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Privatisation of Kenya Ports Authority : its socio-economic impact

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PRIVATISATION OF KENYA PORTS AUTHORITY:
Its socio-economic impacts

By

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Kenya

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DECLARATION

I certify that all the material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this dissertation reflect my own personal views, and are not necessarily endorsed by the University.

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ABSTRACT.

Title of Dissertation: **Privatisation of Kenya Ports Authority: its Socio- Economic impacts.**

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The process of privatising or rather reforming Kenya Ports Authority (KPA), a state owned enterprise that manages the sole major Port of Mombasa is set to kick off very soon as was announced by the Kenyan Minister for Transport and Communication Hon. William Ole Ntimama in 1998. The dissertation therefore intends to focus on the possible applicable divestiture methods and the utmost suitable mode suggested on the port services eligible for reform with regard to the Kenyan environment.

Included in the forecast is the agency's role, the ESTU and other related agencies that were appointed in overseeing the divestiture programs of all Kenyan public enterprises. An overview of their structure and functions will be mentioned to see their direct role in the restructuring of KPA.

A brief focus on those privatised public corporations in Kenya and their sales earnings with successes and failures is touched to provide a pictorial view of the government's seriousness or reluctance in the privatisation process.

Emphasis is placed as to why KPA needs either to be privatised or undergo port reform with regard to its now obsolete KPA Act which, if it were followed without the recurrent bureaucratic management and political interference, the idea of privatising the port would not arise. The writer emphasises the KPA Act stipulated a well thought out document in managing the Port of Mombasa on an autonomous basis.

As port privatisation is a new phenomenon in Kenya, the process continues apace while the author believes that all the essential lessons world-wide are still yet to be learned with continued research into the field.

With cross border trade accelerating, pressure is on ports internationally to cope with this newly emerging trend by sustaining high levels of productivity and efficiency. This has necessitated ports to go private by attracting well financed investors as port development is capital intensive while the ports can no longer be given handouts or bailed out financially by their governments. Government coffers have gone dry unfortunately.

The question lingering the government and every Kenyan currently is 'which is the most suitable method applicable in disposing off KPA'? The author attempts to critically give an overview of the different methods of approaching the problem with suggestions on the best method of divestiture for the Port of Mombasa, the gateway to East Africa if the process is to be considered a success in the Kenyan context.

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LIST OF ABBREVIATIONS.

BOT	**Build-Operate Transfer**
CBK	**Central Bank of Kenya**
CMA	**Capital Markets Authority**
COMESA	**Common Market for Eastern and Southern Africa**
CRF	**Clean Report of Finding**
DGIPE	**Department of Government Investment and Public enterprises**
DWT	**Dead-weight Tonnage**
EAHC	**East African Harbours Corporation**
EACL	**East African Conference Line**
EDI	**Electronic Data Interchange**
EPZ	**Export Processing Zone**
ESTU	**Executive Secretariat and Technical Unit**
GOK	**Government of Kenya**
HON	**Honourable**
IDF	**Import Declaration Form**
IFC	**International Finance Corporation**
IMF	**International Monetary Fund**
KAM	**Kenya Association of Manufacturers**
KCHS	**Kenya Cargo Handling Services**
KPA	**Kenya Ports Authority**
KPTC	**Kenya Posts and Telecommunications Corporation**
KRA	**Kenya Revenue Authority**
KR	**Kenya Railways**
KSH	**Kenya Shilling**

MEBO	**Management Employee Buy Out**
NSE	**Nairobi Stock Exchange**
OECD	**Organisation for Economic Corporation and Development**
PE	**Public Enterprises**
PERP	**Public Enterprise Reform Programme**
PRPC	**Parastatal Reform Programme Committee**
SGS	**Society Surveillance General**
TEU	**Twenty Equivalent Unit**
UNCTAD	**United Nations Conference on Trade and Development**
VCS	**Vessel Congestion Surcharge**
$	**US dollar**

CHAPTER 1.

INTRODUCTION.

A general overview of the existence of Kenya Ports Authority with the Port of Mombasa being the major port will be highlighted in this chapter to build a pictorial frame-work that will lead to the crucial objective of the dissertation whose theme is **the privatisation of Kenya Ports Authority: its social and economic impacts.**

1.1. HISTORICAL BACKGROUND OF KENYA PORTS AUTHORITY-MOMBASA PORT.

Kenya Ports Authority was established through an Act of parliament on January 20th 1978 under Act chapter 371 laws of Kenya after the East African Harbours Corporation ceased following the break up of the East African community in 1975.

The Authority is charged with the responsibility to *provide, maintain, operate, regulate* and *improve* all port services and facilities along the Kenyan coast. It has full jurisdiction over the major Port of Mombasa and the smaller maritime Ports of Vanga, Shimoni, Mtwapa, Funzi, Kilifi, Malindi and Lamu (KPA, 1981, 3) (**See map attached in appendix 1).**

The Port of Mombasa, the major Kenyan port, is situated in East Africa, along the Indian Ocean. It started in 1898 owing to the construction of the first jetty built at Kilindini. A major feature during this period was the construction of the Kenya-Uganda railway line by the British Administration who used the jetty to discharge railway construction materials. This marked the beginning of the port's development to what is now termed as the giant East and Central Africa gateway and hub port characterised by 13 conventional berths and 3 container deep-water berths.

The actual development of the Port of Mombasa, however began in 1926 with the completion of the first deep water berth at Kilindini followed by more water berths backed up by double storey transit sheds of which the project was completed in early 1931. An oil berth (Shimanzi) was completed in the same year. (KPA, 1981, 1).

Fig 1. Landscape of the Port of Mombasa.

Source: KPA.

1.2. **Activities of the Port of Mombasa.**

The Port of Mombasa is a service port and a public utility. This means KPA owns, maintains, develops the infrastructure as well as owns and operates the handling equipment plus delivery of all services to customers. While it handles a variety of cargo, its annual average throughput of 8 million tonnes and 200,000 TEU'S is low compared to the existing facilities comprising of 16 deep water berths.

Though the port is geographical located as the gateway to East and Central Africa that serves the rich commercial, agricultural and industrial hinterland of Kenya and the vast transit countries of Uganda, Rwanda, Burundi, Eastern Democratic Republic of Congo (formerly Zaire), and Southern Sudan, as it is closer to these landlocked countries within the region than the other ports which are either linked with poor infrastructure, it has not fully tapped these market niches. For instance, only 50% of Uganda's shipments pass through the port while the rest goes via the Tanzanian Port of Dar es Salaam.

3. Imperatives of future Mombasa Port development.

1.3.1. Export Processing Zone concept.

The government's feasibility studies on creating an Export-Processing Zone (EPZ) near the Port of Mombasa will be an added advantage to the port and the country's maritime industry. The concept was initiated by the Government allowing entrepreneurs to import raw materials at low duty for the production of goods meant for export to boost the country's balance of trade. Potential zones earmarked for the development of EPZ are Kokotoni near Mariakani along the Mombasa- Nairobi road, Vipingo/Shariani area along the Mombasa- Malindi road, and the Dongo Kundu area on the southern mainland of the harbour.

The Dongo Kundu area offers possibilities of developing 10,000 feet of berthing with the availability of hundreds of hectares of tracks of land which have been reserved for industrial parks and storage space. If a bridge is build across Mwache creek to the west of the harbour with a road down south linking Diani and Kwale District, this will offer good prospects for linking Kenya with Tanzania and the rest of Common Market for Eastern and Southern Africa (Comesa) countries. Kenyan manufactures and suppliers would benefit a lot in penetrating these markets by road. The question that remains to be answered however is, when will this fancy development going to take place?

On the contrary, the setting up of EPZ in Athi River near Nairobi almost 500 KMS away from the port was not a worth idea as Jonathan Mturi, the Managing Director of Kenya Shipping Agency argues. Transportation of raw materials and end products along the significant Mombasa-Nairobi road that links the port with its hinterland, has led to high costs and delays due to the dilapidated infrastructure ravaged by the 1997 El-nino rains, compounded with the poor services offered by Kenya Railways who can not provide enough rolling stock. Importers and manufacturers have to meet extra transport costs as a result. EPZ'S should be set up near the port to minimise transport costs during shipment.

1.3.2. Significance of inland transport network in Kenya.

An estimated 70% of traffic passing through the Port of Mombasa goes by road and only 30% by rail. This shows the importance of the road network in intermodal freight transportation in the country. The current pathetic state of the Mombasa-Nairobi road will easily lead to low level in trade and export volumes. Some shippers have diverted their cargo from Mombasa Port to Dar es Salaam Port in Tanzania. This, aggravated with the existing poor performance of Mombasa Port caused by shortage of equipment, poses a stiff competition and threat to the survival of the Kenyan Port.

1.3.3. Recurrent problems at Mombasa Port.

The frequent breakdown of the 3 gantry cranes, 11 straddle carriers 1 rail mounted gantry crane, 3 rubber tyre gantry cranes at the Mombasa Container Terminal has led to low throughput of the terminal. Its actual annual average throughput of 200,000 TEU'S shows no sighs of realising the potential annual capacity of the container terminal, which should be 8 million TEU'S. John Chrichton (1999, 41) also points to the woes at Mombasa Port and says:

> The recurrent congestion and imposition of vessel surcharge by the liner shipping companies, some liners diverting their vessels to Dar es Salaam Port in Tanzania, The delays witnessed at Mombasa, uncleared boxes choking Mombasa, backlogs on the Mombasa/Nairobi railway, prevarication on port privatisation, endemic bureaucratic corruption…these events evoke carries steering clear of Mombasa, carriers being forced to feed Dar es Salaam, carriers

threatening vessel surcharges, carriers futilely protesting to the relevant authorities.

Worsening the situation is the arbitrary taxes and exorbitant charges that are levied by Kenya Railways Corporation for carrying containers through the rail-tainer system to Nairobi. Extra costs are met by shippers who must pay on average U.S dollars 230.00 Per container at the port. Ship owners too collectively loose on average U.S. Dollars 100 million excluding cost of related poor turnround of containers, either backlogged at the port or held up in the hinterland as a result of port congestion. The scenario finally hurts the country's economy.

The container terminal is not measuring up to the set standards of productivity faced with such myriad of problems. Hence, it has been a nightmare for the port to achieve its potential maximum container handling capacity of 8 million TEU'S in a year.

Though the recent acquisition in early 1999 of 3 container reach stackers will boost the shortage of equipment in the port, more equipment need to be purchased to cope with the increasing traffic demand whose annual growth rate is 10%.

1.3.4. Significance of Mombasa Port to the national economy.

Kenya Ports Authority is a strategic profit earning parastatal in Kenya. From 1994-98, it remitted to the exchequer through the Income Tax Department inform of corporation tax, arrears totalling Kshs.2.85 billion as shown in table 1 below.

Table 1. KPA corporate taxes.

Year	In 000 Ksh.	In US $
1994	170,000	2,833,333
1995	503,000	8,383,333
1996	938,000	15,633,333
1997	653,000	10,883,333
1998	585,000	9,750,000

Source: Based on KPA figures.

Though KPA shows its financial pride as Lenny Mwangola (1998), the Managing Director of Kenya Ports Authority says: ‘KPA contributes enormously to the exchequer of which we are proud of’, if part of these earnings could directly be earmarked for the port’s development, the acute shortage of equipment could be addressed adequately. The shortage of funds meant for port revitalisation has necessitated KPA to seek loans from the international financial institutions with cumbersome processes and has proved futile sometimes due to the bureaucratic channels of government regulations.

1.4.1. Effects on increase on duty.

The Port of Mombasa is set for a decline in traffic of cargo as a result of the presidential directive late September 1998 on the increase in duty of major cereal imports especially rice, maize, sugar, and wheat in a move to protect local producing industries. This saw import duty on maize rise from 25% to 32.5%, wheat from 35% to 75%, rice from 45% to 70% and sugar from 45% to 95%. Already a marked decline in the import of these commodities was registered as George Sungu of the East African newspaper (1998) reports:

> The increase in duty followed stringent measures introduced by the Kenyan Government…not a single vessel has docked at Mombasa with sugar, rice, wheat or maize cargo since the beginning of September 1998…contrary to the period January-June the same year when 1,254,826 tonnes of the said commodities were handled at the Port of Mombasa.

