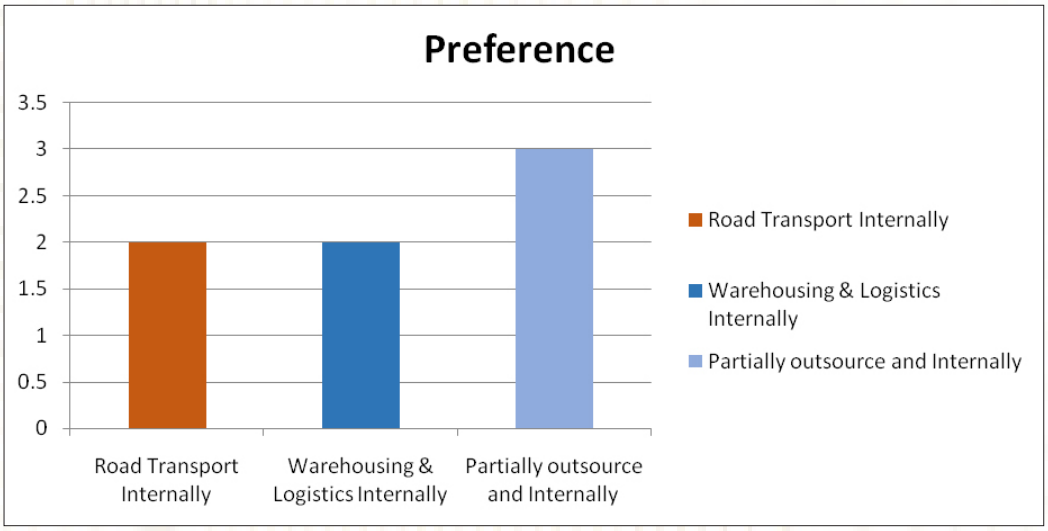
- Government directives for transfer of containers destined for Nairobi and beyond via SGR services without stakeholder consultation.
- Delays in transferring containers from Mombasa to Nairobi and substantial demurrage charges thereof.

- Clearance delays at ICD Nairobi due to inefficient and non-adapted KRA procedures
- Poor road access into and in the ICD leading to severe congestion for trucks coming to collect cargo, leading to substantial increases of the cost of doing business
- Lack of facilities to handle empty containers
- Priority was given to loading undeclared cargo and not on Through Bill of Lading as should be the practice
- Free time of storage for empty containers reduced from 30 to 4 days
- The short-term loss of business at some market players led to downsizing of the staff.

4.5 Shippers (Exporters, Importers and Manufacturers)

The survey revealed that companies had different preferences in terms of services that they required. However, the majority of the companies preferred outsourcing most of the services. Out of 30 companies interviewed in Kenya, 13% of them preferred to transport road cargo internally while 56.7% of companies preferred to outsource the services from alternative road cargo service providers. 30% of the companies preferred to partly do road cargo services internally and partly outsource. Preferences also differed as per country in terms of which services to execute internally or outsource.

Figure 4-10: Preference of the method of transporting Road Cargo in Kenya



Burundi

For Burundi survey findings from shippers showed that 50 percent of them carried out road cargo transport, warehousing and logistics services60% internally while they preferred to outsource freight forwarding and cargo brokerage30%.

Rwanda

Exporters, Importers and Manufacturers in Rwanda preferred to outsource fully freight forwarding and cargo brokerage services. Logistics services on the other hand were executed internally, whereas road cargo transport was partially outsourced and partially carried internally.

Companies in Rwanda had quite a number of service providers of warehousing, road transport (50%), freight forwarding (67%), and cargo brokerage (33%) and logistics (83%) services to choose from. That was a clear indication that the market was competitive and such service providers and manufactures/shippers had access to relevant information regarding their services.

Uganda

Exporters Importers and Manufacturers preferred to outsource and executed internally the following services: road cargo transport, warehousing, freight forwarding, cargo brokerage services and logistics services. Just like Rwanda, in Uganda there were a number of services providers of road cargo transport (12), warehousing services (6), and freight forwarding services (7).

The analysis output was as indicated in annex 4. From the Table, it is evident that most companies (85.7%) interviewed had entered in to agreement with freight forwarders. In warehousing, 62.5% of the shippers indicated that they had entered into agreement with warehousemen.

Kenya

For Kenya, unlike Burundi, Rwanda and Uganda, shippers preferred to generally outsource road cargo transport, warehousing, freight forwarding and logistics. Also for cargo brokerage, they preferred to outsource. Companies in Kenya could choose as many providers of freight services (50) and logistics (50).

The findings further revealed that 65% of companies could hire shipping line services independent of their road cargo or logistics services when procuring maritime or waterway transportation while the remaining percentage of 35% depended either on recommendations.

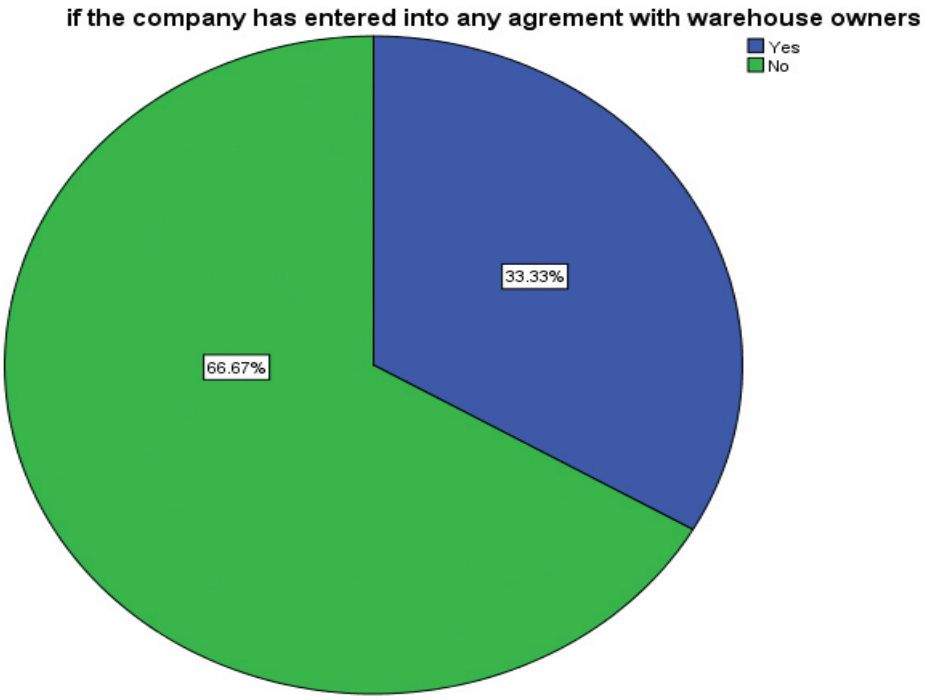
Figure 4-11: Pie chart showing response on the ability of shippers hiring independent of their logistic service providers

This could possibly be the ease of accessing these services might explain the reluctance of shippers to tie up their finances with investments whose products or services they could easily procure.

The survey also sought to find out if shippers had entered into contract or agreements with transport service providers. The survey revealed that, shippers preferred to have a contract or agreement with freight forwarders. The majority 89% (33 out of 37) of the shippers interviewed reported to have entered into contract or agreement with freight forwarders.

However for shipping lines, 56% of Importers, Exporters and Manufacturers had not entered into any contract or agreement while 44% had entered into contract, only 11.6 % had entered into contract or agreement with freight cargo owners while a large majority of 78.3% had no contract or agreement with freight cargo owners. For the warehouse owners, only 33.3 percent of importers, exporters and manufacturers had entered into any form of agreement or contract as illustrated by the pie chart below.

Figure 4-12: Pie chart showing response as to whether companies have entered into agreements with warehouse owners



Source: MBEC team analysis 2018

Analysis on the factors that contributed to the choice of transport by the shippers was also undertaken and the Table below provides the cross tabulation of the responses;

Table 4-17: Cross tabulation of the factors affecting choice of transport by shippers

Factors	Extremely large extent (%)	Large extent (%)	Moderate extent (%)	Small extent (%)	Not at all (%)
Prices	61	34.1	4.9	-	-
Customer service	48.7	25.6	25.6	-	-
Combined services (clearing, forwarding, CFS)	36.8	31.6	10.5	10.5	10.5
Long term relationship	40.5	29.7	18.9	-	10.8
Recommendation from agents	8.1	16.2	18.9	21.6	35.1
Others (specify).....	-	-	-	-	-

Source: MBEC Team Analysis (2018)

Price was a major determinant of the choice of transportation service provider. As evidenced from the Table above, 61% of the importers, exporters and manufacturers stated that price influenced their choice of transportation by an extremely large extent, 34.1%, by large extentwhile only 4.9% indicated that price influenced their choice of transportation by moderate extent.

48.7% of importers, exporters and manufacturers indicated that customer service influenced their choice of transportation by an extremely large extent. Those that indicated customer service influenced their choice of transportation by a large extent and moderate extent were both 25.6%,

35.1% of the respondents indicated that recommendations by agents did not have an impact at all in the choice of their transporter, 21.6% responded that recommendation by agents had a small extent to the choice of the transport service provider while 8.1% responded that agents played a greater role in their decision. This clearly indicates that shippers had the liberty of making decision on their transport service provider independent of the recommendations from the agents.

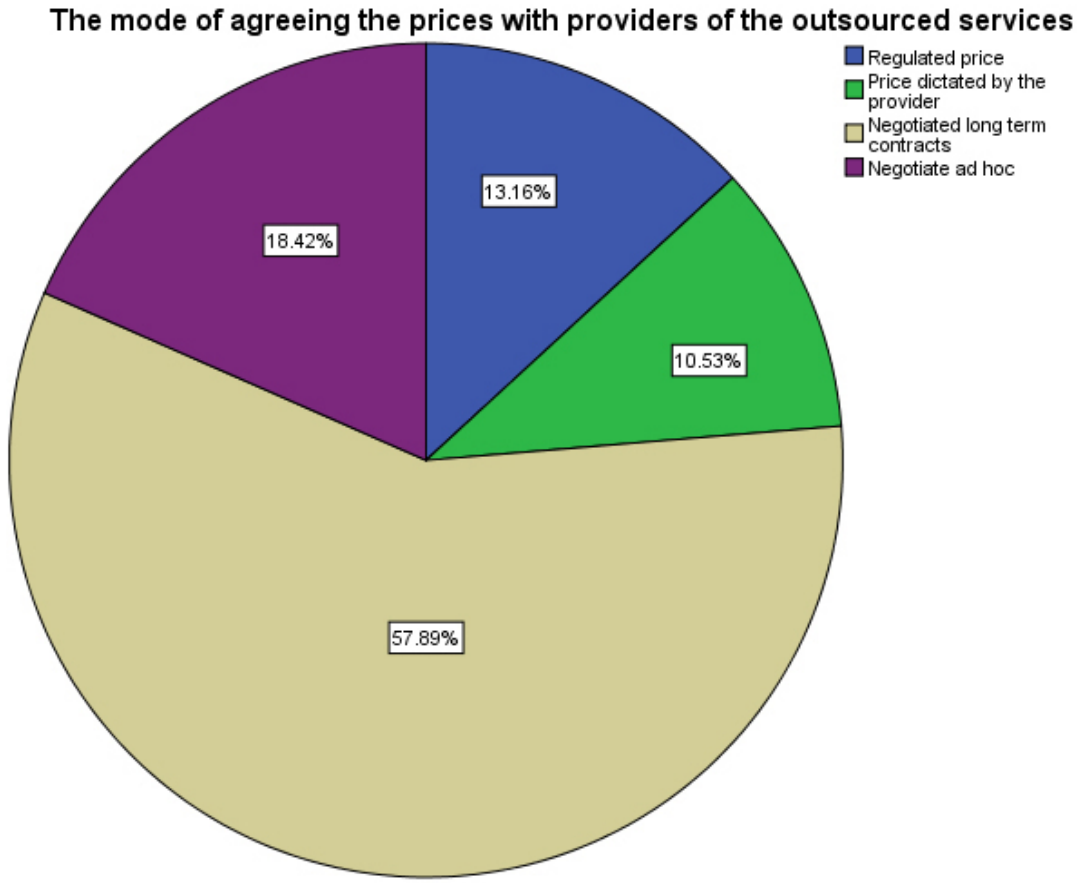
As to whether the nature and conditions of a relationship was a major factor in determining the choice of transportation, 40.5% of shippers indicated that long term relationships influenced the choice of transportation to an extremely large extent

About 11 out of 37 responses (29.7%) indicated that long term relationships influenced their choice of transportation by a large extent, 18.9% by a moderate extent while 10.8% were not influenced by long term relationship on their choice of transportation (table above).

Most companies negotiated on the price for the services they outsourced for long-term contracts, accounting for 57.14% of those interviewed, while those that negotiated the price on ad hoc and short-term contracts accounted for 16.67% of the respondents.

The percentage of companies that came to agreement for the price to charge for the services outsourced based on a list/regulated price was 14.29%. Only 9.52% of the companies set their prices based on the providers of the service who determined the amount to pay and the companies had no negotiation power (figure below).

Figure 4-13: Pie chart showing the mode of agreeing prices between manufacturers and transport companies



Source: MBEC Team Analysis (2018)

4.6 Impact of Transport Cost to Kenya's Exports

On the responsiveness to price changes, the survey sought to establish whether, the exporters, importers and manufacturers could like to continue to hire services from the main provider in same quantities as of now or at slightly lower quantities or at significantly lower quantities if the main provider raised prices above the level on the main route.

Responses received on an assumed "10% road transport price increase" confirmed that most respondents had sufficient alternatives available and were able to easily switch between service providers. As it appeared, the respondents interpreted the question on price sensitivity at the level of the individual service provider.

As an illustration to how the cost of transport could affect trade, the survey established that if the main service providers raised prices by 10% above the then level on the main route, 56.0% of Importers, Exporters and Manufacturers would continue to hire services from the main provider in the same quantities, 4.0% would continue to hire services from their main provider at lower quantities while 36.0% would continue to hire road transport services but at significantly lower quantities. To the extent that there was no increase of those who would buy as a result of the increase in price or increase in demand, it was evident that volume to be procured would be lower than the initial volume. One could therefore safely conclude that the demand for the road transport services was elastic which was consistent with expectations. Furthermore the change would be negative which validates inverse relationship between price of a product and the quantity procured. This indicated that the consumers of these services would continue to consume transport services and majority of the consumers of trucking services were not responsive to changes in prices.

According to the findings, 50.0% of the 36% would make up for lower quantities by foregoing their provider's services in favour of alternative transport modes also provided by their providers. That phenomenon was a manifestation of loyalty whereby a consumer went for his second best by substituting the preferred option for a rather "inferior" Product. The more scope there was for the shipper to choose from, the more elastic demand became.

Twenty-five (25%) (of the 36%) of Importers, Exporters and Manufacturers would make up for lower quantities primarily by foregoing their main provider's road transport services in favour of alternative providers services of a different transport mode. This group would leave everything to do with their provider and even accept an inferior product from the market. That still left the price elasticity of demand for transport services as negative. To this consumer, the shift might underline a major budgetary allocation for this product.

The remaining complement of 25% would continue to hire road transport services at significantly lower quantities and would make up for the lower quantities primarily by foregoing road transport services of their main provider in favour of an alternative providers' road transport services. This would suggest a strong preference for the road transport and also underline the displeasure for alternative mode of transport. It also suggested ease of switching over from one provider to another. That was is a situation where alternative modes of transport might be available but not easily accessible which might suggest restrictions imposed by regulations.

4.7 Sectorial Associations

It was expected that different Associations would have different entry rules guided by the industry they served. Overall the principle concern of most Associations in Shipping, Trucking and Haulage was to promote ethical businesses, best practices and facilitate seaborne trade and economic growth in the East African Region. As a way of illustration about their objectives and governance, the case for KSAA is provided as Annex 8 to this Report.

4.7.1 Code of Conduct

Of all the seventeen associations, they all were incorporated in their respective countries of domicile. Surprisingly, only 82.4% reported that there were rules governing entry. One reported lack of entry rules while two others failed to respond.

Almost all (94%) of the respondents reported that there were codes of conduct which governed their behaviour; the one respondent who alleged that there were no code of conducts hailed from Burundi and suspected could be the one who cited lack of entry rules, which could be out of ignorance or disregard of the operations of the Association. Largely membership was voluntary and therefore adherence was also out of good will.

4.7.2 Role of Associations

Most of the Associations were involved in advocacy, information dissemination, lobbying, mobilization, networking and capacity building. They bordered more on welfare concerns. It was therefore not surprising that 82.4 % reported that government regulations mostly had impacts on their members.

The complementary 17.6% that felt that the government regulations did not impact on their members, could be a case of cross membership, where for instance one was a member of Shippers Council of East Africa and Kenya Association of Manufacturers wherein a regulation related to pre-clearance of cargo and not to manufacturing processes per se.

The fact that a big majority believed that government interventions impacted on their members could constitute a good platform for engagement with policy makers and that could be deployed to raise awareness.

In most instances, the Associations, 29.4% could sign agreements on behalf of their members. That could possibly be the case of umbrella bodies. Once again that underlined the recognition and acceptance enjoyed by the Associations.

It might however be important to know the kind of agreements that would entail. Might be and in deed most of these agreements bordered more on Memorandums of Understanding and cooperation, especially recalling that most of the associations did not have legislative powers. For instance the MOU with Trademark East Africa (TMEA), Rwanda Revenue Authority, Insurance Companies, ISCOS, KPA, KENTRADE, Mombasa Port Community Charter etc.

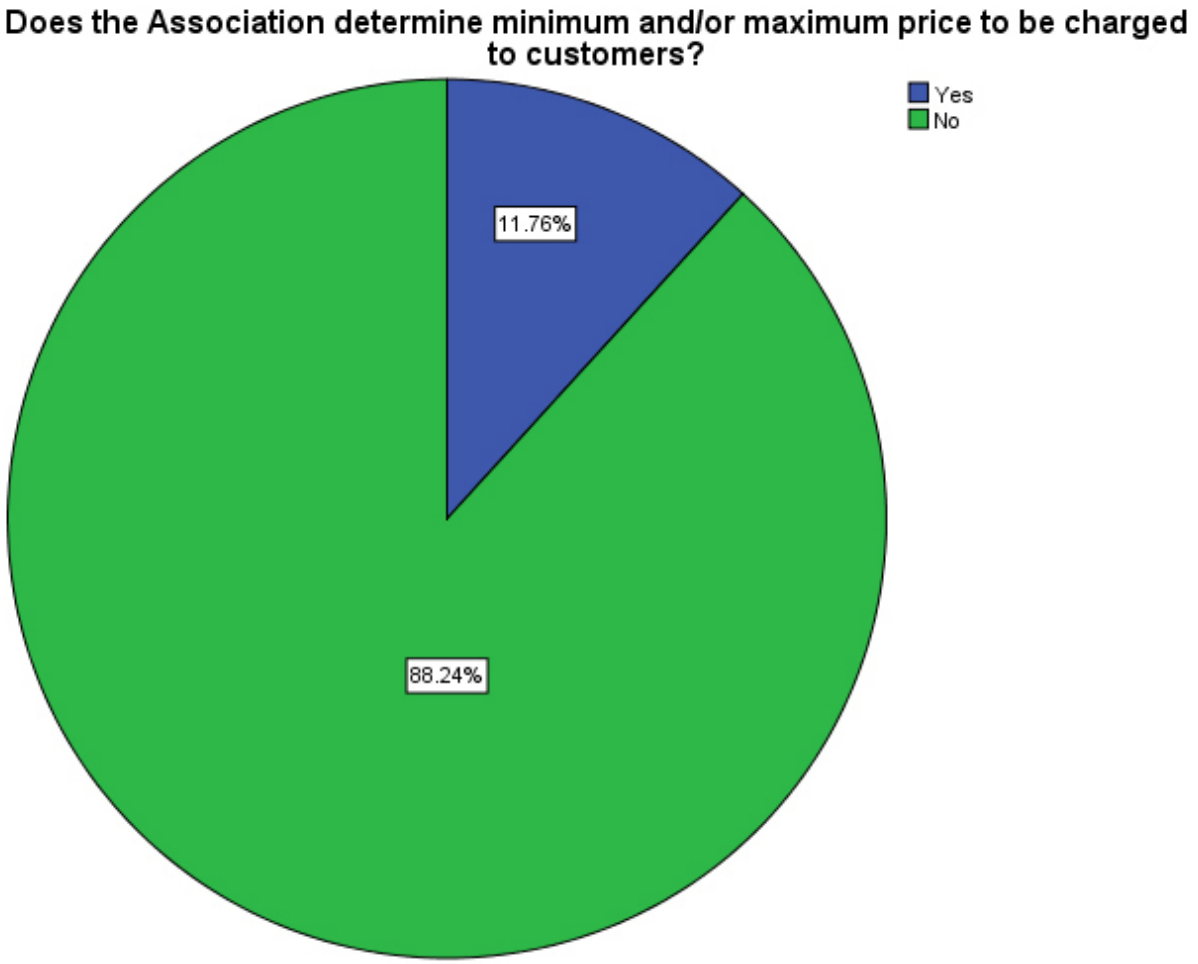
To underline the general lack of direct influence of the associations on the market functioning, only 35.3% reported that they could caution a member who behaved in a wayward manner, such as on setting the price way below the market while 52.9% reported that they would not interfere. Only one respondent contended that they would suspend the concerned member. This was an “if” question directed at Associations.

