REPORT ON THE POTENTIAL EFFECTS OF NORTHERN CORRIDOR COUNTIES LAWS ON TRANSPORT AND LOGISTICS SYSTEMS IN EAST AFRICA

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ABBREVIATIONS

CBD	Central Business District
COMESA	Common Market for Eastern and Southern Africa
EAC	East African Community
ECTS	Electronic Cargo Tracking System
KENHA	Kenya National Highways Authority
KENTRADE	Kenya Trade Network Agency
KTA	Kenya Transporters Association
LAPSSET	Lamu Port Southern Sudan-Ethiopia Transport (LAPSSET) Corridor Project
MCAs	Members of the County Assembly
MOU	Memorandum of Understanding
NC	Northern Corridor
NCTA	Northern Corridor Transport Agreement
NTB	Non Tariff Barrier
PMAESA	Port Management Association of Eastern and Southern Africa
TTCA-NC	Northern Corridor Transit Transport Coordination Authority
SCEA	Shippers Council of Eastern Africa

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EXECUTIVE SUMMARY

This study provides a brief on the overall views on the administrative and legal barriers along the Northern Corridor counties and the effect such barriers have on the movement of goods along the transport corridor. It seeks to identify the transport and logistics bottlenecks that are borne by inappropriate county laws and regulations and aims to propose recommendations to address such bottlenecks.

The past three years have seen Kenya usher in a new era with the passing and now the implementation of the new Constitution. One of the standout features of this new constitution is the creation of a devolved system of government in the form of smaller regions known as counties, with the aim of allowing citizens to be involved effectively in governance. Unfortunately there has been a general fear and perception that the autonomy that comes with such counties, and the desire to raise revenues by counties, will result in the development of business unfriendly policies and laws that may have a negative impact on the cost of doing business.

The above scenario is already portrayed in the development and enactment of county finance bills, with many of the counties blindly proposing measures to raise revenue, without having done proper studies on the impact such measures will have on the cost of doing business.

It is for this reason that the Shippers Council of Eastern Africa (SCEA) has undertaken this study to ascertain the extent to which such laws and policies have affected the efficiency and cost of transport and logistics services in East Africa. The scope and focus of this report is on eight Northern Corridor counties of Mombasa, Makueni, Taita Taveta, Machakos, Nairobi, Nakuru, Uasin Gishu and Bungoma, and the findings are summarized below.

Generally, administrative barriers, insufficient transport infrastructure and insecurity are the three leading forms of barriers to free movement of goods at county level. 76% of interview respondents indicated that they encountered administrative barriers such as taxes and levies in the course of doing their transport business at county level. The most prominent of these levies was the parking fees charged for trucks in urban areas.

The state of transport and logistics infrastructure continues to deteriorate at county level as county governments and national roads authorities argue and tussle over who is responsible for the development and maintenance of roads at county level. As a result, 68% of respondents indicate that insufficient transport infrastructure is hurting their business, often citing traffic congestion, gridlock and lack of parking space at major urban centers at county level.

Arbitrary stoppages for cargo checks and corrupt practices by county officials are the least encountered county barriers to trade as attested by 12% of respondents, thereby confirming the fact that counties have little or no role to play in cargo inspection. Further, there are no barriers in the form of licenses and permits and road toll charges as none of the respondents indicated they have ever encountered such barriers. However, occasional blockage and barricading of the highway by protesters at county level has an impact on the transport business as attested by 4% of the respondents.

The four (4) most prominent barriers to free trade at county level are:

a. Administrative barriers which include taxes and levies
b. Insufficient transport infrastructure that often results in congestion

c. Corrupt practices by county officials
d. Insecurity and loss of cargo

Out of the eight (8) Northern Corridor counties studied, Mombasa, Uasin Gishu, Bungoma and Nakuru take the lead in imposing administrative barriers in the form of levies and taxes. Insufficient transport infrastructure is a barrier that is prominent in Uasin Gishu, Nairobi and Mombasa counties. From our survey, Uasin Gishu County is most affected with 88% of respondents identifying with insufficient transport infrastructure as a barrier, while Nairobi and Mombasa follow with 60% and 28% respectively. Perhaps this is an indication of the vehicle population in these counties which are also homes to major cities and the huge traffic jams witnessed in thereof. Insecurity is a barrier that largely exists in Nakuru County while corrupt practices by county officials are a barrier that exists only in Machakos County as indicated by 8% of the respondents.

In terms of official payments, the most common payments made by cargo transporters to the county governments are in the form of parking fees for trucks. The eight Northern Corridor Counties have different charges for parking of trucks. Nairobi County has the highest parking charges for trucks at KShs. 1,600 per truck every day, followed by Bungoma County which charges KShs. 500 per truck. The county with the least parking charges for trucks is Mombasa at KShs. 300 per truck per day.

There exist a number of investment opportunities at county level that if exploited adequately, can lead to improvement in the transport and logistics environment on the Northern Corridor transport route. Specifically, the establishment of freight forwarding branches and subsidiaries at county level will go a long way in facilitating the movement of export produce to the nearest ports of exit and/or loading. Currently, 99% of freight forwarders have established their offices in either Nairobi and/or Mombasa.

There also exists opportunities to improve truck turnaround time through the establishment of highway amenities. These investments could be set up through public – private partnerships between county governments and private investors. For instance, county governments could provide land and also develop regulations for the development of such establishments. Highway amenities can be constructed every 120kms or so on the highway and may have the following facilities among others:

- Parking lots for trucks and other vehicles
- Restaurants
- Public Toilets
- Restrooms for short stays
- First aid centers
- Mechanic shops, and
- Gas stations

In terms of recommendations that eliminate county barriers to free movement of goods, this report recommends harmonization of the role of national road and infrastructure development agencies with the functions of the county governments. This will eliminate delays resulting from the confusion on whose mandate it is to execute these roles.

In order to improve accountability in service delivery and enhance the preparedness of business on the Northern Corridor, it is important to harmonize legislation and charges for services rendered to business entities who use these transport corridor. There is also an urgent need to harmonize licenses for registering subsidiary offices of freight transport and logistics companies at county level to avoid the effect they have on the cost of doing business on the Northern Corridor transport route.

CHAPTER ONE

1.0 INTRODUCTION AND BACKGROUND OF THE STUDY

> *"The Mombasa County Assembly has backed Governor Hassan Joho to have the port of Mombasa managed by the county government. Addressing journalists at the County Assembly Committee room in a signed statement by 22 MCA's, they argued that the port has not benefited Mombasa residents as it is their right to access and benefit from the port resource as enshrined in schedule 4 part 2 of the constitution of Kenya".*[1]

As trade flows grow in the East Africa Community region, freight transport is increasingly gaining momentum as a key driver of economic growth. Public attention continues to be placed on goods movement and the mitigation of associated impacts to trade and economic integration, particularly with respect to cost, time and complexity of moving goods across borders.

Over the past five years, the port of Mombasa, which serves as a major gateway of trade to the Eastern Africa region has recorded significant growth in all categories of cargo traffic. The 2012, Kenya Ports Authority Statistical Bulletin Reports that total cargo through the port grew by 7.5% over this period, with transit traffic growing by 7.9% from 4.87 million tons in 2008 to 6.63 million tons in 2012. In order to cater for the increasing volumes of transit trade, the northern corridor trade route shipped 21.5 tons of cargo in 2010; 58% of which represented Kenyan overseas trade, 28% transit traffic and 14% regional trade[2].

[1] The Star, May 16th 2014

[2] CPCS Transcom Limited, 'Analytical Comparative Transport Cost Study along the Northern Corridor Region'.

The Northern Corridor itself is defined as transport infrastructure and facilities in Eastern Africa served by the port of Mombasa[3]. The infrastructure comprises of rail, road and pipeline networks and routes, which are detailed in the EAC

Protocol No. 2 of the Transit Agreement. The rail/road routes commence from Mombasa in Kenya, through Kampala in Uganda to Bujumbura in Burundi, Kigali in Rwanda, Juba in South Sudan, Goma, Bukavu, Bunia, and Kisangani in the Democratic Republic of Congo. The road section of the northern corridor recorded a monthly average of 16,497 trucks at its major borders – Malaba and Busia.

Map 1.1. A Map of the Northern Corridor Transport Route. Source: www.eastafricancorridors.org

[3] TTCA " *Investment Opportunities in the Northern Corridor with Emphasis in Transport Infrastructure* " Paper prepared by the TTCA Secretariat for presentation at the Comesa Business Summit, Kampala, Uganda on 7th to 8th June 2004, pg 2

1.1 – The Legal Framework applying to the Northern Corridor

The Northern Corridor, as has been mentioned[4], crisscrosses three different countries. From a legal perspective, the application of the law can be viewed from three perspectives as follows:

1.1.1. Regional Legal Framework

Kenya is a key member of the East African Community, which brings together Rwanda, Uganda, Tanzania and Burundi. These countries have set out legal frameworks in trade, which are meant to ensure that there is increased flow of business. These laws, though directly impacting on trade, also have a significant influence on the way we conduct trade. They include:-

(a) EAC Protocol on the Establishment of the EAC Common Market[5]

The geographical position of the Northern Corridor means that hinterland counties heavily rely on the port of Mombasa and the hinterland of Kenya as a conduit for moving goods in and out of their countries. The Protocol provides for the following trade measures that have a bearing on the Northern Corridor Trade activities:-

(i) Elimination of the restrictions on the free movement of Capital[6]

(ii) Coordination of Transport Policies[7].

