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**Technical Note on the Review of Corridor Coordination
And Management Models and Proposed
Legal Model for Smart Corridors in Africa**



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Report on the Review of the Corridor Coordination and Management Models in Africa and Proposed Model

LIST OF ACRONYMS

AIDS	Acquired Immunity Deficiency Syndrome
ALCO	Abidjan Lagos Corridor Organization
AU	African Union
AUC	African Union Commission
CCTFA	Central Corridor Trade and Transport Facilitation Authority
CMI	Corridor Management Institution
CDCMI	Corridor Development Coordination and Management Institution
DCC	Dares Salaam Corridor Committee
EMC	Executive Management Committee
ICT	Information and Communication Technology
ITS	Intelligent Transport Systems
MCLI	Maputo Corridor Logistics Initiative
MoU	Memorandum of Understanding
NC	National Committee responsible for Corridor Development
NGO	Non-Governmental Organization
NSC	North South Corridor
PIDA PAP	Programme for Infrastructure Development in Africa Priority Action Plan
REC	Regional Economic Community
SADC	Southern Africa Development Community
SSATP	Sub-Saharan Africa Transport Policy Program
TKC	Trans Kalahari Corridor
TOR	Terms of Reference
TTCA	Trade and Transport Coordination Authority
TTFE	Trade and Transport Facilitation Expert
WAEMU	West African Economic and Monetary Union
WBCG	Walvis Bay Corridor Group
WCO	World Customs Organisation
WTO	World Trade Organisation
UEMOA	West African Economic and Monetary Union

FOREWORD

The concept of corridors in Africa started with transit corridors linking landlocked countries to sea ports as an economic lifeline through which imports and exports were channelled. Whilst with some corridors and in some regions the concept was later transformed into that of development corridors, most African corridors remain largely transit in nature and functionality. The basic rights afforded both landlocked and coastal countries are generally as defined in the Barcelona Convention and Statute on Freedom of Transit 1921 which enshrines the following rights:

- Freedom of transit for goods and persons.
- Right of landlocked countries to unimpeded access to and from sea ports.
- Right of coastal states to unimpeded access to landlocked countries.
- Right to negotiate market access and the above freedoms.

However the mere establishment of a corridor did not necessarily resolve or deal with the numerous impediments to efficient movement of traffic within the corridor. There remained a need to coordinate the development of such a corridor between the various stakeholders with inherent and often competing interests in the corridor. There arose a need to manage the identification of corridor constraints that were hindering the efficient movement of traffic and the implementation of agreed measures to address the constraints. It is this need that saw the emergence of Corridor Management Institutions (CMIs), amongst other various nationally based structures and organs, that were established variously using a variety of legal and institutional frameworks within a number of existing corridors in Africa. Their role was primarily an advocacy one. At the same time, a lot more corridors continue to exist and function without CMIs and face the same constraints.

In recent times, a new concept of smart corridors has emerged which emphasises on corridor development coordination and management of corridor infrastructure and trade and transport facilitation utilising Information Communication Technology (ICT) systems and Intelligent Transport Systems (ITS). Whilst current CMIs have met with varied degrees of success in attaining their objectives, none have fully embraced the new concept of smart corridors. This study therefore aims at harmonising and standardising approaches to the transformation of existing CMIs and establishment of new CMIs in the African Union (AU) into Corridor Development Coordination and Management Institutions (CDCMIs) within the smart corridor concept parameters.

The proposed Model Legal Framework for CDCMIs for the AU was crafted with minimal inputs from the key stakeholders at regional, corridor and national levels. It was largely a desk review based assignment taking into account the available literature and experiences of the consultant on the subject. The Terms of Reference (TORs) for the study however require that the proposed framework be presented by the consultant to the key stakeholders and concerned parties as determined by the African Union Commission (AUC) leading to a refined framework incorporating their comments and inputs.

In this regard, the consultant submits as part of this assignment report the Draft AU Model Memorandum of Understanding (MoU) on the Establishment of a CDCMI, together with all its Annexures, for validation by the intended stakeholders.

EXECUTIVE SUMMARY

This study is being undertaken as part of the Support to PIDA PAP for the start-up of smart corridor activities. The objective of the AUC in carrying out this study is to harmonise and standardise current varied approaches to establishment of CMIs by way of a model framework. The model is intended to be crafted from literature based analysis of existing CMIs, their strengths and weaknesses, global best practices and within the emerging new concept of smart corridors.

