

ECONOMIC REGULATION IN THE PETROLEUM DOWNSTREAM SUB-SECTOR IN TANZANIA

1. INTRODUCTION

- 1.1 In July of 2007, the Government proposed and the Parliament enacted amendments to the Petroleum (Conservation) Act, Cap. 392 and the Energy and Water Utilities Regulatory Authority Act Cap. 414 (EWURA Act). As a result of these amendments, EWURA (also referred to as the Authority or the Regulator) is the *de jure* economic regulator of the downstream petroleum (importation, marketing and distribution) sub-sector.

- 1.2 In the wake of July's surge in petroleum pump prices there was much discussion about whether EWURA should undertake to "set" prices in this relatively competitive sub-sector. Proponents of petroleum price setting argued that regulatory intervention was justified by excessive profiteering and collusion among oil marketing companies. Because prices are related to economic circumstances, those who supported price setting as an antidote to price fixing assumed that EWURA's legal foundation would have to be adjusted in such a way that EWURA be clearly understood to be the economic regulator. Hence, the recent amendments.

- 1.3 This paper is intended to answer the following question: "What, if any, activities should EWURA undertake in order to effectively regulate financial and economic matters in the downstream petroleum sub-sector?" It begins by providing some background information about Tanzania's petroleum sector and relevant regulatory theory. It then examines the various features of the segments in the downstream sub-sector, describing its characteristics and participants. It then identifies regulatory issues that arise and goes on to suggest appropriate treatments; some structural, some regulatory in nature. In certain parts of the industry it will be observed that effective regulation will require the regulator to

employ technical, competition and economic regulation. Elsewhere, it is suggested that effective regulation need not be so rigorous and that the Authority's mandate can be discharged through a more light handed process of monitoring and data collection. It is hoped that the paper successfully paints with a broad brush a picture of the most important aspects of the sector and the regulatory measures that should be employed to most effectively manage them. In the course of doing all of the above, this paper also addresses the issue of whether the actions taken by the oil marketing companies during the month of July 2007 when prices rose from T.S 1,340 to T.S 1,500 for a litre of petrol was the result of collusion.

- 1.4 EWURA decided to get public views through a process of public inquiry into options available to EWURA in exercising the economic regulatory function and on the allegations of collusion and excessive profiteering by Oil Marketing Companies (OMCs) as the cause of price hike in July 2007. The contributions of major stakeholders including OMCs, the EWURA Consumer Consultative Council, the EWURA Government Consultative Council, relevant Government agencies and the public have been collected and form part of this report. The summary of these comments are in **Appendices 1 and 2** herein and details are separately contained in **Annex I**¹.

2. BACKGROUND

- 2.1 Until the year 2000, the Ministry of Energy and Minerals was the regulator for the entire petroleum sector. In 2000, the downstream petroleum industry was liberalized as part of Tanzania's structural reforms. One of the objectives of liberalization was to increase competition. The National Energy Policy of February, 2003 (the Policy) states that "In line with the overall economic policy of the country, the market oriented concept shall apply to the supply of energy products and services. Implicitly, medium and long-term services of independent economic actors should determine allocation of resources. Competition on fair

¹ Petroleum Sector Inquiry – Stakeholders Comments document

and equitable conditions among independent actors shall form the basis for market efficiency”. The Policy further states: “A regulatory agency will be established to oversee activities in the petroleum sub-sector and deal with the enforcement of open market and fair competition, administration of licensing and the overall monitoring of the petroleum market.”

2.2 In many instances, the results of economic reforms such as liberalization take time to be felt throughout the economy. Because the downstream petroleum sector is still undergoing transition to being fully competitive, there has been insufficient time in which to reliably determine market liberalisation’s successes. While it can be said that today’s relatively competitive environment has been beneficial to consumers on matters such as product availability, consumers and the economy have also been adversely affected by adulterated products and by the dumping of transit products. The rollout of EWURA’s new licensing regime with licence terms and conditions and standardization of installations will go far to improve sector performance and cure existing market defects. However, it will only be possible to accurately assess the impacts of liberalisation after the regulatory regime has been in place long enough for the Authority to collect data sufficient to develop its own clear picture of industry practices, market failures and market responses to various possible regulatory approaches.

2.3 Oil marketing companies are involved in numerous activities in the delivery chain, including the purchase of petroleum products from the international commodity markets, importation, unloading, storage, transportation, as well as wholesale and retail sale. EWURA has begun the process of developing and issuing activity specific licences starting with retail and wholesale licences. Within the next three years, EWURA expects to issue between 500 and 700 licences for retail outlets (petrol stations), five licences for unloading (Tanzania Ports Authority: Dar. Tanga, Mtwara, Lake Victoria (Mwanza, Musoma), L. Tanganyika for loading (Kigoma)), and 25 licences for wholesale (importation and bulk storage). The Authority further anticipates to issue licences for 50 consumer installations, for 450 truck tankers, for three petroleum pipelines (TAZAMA, etc), and one for transforming fuels (lube, refining). EWURA is

evaluating other categories of licences to be issued in other petroleum sub-sectors such as biofuels business. EWURA, in collaboration with TBS, is also developing national standards for petroleum installations such as retail stations and storage facilities and for road tankers. These moves will address most of the defects currently found in the sub-sector such as lack of information, adulteration and dumping of products as a result of tax evasion.