(iii) The Free movement of Goods[8]

The activities envisaged above are grounded on the objectives set out under Article 4. One of the key objectives here is the need to ensure that there is accelerated economic growth and development of the Partner States through the attainment of the free movement of goods

[4] Ibid note 2 at pg 1

[5] Established pursuant to Article 76 and Article 104 of the Treaty for the Establishment of the East African Community. The Protocol came into effect on 20th November 2009

[6] Article 24

[7] Article 38

[8] Article 6.

(b) EAC Protocol on the Establishment of the EAC Customs Union

The Protocol came into effect on 10th November 2010. The Protocol provides for the creation of a customs where among others, non-tariff barriers to trade among the partner states shall be removed[9].

The Protocol further emphasize the need to eliminate internal barriers and such like charges that will deter trade in the region. In the context of Kenya's devolved government structure, the Protocol seeks to ensure that any barriers that may be im posed by the county governments in the course of conducting trade, are discouraged and where they exist, they stay eliminated.

1.1.2 - The National Legal Framework

(a) The Constitution 2010

In Kenya, we have embarked on aligning our legal system to be guided by the Constitution. In trade, the same is also true when one considers the devolved government structure that now forms one part of government.

The Constitution provides that issues of international trade, construction and operation of national trunk roads and standards for the construction and maintenance of other roads by counties[10]. In the counties, the Constitution requires that they handle functions such as County transport which includes roads, street lighting, traffic and parking, public road transport, ferries and harbours. Other duties connected to the Northern Corridor include trade development and regulation which covers also trade licenses and markets.

The Constitution provides that in actualizing these functions, the national government and the county government must work together in the spirit of cooperation as a way of delivering to the citizenry. In the context of the Northern Corridor trade and access, it means that counties are required to follow the national governments lead in ensuring that the commitments made at the regional level are kept in terms of elimination of barriers of trade.

[9] Article 4 (a)
[10] Part One of the Fourth Schedule of the Constitution

On the other hand, the Constitution has implicitly allowed the application of international treaties and conventions that Kenya has ratified. This means that the regional agreements[11] and protocols that we have entered into to enhance trade in the East African region and beyond, form part of Kenyan law[12].

(b) The Public Financial Management Act 2012

The Constitution has provided the principles to be used by the national governments to provide funding to the counties so that they may run the functions that it has delegated to them. However in terms of the practical application of these functions, Parliament enacted the Public Financial Management Act to ensure that when these funds are channeled to the counties, they are used to good effect.

The Act sets out the responsibilities of counties on the prudent use of county government funding. It provides that county heads of treasury shall ensure that they have prepared budget statements and that the said estimates show how the county intends to raise revenue.[13] The Act further ensures that the Controller of Budget is able to scrutinize the budgets provided to be raided and utilized in accordance with the Constitutional principles. Even though the Act is silent on what exactly are the revenues of the counties, the Act creates regulations whereby counties can pass Appropriation Bills and Finance Bills to enable them operate. Most of the Counties on the Northern Corridor have already passed their Finace Bills, which inter alia allow them to charge for services such as parking, market cess, operating freight and forwarding businesses among others.

1.1.3 County Laws

The Constitution mandates counties to create laws that are beneficial to them. In this case, the laws expected are meant to ease the cost of business and ensure services

[11] The 1985 Northern Corridor Transit Agreement bringing together Kenya, Uganda, Rwanda and Burundi is an agreement that forms part of our law.
[12] Article 2 (5) of the Constitution
[13] Sec 104 of the PFMA

are provided to the public. In line with the Public Financial Management Act, several counties across the country formulated their Finance Bills to allow them

have the legal mandate to create budgets, charge various fees and levies and undertake development.

Most of the bills in the Northern Corridor are more or less similar in the range of services that can be offered and the services to be levied. The current situation is that most counties have passed bills pursuant to the Public Financial Management Act and the County Governments Act. Many of them have not yet ventured into development related bills. The details of these laws in the context of this study have been provided elsewhere in this Report. For counties, the process of enacting law is generally found in the County Government Act. Bills are prepared by the county service board in conjunction with the county assembly. They are then disseminated to the public for scrutiny and comment. Once that period is over, they are then presented, together with the comments from the public for debate by the county assembly member's[14].

In 2010, Kenya ushered in a new Constitutional dispensation that brought in two levels of government, National and County government. Each level of government is supposed to generate laws to govern and ensure development in the devolved units. Some of the laws created by the devolved governments may have an effect on the operation and efficiency of the corridor. The corridor passes through the following counties in Kenya whose laws and policies are likely to significantly impact on the efficiency and cost of transport services:

A. Mombasa
B. Makueni
C. Machakos
D. Nairobi
E. Naivasha
F. Nakuru
G. Uasin Gishu

[14] Section 3 of the County Government Act as read together with Article 175 and Article 176 of the Constitution.

H. Bungoma

The statement in paragraph 1, as quoted from a section of members of the county assembly in Mombasa County forms the perfect basis for conducting this study. It is clear that county governments are making every effort to increase their revenue base by tabling unreasonable demands to the national governments in the name of constitutional rights to their citizens. What is not clear is whether these demands and/or policies and laws are in line with the constitution and the impact they have on private sector growth.

The fear of the business community is whether such incidents shall spread to other sectors in transport and logistics and hence the need by the Shippers Council of Eastern Africa (SCEA) to conduct this study and guard against their potential negative effects to the business community. The scope is in relation to the Northern Corridor transport route and the counties traversed by this corridor.

1.2 OBJECTIVES OF THE STUDY

The objective of the study is to identify administrative and legal barriers erected by the Northern Corridor counties and the effect such barriers have on the movement of goods along the transport corridor. Such barriers may include but not be limited to fees, charges, licenses, quality of infrastructure regulations and procedures that impact on the cost and time of moving goods along the Northern Corridor.

The specific objectives of the study are to:

a. Identify the transport and logistics bottlenecks that are borne by inappropriate county laws and regulations and propose what must be done to address such bottlenecks;

b. Provide insights on the effect such county laws and regulations have on transport and logistics systems especially with respect to their contribution to the time and cost of moving goods;
c. Identify the opportunities that the Northern corridor counties may provide towards improving the logistics systems, capacity and efficiency.

1.3 RATIONALE FOR THE STUDY

Ports and transport corridors are integral and premier components of the global supply chain. Their operational efficiency and effectiveness have profound impact on the level of trade, given that 90% of the global cargo is seaborne. However, port development is incomplete without taking into account the entire supply chain which includes infrastructure (port, road, rail and pipelines), regional cargo tracking systems, and harmonization of regional customs regulations among other things. These are the main issues corridor management Initiatives are dealing with.[15]

Currently, there is diversity in corridor development approaches and institutions in a number of countries in the Eastern and Southern Africa region are focusing either on transport logistics or economic development along these corridors or both. While some of these are managed with a structured institutional arrangement, others simply exist and function. If the reasons for establishing corridor institutions are generally similar, the legal instruments governing them are not uniform. Examples of legal instruments include treaties (Northern Corridor), Multilateral Agreements (Central Corridor), MoU (Trans-Kalahari), Constitutions (Dar-Es-Salaam) and Company Registration (Maputo). Some of these management arrangements are state run authorities while others are private sector led, operating as lobby groups.

[15] Callixte Ntamutumba "*Study for the Establishment of a Permanent Regional Corridor Development Working Group in PMAESA Region*" *Ibid*

In Kenya, the question of uneven uniformity in the decision making is in the set-up of the devolution system and the freedom in which county governments are supposed to implement the devolved system of

government in order to suit the interests of the people living there. Part of the accusation is that the fragmented policy making and legal implementation can only lead to an uncoordinated Northern Corridor management with the end result being an increase in trade logistics costs for users of the transport corridor.

The current nature of haphazard implementation of the County Finance Bills which are meant to give the authority to counties to implement taxes, fees and levies, have in many ways been seen to be anti-business. The thrust of this argument is that different counties are introducing their own version of revenue generation approaches some of which don't take into consideration end-user aggregate costs that would apply from county to county on different items that they would want to levy charges or taxes on. This has the ultimate effect of increasing the cost of doing business and thus the need to undertake this study and propose measures to curtail these business unfriendly laws.

1.4 METHODOLOGY

To achieve the objectives of the study, we developed a methodology that comprised of collection of both primary and secondary data, and in depth interviews with county officials and transporters.