The traditional corridor is defined as a collection of routes linking several economic centres, countries and ports that serve the transit requirements of the corridor States whilst the smart corridor concept focuses on the development of quality infrastructure and logistic facilities that maximises on the use of innovative ICT systems and ITS as tools for trade and transport facilitation. The contemporary corridor management concept is thus much about getting stakeholders with varied and diverse interests to work together for a common objective and mutual benefit as it is about ensuring the development and maintenance of quality infrastructure and services within the corridor. It is also about defining the roles and responsibilities of the institutional structures and organs and sustainable funding.

Various legal frameworks hitherto used to establish CMIs include the MoU, Non-Profit Company, Constitution, Memorandum of Agreement / Multilateral Government Agreement and Management Committee under a Board of Directors (UEMOA). Each CMI established on the basis of these listed frameworks has its attendant strengths and weaknesses which are well articulated in the literature. Global best practice has also identified key elements to the success of establishment of CMIs and efficient corridor operations as being:

- The need for a single organisation whose purpose is to promote and coordinate efficient corridor development and operations.
- Existence of strong political/public sector and market/private sector support for the initiative.
- An organisation that provides a point of focus for stakeholder efforts and a forum for identifying major constraints on corridor performance and coordinate efforts to remove them (both hard and soft infrastructural and trade and transport facilitation constraints).
- An institution that provides a focal point to which development partners and contributing stakeholders can avail funds for identification of corridor efficiency constraints, corridor infrastructure improvements and maintenance, and related programs.

Key lessons that can be discerned from the existing corridor management arrangements for the successful establishment of CMIs can be summarized as follows:

- the need for the involvement of both public and private sector/civil society key stakeholders as mutual and equally represented partners.
- clear mandate (going beyond the advocacy role) of the CMI and definition of the roles of the various stakeholders that constitute the CMI.
- the need to identify and mobilize corridor champions, mostly private sector, with commitment to fund the corridor arrangements to their mutual benefit in the early stages of CMI establishment.
- the need for mobilization of donor funding support in the initial stages of corridor development and of CMI establishment.
- use of simple legal framework instruments that are equally binding, easy to conclude and amend in establishing the CMI.
- the need to focus on a few priority strategic issues at a time in order to unlock the full potential of the corridor.
- the need to take a broad perspective and willingness to address the multiplicity of cross – border issues and non – tariff barriers relating to transit within the corridor by the key stakeholders (both soft and hard infrastructural and trade and transport facilitation issues).
- the need for demonstrable benefits to corridor users in order to attract their commitment to funding the CMI and its corridor improvement initiatives.
- The need to use the “user – pay systems in the later stages of corridor development as an anchor for sustainable corridor funding in conjunction with diminished contributions from the earlier options.

It is within the context of the above outlined best practice elements and key lessons that the proposed legal framework is an MoU outlining the structure, roles and responsibilities of the various organs of the CDCMI, administrative and funding aspects. The model instrument proposes a single 3 – tier structure institution as follows:

- Regional level – encompassing appropriate organs of both the AUC and the REC Secretariat including appropriate representation of regional organisations and associations.
- Corridor level – comprising of a Committee of Ministers responsible for corridors, an Executive Management Committee composed of appropriate level representatives of both the public and private sectors, and a permanent Secretariat made up of professional and technical staff.
- National level – consisting of a National Committee constituted by various public and private sector stakeholders with interests in corridor issues.

For the CDCMI to be effective, the following strategic issues need to be clearly defined at the REC level:

- the balance between the various modes of transport within a corridor (especially between road and rail) in terms of sharing the corridor traffic.
- the anticipated levels of comparative investments into the various modes.
- allocation of responsibilities for the development and maintenance of the corridor infrastructure and facilities.

- the granting of reasonable levels of autonomy to the CDCMI by the corridor States.

The funding structure of the CDCMI shall be the key to its sustainability. The model legal framework proposes a combination of three options at the different stages of corridor development, viz.:

- grants and donations from corridor stakeholders, international cooperating partners and other interest groups especially during the formative stages of corridor development and CDCMI establishment.
- annual membership contributions from Corridor States and Corridor Champions in the formative and consolidation stages of corridor institutional development and CDCMI establishment.
- User – pay systems in the later stages of corridor institutional development as an anchor for sustainable funding in conjunction with diminished contributions from the earlier options.

A Financial Sustainability Funding Mechanism is included as an annexure to the Model Legal Framework for CDCMIs.