3. LEGAL MANDATE IN ECONOMIC REGULATION

- 3.1 By adding the economic regulatory function to EWURA's existing obligations for technical and safety regulation and matters related to anti-competitive practices in the delivery of downstream petroleum products and services, it can be said that the Authority's power over the sector is plenary. Taking into account the totality of these regulatory obligations, EWURA must determine how and to what extent (heavy-handed or light handed) it should apply its regulatory powers. It can only do so when all of the relevant aspects of the sub-sector are understood and put into context. Then, the Authority will have to seamlessly integrate its three discrete forms of regulation in what is widely acknowledged to be one of the largest, relatively competitive and important markets in the country.
- 3.2 Issues related to price fixing are not restricted to matters of competition law. They must also be dealt with in the context of EWURA's newly acquired mandate as the sub-sector's economic regulator. It may be argued, for example that EWURA should use some form of price regulation as a part of its answer to a larger question which is: "What types of economic regulation should EWURA employ to ensure the reliable and efficient delivery of downstream petroleum products in a way that protects the interests of providers and consumers alike?" Because of the numerous links that exist between economic and competition regulation, an analysis of either often begins from the same point, which is a clear understanding of market shares and market power of the various sector participants in the relevant territory. However, merely because they begin at the

same place does not mean that these two forms of regulation are intended to achieve the same or even similar results.

4. REGULATORY THEORY IN PETROLEUM SECTOR

- 4.1 The structure of Tanzania's petrol retailing industry suggests the existence of oligopolistic interdependence between the wholesalers. The decisions made by one firm with respect to price and other strategic variables may factor in the possible reactions of its rivals. The potential for complex interactions between the firms makes conduct in oligopolistic industries particularly difficult to analyse and predict. This is particularly true in light of the scant amount of data presently available.
- 4.2 A separate problem for the petroleum products wholesalers is how to implement the periodic price changes necessitated by changes in international petroleum products prices. According to theory, all companies are under the same pressure to make changes, but none want to bear the risk of being the first to raise its prices (others may not follow). On the other hand, there is a public relations advantage to be gained by being the first to reduce prices, particularly if one knows that others will soon follow. Prior to liberalization, firms in the petroleum industry were not entitled to compete on the price component. Now they are. Because low elasticity of demand for petroleum products as a generic commodity, the demand for the product of one wholesaler is likely to be much more responsive to price changes, assuming that all other wholesalers hold their prices constant.
- 4.3 Some believe that the parity between the petrol prices of the various wholesalers together with the parallel form which price adjustments take indicates a lack of competition in petrol retailing. Some further believe that the oil companies are colluding to raise prices above the competitive level for the purpose of earning unfair profits. In addition, there are features of Tanzania's petroleum sector that

raise additional suspicions of collusion. These include the horizontal arrangements between the companies themselves, such as “hospitality” and “borrow and loan” and the vertical arrangements between the companies and many of their dealers, such as agreement between storage capacity owner and particular gasoline stations. Market participants will argue that such arrangements are efficiency enhancing because they allow companies to compete on a nationwide scale. On the other hand, it could also be said that such joint activities provide opportunities for company representatives to meet and to agree on matters that in effect reduce competition between their companies.

- 4.4 However, it must be acknowledged that price leadership and “conscious parallelism” is insufficient to establish an agreement in restraint of trade. In addition there must be “plus factors” which demonstrate that the market participants would not have acted in such a parallel way in the absence of an agreement to restrain trade.

5. ANALYSIS OF THE PETROLEUM SUPPLY CHAIN

This Part Two will identify the characteristics of the various segments in the petroleum supply chain, and highlight their challenges. In doing so, it will describe with broad strokes the structure of the existing legal regime pertinent to the petroleum sector, including relevant acts and licences. Stakeholders’ comments collected during the Public Inquiry regarding problems and suggested solutions on different segments of the petroleum supply chain have been summarized in **Appendix 1** attached to this paper. Finally, on the basis of the relevant sub-sector analysis, this paper forms an opinion as to what types of regulation (technical, competition or economic, and light or heavy) would be most appropriate for EWURA to adopt.

5.1 IMPORTATION

5.1.1 Characteristics of Petroleum Products Importation

It is estimated that Tanzania annually imports approximately 1.5 million tonnes² of various refined petroleum products for sale on the local market through port of Dar es Salaam. The ports of Tanga and Mtwara are also used for importation while other imports are brought by trucks and barges from Kenya.

Since liberalization in 2000, every company in the sector has been free to import products in accordance with its requirements; local product prices being determined mainly by the market forces. In contrast to pre-liberalized market conditions, following the liberalization, there has been no significant experience of fuel shortages.

With respect to the consumption of petroleum products, EWURA's own estimates³ (since the sector was partially liberalized in 1997 there have been no reliable data collected) are that the country's total forecast consumption for the year 2007 amounts to 1.7 million tonnes. In addition to internal consumption, some petroleum products are transited to landlocked countries neighbouring Tanzania.