Primary data

This constituted questionnaires disseminated to the stakeholders, interview sessions with the county executives in charge of transport and infrastructure in the counties under study. The study was also conducted through observations and interviews where the targeted respondents were county executives heading the infrastructure and transport dockets or their representatives and private sector stakeholders (transporters, shippers, freight

forwarders, clearing agents, shipping lines, stakeholder associations, etc.). The study focused on finding out the following:-

a) Have counties implemented laws or planning to effect laws that have any adverse effect on transport and logistics along the Northern Corridor?
b) Are there any tariff or non-tariff barriers that exist in the counties that adversely affect the seamless flow of goods on the Northern Corridor?
c) Is there a consultative forum between the county governments and the national government?

Building on analysis from existing studies, additional research was conducted in the form of data gathering from the field. Interviews targeting stakeholders who operate on the counties along the Northern Corridor including Mombasa, Makueni, Machakos, Nairobi, Nakuru, Uasin Gishu and Bungoma were conducted.

The survey focused on three key areas aimed at providing insights and broader understanding of Northern Corridor counties barriers to free movement of goods. These areas included the following:

1. The nature of cargo being transported, categorized as either of the following:
    a. Containerized cargo
    b. Liquid bulk
    c. Bulk grain
    d. Bulk cargo – non grain
    e. Automobiles and other machinery

f. Relief and other humanitarian cargo

2. The nature of county barriers to free movement of goods with a possibility to classify them into six major classes namely:
    a. Administrative barriers which include taxes and levies
    b. License and permit requirements
    c. Arbitrary stoppages for checks of cargo documentation
    d. Road toll charges imposed by county governments
    e. Insufficient transport infrastructure that often results in congestion
    f. Corrupt practices by county officials
    g. Insecurity and loss of cargo

3. Impact of county barriers on transit transport business measured by the description and amount of payment made.

Secondary data

A significant proportion of the information in this report was compiled from review of existing literature on non-tariff barriers. Some of the reports that were made reference to include the Status of Elimination of NTBs in East Africa Reports – Volume 5 of 2012, Bribery as a NTB report and several reports on Non-Tariff Barriers in Trading within the East African Community region[16]. References were also made to online journals, newspaper articles, and policy papers, previously done reports on the Northern Corridor, the Constitution, county finance bills and county budget reports.

[16] Non-Tariff Barriers in Trading within the East African Community; Economic and Social Research Foundation (2012); Status of Elimination of NRBs in East Africa Reports – Volume 5 of 2012 among other reports

CHAPTER TWO

2.0. MAIN FINDINGS

The findings of this report are presented in two parts. Part 1 presents the general findings resulting from interviews with transporters, while part two presents county specific findings resulting from in depth interviews with officials of county governments on the Northern Corridor. It should be stated that this report does not state that all the findings here are entirely as a result of direct or indirect restrictions from the national government. The restrictions stated cut across both levels of governments, since there are now laws that provide the structures of how these specifically county governments should operate. The severity of the restrictions or bottlenecks can be seen in the way they apply in either government levels. The position of the findings will be presented under the following two heads.

2.1. GENERAL FINDINGS

In outlining the findings, data collection was conducted through a survey of 25 transport companies randomly selected from the Kenya Transport Association (KTA) database, and who move cargo using the Northern Corridor transport route. Out of the twenty five transport companies that were interviewed, 9 respondents were fleet managers while the rest were truck drivers. The respondents were categorized by the nature of goods they move and this is presented in table 1 below.

No. of Transporters Interviewed by Type of Cargo they Transport							
Containerized	Liquid Bulk	Bulk Cargo	Bulk Grain	Automobiles & Other Machinery	Relief & Humanitarian Cargo	Other	Total
7	6	4	3	2	2	1	25

Table 2.1: No. of Transporters Interviewed by Type of Cargo they Transport

The data collected from the field involved visits and interviews with respondents in Mombasa, at Mlolongo weighbridge and headquarters of selected transport companies in Nairobi. The full list of those interviewed is found in Annex 1 of this report. The research instrument and data collection tool employed was a simple questionnaire employed as a structured one on one interview, and designed to cover the approach employed above. The questionnaire is attached in Annex 2 of this report.

2.1.1. Nature of County Barriers to Free Movement of Goods

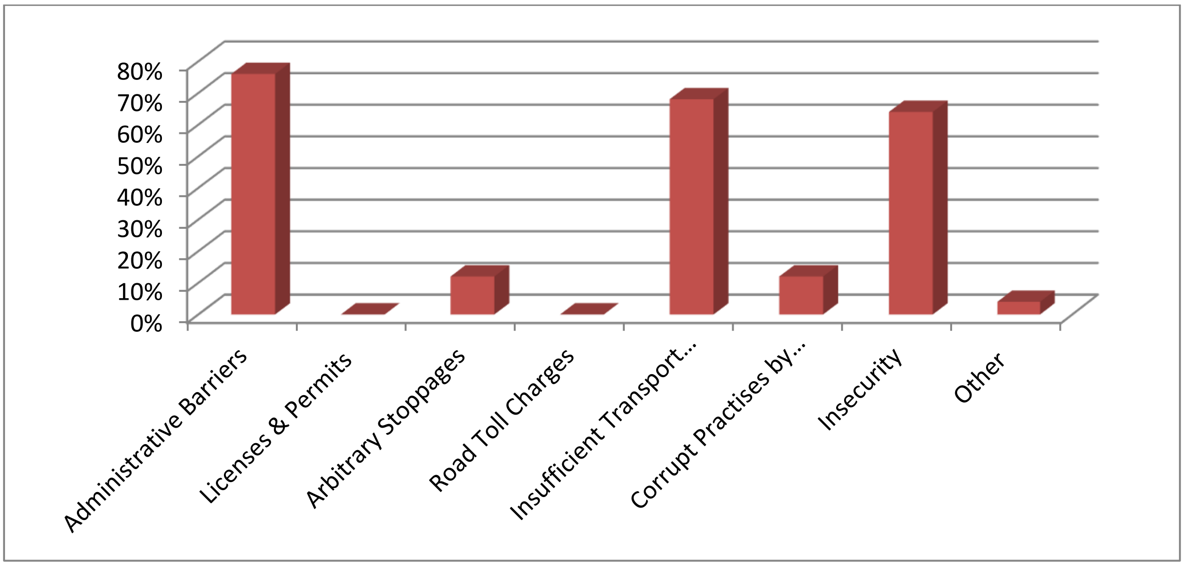

Chart 2.1. Nature of County Barriers to Free Movement of Goods

Administrative barriers, insufficient transport infrastructure and insecurity are the three leading forms of barriers to free movement of goods at county level. 76% of the respondents indicated that they encountered administrative barriers such as taxes and levies in the course of doing their transport business at county level. The most prominent of these levies was the parking fees charged for trucks.

Another 68% of respondents indicated that insufficient transport infrastructure was hurting their business, often resulting in congestion and gridlock and lack of parking space at major urban centres at county level. Insecurity, which is often leads to loss of cargo, is also a major barrier of free movement of goods at county level as 64% of the respondents attested to having encountered such incidents.

Arbitrary stoppages for cargo checks and corrupt practices by county officials are least encountered by transport companies as only a paltry 12% of respondents attested to ever encounter them. There are no barriers in the form of licenses and permits and road toll charges as none of the respondents indicated they have ever encountered such barriers. A further 4% of respondents indicated that occasional blockage and barricading of the highway by protesters at county level have had an impact on their transport business.

2.1.2. Most Occurring Barriers by Northern Corridor Counties

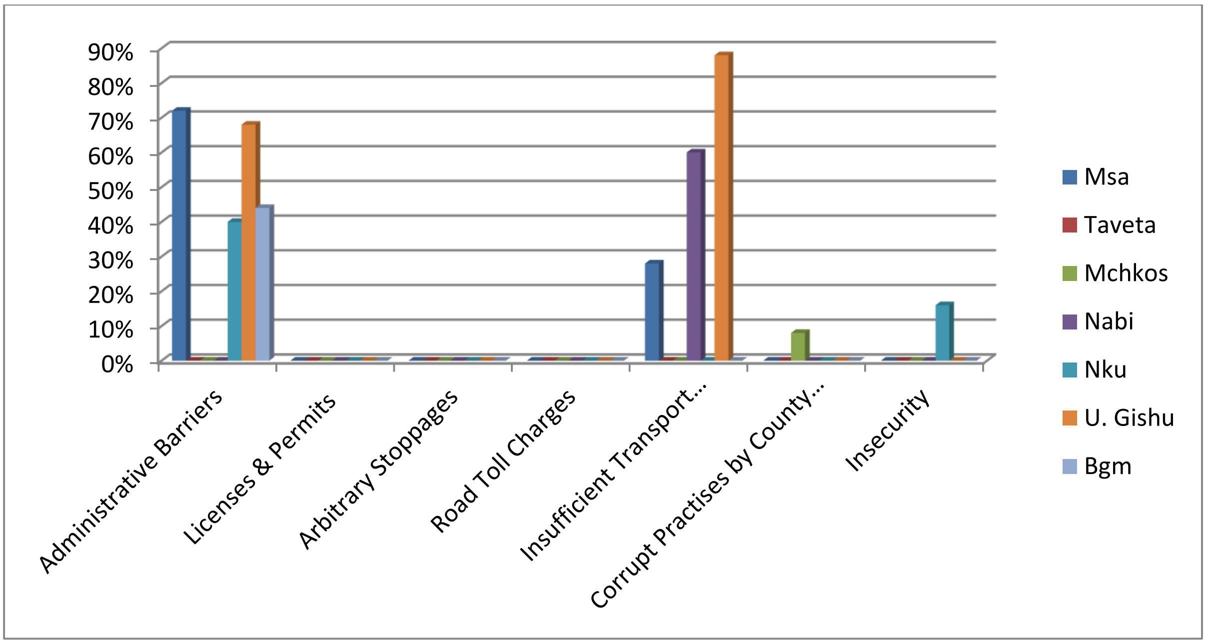

Chart 2.2. Most Occurring Barriers to free movement of goods by Northern Corridor Counties