4.7.3 Market Prices

To further support the foregoing, 88% of the respondents stated that the Associations were not involved in the setting of maximum or minimum prices charged to the customers. In essence, the setting of prices was a matter of individual service providers. The foregoing either reflects the arm’s length approach from which they related with the industry to the extent that matters of commercial considerations were left to industry players thereby signifying lack of command in the industry where players determined their lines of action.

A question to gauge the involvement of Associations in determination of market prices drew the following responses as indicated by the pie chart below.

Figure 4-14: Pie chart showing response as to whether associations determine minimum and or maximum prices to be charged by customers



Source: MBEC Team Analysis (2018)

The two respondents who observed that their Associations were involved in setting prices are from Rwanda and Burundi. The impact in the entire East African Community market likely to be small given that it largely concerned road trucking, manufacturing, export and import trades, whose volumes were known to be small. The proximate contribution based on the average share of the Port traffic for the last ten years was insignificant at 0.2% for Burundi while that of Rwanda was 1.1%. The combined share of Burundi and Rwanda was 1.25%

- In summary the, services provided by the associations included;
- Advocacy, representation and lobbying;
- Training and capacity building for members;
- Port Agency representation with KPA/KRA and other Government agencies;
- Sharing of government information like security requirements with regard to shipping of export cargo to USA, communication by the government agents regarding labelling of Kenyan bound imports, see The Daily Nation, 02nd Nov 2018, pg 25 advertisement issued jointly by KRA and KPA titled “Notice to Shipping Lines/Agents/Importers” The Shipping Lines through their Shipping Agents Association were required to advise all their customers of that requirement.

4.8 Regulatory Regime

4.8.1 The Regulatory Environment along the Northern Corridor

The Table below shows the configuration of the regulatory regime obtaining along the Northern Corridor based on instruments developed under the EC and the Corridor Agreement:

4.8.2 Findings on Regional Competition

Table 4-18: Summary findings on Regional Competition

Sector/Scope of Regulation	Enabling Legislation	Status of Implementation
Regional Competition	EAC Protocol on Trade in Services	Already in force
Northern Corridor Transit Operations	NCTTA Agreement	Under implementation
Road Transport Regulations	Various national Road Transport legislations	Applicable in various countries under national transport /safety authorities and other agencies
Port Services	Kenya Ports Authority Act	Applicable
Railway Services	Kenya Railways Corporation Act and Uganda Railways Act	Effective under government departments
Maritime/Shipping services	Merchant Shipping Act	Effective under the KMA
County Levies along Corridor routes (Kenya)	County Regulations	County governments have sought to introduce levies along Corridor routes. No legal right to levy any charges along the designated NC routes unless a transporter deviates into a County facility
Other Regulated Areas	Other Government Agencies (OGA's)	Effective under relevant government departments

4.8.3 Observations

The Port of Mombasa by law is a common user facility and port users were not restricted in any way from accessing port services. The Tariff was published and applied across the board. In addition, KPA was by law required to facilitate a level playing field to all their customers. No preference was given in terms of tariffs or regulatory compliance to larger shipping lines at the expense of one -time callers (tramp vessels).

In road transport, trucking services were largely liberalized in the EAC countries and a competitive market for transport services within the Northern Corridor existed and transporters operated in all countries when licensed. Regulations and policies regarding axle load control, licensing regimes and modes of operations were generally harmonized.

In railways, Kenya Railways Corporation had a monopoly in the railway transport sector in Kenya. KRC operated under a published tariff and until recently, shippers were free to make choices on their preferred mode of transport inland. With commencement of SGR operations, a requirement was put that all containerized cargo destined inland railed.

5 CONCLUSIONS AND RECOMMENDATIONS

Below is a summary of the main insights obtained from the study, followed by a number of policy recommendations.

5.1 Shipping

The Port of Mombasa and by extension its greater hinterland was served well by vessels that sailed along the major trading routes. The services were part of liner shipping arrangements and most of the Lines made weekly calls.

Out of the twenty Shipping Lines that called at the Port of Mombasa, thirteen of them called frequently. Those Lines were headquartered overseas and given the size of the Port of Mombasa, all major decisions were made at their headquarters including the frequency of the service, tariff and determination of the capacity allocation. It was therefore expected that issues of integration, business partnering (including collusion and vertical integration) were dealt away from Mombasa. From that perspective, the Shipping Lines were left to compete at the level of the service.

The findings indicated minimal vertical integration in the operations model of the shipping lines calling at the Port of Mombasa. However, vertical integration between shipping lines and terminal operations was is not relevant as KPA enjoyed a monopoly on container handling operations in the Port. Should the governance of the Port be changed towards a landlord model with private concessioning, elements of the concession contracts should be scrutinized against non-discriminatory access and preferential treatment of some of the shipping lines (should there be an investment of shipping lines via their terminal holding companies)

The study identified two respondents who had cooperation agreements but those agreements were not availed for analysis vis-à-vis competition concerns in the sector. An in-depth analysis of those agreements would necessitate access to confidential (commercial) documents, which could only be obtained formally if the company was under investigation by the competition agency. Alternatively, a thorough analysis would necessitate interviews and data gathering with the specific stakeholders (customers of the players involved) affected by the agreement.

From the findings, the HHI index did not show high concentration on the shipping level in Kenya. However, a strict and continuous monitoring of services offered on the main trade routes in and out of Mombasa was needed, given the on-going Mergers & Acquisition activities in the container liner-shipping sector (and expected further consolidation), next to horizontal cooperation under the form of alliances. That was brought to light by UNCTAD in their newest latest Review of Maritime Transport (2017 and 2018) Report. Both monitoring of the activity on the various shipping corridors as well as following up on indicators such as Kenya's Liner Shipping Connectivity Index (LSCI by UNCTAD) was recommended.

It was recommended that the relevant department in the Ministry of Transport, Infrastructure, Housing, Urban Planning and Public Works continuously monitors the services offered including tariffs from/to the Port of Mombasa on the main shipping corridors (such as Mombasa to Middle East) as well as final destinations. Continuous monitoring of Kenya's liner shipping connectivity index (LSCI) was also recommended. Any decrease in LSCI warrants attention towards healthy competition in the industry.

Also, any commercial horizontal cooperation agreement that did not fall under the hard core anti-competitive restrictions (such as: price, quantity) between shipping lines affecting the Port of Mombasa should be notified to the relevant government department for investigation, prior to their implementation.

It was also recommended that guidelines be developed for approving shipping lines alliances and consortia that might have an impact on the local maritime transport competition to ensure the agreements were not discriminative and operated for the benefit of the local people. A monitoring and evaluation framework should also be developed and implemented that checked and identified any discriminatory, unjustified and other anti-competitive behaviour in the shipping sector in Kenya.

5.2 Port Services

The port operations were found to be below best practices despite the huge investments that had been undertaken in the last couple of years. The efficiency levels in terms of the number of container moves, the ship waiting time and the average time spent in port was much higher than the UNCTAD calculated averages. The situation thus warranted continuous attention to the port services and governance frameworks which were characterized by a monopoly for cargo handling and relative lack of competition from neighbouring ports. The main element for monitoring would be the monopoly status enjoyed in cargo handling to establish whether a shift to a landlord model with more involvement of private players was useful. Monitoring of monopolistic tendencies should include government agencies such as Customs, in the supply chain. Recommendations on efficiency (starting from a competition point of view), required a more holistic analysis of the specific matter.

The Port of Mombasa should up its operations game above that of Dar es Salaam by raising productivity by providing a traffic management module that will reduce the number of hours trucks take in the Port. Furthermore proper prior planning of loading and discharging cargo should be put in place and adhered to. It should also reduce the number of interventions on movement of cargo by various regulatory bodies. Besides investments in state of the art cargo handling equipment, it should invest in human capital as well and maintain a close working relationship with principal stakeholders.

Further recommendation is that to forestall possible abuse of monopoly power, the Port services be progressively privatized and a strong industry regulator created in the medium term and be convening stakeholder meetings regularly to review possible anti-competition practices that might creep in and confront the industry as it progresses.

5.3 Rail Haulage

Until early 2018, when the SGR freight cargo line was commissioned, cargo movement along the Northern Corridor was predominantly executed through road transport with the shippers free to select the mode of transportation to the hinterland. The study found out that the government, through KPA nominated local cargo to be transported by SGR to ICD Nairobi without consultation with the owners of cargo.

The imposed use of SGR created issues in terms of the free market choice for shippers. Based on the European case, it is recommended that a transition to a regime where rail transport is subsidized and supported to the extent of the environmental benefits it generates (incl. safety/avoidance of road accidents), instead of the government imposed regime which is unlikely to be sustainable in the future. The scheme also needs to lead to a sustainable modal shift from road to rail, and be targeted at key supply chain decision-makers (Annex 5).

The cost of transportation of cargo from the Port to the shippers' door steps was reportedly very high because of the "first/last mile and transhipment which constituted double handling. The diversion of cargo from road to rail has affected resource distribution and utilization which has affected financing arrangements of some truck operators. The long transit time through the ICD Nairobi required that shippers had to invest in inventories because of the absence of reliability and timely delivery of cargo.

A potential risk of the current governance of the SGR project was is that it might lead to consolidation in the Mombasa trucking industry as some small players might go out of business and others, in their quest for survival started to cooperate or merge leading to concentration.

The degree of substitutability depended on the type of cargo and distance. For short distances, about 250 kilometres and below, the railway is not competitive enough. Further the railway was best suited to do bulk, heavy –low value cargoes as opposed to the road which was suitable for shippers in need of faster and door-to-door services. In light of existing arrangements, railway services must be complemented by truckage services however with regard to containers, the two modes can compete as well complement each other but complete substitutability was highly unlikely

The effect of SGR on small truckage companies was in that the small fleet owners were likely to be more flexible than the larger ones. Besides they could easily squeeze themselves to small parking areas including road reserves and petrol stations where they could be accommodated unlike those with large number of trucks that were more aligned to doing interstates or inter- cities transportation

It was recommended above that Impact Evaluation be undertaken to assess the impact of SGR. We hasten to point out that some Forwarding and Clearing Agents have been called upon to provide their services in Nairobi as opposed to their presumed home base of Mombasa. It was evident that there was serious congestion at the ICD Nairobi occasioned by the operationalization of SGR. This was accompanied by huge demurrage charges levied by Shipping Lines.

There is also the need of not having long-lasting preferential measures put in place by the government to perpetuate favourable terms for any party at the expense of others. In this respect, the cargo reservation accorded to SGR will need to be gradually withdrawn.

Further development of rail served ICDs should be planned with the necessary infrastructure synchronized in order to avoid bottlenecks such as is the case with inadequate access roads and parking as is the current case with Nairobi ICD"

5.4 Trucking

This study observed a number of facts which were key to the road trucking industry on the Northern Corridor. Among them was free entry and exit to the industry from the licensing perspective. Market entry was open to operators in the trucking industry with compliance being required only for road safety requirements and good standing in business practices. Furthermore, both large and small companies coexisted and operated on same routes

Apart from domestic cargo which was allocated to SGR, the reminder of the cargo was given free access to trucking companies to compete for cargo among the shippers. There were no open cargo reservations schemes for some truckers at the expense of others;

Licenses were granted more freely for the trucking companies and the fees charged were largely uniform. Moreover, transit road user charges levied by the road development agencies were harmonized within the EAC as each truck paid according to its capacity and the distance traversed in the host country.

Although there were standard documents under transport facilitation requirements for transit or across the border operations, agencies such as police requested documents that were not mandatory thus causing unnecessary delays to truckers. This was a form of Non-Tariff Barriers.

There were some cases of cross ownerships between truckers and shipping lines that resulted in vertical integration. The study identified two companies associated with shipping agents who had both shipping, clearing and forwarding and transport divisions. Ocean freight (EA) was substantially owned by the Mediterranean Shipping Company (MSC). Similarly, the French consortium of CMA CGM had also incorporated Bolloré, a major French transport and logistics group that provided surface transport, freight forwarding and warehousing in many countries of the Northern Corridor. However, from data collected, there was no evidence of any practice that warranted competition concerns.

The study did not find any agreements among the trucking companies. Rather, the shippers/manufactures indicated having long term agreements with freight forwarders which was common across the world and did, in general represent a real threat to competition.

It was a common finding that price setting in the trucking industry was based on a number of considerations, which mainly took into account the route, direction of flow and transit time. For containerized and other non-bulk cargoes, trucking companies aimed at balancing their revenues and costs for each truck trip and did not necessarily consider their sizes of the fleet. Owners generally took into account the direction of trade and freight rates were usually higher

on the upward leg from the Port to the hinterland, where transporters endeavoured to recover the full cost and make a profit since the return cargoes were not guaranteed due to low export volumes.

Although most trucking companies surveyed were members of associations, those were trade Associations and had no active roles in price setting.

5.5 Recommendations for further study

A price monitoring tool based on observed bidding prices of a diversified sample of larger and smaller players should be developed. Major players in the road trucking market should provide their contract bidding data to CAK to enable them understand price formation in different markets for different commodities and potential seasonality. This would also allow the detection of routes with competition issues.

CAK should conduct a 3-yearly study on market evolutions in the road transport sector in Kenya (and the EAC), including evolution of both transport prices as well as underlying cost determinants (drivers' wage, maintenance, fuel), and characteristics of the trucking fleet (average age of vehicles, environmental parameters). Such study could also contain indicators on market liberalization / market access in the different EAC countries. The ex-post analysis of EU regulations 1071/2009 and 1072/2009, both aimed at improving the internal EU market for truck haulage, carried out in 2015, contains the relevant elements to measure and compare.

A further study should also be carried by CAK to obtain comprehensive information on the status of the operations at ICDs and as to whether there are non-competitive operations.

References

Argent, J. & Milanovic, M. (2014). *Rwanda's Road Freight Industry Competitiveness Study.* Trade Mark East Africa, 17 March 2014

Arvis, J., Raballand, G. & Marteau, J. (2010). *The Cost of Being Landlocked: Logistics Costs and Supply Chain Reliability.* World Bank

Baier, Scott L., and Jeffrey H. Bergstrand, (2001)"The growth of world trade: tariffs, transport costs, and income similarity." *Journal of international Economics* 53.1 (2001): 1-27.

Barak D. Hoffman and George B.O. Kidenda, (2014) *Political Economy of Transport Sector Integration in the East African Community.*

Bo-Lennart Nelldal, (2000) Competition and co-operation between railways and trucking in long distance freight transport-an economic analysis

Tshepo Kgare, Gael Raballand & Hans W. Ittmann, (2011) Cargo Dwell Time in Durban Port-, World Bank.

Cochran, W. G. (1977), Sampling Techniques Third Edition, New York: John Wiley & Sons.

Cohen, L., Manion, L. & Morrison, K. (2007) Research Methods in Education, (6th Ed.). London and New York, NY Routledge Falmer.

Comparative Transportation Cost Analysis in East Africa, Technical Paper No. 21, June 1996, page 12

Competition and Fair Trading Commission, (2016) Competition Assessment in Malawi Transport Sector *A paper prepared for ACER 2016 Conference, Livingstone, Zambia, P/Bag 332, Lilongwe 3, Malawi,*

Cooper, D. R. & Schindler, P. S. (2001).Business research methods. McGraw-Hill Higher Education, London.

CPCS Transcom Limited. (2010). *Analytical Comparative Study Transport Cost Study along the Northern Corridor Region.*

Creswell, J. W. (2014). Research Design: Qualitative, Quantitative and Mixed Methods Approaches (4th Ed.). Thousand Oaks, CA: Sage.Current Science, Vol.75, No 8, Bangalore, October, 1998

Flor, L., & Defilippi, E. (2003). Port infrastructure: An access model for the essential facility. Maritime Economics & Logistics, 5(2), 116-132.

Defilippi, Enzo, & Lincoln Flor, (2008) "Regulation in a context of limited competition: A port case." *Transportation Research Part A: Policy and Practice* 42.5 (2008): 762-773.

de Jong, G. C., et al.(2010)"The price sensitivity of road freight transport–a review of elasticities." *Applied transport economics, a management and policy perspective, De Boeck, Antwerp.*

Deloitte insights. (2017) *Shipping: Sailing in troubled waters.* Retrieved from https://www2.deloitte.com/insights/us/en/economy/global-economic-outlook/2017/shipping-industry-crisis.html

East Africa Shippers Council. (2014). *Logistics Performance Survey.*

East African Community (EAC) (2011) *Corridor Diagnostic Study on the Northern and central Corridors of East Africa.* Technical Papers, submitted by Nathan associates Inc, Arlington Virginia, USA.

El Kalla, Damir Zec, Alen Jugović (2017) *Scientific Journal of Maritime Research* 31 pg. 128-136 Faculty of Maritime Studies Rijeka,

El Kalla, Damir Zec, Alen Jugović (2017) *Scientific Journal of Maritime Research*, 31 pg. 128-136 Faculty of Maritime Studies Rijeka, Entrepreneurship, 1(2), 529-539

Francesco Dionori et al (2015) *Freight on road: why EU shippers prefer truck to train*, A document by the European Parliament's Committee on Transport and Tourism.

Government of Kenya. (2009). *Integrated National Transport Policy; Moving Working Nation.*

Government of Kenya. (2009). *Moving a Working Nation. Integrated National Transport Policy.*

State department of infrastructure (2013) Harmonization of transport user charges, case of Kenya,

Hartmann, Olivier and Ephrem Asebe, (2012) "Road Transport Industry in East Africa in Kenya, Rwanda and Tanzania", SSATP,

Hummels, David, (2007) "Transportation costs and international trade in the second era of globalization." *Journal of Economic Perspectives* 21.3 (2007): 131-154.

Ibid Nathan Associates Inc, Arlington Virginia, (2009) *Corridor Diagnostic Study on the Northern and Central Corridors of East Africa.*

Ibid Nathan Associates, Arlington Virginia, USA. (2011) *Corridor Diagnostic Study on the Northern and Central Corridors of East Africa.*

Ibid UV. (2010). *Port Master Plan and Development of Free Trade Zone in Mombasa.*

Institute of shipping economics and logistics, (2017). *Shipping statistics and market review.*

International Maritime Organization,(2018) Introduction to IMO web link; http://www.imo.org/en/About/Pages/Default.aspx accessed on March 21, 2018.

International Maritime Organization. (2018). Retrieved from http://www.imo.org/en/About/Pages/Default.aspx

Irandu, Evaristus M., (2000) *Improving Railway Transport in Kenya: Policy Options and Achievement to Date*. A paper prepared for USAID/REDSO/ESA's Strategic Objective # 623-002-01: Increased use of critical information by USAID and other decision-makers in the region.