Main Report

1. *Background*

This review was undertaken as Component 2 of Lot 1 relating to the Support to the PIDA PAP for the start-up of smart-corridor activities which is part of a broader activity of support to the AUC Department of Infrastructure and Energy in transport policy harmonisation and transport services sector development funded by the EU. It aims at achieving, amongst others:

- improved corridor development coordination and management through implementation of best practices in infrastructure development and maintenance and trade and transport facilitation;
- reduction of transport costs through achieving corridor efficiencies by way of addressing non-tariff barriers within the corridor;
- start-up of smart corridor activities through the introduction of ICT systems and ITS to corridor processes, procedures and documentation; and
- effective monitoring of corridor performance through ITS and speedy institution of corrective measures as necessary.

2. *Addressing the Policy Parameters*

The Current Situation

Within the AU and in the context of the different RECs, transport corridors have been established in many forms for a variety of different objectives using a diversity of legal instruments. The approaches to the establishment of these key trade facilitation transport corridors have largely been uncoordinated even at the REC level let alone at the AU level. The result is that the success of the corridors in attaining their objectives and adding value to regional trade and national economies to date has largely been mixed.

In addition, not all transport corridors are legally defined nor have formal CMIs. The establishment of these institutions within a few of these corridors has often been largely done in an uncoordinated manner at both the regional AU and REC levels. A variety of legal instruments have been used to establish the CMIs which in practice have met with varied degrees of success in attaining their set objectives.

The Challenge

The current situation and approaches to corridor development coordination and management in Africa poses the challenge that whilst most of these corridors have consumed enormous national and other resources to establish, their impact on the national and regional economies has largely remained relatively insignificant. Not all

corridors have managed to accomplish the objectives for which they were set up and fully address the corridor inefficiencies and often high utilisation costs.

Development partners who have been in the forefront of the funding efforts to develop the corridors and institute CMI are seemingly becoming fatigued by the lack of sustainable results. The pressure has shifted on to the national economies to fund the corridor initiatives in competition to other national priority needs against the limited national resources. It has thus become imperative that an institutional and financial sustainability strategy for the establishment of CMIs coordinated at the regional level be crafted so as to fully harness the value from the establishment and operations of these transport corridors to the national and regional economies.

The Recommendation

Based on the above, there is need at the regional level to harmonise and standardize the current approaches to the development of transport corridors and establishment of CMIs in order to harness for both the regional and national economic benefit, the intended value from these corridors. It is within these policy parameters and regional objectives that the crafting of a model legal framework and funding model for a CMI at the AU level is being undertaken as part of the Support to PIDA PAP for the start-up of Smart Corridors activities. Such a model will be based on existing analysis of CMIs, their strengths and weaknesses and lessons learnt there from as discerned from a review of the literature, global best practice approaches where CMIs are in operation and any new concepts in transport corridor architecture that have recently emerged such as the smart corridor concept.

This paper should therefore be contextualised to these policy parameters and objectives. Necessary and unavoidable variations to the recommended model framework informed by unique circumstances and practical considerations relating to each specific corridor in implementation are without doubt to be expected and encouraged as no one size fits all. As a model framework, it provides broad principles and parameters within which idiosyncrasies and unique characteristics of each corridor must be taken into account in its application and inform any variations there from.

3. Overall Approach

The TOR required the Consultant to carry out the following tasks:

- a) Review all set-up legal frameworks for management of existing corridors from the existing literature.
- b) Analyse strengths and weaknesses of each established management organ including funding model as provided for in the literature.
- c) Propose a model legal framework and funding model for a CMI taking into account the objectives and characteristics of a smart corridor and fully

defining the roles and responsibilities of the various stakeholders involved such as member States, regional organisations, the private sector and civil society.

In carrying out the above tasks, the following literature was reviewed extensively and informed the drafting of the proposed model legal framework and funding model:

- PIDA Africa Transport Sector Phase III Report, in particular the sections covering functions / characteristics of a Smart Corridor and list of priority PIDA corridors.
- “A Review of International Legal Instruments: Facilitation of Transport and Trade in Africa” by the SSATP, Africa Transport Policy Program, March 2014.
- “Best Practices in Management of International Trade Corridors” by John Arnold (Poverty Reduction and Economic Management).
- “Institutional Arrangements for Transport Corridor Management in Sub-Saharan Africa”, SSATP Working Paper No. 86.
- “Trade and Transport Corridor Management Toolkit” by the World Bank, 2014.
- “Technical Report: Trans Kalahari Corridor Institutional Sustainability Study” by Dr Andrew MutabaMwali and Maggie Makanza, Southern Africa Global Competitiveness Hub, August 2008.
- “Study on Sustainable Funding of Corridor Management Institutions” by Godwin Punungwe, Southern Africa Global Competitiveness Hub, August 2008.
- “North – South Corridor: Institutional and Financial Sustainability Study” by Francis Chirimuuta, SSATP, June 2009 (as yet unpublished).
- Other documents as directed by the Trade and Transport Facilitation Expert (TTFE) including the legal instruments constituting CMI for the various corridors, the Inception and Progress Reports to this assignment and the definition of a Smart Corridor and its functions which was provided by the Project TTFE.