Moreover, the sharp increase on agricultural products and the introduction of roadworthiness certificate on imported vehicles to the Kenyan market introduced by the government in 1998 has resulted to a drastic drop of merchant cargo ships calling at the

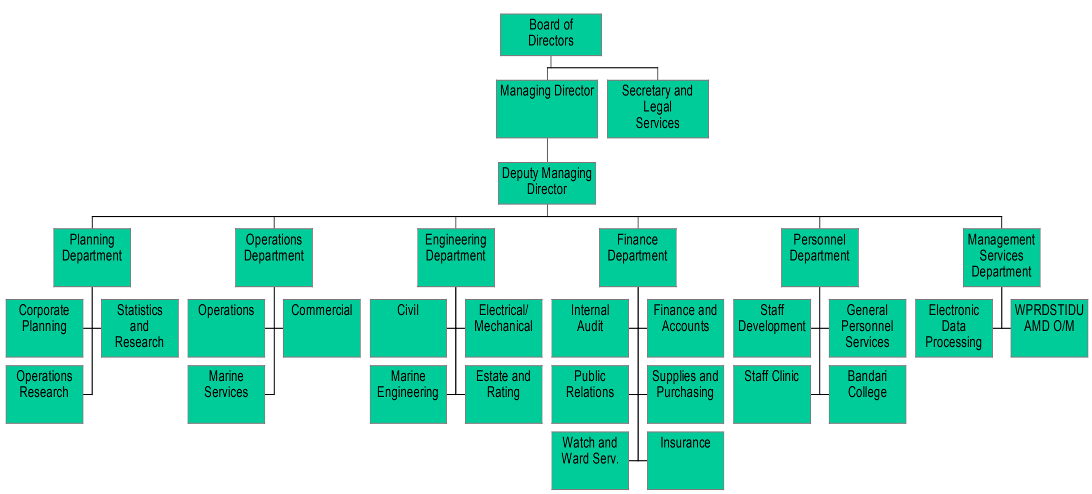
Port. Any measures introduced to safeguard other sectors of the economy should not impinge other sectors but to promote the overall economy of the country.

1.4.2. Organisational structure of KPA.

Strategic policies of the Authority are vested through a Board of Directors under the umbrella of a chairman. Members include, the KPA Chairman, the Permanent Secretary in the Ministry of Transport and Communications, the Permanent Secretary in the Treasury, the Attorney General, Kenya Revenue Authority Director General and the Governor of Central Bank of Kenya. The Minister for Transport and Communications appoints the chairman under whose docket the Authority fall.

The running of the Authority is under the Managing Director who is appointed by the Minister. However, this is done theoretical since in practice such an appointment is done by the Chief Executive of the country, contrary to what the KPA Act stipulates. Under the MD is the Deputy Managing Director, who is assisted by functional heads of departments.

Fig. 2. KPA organisational chart.



Source: KPA general information brochure.

The chart above depicts a big number of over 20 senior managers, a typical pyramidal structure that promotes bureaucracy and red tape within the organisation making it impossible to execute decisions within a short time limit to serve port users diligently. This calls for a flatter managerial structure as modern port management advocates.

The KPA Act, chapter 371 of the laws of Kenya gives autonomy in the management of the Port of Mombasa. The Act was a well thought out document intended to create a managerial and institutional competence in running the Port. However, the idea of running the port autonomously has never been realistic. Unnecessary and excessive external interference has created unrealistic strategic free mind boggling management with other myriad of problems in managing the port efficiently according to Jonathan Mturi the Managing Director of Kenya Shipping Agency.

Jonathan Mturi stresses on this point and says that for the past 6 years alone, KPA has had six Chief Executives appointed representing an average tenure of about 18 months each. Indeed this has shown the highest turnover of managerial appointments of the port within a short period. It becomes unrealistic for a chief executive to execute any meaningful development of the port on a well thought out articulated development plan for such a short period of time. It should be remembered that development of the Port of Mombasa is incorporated under the umbrella of Kenya's 5 years national development plan.

Indeed the KPA Act became obsolete since the merger between KPA and its subsidiary the Kenya Cargo Handling Services Ltd in 1986. The latter had been contracted to perform cargo-handling operations while KPA acted as the landlord port. Suffice is to say, KPA had leased out its core business of cargo handling to KCHS Ltd. Commercial risk was adequately shared.

1.5. Conclusion.

There is the need to go back to the drawing table and address the exact meaning of the KPA Act. By applying the Act, this would create a sound policy management environment leading to a meaningful growth and development of the port. The government should stop interfering in the management of the port and instead play the role of a policy advisor. The merger between Kenya Ports Authority and its subsidiary The Kenya Cargo Handling Services Ltd in 1986 has greatly precipitated to the myriad of problems facing the port since it does not share commercial risk thereby exposing its operations into high risks as it undertakes all the port activities.

The port's average total throughput of 8 million tonnes and 200,000 TEU'S is relatively low traffic when taking into account the market it serves. Chapter 2 therefore will examine the performance and productivity of the port in view of looking for the constraints that have caused inefficiency and low traffic.

CHAPTER 2.

PORT OF MOMBASA PERFORMANCE AND PRODUCTIVITY ACTIVITIES.

2.1. Productivity.

Productivity is the quantitative relationship between the measurable output of an enterprise and its use of different inputs, in particular labour and capital. Efficiency covers a wide spectrum of effects than the physical production and includes the ability of the enterprise to reach other declared objectives than those related to production of goods and services, such as national security and self reliance, regional or environmental development (Edgrem, 1990, 2). It is the amount of added value over the level of input, or the extent to which the result produced was at low cost (Mottram, 1998).

Inspite of the fact that more and more ports all over the world have engaged a process of port reform, Professor Francou (1999) of the World Maritime University argues:

> The Port Authority is still involved in the control of the efficiency because the survival of the port in a competitive market or the economy of a country incase of monopoly are determined by the efficiency.

Indeed this proves relevant since inefficient and costly port operations seriously impair the competitiveness of a country's export industries and artificially raise the cost and thus constrain the availability of imported goods.

A port is an interface that serves the international sea-borne trade. Developing countries, due to their weak economies, characterised by low value export commodities are heavily dependent on seaports to boost their economies (Francou, 1999). Therefore, the productivity and performance level of port operations gives an impact to the economy of these countries. It is imperative therefore, for such countries to focus on their ports efficiency if their economies are to rise substantially.

Since it is acknowledged how ports play a crucial role in the international and national trade, port operations are the cornerstone in transforming and stimulating this trade by effectively creating high productivity and efficiency of ports. This minimises ships and cargo costs in ports. According to several studies, it is admitted that 2/3 of the total maritime cost take place in the ports, mainly wharfage, handling and storage operations (Francou, 1999). Hence, the determinant factor for the cost of ships and goods at ports lies under the efficiency of port operations.

Monitoring these activities is absolutely necessary and the chapter will concentrate on the port performance indicators of Mombasa Port in assessing, and if necessary the need to introduce new measures like port reform or privatisation in the Kenya's water front industry.

2.2. Port performance.

The water front industry is a service industry and its degree of satisfaction to port users and ship owners is obtained on the basis of pre-set standards that will indicate the level of port performance. Such performances can be categorised as physical, financial and quality performances, which are directly linked to the port activities and judged by their users.

The efficiency of a port can be measured in a variety of ways. However, as Brian Hoyle (1999, 164) argues, 'the overall average cost per tonne of goods handled over a specific period is normally accepted as a reasonable reliable parameter'. The Kenyan Port has in recent years experienced poor performances, which, according to Brian Hoyle has been reflected in high port charges and low productivity.

2.2.2. Ships turnaround.

Ship turnaround time is the time spent in the port by all the vessels calling in a specific period (Francou, 1999). Ship turnaround is part of a port quality service indicator. It is important to the ship owner and shippers because, as Professor Francou argues: 'the turn around time of the ships spent in ports is paid by the ship owner and also by the shipper (especially in the case of chartered ships because he has to pay demurrage)'. Generally, a comparison between waiting time and service time gives information on the quality of service of a port. Professor Francou of the World

Maritime University contends that ship owners will accept 10% rate of waiting time, beyond that they perceive the port as offering poor services. The end result is either they boycott the port or impose enormous financial penalties, the former contending loss of traffic while the latter making the port expensive for users.

The ship turnaround at the Port of Mombasa is on average 6 days as shown in table 2 below. The average ship working days being 3 days while the average waiting period 3 days for the past 5 years (1993-97).

Table 2. Productivity indices at Mombasa Port 1993-1997.

Index	1993	1994	1995	1996	1997	Comparison 97/93
Average waiting days per ship	2.88	3.47	2.59	2.45	2.98	3.5%
Average ship working days	2.56	3.08	3.82	3.03	3.05	17%
Average berth occupancy:						
General cargo berths (%)	57.7	70.3	60.7	49.3	66.0	14%
Container terminal (%)	62.2	72.1	77.3	70.6	70.9	14%
Average tonnage per ship working day	1775	1703	1354	1795	1806	1.7%
Average tons of dry cargo handled per ship working hour	27.6	28.8	29.7	32.2	29.2	5.9%
Operating revenue (million Kenya Shillings)	6369	6522	6727	7078	7438	17%
Operating expenditure (million Kenya Shillings)	2259	3582	5666	5668	7396	227%

Source: KPA monthly review of port working.

In essence, the turnround time is high, as the waiting time surpasses the standard 10% of service time. Suffice is to say that the Port of Mombasa offers substandard services. Ships stay longer at the port unnecessarily especially when compared with efficient ports in the world like Le Havre in France, Port of Copenhagen, Denmark, Municipal Port of Rotterdam, The Netherlands where ships turnround is 6 hours minimum. Though the latter ports operate in different environments as they are situated in the developed world, Mombasa Port is no exception, as it can not afford to lag behind in this era of trade globalisation.

The low ship turnaround time at the Port of Mombasa has created negative impacts. The port has been loosing traffic to the neighbouring ocean ports of Dar es salaam, Tanzania, Maputo and Beira both in Mozambique and Durban, South Africa. Its survival in retaining the average 8 million tonnes is a result of its advantageous captive Kenya’s hinterland market with its major export commodities like coffee and tea, otherwise, cut throat competition is strongly felt in the landlocked hinterland with Tanzania’s strong presence in Uganda.

2.2.3. Berth occupancy.

Berth occupancy is another major indicator of gauging the performance of any port. It conceptualises the actual intensity of the usage of berths while it also indicates the level of demand of services.

The average berth occupancy at the Port of Mombasa for the past 5 years (1993-97) has been 60% for the 13 general cargo berths, while 71% for the 3 container terminal berths as table 2 above indicates. The percentage reflects a high occupancy and depicts congestion of the port as ships take long to leave a berth due to delays in offering them services. The port has consecutively witnessed Vessel Congestion Surcharges (VCS) from the powerful East African Conference Line (EACL). Shippers had to bear the demurrage charges levied by ship owners due to a rise in cost per tonne of cargo in port. The consequential effects are spread in the vicious cycle of the whole chain of cargo cost from the port to the consumer in Kenya as the latter has to bear the burden due to skyrocketing of prices of goods, leading to inflation. This is proved by the current state of the Kenyan economy which has been performing poorly of late.

Indeed the port, like any other sector of the economy is a contributor to the current economic situation in the country as its input plays a significant role in the country’s gross domestic product. Mombasa Port is a barometer in gauging Kenya’s economy since it facilitates cross border trade. The recurrent congestion has had adverse negative impacts to the port itself. It has been caught in the web of interport competition as shippers have resorted to divert their cargo through Dar se salaam Port. An efficient port normally requires berth occupancy of between 40-50%, which is contrary to Mombasa.

2.2.4. Gang performance.

The average gang performance for the Port of Mombasa is 30 tonnes/hour. This manifests a very low output as shown in table 2 above. Ships have to spend a lot of time waiting to be worked upon. Despite the fact that the port has a trained and large labour force of 7440, this big number does not add much input towards productivity. This calls for a flatter organisation instead of the structural pyramidal KPA. The continued usage of aged and shortage of equipment with labour unrest, are among the major contributors to low productivity.

The Port of Mombasa is an element of a complex interdependent economic structure in Kenya. Its ill-equipped and inefficient services directly hinders stimulating the economic growth of the country. Among the shortfalls hindering the better performance of Mombasa Port, as Brian Hoyle (1999, 164) points out:

> For a variety of reasons (low volumes but great variety of cargo throughput); inefficient management and labour systems; limited capital availability for investment in more advanced technology and equipment; corruption; congestion; weather.

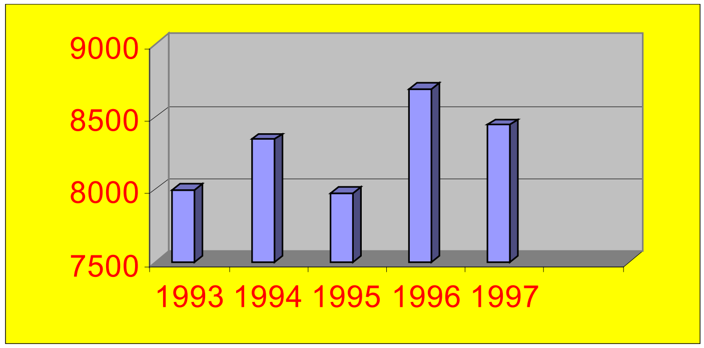
KPA should take austerity measures in addressing these problems in its challenge to attract new traffic and avoid loss of trade to alternative ports.