ISL (2017) Shipping statistics and market review 2017, Institute of shipping economics and logistics, Vo. 61, No. 7.

Kenya Bureau of Statistics, 2017.

KLR. (2006). East Africa Competition Act. Retrieved from East Africa Community: http://www.kenyalaw.org/kl/fileadmin/pdfdownloads/EALA_Legislation/East_African_Community_Competition_Act_2006.pdf

KRB. (2015). Kenya Transport Sector Details. Retrieved 2018, from Overall Sector Summary: http://www.krb.go.ke/our-downloads/NCTIP/Annexes/Annex%203.1%20Kenyan%20Transport%20Sector%20Details%20ver%201.pdf

Kenya Port Authority, (2013-2017.) Strategic Plan. pp. 19- 27

Kenya Ports Authority, (2010-2018) *Annual Review and Bulletin of Port Statistics,*

Kenya Ports Authority, (2015). *Annual Review and Bulletin of Port Statistics.*

Kgare,T., Raballand,G., & Ittmann,H.W, (2010). *Cargo Dwell Time in Durban Port*- World Bank.

Koncepts Analytics, (2017) *Global container shipping market: Industry analysis and outlook.*

Lebogang Nleya, (2014) Routes to Market: Enhancing Competition in Regional Road Freight; Quarterly Competition Review, *Centre for Competition, Regulation and Economic Development (CCRED)*, August,

Lescroël, A. L.; Ballard, G.; etal, (2014). Descamps, Sébastien, ed. "Antarctic Climate Change: Extreme Events Disrupt Plastic Phenotypic Response in Adélie Penguins"

Maritime Business and Economic Consultants, (2017). *Impact Assessment Study of Recent Port and Rail Infrastructure Developments in Mombasa on Freight and Logistics in Kenya.*

Marshall, A. (1921). Industry and Trade.London, Macmillan.

Mugenda, O.M, and Mugenda, A.G. (2003). Research Methods: Quantitative and Qualitative Approaches (Revised Ed). Nairobi: African Centre for Technology Studies (ACTS) Press.

Namusonge, G. S. (2010). Business Statistics: Concepts and Applications. Beau Bassin, Mauritius: VDMPublishing House Ltd.

Nathan associates incorporated and Arlington, Virginia, USA. (2011 April 14th). *Corridor diagnostic study of the Northern and central corridors of east Africa.* Action Plan: Volume 1 report.

Nathan associates incorporated and Arlington, Virginia, USA. (2011 Dec 16th). Corridor diagnostic study of the Northern and central corridors of east Africa. Action Plan: Volume 1 report.

Nathan associates incorporated and Arlington, Virginia, USA. (2011, January) Corridor diagnostic study of the Northern and central corridors of east Africa. Action Plan: Volume 1 report.

Nathan Associates, Arlington Virginia, USA. (2008-2011) Corridor diagnostic study of the Northern and Cental Corridors of East Africa.

State of Infrastructure in East Africa, (2013) New Partnership for Africa Development –Infrastructure Project Preparation Facility, New York: McGrew Hill Companies

Northern Corridor Development Authority 2017 indicators

Northern Corridor Development Authority; Northern corridor development Observatory report Northern Corridor Development Authority;

Northern corridor development monthly reports (various)

Northern Corridor Transit and Transport Coordination Authority, (2017) *Northern Corridor Transport Observatory Report. 10th Issue*, Mombasa

Northern Corridor Transit and Transport Coordination Authority, (2010). Analytical Comparative Transport Cost along the Northern Corridor. Final Report, CPCS

Northern Corridor Transit and Transport Coordination Authority, (2015). *Impact Assessment of the Northern Corridor Improvement Activities. (2015) Final Report*, Prepared by CSPC, pp 9-10, 15-17

Northern Transit Transport Coordinating Authority, (2014) *Advancing Trade Through the Northern Corridor*. Port of Mombasa Community Charter:

Notteboom T.E., Parola, F., Satta, G. and Pallis A.A, (2017) The relationship between port choice and terminal involvement of alliance members in container shipping. Journal of Transport Geography, 64,pp. 158-173

Notteboom T.E., Parola, F., Satta, G., & Pallis A.A., (2017) The relationship between port choice and terminal involvement of alliance members in container shipping. *Journal of Transport Geography.*

Oliver, V., (2010)301 Smart Answers to Tough Business EtiquetteQuestions. Skyhorse Publishing: New York, USA.

Parola, F., Satta, G., Panayides, P.M., (2015) *Corporate strategies and profitability of maritime logistics firms*. Maritime Economics and logistics. 17 (1), pp. 52–78.

Parola, F., Satta, G., Panayides, P.M., (2015) *Corporate strategies and profitability of maritime logistics firms*. Maritime Economics and logistics. 17 (1), pp. 52–78.

Patrick O. Alila, et al, (2005) Development of African Freight Transport– The Case of Kenya (Danish Institute for International Studies)

Port Master Plan and Development of Free Trade Zone in Mombasa.

Ports Development Perspective in East Africa Community, (2018) Case Mombasa, Trade Development Forum, 28th February – 01st March 2018, Kampala, Uganda

Australian Department of Infrastructure, Regional Development and Local Government, (2008) Road and rail freight: competitors or complements?

Rodrigue, J.P., Notteboom, T., (2010) *Comparative North American and European gateway logistics: the regionalism of freight distribution.* 18(4), pp.497 – 507.

Rodrigue, J.P., Notteboom, T., (2010) *Comparative North American and European gateway logistics: the regionalism of freight distribution*.J.Transp. Geogr. 18(4) 497

Rob Harrison et al, (2013) Container Terminal and Cargo Handling Cost Analysis Toolkit Cost for Transportation Research, University Texas at Austin

Shippers Council of Eastern Africa, (2015) Logistics Performance Survey.

Shipping: Sailing in troubled waters https://www2.deloitte.com/insights/us/en/economy/global-economic-outlook/2017/shipping-industry-crisis.html

Simon Ihiga, (2007)A Survey of Non-Tariff Barriers that affect Kenyan Imports and Exports within EAC and COMESA Countries (Trade and Investment Consortium)

Statista. (2016). *Projected global container market demand growth between 2008 and 2019.*

Teravaninthorn, S. and Raballand, G., (2009) "Transport prices and costs in Africa: A review of the main international corridors".

Thando Vilakazi, Phumzile Ncube, Simon Roberts, (2014) Study of competition in the road freight sector in the SADC region "A case study of fertilizer transport & trading in Zambia, Tanzania and Malawi" , Centre for Competition, Regulation and Economic Development , University of Johannesburg, 2014

The East African, Logistics Performance Survey, (2015) Nairobi, 15th November 2015.

UNCTAD, (1986) Guidelines towards the 'application of the Convention on a Code' of Conduct for Liner Conferences; UNCTAOIST/SHIP/1, 1986

Van Niekerk, Henriëtte C., (2005) "Port reform and concessioning in developing countries." *Maritime Economics & Logistics* 7.2 (2005): 141-155.

Ventura, J., Reise, S. P., Keefe, R. S., et al., (2013). The Cognitive Assessment Interview (CAI): reliability and validity of a brief interview-based measure of cognition.Schizophrenia bulletin , 39(3), 583-591

Waithaka, H. K., &Ngugi, K., (2014). Factors influencing Acquisition of Stressed Assets and Asset Securitization into the Financial Market in Kenya.International Journal of Social Sciences.

World Bank Port Reform Toolkit (https://ppp.worldbank.org/public-private-partnership/library/port-reform-toolkit-ppiaf-world-bank-2nd-edition).

APPENDIX 1: THE SPECIFIC OBJECTIVES OF THE STUDY AND THE TERMS OF REFERENCE

1.0 STUDY OBJECTIVES

The overall objective of the study is to identify potential competition concerns brought about by the possible infringements of the competition law as well as impediments tocompetition due to government regulatory regimes, with a view toaddressing them and hence minimizing the cost of doing business in Kenya and in the region. The specific objectives of the study will include:

a. Establish the characteristics of the participantsin the shipping industry terminating at the Port of Mombasa, the levels of concentration in the industry, and segmentation by routes and types of services, as relevant, as well as their market practices.

b. Establish the sector players in the landside transportation, their market shares in the different segments and their market practices vis-à-vis competition.

c. Assess barriers to entry into shipping and overland freight, including regulatory barriers, and the costs of doing business.

d. Assess the types of practices which may be undermining competition in these services, drawing lessons from anti-competitive conduct which has been identified internationally, such as cartel conduct in the shipping line industry and road freight sector.

e. Provide policy recommendations that can guide the Authority and other relevant government agencies to develop policies regarding competition in the shipping industry terminating at the Port of Mombasa.

f. Establish the role played by the transport associations and how it affects competition.

g. Assess the factors that affect the liberalization of transport services and the market share of the players within the region.

h. Assess those NTBs that restrict market access in the region, and recommend how the competition law may extinguish them.

i. Establish the regulatory regime both at national and sub-county level that may deter competition.

2.0 SCOPE OF WORK

The consultant is expected to undertake the following tasks:

a. Analyze the market structure of the shipping industry sector players terminating at the Port of Mombasa and port services, the levels of concentration in the industry, and segmentation by routes and types of services, as relevant, as well as their market practices.

b. Assess any cooperation agreements made by shipping industry sector players terminating at the Port of Mombasa and port services on the economy vis-à-vis competition.

c. Analyze the competition effect of the shipping segments and the sector players with vertically integrated services.

d. Benchmark shipping industry terminating in the Port of Mombasa and port services with best international practices in particular on cooperation agreements and costs of these services.

e. Identify the market players in commercial trucking and haulage along the Northern Corridor in the EAC and document their characteristics.

f. Analyze the conduct of the market players' vis-à-vis competition in the trucking industry operating along the northern corridor.

g. Analyze agreements of the market players' vis-à-vis competition in the trucking industry operating along the northern corridor.

h. Establish the role played by the transport associations and how it affects competition.

i. Articulate the effect of the Standard Gauge Railway (SGR) operation on competition in the transport (trucking and haulage) sector.

j. Assess the factors that affect the liberalization of transport services and the market share of the players within the community.

k. Establish the contribution of transport cost to the value of Kenya's exports to the EAC.

l. Analyze the elasticity of the value of Kenya's exports demanded within the region to transport prices per tonne per kilometer.

m. Investigate the factors influencing the procurement of trucking services amongst manufacturers in Kenya.

n. Review the legislations affecting the transport service along the northern corridor and their effect on competition in the sector.

3.0 EXPECTED OUTCOMES

3.1 Competition barriers in the trucking and haulage industry along the northern corridor in the EAC identified.

3.2 The operational dynamics of the trucking and haulage industry in the EAC established.

3.3 The effect of competition barriers on Kenya's exports to the region established.

ANNEXES

ANNEX 1: TRUCKING FREIGHT RATES-UPWARDS (US DOLLARS)

	Mean	Median	Mode	Std. Deviation	Range	Minimum	Maximum
20 FT container Msa/ Nrb	729.4	800	800	159.2	700	300	1,000.00
40 FT Msa/Nrb	823.5	850	800	184.7	750	300	1,050.00
20 FT Msa/Kisumu	1,066.00	1,090.00	800	251.8	750	700	1,450.00
40 FT Msa/-Kisumu	1,228.60	1,300.00	1,300.00	328.6	1,100.00	700	1,800.00
20 FT Msa / Kampala	1,760.00	1,850.00	1,500.00	359.6	1,000.00	1,200.00	2,200.00
40 FT Msa/ Kampala	2,027.80	2,000.00	2,000.00	456.3	1,450.00	1,300.00	2,750.00
20 FT Msa / Kigali	3,140.00	3,200.00	2,200.00	786.1	1,800.00	2,200.00	4,000.00
40 FT Msa /Kigali	3,480.00	3,500.00	3,500.00	779.1	2,000.00	2,200.00	4,200.00
20 FT Msa / Bujumbura	4,300.00	4,300.00	4,000.00	424.3	600	4,000.00	4,600.00
40 FT Msa / Bujumbura	5,200.00	5,200.00	5,200.00		0	5,200.00	5,200.00

ANNEX 2: FREIGHT RATES – DOWN (US DOLLARS)

	Mean	Median	Mode	Std. Deviation	Range	Minimum	Maximum
20 FT Nrb/Msa	466.6	500	600	209.3	700	150	850
40 FT Nrb/Msa	500	500	500	200	700	150	850
20 FT Kisumu/Msa	700	600	600	357.1	1,300.00	150	1,450.00
40 FT Kisumu/Msa	773.1	750	600	340.1	1,300.00	150	1,450.00
20 FT Eldoret/Msa	703.8	600	600	357.9	1,300.00	150	1,450.00
40 FT Eldoret/Msa	753.8	600	600	348.5	1,300.00	150	1,450.00
20 FT –Kampla/Msa	1,027.70	1,000.00	1,000.00	519.1	1,800.00	300	2,100.00
40 FT –Kampala/Msa	1,105.50	1,000.00	1,000.00	549.1	1,800.00	400	2,200.00
20 FT Kigali/Msa	1,700.00	1,500.00	600	1,319.10	3,200.00	600	3,800.00
40 FT Kigali/Msa	1,920.00	1,500.00	800	1,355.40	3,200.00	800	4,000.00
40 FT Buju/Kli/ Msa	3,900.00	3,900.00	3,000.00	1,272.80	1,800.00	3,000.00	4,800.00

ANNEX 3: IMPORTANT TRUCKING ISSUES CAPTURED IN INTERVIEWS

Kenya	Uganda	Rwanda	Burundi
1. CAPACITY BUILDING			
Training and representation. Support in logistical challenges, channelling resolving of transport disputes. Creating Business Opportunity. Understanding the market through passing/receiving information by email, on new methods in transportation sectors. Educate their members on being more competitive in the industry. Protection of rights of transporters in weighbridge issues, training of drivers in defensive driving. Staff training (KIFWA, IATA)	Reduced clearance times, Business referrals, and training Negotiate favourable terms for members with other parties and governments Capacity building. Help with fuel, bargaining, sharing info, networking. Sharing info, platform for complaints, strong bargaining power	Capacity building in developing solutions to challenges. Awareness of rules and regulations set by authorities in charge of transport industry	Capacity building for all trucking industry personnel Training of drivers and other capacity building
2. ADVOCACY			
Information sharing, networking advocacy and partnerships Representation and legal presentation Representation when there is a problem, awareness creation, lobbying and info sharing	Advocacy for favourable reforms, Identify and discuss policies affecting transporters Lobby on behalf of business to resolve unfavourable taxes, government legislation.	Advocacy for government facilitation Developing solidarity through access to information	Advocacy

3. LICENSING			
Having Certificate of Incorporation Inspection of vehicles, Licenses, Comply with NTSA, KRA Having NEMA Licenses Having Business permit, COMESA License Registered office, VAT certificate Registered office, VAT certificate KRA License allowing business operations License for county County Levy in Mombasa County Business Permit Inspection, TAK, ECTs tracking devices Insurance, NTSAA Trucks-Inspection reports, Insurance, Transit Goods License, **National License Conditions in Kenya (Uganda Respondents)** Having an operation office, truck have to be Kenya registered, Pay insurance in Kenya i.e. Transit good TGL, COMESA, 3rd Party Payment of TGL, Payment of road user charges, Installation of a tracking system Pay tolls at boarder points issued by Kenya Operating a registered truck KeNHA gives a 6 month operational license that is renewable at $200, **County licensing conditions in Kenya (Uganda Respondents)** Payment of COMESA License Trucks should be in good condition Toll to Nairobi $70, to Mombasa $123	License from URA, among A.E.O authorized economic operator Trading License, 3rd party and Driving License Third party insurance, payments of COMESA, Truck should be in a good condition, Transit goods license issued by URA in Uganda, Road worthy certificate by police in Uganda Third Party insurance, Payment to COMESA, Tracking gadgets **National License Conditions in Uganda (Burundi Respondents)** As long as licensed in Burundi, can operate in any country within EAC Transit Goods License, Road Toll payments, Yellow Insurance from COMESA Delivery Note, **National License Conditions in Uganda (Kenyan Respondents)** TGL,ECTS,COMESA Non due to EA protocol CESS charges Registered with the company SACCO if you have to load at an ICD Business permit, Cess for every county, Parking fees.	Transit license **National License conditions in Rwanda (Kenyan Respondents)** TGL and ECTS COMESA license, County License Trading business license, NEMA License **National License conditions in Rwanda (Uganda Respondent)** Compliance with rules and regulations, Have Yellow Fever Certificate Road Worthiness Certificate Payment of road user fee of $75-120 for every entry Most have an operating office **National License conditions in Rwanda (Burundi)** Transit license Payment of Road toll As long as Licensed in Burundi Delivery Note	Transit Goods License Yellow Card Insurance Registration in API As long as Licensed in Burundi, can operate in any country in EAC Delivery Note, payments, City Council Fees, Transit Fees, **National License Conditions in Burundi (Kenyan Respondents)** Same as for Uganda ECTS inspection of premises licenses Safety inspection of vehicle, insurance TLB license, Driver license COMESA license, TGL Company registration Certificate Transit goods Vehicle must be fitted with tracker **National License Conditions in Burundi (Uganda Respondents)** Insurance, Payment of COMESA Carrier License

4. EFFECTS OF THE SGR			
Reduced freight rates Missing goods en route to NRB Containers packed and left in Nairobi Need to reschedule loans in for servicing trucks Poor planning and increased cost of doing business against best practices for truck companies Most cargo transferred by rail Loss of jobs	Reduced cargo volumes available to truckers, Cut rates since its cheaper, Faster forcing trucking customers to use it	All respondents not affected	Not affected by SGR
5. SGR COLLABORATION OPPORTUNITIES			
Level playing ground, door to door delivery Transport of empty containers Fair competition, free market, SGR should not be subsidized by Government Partnership 1st mile-last mile, Safety when cargo is transported by SGR, cost of transport is reasonable, Allow clients to choose mode of transport Reduction road damage, road traffic accidents and time wasted in traffic, Door to door delivery where SGR is not available.	Quicker delivery time, Reduced costs of transportation Movement of containers, heavy cargo and out of gauge cargo, Use of technology to access the train information and status of freight services Intermodal operations for delivery of cargo from SGR terminus to clients doors Timely transportation of cargo at lower costs	Availability of different products. Many opportunities to arise as SGR develops. Increase cross-border trade as goods reach rail terminals faster	No opportunities of collaboration with SGR until construction of the proposed SGR rail links.

ANNEX 4: FINDINGS FROM IMPORTERS, EXPORTERS AND MANUFACTURERS IN UGANDA

Services the company executes internally and those the outsource (warehousing)					
		Frequency	**Percent**	**Valid Percent**	**Cumulative Percent**
Valid	Internally	2	20.0	25.0	25.0
	Outsourced	5	50.0	62.5	87.5
	Partially	1	10.0	12.5	100.0
	Total	8	80.0	100.0	
Missing	System	2	20.0		
Total		**10**	**100.0**		

Services the company executes internally and those the outsource (Freight forwarding)					
		Frequency	**Percent**	**Valid Percent**	**Cumulative Percent**
Valid	Internally	1	10.0	14.3	14.3
	Outsourced	6	60.0	85.7	100.0
	Partially	7	70.0	100.0	100.0
	Total	3	30.0	100.0	
Missing	System	10	100.0		
Total		**10**	**100.0**		

ANNEX 5: SUBSIDY SCHEMES AND COMPETITION AUTHORITY DECISIONS ON FAIR COMPETITION BETWEEN ROAD AND RAIL. EXAMPLE FROM THE INTERMODAL RAIL FREIGHT TRANSPORT IN EUROPE

The Transport White Paper (TWP) (European Commission, 2011) provides an encompassing and holistic policy document aiming at a variety of social, economic and environmental objectives for the different transport submarkets of road, rail, inland navigation and air transport:

- Completion of the internal market for transport, increase in intra-European and global connectivity
- Improving energy efficiency performance
- Improved infrastructure capacity use
- Multi-modality

Towards this end, 10 goals (across all transport sectors) have been formulated to achieve a "competitive and resource efficient transport system", with a central benchmark to achieve a 60% GHG emission reduction target and achieve modal shift from road to more environmentally friendly modes. In summary, the objective is to achieve Modal shift of 30% of road freight on distances higher than 330 km to rail and waterborne by 2030 (50% by 2050), Increasing the efficiency of transport and infrastructure use through information systems and market based incentives and Implementation of user pays and polluter pays principles

In the context of "fair competition" elements raised by the introduction of the SGR between Mombasa and Nairobi, in particular the competition between road and rail transport, and the alleged beneficial treatment of rail transport versus road transport, it is useful to point out that many European countries, in order to contribute to the 60% GHG reduction target, and the specific target of 30% (respectively 50%) of modal shift to rail and waterborne, have designed and are operating subsidy schemes for intermodal rail transport above/within certain distances.