4. *The Smart Corridor Concept*

The SADC Protocol on Transport, Communication and Meteorology (1996) states its main strategic goal as:

“Integration of transport, communications and meteorology networks to be facilitated by the implementation of compatible policies, legislation, rules, standards and procedures, elimination or reduction of hindrances and impediments to the movement of persons, goods, equipment and services, ... the right of freedom of transit for persons and goods, the right of landlocked States to unimpeded access to and from the sea, ... the development of simplified and harmonized documentation which supports

the movement of cargoes along the length of the logistical chain, including the use of harmonized nomenclature.”¹

It defines a corridor in its Article 1.1 as:

“a major regional transportation route along which a significant proportion of Partner States or non – Partner States’ regional and international imports and exports are carried by various transport modes.”²

What is clear from the above strategic goal of the SADC Protocol and its definition of a corridor is that most corridors emerged conceptually as transit routes linking landlocked countries to the sea ports. With time, this transport corridor concept was transformed within some corridors into development corridors³ that were used as catalysts for national and regional development. However, there is no evaluation made of the success or failure of the development corridor concept in the literature reviewed nor is there an indication as to the extent to which the concept has been embraced in the various regions.

The concept of smart corridors has emerged of late and is intended to underpin the development of a model legal framework for CMIs for the AU. The definition of a Smart Corridor for purposes of the current assignment is as follows:

“A modal or multimodal surface transport corridor with quality infrastructure and logistic facilities, between two or more countries, used to carry intraregional and international cargo; the Corridor includes innovative Information and Communication Technology systems (ICT) and Intelligent Transport Systems (ITS) aimed at facilitating trade through simplification of transport administrative processes and providing real-time information to the key corridor stakeholders to monitor cargo clearance and movement.”⁴

A smart corridor entails the following characteristics:⁵

- Implementation of cross – border ITS equipment and technologies;
- Implementation of the WTO / WCO Trade Facilitation Tools;
- Implementation of REC agreed trade facilitation policies, laws, regulations, procedures and safety measures; and
- Implementation of quality transport infrastructures.

¹A Review of International Legal Instruments, Subregional Instruments: Eastern and Southern Africa, at page 176.

²As in footnote 1 above, at page 176.

³Trade and Transport Corridor Management Toolkit, Module 3, Institutional Arrangements for Corridor Management, at page 95.

⁴NTU, Smart Corridor definition and characteristics, v2.2, November 2015 (as provided by the TTFE), at page 1.

⁵As in footnote 4 above, at page 1.

5. *Approaches to Corridor Management*

The literature review reveals that there are two approaches to corridor management. The first approach as was used in the Northern Corridor is one whereby the same legal instrument that created the corridor also created the CMI. The second approach is one whereby a different instrument creates the CMI for an already existing corridor as was the case with the TKC. In the context of the AU model framework, the assumption is that these corridors are already physically in existence and what is required are legal instruments that establish and define these corridors and create the CMIs for those corridors where CMIs are deemed necessary.

However, what is of a greater importance as observed in the literature review⁶ is that given the multiplicity of the stakeholders with an interest in the corridor, functional institutional arrangements are critical for the proper coordination of activities within a corridor. This corridor management concept is as much about getting the various stakeholders with varied interests to work together for a common objective as it is about ensuring that the corridor infrastructure and services are operational⁷. It is also about a clear definition of roles and allocation of responsibilities to the various institutional structures and sustainable financing of the CMI.

6. *Review of Legal frameworks establishing CMIs*

Various legal frameworks have been used to constitute CMIs where these have been put in place. A review of these legal frameworks reveals that these include:

- a) ***Memorandum of Understanding*** – used for the TKC, Trans Caprivi, North South Corridor (yet to be concluded).
- b) **Non – Profit Company** – used for the Maputo Corridor.
- c) ***Constitution*** – used for the DCC which is being currently amended through a proposed MOU.

⁶Trade and Transport Corridor Management Toolkit, Module 3, Institutional Arrangements for Corridor Management, at page 93.

⁷ This is a fundamental new principle and concept being fostered on transport corridor development coordination and management through the smart corridor concept. To date CMIs have largely been advocacy entities focusing on the soft aspects of trade facilitation and leaving corridor infrastructure development to the corridor States. The new thinking is that CMIs or CDCMs, should take the lead in identifying, through economic analysis and policy guidelines, corridor infrastructural requirements in terms of both the provision, maintenance and mobilization of resources for corridor infrastructural improvements working closely with corridor States and oversee the implementation of the corridor infrastructure, which might not necessarily be of the highest priority at the national levels.