The survey indicates that out of the seven categories of county barriers classified in Figure 2, there exist four (4) most prominent barriers at county level. These prominent barriers include the following:

e. Administrative barriers which include taxes and levies
f. Insufficient transport infrastructure that often results in congestion
g. Corrupt practices by county officials
h. Insecurity and loss of cargo

Out of the eight (8) Northern Corridor counties studied, Mombasa, Uasin Gishu, Bungoma and Nakuru take the lead in imposing administrative barriers in the form of levies and taxes. All of the respondents indicated no barriers in the three areas of arbitrary stoppages, road toll charges and licenses and permits for all of the eight Northern Corridor counties studied, an observation that coincided with the data collected from interviews with county officials.

Insufficient transport infrastructure is a barrier that is prominent in Uasin Gishu, Nairobi and Mombasa counties. Uasin Gishu County is most affected with

88% of respondents identifying with insufficient transport infrastructure as a barrier, while Nairobi and Mombasa follow with 60% and 28% respectively. Perhaps this is an indication of the vehicle population in these counties which are also homes to major cities and the huge traffic jams witnessed in these cities.

Insecurity is a barrier that largely exists in Nakuru County as indicated by 16% of respondents while corrupt practices by county officials is a barrier that exists only in Machakos County as indicated by 8% of the respondents.

2.1.3. Impact of County Barriers on Transit Transport Business

a) Barriers that Have the Most Impact on Goods Movement at County Level

When asked to indicate the level of impact of county barriers to their transport business, respondents ranked licenses and permits and road toll charges as the county barriers with no impact on transport and logistics business at county level. One Hundred percent (100%) of the respondents interviewed indicated that these two barriers have no impact on their business and thus attesting to the observation that all of the Northern Corridor counties have not imposed any of such barriers on the transport business. Figure 3 presents this observation in detail. Majority of the respondents (54%) also indicated that barriers related to arbitrary stoppages at county level have very low or no impact to their transport business at county level. This situation reveals that counties play no role in cargo inspection along the corridor.

Barriers with the highest impact to the transport business are the barriers of insufficient infrastructure and insecurity where 52% and 60% of the respondents indicated that such barriers have very high impact on their transport business.

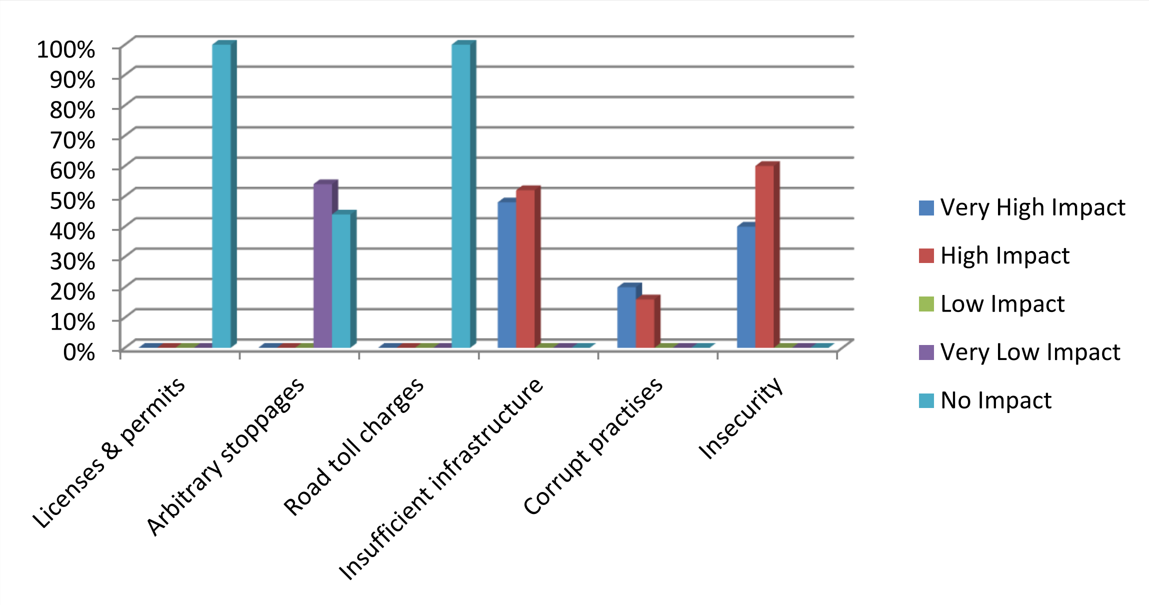

Chart 2.3. Barriers that Have the Most Impact on Goods Movement at County Level

2.1.4. The Cost of County Barriers on Transit Transport Business

a) Official Payments

The most common payments made by transporters to the county governments are in the form of parking fee for trucks. The survey reveals that the eight Northern Corridor Counties have different charges for parking of trucks. Table 2 indicates the cost of parking charges incurred by transporters at various counties on the Northern Corridor transport route.

	Description of payment	**Amount (KShs)**
Mombasa	Parking	300
Machakos	Parking	450
Nairobi	Parking	1600
Nakuru	Parking	400
Uasin Gishu	Parking	400
Bungoma	Parking	500

Table 2.2. Truck parking charges for selected Northern Corridor Counties

Nairobi County has the highest parking charges for trucks at KShs. 1,600 per truck, followed by Bungoma County which charges KShs. 500 per truck. The county with the least parking charges for trucks is Mombasa at KShs. 300 per truck.

2.1.5. Cost of County Barriers as a Percentage of Total Business Cost

The study computed the cost of county barriers as a percentage of the overall business cost per trip. The results are presented in figure 4 below.

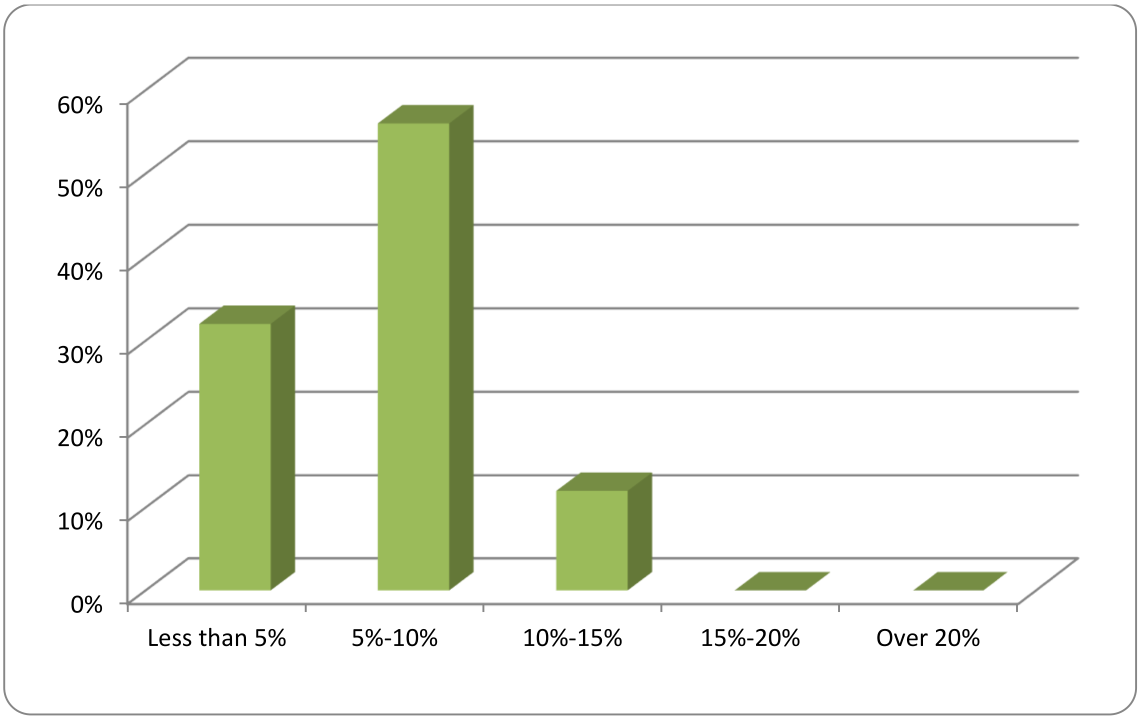

Chart 2.4. Cost of county barriers as a percentage of the overall business cost per trip

Majority of those interviewed – 56%, indicate that county barriers are responsible for between 5 – 10% of the total business cost they incur per trip. A further 32% of respondents indicate that county barriers are responsible for less than 5% of the total cost per trip.

