IMPORT BANS

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By FIDEL MWAKI & PAULA KILUSI

It is apparent that the general effect of any import prohibition is to increase consumer demand for locally produced goods.

Following a ban issued by Kenya Bureau of Standards mid last year, importation of certain vehicles including trucks older than three years or having a gross vehicle mass of 3.5 tons or more into the Kenyan market has been prohibited. While smaller vehicles continue to have a free reign into our border subject to certain restrictions, the ban signals a shift in policy that may pave the way for increased investment in local manufacturing within the transport sector.

The African Continental Free Trade Area (AfCFTA) was established in January 2021 with the aim of boosting intra-African trade, investment and creating a single market for goods and services. The AfCFTA Agreement contains provisions aimed at supporting the growth of the manufacturing sector, including the transport sector. One such provision allows for the imposition of import restrictions by Member States to promote the establishment of national industries, with a focus on the manufacturing of environmentally friendly and cost-effective vehicles. At the same time, the AfCFTA Agreement seeks to reduce barriers to trade between Member States. By reducing dependence on goods imported from outside the continent and promoting the growth of the manufacturing sector, African states can increase their competitiveness as a manufacturing hub and drive economic growth on the continent.

The AfCFTA Agreement therefore provides a unique opportunity to support the development of African economies and promote sustainable growth in the region. Being a committed member of AfCFTA having ratified the AFCFTA Agreement on 10th May 2018, Kenya is in a prime position to take the lead in promoting local manufacturing right from the get-go.

It is with this in mind that we explore two-fold reasons for the recent import ban.

1 Boost the local automotive industry

The initiative 'Buy Kenya Build Kenya' rolled out in 2017 can expect to receive a boost from the recent adoption of the National Automotive Policy by the Kenyan Government. This policy intervention aims to increase the number of locally made cars and trucks from the present 10,000 units to 20,000 annually. This would not only help spur the growth of the automotive industry's employment sector but also increase the Government's ability to collect taxes throughout the nation.

According to statistics, around 100,000 used vehicles are imported into Kenya every year, with most vehicles coming from Asian and European markets. You could count on one hand the number of major automakers who have established a physical presence in Kenya to manufacture and assemble their brands.

The new strategy, according to Kenya Private Sector Alliance (KEPSA), will play a significant role in boosting consumer demand for locally produced goods and, in turn, draw investors to raise investments in the local manufacturing of parts and possibly vehicle assembly.

The adoption of the import ban in the same breath, acts as a critical impetus for expanding the number of locally made cars and trucks in order to draw Foreign Direct Investment (FDI), which can foster economic growth. As a result, both the automotive industry's employment sector and the government's ability to collect taxes grow throughout the nation.

2 Environmental Protection

When you consider present day environmental concerns, nearly 25% of all global emissions of greenhouse gases connected to energy come from the transportation sector. As one of the major contributors to both urban and regional air pollution, the transportation industry mainly relies on the combustion of fossil fuels.

According to UNEP, used car exports from affluent nations exacerbate air pollution in underdeveloped regions and obstruct attempts to reduce the effects of climate change in developed markets. Sadly, between1990 to 2013, almost 250,000 deaths in Africa were caused by car pollution from imported vehicles. This has led to the implementation of a variety of import bans on a certain category of vehicles in several African countries ranging from complete bans on the importation of second hand vehicles to bans depending on the age of the vehicle.

By implementing the recent import ban, it may help reduce the effect of old imports on the environment within the country as we look to transition to lower emissions or cut out fossil fuel dependency all together in order to reduce these hazardous emissions.

What impact does the import ban's enforcement have?

The implementation of the import ban will have different effects on stakeholders including manufacturers, consumers, the Government and the East African Community at large.

• Manufacturers
The implementation of the import ban offers opportunities to manufacturers to find new ways to handle the potential increase in demand for locally assembled and manufactured vehicles. The Government can in turn to provide incentives to enable them to build capacity in line with AfCFTA 's manufacturing goals. A successful manufacturing sector can also benefit businesses across the supply chain including those with backward links that deal with design and construction of vehicle bodywork and other components and forward links through automobile dealers, garages, leasing companies, insurance companies, and financial institutions, among others.

• Consumers
With the implementation of the ban, the consumer will be forced to purchase automobiles at a higher cost compared to imported vehicles due to increased regulation of vehicle manufacturing standards due to environmental concerns and competition with foreign imports from established manufacturing automobile firms in developed countries.

•The Government
Any boost for the local automobile industry and possible attraction of Foreign Direct Investment (FDI) will allow the Government to find a viable revenue stream through taxes on locally assembled vehicles, in particular VAT. The flipside should lead to increased employment opportunities for skilled local workforce to support such a sector.

•The East African Community
Other landlocked countries such as Uganda, Rwanda, Burundi and Congo still rely on the importation of automobiles that have been banned in Kenya, which pass through the Port of Mombasa. In the spirit of AfCFTA, Kenya will still allow these vehicles to be imported it would be better if they traded directly with a Kenyan-based manufacturing sector instead.

AfCFTA is the way forward for manufacturers

Kenya's new policy is a promising move toward strengthening industrialisation in Africa. Under AfCFTA, this strategy could strengthen the country’s production capacity and give it a competitive advantage of local producers and exporters. As the local automobile industry gains traction, this will open up the East African market to Kenya businesses, which will help realise AfCFTA as a viable regional trading bloc.

AUTHORS PROFILE

PAULA KILUSI is a dynamic and passionate law student at the University of Nairobi, with a keen interest in tech law, employment law, and corporate law. As an active member of the Young Arbiters Society and student member of the Women in ADR committee, Paula is committed to promoting alternative dispute resolution methods. She is also an Associate Editor at the University of Nairobi Law Journal, where she has honed her legal writing skills. With a strong desire to learn and grow, Paula is enthusiastic about exploring new legal areas and expanding her expertise. She can be reached at kilusipaula@gmail.com for any inquiries.

FIDEL MWAKI is a Kenyan-qualified Advocate with extensive knowledge and experience in real estate in Kenya whose practice currently centres on real estate developments and related commercial transactions. He represents clients developing multi-use commercial and residential real estate projects including advising on structuring joint venture arrangements and project documents such as construction contracts, agency agreements, sale agreements and long-term leases.

ADVOCATES

FMC ADVOCATES
Kalson Towers
2nd Floor, Left Wing
The Crescent, Off Parklands Road
Westlands
Nairobi - Kenya
Phone: 0725762784
Email: FMCGroup@fmcadvocates.com
www.fmcadvocates.com