These schemes have without exception been notified to the European Competition Authorities (notably the Directorate General of Competition), which has after careful analysis favourably advised most of the schemes, referring next to the research on fair principles of competition to the TWP objectives related to cleaner transport.

The reasons to allow subsidy schemes for rail freight transport are a 'balancing of the road-rail market', where the Competition Authorities argued that the subsidy is proportional to the extent that it covers the difference in external costs (emissions, accidents, other pollution) between road transport (which is per ton km more polluting) and rail transport, not exceeding 30% of the total transport cost. The Transport White Paper provides detailed values of marginal and average external costs per transport mode; and research projects have been carried out to assess country-by-country differences in external costs. Most subsidy schemes are aimed at the railway undertaking and/or multimodal transport operators, as well as shippers in some cases.

As an example, the Italian "Ferrobonus" scheme, introduced in 2010, provides incentives of 2.5 euro (around 300 Ksh) per train-kilometre. Per train-kilometre, it is assessed that minimum 9.42 euro are saved in external costs to society, meaning that the scheme covers up to 27% of the total external cost saving (as well as significantly less than the total transport costs), making the Commission to conclude that the aid is proportional. Other conditions of the subsidy scheme, such non-discriminatory nature, transparency and the limited time period were also considered valid against the principles of fair competition (E.C 2016)

Another scheme is Belgium's scheme to subsidize since 2005 combined intermodal transport, and since 2013 single wagon load rail transport. The European Commission (DG Competition) approved the most recently voted scheme on June 6th, 2017, and a new scheme has been put forward for the period 2017-2020. The Belgian scheme is based on a fixed component (per Intermodal Transport Unit ITU) and variable distance-based component (per ITU km). Belgium's small size as a country as opposed to rail distances (cfr. the 300 km threshold suggested in the TWP) makes the scheme also apply to the part of international journeys through the country.

The scheme benefits mainly the country's (and also one of Europe's largest) seaports, more in particular the port Antwerp, in order to decongest the city and the highways across the country. Special provisions are made for inter-port traffics. The main objectives to operate the scheme are environmental grounds, as explicitly stated in the laws governing and implementing the scheme. The beneficiaries are multimodal transport operators and railway undertakings. The scheme is further complemented since 2016 by a kilometre charge for heavy duty freight transport by road, further balancing the freight transport market towards more environmentally friendly transport.

The European subsidy schemes and policies towards rail transport development have also been the subject to performance auditing. It particularly shows that schemes need to be free of too many administrative and process burdens to benefit from them. Involvement of shippers and forwarders is also important, and subsidies should be directed to these actors/ decision-makers.

The learning from the EU experience to the SGR case are that state-funded support schemes for the SGR freight services are justified based on environmental grounds, as long as these are proportionate (i.e. less than 30% of the transport costs, as well as not exceeding the difference of external costs between transport modes), transparent, non-discriminatory and limited in time (such as 5 years). Also, the scheme needs to lead to a sustainable modal shift from road to rail, and be targeted at key supply chain decision-makers.

Obviously, other elements such as an efficient organization of the "last mile" at ICDs, as well a fair and efficient functioning of the pre-and post-haulage road services market are important requirements.

Directives by the government to Transfer

Some ports in developed countries have used forceful transfer similar to the current situation though for different reasons. In certain dense populated city areas, initiatives have been put in place through stringent environmental legislation and monitoring forcing a shift from road to rail (such as Los Angeles/Long Beach in the USA where the port authority was forced to shift cargo from road to rail to avoid legal infringements), generating the same impact (i.e. a forceful shift, albeit for other, indirect, reasons).

An important observation is that cargo owners and forwarders still have free choices to select the transport mode (rail, road, inland waterway) to ship their goods from and to the port. Some governments, agencies and even private sector organizations, have applied a soft approach by financing transport experts assisting companies (cargo-owners) optimize their cargo flows from an economic and environmental perspective (i.e. helping realize a sustainable modal shift).

ANNEX 6: THE SHIPPING INDUSTRY ANTI-COMPETITIVE MARKET CONDUCT IN VARIOUS JURISDICTIONS (SOURCE: IMPACT OF ALLIANCES IN CONTAINER SHIPPING, INTERNATIONAL TRANSPORT FORUM 2018)

Previously Liner conferences were authorized either via specific shipping laws or specific exemptions from generic competition law. One particular form of such an exemption is a "block exemption". This exempts the whole sector from key competition law provisions, provided that certain criteria are met. For example, the European Union had a block exemption for liner conferences in force from 1987 to 2006 (Council Regulation 4056/86) that allowed liner shipping companies to set common freight rates, to make joint decisions on the limitation of supply and to coordinate timetables.

However, the current treatment of shipping in competition law can be broadly divided into three categories below:

1. Countries having no sector-specific antitrust exemptions for shipping companies. In these countries, agreements between shipping companies can be accepted as long as they are compatible with the relevant antitrust rules, usually via the operation of an exemption regime. In Turkey, for example, there is currently no block exemption covering maritime transport services. Nevertheless, the Competition Authority is competent to grant individual exemptions to agreements that lead to economic efficiencies with benefits that outweigh the cost of their anticompetitive effects.Other countries without shipping-specific antitrust exemptions include Chile, Brazil, South Africa, Russia, Vietnam, Indonesia and China.

2. Countries having a block exemption for alliances. This group includes the European Union, Hong Kong, New Zealand (from 2019 onwards) and Israel. Malaysia could also be considered to be part of this group although its block exemption also extends to voluntary discussion agreements that provide for the broad exchange of information and the establishment of non-binding price guidelines.

3. Various countries having specific shipping legislation that allows for conferences. A prominent example is Singapore where the exemption regime for liner shipping cooperation agreements, including conferences, was extended in 2015 for another five years, until the end of 2021. In Japan, the 1949 Marine Transportation Act exempts International Ocean shipping from the 1947 Antimonopoly Act. This exemption regime applies to conferences, discussion agreements and alliances and is motivated by the assumption that the Japanese shipping sector would not be globally competitive without the exemption. In various Reviews, the Japanese competition authority argued for repealing the exemption, most recently in 2016 (Japan Fair Trade Commission, 2016). In both the United States and Canada, conferences are not prohibited in the relevant legislation, but reforms, such as the Ocean Shipping Reform Act (OSRA) in the US, have resulted in the disappearance of most conferences on trade routes touching United States and Canada.

In various jurisdictions, *block exemptions for conferences* have been replaced by *block exemptions for alliances.* The rationale for these is a desire to facilitate alliances, as they would allow for economies of scale and reduce administrative burdens to the industry (by avoiding the need for case-by-case assessments). The model for this institutional arrangement is the EU Block Exemption exclusively covering consortia and other types of operational cooperation agreements. This *consortia block exemption* has been in force since 1995 in parallel with the EU *Block Exemption for liner conferences*, but gained more strategic importance for carriers after the block exemption for conferences was repealed.

The most recent move to reduce the extent of competition exemptions for the shipping sector was adopted in late 2017 in New Zealand. Shipping agreements will become fully subject to the general antitrust rules in New Zealand in August 2019, with the exception of vessel sharing agreements, which will continue to benefit from a block exemption regime.

Block exemptions are in theory, considered to provide legal certainty, thus taking away transaction costs. Such as the EU Block Exemption regulation provides that liner shipping alliances with a market share below 30% and a withdrawal clause are automatically deemed to meet four cumulative criteria of paragraph 3 of article 101 Treaty on the Functioning of the European Union (TFEU) that make exemptions from antitrust law possible. Firstly, it should contribute to improving the production or distribution of goods or to promoting technical or economic progress. Secondly, it should also allow consumers a fair share of the resulting benefit. Thirdly, the agreement should not impose on the undertakings concerned restrictions that are not indispensable. Finally, it should not allow the complete elimination of competition in respect to a substantial part of the relevant market. Without block exemption regulation, shipping alliances might still have been exempted from antitrust rules in the EU. Nevertheless, in that case companies would have to conduct in-depth assessment for each of their agreements and there would be less certainty that these are effectively immune from antitrust-related investigations. (OECD/ITF 2018)

In Australia, The Commonwealth Director of Public Prosecutions (CDPP) commenced one criminal prosecution (in July 2016) for cartel conduct since the CCA was amended in 2009 to include criminal offences for cartel conduct. It involved an admission of guilt by NYK, a global shipping company, in respect of cartel conduct for the transportation of vehicles, including cars, trucks and buses, to Australia between July 2009 and September 2012. In August 2017, the Federal Court convicted NYK and ordered it to pay A$25 million in penalties, the second highest penalty ever obtained by the ACCC. The penalty reflected the serious and prolonged nature of the offence, the fact that the offending conduct was engaged in by senior managers and sanctioned by senior executives, and the profit NYK derived from its cartel conduct. During the NYK case the court found that cartel members fixed freight prices for carrying Nissan, Suzuki, Honda, Toyota and Mazda vehicles to Australia and agreed not to try and win business from each other from as early as February 1997. Senior managers from NYK were also said to be in regular contact with rivals over such matters, even taking telephone calls in hallways or lift lobbies to avoid being overheard by more junior employees who may have reported their conduct.

The prosecution also took into account mitigating factors including NYK's early guilty plea, the fact that NYK did not have a prior record of corporate criminal conduct, the penalties already imposed on NYK in other jurisdictions, the measures NYK undertook to rehabilitate itself, and NYK's past and future cooperation with the ACCC. The case did not involve the prosecution of any individual employees or officers of NYK. Similarly, in April 2018 Japan's shipping major Kawasaki Kisen Kaisha (K Line) pleaded guilty to criminal cartel conduct in Australia's Federal Court. K Line's plea follows an investigation by the ACCC and charges laid by the Commonwealth Director of Public Prosecutions in relation to cartel conduct concerning the international shipping of cars, trucks, and buses to Australia between July 2009 and September 2012. ACCC informed that the matter will now proceed to sentencing and is next scheduled for a sentencing hearing in the Federal Court in November 2018. The penalty for cartel conduct under Australian competition law is the greater of A$10 million, triple the benefit attributed to the offense, or 10 percent of the corporation's annual turnover in Australia.

ONE Alliance: Japanese lines Kawasaki Kisen Kaisha (K Line), Nippon Yusen Kabushiki Kaisha (NYK), and Mitsui O.S.K. Lines (MOL) announced a merger in 2017 in a bid to improve flagging profits. The consortium was granted approval in Singapore, but awaits its fate in the USA as the Federal Maritime Commission due to jurisdictional grounds rejected the merger and handed the case over to the Department of Justice, whose Antitrust Division is investigating the extent of the union to ensure it doesn't eliminate competition.

The proposed JV would have propelled the new entity to fifth in the global container line rankings, with around 1.5m TEU capacity, and bring NYK a 38% stake and K Line and MOL 31% each. The FMC decision to reject the merger does not restrict the Japanese carriers from merging their container trade business units into a single standalone company. The US acting assistant attorney general commented that the concentration and reduction in the number of shipping alliances is likely to facilitate coordination in an industry that is already prone to collision. It's worth noting that K Line, MOL and NYK collectively suffered a loss of about USD 700 from their liner divisions in that fiscal year.

The EU, as a regulator of competition in Europe fined shipping groups CSAV, K-Line, WWL-EUKOR and NYK 395 million euros for having formed a cartel in sea transport of new cars and trucks involving rigging bids for shipping cars. The EU sanctions follow a near six-year investigation that started with dawn rains by the European Commission in September 2012 in coordination with Japanese and U.S antitrust authorities.

The Japan fair trade commission in March 2014 handed down fines to NYK, K Line, WWL and Nissan Motor Car Carrier for fixing prices of auto shipments from Japan to North America, Europe and the Middle East while Mitsui O.S.K Lines (MOL) escaped sanctions.

In South Africa two shipping companies were fined by the Competition Commission of South Africa for restrictive horizontal practices including; fixing a purchase or selling price of a product or service, dividing markets and collusive tendering in the transport of vehicles, equipment and/or machinery by sea on the route between Japan and South Africa. Nippon Yusen Kabushiki Kaisha (NYK) admitted to 14 instances of restrictive practices listed in section 4(b) of the Competition Act and was fined an administrative penalty of close to R104 million. Wallenius Wilhelmsen Logistics (WWL) agreed to a settlement of R96 million for taking part in the cartel and engaging in 11 instances. The settlements follow an investigation into the collusive behaviour of a number of shipping firms including Mitsui O.S.K Lines, Kawasaki Kisen Kaisha Ltd, Compania Sud Americana de Vapores, Hoegh, Autoliners Holdings AS, Wallenius Wilhelmsen Logistics, Eukor Car Carriers, and NYK between 1999 and 2012.

Finally the Luxury car manufacturer BMW is pursuing damages claims in South Africa against international car-shipping companies, including Japanese-based Mitsui O.S.K. Lines (MOL) and K-Line Shipping South Africa, the local subsidiary of Kawasaki Kisen Kaisha (KL), for anti-competitive practices. The claims stem from collusive tendering, price fixing and market division in the roll-on/roll-off (Ro-Ro) in the vehicle-shipping industry, including to and from South Africa. There had been a number of anti-competitive practices among automotive suppliers that resulted in fines being imposed by several competition authorities worldwide, including South Africa's Competition Tribunal.

ANNEX 7: MARKET PLAYERS WITHIN THE KENYAN SHIPPING ECOSYSTEM

Shipping Agents		
1. Diamond Shipping Services	18. Lots Shipping	35. Ocean Freight (E.A) Ltd
2. Merlion Shipping	19. Motaku Shipping Agencies	36. A.M.A AL-Ammry
3. Amsterdam Holdings	20. Rais Shipping Agencies	37. ZAM ZAM Shipping
4. Gulf Badr Group Kenya	21. Kenya Risk Consultants	38. Seaglow Shipping Services Limited
5. Captain Shipping Agency	22. Sturrock Shipping Kenya	39. American Global Marine & Trading Company
6. African Shipping	23. Seatrade Agencies	40. Harbour Agency
7. Sharaf Shipping Agency Kenya	24. Green Island Shipping Services Ltd.	41. Inchcap Shipping Services
8. Worldwide Shipping Services	25. Socopao Kenya	42. Trans-Atlantic Trading Company
9. Ravo Logistics	26. Maersk Kenya	43. ITTICA
10. Sima Marine Kenya	27. OBJ Maritime Services	44. Nisomar
11. I-Messina Kenya	28. Seaforth Shipping Kenya	45. Diverse Shipping
12. Inclusive Agencies	29. Wec Lines Kenya	46. Stanmore Holdings
13. Kusi Shipping Services	30. Deep Sea Shipping Solutions Ltd	47. Magellan Logistics Kenya
14. PIL Kenya	31. CMA CGM Kenya	48. Kenya National Shipping Line
15. East African Commercial & Shipping	32. Spanfreight Shipping	49. Sovereign Logistics
16. SeaBulk Shipping Services	33. Express Shipping and Logistics E.A Ltd.	
17. Bio Shipping Logistics	34. Wilhelmsen Ship Services	
Cargo Consolidators		
1. Mbashi Global Logistics	15. Simpet Global Logistics	29. Linear East Africa Agency
2. LCL Logisticx Kenya	16. Trevart Express	30. Famo Logistics
3. Genuine Freight Services	17. AMI Africa Kenya	31. Tradeat (Kenya)
4. East Africa Consolidators	18. Crimen Lines	32. Milan Freight Services (K)
5. Boldline Shipping and Logiistics Services Ltd.	19. Teamglobal Line (Kenya)	33. ECU Worldwide (Kenya)
6. Emirates Logistics (EA)	20. Mombasa NVOCC Logistics Services	34. ECU Shipping Logistics (K)
7. Global Express Line	21. ARK Shipping Kenya PVT	35. Bollore Transport & Logistics Kenya
8. A plus Shipping Logistics	22. Seedcol Global Shipping (E.A) LTD	36. Africa Freight Systems (Kenya)
9. AKL International	23. Overseas Consolidation Services (E.A)	37. SACO Shipping
10. Helma Freight	24. Africa Forwarding Agency	38. Logwin Air and Ocean Kenya
11. Rapid Kate Services	25. EAEL Logistics Kenya	39. Seven Stars
12. Allports Shipping Services	26. Logistics Consolidators	40. Transoceanic Global Gateway
13. Swiftstrides Logistics	27. Velji Global Logistics	
14. Mapset Maritime Services	28. DFS Express Lines	
Shipping Lines		
1. Safmarine Container Lines N.V	8. Evergreen Marine (Singapore) PTE	15. WEC Lines B.V.
2. Maersk Line	9. Bay Line	16. CMA CGM Line
3. Eukor Car Carriers inc.	10. Cosco Shipping Line	17. American President
4. PIL	11. Sea Consortium PTE	18. Emirates Shipping Line
5. Sarjak Container Lines PVT	12. Mediterranean Shipping Company	19. United Africa Feeder Line
6. Emkay Lines PVT	13. Ignazio Messina & C.S.P.A	20. Mitsul OSK Lines
7. Hyundai Glovis Co.	14. BLPL Singapore PTE Ltd.	
Ship Chandlers		
1. Portwise Global Logistics	5. Meat Magic Enterprises	9. Coast Anglo Meats
2. Bandarini Shipchandlers & General Agencies	6. Bamburi Shipchandlers	10. Edge Properties
3. Green Island Shipchandlers (K)	7. Sunfire and Safety Suppliers	11. NAS Airport Services
4. Muthbanus Shipchandlers	8. Hunters Shipchandlers & Contractors	
Ship Contractors		
1. Harbour Vessel Contractors	11. Geeg Investments	21. Trend Trading Co.
2. Dodwell & Co. (EA)	12. Kadungo Ship Contractors	22. Hunters Shipchandlers and Contractors
3. Luminus Creek Co.	13. Bost Ship Contractors	23. Mwaraone Ship Cotractors
4. Crystal Marine Services	14. Island Marine Services	24. Daymo
5. Tinga Solutions	15. Possidon General Ship Services	25. Geowave Ship Contractor
6. Pencoya Enterprises	16. Spica Marine Inspection	26. White Pigeon Contractors
7. Galawa Marine Services	17. Kusi Shipping Services	27. Baba Shipping Services
8. Mulltiship International	18. Euromax Africa Investments Co.	28. Mackenzie Maritime
9. Famo Forwarders	19. Ruman Ship Contractors	29. Veda Dynamics Environmental Solution
10.Oshan Agency	20. Blue-Cat Port Services	30. Mercantile Cargo Terminal Operators
Container Freight Stations (CFS)		
1. CBL	6. Awanad	11. MICT
2. MCT	7. Portside	12. MICD
3. Compact	8. Focus	13. Autoport
4. Interpel	9. Kipevu	14. Regional
5. Mitchell Cotts	10. Makupa	15. Siginon
		16. Great Lakes
Empty Container Depots		
1. Logistics Solutions Empties Depot	4. Railways Marshalling Yard	7. Alpha (Reefers)
2. Hakika Empties Depot	5. Kenfreight-Fortune	8. APT Terminal
3. Dodwell	6. Mvita	9. KPA ICD

ANNEX 8: KSAA GOVERNANCE STRUCTURE

The objectives of KSAA are to:

- Maintain and promote its code of conduct, ethics and encourage best practice
- Act as a custodian of the industry's future by actively promoting training programmes
- Consult with government and non-governmental organizations in order to agree on common policies that are aimed to reduce the cost of importing and exporting commodities in East Africa
- Assist with improving the efficiency of supply chain system in East Africa and thereby reduce overall costs to Kenyan consumers as well as her neighbours
- Promote specifically the Port of Mombasa as the trade hub for East Africa
- Consult with GoK and private agencies including KPA, KMA, KRA, KIFWA, Shippers Council of East Africa, KRC, Kenya Private Sector Alliance and internationally, with Federation of National Association of Ship Brokers and Agents

Membership

Membership is open to all Ships Agents incorporated in Kenya who represent Kenya/ East Africa businesses, Shipping Lines, Ship Owners, and Charterers

Mission

The overall purpose of KSAA is to promote ethical business, best practice and facilitate seaborne trade and economic growth in Kenya and the wider East African Region

Governance

KSAA is managed by an Executive Committee made up of members as follows;

Chairman, Vice Chairman, Hon Secretary, Hon Treasurer and eight members of the Association.

