

Implementing Improved Legal Framework for Road Transport

1. Reviewing Policy

The first step in establishing an improved legal framework for road transport is to review road transport policy and how it fits in with broader policy aspects, especially aspects concerning road infrastructure and other modes of transport. Ideally such a policy will define overall objectives and responsibilities for policy-making and implementation. It will state the respective roles of government and the private sector in road transport and the basis for road transport regulation: primarily to promote safety and efficient use of roads. To guide improvements in transport service regulation, such a policy statement should endorse the primary role of market forces in determining price and service levels, with the role of government limited to ensuring that competitive conditions prevail and that safety and environmental considerations are met.

2. Reviewing Existing Regulations

The next step is to review the existing road transport regulations to identify those that are inconsistent with regulatory objectives and to define the need for new or alternative regulations. For countries without a market economy tradition or with a legal framework that has remained unchanged for many years, the scope for changes can be considerable and involve changes to the basic traffic regulations concerning driver training, testing and licensing, vehicle inspection and registration, and road and traffic management systems and rules, in order to provide a clear and sound basis for safety regulation. In other cases the main need may be for changes to the regulation of bus and truck services, through licensing, insurance, pricing, and taxation provisions in order to establish a level playing field for competing bus and truck operators.

In developing road transport legislation, one important issue concerns the level of detail required in primary legislation. There is often strong pressure on the part of government legislators to incorporate considerable detail in the highest level of legislation in order to define closely the limits within which secondary, implementing legislation is drafted. The drawback with this approach is that the legal framework becomes too cumbersome, and minor regulatory changes in subsequent years require time-consuming changes in primary legislation rather than relatively simple changes to secondary regulations and ministerial decisions. The cumbersome nature of the primary legislation also increases the scale of work involved in drafting and implementing it. Consequently it is not uncommon for much-needed primary legislation to be left in draft form for many years.

Another issue in developing road transport legislation is whether or not provisions concerning road transport should be included in the same primary legislation as provisions concerning road infrastructure. There is certainly a need to coordinate legislation in the two areas –notably as

regards vehicle axle weights-- to avoid overlap and conflict. If this is done effectively there may be advantages in separating the two in order to ease the legislative task, especially in countries embarking on major reforms of the legal system.

The possible areas in which legal reform may be needed in road transport are summarized below. They cover three broad areas - road traffic, vehicle and driver licensing, and road transport licensing and management. Areas concerning legal reform in road infrastructure are not included.

Scope of Road Transport Legislation

To provide a comprehensive basis for road transport legislation, the following areas should be covered:

- definition of the road transport system,
- goals and objectives of regulations,
- tasks of government,
- scope of development tasks in road transport and the role of central and local regulatory agencies,
- cooperation requirements between regulatory agencies and the coordination powers of the central authority,
- reporting standards and requirements.

Road Transport Operator Licensing

This covers the following aspects:

- objectives of licensing,
- administration of operator licences,
- refusal, suspension and revocation of licences,
- licence fees,
- appeal procedures,
- planning of routes and terminals,
- control of terminals,
- monitoring of services,
- reporting of offences,
- enforcement of licence regulations,
- penal provisions.

Important issues that this will cover include the extent to which quantity rather than quality controls are used as the basis for licensing, and if tariff and fare controls are required. The conditions for licence issue should make the reasons for refusal, suspension and revocation of licences clear, to avoid giving too much discretionary power to licensing officers. A distinction between

enforcement of licence requirements (by a licensing authority) and of general road traffic laws (by the police) would normally be made.

Vehicle Equipment and Registration

This covers the following aspects:

- objectives of motor vehicle regulations,
- administrative responsibilities,
- motor vehicle registration and licensing requirements,
- motor vehicle inspection requirements,
- design and equipment standards of motor vehicles and trailers,
- weight, dimension and loading of motor vehicles and trailers,
- dangerous goods provision,
- vehicle ownership certification,
- motor vehicle statistics and information,
- penal provisions.

Important issues concern establishing clear responsibilities for administering driver and vehicle licensing/inspection. To allow the possibility of private involvement in vehicle inspection and administrative processes, the legal framework should allow this to be determined, consistent with government policy. Much of the detail of this legislation would have to be included in secondary legislation, especially regarding the conditions for vehicle inspections and the vehicle design and equipment standards. A minimum requirement for the latter is usually minimum standards for safety/environmental features such as lamps, brakes, horn, signal lights, wipers, mirrors, windows, tires, exhaust systems, seat belts etc., which are the basis for the roadworthiness inspections.

Vehicle Sizes and Weights

This covers the following areas:

- administrative responsibilities,
- weight limits for axles (of different configurations),
- overall vehicle and load weight limits,
- overall vehicle and load dimension limits (length, width and height)
- exceptional use provisions (deciding conditions under which large loads can use the roads),
- penal provisions.