2.3. Port throughput.

The Port of Mombasa handles a wide variety of import and export commodities though on low volumes. Its average annual traffic throughput is **8 million tonnes.** A large chunk is composed of imports, accounting for **75%,** with crude oil however taking the biggest share. Exports account for **25%** of the total traffic. Export commodities general comprise of agricultural and semi-processed raw materials with the latter gaining momentum due the governments' initiative in establishing the Export Processing Zone (EPZ). Tea and Coffee dominate exports, which are tapped from the country's captive hinterland and that of the non-captive landlocked countries like Uganda.

The old Port of Mombasa on the eastern side of Mombasa island still continues to handle a range of goods like coffee husks, salt, oil in drums and building materials though on low volumes for the India Ocean Coastal trade route (Hoyle, 1999, 165). The port should lay strategies to tap more of this prosperous traffic.

Fig.3. Evolution of general cargo traffic at Mombasa from 1993-97 (000 DWT).



Source*:* KPA.

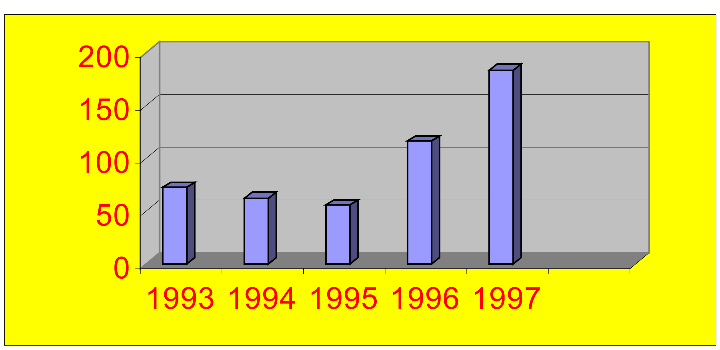
2.3.2 Imports and exports.

Import and export cargo handled at Mombasa is on average 6 million and 2 million respectively as shown in appendix 2. This is attributed, according to Leonard Mwangola (1996) the KPA Managing Director, 'to the regional economic performance during 1996 stimulated with the government fiscal and monetary policies that resulted into port performance for the year'.

2.3.3 Transhipment cargo.

Transhipment cargo is handled mainly for the Somalian Port Mogadishu and Dar es saalam Port, Tanzania. It accounts for 1.2% of the total throughput. A steady increase was recorded due to the prolonged civil war in Somalia, which has necessitated supply of food aid through Mombasa Port. Nevertheless, should the Somalian port be back in operations, the percentage of transhipment will decline since civil strife is the pre-determinant factor. The modernisation of Dar es Salaam Port could pose a threat to the disappearance of the Tanzanian transhipment traffic passing through Mombasa.

Fig. 4. Transhipment traffic at Mombasa from 1993-97 (000 DWT).



Source:KPA.

2.3.4 Transit traffic.

Transit traffic accounts for 18% of the total traffic at Mombasa. It is destined to the landlocked countries which comprises of: Uganda, Rwanda, Burundi, Southern Sudan, and Eastern Democratic Republic of Congo with no signs of attracting more non captive market niche, for instance countries like Chad. A total average of 1.5 million tonnes passed through the port for the past 5 years from 1993-97. Uganda takes the biggest share with D R Congo the least as table 3 below shows. 1997 showed a reduction in volume due to the economic embargo imposed against Burundi due to its political instability, (recorded nil traffic) by the three East African countries.

Table 3. Transit traffic 1993-1997 (DWT).

Particulars	1993	1994	1995	1996	1997
Uganda:Imports	336,309	710,707	910,221	829,762	594,948
Exports	139,659	204,893	145,622	252,360	276,570
Total	475,968	915,600	1,055,843	1,082,122	871,518
Tanzania:Imports	17,272	138,464	75,662	327,008	64,980
Exports	6,561	9,344	15,696	18,662	23,830
Total	23,833	147,808	91,358	345,670	88,810
Burundi:Imports	18,365	35,231	45,172	12,113	0
Exports	3,409	1,065	3,056	4,116	0
Total	21,774	36,296	48,228	16,229	0
Rwanda:Imports	56,455	169,373	474,851	755,936	155,443
Exports	67,952	8,593	18,718	24,895	11,519
Total	124,407	177,966	493,569	780,831	166,962
Sudan:Imports	35,822	69,692	25,576	2,013	20,075
Exports	0	0	0	951	0
Total	35,822	69,692	25,576	2,964	20,075
Zaire:Imports	44,142	226,236	116,222	227,149	93,922
Exports	33,790	34,096	26,770	24,964	11,597
Total	77,932	260,332	142,992	252,113	105,519
Total Imports	855,650	1,442,573	1,725,825	2,277,060	973,135
Exports	270,781	267,769	210,962	337,523	369,419
Total	1,126,431	1,710,342	1,936,787	2,614,583	1,342,554

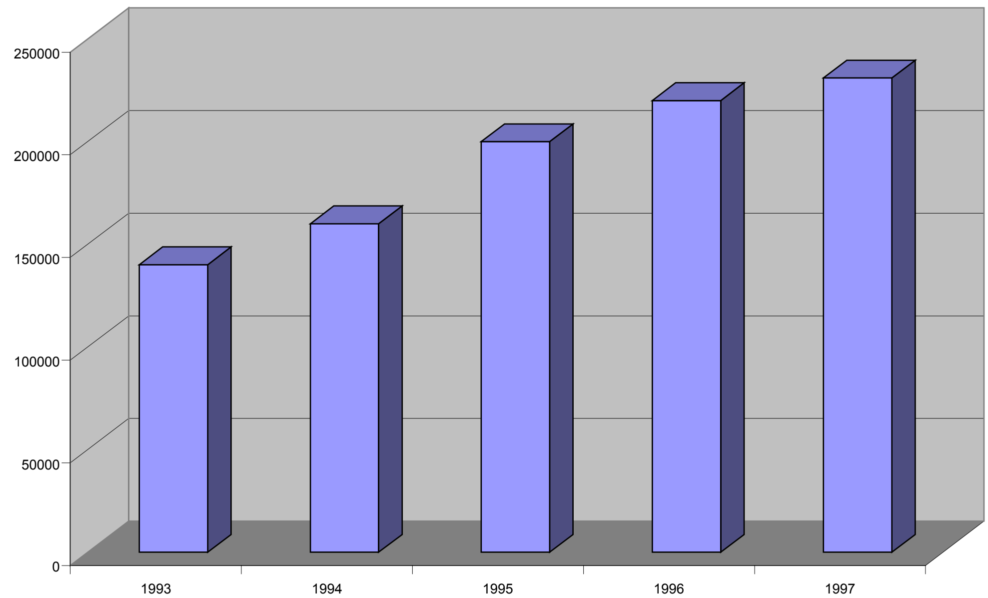
Source: KPA monthly review of port working.

2.3.5 Container traffic.

The port received its first batch of containers in 1975. During the early 1980's only 30,500 TEU'S were handled but a surpassing figure of 230,698 TEU'S passed through the port in 1997. The annual average has been 200,000 TEU'S showing a marked annual increase of 10%. Despite the fact that containerisation is gaining momentum, the Mombasa Container Terminal is still under-utilised, as its potential capacity has not been fully exploited. This calls for concerted efforts by the authority to find the possible causes.

Container status on the other hand indicates a ratio of 1.5:1 imports to exports respectively. This could be attributed to the fact that the port serves a hinterland that comprises of low value export products, for instance coffee. As a result therefore, threefold of containers are shipped empty from the port to developed countries due to trade imbalance between the developing and developed countries.

Fig.5. Container throughput at Mombasa Port from 1993-97 (TEU).



Source: KPA Monthly Review of port working.

2.4. Financial position of Mombasa Port.

The Port of Mombasa earns substantial revenue (Table 2, p 12). For the period between 1993-97, its operational revenue was Ksh.6.8 billion ($11.3 million). Operational expenditure however is a major constraint for the port to maintain high profits as it spent on average Ksh.4.9 billion, ($8.2 million) the same period, making it impossible to invest in new technology.

Carlos Canamero of the United Nations Conference on Trade and Development (UNCTAD) argues that when port's financial positions are compared in terms of operational revenue, most ports in the world make huge chunks of profits. The problem arises when other factors like servicing loans for port development, ports are extremely left in financial quagmire. That is why most ports have to be subsidised by their governments. Indeed this is true considering KPA's financial position.

For KPA to be financial stable, the government should introduce tax concessions on the Authority's revenue to enable it earn higher profits and be able to invest in the rehabilitation of cranes and purchasing of new equipment in order to revitalise port services.

2.5. Major constraints encountered at Kenya Ports Authority.

2.5.1. Port facilities.

The analysis given in subtopic 2.2 above indicates low ship's turnaround. The frequent breakdown of cranes due to poor maintenance programmes where preventive maintenance is unheard of has contributed to the low turnaround of ships. The issue of buying new equipment remains unattended despite the recent acquisation of 4 reach stackers early 1999 whose number can not still cope with traffic demand.

2.5.2.Port tariff.

Though KPA'S existing port tariff saw its amendment in 1994 leading to the abolishment of some clauses, it still reflects high port charges in relation to the low productivity. This, among other factors, has led to the diversion of goods from the Port of Mombasa to the Tanzanian Port of Dar es Salaam as Brian Hoyle (1999, 168) of the University of Southampton points out:

> The relatively poor performance of Mombasa in recent years in this context, reflected in high port charges and low productivity, is a major factor in the attempts being made by Uganda to channel some of its country's overseas trade through the Tanzanian Port of Dar es Salaam. Although Uganda encounters high transport costs by using Dar es Salaam Port due to the long distances involved in using the Tanzanian railway system and the train ferries on Lake Victoria

in contrast to the shorter distance from Mombasa Port.

Carlos Canamero of the United Nations Conference on Trade and Development (UNCTAD) contends that many studies have found port users to regard port charges as a factor, among others, to be taken into consideration when making logistics decisions since their effect do not impinge but foster development. While slating its tariff, the Port of Mombasa should consider the overall logistics costs of transporting a container from the port to the hinterland. This brings a level playing ground in raising charges that port users are able to pay. The end result is reduction in total costs in the cargo value chain from the port to the final destination.

While the Port of Mombasa is acknowledged offering a vital link to the imports and exports of Kenya's trade, which are a component of the balance of payment for the country, its poor performance impact affects the competitiveness of the overall Kenyan economy. Attention therefore should be paid to the costs of port services and the tariff, which are a major decisive factor that have to be compared with the level of services performed to justify either raising or lowering the tariff.

There is need for KPA to review its port tariff on competitive rates to attract more voluminous landlocked traffic. The rates should be tailor made to suit the needs of the changing maritime trade with flexibility, with a novelty of adapting a realistic tariff. Major customers should be given tariff concessions with the noble idea of retaining them as major port users especially the oil firms like Caltex, Total, BP to mention only but a few, that import large volumes of crude and refined oil. Major landlocked users for instance, Uganda that channels 50% of its cargo through the Port of Mombasa should be accorded special opportunistic tariff despite the recent assurance from the KPA Managing Director. The question remains as to whether such assurances will offer a competitive advantage as a marketing tool for Mombasa in becoming a cost leadership against the neighbouring ports.

It should be known that the end benefit in tariff reduction is the lowering in cost per tonne of cargo in port with a total reduction in the value chain of logistics cost. This stimulates not only Kenya's economy but that of the landlocked countries which partly depends on the Kenyan Port for their international cross border trade. By adapting a realistic tariff, KPA could tap the deep hinterland market niche in the Central African countries like Chad, the Western Democratic Republic of Congo to channel their cargo via Mombasa Port.

2.5.3. Documentation.

Import and export documentation is a major bottleneck at the Port of Mombasa. It has hindered the smooth flow of cargo handling. Shippers are subjected to lodging many documents that are more or less similar and associated with cumbersome procedures. For instance, a shipper must produce to the Kenya Revenue Authority an import declaration form (IDF), import entry, Certificate of clean finding (CRF), import licence, a letter from the Central Bank of Kenya among others. Shippers as a result have encountered delays and unnecessary costs in cargo declaration.

