

Policy Paper 1.2

Economic Deregulation of Road Transport Services

Executive Summary

The policy recommendations of the TSR were presented in April 2003 and were acceptable to the Steering Committee. These included, *inter alia*, the following recommendation for the Ministry of Transport (MOT):

- *Deregulate domestic road transport.*

The Private Sector Department in the Ministry of Transport regulates the operations of all commercial vehicles including private trucks, buses and taxis within or entering Afghanistan, primarily through route permission licensing, compulsory union membership and the enforcement of allowable tariffs. This requires a staff of over 800 and in all the major provincial capitals.

TSR supports MOT undertaking technical regulation of commercial vehicles in Afghanistan. There is, however, no immediately obvious benefit from the economic regulation that appears to represent most of the workload of MOT's Private Sector Department.

Consequently, it is recommended that future regulation by MOT be limited exclusively to technical and safety aspects of road transport. One potential exception to economic deregulation applies to urban bus services and possibly taxis. Route licensing and possibly fare caps for these transport services may prove appropriate in certain instances. TSR suggests, however, that establishment and enforcement of any such regulations should be delegated to the municipal or, at most, provincial level, rather than continue as a function of MOT.

Some amendments to existing legislation will be required to implement this change.

Recommendations:

Regulation of entry, capacity and prices in road transport should cease. The reformed legislation should, however, enable the economic regulation of public transport in municipalities to be performed (see Consultation Paper 1.6, which also covers rural services).

Actions:

The current legislation should be amended as outlined in this Paper. Assistance should be provided by the proposed Capacity Building Unit (see Consultation Paper 1.7).

Current Situation: Ministry of Transport

The Private Sector Department in the Ministry of Transport regulates the operations of all commercial vehicles including private trucks, buses and taxis within or entering Afghanistan primarily through route permission licensing, compulsory membership of unions and the enforcement of allowable tariffs. This requires a staff of over 800 in Kabul and in all the major provincial capitals as well as in selected cities in Pakistan, Iran and, soon, Tajikistan. (International and transit freight services are the subject of a separate Paper and are not addressed herein.)

Operating permits for commercial vehicles are annually issued for specific routes. The actual issuing body is the Traffic Department of the Home Ministry but based on review and approval of the application by MOT. Permits for inter-provincial carriage of freight require membership of a “union” comprised of a minimum of 15 trucks (formerly 30), either under single ownership or by multiple owners in a formal cooperative or collective arrangement. Inter-provincial trucks must be in good operating condition and have a minimum carrying capacity of 4.5 tonnes. (Smaller trucks or those not members of a union can offer only intra-province services.)

Every six months, a commission chaired by the Deputy Minister of Transport and including representatives of the Ministries of Finance, Justice, Home, Commerce and Public Works sets tariff rates for commercial vehicles, whether governmental or private. The principle is to calculate the vehicle operating cost (VOC) by class of vehicle and route type and to add a margin of 10 percent. (Anecdotal evidence suggests that the authorised rates fall below market levels as it is alleged that private operators actually charge more.)

Policy Recommendation

TSR supports MOT undertaking technical regulation of commercial vehicles in Afghanistan. Indeed, as is presented in a separate Working Paper, TSR recommends strengthening of this function.

There is, however, no immediately obvious need for or benefit from the economic regulation (by way of route permission licensing, etc.), which appears to represent most of the workload of MOT’s Private Sector Department. An example is the requirement that freight vehicles entering any province report to the local office of MOT’s Private Sector Department to report their planned itinerary and routing within that province. While this may have been a useful technique in the past by which MOT could monitor and track its own Kamaz lorries, there appears little justification for or benefit derived from requiring private trucks to do the same. Other examples include the practice of route licensing for lorries and of requirements for “union” membership for all inter-provincial commercial operators.

The practice of MOT establishing rates for private transport operators is also subject to question, especially since official rates are reportedly widely ignored and only sporadically, if ever, enforced.

In general, regarding economic regulation in the road transport sector, the alternatives tend to reflect varying philosophies as to the extent of involvement of government in commercial affairs. The TSR suggests that, in purely economic spheres, the widely adopted modern approach would imply a more “hands-off” approach to allow the market to function (e.g., abandonment of route-specific licensing and of governmental mandates for commercial tariffs).

Given the size of the commercial truck operated by the private sector, particularly lorries, no protection seems necessary, either of consumers or for operators. Approval for market entry is reportedly already freely given. TSR has also concluded that there is no necessity for economic regulation of inter-city or rural bus services.

Consequently, it is recommended that future regulation by MOT’s Private Sector Department be limited exclusively to technical and safety aspects of road transport.

One exception to economic deregulation applies to urban bus services and possibly taxis. A separate TSR paper (Consultation Paper 1.6) advocates establishment of municipal Public Transport Authorities to set routes and rates. The paper argues, however, that these authorities are best positioned within the municipal framework rather than related to MOT, particularly since MOT’s corporatised Millie bus fleet would be a candidate to be licensed for the main trunk routes within Kabul. As concerns rural public transport, see Consultation Paper 1.6.