The Secretariat is made up of:

Chief Executive Officer, Accountant/Administration Officer and Assistant Executive Officer. They run the association on full time basis

Registration

I: Requirements for Membership Application

Membership Application letter is addressed to the Executive Committee and sent to the KSAA Secretariat

2: The Application Letter should state the following

- The Company should be a limited liability company, Partnership or wholly owned
- A fully styled company address (to include physical and postal addresses, phone number and email address)
- The CV detailing names, professional qualifications, experience, positions and email contacts of the Senior Management Staff of the company including Managing Director/General Manager, Operations, Finance and Commercial Managers; attach certified copies of the National ID or Passport
- The names of the Principals/Operators, Trade Routes and any other details pertinent to the trade
- The name of the Applicant's Bankers

3: Documents

- The following documents should be enclosed with the Application Letter
- Certified copies of the Applicant's PIN Certificate, Certification of Incorporation, Memorandum and Articles of Association
- Received copy of CR2 Form and CR12 Form
- Valid Trade Licenses (County of Mombasa and KMA)
- Commercial and Operations Managers must have worked for at least two years in a responsible capacity with a Shipping Agent.
- Appointment Letter from the Owner/Operators and the intended routes and services frequency
- A letter of confirmation from the Applicant's Bankers
- Recommendation Letter from at least two KSAA members

4: Once the Application is approved by the Executive Committee, a letter of Confirmation and Invoice are sent to the Applicant

5: The Entrance and Annual Subscription payments should be submitted within 30 days of the confirmation of membership and should be paid in Kenyan Shillings

6: Entrance fees is KShs. 100,000.00

7: Annual Subscription is: for category A US $ 2376.00 and Category B, US$ 1188

ANNEX 9: QUESTIONNAIRE FOR TRUCKING FIRMS

Serial No.	

Location…….

QUESTIONNAIRE FORTRUCKING COMPANIES

RESEARCH STUDY: COMPETITION IN SHIPPING, TRUCKING AND HAULAGE SECTOR

Interviewer Name……. Tel……

Date of Interview …… Start Time…..End Time……

Keyed in by …… Date entered……/……2018

INTRODUCTION:

The questionnaire is designed to facilitate research into competition issues affecting Shipping, Trucking and Haulage sector. The information given will be treated as private and confidential**.**

Kindly answer each of the following questions where applicable and where choices are provided; kindly cross or tick in one of the boxes appropriately.

1. COMPANY PROFILE

1.1. Name of company ……
1.2. Country of Incorporation ……
1.3. Year of commencement of operations ……
1.4. How many employees do you have? ……
1.5. Do you operate owned trucks?

a) Yes ☐ (*Go to Q1.6*)
b) No ☐ (*Skip to Q1.8*)
c) Don't Know (DO NOT READ OPTION) ☐ (*Skip to Q1.8*)
d) Refused to Answer (DO NOT READ OPTION) ☐ (*Skip to Q1.8*)

1.6. How many trucks do you own, categorized by the capacity type? (MULTIPLE RESPONSE DO NOT READ OPTIONS)

Type	Number
Light trucks	
Medium trucks	
Heavy Trucks	
Tankers	
Others	

1.7. How many specialized trucks does the company own? Please specify (MULTIPLE RESPONSE DO NOT READ OPTIONS)

Type	Number
Oversize	
Refrigerated	
Others (Specify)……	

1.8. What type of cargo do you transport? (MULTIPLE RESPONSE DO NOT READ OPTIONS)

- Containerized ☐
- Liquid bulk ☐
- Dry Bulk ☐
- Break-bulk ☐
- Empty Containers ☐
- Others ☐

1.9. Which countries do you operate and what are the cargo volumes for the past two years?

Country	Traffic Volume							
	Exports				*Imports*			
	20FT	*Tonnes*	*40FT*	*Tonnes*	*20FT*	*Tonnes*	*40FT*	*Tonnes*
Kenya								
Uganda								
Rwanda								
Burundi								

2. PARTNERSHIPS AND ASSOCIATIONS

2.1. Do you have partnerships with players in the transport logistics chain from the Port of Mombasa and along the Northern Corridor?

☐ Yes (*Go to Q.2.2*)

☐ No (*Skip to Q. 2.3*)

2.2. Please elaborate on the type of partnership (s) and their nature

Partnership	**Parties (** *list organization (s) / company (s) involved)*	**Nature**

2.3. Do you belong to a business association?

☐ Yes (*Go to Q.2.4*)
☐ No (*Skip to Q. 3.1*)

2.4. Indicate the name/s of the association/s in which you hold membership.

Name of Association	**Country**	**Year Joined**

2.5. List the benefits you derive from membership of the association

(i) ……

(ii) ……

(iii) ……

(iv) ……

2.6. What are the requirements for membership to the Association?

(i) ……

(ii) ……

(iii) ……

(iv) ……

2.7. Is membership of the Association a requirement under any law or any statutory provisions?

☐ Yes ☐ No

2.8. Does membership to the association have implications for the choice and variety of services the company provides or the price charged for its services?

☐ Yes (*Please explain*) ☐ No *(Skip to Q3.1)*

……
……
……
……

3. REGULATION AND LICENSING

3.1. Can you provide transport for any good?

☐ Yes

☐ No (*Please explain reasons for the limitation and specify the goods affected*)

……
……
……
……

3.2. Can you provide transport services in any route along the northern corridor?

☐ Yes

☐ No (*Please specify the routes that are subjected to restriction and the reason)*

……
……
……
……

3.3. Can you provide services to any customer at any time if the customer is interested?

☐ Yes

☐ No (*Please explain why (e.g. there are queuing rules in place, intermediary players - as brokers - control the allocation of cargo, other)*

……
……
……
……

3.4. What are the licensing conditions of operating in each of the listed countries

Country	**Level**		**Conditions**
Kenya	National		
	County		
Uganda	National		
	Local Authority		
Rwanda	National		
	Local Authority		
Burundi	National		
	Local Authority		

3.5. Are there regulatory requirements to operate in transit and cross boarder along the Northern Corridor?

☐ Yes (*Go to Q3.6)* ☐ No *(Skip to Q4.1)* ☐ Do not know *(Skip to Q4.1)*

3.6. What are the regulatory requirements to operate in transit and cross boarder services

a) ……..

b) ……

c) ……

d) ……

3.7. Indicate the challenges you encounter as a transport company due to the above regulatory requirements

a) ……..

b) ……..

c) ……

d) ……

3.8. Please complete the table below on country licenses that are required in order for your company to operate along the Northern Corridor.

Country	**License Type**	**Issuing Authority(National or** County **or Local Authority)**	**Amount in USD ($)**	**Regularity (Annual, biannual, etc.**	**Time it takes to get license**
Kenya					
Uganda					
Rwanda					

Burundi					

4. CHARGES AND FEES

4.1. Are there charges and taxes imposed by Revenue Authorities (KRA, URA, RRA, BRA.) or road development authorities that influence your operation in the trucking industry?

☐ Yes (*Go to 4.2)* ☐ No (*Skip to Q4.3)*

4.2. Provide the charges and taxes by each listed Authority in US Dollars;

Country	**Revenue Authorities (Customs)**	**Road Development Authorities**	**Others (Specify)**
Kenya			
Uganda			
Rwanda			
Burundi			

4.3. To what extent do the charges and taxes identified above, influence your choice of country of operation in terms of?

Influence	**Extremely large extent**	**Large extent**	**Moderate extent**	**Small extent**	**Not at all**
Final cost	☐	☐	☐	☐	☐
Export volume	☐	☐	☐	☐	☐

5. TRANSPORT COSTS AND FREIGHT RATES

5.1. What are your estimated operational costs of transporting a 20ft and 40ft in each of the destinations/origins provided below?

Segment	20FT(USD $)	40FT(USD $)
Mombasa – Nairobi		
Mombasa – Nairobi-Kisumu		
Mombasa-Nairobi-Eldoret		
Mombasa-Nairobi-Eldoret-Malaba-Kampala		
Mombasa-Nairobi-Eldoret-Malaba-Kampala- Kigali		
Mombasa-Nairobi-Eldoret-Malaba-Kampala- Kigali-Bujumbura		

5.2. How do you compare local transport costs and transit /cross-border costs in the following countries?

Country	Scope	Extremely High	High	Moderate	Low	Very low
Kenya	Local	☐	☐	☐	☐	☐
	Transit	☐	☐	☐	☐	☐
Uganda	Local	☐	☐	☐	☐	☐
	Transit	☐	☐	☐	☐	☐
Rwanda	Local	☐	☐	☐	☐	☐
	Transit	☐	☐	☐	☐	☐
Burundi	Local	☐	☐	☐	☐	☐
	Transit	☐	☐	☐	☐	☐

5.3. If the transportation cost was increased by 10%, how would the customers react? (MULTIPLE ANSWERS TICK AS APPROPRIATE)

- Reduce the cargo transported ☐
- Shift to Rail ☐
- Maintain /indifferent ☐

5.4. Has the demand for your transport services decreased or increased in the in past 2 years?

☐ Increased
☐ Decreased
☐ Remained Constant

5.5. Explain the reasons for the situation experienced above

……
……
……
……

5.6. How do the following factors determine your prices?

Factor	Extremely High	High	Moderate	Low	Very low	Comments
Fixed Costs (Example Driver, office, Insurance)	☐	☐	☐	☐	☐	
Variable costs (e.g fuel, maintenance and tyres)	☐	☐	☐	☐	☐	
Demand Side Characteristics/ willingness to pay	☐	☐	☐	☐	☐	
Government regulations	☐	☐	☐	☐	☐	
Prices offered by other logistics companies	☐	☐	☐	☐	☐	
Others (Specify)	☐	☐	☐	☐	☐	

5.7. Can you negotiate directly with customers?

☐ Yes
☐ No (*Please explain why (e.g. association has rules on negotiation, prices are prescribed by law, other)*

……
……
……

5.8. Who are your main competitors within the transport industry and to what extent?

Mode of Transport	Extremely large extent	Large extent	Moderate extent	Small extent	Not at all
Rail	☐	☐	☐	☐	☐
Pipeline	☐	☐	☐	☐	☐
Airfreight	☐	☐	☐	☐	☐
Inland Waterways	☐	☐	☐	☐	☐

5.9. What are your freight rates for transporting 20 FT and 40FT containers from Mombasa to and from destinations provided below?

Segment	From the Port (US$)		To the port (US$)	
	20 FT	40FT	20 FT	40FT
Mombasa – Nairobi				
Mombasa – Nairobi-Kisumu				
Mombasa-Nairobi-Eldoret				
Mombasa-Nairobi-Kampala				
Mombasa-Nairobi-Kampala- Kigali				
Mombasa-Nairobi-Kampala- Kigali				
Mombasa – Nairobi-Kampala-Kigali-Bujumbura				

5.10. Which are the main sources of information on cargo availability in the port and along the Corridor?

Source of information	Extremely large extent	Large extent	Moderate extent	Small extent	Not at all
KPA notice board (14 days list)	☐	☐	☐	☐	☐
Newspapers	☐	☐	☐	☐	☐
Ships bulletins	☐	☐	☐	☐	☐
Container Freight Stations (CFSs)	☐	☐	☐	☐	☐
Customers (Shippers)	☐	☐	☐	☐	☐
Clearing &Forwarding Agents	☐	☐	☐	☐	☐
Revenue authorities	☐	☐	☐	☐	☐
Scouting by own sales persons	☐	☐	☐	☐	☐
Cargo Agents/Brokers	☐	☐	☐	☐	☐
Trucking Associations	☐	☐	☐	☐	☐
Other …….Specify….		…….			

6. TRANSPORT OPERATIONS ARRANGEMENTS

6.1. What type of cargo do you carry?

- Full Load ☐
- Partial Load (Groupage) ☐
- Parcels ☐

6.2. Have you entered into any contract for road transport with a Freight Forwarder/ Shipping Line / Cargo Owner?

☐ Yes (*Please indicate which one)*…….

☐ No (*Skip to Q.6.4)*

6.3. What is the nature of the contractual agreements entered?

……
……
……
……

6.4. How do you ensure you remain relevant in your business?

(i) ……..

(ii) ……

(iii) ……

(iv) ……

6.5. What extent are the following issues an obstacle for the operation of your company in this region?

Issue	Extremely large extent	Large extent	Moderate extent	Small extent	Not at all
National government rules/ regulations	☐	☐	☐	☐	☐
Subnational authority's rules/ regulations	☐	☐	☐	☐	☐
Unpredictability of implementation of national rules	☐	☐	☐	☐	☐
Unpredictability of implementation of subnational rules	☐	☐	☐	☐	☐
Behaviour of competitors	☐	☐	☐	☐	☐
Behaviour/characteristics of consumers *(e.g. capacity to pay, bargaining power)*	☐	☐	☐	☐	☐
Limited availability of qualified employees	☐	☐	☐	☐	☐
Security	☐	☐	☐	☐	☐
Others	☐	☐	☐	☐	☐

6.6. Has the introduction of SGR services affected your business operations in any way?

☐ Yes (*Go to Q.6.7)* ☐ No ***(****Skip to Q.6.8****)***

6.7. Give ways in which your services have been affected by SGR

(i) ……..

(ii) ……..

(iii) ……

(iv) ……..

(v) ……..

6.8. Do you foresee any opportunities of collaboration with the SGR?

☐ Yes (*Go to Q.6.9)* ☐ N*o (Skip to Q6.10)*

6.9. Indicate the opportunities of collaboration with SGR

(i) ……

(ii) ……

(iii) ……

(iv) ……

6.10. Do you get contracted to provide services on an international multimodal logistics chains?

☐ Yes (*Go to Q.6.11)* ☐ No *(Skip to Q.6.12****)***

6.11. What proportion of your freight volumes is transported through intermodal form of transportation? (*tick only one*)

Percentage	**0-20**	**21-40**	**41-60**	**61-80**	**81-100**
Tick	☐	☐	☐	☐	☐

6.12. Do you have long term contracts with other members in the logistics chain in 6.11?

a) Yes ☐ (*Skip to Q6.13*)
b) No ☐ (*Skip to Q6.14*)
c) Don't Know ☐ (*Skip to Q6.14*)
d) Refused to Answer ☐ (*Skip to Q6.14*)

6.13. Explain the nature of the contracts (Exclusivity, negotiation on prices, et al);

Entity	Features of Agreement	Comments
Shippers		
Freight Forwarders		
Shipping Lines		
CFSs		
ICDs		
Others (Specify		

6.14. Does your company provide other services along the transport logistics chain?

☐ Yes *(Go to Q.6.15)* ☐ No ***(****Skip to Q 6.16****)***

6.15. Which other services does your company provide besides trucking services (*Please indicate whether it is owned or leased*)

Segment	Owned	Leased
Warehousing	☐	☐
Container Freight Stations	☐	☐
Container Depots	☐	☐
Clearing and Forwarding	☐	☐
Stevedoring	☐	☐
Shipping (seaborne)	☐	☐
Other (specify)	☐	☐

6.16. Please indicate the number of the following listed items you encounter in your operations along the Northern Corridor

☐ Weighbridges ……..

☐ Road blocks ……..

☐ Border posts ……

6.17. To what extent do you agree to the costs of the delays from above areas?

NTB	Extremely large extent	Large extent	Moderate extent	Small extent	Not at all
Time Delays	☐	☐	☐	☐	☐
Financial Cost	☐	☐	☐	☐	☐

6.18. What challenges need to be addressed by the relevant authorities in the transport sector to provide an enabling environment for road transport along the Northern Corridor?

(i) ……..

(ii) ……

(iii) ……

(iv) ……

6.19. The Competition Authority of Kenya will be engaging stakeholders who have been involved in the data collection process in validating the research report. Would you like your name to be included in the list of people CAK will contact?

Yes ☐ *(Go to 6.20)*
No ☐ (*End of Questionnaire*)

6.20. Contact Details of the Respondent:

Name: _____

Job Title: _____

Telephone (Company): _____

Phone (Personal): _____

Email Address: _____

Address: _____

THANK YOU!

ANNEX 10: QUESTIONNAIRE FOR CLEARING AND FORWARDING COMPANIES

COMPETITION AUTHORITY OF KENYA
Creating efficient markets for consumers

Serial No.	

Location…….

QUESTIONNAIRE FOR CLEARING AGENTS & FREIGHT FORWARDERS

RESEARCH STUDY: COMPETITION IN SHIPPING, TRUCKING AND HAULAGE SECTOR

Interviewer Name…… Tel……

Date of Interview …… Start Time…..... End Time……

Keyed in by …… Date entered……/……2018

INTRODUCTION:

The questionnaire is designed to facilitate research into competition issues affecting Shipping, Trucking and Haulage sector. The information given will be treated as private and confidential.

Kindly answer each of the following questions where applicable and where choices are provided; kindly cross or tick in one of the boxes appropriately.

1. **COMPANY PROFILE**

1.1. Name of company……..

1.2. Year of Commencement of Operations ……

1.3. Country of incorporation……..

1.4. Annual revenue (local currency) ……

1.5. Equity (Assets minus liability) ……..

1.6. Weight of goods shipped per year (in tons) ……

1.7. Capacity (number of trucks, warehouse metric tons/cubic meters)……..

2. **BASIC INFORMATION**

2.1 Which of the following services do you provide? *(Please tick all as appropriate)*

☐Road Cargo transport

☐Other modes of cargo transport (please specify)

☐Warehousing

☐Freight forwarding

☐Cargo brokerage

☐Logistics services

2.2 What are the main types of cargo you transport / handle in your areas of operation? (E.g. dry bulk cargo, containers et al)

……
……
……

2.3 Where is the main area of operation of your company?

……
……

2.4 What is the main type of cargo transported/handled by you in your main route/area of operation in this region?

……
……

2.5 How do you set prices? Please describe

☐According to government regulation or guideline
☐According to sector association decisions
☐Based on market leader prices ***(Skip to Q.2.7)***
☐Based on costs and consumer willingness to pay ***(Skip to Q.2.7)***
☐Other (Please specify)…… ***(Skip to Q.2.7)***

2.6 If you answered either (a) or (b) to the previous question, are there mechanisms in place to enforce or oversee the application of price regulations and guidelines?

……
……
……

2.7 Does the Government offer financial or non-financial support measures to private providers of transport/logistics services? If yes, is it in equal terms for all providers?

☐ Yes ☐ No

……

……

……

2.8 What do you consider to be key constraints to expand your business (please explain your choices):

POSSIBLE CONSTRAINTS	COMMENTS
potential customers have long-term contracts with competitors	
potential customers do not switch easily between providers	
competition from other modes of transport	
cargo allocation in ports or railroads are somehow restricted by regulations, associations, operators or leading competitors	
regulatory restrictions to diversify services (please specify)	
large presence of private/own-carriage	
shortage of drivers	
Other	

2.9 Do you perceive the regulatory enforcement (mainly regarding the bureaucracy to issue licenses and general interaction with transport regulatory agencies or subnational government) as unpredictable or excessively dependent on government discretion? (please describe)

☐ Yes ☐ No

……

……

……

2.10 On the main route/area of business for your company within this region', what is the typical bundle of services that most customers demand? Indicate the combination of the following:

☐Road Transport

☐Warehousing

☐Packaging/ labelling/ assembling

☐Customs clearance

☐In-put / out-put, inventory and distribution management

☐Intermodal operations

☐Others (please specify)

2.11 On the main route/area of business for your company which of the following tasks do most consumers typically execute themselves, i.e. do not procure from third parties?