2.1.6. Lost Business Opportunities

Insufficient transport infrastructure at county level, which is often manifest in traffic gridlocks at major county cities along the Northern Corridor, has often resulted in delays and compromised the ability of transporters to conclude their round trips on schedule. As figure 5 indicates, majority of the respondents – 47% indicate they lose 1 to 2 days per trip due to such delays.

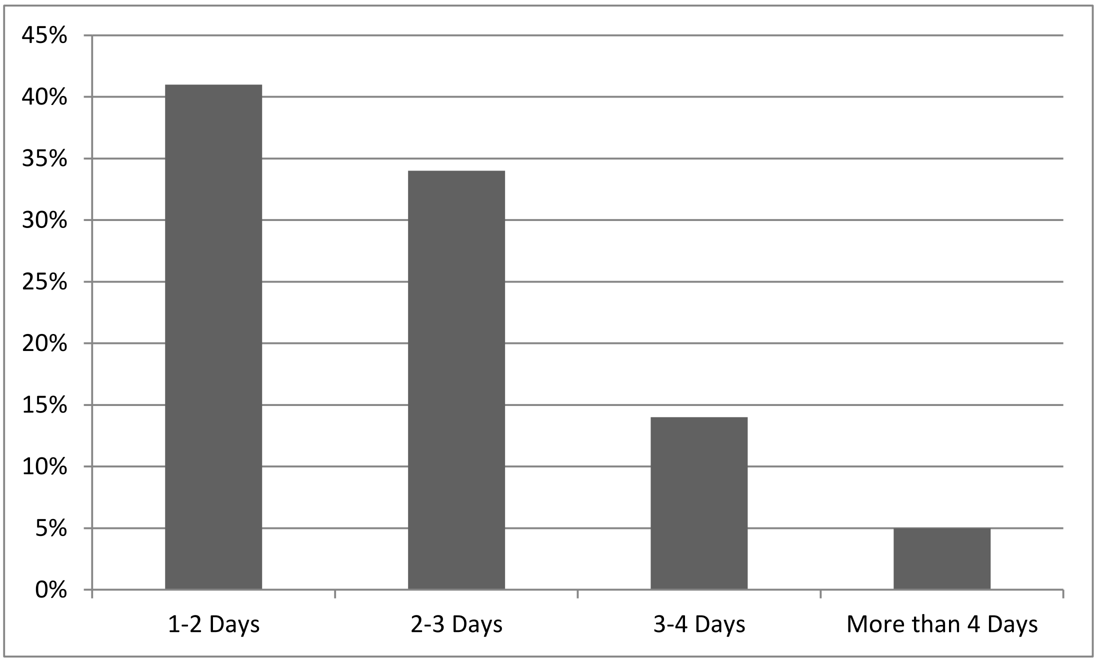

Chart 2.5. No. of days lost per trip due to county barriers

2.2. COUNTY SPECIFIC FINDINGS

The Port of Mombasa plays a strategic role in the facilitation of trade both for Kenya and other hinterland countries along the Northern Corridor.[17] A key premise of this report is therefore that the Mombasa port performance, transit costs and procedures lie at the heart of the logistics supply chain.[18]

Although there have been improvements in the past couple of years, the Port of Mombasa has been beleaguered by inefficient cargo clearance

[17] CPSC Transcom Limited. Pg. 4
[18] Ibid

processes causing delays and rendering the port expensive and uncompetitive.[19] This scenario normally spills over to the road network within the county which has often led to traffic problems.

2.2.1. Security along the Northern Corridor

Security of both cargo and truck operators is paramount in ensuring that transit cargo reaches its destination on time. It is laudable that the Government of Kenya has removed all roadblocks along the Northern Corridor to ease the movement of cargo but the issue of security of transporters is yet to be solved.

The Government should invest in security by providing for police patrols along the Northern Corridor to ensure that transit cargo not only reaches its destination, but does so on time.

Security in the counties under study was seen in our survey as a serious matter. In some counties such as Nakuru and Mombasa, insecurity was seen as ubiquitous while in other counties such as Makueni and Uasin Gishu insecurity wasn't prevalent. This may be attributed to perhaps they are less densely populated in areas the Corridor passes.

In Machakos, the County executive identified insecurity as a bottleneck that affects transport along the Corridor. This is because large sections of the road pass through very remote areas which perhaps give highway robbers opportunities to attack these vehicles. In addition, he stated that it may be difficult to implement certain laws if it seen to impair the work of the national government. The truck drivers also contribute to these bottlenecks by their impunity on the highway.

[19] Ibid

2.2.2. Corruption

Corruption is one of the vices that increases costs along the Northern Corridor.[20] The margin is quite high along the Northern Corridor as compared to the Central Corridor.[21] Corruption mostly happens at the following points along the Northern Corridor;

a) at weighbridges; and
b) at the border gate
c) Within the Northern Corridor cities/towns where payments are made unofficially to parking attendants in order to avoid the hefty parking charges applicable to trucks

In terms of trying to remove these barriers the Government of Kenya ordered the removal of police road blocks in an attempt to curb the incidence of corruption and ease the flow of traffic. The Weighbridges are proposed to being reduced to two at the points of entry and exit. The privatization of the weighbridges is also being undertaken in an effort to curb corruption.

It is estimated that Fifty (50%) per cent of the costs sustained by businesses goes into expenses at the port and fighting transport hurdles.[22] The rising cost of goods is attributed to bribery and extortion at weighbridges.[23]

In 2013, the Government directed that the police road blocks that existed along the Northen Corridor in different counties be removed as they were hindering the smooth flow of transit goods. It is understood that counties were powerless to act since the security functions falls under the police and it is essentially not the work of the counties[24].

[20] Private Sector Federation, Analysis Of The State of NTBs Along The Northern & Central Corridors, (2008)
[21] Ibid.
[22] Accessed at http://www.standardmedia.co.ke/business/article/2000091039/kenha-unveils-new-measures-to-tackle-graft-at-weighbridges on 1st April 2014.
[23] Ibid
[24] TMSA " Northern Corridor: David Kimaiyo orders the removal of all road blocks" in http://www.trademarksa.org/news/northern-corridor-david-kimaiyo-orders-removal-all-roadblocks accessed on 15th May 2014

2.2.3. Border posts

Border exit points also contribute to the cost of transporting goods along the Northern corridor. Transporters have to clear their goods at the point of entry and at the point of exit. This leads to delay in clearing cargo which in turn increases the cost of doing business as such costs are transferred to consumers.

The EAC legislative assembly recently passed the *One Stop Border Post Act 2013* which is meant to streamline clearance procedures within the Partner States. The Act requires that goods be cleared at the point of entry by both partner states to enable the goods reach their destination on time whereby double clearance of transit goods is avoided. At the point of exit, the goods are only to be weighed and released to their destination.

There is need for the implementation of the Act to reduce costs incurred at the border posts which would further reduce the cost of transport along the Northern Corridor. Some anticipated benefits of implementing the Act include; reduction of border processing time, less parking congestion, reduced Bond release time, reduced infrastructure operating costs, improved ICT systems, fewer cargo inspections and reduced corruption among others.[25].

With the system of devolved government in place, the national government has been keen to ensure that counties do not act as barriers when goods are moving on to other countries. The congestion for instance experienced at the Busia border post is been known to be a bottleneck that both Kenya and Ugandan authorities must tackle in order that transit goods move on without hindrance.

[25] Ntamutumba C. pg. 68

2.2.4. Poor road infrastructure

Prior to the year 2010, the Northern Corridor was a dilapidated road with numerous road diversions along the route owing to construction of the routes along the corridor.[26] The Government of Kenya has the road infrastructure as a foundation of development under our Vision 2030 development blue print. The Government commissioned the construction of the Southern by-pass which is scheduled to be completed by August 2014. The Eastern and the Northern by-passes have already been completed. The construction and imminent completion of these roads will ease traffic in Nairobi County. The Government has already commissioned the construction and repair of the road from Kitale all the way to Lokitaung' Turkana to South Sudan through the LAPSSET project. All these infrastructure projects are aimed at facilitating transport of goods from Mombasa Port to other destinations in East and Central Africa. These are initiatives that are quite welcome to transporters using the Northern Corridor.