Without the introduction of information technology in the Customs documentation, for instance, the use of Electronic Data Interchange (EDI), the cumbersome customs procedures are bound to exist. EDI, though an expensive investment, offers streamlining of documentation and will facilitate quick flow of cargo at the Port of Mombasa while shippers could get a relief from the unnecessary cumbersome import/export cargo declaration procedures should it be introduced. The **Edimar** system used at the Port of Le-Havre in France has drastically reduced time delays and costs in the processing of Customs documentation. The system is a Customs paperless computer controlled EDI system that links the Customs, port, forwarders and shippers. One can declare his goods while at his premise faster and at lesser costs than the manual declaration.

2.5.4. Political interference in management.

The Port of Mombasa has always experienced political interference in its management. The astonishing high turnover of 6 Managing Directors for the past 6 years, with an average tenure of office of 18 months each is rather ambiguous. The constant change of Executives at the port has hindered development of the port. This has resulted to what Brian Hoyle of the University of Southampton 'to inefficient management, staff demoralisation and a reactive rather than a proactive attitude to development' (Hoyle, 1999, 167).

2.6. Traffic forecast of Mombasa Port.

Generally, accurate port traffic forecasting has overall benefits to ports. These include, as Professor Shuo Ma of the World Maritime University puts it:

- Port planning and expansion
- Port investment in infrastructure and equipment
- Port tariff revision
- The rate of changes (the possibility of survival depends on the ability to adapt)
- Inter-port competition
- Port organisational restructuring
- Port labour recruitment/layoffs.

These features if put into consideration, (unfortunately the last five have not been addressed accordingly), could greatly assist the port reforming process.

The traditional method used at Mombasa Port on forecasting traffic after 5 years is obsolete and should be discarded due to the rapid changes associated with the maritime trade. It is imperative that future traffic forecast be done on a 2-year basis. Long term forecasting is unreliable, and normally associated with high uncertainties and probabilities. Suffice is to say that the Port of Mombasa would greatly minimise risk uncertainties. Professor Shuo Ma (1999) of the World Maritime University argues:

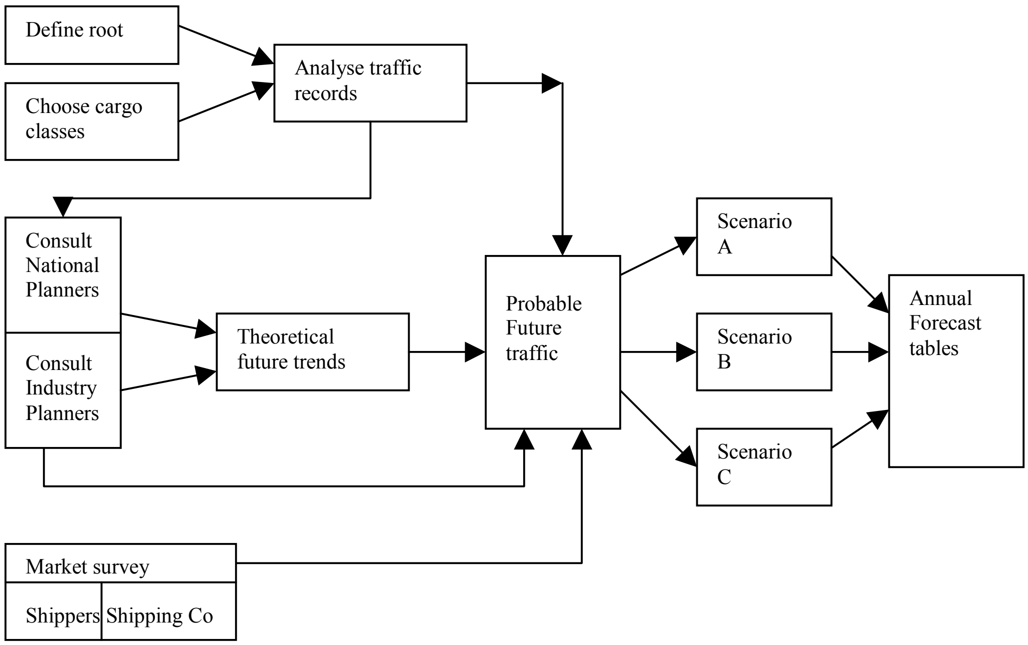
> Any forecast of future trade will be uncertain, and ports are particularly vulnerable in view of their long planning time-scale and limited ability to influence demand.

Errors in forecasting traffic tend to create poor port planning as Professor Shuo Ma (1999) continues to argue:

> Even when all precautions have been taken to realistic and well-reasoned forecasts, the remaining uncertainties usually produces a wide variation of possible levels of traffic when projected several years in the future.

By incorporating the systematic procedure for carrying a detailed port traffic forecast could greatly reduce traffic focust uncertainties for Mombasa Port as shown in figure 6 below.

Fig.6. The focusting procedure.



Source: Shuo Ma, 1999. Qualitative methods for decision making in ports.

The distinctive usage of traffic forecasting tools like *regression* and *correlation* need to be applied at the Port of Mombasa to reduce forecast uncertainties. It implies the relationship between variables. By knowing a high correlation value between two variables, one can predict the outcome of one variable when the other is changed. This is popularly referred to as regression.

2. 7. Conclusion.

Inducing modernisation policies at the Port of Mombasa will enhance market share and re-emphasis the port's role as a major regional hub. Such policies include, manipulation of tariffs in conformity with productivity levels in order to market the port as a cost leadership along the Indian Ocean, this would woe deep hinterland market niche to as far as the Central African countries like Chad. De-linking the port from external interference would enhance sound management in order to improve efficiency and productivity.

CHAPTER 3.

VARIOUS MODES OF PRIVATISATION/REFORMING KPA.

3.0. The process of slating Kenya Ports Authority for privatisation or specifically reforming some of its core and non core businesses due to take place soon is an acid test on which best mode of reform to be applied by the Kenyan Government as it is placed in a better position to learn from mistakes that were experienced from other ports of the world that have undergone the process.

The privatisation of ports is a vexed subject and the method chosen will determine its successes and failures as the International Finance Corporation (1995, ii) described:

> To privatise is to drive a two horse cart. The cart is the enterprise in question. One horse is called political goals and is flighty and fickle, the other is called economics, and is slow and steady. They have to pull the cart along the road to privatisation, which is a rough, boulder-strewn track. The cart is full of cases of vintage wine, which is unfortunate because the horses, as often as not, are pulling in different directions. The bottles of wine, which can be enjoyed only when the cart reaches its goal, are labelled improved efficiency, high sales prices, effective corporate governance, economic investment…Only the most skilful driver can negotiate this track up the hill of vested interests (cases may have to be jettisoned here, and some horses are not strong enough to make it), across the stream of xenophobia (another case or two bumps off the back). Some carts

> are too weak and fall apart before they get to privatisation. Sometimes it makes sense to give the flighty horse its head and fly the trail longhead, abandoning case after case on the way; sometimes it is possible to whip him into shape to follow his steadier partner. And many drivers simply give up, cut the horses loose, climb down and start back down the trail, hoping to find solace in the odd bottle that has not smashed.

Indeed this is a true statement bearing in mind that privatisation of public enterprises is a delicate and complicated subject with no clear-cut solution. Failures can take place where wrong modes of privatisation are applied in environments that are not suitable. One type of privatisation may be applicable and successful in a given environment but could be a disaster in other situations. A port is a unique environment that requires special criteria of privatisation.

3.1. Techniques for various modes of privatising a port.

Among the methods used by governments in privatising or reforming their enterprises range from *Liberalisation, administrative improvement*, *commercialisation, corporatisation*, *sale of assets*, *specific strategic investor*, *public share offer, private placement, closed subscription*, *joint venture*, *liquidation*, *concessions*, *auctions*, *vouchers or certificate based transfers, build operate transfer (BOT)* to *management employee buyout.* These modes admittedly normally apply and depend on the type of enterprise for divestiture and ports can borrow among these.

3.1.2. The divestiture process.

The divestiture process for a port normally undergoes major phases before privatising which include:

1. Strategic review. This stage usually analyses the business specification, the business needs, its organisational, financial and physical restructuring, capital injection, technological know how, access to market and training.
2. The implementation of any physical, financial or organisational restructuring, or downsizing of staff is prepared. Sale agreements or supply and take off agreements, share holders agreements are put in place. A floor price for sale could be set.
3. Preparing prospectus, advertisement and publicity and road shows to interested potential investors is carried out. (International Finance Corporation, 1995, 3). Tenders are invited; pre-qualifying bidders, pre-negotiated contract documents with bidders and finally the evaluation of tenders, negotiation and tender awarding is carried out at this stage.

The third stage is a critical one where transparency is needed most in restoring investor confidence in the privatisation process. As the International Finance Corporation (1995, 3) argues:

> The keynote is political transparency. Insisting on transparency maximises the popular perception that the playing field is level and strengthens support for privatisation. Signals are often conflicting, different government officials holding different views and the legal and administrative authority for decisions is not always clear.

Fig 7. The divestiture process.

Source*:* IFC 1995.

Among the general options for reforming KPA, as Alexander Lijster an expert in port privatisation argues, in aspects of commercial risks and port reform which are meant to do away with subsidising the authority while exposing it to private sector participation and competition are:

- ### 3.2. Administrative improvement.

This involves stripping the government of its powers from interfering in the management of KPA. Decision making will be under the responsibility of the port management, though a painstaking approach that may be undesirable for the government. By precisely applying the existing but rather obsolete KPA Act, the authority could be managed autonomously. Whereas manpower, financial and operational restructuring could be strictly adhered to. The downsizing of staff from the current number of 7440 to 3000 as to what the World Bank has targeted could be achieved inspite of the effects associated with layoffs. On the financial approach, this would involve the government writing off KPA debts and absorb them. Operational restructuring would entail as what the United Nations Conference on Trade and Development calls ‘the infusion of new investment or technology into the port’ (UNCTAD, 1993, 67). A private operator would be invited as he has the financial and managerial capabilities to man a terminal.

- ### 3.3 Liberalisation.

This involves deregulating the dormant KPA Act on the basis of operating Mombasa Port from the current public operator (KPA itself) to other private operator(s). The situation will eliminate monopoly and create competition of port services thus offer competitive tariff rates as a result. The number of private operators however will not offer a solution to the woes affecting the port. Other factors have to be considered. This involves the total tonnage handled at the port. With the rate of 8 million tonnes, many operators sharing this small figure might not generate enough profits. While a single operator on the other hand, could create an oligopolistic situation. The government therefore should be careful while selecting this mode of privatisation.

❖ 3.4. Commercialisation.

This mode of port reform according to Alexander Lijster of the Municipal Port of Rotterdam includes:

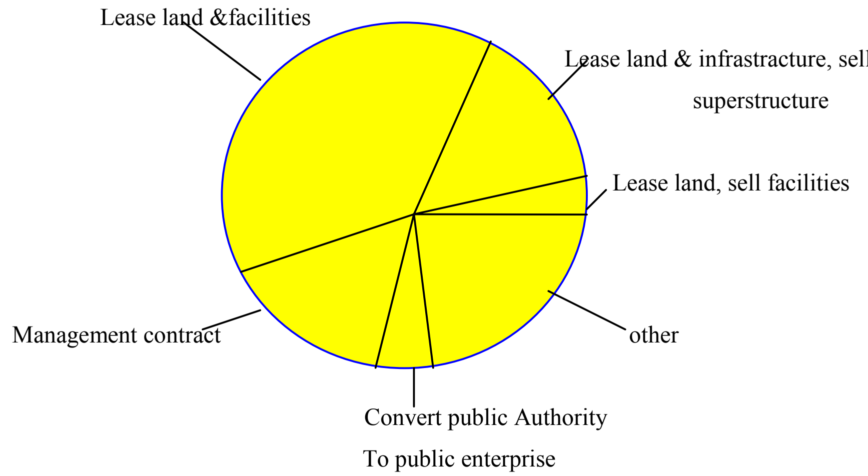
- Contracting out of certain (non- core of the business) activities.
- Leasing.

Commercialisation involves radical approaches to the port management and its operations. The Port of Mombasa would be expected to operate autonomously and judged through its decisions and performance (World Development Report, 1996, 57).

By contracting out non-core businesses, which must not necessarily be non core, but could be profit loss making or inefficient activities, for instance contracting out the inefficient Mombasa Container terminal and the general cargo handling services to private operators, may provide the ideal situation in transforming KPA to focus on a commercial oriented approach rather than its current state of being a public service provider where factors of profit and loss are not considered as such towards its survival as the government is willing to subsidise should anything go wrong.