- d) ***Memorandum of Agreement / Multilateral Government Agreement*** – used for the Northern Corridor, Central Corridor, Addis Ababa – Djibouti Corridor (planned).
- e) ***Management Committee under a Board of Directors and supervised by the WAEMU Commission*** – a body made up of equal representatives of the public and private sectors used for the joint management of all the corridors established within the UEMOA region.

The literature reviewed⁸ indicates that the MOU is the most commonly used legal instrument/framework to establish CMI. Each framework used has its attendant strengths and weaknesses that were identified and fully articulated in the literature reviewed⁹. It should however be noted that most of the weaknesses that were identified with respect to these frameworks when they were initially crafted have since been addressed in many ways. No further evaluation of the strengths and weaknesses of the CMI has been carried out since the efforts to address the identified weaknesses. To this end, the strengths and weaknesses of each framework as highlighted in the literature reviewed are largely historical and may not have a bearing on the current successes or failures of these CMIs.

What is however clear from an analysis of the literature is that the success or failure of a CMI in achieving its objectives is not necessarily predicated on the legal framework constituting the CMI but rather on the mandate, structure and institutional arrangements (including roles, responsibilities and commitment of the various stakeholders) of the CMI. Global best practice in corridor management has identified some key elements to success in corridor development and efficient operations and establishment of CMIs¹⁰, namely:

- a) The need for a single organisation whose purpose is to promote and coordinate efficient corridor operations and development.
- b) Existence of strong political/public sector and market/private sector support for the initiative.
- c) An organisation that provides a point of focus for stakeholder efforts and a forum for identifying major constraints on corridor performance and coordinate efforts to remove them (both hard and soft infrastructural and trade and transport facilitation constraints).

⁸SSATP Working Paper No. 86, Institutional Arrangements for Transport Corridor Management in Sub – Saharan Africa, Legal and Institutional Frameworks, at page 22.

⁹SSATP Working Paper No. 86, Institutional Arrangements for Transport Corridor Management in Sub – Saharan Africa, Review of Existing Corridor Management Arrangements, Box 1, Apparent Strengths and Weaknesses of Existing Corridor Management Groups, at page 20, extract herein included at Annexure A.

¹⁰Best Practice in Management of International Trade Corridors, Four Management Structures, at page 18.

- d) An institution that provides a focal point to which development partners and contributing stakeholders can avail funds for identification of corridor efficiency constraints, corridor infrastructure improvements and maintenance, and related programs.

Given the above, the key lessons that can be discerned from the existing corridor management arrangements for the successful establishment of CMIs can be summarized as follows:

- the need for the involvement of both public and private sector/civil society key stakeholders as mutual and equally represented partners.
- Clear mandate (going beyond the advocacy role) of the CMI and definition of the roles of the various stakeholders that constitute the CMI.
- the need to identify and mobilize corridor champions, mostly private sector, with commitment to fund the corridor arrangements to their mutual benefit in the early stages of CMI establishment.
- the need for mobilization of donor funding support in the initial stages of corridor development and of CMI establishment.
- use of simple legal framework instruments that are equally binding, easy to conclude and amend in establishing the CMI.
- the need to focus on a few priority strategic issues at a time in order to unlock the full potential of the corridor.
- the need to take a broad perspective and willingness to address the multiplicity of cross – border issues and non – tariff barriers relating to transit within the corridor by the key stakeholders (both soft and hard infrastructural issues).
- the need for demonstrable benefits to corridor users in order to attract their commitment to funding the CMI and its corridor improvement initiatives.
- The need to use the “user – pay systems in the later stages of corridor development as an anchor for sustainable funding in conjunction with diminished contributions from the earlier options

7. Proposed Legal Instrument and Institutional Framework for the Model CDCMI:

a) Legal Instrument

The proposed legal instrument constituting the CDCMI is the MoU on the assumption and understanding that the instruments constituting the various corridors are already in place. Where such instruments are not in place or where new corridors are being constituted, it is recommended that the instrument constituting the corridor be separated from the one constituting the CDCMI for ease of administration of the issues relevant to each aspect. Besides, the establishment of a corridor may not necessarily require or justify the establishment of a CDCMI from the onset. The legal instrument

constituting the corridor should define the objective of the Corridor States in constituting the corridor and the principles on which the corridor shall be operated. On the other hand the legal instrument constituting the CMI should seek to outline the structure, roles and responsibilities of the various organs constituting the CDCMI, administration and funding aspects of the CDCMI.