The design of our roads has had a negative effect on the way the Northern Corridor operates. In Uasin Gishu county, the county executive stated that one of the major problems the county has to deal with is the traffic congestion within and out of Eldoret town owing the design of the road, which only catered for a dual carriage way in the middle of a built up area of town, thus making it impossible to expand it. Since the Northern Corridor passes right through Eldoret town the lack of proper traffic system and the capacity of the local authorities to deal with the situation has worsened the situation.

It should be noted that all traffic coming from the Eastern side of the country and also the Western side to Bungoma passes through the town. He however added that plans are underway to construct a bypass that will ease traffic

[26] Private Sector Federation, Analysis of The State Of NTBS Along The Northern & Central Corridors, (2008). pg. 6 there was construction along the Northern Corridor between Nakuru and Eldoret which was completed in 2012. During its construction the many diversions that had been put by the contractors caused transporters to delay the set arrival time for transits goods. In addition most of the transporters suffered heavy losses due to mechanical damages to their vehicles.

along Uganda Road in order to reduce congestion. There is also need to be a harmonized road policy principally applying to the Northern Corridor in order to ensure countries have necessary infrastructure in place, and goods are easily transported to the towns along the Northern Corridor.

2.2.5. Traffic congestion

Traffic congestion along the Northern Corridor constitutes a serious bottleneck to transport and logistics. Counties along this Corridor for instance, experience heavy traffic congestions within their CBDs which lead to time wastage by transporters on transit to other countries. One of the main reasons for this congestion is poor road infrastructure combine by poor planning on the part of the counties as they seem to lack capacity to fully appreciate the problem. The Constitution of Kenya provides that traffic management is a preserve of the county governments.

The county governments along the corridor need to manage traffic within their counties in a way that it does not only affect transit cargo but also cargo destined for delivery within Kenya.

In Nairobi, the completion of the Southern Bypass is seen to be a solution to congestion in the capital's CBD as most transit traffic will be using the road to seamlessly move without driving in the congested central business district.

In Uasin Gishu county, the traffic congestion on the Northern Corridor which passes through the town has often be seen as a hindrance to the way traffic should move. However, the county has put up plans to deal with the situation. The county executive stated that trucks bringing cargo to the town will be required to offload at Stations that will be built along the bypass. The plan is to raise revenue along the bypasses by requiring all users of the bypasses to pay certain levies to be able to use the bypass. The loading zones that will also be established along the bypasses will also attract some levies for the users.

Secondly, he further stated that poor road usage caused by public service operators whereby there is reckless driving which causes unnecessary accidents, creates traffic jams that affect transit vehicles. The county executive said that the county government intends to roll out educational programs to enlighten the road users on traffic rules and regulations in the county. It remains to be seen whether these measures will help removing existing bottlenecks along the Northern Corridor.

2.2.6 –**Conflicting roles of the national and county governments**

Even though the Constitution has provided a demarcation of roles between the national government and the county government, there has been an emerging problem of legislative conflicts whereby the national roads bodies that existed prior to the promulgation of the Constitution have continued to operate with the same mandate that has now been provided to the counties.

In Nairobi county, the overlapping mandate of the City county and the Kenya Urban Roads Authority (KURA) is due to legislative confusion because the law that creates KURA continues to gives it mandate over roads that should now be categorized as county roads. This has cause delay in the maintenance of roads in the county. The net effect is that the condition of the roads has deteriorated in the process, causing heavy commercial vehicles to incur extra costs of maintenance because of breaking down on these county roads[27].

There is an urgent need to have in place a structure that ensures that the roles of both counties and national government are clearly defined. The

[27] Kenfrey Kiberenge " City Roads suffer in Tussle over Cash" in http://nairobinews.nation.co.ke/city-roads-suffer-in-tussle-over-cash/v accessed on 20th April 2014.

contradiction that is found in Constitution on who has the final say on matters an be solved by having in place such structure[28].

2.3. OTHER COUNTY NON-TARIFF BARRIERS

2.3.1. Licenses, permits and fess

a) Parking Fees

In the course of the long journey from the Port to the landlocked countries bordering Kenya to the west, transporters using the Northern Corridor stop at different towns to take a rest and refresh. In some counties such as Nakuru, there are designated truck stops that are just off the Northern Corridor Road. The National Government, through the Ministry of Roads is in charge managing these parking spaces. However, like in Maai Mahiu in Nakuru, the parking space is neglected, yet the county government has the capacity to manage the facility.

In Machakos, the county has tabled the *County Transport Bill 2013* which aims at denying entry by transit heavy commercial vehicles. If the Bill is passed by the county assembly, the cumulative effect is that there will be an increase in the costs of transportation for cargo owners. Goods meant to be brought within the recognized borders of the town will have to be offloaded outside the town and thereafter smaller capacity vehicles will take the cargo to the final destination. The bill also proposes to increase the charges for parking fees. Whereas it is recognized that they are legitimate tariffs that the national or county governments must charge, the same should be done in the context of a consultative and agreeable platform between the national

[28] Article 191 of the Constitution provides that where there is conflict in the application of laws that appear to conflict the responsibilities of the national and county governments, the national legislation shall prevail. In this context, if the law is meant to promote national mobility for capital, goods and services, the national law shall prevail.

government and the county government concerned to ensure a harmonious approach in dealing with the same.

It is equally of note to find that while the counties have moved to increase the parking charges, the parking bays are yet to be set up. In Machakos the county representatives in charge of public works indicated that the issue of parking space is a big problem especially at the Kyumvi market which lies along the Northern Corridor. The situation is exacerbated by the now prohibitive cost of land at these market centres, which could assist them to set up the necessary parking facilities and eventually deal with the dangerous habit of trucks parked on the side of the road.

In addition, the lack of consultation between the National government and the County government is already being felt in Machakos County. A case in point is in Konza where transporters are charged parking fees even for those who are transporting transit goods. In other counties such as Nakuru, Nairobi and Uasin- Gishu the cost of parking during the day has risen tremendously in the one year that devolution has been in place.

In Nairobi County, parking areas for trailers in designated parking bays costs Kshs.450,000/= per annum and for standard size Lorries parked in designated parking / loading bays areas within the CBD are charged Ksh.200,000/= per year. This charge applies to transporters bringing consumer goods such as in supermarkets and other large manufacturing concerns in the industrial area. This means the huge amount charged contribute to the overall cost of business to transporters and customers of transport companies.

b) Licenses

Counties along the Northern Corridor have moved to increase the license cost on transporters, freight forwarders, clearing and forwarding companies and logistics companies. The rates vary from county to county but the overall picture shows that these increases have added the burden of operating costs of these companies.

In Mombasa the county proposes to increase the license fee for transport companies from Ksh.65,000/= to Ksh.90,000/= p.a. It is interesting to note that unlike other counties on the Northern Corridor that has categorized companies in terms of size, this fee in Mombasa seems to apply for both small and large transport companies.

In Nairobi County, the Nairobi City County Finance Act of 2013 increased license fees for mega transport companies such as bus companies or freight forwarders from Kshs. 80,000/= per annum to Kshs. 160,000/= per annum. This constitutes a 100% increase in the license fee. In addition, the County also charges license fees for setting up professional services involving clearing and forwarding, import and export and freight forwarder. The charges vary from Ksh.35, 000/= to a high of Ksh.150, 000/= per annum.

In Nakuru County, the license fees for transport companies has three categories depending on the location, for instance mega transport companies of over 50 vehicles will pay an annual fees of Ksh.100,000/= per annum if they were to operate in the three zoned out areas. Small companies operating six to thirty vehicles will be charged Ksh.35,000/= in each of the three zones that the county has segmented as areas of operation. In this case Zone A is Nakuru town, Zone B constitute some towns that are along the Northern Corridor such as Gilgil, Naivasha and Maai Mahiu. Zone C constitutes other centers not specifically mentioned for instance Mau Summit, Salgaa Township and Lanet. This means that a mega transport company operating in all these zones will pay in excess of Kshs.300, 000/= per annum for the three zones.

In Uasin Gishu, the County proposes to charge a license fee for large transport companies having thirty vehicles and above at an annual rate of Ksh.65,000/= up from Ksh.32,000/= to operate in Eldoret town. If one is operating outside Eldoret town for instance Turbo, Wareng', Kattegat or Burnt Forest, will be required to pay Ksh.32,000/=.

There also license for storage facilities which in most cases are used by transport companies as part and parcel of their businesses. In Nairobi County for instance there is a license fee of up to Ksh.60, 000/= per annum for a large storage facility of over 5,000sq meters. Therefore a transport company that is operating an office and needs storage facilities for its cargo which is bound for the neighboring landlocked countries will be paying a license fee of almost Ksh.250,000/=.