Alexander Lijster argues that in the port industry, the most commonly used method to apply port reform is through contracting out. While Frederic R. Harris's survey in 1989 on which favourable method of port reform was preferred, shows leasing as the commonest method as the chart below shows. It has gained popularity but the extent of knowing its success is yet to be known. Both contracting and leasing methods have close feature similarities.

Fig. 8. **Chosen method for port reform.**



Source: Frederic R Harris, (1989)**,** Global trends in transport.

In contracting out major activities, this means changing KPA'S status from a service to landlord port. In so doing, it owns the land and leases it to private operators. The system boosts the authority's revenue in the process of leasing while reducing commercial risk.

A realistic lease period should be a long term one, say 20 years with options for extensions as Alexander Lijster argues 'to allow a reasonable amortisation period where huge capital has been used for investment in equipment' (Lijster, 1999). This is normally where the private operator takes the responsibility for the provision of new capital and replacement of equipment

The comparative benefits KPA and the government could gain from leasing the Port of Mombasa are:

- Brings new technical and managerial skills to the port, where assets will be used more efficiently.
- Government can shed the responsibility of operating costs and investment risks without giving up the ownership of the port.
- With the Kenyan politicians opposing the privatising of KPA, leasing could be the best acceptable alternative.

- Enables the government to negotiate more advantageous contractual conditions by encouraging competition among potential lessees.
- Improved port performance and management during the lease period may increase the revenue of KPA.

The second point is crucial to note that the government does not wholly sell the port as it is a strategic asset for the country to be proud of. The last three factors are truly important and need to be considered while reforming Mombasa Port.

3.4.2. Elements of Leasing.

Carlos Canamero contends that leases are regarded as ways to share the commercial risk between the private terminal operator and the port authority. Therefore, well thoughtout clauses need to be formulated by the government to avoid unfair risks for both KPA and the terminal operator. Such clauses to be incorporated are:

- Contractual parties
- Objective of the contract
- Investment to be made
- Duration (including renewal)
- Responsibilities
    - operations
    - maintenance
    - berth allocation
- Allocation of assets and labour
    - Transfer of mobile assets to lessee
    - Transfer of labour to lessee
    - Return or disposal of assets
- Performance standards
    - Quality of service
    - Throughput
- Rights of lessee
    - Franchises

- Subcontracting
- Level of charges to users

- Liabilities to lessee
  - Damage to equipment and facilities
  - Damage to cargo
  - Security to cargo
  - Security of facility
  - Insurance
  - Performance bonds
  - Environmental damage and restoration
- Schedule of payments
  - Amounts
  - Indexing
  - Renegotiation
- Conditions of termination
  - Basis for early termination
  - Penalties for violation of terms
  - Penalties of early termination
- Facility modification
  - Planning approval
  - Construction
  - Removal (Canamero 1999).

3.4.3. Lease systems.

The criteria in assessing fees for concession is of great concern for both KPA and the private operator. The method to be applied could prove critical, as the operator would want to maximise profits for quick return on investments, though this depends on how successful the operator can attract traffic. Carlos Canamero of argues that normally port authorities will establish fees on the view of the charges the lessee will apply to users. This has the effects of raising higher charges at the detriment of consumer's affordability.

The most suitable way KPA could adapt a noble price strategy is by benchmarking one of the three strategies used in contracting out container terminal operators in the West Coast of USA which are:

- **Flat rate lease.**

This involves KPA offering the concessionaire the right to operate the Mombasa Container on a fixed sum for a specific period of time. Ideally, an assessment of the total investment cost of the facilities and calculating a yearly recovery cost including a suitable rate of return on the assets is put in consideration. Alexander Lijster says this strategy has a guaranteed return of the value of the property. However, with KPA being handicapped with shortage of funds the possibility of equipping a modern terminal which involves colossal sums of money is far from reality as this factor has impinged it from development. Nevertheless, the flat rate strategy has less risk, hence KPA could have the highest guarantee of returns in investment.

- **Mini max strategy.**

In this type of strategy, KPA grants a concession in return for a variable fee. The concession fee is paid by the lessee on a determined scale of actual minimum and maximum cargo throughput of the Port of Mombasa. The minimum rate is applied to the lowest part of the cargo throughput. From the minimum, a sliding scale is applied until a certain maximum, there on, no further increase of revenue. This strategy however requires careful consideration since the system heavily depends on cargo throughput of the port. Bearing in mind the low volumes and unreliable cargo traffic of Mombasa, the minimax strategy offers high risks for KPA not getting back its return on investment. With the current average throughput of 8 million tonnes per year and 200,000 TEU'S handled at the Port of Mombasa, this could indeed prove risky. As Alexander Lijster (1999) argues on the conditions of minimax:

> The exact determination of the cost factor to be recovered is difficult and the establishment of the minimum and maximum rates to be applied in relation to the terminal capacity is difficult.

- **Shared revenue strategy.**

KPA in this situation does not impose any ceiling on the fee to be paid by the lessee. However, a floor is determined. A minimum amount of lease fee and compensation per move (container traffic) where a decrease of traffic is anticipated is normally applied in this system. The lessee guarantees a minimum annual compensation. The strategy offers advantages to KPA since it offers the opportunity to maximise its profits, employment and traffic without subsidising the lessee. (Canamero, 1999). However, the terminal operator is set to loose during periods of low traffic while his notion is to maximise profits. The terminal operator therefore may be forced to recoup his profits by raising unreasonable handling charges either not affordable to users or could prove too high, creating an opportunity for the neighbouring Tanzanian Port. The end result is loss of business for the Kenyan Port .

The strategies offer better opportunities for both the Port Authority and private terminal operator. Carlos Canamero argues that these 3 lease price strategies try to reach a win-win situation for the port authority and the private terminal operator. It is imperative therefore that the best strategy is chosen which should be tailor made for Mombasa Port. In this case KPA could select the **flat rate price strategy** since it has less risks while it also offers the terminal operator the opportunity to maximise profits out of the deal.

- **3.5. Concession.**

This is a contradictory type of port reform as it can easily be mistaken with leasing. During divestiture of a port, the state transfers the operating and development rights to a private terminal operator. If a concession is granted to more than one legal entity, a consortium concession is established (UNCTAD, 1995, 78). The major difference between concession and leasing is that the former has the responsibility for capital and investments of a terminal while the latter may involve contracting out existing facilities. In view of this therefore, with KPA'S limited financial resources to develop and buy new equipment, the adoption of concession may be a commendable approach in reforming KPA, particularly the Mombasa Container Terminal. The sentiments are shared by Gichiri Ndua, KPA'S head of Development Department that was set up to foresee the privatisation of the authority in liaison with the Executive Secretariat and Technical Unit (ESTU). Ndua (1998) says:

> Mombasa Container Terminal will be placed under concession by involving a well placed foreign private terminal operator though it should not be ruled out at this stage that other methods of privatisation are being exploited in arriving at the most suitable mode.

He continues to say:

> The notion behind it is that the government wants to choose the best method that is tailor made in the Kenyan context taking in account the safety net of port labour force.

A form of concession is the build-operate-transfer, which will be dealt later in this chapter. Concession will no doubt involve a foreign operator, a profound factor as the method demands an already established and financial, managerial expert terminal operator. The system will no doubt deny Kenyans ownership of the terminal.

❖ 3.6. Corporatisation.

This is privatisation without change of ownership. It involves transforming the port into a corporation through an enactment of law in parliament, which is the case with KPA that was established by an Act of parliament in 1978. The port is converted into a legally and economically independent entity with a board of directors while the government retains its equity ownership (UNCTAD, 1995, 71). Although KPA has achieved this status, the Act is obsolete since the Board of Directors and Executive are neither independent as they have to take decisions from the political echelon.

Corporatisation further involves the government to sale KPA shares it owns to the public. In so doing, it exposes KPA to operate similarly to a private entity, being exposed to the market conditions of competition while maximising shareholders wealth. Nevertheless, the government may be unwilling to sell its shares fearing loosing ownership of a strategic profit making parastatal.

3.7. Optional modes- Privatisation.

Many scholars have defined the concept privatisation in different versions while the definition seems endless as every scholar tries to give the best definition. A description by the International Finance Corporation is that privatisation entails the enterprise transfer of ownership or control from public to private sector. The transfer gives mandate for the private operators or owners a substantial independent power ownership. However, Alexander Lijster a port privatisation expert at the Municipal Port of Rotterdam argues and adds that port privatisation is distinct from port reform with the former referring to sale of port assets, while the latter deals with leasing out non core businesses of the port to private operators.

- **3.7.1. Public offer.**

By selling KPA shares to the Kenyan public through the Nairobi Stock Exchange (NSE) could be a milestone and first ever venture in the maritime industry in Kenya. The risk associated with floating shares is the low domestic capitalisation while undervaluing KPA assets. Though history has shown that there has been over subscription of shares in the local privatised public utilities like Kenya Airways, Kenya Commercial Bank, the port situation is unique in the sense that since it commands high capital for investment, it may require bidding at high prices not affordable to Kenyans.

The ideal solution is to allow foreigner investors participate in the share offer though in normal circumstances, public resentment will be expected especially when majority of the shares are owned by the former. Foreign investors have the required capital however as Colin Kirk Patrick (1988, 112) contends:

> In most developing countries, there has been a very limited level of equity financing while local markets have rarely been able to provide satisfactory long run investment resources… in Sub Saharan Africa for

> example, formal stock markets exist in Lagos, Harare, Nairobi and Abdijan but have all declined since 1980 when measured in terms of capitalisation and issues.

High probabilities of the government not willing to sale all its shares may not eliminate the risk of political interference in the management of the authority. Furthermore what is more sensitive is the recent alarm sounded by Kenyan politicians that KPA shares were in the process of being bought secretly by a strategic corrupt powerful clique through dubious means. The clique was registering companies overseas in the pretext that they were foreign owned is an abuse of the share issue.

Another inhibiting factor that affects share offering, is the possibility of what Kirkpatrick terms 'the crowding out effect' where new shareholders opt out by selling their shares especially when they discover the port no longer makes profits. This has a serious effect on the share capital base of the port. Though remedial measures could be applied, for instance offering bonus schemes to shareholders from selling their shares as what happened in Britain and France during their early privatisation periods, this may be applicable in the Kenyan environment due to the country's weak economy. Nevertheless, chances of loosing shareholders can not be ruled out for KPA 's case.

♦ **3.7.2. Private placement.**

The mode is almost similar to public offering, however, the private placement is sold to a few selected investors. The state negotiates the terms of the placement directly with the investor, thus eliminating the underwriting function of investment banks (UNCTAD, 1995, 90). For KPA to be placed under this method of disposal, it means taking the container and conventional cargo terminal operations under private hands while retaining the port authority as a landlord port entity. Private placement operates most where there is weakness of local capital market and enterprises that are not big to warrant a public share offering in terms of high flotation costs than anticipated revenue. The KPA case would involve foreign investors who are better placed in providing finance for the input of new technology and know-how for the terminal handling facilities. Private placement offers high assurances of greatly turning round the Mombasa Port productivity and performance as the port will be placed under a sound financial and experienced strategic terminal operator. The threat to private placement however is that it tends to be bias since other potential investors or even locals are shut out of the deal.

- **3.7.3. Management/Employee Buy Out (MEBO).**

By involving KPA staff in owning the authority through share floatation is a step in boosting their morale. This is internal privatisation, while not a very common practise involving big organisations like KPA admittedly. The exercise of ownership is done through leverage buyouts where part of the purchase price is debt financed and the loan is secured by the assets of the enterprise involved (Kirkpatrick, 1985, 92). The system however is riddled with loopholes as Colin Kirkpatrick says, that, when large amounts of debt is used to finance leveraged buyouts, the port could be exposed to unfavourable changes in the macroeconomic environment if it adapts this method. The managers and employees experience, quality and motivation matters a lot to the success of this method. It should however be pointed out that motivation could be the impeding factor for KPA staff due to low salaries. Another disadvantage to MEBO is the unevenly distribution of benefits where the firm has valuable assets and where the government charges low prices to insiders, thus realising low revenue. Employees may not bring in new level of skills and capital (World Development Report, 1996, 55). This does not favour MEBO as a mode of privatising a port.

Alternatively, the introduction of the so called employee stock ownership plans (ESOPS) where KPA employees could acquire loans at favourable terms at low tax concession to buy shares, with KPA being the guarantor could offer relief to the employees. Again this could be unattainable considering the fact that the government has introduced taxes to almost all staff benefits. The case of spreading taxes from salaries to car loans is a point to recall. Offering executives the option to purchase shares and reserving a certain amount of discounted stocks for employees is another alternative as suggested by Colin Kirkpatrick.