An important issue is the extent to which these are based on economic criteria and encourage efficient use of roads, for example using multiple axle configurations which minimize damage to roads and with appropriate penalties for exceeding agreed limits.

Traffic Regulations and Enforcement

This covers the following areas:

- administrative responsibilities,
- general rules of behavior,
- status of signs and signals,
- rules for proper movement of traffic on roads,
- speed limits,
- responsibility of motor vehicle operators,
- rights and duties of pedestrians,
- special rules for cyclists and motor cyclists,
- proper use of motor vehicle equipment,
- road signs, signals and markings,
- authority to investigate traffic violations,
- authority to investigate traffic accidents,
- traffic accident reporting and information system,
- penal provisions.

Most countries base these provisions on the UN Convention on Road Traffic (also known as the Vienna Convention, 1968) and the UN Convention on Road Signs and Signals (1968). In some countries the tacit assumption on the part of the enforcement officers appears to be that all road users are potential criminals. In these cases an especially important issue is defining clearly the rights of enforcement officers and the road user.

Driver Licensing

This covers the following areas:

- administrative responsibilities (authority to issue licences),
- driver licensing requirements and procedures,
- qualification requirements for driver examiners,
- refusal, suspension and revocation of driving licences,
- licence fees,
- driver licence registration and information system,
- driver training schools,
- qualification requirements for driving schools and driving instructors,
- certification of driving instructors,
- refusal, suspension and revocation of licences for driving schools and driving instructors (optional)

A major issue concerns the role of the private sector and external agencies, in general, in training and even testing drivers. In many countries the government lacks the administrative capacity to train and examine drivers effectively. Even when they can, it is often more effective to allow accredited driving schools to compete to provide training. The legislation should allow all these possibilities, so that training can be performed in accordance with government policy in this area.

International Transport

A number of international conventions and protocols are widely adopted by countries in order to set common standards which will promote free movement of drivers and vehicles and free trade. The most common conventions which have a road transport impact are:

- i) [The Customs Convention on the International Transport of Goods Under Cover of TIR Carnets \(1975\); \(TIR Convention\)](#), with International Road Transport Union TIR checklist (1991).
- ii) the Customs Convention on the Temporary Importation of Commercial Road Vehicles (1956); (TVI Convention). Requiring use of ATA Carnets.
- iii) the International Convention for Safe Containers (1972); (CSC Convention)
- iv) the International Convention on Harmonisation of Frontier Control of Goods (1982); (CBFCG Convention)
- v) the Convention on the Contract for the International Carriage of Goods by Road (1956); (CMR Convention), implemented through the SDR protocol to this convention (1979) and the International Road Transport Union CMR checklist (1991).
- vi) the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for such Carriage (1970); (ATP/SPS agreement)
- vii) the Convention on Road Traffic (1968); (RTC Convention)
- viii) the Convention on Road Signs and Signals (1968); (RSSC Convention) with Supplement (1971) and Protocol (1973)
- ix) the Agreement concerning the adoption of uniform conditions of approval and reciprocal recognition of approval for motor vehicle equipment and parts (1958); International Harmonization of Motor Vehicle Construction Regulations (UN ECE)
- x) Convention on the Contract for the International Carriage of Passengers and Luggage by Road (Protocol 1978); (CVR Convention, not yet in force)

In certain regions, important international agreements apply to road transport, such as:

- i) the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR); based on the UN Recommendations on the Transport of Dangerous Goods as regards the listing and classification of dangerous goods, their marking and labelling and packaging standards.

ii) the European Agreement Concerning the Work of Crews of Vehicles engaged in International Road Transport. (AETR/ECTR) 1970

iii) the European Agreement on Main Traffic Arteries (AGR/CMA) 1975

The status of international agreements is continuously changing. Latest information can be obtained by contacting the [UN ECE](#) and [International Road Transport Union \(IRU\)](#) Web Sites.

3. Institutional Strengthening

Once the changes to the legal framework have been identified and incorporated into law, the final step is to ensure that the various agencies involved in policy-making and regulation have an appropriate legal basis for their functions. This involves reviewing the administrative decrees that define the goals and specific objectives of the agency, its powers and responsibilities.

In particular the legislation should cover:

- the authority of the central regulatory and policy-making agency to set technical standards against which actual transport activity can be monitored,
- the authority of this agency to set reporting standards for executing agencies, to allow an effective reporting and monitoring system to be established.

Further discussion of the issues involved in deciding the appropriate role of road transport agencies may be found in the [Transport Sector: Roads and Highways - Institutional and Sector Management Web page](#).