☐Road Transport

☐Warehousing

☐Packaging/ labelling/ assembling

☐Customs clearance

☐In-put / out-put, inventory and distribution management

☐Intermodal operations

☐Others (please specify)

2.12 Does the largest port user (e.g. owner of private vessels, cruise ships, ferries or shipping lines) also provide road cargo transportation or logistics services?

☐ Yes ☐ No

2.13 Does the largest operator of port terminal services (loading/unloading, cargo handling, storage) also provide road cargo transportation or logistics services?

☐ Yes ☐ No

2.14 Do you offer services of cargo transportation within the region?

☐ Yes ☐ No ***(Skip to Q. 3.1)***

2.15 What was the average transportation price in the period Jan-Dec 2017 (or the most recent yearly estimate)? Please use local currency per ton-kilometre

Description	Price
in the main route of the region for outgoing dry bulk cargo transport (please indicate your sample product and route)	
in the main route of the region for an outgoing 40 feet container	
in the main route of the region for incoming dry bulk cargo transport (please indicate your sample product and route)	
in the main route of the region for an incoming 40 feet container	
in the main route of the region for an outgoing 40 feet refrigerated container/reefer	
in your main route for your main type of product	

3. **REGULATION**

3.1 Please indicate the licenses/permits/titles that you obtained to be able to provide the respective service:

Service	licenses/permits/titles	Issuing Agency	Time taken to issue license/ permit/ title
Road transport			
Other modes of transport			
Warehousing			
Freight Forwarding			
Logistics services (input/output management, door-to-door deliveries, intermodal operations, other)			

3.2 Are you a member of any business association?

☐ Yes ☐ No

3.3 Indicate the Association/s you hold membership.

a) East African Shippers Council ☐

b) Association of Manufactures ☐

c) Sector Association (Specify). ☐

d) KIFWA/ EAFFA ☐

e) Others (Specify) ……

f) Sector Association (Specify)……

3.4 Does the Association benefit your business operations?

☐ Yes ☐ No

3.5 Explain how the Association benefits your business / what are the benefits your business gets from the association.

a) ……

b) ……

c) ……

d) ……

3.6 Was membership to the Association a requirement to entering the market?

☐ Yes ☐ No

3.7 Does membership in the association have implications for the choice and variety of services the company provided or the price charged for its services (if yes, please specify)?

☐ Yes ☐ No

……

……

……

……

3.8 Can you provide services to any customers at any time if the customer is interested? If not, please specify why (e.g. there are queuing rules in place, intermediary players - as brokers - control the allocation of cargo, other?

☐ Yes ☐ No

……
……
……
……

3.9 Can you negotiate directly with the customer? If not, explain why?

☐ Yes ☐ No

……
……
……
……

3.10 How do you compare local and cross-border transport costs in the following countries?

Country	Location	High	Moderate	Low
Kenya	Local	☐	☐	☐
	Cross border	☐	☐	☐
Uganda	Local	☐	☐	☐
	Cross border	☐	☐	☐
Rwanda	Local	☐	☐	☐
	Cross border	☐	☐	☐
Burundi	Local	☐	☐	☐
	Cross border	☐	☐	☐

3.11 Is your business affected by the introduction of SGR? (If Yes, Please Explain)

☐ Yes ☐ No

……
……
……

3.12 What factors do you consider when deciding on the mode of transport for your clients Cargo?

a) ……
a) ……
b) ……
c) ……

3.13 The Competition Authority of Kenya will be engaging stakeholders who have been involved in the data collection process in validating the research report. Would you like your name to be included in the list of people CAK will contact?

Yes ☐ *(Go to 3.14)*
No ☐ (*End of Questionnaire*)

3.14 Contact Details of the Respondent:

Name: _____

Job Title: _____

Telephone (Company): _____

Phone (Personal): _____

Email Address: _____

Address: _____

THANK YOU!

Thank you!

ANNEX 11: QUESTIONNAIRE FOR SHIPPERS/MANUFACTURERS

Serial No.	

Location…….

QUESTIONNAIRE FOR IMPORTER, EXPORTER AND MANUFACTURERS

RESEARCH STUDY: COMPETITION IN SHIPPING, TRUCKING AND HAULAGE SECTOR

Interviewer Name…… Tel……

Date of Interview …… Start Time…….. End Time……

Keyed in by …… Date entered……/……2018

INTRODUCTION:

The questionnaire is designed to facilitate research into competition issues affecting Shipping, Trucking and Haulage sector. The information given will be treated as private and confidential**.**

Kindly answer each of the following questions where applicable and where choices are provided; kindly cross or tick in one of the boxes appropriately.

4. **Company Profile**

1.1. Name of company……

1.2. Year of Commencement of Operations ……..

1.3. Country of incorporation……

1.4. Annual revenue (local currency) ……..

1.5. Equity (Assets minus liability) ……

1.6. Weight of goods shipped per year (last 3 years) (in tons) ……

1.7. What is the main route required by your establishment? (name origin and destination city)

……
……
……

1.8. What are the main products transported by you (for you) in your main route? (indicate if product (s) is transported as dry bulk cargo, containers et al)

……
……

1.9. Which of the following services do you execute internally and which ones do you outsource (please indicate your establishment capacity in terms of fleet size, storage capacity)

a. Road Cargo transport ……
b. Other modes of cargo transport (please specify)
   ……
c. Warehousing
   ……
d. Freight forwarding
   ……
e. Cargo brokerage
   ……
f. Logistics services
   ……

1.10. If you outsource any of the services mentioned above, please indicate which is the best description for the firm you hire for each of the services

a. Trucking Union
b. Trucking firm
c. Freight forwarder
d. 3rd party logistics provider
e. Broker
f. Other (please specify)

1.11. How does your organization and the provider of the services mentioned in 1.9 come to an agreement on price?

a. It's a list/ regulated price
b. The providers set the price and the organisation has no negotiation power
c. You negotiate long-term contracts
d. You negotiate ad hoc
e. You conduct an open tender
f. Other (please specify)

1.12. If you execute any of the services in Q1.9 n your own instead of outsourcing, what are your reasons? (please give a reason for each service you provide)

a. Services are not available in the market
b. It is more cost efficient
c. It is more reliable
d. Other (please specify)

1.13. Regarding your most transported product in your most demanded route, from how many providers can you choose from?

a. Road Cargo transport ……
b. Other modes of cargo transport (please specify ……
c. Warehousing ……
d. Freight forwarding ……
e. Cargo brokerage ……
f. Logistics services ……

1.14. How do the following factors influence your choice of transportation?

Factors	**Extremely large extent**	**Large extent**	**Moderate extent**	**Small extent**	**Not at all**
Prices	☐	☐	☐	☐	☐
Customer service	☐	☐	☐	☐	☐
Combined services *(clearing, forwarding, CFS)*	☐	☐	☐	☐	☐
Long term relationship	☐	☐	☐	☐	☐
Recommendation from agents	☐	☐	☐	☐	☐
Others (specify)……	☐	☐	☐	☐	☐

1.15. Have you identified entry of new providers in the past two years (Jun 2016 to June 2018) that effectively increased the options you have in the market? (As opposed to complete lack of entry or presence of marginal/small entrants that do not offer satisfactory services) If yes, please describe the most relevant entrants.

a. Road Cargo transport
……
b. Other modes of cargo transport (please specify
……
c. Warehousing
……
d. Freight forwarding
……
e. Cargo brokerage
……
f. Logistics services

1.16. Which country (s) along the northern corridor do you conduct your business in? (Name all)

……

1.17. Please indicate the trade volumes for your main products transported along the main transport route to the countries you operate in the table below. (RESPONDENTS TO FILL IN ONLY THE COUNTRIES THEY OPERATE*)*

Country	2015		2016		2017	
	Tonnage	**Value in US$**	**Tonnage**	**Value in US$**	**Tonnage**	**Value in US$**
Kenya						
Uganda						
Rwanda						
Burundi						

1.18. When demanding maritime or waterway transportation, can you hire shipping line services independently of their road cargo or logistics services (if the company offers logistics and water and road transportation)? (Please describe)

……

……

……

1.19. When demanding port services (handling, trans-shipment, storage, others), can you hire them independently from road cargo and logistics services (if the provider offers port services and road transportation and logistics)? (Please describe)

……

……

……

1.20. Have you entered into any contract or agreement with any of the following players? If yes, please tick all as appropriate

☐ Freight forwarder

☐ Shipping Line

☐ Cargo Owner

☐ Warehouse owners

☐Others, (Specify)……..

1.21. How long is a typical contract for each of the services you outsource? Are they long term or spot market relationship?

……

……

……

1.22. This is a hypothetical question: If your main provider raises prices of your road transport services 10% above their current level on the main route for this establishment (after allowing for any inflation) which of the following would best describe the result assuming that other providers maintained their current prices?

a. You would continue to hire services from your main provider in the same quantities as now,
b. You would continue to hire services by your main provider at slightly lower quantities,
c. You would continue to hire road transport services, but at significantly lower quantities. (If yes)
    a. you would make up for the lower quantities primarily by foregoing road transport services of your main provider in favour of an alternative provider's road transport services,
    b. you would make up for the lower quantities primarily by investing on or shifting to own transportation
    c. you would make up for the lower quantities primarily by foregoing your main provider's road transport services in favour of an alternative provider's services of a different transport mode,
    d. you would make up for the lower quantities primarily by forgoing your main provider's transport services in favour of an alternative mode of transport also provided by your main provider's
    e. other (please specify)

1.23. Do you need to approach some type of business association to contract transport/logistics services? (please describe)

……

……

……

1.24. Do associations provide you with information on availability, prices and service standards? (please indicate association and describe information provided)

……

……

……

1.25. Can you contract directly with any provider for any route in the region? Or is there some type of restriction (necessary intermediary, broker, queuing system, other)? Please describe

……

……

……

1.26. Can you contract directly with any provider for the transportation of any type of good (provided that he offers the services)? Or is there some type of restriction (necessary intermediary, broker, queuing system, other)? Please describe

……

……

……

1.27. The Competition Authority of Kenya will be engaging stakeholders who have been involved in the data collection process in validating the research report. Would you like your name to be included in the list of people CAK will contact?

Yes ☐ *(Go to Q.1.28)*
No ☐ (*End of Questionnaire*)

1.28. Contact Details of the Respondent:

Name: _____

Job Title: _____

Telephone (Company): _____

Phone (Personal): _____

Email Address: _____

Address: _____

THANK YOU!

ANNEX 12: QUESTIONNAIRE FOR GOVERNMENT AGENCIES AND REGULATORS

Serial No.	

Location…….

GOVERNMENT DEPARTMENTS, AGENCIES AND REGULATORY AUTHORITIES

RESEARCH STUDY: COMPETITION IN SHIPPING, TRUCKING AND HAULAGE SECTOR STUDY

CLIENT: COMPETITION AUTHORITY OF KENYA

Interviewer Name……. Tel……

Date of Interview …… Start Time…….. End Time……

Keyed in by …… Date entered……/……2018

INTRODUCTION

The questionnaire is designed to facilitate research into competition issues affecting Shipping, Trucking and Haulage sector. The information given will be treated as private and confidential**.**

Kindly answer each of the following questions where applicable and where choices are provided; kindly cross or tick in one of the boxes appropriately.

2. **Institution Profile**

1.1 Name of Government Institution……,,

1.2 Position of the respondent……

1.3 Main mandate of the government institution ……

3. **Entry Regulations**

(For actors in Shipping services, Road Trucking, and Clearing & Forwarding, *CFS, consolidation****, storage, handling)***

2.1 What are the license/permits/registration required in order to provide the below services?

Type of service	**License/Permit/registration name**	**Issuing Authority** **1-National Govt.** **2-County Govt.** **3-Local Authority**	**Frequency(1-Annually, 2-Biannual)**
Road Transport Services (e.g. trucking)			
Services relating to the carriage/transport, consolidation, storage, handling, packing or distribution; customs and fiscal matters by own account OR procuring carriage and other services (e.g. Freight Forwarders; Non-Vessel operating common carriers; multi-modal transport operators)			
Services relating to the carriage/transport, consolidation, storage, handling, packing or distribution; customs and fiscal matters - as an agent on behalf of the principal without carrier's liability (e.g. agent, broker)			
Shipping Services			

2.2 .Do national/regional/provincial or municipal laws or other regulations restrict the number of competitors allowed to operate in the services market using:

(i) Trucking Carriers

(a) (i) Full bans (periods in which mandatory permits are not issued, suspension of the process to get permission to officially enter the market)

YES ☐ NO ☐

(ii).If Yes, explain

……
……
……
……

(b) (i) Maximum number of licenses/permits per route or type of cargo

YES ☐ NO ☐

(b)(ii) If YES, please indicate how the permits/licenses are allocated (e.g. first-come first-served, depend on a decision about economic need, at the discretion of government officials)

……
……
……
……
……
……..

(ii) Freight forwarder/ logistics provider (b and/or c in 2.1 above)

(a) (i) Full bans (periods in which mandatory permits are not issued, suspension of the process to get permission to officially enter the market)

YES ☐ NO ☐

(ii)If Yes explain

……
……
……
……

(b) (i) Maximum number of licenses/permits per route or type of cargo

YES ☐ NO ☐

(ii). If YES, please indicate how the permits/licenses are allocated (e.g. first-come first-served, depend on a decision about economic need, at the discretion of government officials)

……

……

……

……

……

(iii) Shipping Services

(a) (i)Full bans (periods in which mandatory permits are not issued, suspension of the process to get permission to officially enter the market)

YES ☐ NO ☐

(ii)If Yes, explain

……

……

……

……..

(b) Maximum number of licenses/permits per route or type of cargo

YES ☐ NO ☐

If YES, please indicate how the permits/licenses are allocated (e.g. first-come first-served, depend on a decision about economic need, at the discretion of government officials)

……

……

……

……

……

c) Are there other mechanisms you employ to restrict the number of competitors.

YES ☐ NO ☐

If Yes specify

……

……

……

2.3 Are there specific regulations/guidelines that state the criteria used to issue licenses/permits by national/subnational authorities?

YES ☐ NO ☐

If **Yes**, what are the criteria used by the national/subnational government to issue licenses/permits/authorizations? (Check all that apply)

Criteria	**Transport Services (e.g Trucking)**	**Freight forwarder/ logistics provider**	**Shipping Services**	**License Name**
a)Financial ability/strength				
b) Compliance with public safety requirements (i.e. environment, driver's regulation, vehicle technical standards - please specify)				
c) compliance with driver's and vehicle's standards				
d) economic need tests				
e) government discretion				
f) other (please specify)				

2.4.(a). Does the provision of private carriage (transport by own account) demand national/subnational licenses/permits/authorizations/registration?

YES ☐ NO ☐

(b). If Yes, are these requirements identical of those applied to commercial carriage?

YES ☐ NO ☐

If no, please describe the differences

……

……

2.5. (a). Are there specific and mandatory national/subnational permits for the provision of intermodal operations (road-maritime) (in addition to permits allowing for regular provision of road transportation services)?

YES ☐ NO ☐

(b)If there are special intermodal operation licenses/permits, are they limited in number?

YES ☐ NO ☐

2.6 Who can obtain a national/subnational permit/license? (Mark all that apply)

a) Natural persons ☐

b) Sole proprietorships ☐

c) Private corporations ☐

2.7. Does the issuance of national/subnational permits/licenses follow a formal schedule or timeline?

YES ☐ NO ☐

2.8. (a). Are professional bodies, business associations or representatives of trade and commercial interests involved in specifying or enforcing entry rules at the national/subnational level?

YES ☐ NO ☐

(b). If Yes, how does it occur? (Tick all that apply)

a) Opinions on government decisions
b) Participation in public councils or commissions
c) It is a self-regulatory systems (please describe)
……
……
……
d) Other (please specify)…….

2.9. Is membership to a (national or national/subnational) private association required to become a licensed provider? YES ☐ NO ☐

(b)If yes:

(i) Is the number of members restricted? YES ☐ NO ☐

(ii) Are there other rules in place that restrict the access to the association? Please specify

……
……

2.30. Do licenses/permits allow for general provision of services (any route and any product)? YES ☐ NO ☐

If NO: (please mark all that apply)

a) Some routes demand specific licensing (please specify)

……

b) Some products demand specific licensing (please specify)

……

C) If you marked a), b) or both, are these licenses restricted in number?

YES ☐ NO ☐

2.31. Does the national/subnational government grant exclusive rights to: (If yes for any option, please specify in which form and how often does it occur)

Transport services(Trucking)	**1-Yes, 2-No**	**Form of exclusivity rights**	**Frequency of Occurrence (1-Annually, 2- Biannually** **3-Other- specify**
a) handle specific good			
b) handle specific type of goods			
c) operate in certain geographic regions			
d) operate in determined routes			
Freight forwarder/ logistics provider	**1-Yes, 2-No**	**Form of exclusivity**	**Frequency of Occurrence (1-Annually, 2- Bi-annually** **3-Other- specify**
a) handle specific good			
b) handle specific type of goods			
c) operate in certain geographic regions			
d) operate in determined routes			

2.32. Do the below regulations prevent or constrain transport between countries or subnational regions/provinces? (Mark all that apply)

Regulation	**1-Yes, 2-No**	**Comment**
a) rules for axle load and weight limits		
b) insurance requirements		
c) drivers' licenses and regulation		
d) place of business or incorporation of the provider		
e) other (please specify)		

2.34. Please tick all that apply in respect to the following

Regulation	
a) driver's licensing system requires special truck driving training	
b) there are working hours and rest regulations for drivers	
c) there are regulations governing the use of GPS units in trucks	
d) there are regulations governing the truck weight limits	
e) there are regulations governing environmental specifications of trucks (emissions)	
f) there are bans or limitations on the importation of used trucks (please describe)	
h) there are regulations establishing maximum distances for carrying goods by road freight	

4. **Control on Prices and Other Variables**

3. (a) Are prices regulated by the national/subnational government?

YES ☐ NO ☐ *(If NO, Skip to Q3.2)*

(b) If YES, Please provide what prices and services are affected and link or copy of the regulatory instrument.

……

……

……
……

3.2 (a)Does the government national/ subnational provide pricing guidelines for the provision of services Maritime/ Trucking/ Haulage?

YES ☐ NO ☐(*If NO, Skip to Q3.4)*

(b). IF YES, Please provide what prices and services are affected and link or copy of the regulatory instrument.

……
……
……
……

3.3. (a). If Yes for either of the **two previous questions**, are there mechanisms in place to enforce or oversee the application of price regulations and guidelines?

YES ☐ NO ☐

(b). If YES, Please describe the mechanisms

……
……

……
……

3.4.(a) Are the guidelines as a result of consultations with the sector players?

YES ☐ (Skip to 3.5) NO ☐

(c).If NO, how are the guideline arrived at?

(i) ……
(ii) ……
(iii) ……

3.5. (a) Are professional bodies, business associations or representatives of trade and commercial interests allowed to be involved in specifying or enforcing pricing guidelines?

YES ☐ NO ☐(*If NO, Skip to Q3.6)*

(b) If YES, Please provide what prices and services affected and link or copy of the legal instrument

……
……
……
……
……

(c). If Yes, in **3.5(a),** are there mechanisms in place to facilitate or promote monitoring and compliance with the guidelines?

YES ☐ NO ☐

3.6.(a) Are price agreements among competitors facilitated or promoted by the national/subnational government?

YES ☐ NO ☐

(b). If Yes, please describe

……
……
……
……

3.7 (a). Is the government also a player in providing services in Maritime/Trucking/Haulage?

YES ☐ NO ☐ ***If NO, Skip to 3.8***

(b). If Yes, list the services.

……
……
……
……

3.8 Is the price set by Market Forces?

YES ☐ NO ☐

5. **Other Restrictions on Business Variables**

4.1 (a).Are government departments, business associations or representatives of trade and commercial interests legally allowed to be involved with the allocation of cargo among service providers?