The rationale for proposing the MOU as the legal instrument that should be utilized for constituting the CDCMI apart from it being the most utilized currently is that it is a fairly loose legal arrangement that allows for flexibility in its implementation but is equally binding in terms of its legal obligations. Given the multiplicity of stakeholders with varied and vested interests in corridor issues, such flexibility in implementation allows for accommodation and mutual compromise between the parties that would otherwise not be possible with other potential legal instruments as aforementioned in current practice. An MOU has also been known in current practice to be amenable and easy to change or amend given practical considerations informed by changes in the fundamentals of the environment and strategic interests of the stakeholders¹¹.

b) ***Institutional Structure of the CDCMI***

It is proposed that the CDCMI structure be three – tiered as follows:

- **Regional Level** – This comprises the AUC and the REC Secretariats with responsibilities for continental/regional corridor policy definition, harmonization and co – ordination, advisory services, information depository and dissemination services especially with respect to best practices and successes being registered in specific corridors, resource mobilization at the regional level for specific individual corridor investments and improvements, etc.

With respect to membership and reporting lines, it is proposed that existing organs/departments dealing with issues relating to transport corridors, infrastructure and trade at both AUC and REC levels be mandated to take up the roles and responsibilities assigned in the legal instrument. Relevant regional private sector and civil society associations are incorporated into these existing organs/departments. There would thus be no need to create any new organs at the regional level and thereby no extra funding requirements would arise. The AUC would channel its support to the corridors through the RECs.

¹¹This analysis and conclusions are based on the Consultant’s practical experience in the utilisation and application of the various legal instruments in both general legal practice and specialised international legal frameworks usage.

- **Corridor Level** – This comprises three organs namely the Committee of Ministers, the Executive Management Committee and the Secretariat. The Committee of Ministers will be constituted by the Ministers responsible for transport corridors of the Corridor States and will be responsible for setting out the policy parameters at the corridor level within the policy guidelines set by the AUC and RECs and also supervise the EMC.

The EMC shall be constituted by the Permanent Secretaries or equivalent designations of the Ministries responsible for corridors in the Corridor States, representatives of the Corridor States private sectors/civil society and those of the REC and regional transport and trade facilitation institutions. This is the organ that will be responsible for implementation of the policy decisions and ensures the corridor achieves its objectives by coordination of all development activities on the corridor aimed at addressing both infrastructural and policy constraints to efficient corridor operations. It reports and accounts to the Committee of Ministers on its activities and supervises the Corridor Secretariat. In carrying out its roles and responsibilities, the EMC may constitute under it ad hoc sub – committees or technical work groups to deal with and advise on specialized aspects of the corridor such as corridor infrastructure development, trade and transport facilitation, legal and economic or financial issues.

The Secretariat shall comprise of suitably qualified professionals appointed by and accountable to the EMC as a permanent organ with responsibilities for representing the CDCMI, promoting the corridor, monitoring the performance of the corridor and taking the lead in initiating and coordinating measures to address both soft and hard infrastructural constraints as directed by the EMC and providing assistance to the Corridor States in the implementation of the objectives of the CDCMI. It also provides administrative support to the EMC and Committee of Ministers.

- **National Level** – This shall comprise a multi – stakeholder corridor committee of both the public and private sectors/civil society with an interest in the corridor to be set up by each Corridor State. The corridor committee shall be responsible for implementation of the decisions of the EMC at Corridor State level and be the focal point for all activities within the corridor. The NCC will also be a lobby group for appropriate policies at national level for the benefit of corridor efficiency. Each stakeholder in the NCC shall have access to its parent Ministry or institution for reference, guidance and support.

8. *Issues to be Addressed*

At the regional level, there are some fundamental strategic issues that need to be addressed and clearly spelt out with respect to each of the corridors established especially where such are multi – modal corridors for the CDCMI to be effective. These include the following:

- a) Modes of transport within a corridor tend to compete for traffic more than being complementary to each other. It is therefore imperative that the CDCMI should be clear of the intended balance between the various modes in terms of sharing the corridor traffic based on market forces.
- b) Depending on the state of development of each mode in a corridor and the intended balance of traffic sharing between the modes, there is need to further determine and clearly spell out the level of investment of available resources into the various corridor modes in order to optimize on the intended balance.
- c) Corridors require constant development and maintenance of infrastructure and systems that serve both the regional requirements and national usage. It is therefore in this context imperative to clearly define and allocate responsibilities for corridor development and maintenance where such is shared between the CDCMI and the Corridor State. The dynamics of alignment of the regional thrust (both AU and REC) to each Corridor State's national interests would need to be carefully navigated and clearly spelt out for the CDCMI to manage.
- d) For it to be effective, the CDCMI requires some reasonable levels of autonomy that must seek to strike a delicate balance between Corridor States' national interests and regional requirements. Without such functional autonomy of decisions and actions, a CDCMI can easily be hamstrung by endless referral of issues for consultation with Corridor States. Complete autonomy may also fail to give due regard to sensitivities of critical national interests and priorities which may create disharmony between the key stakeholders.