These costs when cumulatively taken together with other running costs for businesses involved in transport and logistics create the inevitable reality that it is now expensive to operate such businesses. If a company were to operate in all the counties along the Northern Corridor and pay for all the licenses that have been discussed hereinabove the same would constitute a major part of its operating expenses and depending with its financial position, this would have an effect in its profit margins.

c) Market Cess

Transporters of agricultural produce from rural firms to markets along the Northern Corridor are now paying higher rates than they were previously. For instance in Mombasa the rates have risen from Ksh.55,250/= to Ksh.200,000/= per annum. where it involve large agricultural dealers which amount to an increase of 27.6%. In Nakuru, agricultural produce cess is charged for maize dealers at a rate of 1% of the turnover per bag. In Nairobi parking fees in markets is now going at Ksh.200/= per day for transporters. In Uasin Gishu, maize per bag is charged at Ksh.25/=. In Makueni, the County proposes that produce of up to 7tonnes will be charged up to Ksh.600/= per day where the transporters of such produce are entering the markets.

2.4. OTHER RELATED CHARGES

The counties under this study have increased the cost of different services which may have a direct impact on the cost of transportation along the Northern Corridor. For instance, in Mombasa the county has increased the cost of the permit to transport Fish from Ksh.300/= to Ksh.2,000/=. In Nakuru the county government has proposed to impose a tax at a rate of 1% of gross sales of horticultural cess as a means of regulating the horticultural sale activity. This tax is interesting because it seeks to regulate the selling and transportation of cut flowers from the county to other counties. The cumulative effect would be to increase the final cost of the flower which cost shall be borne by consumers, since transporters would also want to increase their charges due to that tax.

In Nairobi County the cost of branding a container on a trailer has increased to Ksh.36,400/=. In addition where the branding is done externally on a vehicle such as on a truck, the same will cost Ksh.18,000/= per annum. for every vehicle. This means that the freight forwarders will incur cost of their brand names appearing on their containers and transporters will also incur cost of branding their vehicles. How the county intends to implement these charges especially for transport companies that are specializing in transit transportation remain to be seen.

CHAPTER THREE

3.0. INVESTMENT OPPORTUNITIES IN THE COUNTIES

3.1. TRADE AND INVESTMENT

The challenges that transporters, freight forwarders, clearing and forwarding companies, cargo owners, have in implementing the new levies, charges and fees that have been imposed by these counties may be a loss for the stakeholders but they offer an opportunity for the counties to create secondary industries such as the setting up of jua kali sheds for mechanics and licensing the setting up of accommodation facilities in designated market centres along the Northern Corridor.

In the case of expanding freight forwarding business in the counties, some have set about installment; one may argue that it may end up being an unbearable cost for transport companies especially for those who intend to expand to different counties other than having their headquarters in Mombasa and Nairobi. In other words, whereas private business engaged in transport and logistics may find the environment to operate businesses in the counties along the Northern Corridor, challenging, counties have found opportunities to invest in facilities that can earn them revenue.

In Machakos County, they have proposed to prohibit heavy commercial vehicles from accessing Machakos town[29]. This proposal can be cured by the setting up of parking and loading facilities outside the town environs where ingress and egress is convenient. Therefore heavy commercial vehicles bringing goods to the town can off load them at a designated spot.

[29] Supra on page 27

In Nakuru the county intends to construct lorry parks at Gilgil and Mau Summit which will act as de-facto market zone to take advantage of the spillover effect of trucks that use the Northern Corridor within the county. They do not intend to charge fees for these parks but they will offer opportunities of creating indirect employment opportunities for the people living around the town.

3.2. Highway Amenities

Along the Northern Corridor transport route and especially the road network, there opportunities exist to improve truck turnaround time. These investments could be set up through public – private partnerships between county governments and private investors. For instance, county governments could provide land and also develop regulations for the development of such establishments. At the same time, private investors will take up the land and develop it on a build- operate- transfer basis whereby once they have estabkshed the project, the same can be transferred to the counties to manage. Highway amenities can be constructed every 120kms or so on the highway and may have the following facilities among others:

- Parking lots
- Restaurants
- Public Toilets
- Restrooms for short stays
- First aid centers
- Mechanic shops
- Gas stations

A number of county governments have announced measures to improve their security. Examples are Machakos and Mombasa counties who have purchased specialized vehicles for county police to combat crime. However, none of these counties have announced measures to improve highway security and the security of cargo at points where trucks are parked.

The construction of highway amenities with secure parking points will definitely

improve the security along our highways and reduce the value of cargo lost per trip.

CHAPTER FOUR

4.0. RECOMMENDATIONS AND CONCLUSION

This report proposes the following recommendations that if successfully implemented, will not only reduce the impact of county barriers to the transport business but also lower the cost of transportation in East Africa.

4.1. Harmonizing the Role of Road and Infrastructure Development Agencies

At the moment it is not clear which road agency is responsible for what road at national and county level. There exists significant confusion on which level of government is responsible for development and maintenance of county roads. As a result, most county roads have been ignored in terms of development and repair, leaving the transport business to suffer the consequences of bad or nonexistent roads and traffic gridlocks resulting from the non-development of new roads.

This report therefore recommends the reviewing of the mandates of the various roads authorities and have them aligned to the new devolved structure to eliminate this confusion. This means that there is need to distinguish which roads are to be maintained by the national and which ones are to be maintained by the county government. Perhaps the Roads Bill 2014 will cure the problem of categorization of roads to capture the requirements of the constitution and specifically functions of the County with regards to roads infrastructure.

4.2. Harmonizing Licensing by County Governments

The County Finance Acts for different Counties along the Corridor have listed numerous licenses that the counties are aiming to impose on entrepreneurs and the transport sector.
Currently, counties are charging different charges for the various services they render. For instance, parking fees and licenses vary across all counties of the Northern Corridor transport route. In order to improve accountability in service delivery and enhance the preparedness of business Northern Corridor transport costs, it is important that the state in the spirit of co-operation with county government seek to harmonize that legislation for services while ensuring quality of services rendered to the business entities who use these transport corridor. There is also an urgent need to harmonize licenses for registering freight transport and logistics companies at the county level to avoid the effect of high cost of business.

4.3. Cargo Security

The use of ICT in tracking of cargo is another good practice not only helps in enhancing security along the regional corridors but also generates information for traffic/cargo monitoring systems for management purposes. Tracking of cargo not only enhances security for the cargo while on transit but also prevents pilferage of cargo and increases revenue collection.

4.4. Introduction of levies and charges at Weighbridges

County governments are angling in the opportunities of creating more avenues for revenue collection.[30] One of the areas that these opportunities have presented itself is at the weighbridges. The increased business activity at these weighbridges means that counties are likely to impose taxes and levies on the businesses that have set up in these places, with the cumulative effect of increasing the cost of business.

[30] Ibid.

4.5 Use of Public-Private partnership projects in the counties

The national Government has set up the Public Private Partnership (PPP) Unit[31]. This Unit is part of the departments at the National Treasury and they are required to recommend for approval to the PPP Committee, projects that should proceed for implementation as PPPs.

The immense opportunities here for counties from an investment and ease of business perspective cannot be gainsaid. The national government has already identified and approved the road from Mombasa to Nairobi and onwards to Nakuru as a PPP project, whereby it will be expanded to a dual carriage way[32]. That project will affect at least six counties where the Northern Corridor passes, which will in turn open massive trade opportunities and further create opportunities for PPP projects to flourish within those counties.

Nakuru County can have expand its warehouse and cold storage facilities for the horticultural industry through a PPP project. In Uasin Gishu and Mombasa counties, the problem of grain storage can be harnessed by increasing capacity whereby these facilities can be set up closer to the farmers, thereby cutting costs and enhancing their status as the counties of choice in terms of doing business.

In line with its constitutional obligations, the national government has contracted a consultant to create regulations that affect counties under the PPP Act[33]. These regulations, once they come into effect, will be useful in allowing counties, and especially these counties lying on the Northern Corridor, to formulate and structure projects, that they can work with the private sector

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[31] Established under Section 8 of the Public Private Partnership Act 2013 and its core mandate is to assess and approve PPP projects in the country.
[32] See the National Priority List of PPP Projects in http://pppunit.go.ke/news/view/nat accessed on 3rd June 2014
[33] The Consultancy was opened for receipt of applications and the deadline for applications was on 2nd December 2013. See http://pppunit.go.ke/news/view/nat accessed on 3rd June 2014.

with the aim of increasing trade and reducing the cost of doing business in their counties.

4.6 The Need for Increasing Capacity and Awareness of Trade Barriers In The Counties

It was found during the study that across all the counties that were visited, there was clearly a lack of capacity to deal with the many issues envisaged in the relevant legislations that applied to counties such as the Constitution, the County Government Act, Public Financial Management Act and the Inter-Governmental Relations Act. This inadequacy could be explained by the delay in setting up structures and employing of personnel to be able to assist the elected leaders in formulating policies that would guide the way these counties carried out their affairs.

It should be noted that the Transition Authority which was empowered to transfer responsibilities from the former local municipalities and town councils to the counties[34], has taken time to conclude its work. In our view, this lack of structures and policy set up and implementation except where it applies to budgets, means that it is still very early to conclude that there are significant barriers that are generated by the counties that could hamper trade which relies on the Northern Corridor.