- **3.7.4. Sell of assets.**

Sale of assets is a radical approach to privatising the Port of Mombasa as it means changing the status of the port from service to a fully owned private port. The problem however is possibility of a private operator converting the port to better revenue earning activities especially when the port no longer becomes profitable as the case of some British ports (Shuo Ma, 1999). This can lead to the disappearance of the existence of the only Kenyan Port, thereby ruining the already tattered economy. Though the government would benefit from the sale of KPA assets, its future would hang in the balance.

- **3.7.5. Build-operate-transfer (BOT).**

In this situation, a private operator finances, builds and operates a terminal for a period of time. This is a form of concession. At the end of the concession period, the terminal reverts to the port authority. The port authority however retains some regulatory and supervisory role (UNCTAD, 1995, 142). The method proves unacceptable to terminal operators where short concession periods have been granted since return on investment may not be achieved. In essence it is not a common method of privatisation used by ports as the risk entirely lies with the private operator.

The current trend however is that private operators are willing to build and operate their own terminals, for instance Maersk Lines build Salalah Port in Aden in 1998. A trend that gives a warning to inefficient public ports which risk encountering stiff competition from private shipping lines cum terminal operators. In reality, KPA would find difficulties in getting private operators willing to undertake such risky investment especially where the authority still retains some regulations. Nevertheless, the authority would have less commercial risks, as it will not have invested anything.

- **3.7.6. Joint venture.**

A common method of privatisation used entirely by all types of enterprises. It involves the partnership of a port authority with another in sharing commercial risks and benefits. Under normal circumstances, the method involves a foreign partner who would provide capital and know-how meant in operating a terminal.

The types of joint ventures are:

- **Contractual**. It involves a temporary or single purpose arrangement, for instance experimental operations that would lead to a full-fledged joint venture.
- **Equity arrangement.** A jointly owned and managed port formed to undertake commercial activities (UNCTAD, 1995, 81).

Proposing a joint venture for KPA would revolutionalise the badly depilated operational handling activities of Mombasa Port where new input would be provided by the foreign operator, for instance capital, new technical and management know how. The system nevertheless would expose Mombasa Port on a better interport competition as result of the joint venture.

Joint ventures of ports however are not commonly practised as the United Nations Conference on Trade and Development (1995, 82) notes: 'the reason for this is that private investors often favour setting up new venture rather than participating in an established public enterprise, especially if it has been unprofitable'. In the port industry this may not be true in view of the fact that most ports make profits. The on going negotiations between the Ports of Malmö and Copenhagen fronting for a joint venture will show whether the system is commendable for other ports to venture into or not. Though KPA'S Mombasa Container Terminal went into a joint venture with the Port of Felixstowe which was a failure that saw the exit of the latter when the targeted productivity could not be achieved, an enabling environment such as the provision of facilities and political will could make joint venture a success.

3.8. Conclusion.

After analysing all the possible solutions for restructuring Kenya Ports Authority, we have to select the most suitable method that will be tailor-made and adaptable to the Kenyan environment. The important question to ask is, which is the main criteria to take into account in selecting the appropriate solution? This will be suggested in the concluding chapter ahead.

Meanwhile, a factor that should not be ignored at this stage is the traffic level passing through Mombasa Port. The yearly average of 200,000 TEU'S and 8 million tonnes of general cargo with a large chunk composed of crude oil handled, would be unrealistic inviting more than one terminal operator during the privatisation process since no gainful return on investments would be achieved. The traffic niche is still very low for many operators to share and achieve any terminal handling profits.

CHAPTER 4

PORT REFORM.

Port reform is not privatisation as the former deals with leasing out non-core services of the port to private operators for a specific period while maintaining its status quo of either a landlord or tool port. The latter involves the sale of public assets, according to Alexander Lijster an expert in port privatisation at the Municipal Port of Rotterdam.

4.1. Objectives of port reform.

The first optional approach for Kenya Ports Authority to undertake in transforming its services, depending on its objectives, is port reform a concept that the managing director Lenny Mwangola has acknowledged will be used to deregulate the Port of Mombasa, otherwise, privatisation should be the last resort. Alexander Lijster of the Municipal Port of Rotterdam argues that most ports in the world have adapted port reform instead of privatisation and have managed to achieve their desired goals. Among the *objectives* of port reform which are bound to set precedence for KPA are:

- To introduce flexibility and decision making capacity in a changing transport environment, hence eliminating government interference in managing the Port of Mombasa.
- To reduce/ eliminate restrictive labour practices. This will foresee lesser role played by the giant Dock Workers Union always which has been in the forefront safeguarding workers rights irrespective of their performance standards.
- To transfer the risk of the development of technology in the form of equipment, management and information system especially for the Mombasa Container Terminal and general cargo handling equipment that needs massive capital input.

Port reform involves the following *options,* according to Alexander Lijster:

1. Improvement of the port administration where KPA would approach a flatter system of organisation, thereby necessitating the reduction of its current 7440 employees to a manageable size. The aim is to cut labour costs in place of investing in technology for efficient productivity.

2. Liberalisation (introduction of competition)

3. Commercialisation, which entails:

- Contracting out (non-core of the business activities)

- Leasing

4. Corporatisation (privatisation without change of ownership)

Meanwhile, the fact that the objective of KPA is to undergo port reform, other alternatives the authority could apply, systems which have been used by other ports in the world, (already discussed in the previous chapter) is to privatise through:

- Public offer
- Private placements
- Management employee buyout (MEBO)
- build-operate-transfer (BOT)
- Sale of assets
- Joint ventures.

4.2. Global perspective.

Privatisation of public utilities is a vexed issue. The process was started in the developed market economies with Britain pioneering under the initiation of Prime Minister Margaret Thatcher. However, in the 1980's, big numbers of developing countries joined in the fray with Latin America being in the forefront followed by the rest of the developing world.

Though Britain was in the forefront, having disposed many big firms in the 1980's it is no longer the biggest privatiser today. France raised an average of $5.4 billion a year from proceeds, unlike Britain's $4.8 billion and Australia $4.7 billion from the period 1992-96. Of late, global value of privatisations has risen steadily since 1990, when it totalled $30 billion, to $88 billion in 1996. Non OECD countries have raised privatisation revenue from 17% in 1990 to 22% in 1996 (The Economist, 1997 March).

Fig. 9. Global privatisation proceeds.

Source: OECD.

The sell of assets in 1995 in the developed countries between 1988-93 yielded $175 billion in revenue. The same period witnessed the developing countries account for 57% by value of privatisation with Latin America and the Caribbean region leading in the privatisation programs. Sub Saharan Africa, the Middle East and North Africa had a minimal share of total privatisation. Revenue received from the developing countries as of 1992 was $29 billion as figure 10 below shows.

Fig. 10. Growth of privatisation in developing countries.

Source: Privatisation principles and practises (1995).

The most *preferred method* in the disposal of public enterprises in these countries was **direct sales** which accounted:

- 81% of transactions
- 58% of revenues.

Public offer sales accounted.

- 12% of transactions
- 39% revenue.

Concessions, Joint ventures and management buy-out all accounted:

- less than 2% of all transactions and total revenue.

Notable reasons for the governments shift in privatising their firms was the attitude that the private sector has greater liquid resources than the governments and offers a fresh management and marketing attitude to the entrenched bureaucracy of government and parastatal management.

In Europe, America, Asia and even Africa, governments happily welcomed and supported the need for private sector management of public enterprises to balance the past development efforts. This is because, as Robert Daniel (1996, 6), a privatisation consultant in Kenya's Executive Secretariat and Technical Unit (ESTU) argues:

> The governments of the world are no longer able to fund these entities in their present guise of inefficient featherbed enterprises, creating employment for political or personal purposes.

Governments especially in the developing countries are no longer capable of sustaining the living standards of their people since their coffers have gone bust. The need to sustain and provide health services, education, infrastructure to their populations is a thing of the past as their budgets are overstreched and scarce due to new lending procedures from the major financial donors, mainly the World Bank, IMF, IFC. who insist on good governance, transparency and accountability of funds, a thing many countries find hard to oblige.

According to the International Finance Corporation, worldwide statistics reveals that government managed parastatals have only half the return on capital that private corporations attain. Profits enable reinvestment and without reinvestment, growth can not be achieved in any company. Though this may not be applicable to KPA as it is a strategic profit making parastatal boosting the government coffer, there is need to increase its financial base even further.

The statistics further reveals that labour productivity in state owned industries was almost 40% lower than in private sector. While a public corporation has the tendency to overspend on the wrong order of priorities, taxing viable business's capital requirements creates further heavy losses where private enterprises are willing to finance such business's while continuously paying taxes to the government. Indeed KPA has been caught in the web of wrong priorities as Jonathan Mturi, the Managing Director of Kenya Shipping Agency critically argues when KPA invested in 3 inland container depots, namely Embakasi (Nairobi), Kisumu and Eldoret while overlooking the replacement of basic vital equipment like folklift trucks and reach stackers badly needed in the port operations.

Third world countries lack financial strength to provide the required services for instance, shortage of capital for the development and expansion of ports as the ports are not independent because their profits are not kept by them but are taken by the government.

4.3. Regional aspect.

On the regional aspect of privatisation, Mozambique was the first African country to embrace comprehensive private sector management of national waterfront industries. This saw port reform undertaken at the port of Beira and Maputo container terminal with the latter leased to Cornelder, a Dutch terminal operator.

While the exercise of reforming public enterprises is commendable in the Mozambique case, its sales however earned very little amount at $300,000 per privatisation by the year 1996 reflecting a change from a Marxist government to a free market economy. Kenya on the contrary was leading in the number of privatisation in Sub Saharan Africa. It had higher earnings amounting to KSh. 10 billion ($175 million) by June 1996 in gross proceeds from privatisation. This was next to the oil giant's Nigeria and Ghana.

Why privatisation in Kenya has remained in course without major hitches, as Samuel Nduati (1998) a business writer with the Daily Nation newspaper argues:

> Is that the Nairobi Stock Exchange and the *pre-emptive rights clause* systems are the main privatisation tools applied with *public listing* being the most popular for ensuring that the shareholding is wide spread as possible.

Applying pre-emptive rights in privatising KPA could create controversy as it entails ownership restriction to a few individuals.

The privatisation of Kenya Ports Authority or rather reforming the Port of Mombasa has come under heavy criticisms from the local Coast politicians where the utility is based. Fears are rife that such an undertaking will greatly erode the region's unemployment rate as the port is regarded the major source of employment and revenue for the Coast region. This derailment to privatisation however appears to have come too late with 240 companies having already changed hands. As Samuel Nduati (1999) adds:

> Kenyan members of parliament have only come in the privatisation process when it is too late or to try and de-rail privatisation as was evident in parliament recently when the privatisation of Kenya Reinsurance Corporation came up but the motive appeared to de-rail rather than address fundamental business issues.

The need to check whether the objectives of privatisation have been met or deviated from what the government had in mind and whether the government objective of ensuring as many enterprises as possible for disposal remained in the hands of indigenous Kenyans is actually applicable. And whether the mandated body, executive secretariat and technical unit (ESTU) is performing its duties effectively.

4.4. National view.

The concept of privatisation and public enterprise reform is relatively rather new in the Kenyan context. It caught the government unawares on whether the system was suitable and workable in Kenya with regard to the high number of its unemployed, which has an annual increase of 500,000 potential labour force. Misconception of the meaning and manner of approach to privatisation caused a lot of suspicion, mistrust and fear from both quarters, the employed and unemployed.

4.4.1. Misconception on privatisation.

Jobs in public corporations were no longer considered offering security of employment tenure but a threat to people's survival in Kenya. Private sector had been seen providing few jobs without job security. In the public sector, rarely could sacking take place, as political patronage was a guarantee to keep ones job. Moreover, they continued to offer places on mass employment without considering their financial position.

Such attitudes and lack of awareness about the challenges and benefits of privatisation brought about the slow implementation of privatisation in Kenya. Those entrusted to oversee the process of reforms were perplexed on the whole idea. The government's unwillingness to loose control of these corporations was perceived on the context that they were safe heavens for mass employment. Jonathan Mturi, the Managing Director of Kenya Shipping Agency and former Managing Director of KPA points out the resentment of privatisation from politicians that, 'Politicians see the port as a reservoir of jobs where their relatives, friends and supporters can be employed' (Mturi, 1998, iv). Indeed this is true considering the authority's large labour force of 7740 offering unacceptable low services.

The major Kenyan parastatals were regarded strategic as they were remitting to the exchequer huge sums of money in form of taxes to the government. The money enabled the government to meet and reduce its budget deficit among other obligations. No wonder the government's reluctance in privatising these strategic enterprises like Kenya Posts and Telecommunications (KP&TC), Kenya Ports Authority (KPA), Kenya Railways (KR) among others.