Implications for MOT of the Economic Deregulation Recommendation

The Economic Deregulation recommendation calls for a significant shift in the amount and nature of MOT’s regulatory function. It does not by any means, however, eliminate the need for regulation or MOT’s responsibilities. While it is recommended that economic regulation (i.e., setting prices, membership of unions and routes) be minimised, there is still a need to ensure that the road transport sector functions to meet some “public good” objectives. This includes no discrimination against users on any basis, no use of any temporary monopoly status which might develop to impose over-pricing, providing better access and facilities to women and other disadvantaged sections of society (handicapped and minority groups), assurance of adequate coverage of rural transport routes, etc. There is also the need to establish and enforce vehicle standards to minimise “public costs”, e.g., pollution, unsafe conditions, overloading causing undue road wear, etc. Moreover, as recommended in consultation paper 1.4, MOT is envisaged as the appropriate organisation to be responsible for safety and traffic management. MOT’s future regulatory responsibilities must encompass all these issues.

The public will benefit from more focused regulation and enforcement on public interest issues. The competition encouraged by relying on market forces is also intended to enhance service levels and minimise user fares.

For MOT, carefully crafted regulations must be drafted and publicised, and inspectors must be adequately trained for this new approach. In terms of governance, it must be seen that the regulations are developed in consultation with all those to be affected, both operators and consumers, and that they are fully and equitably enforced.

Implementation Strategy

Implementation of the economic deregulation recommendation will require some legislative amendments or, in the interim, a decree suspending current regulatory requirements. It is recommended that this be undertaken immediately and that MOT commence restructuring the activities of its Private Sector Department accordingly.

Care should be taken, however, that any de jure solution to MOT over-regulation does not preclude individual provinces and, especially, municipalities from imposing appropriate levels of control as they may determine necessary in their particular circumstances. As noted, there may be a case for some control over municipal bus routes and taxi services.

Requisite Legal Action

The Road Traffic Law provides for the control of routes on which commercial vehicles can provide services. The Road Transport Route Permission Regulations enable the imposition of controls and fees for the licensing of routes.

MOT argues that much of current “regulation” is really for data gathering purposes. Monitoring the operations of commercial vehicles could, however, be accomplished through the recommended new vehicle licensing and registration system (Consultation Paper 1.4). Commercial vehicles could be classified and registered/licensed and any desired data concerning type and area of operations obtained at the time of registration (and annual renewals). MOT could then access information on the registry without imposing documentary and physical controls over the operations of commercial vehicles.

Appropriate amendments and repeals will have to be made to the relevant sections of the Road Traffic Act and the Route Permission Regulations to enable this to happen; for an outline of the recommended changes with respect to trucking, see the Annex. The Regulations cannot, however, be totally repealed as they also cover various other matters including the regulation of public transport in urban and intra provincial areas. A total repeal of the Regulations could be considered only after enacting appropriate rules for the control of urban public transport and vehicle standards.

Technical Assistance to Facilitate the Deregulation Process

No specialised Technical Assistance is envisaged as necessary to implement the specific recommendations of this Working Paper regarding economic deregulation. There will, however, be a role for the Capacity Building Unit in MOT (see Consultation Paper 1.7).

Recommendations

Regulation of entry, capacity and prices in road transport should cease. The reformed legislation should, however, enable the economic regulation of public transport in municipalities to be performed (see Consultation Paper 1.6).

Actions

The current legislation should be amended as outlined in this Paper. Assistance should be provided by the proposed Capacity Building Unit (see Consultation Paper 1.7).

ANNEX: LEGISLATION ON ECONOMIC REGULATION OF ROAD TRANSPORT AND ACTIONS REQUIRED TO EFFECT ECONOMIC DEREGULATION OF TRUCKING

	Road	Traffic Law*	No.484 of 1983 (1360) (Amended 1990, 91& 94)
	Article No.	Content	Recommendation
1.	29	Transportation of passengers in city or inter province require special documents	No change in the short term. In the long term new Articles should be included that will enable the MOT to effect control on public transport in urban areas particularly on public interest issues such as equitable access, reasonable fares and appropriate service levels. The new articles should also enable MOT to delegate these functions to those municipalities and provincial authorities which have the capacity and capability to undertake these tasks.
2.	33	Transportation of passengers and cargo is governed by other regulations	No changes in the short term. In the long term new Articles should be included that will enable the MOT to effect control on public transport on issues pertaining to public interest such as equitable access, reasonable fares and appropriate service levels.

Note:

*Based on an English translation, the accuracy of which has not been verified.