Perhaps in a few years, once the counties have concluded enhancing capacity and empowering their personnel on what is expected of them under the devolved government, there could be a shift in the way the counties operate and further understanding and appreciation of the opportunities and challenges that the Northern Corridor as a whole portends. This may require a follow-up study to determine how far counties have gone to entrench

[34] Section 37 of the Transition to Devolved Governments Act 2012 provides that the Transition Authority shall stand dissolved or upon completion of the transfer of functions to all counties after the end of three years after the first general elections under the Constitution. Once that period passes, it is hoped that counties will be

themselves and if their activities have any significant positive or negative effects in any way.

5.0 Conclusion

The range of non-tariff measures and services measures is vast and well beyond the scope of a single report. The incidence of non-tariff measures and services measures is only half of the picture, the other half being their trade restrictiveness. The evidence reviewed in the Report has confirmed that NTBs significantly distort trade, possibly even more than tariffs.

This report has pointed out the various transport and logistics bottlenecks along the Northern Corridor transit route and given recommendations. In addition, information exchange between the government and representatives of the county government and private sector along the Northern Corridor needs to be upgraded in terms of systems, quality and frequency. Improving the knowledge and capacity of private sector organizations to properly identify, document and report different types of NTBs to their county governments and the national government is vital to allow county governments to address them even as their county assemblies legislate on matters that will affect the flow of goods and services along the Northern Corridor.

The major challenge with this county system seems to be the harmonization of the legislation that affects common or shared resources like the Northern Corridor. The disparity that arises in the different counties legislation will most certainly lead to tariff barriers and NTBs to trade.

ANNEX 1: LIST OF RESPONDENTS

	NAME	ORGANIZATION	CONTACT
1.	Abdalla Aynen	Pantos Logistics	Abdalla.aynen@pantos.com
2.	Jitu Pujara	Bahari Forwarders	Jitu.p@bfl.co.ke
3.	Job Kemboi	Siginon Group	jkemboi@siginon.com
4.	Alice Muraya	Atlas Copco	Alice.muraya@ke.atlascopco.com
5.	Samuel Kiema	Doshi & Co	info@msa.doshigroup.com
6.	Reuben Maingi	Andy Forwarders Ltd	rmaingi@andy.co.ke
7.	Geoffrey Wanjala	General Cargo Ltd	0700473395
8.	Aziza Musa	Panal Freighters Ltd	
9.	Donald Okumu	DB Schenkner	Donald.okumu@dbshcenker.com
10.	Emily Watimu	Ufanisi Freighters	emily@ufanisi.co.ke
11.	Jeremy Ndegwa	Intertek East Africa	Jeremy.ndegwa@intertek.com
12.	Ruth Musyoka	Blue Seal Freighters	bluesealfreighters@gmail.com
13.	Jacqueline Chege	Kuehne Nagel	Jaqueline.chege@kuehne-nagel.com
14.	Wellington Kiverenge	Kenya Transporters Association	kiverenge@kta.coke
15.	Phoebe Aboke	Mezaal Logistics	phoebe@mezall-logistics.com
16.	Virginia Kabiru	Rivercross Trucking	Vkabiru@gmail.com
17.	Enos Mudanyi	Spawn Logistics	0722753530
18.	Njri Njure	Agility Logistics	ngure@agilitlogistics.com
19.	Jared Nyabila	Indigo Logisitcs Ltd	0720884660
20.	Michael Ochieng	Panafrica Logistics	0722356495
21.	Hasmukh Radia	Union Logistics Ltd	
22.	Paul Kirwa	Giraffe Forwarders	0720585770
23.	Frederick Kilonzo	Gisenya Freight Logistics td	0722417505
24.	Patricia Muchiri	R. M. Logistics (K) Ltd	
25.	Charles Kakai	Mercator Transport Ltd	ckakai@mercatortransport.com

ANNEX 2: SURVEY QUESTIONNAIRE

NORTHERN CORRIDOR COUNTIES BARRIERS TO FREE MOVEMENT OF GOODS SURVEY

QUESTIONNAIRE FOR TRANSPORTERS

The objective of this survey is to identify administrative and legal barriers erected by the Northern Corridor counties and the effect such barriers have on the movement of goods along the transport corridor. Such barriers may include but not be limited to fees, charges, licenses, infrastructure quality, regulations and procedures that impact on the cost and time of moving goods along the Northern Corridor.

Please take a moment to complete this questionnaire. The information collected will be analysed and used to propose policy recommendations that will guide the involvement of county governments in transport and logistics policy. Should you require any additional information or clarification on this questionnaire, please contact Patrick Njagi of Muriithi and Ndonye Ltd at 0724451838 or Patrick@mnadvocates.co.ke

SECTION ONE – GENERAL COMPANY INFORMATION

Name of company	
Name of respondent	
Position	
Telephone	
Email	

1.1. Please indicate the type of cargo that you regularly move

a) Containerized
b) Liquid Bulk
c) Bulk cargo
d) Bulk grain
e) Automobiles & other Machinery
f) Relief & humanitarian cargo
g) Other (Please specify) ____________________________

SECTION TWO: NATURE OF COUNTY BARRIERS ON TRANSIT TRAFFIC/TRUCKS

2.1. While you transport goods along the Northern Corridor, which of the following barriers, imposed by county governments could you say you frequently experience?

a) Administrative barriers – taxes and levies imposed by county governments
b) Licenses and permits requirements by county governments
c) Arbitrary stoppages to check cargo documentation by county governments
d) Road toll charges imposed by county governments

e) Lack of sufficient transport and logistics infrastructure at county level – traffic congestion
f) Corrupt practises by county officials
g) Insecurity leading to loss of cargo
h) Other (please specify) ____

2.2. Considering each of the Northern Corridor counties, which of the barriers mentioned below do you frequently experience? Tick where appropriate

County/Nature of Barrier	Taxes & levies	Licenses & permits	Arbitrary stoppages	Road toll charges	Lack of sufficient transport & logistics	Corrupt practices	Insecurity	Other
Mombasa								
Taita Taveta								
Machakos								
Nairobi								
Nakuru								
Uasin Gishu								
Bungoma								

SECTION THREE: IMPACT OF COUNTY BARRIERS ON TRANSIT TRAFFIC/TRUCKS

3.1. Please rank the following county barriers to free movement of goods in order of their negative impact to your

Nature of County Barrier	Very High Impact	High Impact	Low Impact	Very Low Impact	No Impact
Administrative levies and taxes					
Licenses and permits requirements					
Arbitrary stoppages to check documentation					
Road toll charges					
Lack of sufficient logistics infrastructure					
Corrupt practises by county officials					
Insecurity					

3.2. Other than the six county barriers listed above, are there any other barriers to free movement of goods that impact your business?

Yes ☐ No ☐

3.3. If yes, please specify

____

____

____

3.4. With respect to fulfilling county laws and regulations, please rate the ease or difficulty of moving goods across the following counties

County	Rating				
	Very Easy	Easy	Fairly Easy	Difficult	Very Difficult
Mombasa					
Taita Taveta					
Machakos					
Nairobi					
Nakuru					
Uasin Gishu County					
Bungoma					

SECTION FOUR: THE COST OF COUNTY BARRIERS TO YOUR BUSINESS

4.1. **OFFICIAL PAYMENTS** – Approximately how much does your business spend *on official non-tariff payments* per trip e.g. county rates and taxes, parking fees, licenses, road toll charges etc in each of the following Northern Corridor counties?

County	**Name/Description of Payment**	**Amount (KShs)**
Mombasa County – Mombasa city		
Voi Taita Taveta County (Mtito Andei)		
Machakos County (Mlolongo)		
Nairobi County		
Nakuru County (Gilgil, Nakuru town to Salgaa)		
Uasin Gishu County (Burnt Forest – Eldoret to Turbo)		
Bungoma County (Webuye town to Malaba border)		

4.2. Given the official payments you make, please rate your level of satisfaction with the services provided by county governments for which these payments are made

a) Very satisfied
b) Satisfied
c) Fairly satisfied
d) Not satisfied

4.3. Please list specific services you would like to see the county governments provide to your business for the payments that you make?

____
____
____
____
____

4.4. **NON-OFFICIAL PAYMENTS** – Please indicate the total average non – official payments per trip your business may need to make to county officials to ensure the smooth transit of goods through the Northern Corridor counties? These costs would include facilitation costs that are not necessarily legal

County	Amount (KShs)
Mombasa County	
Voi Taita Taveta	
Machakos	
Nairobi	
Nakuru	

Uasin Gishu	
Bungoma	

4.5. What percentage of your business cost per trip can be attributed to these county barriers?

a) Less than 5%

b) 5% – 10%

c) 10% - 15%

d) 15% - 20%

e) Greater than 20

Thank you for taking time to complete this questionnaire

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AND

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