4.4.2. Shift to privatisation.

The wind of change globally in the reform of public enterprises where pioneering countries like Britain viewed these public utilities as no longer viable and strategic to governments. These utilities posed a burden by increasing budget deficit especially from the loss profit making corporations with the World Bank contention that parastatal losses are costing Kenya about $ 2 billion a year as they had to be bailed out by governments by pumping in money. Pressure from the donor agencies who had withdrawn aid to Kenya on conditions that had to be met by the government which included among others, the privatisation of state companies, the government had no option but to oblige and started the process of disposing off these public corporations.

4.4.3. Reforms in Kenyan public enterprises.

This saw the Kenya government in 1984 undertake to reform and restructure its state corporations. However, there was a slow pace of implementing the structural adjustment programs and privatisation of strategic parastatals during this year due to uncertainties on their effects. It was not until November 1991 that the government decided to implement what was called a comprehensive **public enterprise reform programme (PERP)** due to pressure from the World Bank.

4.4.4. Formation of Parastatal Reform Programme Committee (PRPC).

The president of Kenya Hon. Daniel Toroitich Arap Moi appointed a high level policymaking body called the ***Parastatal Reform programme committee (PRPC)*** under the chairmanship of the Minister for Finance. Other members incorporated in the PRPC include cabinet members of parliament and private sector appointees all nominated by the president.

4.4.5. Functions of PRPC.

The functions of the Public Enterprise Reforms are:

- Enhance the role of the private sector in the Kenyan economy by shifting more responsibility for production and delivery of products and services from the public to private sector.
- Reduce the demand of public enterprises (PE) on the exchequer so as to improve the use of Kenya's scarce resources.
- Reduce the role and rationalising the operations of the public sector enterprises.

- ❖ Improve the regulatory environment by selecting more economically rational means of regulation. This means, the separation of the regulatory and commercial functions of public enterprises.

- ❖ Broaden the base of ownership and enhance capital development in Kenya (The role of the media and trade unions in privatisation process in Kenya, 1996).

Though point 2 may not be applicable to KPA as it remits huge corporate taxes to the government instead, the other points are indeed applicable.

A secretariat to the PRPC is the **Executive Secretariat and Technical Unit (ESTU**) which *manages, co-ordinates* and *implements* the divestiture programme after approval by the PRPC.

4.4.6. The Executive Secretariat and Technical Unit (ESTU).

The Executive secretariat and technical unit (ESTU), was established as an autonomous executing agency, far from any government or political interference. This may prove to be unrealistic given the fact that any recommendations done by ESTU have to be scrutinised and approved by PRPC which unfortunately is composed of the government cabinet. Not all ESTU recommendations are automatically approved according to Patrick Mwangi, the media specialist of ESTU. This questions the integrity of ESTU operating as an autonomous body without interference from other quarters.

4.4.7.Functions of ESTU

The Executive Secretariat and Technical Unit carries the following functions:

- ❖ Formulate and recommend policies, procedures, programmes and operation guidelines for divestiture

- ❖ Prepare, with collaboration of holding companies, target list of candidates for privatisation for approval by PRPC.

- ❖ Prepare, with collaboration of the holding companies public enterprises for privatisation and monitor all technical privatisation matters undertaken by consultants including:

  - ➢ Valuation,
  - ➢ Selection of optimal privatisation methods and sales technique,
  - ➢ Preparation of prospectus or offering memorandum,
  - ➢ Elaboration of marketing plan,
  - ➢ Identification of finance options
  - ➢ Organise bidding process, receive, evaluate offers and proposals and prepare recommendations to PRPC.
  - ➢ In collaboration with Capital Markets Authority (CMA), carry out all activities required for public issues of shares including appointment of intermediaries, lawyers and accountants.

4.4.8. The Department of Government Investment and Public Enterprises (DGIPE).

The Department of Government Investment and Public Enterprises (DGIPE) based in the Treasury is another agency that plays a fundamental role in the public enterprise reform programme. It is specifically assigned for the *restructuring of strategic parastatals* in Kenya numbering 33 in total.

4.4.9. Activities of DGIPE.

- ♦ Representing Government of Kenya’s ownership functions with regard to public enterprises and other investments in all sectors
- ♦ Exercise oversight and leadership functions in setting majority owned public enterprises strategic objectives and ensuring that those objectives are met

- The task of designing and implementing the public enterprise process, centrally monitoring and supervising the performance of majority-owned public enterprises and monitoring all other enterprises
- Carrying out effective public enterprises debt management
- Controlling and ensuring public enterprise accountability for all budgetary allocations to public enterprises as well as funds by public enterprises to government of Kenya.

4.4.10. Conflicts of interest between ESTU and DGIPE.

While the two agencies ESTU and DGIPE functions can not be overemphasised, their establishment bone of contention may raise queries in the possibilities of overlapping in their activities. In essence, the government intention of drawing a distinction between strategic and non-strategic enterprises while disposing them off indicates the resourcefulness of the strategic corporations and the pain felt in loosing them. One independent body could oversee the disposal of both the strategic and non-strategic utilities.

4.5. Difficulties in Kenya's privatisation.

The comprehensive reform programme announced in November 1991 by the Kenyan Government undertook to divest its interest in the 207 public enterprises through a competitive and transparency process. To achieve this however, it needed political will. As Kenya's Attorney General Amos Wako (1996, 1) argues: 'privatisation implementation will be a difficult task and the implementing agencies will need to have sufficient institutional and political support to overcome many obstacles to change'.

4.5.1. Woes in Kenya's privatisation programme

Indeed transparency and competitiveness is a thorny issue during disposal of public assets. Cases of malpractice and dubious deals are not uncommon with the selling of assets to well connected political individuals in secretive manner. The public outcry in the disposal of Kilifi Cashewnuts Ltd as to why the firm could not have been sold to the farmers in Coast province on a co-operative sell out. Neither was the public aware of its disposal as it was never advertised nor listed at the Nairobi Stock Exchange (NSE) through the public share floatation. Hardly 5 years after its sale, the firm wound its operations late 1998. This shows abuse of transparency in disposing public utilities since the firm was secretly sold to unsuitable investors and underwent post privatisation mismanagement and monopolistic pricing. Cashewnuts were abundant and sold at disappointing low prices under monopolistic regulatory pricing. A kilogram fetched KSh. 19.00 ($ 0.25). After the collapse of the factory, the produce has seen better selling prices, a kilogram going over KSh. 35.00 ($ 0.5).

4.5.2. Pre-emptive rights.

The issue of pre-emptive rights has caused a lot of suspicion and attracted public debate where the participation of the indigenous Kenyans, farmers and employees have not been involved to participate in buying the enterprises for sale. As Amos Wako (1996, 1) the Kenyan Attorney General commented, ‘It has been alleged that transparency and competitiveness in the privatisation process is lacking’.

Ironically in neighbouring Uganda, transparency during privatisation was greatly abused. High level graft was sighted. Of the 230 privatised companies in Uganda, they only changed hands through offer of bribes for services that included connections to public utilities, licences, permits, taxes, customs and government contracts. The average bribery cost amount to Ugandan shillings 8.2 million per firm according to survey conducted by the European Union. The country was rated 5th among the 20 listed in the world for such notorious corrupt deals. Though such sentiments have not been expressed in the Kenyan scene, there is need for continuous monitoring of the ESTU body that was established to oversee the privatisation of Kenyan’s public enterprises lest it back trucks the Ugandan style.

4.6. Eligible port services for privatisation.

Eligible port services for reform at Kenya Ports Authority have been duly earmarked by the Kenyan Government. The process will take a rather slow pace as Lenny Mwangola (1998, ii) the KPA Managing Director said:

> I feel obliged to let the port staff know that the Government of Kenya has decided that private sector involvement should be introduced in some specific services of the port… and that the privatisation will be done in phases and in your best interest at heart…while the government's bold decision to reform the port is to enhance port efficiency and productivity.

Whether this will be achieved is yet to be realised.

4.6.1. Container terminal.

Port reform should start with the Mombasa container terminal. The Authority has to de-link and make it a non-core business. The current throughput of the terminal whose average is 200,000 TEU'S per year stands a low volume compared to giant ports like Singapore, HongKong, Rotterdam which handle 9 million, 9.20 million, 4.16 million TEU'S respectively (Containerisation International, 1994). Mombasa Container terminal has not fully exploited its maximum capacity of 8 million TEU'S despite the fact that container traffic has been gaining momentum for the past 5 years.

With the privatisation of the terminal soon where investors are obliged to have the capital for the investment of superstructure like new gantry cranes, reach stackers and rubber tyre gantries, a tremendous increase of container throughput can be registered with a target of 1 million TEU'S and above in a year.

4.6.2. Conventional cargo operations.

Operations in the conventional cargo are also in a state of inefficiency. The state of operating with aged shore cranes, forklift machines have hampered achieving productivity. The department has been handling on average annual throughput of 8 million tonnes whose capacity is still low.

The existence of malpractice in the department arising from claims due to theft of cargo in the port, pilferage and damages accompanied with long disputed settlement of these claims has created loss of confidence to port users as a result. Plans to privatise or reform the conventional cargo will minimise these problems if not eradicating them since the concept of sharing commercial risks with the private operator with a commercial oriented approach of operations will be the major focus.

4.6.3. Pilotage services.

Indeed pilotage and mooring services need to undergo reform. Such an opinion may be vested on the experiences of other ports in the world. For instance, the Port of Le Harve in France, Port of Malmö in Sweden, Malta Free Port and Port of Valleta both in Malta and Municipal Port of Rotterdam reformed these services on grounds that payment packages for pilots are heft and port authorities can no longer afford to be in their pay rolls. Indeed KPA is paying huge salaries for its pilots in order to retain them. The Authority could save costs by de-linking its pilots for the private company to cater for their costly package. Maintenance and repair costs for the pilot and mooring boats are high. The Authority should pass these costs to a third party. The 1994 go-slow by pilots where all the pilot boats were grounded within a fortnight should serve as a reminder as such cases have minimal effects when in the hands of private operators.

4.6.4. Oil terminal.

Shimanzi and Kipevu bulk oil terminals which handle crude and white (refined) oil respectively have all been leased to the operating oil firms in Kenya for instance, Caltex, Shell, BP who provide the superstructure while KPA maintains the infrastructure. This has reduced costs of manning and operating the facilities.

4.6.5. Health services.

KPA owns Bandari staff clinic for the treatment of its employees. Serious illnesses are referred to private hospitals namely Mombasa, Pandya Memorial, Agakhan hospitals. A colossal budget is spent on this medical facility. Since the service is not a core business, the most suitable method for the Authority to save costs in medical care is to private the clinic and consequently provide a reasonable ceiling amount of money for its employees to carter for medical care just like other companies do in Kenya , for instance, the Kenya Power lighting co., Society General Surveillance (SGS). Such a policy will further eliminate cases of drug theft at Bandari clinic taking into account that some cases are still pending in court.

4.6.6. Staff Housing.

The provision of housing 7,440 KPA staff needs to be abolished by selling the houses. The Authority further incurs losses in leasing houses to staff, as it has to offset the difference according to the market rate. Maintenance of the houses is also eroding company revenue. Selling the houses by giving first priority to employees would boost their morale however. Alternatively, staff should be paid a reasonable market rate house allowance.

4.6.7. Security services.

The KPA owned security department overseeing the safety of cargo has not been offering satisfactory services with cases of cargo theft at the Port of Mombasa being rampant as Jimmy Ngala of Development Services Department of KPA concedes. The cash reward by the Managing Director in late 1998 to two KPA employees in recognition for their vigilance in stopping stolen cargo from the port clearly manifests this. Though the department as enough manpower, thefts continue unabated. By contracting out the security service, commercial risk is spread to a vigilant third party. Though a nominal fee will have to be paid to the firm, the reward is enormous. Customers will have confidence in using the Port of Mombasa.

4.6.8 Bandari college.

Bandari College is the apex of offering in-house training to KPA staff and a few out-door courses. The large facility has entirely been cross-subsidised by the authority. In essence it should be commercial oriented by incorporating income generating courses for it be a revenue earner. Despite the fact that the college now offers certificate course in maritime and a diploma course in warehousing, clearing and forwarding, there is need to venture into more courses, otherwise it does not give logic to supplement such an institution that can be transformed into a revenue earner. Alternatively, the authority could privatise it to a viable investor since it does not generate enough income.