At the corridor and national levels, the issues that may need to be addressed depending on the level of development of each corridor may include the following categories:

- e) Infrastructure
 - development of the railway mode of transport in order to achieve an optimal balance with the road mode of transport by way of provision of safe and secure infrastructure, reduction of transit times and availability of

rolling stock, harmonization of customs and immigration procedures and documents, pre – clearance of goods at source, etc.

- development of general infrastructure and corridor user facilities along the corridor including dual road lanes and railway lines with common engineering standards, alternate ports, rest, health, insurance, banking, storage, fuel, vehicle recovery and repairs and similar facilities.
- assisting national resource mobilization efforts for the development of necessary infrastructure within the Corridor.

f) Trade facilitation / ICT / ITS

- streamlining of border control operations in respect of the one – stop border concept, infrastructure, systems and procedures, facilities for inspection, transit requirements and standards, congestion and staff ratios, security, operating hours and availability of power supplies together with efforts towards the formation, strengthening and coordination of the activities of inter border committees
- streamlining of transit check points in order to standardize overload control procedures, standards, equipment and security.
- expansion and streamlining of port operations in order to reduce delays due to congestion, introduction of a scheduled shuttle service, reduction of port handling costs and the increase of security of goods measures.
- mobilization of critical stakeholder support and involvement in corridor issues with defined responsibilities intended to build strong and effective stakeholder networks.
- creation of full ICT / ITS coverage within the length of the corridor to allow for electronic inspections and monitoring of traffic, integrated cargo tracking systems and uninhibited data and telecommunications services in the context of the smart corridor concept.
- institution of appropriate maritime safety, security and pollution control measures that comply with international standards as contained in various international conventions and protocols.
- rationalization of the cabotage and 3rd country rule in its application.
- enhancement of corridor risk management systems and measures through risk profiling, accreditation and streamlining the work practices of transporters, freight forwarders and clearing agents.
- setting up of an effective corridor institutional framework that encompasses corridor performance monitoring systems for checking on decision implementation, ensuring efficiencies, mapping of the corridor in respect of volume of goods, types, capacity and turnaround times.
- streamlining bureaucracy particularly at border posts and changing attitudes of officials from that of being border controls oriented to being trade facilitation agents through appropriate training programs.

g) Legal / Regulatory

- harmonization of procedures, documents and standards including customs and immigration procedures and documents, corridor user charges, overload control procedures and standards, taxes and permit costs and description of goods and applicable tariffs.
- coordination of stakeholder efforts for the eradication of corruption at transit check points by introducing self – regulatory traffic management systems and education of corridor users as to the regulatory requirements and controls within the Corridor.
- harmonization of regulations and procedures for transportation of hazardous goods and movement of abnormal loads.
- harmonization of driver training, testing and licensing systems and standards.
- designing of simple measures to overcome language barriers through standardization of traffic control rules, signals and traffic signs.

h) Economic/Financial

- development and implementation of bond guarantee schemes that allow for a common card system.
- assisting national efforts in the fight against HIV and AIDS by advocating and implementing containment measures within the Corridor.

9. *Funding Options for the CDCMI Secretariat*

What is clear from the literature review¹² is that a variety of funding options have been explored at various stages of corridor institutional development and establishment of CDCMIs. These options in the main include:

- a) grants and donations from corridor stakeholders, international cooperating partners and other interest groups especially during the formative stages of corridor development and CMI establishment.
- b) annual membership contributions from Corridor States and Corridor Champions in the formative and consolidation stages of corridor institutional development and CDCMI establishment.
- c) User – pay systems in the later stages of corridor institutional development as an anchor for sustainable funding in conjunction with diminished contributions from the earlier options.

¹²TKC Institutional Sustainability Study, Funding Options, SA Trade Hub, August 2004, at page 24.