YES ☐ NO ☐(*If NO, Skip to Q4.2)*

(b). If Yes, are there mechanisms in place to facilitate or promote monitoring and compliance with cargo allocation rules?

YES ☐ NO ☐

If NO, Skip to Q4.4

(c). If Yes in (b) above, what are the mechanisms?

(i) ……

(ii) ……

(iii) ……

4.2 Do regulations prevent or constrain backhauling in domestic routes (i.e. picking up freight on the return route)

YES ☐ NO ☐

4.3 (a). Do regulations prevent or constrain transport between countries or subnational regions/provinces?

(b). If Yes, constraints are related to: (mark all that apply)

Regulations	**1-Yes, 2-No**	**If Yes ,Specify**
a) rules for axle load and weight limits		
b) insurance requirements		
c) drivers' licenses and regulations		
d) place of business or incorporation of the provider		
e) other (please specify)		

4.4 (a). Are service providers free to use multimodal possibilities such as ROLA (“truck- on-train”) and RORO (“truck-on-ship”).

YES ☐ NO ☐

(b). If NO, please describe.

……
……
……
……

4.5 (a). Do regulations prevent or constrain contract carriage (direct contractual relation between an independent provider/sender/receiver and one shipper)?

YES ☐ NO ☐

(b). If Yes, Explain

4.6 Are companies free to offer the following logistics related services? If Yes, mark all that apply

Logistic related service	**1-Yes, 2- No**
a) labelling	
b) assembling	
c) packaging	
d) light/final fabrication	
e) loading/unloading/trans-shipment	
f) storage services, stow and secure	
g) filing in documents and performing customs formalities on behalf of the shipper	

4.7 Can providers consolidate goods stored in different warehouses into one "to be transported" container? (As opposed to an obligation that containers that will be transported out of the region are filled up with products originally stored at the same place)

YES ☐ NO☐

4.8. a).Are there legal restrictions for transferring permits/licenses between companies?

YES ☐ NO☐

(b). If yes, please describe

……
……
……
……

4.8 (a). Are providers obliged to own the entirety or part of their fleet (is there a minimum number of trucks) - restrictions on financial decisions about fleet investment and ownership?

YES ☐ NO ☐ (*If NO, Skip to Q4.10)*

(b) If Yes, please specify the requirements

4.10. (a). Are there restrictions for firms registered outside the region to operate in this region?

YES ☐ NO ☐ (*If NO, Skip to Q4.11)*

(b).If Yes, mark all that apply:

Restriction	**1-Yes , 2-No**	**Specify the restriction**
i) a limited amount of providers are allowed to provide the service		
ii) some routes or products suffer limitation (please specify)		
iii) there is a limited amount of services that a provider can undertake after entering the region (i.e. three load/unloads, after that the truck has to leave the region)		
iv) complete ban		
v) other (please specify)		

4.11. (a). Are there restrictions for firms to access port facilities to pick up/drop off cargo?

YES ☐ NO ☐ (*If NO, Skip to Q4.12)*

(b). If yes, mark all that apply:

Nature of restriction	**1-Yes , 2-No**
a) no, but a fee needs to be paid	
b) a limited amount of providers are allowed to provide the service	
c) some products (e.g. liquids, bulk cargo, containers) suffer limitation (please specify)	
d) other (please specify)	

4.12. What are the Inter-governmental agreements covering the three items below? :(probe on implementation of NCTTCA and existing RECs facilitation instruments and reasons for noncompliance if any, consequences if not followed)

(i) Road user Charges……

(ii) Drivers Licensing……

(iii) Licensing of Vehicles……

4.13. Which specific cross border regulations do you encounter challenges in implementing.

……
……
……
……

6. **Market Structure**

5.1 There is one (at least one) private player that accounts for ___ of the services provided in the main regional route (Specify the specific service they provide)

Percentage of Market share	**Transport carrier (trucking)**	**Freight forwarder/ logistics provider**	**Shipping**	**Name of Company**
a) > 65%				
b) > 50%				
c) > 25%				
d) > 10%				

5.2. Which Business Association has the largest membership and what is the total percentage membership as a proportion of the whole market share membership. (Tick for the section that applies)

Name of Association	Transport carrier (trucking)	Freight forwarder/ logistics provider	Shipping	% of membership

5.3. (a). Were there market entrants in the previous 2 years (Jan to Dec) ?

YES ☐ NO ☐

(b). If Yes, Provide the name and the market share

Name of Company	Transport carrier (trucking)	Freight forwarder/ logistics provider	Shipping	% market share

5.4. (a)Do the largest operators of port terminal services (loading/unloading, cargo handling, storage) also provide cargo transportation or logistics services?

YES ☐ NO ☐

(b) Please provide name of companies and information on the type of services

(i) ……

(ii) ……

(iii) ……

5.5. (a)Does the government get involved in allocation of cargo to different modes of transport?

YES ☐ NO ☐

If NO, Skip to Q5.6

(b). Explain how government allocates the cargo

(i) ……

(ii) ……

(iii) ……

5.6. How does government disseminate information about the market to sector players

(i) ……

(ii) ……

(iii) ……

(iv) ……

5.7. (a). In your opinion, do you consider the market for transport (trucking/haulage/shipping competitive) YES ☐ NO ☐

(b). Explain

……

……

……

5.8. (a)Do the largest port users (owners of private vessels, cruise ships, ferries and shipping lines) also provide cargo transportation or logistics services?

YES ☐ NO ☐

(c) (i)Do the largest operators of port terminal services (loading/unloading, cargo handling, storage) also provide cargo transportation or logistics services?

YES ☐ NO ☐

(ii)If Yes, provide name

(c). If Yes for either of the two previous questions, is access to ports regulated in line with efficiency and non-discrimination principles?

YES ☐ NO ☐

5.9. Is there vertical integration between (ownership, long term contracts, exclusivity contracts) by the following type of providers?

Type of provider	1-Yes, 2-No	Comments
Road cargo carriers		
Freight forwarders		
logistics providers		
warehousing		
brokers		

7. **Regulatory Institutions And Enforcement**

6.1 (a) Are there firms controlled by national/subnational governments providing transport/logistics services? YES ☐ NO ☐(*If NO, Skip to Q6.4)*

(b).If Yes, list the firms

Name of the firm	Service provided

6.2. What are the effects of the above firms in the market?

……
……
……
……

6.3. Do strategic decisions of government-controlled firms have to be reviewed and/or cleared in advance by national, state, or provincial executive or legislative powers?

YES ☐ NO ☐(*If NO, Skip to Q6.3)*

6.4 Are there published, specific procedures to:

Procedure	1-Yes, 2-No
a) report offenses to sector regulation	
b) file appeals and argue against licenses and permits refusals, suspensions or revocations	

7.0 National aid/subsidies

7.1(a). Do National or sub-national governments grant state aid to private firms operating in this region on the transport sector (shipping/trucking/haulage?

YES ☐ NO ☐

(b). If Yes, tick all that applies.

Aid/subsidies	1-Yes, 2-No	Kind of support provided (e.g., soft loans, fuel subsidies, grants, tax exemptions)
a) state aid is available to all participants in the market instead of being directed only to certain players		
b) there is a specific notification procedure for granting state aid		
c) there are guidelines or regulations for granting state aid and subsidies which consider their impacts on private investments and market dynamics		
d) there is a state aid inventory available to the public		

8.0. **Counties/ Local Authorities**

8.1 Kindly fill below the applicable fee;

Category of Fee	Amount paid (US$)
Parking Fee per truck per hour/day	
CESS Fees	

Security	
Licence or permit	
Other Administrative costs	
Others (Specify)	

8.2. Which County/Local authority regulations do the transport service provider find most difficult to comply with? (Maritime, Trucking and Haulage)

……

……

……

……

8.3. The Competition Authority of Kenya will be engaging stakeholders who have been involved in the data collection process in validating the research report. Would you like your name to be included in the list of people CAK will contact?

Yes ☐ *(Go to 6.20)*
No ☐ (*End of Questionnaire*)

8.4. Contact Details of the Respondent:

Name: _____

Job Title: _____

Telephone (Company): _____

Phone (Personal): _____

Email Address: _____

Address: _____

THANK YOU!

ANNEX 13: QUESTIONNAIRE FOR ASSOCIATIONS

Serial No.	

Location…….

QUESTIONNAIRE FOR ASSOCIATIONS

RESEARCH STUDY: COMPETITION IN SHIPPING, TRUCKING AND HAULAGE SECTOR

Interviewer Name…… Tel……

Date of Interview …… Start Time…….. End Time……

Keyed in by …… Date entered……/……2018

INTRODUCTION

The questionnaire is designed to facilitate research into competition issues affecting Shipping, Trucking and Haulage sector. The information given will be treated as private and confidential**.**

Kindly answer each of the following questions where applicable and where choices are provided; kindly cross or tick in one of the boxes appropriately.

5. **Association Profile**

1.1. Name of the Association…….

1.2. Year of formation ……..

1.3. Country of formation……

1.4. Nature of the Association<<*Tick all that apply*>>

a) Shipping Lines ☐
b) Shipping Agents ☐
c) Container Freight Stations ☐
d) Transporters ☐
e) Shippers ☐
f) Manufactures ☐
g) Clearing & Forwarding ☐

h) Others ☐

If others, specify

……

……

1.5. What is your current membership number? *(Tick below the bracket you fall)*

0-250 ☐ 251-500 ☐ 501-750 ☐ 751-1000 ☐ Over 1000☐

1.6. Are all sector players members? Yes ☐ No☐

1.7. If NOT, what percentage are members? *(Tick appropriately)*

0-20 ☐21-40☐41-60☐61-80 ☐81-100 ☐

1.8. Does your Association have the following? *(Tick as appropriate)*

a) Code of conduct for members Yes☐ No☐
b) Entry rules Yes☐ No☐

6. ***Role & Operations***

2.1 Explain the role of the Association

e) ……
f) ……
g) ……
h) ……
i) ……

2.2 Does the Association determine minimum and/or maximum price to be charged to customers?

Yes☐ No☐ (*If NO, Skip to 2.4)*

2.3 Explain how the price above is determined ……

……

……

2.4 How does the Association address issues of higher or lower prices by members?

(Tick as appropriate- MULTIPLE ANSWERS- DO NOT READ TO RESPONDENT)

Members are cautioned ☐

The association does not get involved ☐

Suspended ☐

Others

a)……

b)……

c)……

2.5 Are there mechanisms in place to facilitate or promote monitoring and compliance with the Association rules

Yes ☐ No ☐(*If NO, Skip to Q2.7*)

2.6 Explain the monitoring mechanism

……

……

……

2.7 Are there government regulations that are affecting your members?

Yes ☐ No☐ (*If NO, Skip to Q2.9)*

2.8 List the regulations

a) ……

b) ……

c) ……

d) ……

2.9 Does the Association sign agreement on behalf of the members?

Yes☐ No☐

2.10 If Yes Explain the Nature of the Agreements

……

……

……

2.11 Is your Association affected by the recent implementation of SGR?

Yes ☐ No☐ (*If NO, skip to 2.13)*

2.12 What are the effects?

a) ……

b) ……

c) ……

d) ……

e) ……

2.13 What are the challenges faced by the Association?

a) ……

b) ……

c) ……

d) ……

2.14 How in your opinion can they be solved to improve the business

a) ……

b) ……

c) ……

d) ……

e) ……

THANK YOU

ANNEX 14: QUESTIONNAIRE FOR SHIPPING LINE

Serial No.	

Location……..

QUESTIONNAIRE TO SHIPPING LINES

RESEARCH STUDY: COMPETITION IN SHIPPING, TRUCKING AND HAULAGE SECTOR STUDY

Interviewer Name……Tel……

Interviewee's Name ……Tel……..

Date of Interview……

Start Time……..End Time……..

Keyed in by ……Date ……../……/2018

The questionnaire is designed to facilitate research into competition issues affecting Shipping, Trucking and Haulage sector. The information given will be treated as private and confidential**.**

Kindly answer each of the following questions where applicable and where choices are provided; kindly cross or tick in one of the boxes appropriately.

1. **Company Profile**

1.1 Name of Company……

1.2 Year of Commencement of Services……..

1.3 Provide details below on the vessels you operate for Mombasa service *(Tick as appropriate and indicate number of Vessels)*

Vessels Employed	**Tick as appropriate**	**Number of Vessels**
Owned		
Chartered		
Slot Charter		

1.4 Indicate the frequency of calls of your vessels at the Port of Mombasa

Weekly	**Biweekly**	**Monthly**	**Quarterly**	**Other (Specify)**
☐	☐	☐	☐	☐

If other, Specify……

1.5 Do you belong to any association?

☐Yes ☐No (*Skip to Q 1.8)*

1.6 Provide the local and international shipping associations where the company has membership.

S/No	**Local**	**International**
1.		
2.		
3.		
4.		
5.		
6.		
7.		

1.7 List the services the associations provide to you in order of their priority

(i) …….

(ii) ……..

(iii) ……..

(iv) ……..

1.8 Do you have partnerships with players in the transport logistics chain from the Port of Mombasa and along the Northern Corridor? If yes, Please elaborate.

☐ Yes

☐ No

1.9 Please tick where your line is part of the following listed arrangements on the routes provided;

Route	Alliance/Consortium	Conference	Independent
Far East	☐	☐	☐
Indian Subcontinent	☐	☐	☐
Mediterranean	☐	☐	☐
Middle East	☐	☐	☐
Europe	☐	☐	☐
North America	☐	☐	☐
Oceania	☐	☐	☐
Southern Africa	☐	☐	☐
Indian Ocean Islands	☐	☐	☐

1.10 Provide the salient features of the Alliances/Consortia and Conference agreements

Scope	Features	Comments
Vessel Sailings		
Routes		
Negotiations with Shippers		
Cargo Pooling		
Revenue Pooling		
Tariffs (Freight Rates)		

1.11 Is your line involved in other port related activities?

☐Yes ☐No *(Skip to Q 1.13)*

1.12 Tick as appropriate the activities your line is involved in;

Cargo Agency	☐
Cargo Clearing and forwarding	☐
Hinterland Transport	☐
Tallying	☐
Ship contracting	☐
CFSs and Empty	☐
Container Depots	☐
Ship Chandelling	☐
Warehousing/ storage	☐
Other Logistics activities	☐

1.13 Please provide details of business agreements that you may have with the organizations listed in the table below:

Entity	**Features of Agreement**	**Comments**
Shippers		
Road Transporters		
CFSs		
Stevedores		
ICDs		
Others (Specify)		

1.14 What is the composition of your customers and relative shares of their business

Customers	**0% Share**
Private Companies	
Governments (including Parastatals)	
Transnational Organizations	
Private individuals	
Others (Specify)	

1.15 Is membership of the Association a requirement under any law or any statutory provisions?

☐ Yes ☐ No

1.16 Does membership to the association have implications for the choice and variety of services the company provides or the price charged for its services?

☐ Yes (*Please explain*) ☐ No

……
……
……

1.17 Can you provide transport for any good?

☐ Yes

☐ No (*Please explain reasons for the limitation and specify the goods affected*)

……
……
……

1.18 Can you provide shipping services in any route to and from the Port of Mombasa?

☐ Yes

☐ No (*Please specify the routes that are subjected to restriction and the reason)*

……

……

……

……

1.19 Can you provide services to any customer at any time if the customer is interested?

☐ Yes

☐ No (*Please explain why)*

……

……

……

……

……

Routes and Freight.

2.0 Routes

2.1 Which are the frequent ports of origin to Mombasa and the ports of destination from Mombasa?

Ports of origin to Mombasa

a) ……
b) ……
c) ……
d) ……
e) ……
f) ……
g) ……
h) ……

Ports of destination from Mombasa

a) ……
b) . ……
c) . ……
d) . ……
e) . ……
f) . ……
g) . ……
h) ……

2.2 What was the volume of containers transported by your shipping line in the routes below where you provide services?

	2015		2016		2017	
Route	**20TEUs ($)** **To From**	**40TEUs ($)** **To From**	**20TEUs ($)** **To From**	**40TEUs ($)** **To From**	**20TEUs ($)** **To From**	**40TEUs ($)** **To From**
Far East	....	....	....	....	....	....
Indian Subcontinent	....	....	....	....	....	....
Middle East	....	....	....	....	....	....
Europe	....	....	....	....	....	....
North America	....	....	....	....	....	....
Southern Africa	....	....	....	....	....	....
Indian Ocean Islands	....	....	....	....	....	....

Freight

2.3 Provide the cargo volume you handle at the Port of Mombasa:

Cargo Type	2015		2016		2017	
	Exports	Imports	Exports	Imports	Exports	Imports
Containerized cargo (*TEUs*)						
Liquid bulk cargo*(in tonnes)*						
Dry bulk cargo*(in tonnes)*						
Break bulk cargo *(in tonnes*)						
Roll on Roll off Cargo*(units)*						

Others, (specify)……

2.4 List the factors that determine the pricing of your services for maritime freight?

a) ……

b) ……

c) ……

d) ……

e) ……

2.5 What are the factors that determine the price you charge to your customers

a) ……

b) ……

c) ……

d) ……

e) ……

2.6 Do the Associations you hold membership have a role in setting your freight rates?

☐Yes ☐No (*Skip to Q 2.8.)*

2.7 If Yes in Q 2.6, explain how……

……

……

……

……

……

2.8 In your opinion, what strategies do you think your competitors apply to set freight rates?

Pricing Strategies	**Strongly Agree**	**Mod Agree**	**Agree**	**Disagree**	**Strongly Disagree**
Competition Based Pricing	☐	☐	☐	☐	☐
Premium/Exclusive Pricing	☐	☐	☐	☐	☐
Pricing for market Penetration	☐	☐	☐	☐	☐
Psychology Pricing	☐	☐	☐	☐	☐
Bundle Pricing	☐	☐	☐	☐	☐
Cost Based pricing	☐	☐	☐	☐	☐
Others (specify)	☐	☐	☐	☐	☐

2.9 How do your competitors influence your decision in setting charges for your services?

……

……

……

……

2.10 What in your opinion, should be done to strengthen competition among players serving Port of Mombasa?

a) Raise shippers awareness on shipping services ☐
b) Increase the transparency of transport service prices ☐
c) Ease of licensing procedures ☐
d) Encourage information sharing. ☐
e) Limit vertical integration ☐
f) Encourage open cargo allocation mechanism ☐
g) Others (specify): ☐

.....

3.0 Port Services

3.1 What criteria do you use to select and rate Ports?

Criteria/ Level	Extremely important	Very important	Important	Fairly important	Not important
Quality to Customers	☐	☐	☐	☐	☐
Quality of port and maritime infrastructure	☐	☐	☐	☐	☐
Rates and fees Charged	☐	☐	☐	☐	☐
Efficiency	☐	☐	☐	☐	☐
Proximity to markets	☐	☐	☐	☐	☐
Frequency of hinterland connections	☐	☐	☐	☐	☐
Quality of hinterland connections	☐	☐	☐	☐	☐
Other, (Specify)	☐	.....			

3.2 How does the Port of Mombasa score on the criterion (1 very poor – 5 excellent)

Criteria	Excellent	Very Good	Good	Poor	Very Poor
Quality of Customers Service	☐	☐	☐	☐	☐
Quality of port and maritime infrastructure	☐	☐	☐	☐	☐
Rates and fees Charged	☐	☐	☐	☐	☐
Efficiency	☐	☐	☐	☐	☐
Geographical/Strategic location	☐	☐	☐	☐	☐
Proximity to markets	☐	☐	☐	☐	☐
Number and frequency of hinterland connections	☐	☐	☐	☐	☐
Quality of hinterland connections	☐	☐	☐	☐	☐
Other, (Specify)	☐	.....			