	Route	Permission Regulations*	No.429 of 1979 (31 Jawa 1358=, In force with amendments [MOJ]:439 of 1358, 683 of 1369, 452 of 1359
	Article No.	Content	Recommendation
1.	2	States that Route Permission (RP) is an important document containing information on vehicle specifications.	In the short term, no change. In the long term, route permission should not be tied to vehicle registration and vehicle specifications. The latter should instead be included in the road permit (which should be equivalent to a vehicle identity/registration).
2.	5	Within ten days of importation owners are required to produce documents for registration and RP.	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term goods vehicles shall be exempted from the requirement for RP's.
3.	6	Registration of RP	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term goods vehicles shall be exempted from the requirement for RP's.
4.	7	Vehicle specifications for issuance of RP	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term, route permission should not be tied to vehicle registration and vehicle specifications. The latter should instead be included in the road permit (which should be equivalent to a vehicle identity/registration).
5.	8	RP valid for a year	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term goods vehicles shall be exempted from the requirement for RP's.
6.	9	RP is given only after articles 5 and 7 are observed	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term goods vehicles shall be exempted from the requirement for RP's.

7.	16	RP must be surrendered to Traffic Dept. when vehicle is being taken abroad	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term goods vehicles shall be exempted from the requirement for RP's.
8.	18	RP is returned to owner after his return from abroad	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term goods vehicles shall be exempted from the requirement for RP's.
9.	27	When RP is issued, Traffic Dept. must ensure that technical standards are adhered to	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term, route permission should not be tied to vehicle registration and vehicle specifications. The latter should instead be included in the road permit (which should be equivalent to a vehicle identity/registration).
10.	29	Information to be recorded prior to RP being given	No change in the short term. In the long term, route permission should not be tied to vehicle registration and vehicle specifications. The latter should instead be included in the road permit (which should be equivalent to a vehicle identity/registration).
11.	62	RP may be altered under certain circumstances such as change in the address, sale of vehicle or change of use	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term goods vehicles shall be exempted from the requirement for RP's.
12.	64	Loss of RP to be advertised and new RP issued	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term goods vehicles shall be exempted from the requirement for RP's.
13.	65	Revision of RP's shall only be undertaken by the Traffic Dept.	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term goods vehicles shall be exempted from the requirement for RP's.
14.	66	Validity of revised RP is one year	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term goods vehicles shall be exempted from the requirement for RP's.
15.	70	New owner of vehicle must register RP with the Traffic Dept.	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term goods vehicles shall be exempted from the requirement for RP's.
16.	71	New RP will be issued to new owner	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term goods vehicles shall be exempted from the requirement for RP's.
17.	73	RP forms are issued by the Central Traffic Dept.	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term goods vehicles shall be exempted from the requirement for RP's.
18.	74	Statistical information on the distribution of RP's is to be collated by the Traffic Dept.s and forwarded to the Central Traffic Dept.	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree. In the long term statistical information may be collected through a proper vehicle registration and licensing system.
19.	75	RP is a valuable document and must be maintained in a proper manner ready for use	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree.
21.	82	Invalid RP's shall be returned to the Traffic Dept.	In the short term, the requirement for RP for goods vehicles will be suspended through a Decree.

22.	86	City or provincial permission must be obtained prior to operations of taxis, buses and rickshaws	In the short term, no change is proposed. In the long term this Article should be amended to allow municipal or provincial authorities to regulate public transport services to ensure issues of public interest are controlled.
23.	87	Fares and tables of fares for the operation of buses, pick ups, etc. are to be determined by the Transport Dept.	The determination of freight charges for goods transport shall be suspended in the short term. In the long term this Article should be amended to enable intervention in the setting of fares for public transport.

Note:

*Based on an English translation, the accuracy of which has not been verified. It is observed that various amendments have been made to this Law. It has however not been possible to verify their validity or obtain a reliable translation of all these amendments. The amendments appear to include the following:

- a). the RP Book is issued by the Traffic Dept. after approval by the MOT (Gazette 683, 30 JADI 1367 (1989), Decree No: 1250);
- b). Every bus, taxi, truck or commercial vehicle must obtain the RP prior to operating in the country (Gazette 683, 30 JADI 1367 (1989), Decree No: 1250); and
- c). all vehicles must be members of a union before the RP is issued (Gazette 429, 31 JAWZA 1358, 1979).

These amendments are consistent with current administrative practices.

	Law of	Municipalities*	794 of 1998 (1380).
	Article No.	Content	Recommendation
1.	9(4)(5)	Municipalities may carry out health examination of transport equipment and may provide for traffic management in accordance with international rules.	No change
2.	10 (13)	Municipalities, with financial capacity, may establish passenger transportation services within its jurisdiction or (in association with) two or more adjoining councils.	In the short term, no change to existing Article. In the long term however, new articles should be inserted to enable councils to regulate public transportation services provided by the private sector. Such powers may also be delegated to appropriate municipalities by the MOT, provided the relevant road traffic legislation contains enabling articles.

Note:

*Based on an English translation, the accuracy of which has not been verified.