In many cases, a combination of the above funding arrangements has been resorted to for sustainability especially when the mandate of the CMI includes coordination of the provision and maintenance of corridor infrastructure which is necessary for the corridor development. The model legal framework for CDCMIs acknowledges and accepts that sustainable corridor development and CDCMI funding can only be from a combination of all the possible funding options available to a corridor. What is critical is that each funding option needs to be introduced when the conditions for its acceptance by the stakeholders are conducive and compelling, especially for the user – pay principle¹³ as it is deemed the most sustainable for corridor development and CDCMI funding.

Given the criticality of funding to the success of corridor institutional development and CDCMI establishment, a Financial Sustainability Funding Mechanism is included as Annexure “D” to the Model Legal Framework for CDCMIs. It is a recommended mechanism that can easily be tempered with practical considerations and unique characteristics and circumstances of each corridor.

10 Conclusion

It is intended that the proposed draft AU Model MoU on the establishment of a CDCMI shall be subjected to a validation process by the relevant stakeholders that will include the AUC, RECs, regional associations, member States, existing CMIs, etc., whereby the stakeholders are expected to make inputs to refine the draft and share their current experiences with other CMIs. It is hoped that through that process the model will be transformed from being a result of a largely theoretical literature review to a more robust framework informed by practical experiences of the stakeholders.

As a model framework, the MoU will deliberately be crafted broadly so as to be all inclusive of the principles deemed applicable to the establishment of CDCMIs in the AU. It is not intended to be prescriptive and neither should it be so applied in usage. It is intended to be flexible in its adaption and practical application that should be cognisant of and take into account the unique circumstances and stages of development of each corridor. What will be of critical importance is that information and experiences from implementation of the model is shared variously between the stakeholders at both regional (AUC and REC) and corridor levels. In this regard, the model MoU obliges the setting up of information sharing centres at both the AU and REC levels. **The Proposed Model MoU is Annexure B of this report but as a separate document for technical reasons.**

The MoU is thus nothing more than a tool which will not succeed on its own but through combined strong political and market will of the key corridor stakeholders to make it work in its usage.

¹³Study on Sustainable Funding of CMIs, SA Trade Hub, August 2008, at page 5.

ANNEXURE A

Box 1.

Apparent Strengths and Weaknesses of Existing Corridor Management Groups

Northern Corridor: The Northern Corridor is an interstate body that has been particularly effective in driving the implementation of regional transit regimes at national level. Its status was clearly an important consideration with its funding mechanism. However, the very same status would appear to have engendered overtly political considerations in the TTCA decision making processes, which can slow down the pace of implementation of activities. Recent moves to involve the private sector are likely to improve the operational dynamics of the TTCA.

Central Corridor: The CCTTFA is a new entity largely based on arrangements that are similar to the TTCA. This instrument is clear on the role of the various stakeholders in achieving the expected results. The funding regime also helps to emphasize the critical role that donor funding can play in getting corridor institutions off the ground.

Dar es Salaam Corridor: This Corridor is the only one of the corridors reviewed that intends to have a body founded on a Constitution. This would appear to be a major constraint to getting the corridor body fully functional. Zambia, one of the main parties to the Constitution, is still to sign the document four years after it was negotiated. The approval process has taken a long time. The delayed signature of the Constitution by the state parties has however not completely prevented key stakeholders from developing an action plan and lobbying for reforms which could enhance corridor operations.

Walvis Bay Corridor Group: The Corridor Group is one of the most active and aggressive corridor bodies in Africa. It is business development oriented and has been able to commission various pieces of forward looking research and feasibility studies. The Group is dominated by a few large private sector stakeholders. It underscores the link between infrastructure development and the need to increase volumes to justify some of the investments that have been made or are being contemplated.

Maputo Corridor: The MCLI is very much similar to the WBCG. It is a very vibrant corridor body that has played a key role in concentrating energy on a few strategic issues that can help in unlocking the full potential of the corridor. However, after starting a predominantly private sector driven initiative, the MCLI is now part of a process to revive a Corridor Committee where the governments have a much stronger influence. While this is important, hopefully it will not slow the pace at which the private sector has been trying to drive issues.

Abidjan-Lagos Corridor: ALCO started off as a single issue corridor entity, with a high level of recognition. At the same time, it has a significant local level reach through NGOs. More

recently, initiatives have started to broaden the range of issues tackled by ALCO, to include trade facilitation measures. These developments serve to underscore the importance of having a broad perspective on cross border issues as they relate to transit movements. The ALCO experience also brings to the fore the important contribution that donor funding can make to the initial establishment of multi-state corridor initiatives. It is not always the case that all countries would be willing to fund corridor based initiatives right from the beginning, before some of the benefits have been demonstrated.

**Annexure B: Model Memorandum of Understanding (MOU)
for corridor Development Coordination and Management
Institutions (CDCMIs) in Africa. (attached)**