3.3 Rate specific Port Agencies Services (Score from 1 very poor – 5 excellent)

Agencies		Excellent	Very Good	Good	Poor	Very Poor
Public Agencies	Customs	☐	☐	☐	☐	☐
	Immigration	☐	☐	☐	☐	☐
	Port Health	☐	☐	☐	☐	☐
	Port State Control	☐	☐	☐	☐	☐
	Bureau of Standards	☐	☐	☐	☐	☐
Commercial	Bunkering	☐	☐	☐	☐	☐
	Victualling (Ship Handling)	☐	☐	☐	☐	☐

Civil Contractors	☐	☐	☐	☐	☐
Security providers	☐	☐	☐	☐	☐

Government Policies, Regulations and Licensing

4.1 List the regulations that you adhere to as you carry out your operations

a) ……

b) ……

c) ……

d) ……

e) ……

4.2 What challenges do the regulations mentioned above pose to your operations?

a) ……

b) ……

c) ……

d) ……

e) ……

f) ……

4.3 Complete the table below on licenses that are required in order for your line to operate in Port of Mombasa.

License	Issuing Authority	Amount in USD ($)	Regularity (Annual, biannual, etc.	Time taken to get the license	Challenges

4.4 In your opinion, what areas within the shipping sector policy would you like to be changed/revised or expunged to enhance your shipping business for future growth and sustainability?

……

……

……

……

……

……

……

……

Thank you so much for taking your time to fill out this questionnaire.

June 2018

ANNEX 15: STAKEHOLDER COMMENTS AND QUESTIONS RAISED DURING VALIDATION WORKSHOP AND CONSULTANT RESPONSES

No	Comment	Source of Comment	Response	Proposed Action in the Report
1.	The total cost of shipping to be separated into freight fees and others fees charged by shippers. (NO. 1)	Shipping Agent Association Representative	The issue has been adequately covered in chapter 2.2.1.2 of the document	The issue has been adequately covered in chapter 2.2.1.2 of the document
2.	Bring out clearly the issues as to why importers in other regions are able to negotiate for better rates as opposed to local shippers. What are the underlying factors that cause this practice? This has to come out clearly in the report (NO. 2)	CAK	Refer chapter 2.2.1.13 of the document) and additional comments	Incorporated in the Main Report
3.	In regard to vertical integration, the report needs to zero in on the level of competition in specific services and compare to other regions both globally and regionally (NO. 3)	Kenya Truckers Association Representative	Refer to Chapter 2.1.1.2, Fig 2-6, & Chapter 2.2.1.14, Table 2.18. In addition the findings indicated that there was no vertical integration	Adequately covered in the Report
4.	Shipping has high levels of vertically integration; the report therefore needs to capture this in details so as to provide valid recommendations. (NO. 4)		Refer to Chapter 2.1.1.2, Fig 2-6, & Chapter 2.2.1.14, Table 2.18. In addition the findings indicated that there was no vertical integration	

5.	The report should give recommendations on how to make the port of Mombasa more attractive than the port of Dare-Salam. (NO. 06 and 12)	CAK	The Port of Mombasa should up its operations game above Dar es Salaam by raising productivity by providing traffic management module that will reduce the number of hour's road trucks take in the Port. Furthermore proper prior planning of loading and discharging cargo should be put in place and adhered to. It should also reduce the number of interventions on movement of cargo by various regulatory bodies. Besides investments in state of the art cargo handling equipment, it should invest in human capital as well and maintain a close working relationship with principal stakeholders. It should be noted that there are no barriers to entry by service providers, they only need to show capability and ability to undertake the service desired to be provided	Incorporated into the report
6.	Provide tangible effects of SGR by providing evidential effects. All that is mentioned in the discussion should be captured in the report for the readers. (NO. 07)	East Africa Online Transport Representative and Representative from Treasury	It is recommended above that Impact Evaluation be undertaken to assess the impact of SGR. We hasten to point out that some Forwarding and Clearing Agents have been called upon to provide their services in Nairobi. It is evident that there is serious congestion at the ICD Nairobi occasioned by the operationalization of SGR. This has been	Incorporated in the Report and further studies on the same to be carried.

			accompanied by huge demurrage charges levied by Shipping Lines	
7.	The data provided on shipping shows that the top four control over 70% of the market share; what therefore is the price differential among the top four shipping lines. (NO. 09)	CAK	The cost of transportation of cargo from the Port to the doorsteps of shippers is reportedly very high because of the "first/last mile and transhipment which constitutes double handling. "The diversion of cargo from road to rail has affected resource distribution and utilization which has affected financing arrangements of some truck operators. The long transit time through the ICD Nairobi requires that shippers have to invest in inventories because of the absence reliability of timely delivery of cargo	Incorporated in the Report
8.	What is the level of vertical integration amongst the largest four shipping lines? (NO. 10)	CAK	Refer to Chapter 2.2.1.14 ,Table 2.18	Adequately Covered in the Report
9.	The report should capture the role of the shipping agent in the value chain (NO. 11)		(Refer to chapter 2.2.1.1)	Adequately Covered in the Report
10	Provide recommendations in regard to excess/idle capacity in our ports. (NO. 14)	East Africa Online Transport Representative	Much as it is indicated that there is idle or excess capacity in the Port of Mombasa, the Consultants are not convinced. Firstly Ports are developed ahead of demand. Secondly, some of the measures that are employed are rarely met thereby impacting negatively on	Incorporated in the Report

			the capacity: the expansion of the capacity of ICD Nairobi from 180,000 to 450,000 TEUs was based on a model dwell time of six days and stacking of 3.5 high. The realizable dwell time is in double digits and the stacking is largely 4.5 high. These values underline inefficiencies manifested in congestion because of lack of space thereby contradicting the notion of idle capacity. Measures of utilization indicate that the Container Terminal in Mombasa was occupied to the level of 78.8% in 2018 which is above the recommended value of 60 – 70%.	
11	The report is not providing details on destination charges, while it's very clear there are so many destination charges.		(Destination charges covered in detail in chapter 2.2.1.2)	Adequately Covered in the Report
12	What are the effects of the SGR to the large sized clearing and forwarding companies (NO. 17)	Kenya Shipping Agent Representative	Issues covered in Item no. 10	Recommendations for further Study on the Impacts of SGR.
13	The report is silent on privileged category of freight forwarders, how does this affect competition. Can the privileged category become a barrier to competition and if so can this be quantified so as to propose policy recommendations? (NO. 19)	CAK	While there are no officially privileged service providers in the provision of services along the Northern Corridor, the following may be deemed to enjoy some definite advantage over others: • Government Clearing Agent (Government Coast Agent);	Recommendation that no long-lasting preferential measures should be put in place by the government to perpetuate favourable terms for any party at the expense of others made in the report.

			• The Kenya Railways Corporation under the SGR; • Kenya National Shipping Line to which the carriage of government cargo is reservation in the regions it provides services; and • Authorized Economic Operators (AEOs) who are given priority in clearance at border entry points and for transit cargo enroute. As each of the above entities (except Kenya Railways Corporation), does not control significant share of the total business undertaken along the Northern Corridor, they have not shown any tendency to behave as dominant players who can distort pricing and impose barriers to competition. In order to enhance competition in the shipping, railway and road transport subsectors, no long-lasting preferential measures should be put in place by the government to perpetuate favourable terms at the expense of other stakeholders. In this respect, the cargo reservation accorded to SGR will need to be gradually withdrawn	

14	To what extent is undercutting of deals practiced in freight forwarding and how does the practice impact on the level of competition? (NO. 20)	CAK	Freight forwarders act as agents for shippers (cargo owners) in dealings with Customs, port authorities and shipping lines. Their functions mostly cover handling documentation through shipping lines and processing clearance through Customs, oversight agencies such as KEBs, clearance through the ports' authorities/CFSs and arrangement of transport from port to the point of destination. In exports, freight forwarders may make bookings for space with shipping lines, appoint transporters, and process the shipments through Customs, regulatory agencies and ports authorities. While large freight forwarders may have preferential arrangements with shipping lines and surface transporters where they may enjoy special discounts on freight rates. However, as shippers' agents, freight forwarders operate with instructions from their principals and are expected to disclose the expenses they incur for every shipment, make claims for refunds and charge a commission on their services. Where the principals are not particularly vigilant, then the freight forwarders may	No action recommended but for general information, CAK may wish to establish a database on freight forwarding industry which is already represented by strong professional associations

			retain into their own accounts the rebates made by shipping lines and surface transporters if these rebates are deferred.	
15	The level of substitutability between Railways and other modes of transport needs to be reflected in the report (NO. 21)	Representative from KTA	The degree of substitutability depends on the type of cargo and distance. For short distances, about 250 kilometres and below, the railway is not competitive enough. Further the railway is best suited to do bulk, heavy – low value cargoes as opposed to the road which is suitable for shippers in need of faster and door-to-door services. In light of existing arrangements, railway services must be complemented by truckage services however with regard to containers, the two modes can compete as well complement each other but full substitutability is highly unlikely	Incorporated into the main report
16	The report needs to categorize freight rates and transportation cost by capturing other charges. (NO. 22)	CAK	The freight rates are the charges that a transporter (shipping line, trucking company or railway carrier) raises to a shipper for carrying his goods from one point to another. In order to make a profit on a roundtrip, the total freight earned by a transporter must be higher than the total cost of the roundtrip. The costs include variable and fixed costs. The transport costs consist of all the variable costs	No action proposed

			together with depreciation and interest repayments. An attempt has been made to document freight charges against transport costs under Tables 2.3 and 2.4 in the Draft Report.	
17	What are the NTBs associated with SGR, including inefficiencies, demurrages associated with last mile. (NO. 23)	CAK	Non-Tariff Barriers (NTBs) are defined as obstacles to international trade that do comprise import or export duties. They may take the form of quotas, subsidies, customs delays, technical barriers, or other systems preventing or impeding trade. According to the World Trade Organization, non-tariff barriers to trade include import licensing, rules for valuation of goods at customs, pre-shipment inspections, rules of origin ('made in'), and trade prepared investment measures. In the case of the SGR, NTBs arise for the rest of the Northern Corridor countries where Kenya by government directives designates the transport of non-Kenyan cargo from Mombasa port to the hinterland by SGR to the exclusion of road transporters. This is possible today for the Mombasa/Nairobi ICD leg and may apply up to Naivasha once the	Issues of SGR covered under Item 20 below

			Nairobi/Naivasha segment of the SGR is commissioned.	
18	The issue of merchant cargo needs to be captured in the report (NO. 24) and The report needs to talk about TBL in the shipping and SGR. (NO. 25)		Multi-modal transport logistics means the activities involved in the carriage of goods by at least two different modes of transport on the basis of a multimodal transport contract from a place in one country at which the goods are taken in charge by the multimodal transport operator to a place designated for delivery situated in a different Country. The document issue for cargo being carried under multimodal transport operation is the Through Bill of lading covers both the sea and the rail transportation. When the SGR operations started in Kenya there was a great push by the government to have ten trains running within the first 8 months of operations. To achieve this ambitious modal ship, the government started forcefully nominating non TBL cargo which was to be transported to the hinterland by road and shift it to rail transportation. The non TBL cargo on rail transportation is now referred to as merchant cargo. The term merchant cargo is a local term and does not feature in the international shipping business. The term merchant cargo basically crafted to bring out one fact that non TBL cargo which is transported on the train, the merchant will be	Incorporated in the report

			liable for any damages to the container, delays and safe return of the container.	
19	What are the levels of efficiencies at the port of Mombasa compared to other ports like Djibouti and South Africa? (NO. 26)	CAK	The level of efficiency in the Port of Mombasa is not high. In 2018, the average moves per hour was 31. Same as in 2017. The overall target for South African Ports was set at 35 moves per hour. The Port of Durban on the other hand managed 46 moves while Djibouti managed 35 moves per hour. A recent study, 2019, showed that while average tons per person was 3685 in Mombasa, 2843 and 5265 in Djibouti and TPA respectively. This further underlines the fact that the Port of Mombasa has some work to do.	Incorporated into the main report
20	Does the infrastructure of ICD act as a barrier to competition? Discuss the barriers associated with ICD location. It is viewed the infrastructure favours small truck companies with fewer fleets. How should the infrastructure be set-up to allow level playing ground? (NO. 27).	CAK	The Nairobi ICD was developed by KPA and Kenya Railways in early 1980's when both rail and road could be used for the last mile to deliver cargo in towns such as Nairobi, Thika and Athi River. By then, many factories and goods warehouses had railway sidings and cargo was delivered or taken directly to and from their premises. This gradually changed and over the years many railway sidings became disused or were closed altogether. In addition, Kenya Railways has not been able to provide railway sidings for new factories and goods warehouses that	Recommendation made in the final report

			were built outside the range of the rail network.	
21	What are the levels of inefficiencies at the ICD? Provide recommendations to eliminate the inefficiencies. (NO. 28)	CAK	The ICD in Nairobi currently receives all the containers carried by SGR from Mombasa to Nairobi since the government made the reservation of this traffic to Kenya Railways mandatory. The capacity of the Nairobi ICD to receive and handle, process documentation and make cargo deliveries to cargo owners is limited by a number of factors. The major ones ae the following: (i) Slow processes in the handling and documentation of cargo to speed up delivery to shippers; (ii) There is limited road access to the ICD to ensure prompt removal of cargo after clearance by Customs and KPA. Road access was initially through Mombasa Road until the link to the Eastern Bypass was constructed. Currently a dual carriage link to the Southern Bypass is being developed; (iii) Packing areas for trucks waiting to be loaded with containers or returning them for discharge are inadequate; and	Recommendation be made for a further study by CAK to obtain comprehensive information on the status of the operations at ICD.

			(iv) Deliveries by Kenya Railways to factories and warehouses have over the last twenty years become restricted as many rail sidings to major railway customers have been decommissioned or removed all together. New factories and warehouses built in Nairobi and its environs have not been provided with rail sidings	
22	Impacts of operationalization of SGR (NO.18)	Workshop	The workshop noted the need to review the impact of the operationalisation of the SGR. It was agreed that a separate study would need to be undertaken by CAK in order to determine the impacts Generally; The effect of SGR on small truckage companies is in that the small fleet owners are likely to be more flexible than the larger ones. Besides they can easily squeeze themselves to small parking areas including road reserves and petrol stations where they can be accommodated unlike those with large number of trucks that were more aligned to doing interstates or inter- cities transportation	Recommendation for a further study

23	The current ICD location in Nairobi favoured smaller businesses because of limited space (NO. 27 AND 28)	Workshop	It was agreed that when setting up such infrastructure or during rehabilitation or expansion of the same, wider participation and stakeholder engagements should be placed at a premium so as to provide comprehensive and composite approach to the development of the projects. CAK should be part of this team. The roles of ICDs need to be looked into holistically.	Dealt with under Item 20 above
24	Participation of CAK in stakeholder platforms that advocate for open business practices and accountability.	Workshop	It was noted that it would be highly beneficial for the CAK to have an observer status or where possible be a full party to stakeholder platforms that advocate for open business practices and accountability. These include platforms include the Mombasa Port Community Charter. CAK would also benefit through accessing other platforms such as the NTB Reporting and Monitoring focal points under the COMESA, EAC and SADC Tripartite which provide updates on barriers that may distort prices and restrict market access and hence restrict competition.	Recommendation made in the report

ANNEX 16: INDICATIVE ROAD DISTANCES IN KILOMETRES BETWEEN THE NORTHERN CORRIDOR TRANSIT SECTIONS

INDICATIVE ROAD DISTANCES IN KILOMETERS BETWEEN THE NORTHERN CORRIDOR TRANSIT SECTIONS

	Bujumbura	Bukavu	Busia	Eldoret	Gasenyi	Goma	Gulu	Juba	Kampala	Kanyaru Haut	Katuna	Kaya	Kigali	Kisangani	Kisumu	Lasu	Mahagi	Malaba	Mariakani	Mbarara	Mombasa	Mpondwe	Nadapal	Nairobi	Nimule	Yambio	Yei
Bujumbura		165	990	1149	252	435	1134	1445	792	128	360	1373	279	864	1105	1496	1059	1028	1925	525	1961	700	1740	1480	1249	1761	1451
Bukavu	165		991	1150	349	184	1135	1446	793	157	361	1163	280	699	1170	1286	894	1029	1926	526	1962	701	1770	1481	1250	1551	1241
Busia	990	991		148	780	867	409	720	198	862	630	686	711	1495	119	809	585	33	905	465	941	640	768	460	524	1074	764
Eldoret	1149	1150	148		939	1026	503	963	357	1021	789	780	870	1654	158	903	519	121	776	624	812	799	620	331	618	1168	858
Gasenyi	252	349	780	939		225	924	1235	582	172	150	1163	69	1345	899	1286	1062	818	1715	315	1751	490	1559	1270	1039	1551	1241
Goma	435	184	867	1026	225		1011	1322	669	307	237	979	156	1114	986	1102	710	905	1802	402	1838	419	1617	1357	1126	1367	1057
Gulu	1134	1135	409	503	924	1011		311	342	1006	774	367	855	1162	528	490	266	382	1279	609	1315	784	606	834	115	755	445
Juba	1445	1446	720	963	1235	1322	311		653	1317	1085	234	1166	1399	839	201	577	693	1626	920	1662	1095	343	1145	196	466	156
Kampala	792	793	198	357	582	669	342	653		664	432	581	513	1297	317	704	480	236	1133	267	1169	442	948	688	457	969	659
Kanyaru Haut	128	157	862	1021	172	307	1006	1317	664		232	1245	151	1427	987	1368	1023	900	1797	397	1833	572	1612	1352	1121	1633	1323
Katuna	360	361	630	789	150	237	774	1085	432	232		1013	81	1195	749	1136	791	668	1565	165	1601	340	1380	1120	889	1401	1091
Kaya	1373	1163	686	780	1163	979	367	234	581	1245	1013		1094	1165	805	123	269	659	1556	848	1592	1023	577	1111	430	388	78
Kigali	279	280	711	870	69	156	855	1166	513	151	81	1094		1276	830	1217	872	749	1646	246	1682	421	1461	1201	970	1482	1172
Kisangani	864	699	1495	1654	1345	1114	1162	1399	1297	1427	1195	1165	1276		1608	1288	896	1533	2430	1030	2466	855	2245	1985	1277	1553	1243
Kisumu	1105	1170	119	158	899	986	528	839	317	987	749	805	830	1608		928	704	134	792	584	828	759	778	347	643	1193	883
Lasu	1496	1286	809	903	1286	1102	490	201	704	1368	1136	123	1217	1288	928		392	782	1679	971	1715	843	544	1234	397	355	45
Mahagi	1059	894	585	519	1062	710	266	577	480	1023	791	269	872	896	704	392		558	1455	747	1491	451	872	1010	381	657	347
Malaba	1028	1029	33	121	818	905	382	693	236	900	668	659	749	1533	134	782	558		897	503	933	678	741	452	497	1047	737
Mariakani	1925	1926	905	776	1715	1802	1279	1626	1133	1797	1565	1556	1646	2430	792	1679	1455	897		1400	36	1575	1396	445	1394	1944	1634
Mbarara	525	526	465	624	315	402	609	920	267	397	165	848	246	1030	584	971	747	503	1400		1436	175	1215	955	724	1236	926
Mombasa	1961	1962	941	812	1751	1838	1315	1662	1169	1833	1601	1592	1682	2466	828	1715	1491	933	36	1436		1611	1432	481	1430	1980	1670
Mpondwe	700	701	640	799	490	419	784	1095	442	572	340	1023	421	855	759	843	451	678	1575	175	1611		1390	1130	899	1108	798
Nadapal	1740	1770	768	620	1559	1617	606	343	948	1612	1380	577	1461	2245	778	544	872	741	1396	1215	1432	1390		951	491	809	499
Nairobi	1480	1481	460	331	1270	1357	834	1145	688	1352	1120	1111	1201	1985	347	1234	1010	452	445	955	481	1130	951		949	1499	1189
Nimule	1249	1250	524	618	1039	1126	115	196	457	1121	889	430	970	1277	643	397	381	497	1394	724	1430	899	491	949		662	352
Yambio	1761	1551	1074	1168	1551	1367	755	466	969	1633	1401	388	1482	1553	1193	355	657	1047	1944	1236	1980	1108	809	1499	662		310
Yei	1451	1241	764	858	1241	1057	445	156	659	1323	1091	78	1172	1243	883	45	347	737	1634	926	1670	798	499	1189	352	310	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