Railway Transportation Policy in Kenya: State of Play and Policy Challenges

Introduction

Railways transportation has been a reality in Kenya’s economy for more than a century owing to the construction of the railway line from the coast moving westwards in Kenya and into Uganda. Together with transportation by road, the railway in Kenya comprises the main sources of transport of goods and passengers along Kenya’s main urban areas. In spite of the challenges that Kenya’s railways system has had since the mid 1980s, the railway line has remained a critical asset for establishment of a competitive transport system both for business enterprises and passenger services.

The significance of a working railways transportation system for Kenya are salient and include the fact that Kenya is a comparatively large country with poor infrastructure investment and a wide distribution of the population. At the same time, Kenya has a sea port situated in the south east of the country which serves a number of countries in the region. As a result, the prominence of the port of Mombasa both for Kenya’s and the neighbors in terms of both import and exports imply that a good transport system is required to ensure that the port remains competitive. Given the great distances between the port of Mombasa towards the western part of Kenya and into Uganda and further forward, the Railways infrastructure is important for transportation of goods in both directions.

Economic Imperatives of a Railways Industry

Countries of the east African region of the continent are among the fastest growing in the world and hope to consolidate this position by expanding trade and developing transport infrastructure. Governments of Kenya and Uganda have committed to a joint railways infrastructure development and understand the crucial place of the existing railway infrastructure. The concession holder for the railways infrastructure for both countries is the Rift Valley Railways, whose management will run the railways until the end of the concession period in 2031. This concession, first granted in 2006 included provisions for commuter services, passenger services and freight.

An outstanding policy issue is why the concession agreement included the requirement for passenger services when it is clear that the strength of this railway system would be in vast increases in the volume of freight. This requirement for passenger services is not only not cost effective but conducted as a niche product for tourist travelers without the pressure of time. That this requirement for maintaining a passenger service is unnecessary is demonstrated by the fact that up to 95% of all revenues and volumes comes from the cargo with urban commuter services constituting 4% and the passenger services at 1%. In short, it does not appear that the railways service is competitive for passenger travel.

Besides the transport of goods into the rest of the country, Kenya’s railways system is therefore in a critical place to serve the countries in the region that depends substantially on Mombasa port. A review of the data on the share of freight volume that is transported on Kenya’s railways system show that the industry is not
performing well. To begin with, the preponderant amounts of incoming goods from the port of Mombasa into the region are borne by road transport. For instance, more than 60% of the inbound freight into Kenya is transported by road. This suggests that in spite of the effect of heavy vehicles on Kenyan roads, the importers seem to prefer to use road transportation in bringing in goods. This suggests that Kenya's railways transport system may not confer an advantage that would ensure that goods are delivered into the country through the railways infrastructure.

- Fiscal Policy & Effects on Competition

The viability of the concession is affected by other policy decisions that the government of Kenya and its counterpart in Uganda make while the concession subsists. Through the budget speech for 2013/14, Kenya's cabinet secretary for finance introduced the Railways Development Levy (RDL). The purpose of this tax is to acquire funds to supplement the construction of the impending Standard Gauge Railway (SGR) from Mombasa to Nairobi and later right through Uganda to be terminated in Kigali. While the policy idea here is understandable, the quick imposition of the tax raises several policy questions related to the design and the incidence of that tax. The primary issue here is that while the tax is simple to administer, it is not well designed because it is applied on all importers and is borne by the competing transporters such as the existing railway concessionaire on the one side and the road transporters. The fiscal effect of this is that road transporters and the existing railways operators are subsidizing a competitor. A properly designed tax would ensure that the burden of the levy is borne only by the users of that service or all taxpayers uniformly.

The mere fact that the concession held by the Rift Valley Railways will conclude in 2031 presents a situation of moral hazard. This is because the concession holder is expected to make substantial investments in the tracks in order to ensure that the business will run efficiently. Towards the end of the concession, the operator will face anxiety and reduce the degree of investments in the track out of the fear that the concession may not be renewed. This makes it imperative that the Ministry of Transport and the industry regulator must prepare policy positions that are neutral and without bias towards the Standard gauge Railway, to the disadvantage of the Rift valley railways today. This is especially important due to the fact that support for the Standard Gauge Railway has support from the executive branch of government. Declarations such as the preservation of business volumes for the Standard Gauge Railway are instances of patent violation of competition law and suggest political partiality to one project or firm.

Conclusion

The Institute of Economic Affairs (IEA-Kenya) recognizes the immense value that an efficient railways system would contribute both to Kenya and the region together with the possibility of improving the overall business environment. This public forum seeks to clarify the policy issues that arise from the impending big investments, to inform the public on the state of play in the industry and to influence policy discourse and policy formulation on the salient regulatory and policy choices at hand.