4.7 Conclusion.

With the myriad of problems in the various departments of KPA mentioned above, there is need for the authority now to become a landlord port. Activities that are cross-subsidised need to be faced out since they erode the authority’s revenue. For instance Bandari Staff Clinic, the staff housing and Bandari College. The college needs to be transformed into a fully commercial entity by incorporating commercial courses. Medical care should be replaced with a suitable medical package for all employees hence reducing the authority’s medical budget while providing a reasonable house allowance for housing.

By undergoing port reform, terminal handling operations and Pilotage services would lead to high productivity and efficiency of the port with the participation of private operators who have the financial capacity to invest in the expensive terminal handling equipment. However, The government should take maximum care in choosing the best method of privatising or reforming them.

CHAPTER 6.

SUMMARY AND CONCLUSION.

This concluding chapter will briefly highlight the problems that were touched in the main body of the research work with alternative recommendations on either to privatise Kenya Ports Authority, reform it or not to apply both features.

6.1. Problems.

The excessive external interference from the Government of Kenya in the management of Kenya Ports Authority that has witnessed constant reshuffling of the port authority's chief executives shows no security of tenure for this significant post, as a result, this has brought no meaningful planning and development of the Port of Mombasa. The authority witnessed the appointment of six chief executives for the past 6 years, with an average tenure of 18 months each. Indeed such a short-lived period can hardly bring any realistic strategic management of the authority.

The idea of not adhering to the KPA Act which brought about the legal establishment of the authority and advocates autonomous management of Mombasa has seen the Port being operated contrary to what the Act stipulates. The Board of Director's decisions are not independent but have influences from external forces. The Act therefore has become obsolete, as a result making the port to lag behind with its indecisive approach to modernisation.

The merger between KPA and its subsidiary the Kenya Cargo Handling Services Limited in 1986 leading to the default of the latter, which had been contracted to undertake cargo handling has created in what is now the poor performance of cargo handling currently witnessed. Had KCHS not been abolished, port efficiency would still be upheld, as there was the sharing of commercial risk and contractual business responsibility between the two bodies.

Frequent break down of aged gantry cranes and forklift trucks at the Port of Mombasa coupled with low productivity has led the port loose business to the neighbouring Tanzanian Port of Dar es Salaam as ships stay clear of the port opting to use Dar es

Salaam. Shippers and ship owners alike have sighted lack of unwillingness from the management in not addressing this problem, and are obliged to divert ships from the Port of Mombasa. Cases of persistent vessel congestion at Mombasa Port is not uncommon, making ship owners spend a lot in terms of port costs who are however quick to pass the losses to shippers by imposing vessel congestion surcharge (VCS). Consumers however face the brunt, while the Kenyan economy goes in tatters.

The pathetic condition of Kenya's infrastructure that has been aggravated by the 1997 El-Nino rains, has had an impact to the efficiency of Mombasa Port together with the backlog of containers brought about by Kenya Railway's inefficiency as they can not provide enough wagons to move containers into the hinterland. As a result, congestion at the port is felt with serious repercussions. This has led to a chain of reactions; skyrocketing of transport costs and consumer prices of goods while denting the performance image of the port and reducing the competitive age of Mombasa Port. Moreover, this has witnessed the hinterland landlocked countries the port has been serving, for instance, Uganda, Rwanda, Burundi and Eastern Democratic Republic of Congo diverting their shipments to the Tanzanian Port of Dar es Salaam as shippers in these countries can not afford the costs tied up to delays for cargo being held at Mombasa.

The high tariff applied at the Port of Mombasa has placed the port from not becoming cost leadership based in its marketing strategy. As a result therefore, major liners have diverted to Dar se Salaam Port, Tanzania. The tariff does not conform to the low productivity level of the port as it was set high to enable the port earn as much revenue as possible without putting into consideration other marketing tools like lowering it in order to attract more traffic.

The government's selection of the best possible mode of port reform or privatisation yet to be undertaken will prove a critical test as to whether it will offer the best result, something the author says 'at this stage is to adopt a wait and see attitude'. Precautions need to taken however, otherwise the process could end up in quagmire as Alexander Lijster warns, by arguing that the best model for a given port to choose depends on criteria's which have to be put into consideration. For instance:

- Status of development of the country concerned

- Financial resources
- Business environment and the risks involved
- Acceptance of the concept of privatisation on national level
- National 'culture' and attitude towards rendering of service
- Management capacity level.

Indeed these factors are very sensitive in the Kenyan context, and caution is needed while disposing KPA. Failure to that, then the objective of privatising the port would be a failure in the only Kenyan water front industry.

6.2. Recommended best possible solution.

In trying to amicable find a lasting solution to the myriad of problems Kenya Ports Authority is encountering, while it is acknowledged that most ports in the world have already gone privatisation while others have adopted port reform, the ideal situation for the Port of Mombasa is to seek a solution that is tailor-made to the Kenyan environment as the government is well placed in learning mistakes from other parts of the world that have privatised their ports. The idea is not to rush for privatisation simple because ports worldwide have adopted the trend. Privatisation should not be done as a fashion but looking for the best solution in managing ports.

Realistically, the author believes that there is no need to Privatise Mombasa Port. Had the KPA Act, which stipulates autonomous management of the port been adhered to, with the freedom of decision making reigning where managers become accountable, growth of the port would be realised, as it would be run on a commercial basis. The revitalisation of productivity and efficiency would be achieved. Indeed KPA could benchmark from the Port of Singapore Authority on how it has managed to be the efficient port in the world despite the fact that it is a public port. Although it is now going private, this is not contributed to inefficiency but the authority wants to invest abroad which involves amending its company policy.

Alternatively, while the government may think de-linking itself from interfering from the port activities could sound unacceptable, as it owns the port, the idea of introducing port reform would sound logical. It should consider port reform rather than privatising the authority as the latter will involve selling the only water industry national cake, most likely to foreign investors thereby denying Kenyans ownership. By reforming it, it means KPA becomes a landlord port authority which provides the infrastructure (paved terminals and deep-water access) while the operator provides his own superstructure (cranes and cargo handling equipment) (Alderton, 1999).

The ideal activities that should undergo reform are: Mombasa Container Terminal, general cargo services, pilotage, Bandari staff medical clinic, Bandari College and staff housing. Indeed stevedoring activities demand huge investment and considering the fact that the government can no longer sustain financing port development, the need for private operators to take charge of them as they have the financial capability.

While reforming Mombasa Port, **commercialisation** in form of **leasing** should be the most suitable method to apply. Leasing the container terminal and general cargo handling which are bloated with inefficiency and low productivity could greatly revamp them into commercial entities. The port authority would distribute the commercial risk while the government is assured of retaining ownership of the port. Improved performance and management during the lease time highly increases the port authority's competitive advantage in wooing more traffic in the East African maritime trade zone. Leasing rather than privatisation would put to rest the political anxiety currently being witnessed from all corners ranging from Kenyan politicians, the dockworkers union and locals who are opposed to the privatising of the port.

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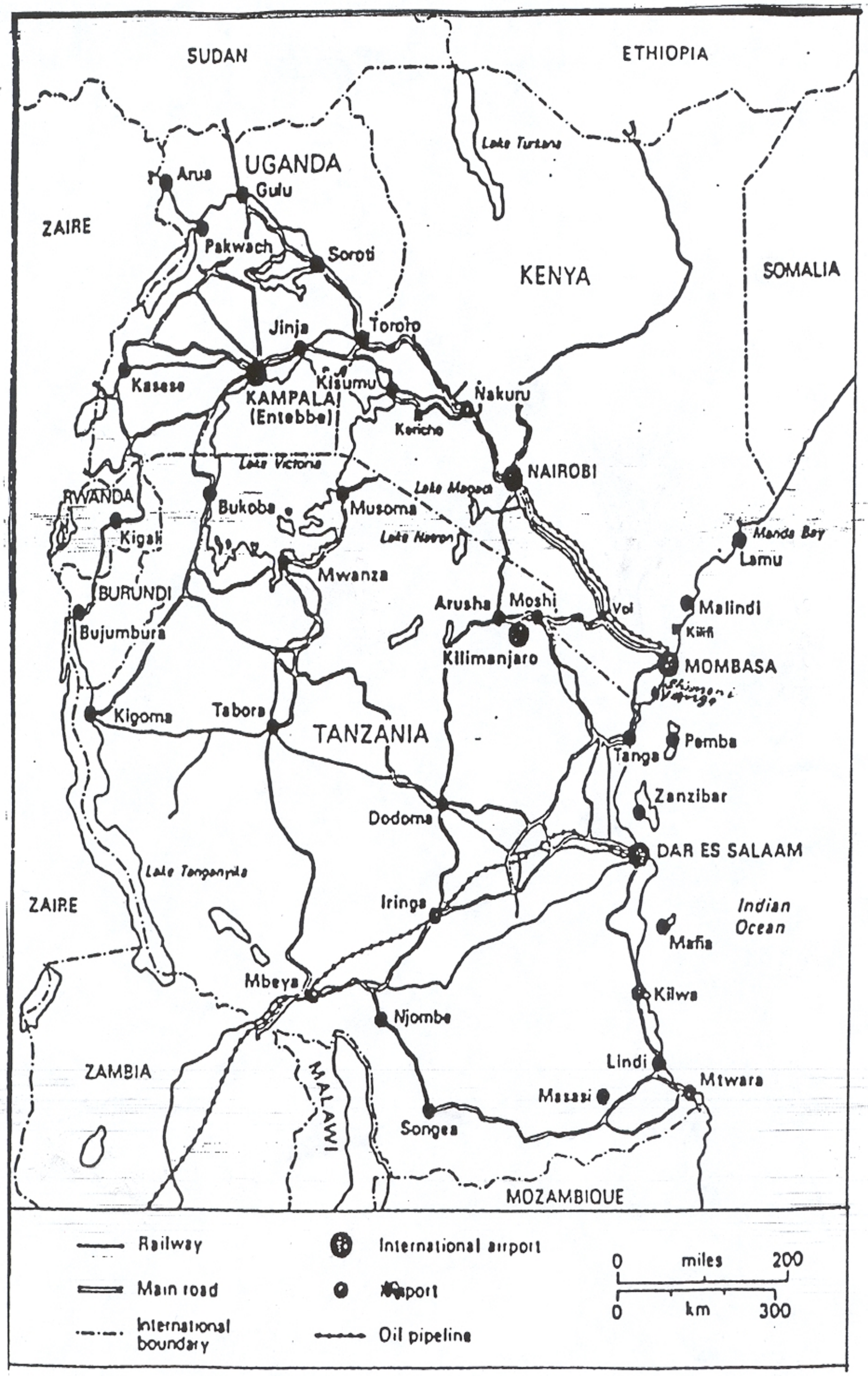
APPENDIX 1

Fig.1. Geographical location of Mombasa Port and its hinterland.



Source: B.S. Hoyle, Seaports and Development.

The Experience of Kenya and Tanzania, 1983.

APPENDIX 2

Table 3. Import and export throughput at Mombasa 1993-97 (000 DWT).

Commodity	1993	1994	1995	1996	1997
Imports					
Dry general cargo	2 310	2 611	2,825	2,625	3,482
Dry bulk cargo	410	1 319	519	797	1,430
Total Dry Imports	2,780	3,930	3,344	3,422	4,912
P.O.L in Bulk	2,149	2,496	2,437	2,474	1,425
Other Bulk Liquids	222	198	206	306	91
Total Bulk Liquids	2,371	2,694	2,643	2,780	1,516
Total Imports	5,151	6,624	5,987	6,202	6,428
Exports:					
Dry general cargo	1,208	1,197	1,520	1,774	1,322
Dry Bulk cargo	881	262	230	329	325
Total Dry Exports	2,089	1,459	1,750	2,103	1,647
P.O.L in Bulk	0	0	0	7	27
Bunker Oils	667	193	181	202	146
Total Bulk Oils	667	193	181	209	173
Other Bulk liquids	18	7	0	64	10
Total Bulk liquids	685	200	181	273	183
Total Exports	2,774	1,659	1,931	2,376	1,830
Imports & Exports					
Dry general cargo	3,518	3,808	4,345	4,399	4,804
Dry Bulk Cargo	1,351	1,581	749	1,126	1,755
Total Dry Cargo	4,869	5,389	5,094	5,525	6,559
P.O.L in Bulk	2,149	2,496	2,437	2,481	1,452
Bunker Oils	667	193	181	202	65
Other Bulk Liquids	240	205	206	370	101
Total Bulk liquids	3,056	2,894	2,824	3,053	1,618
Total Imports & Exports	7,925	8,283	7,918	8,578	8,258
Transhipment	72	62	55	116	184
Grand Total	7,997	8,345	7,973	8,694	8,442

Source: KPA Corporate Development Department.