Currently there are approximately 20 oil marketing companies involved in importation and transit of petroleum products. Each company imports from its supplier and at its own schedule.

5.1.2 Defects in the Existing System of Petroleum Products Importation

EWURA has identified the following defects in this part of the supply chain:

² TRA's 2006 statistics submitted to EWURA

³ Based on extrapolated 1997 consumption figures from TPDC internal papers

- Procurement procedure:
 Currently, each importer chooses its supplier and contracts with it as per agreed terms including petroleum products price between them. The contract type may include transfer pricing from parent companies. In addition, importers are free to import products at any time in accordance with their import schedules. Product prices therefore vary from one company to another. This, together with other factors such as differences of profit margins from one company to another, bring about price fluctuations and disparities to consumers at different retail stations.
- Multiple entry points for product imports (entry through Dar es Salaam, Tanga, Sirari, Lake Victoria, Mtwara), is claimed to pose difficulties in monitoring of quality and quantity of imported products.
- Lack of current supply and demand data of petroleum products due to non-compliance of oil marketing companies to submit information to authorities as required under the law.
- Fragmentation of imports caused by the situation whereby each company is free to individually import products may be the source of:
 - higher costs (lack of economies of scale), including potentially higher average prices of products,
 - Importation of substandard products,
 - congestion of the KOJ adding to high demurrage costs, and
 - transfer pricing.

5.1.3 Possible Solutions

(a) Status Quo with the Regulator in Place

Under this option, and as opposed to the situation prior to the operationalization of EWURA, intensive data collection and reconciliation will be undertaken. This will be achieved through the licencing requirement and other legal instruments in

place, coupled with tightening of enforcement mechanisms so as to make suppliers/importers responsive. Each company will be allowed to continue importing its own products. Retail prices will be subject to market forces. However, the Regulator will do the following:-

- (i) determination of import parity prices which will be based on Platts quotations for FOB and acceptable freight by use of available (Average Freight Rate Adjustment AFRA) rates which are used by oil traders and insurance charges (from Worldscale and London Tankers Brokers Panel) or benchmarking e.g. Zambia allows 0.15% of C&F, ocean losses of 0.3% of CIF.
- (ii) Wholesale and retail margins (based on the rate of return) will be determined by EWURA's own analysis based on data from three most competitive companies; and
- (iii) import parity prices which will be indicative of pump prices will be published on EWURA website and in local newspapers. Consumers can then compare these with the average retail prices offered by oil companies at the service stations and EWURA will use the information for monitoring purposes. The information can also be used for ensuring that prices are within a reasonable band that is agreed with the industry so that consumer is not overcharged. Various components that make up The Pricing Template are contained in a table shown as figure 1 below.

(b) Joint Shipping

Currently some importers bring their products using one vessel. This helps to alleviate the problem of uncoordinated imports. However, this option does not provide the bargaining power in availed through large procurements.

(c) Bulk Procurement

In the present situation, there are no formal or transparent methods for verification of current costs, profits and prices in Tanzania to give assurance that the present supply strategy is indeed fair. The rationale for regulatory intervention in this regard is to improve cost effectiveness of the present procurement and supply system.

Bulk procurement will enable cost effective access to petroleum products by improved procurement and supply chain management by reduction in duplication, and weaknesses of the present supply system and gives strength for bargaining for a better deal, and possibility of low freight charges. Many believe that the bulk importation of petroleum products, a practice employed in Mozambique, Malawi, Kenya and elsewhere, will lead to cost savings based upon realized economies of scale (indeed, that is an oft-cited reason for adopting this practice). This practice was similarly employed by Technical Task Force (TTF) between 1997 and December 1999 when full scale liberalization was introduced.

The main advantages of bulk importation include International Competitive Bidding (ICB) tendering which leads to transparency in the procurement of supplies and competitive CIF costs. Other advantages include availability of data on imports and products quality monitoring.

Implementation of this arrangement will also be in line with Section 8(1)(a) of the Petroleum (Interim) Regulations, 2000 that stipulates that the Importation of Petroleum shall be made from a supply source which generates competitive prices for the country.

Disadvantages of this system, such as the requirement for financial guarantees in order to participate in the bulk supply tendering may result in inability of local oil companies to participate in this stage. However, in the wholesale and retail sub-sectors, this should not be a problem.

(d) Streamlining Local Fees and Charges

The local fees and charges paid by importers for services by various institutions during importation will be reviewed by EWURA in consultation with the relevant authorities. In accordance with Section 7.1 (b) (iv) of the EWURA Act, the Authority is empowered to regulate rates and charges. The local costs components that make up petroleum products pump prices shown in **Table 1** will be reviewed on the same basis and procedure as any other rates and charges regulated by EWURA.

Table 1: The Petroleum Pricing Template

PUMP PRICE TEMPLATE

Average Platt's FOB Five Days Around 15th of August 2007		EXCHANGE RATE =		1,290.94	
CONVERSION FACTORS		0.736	0.833	0.786	
DESCRIPTION		MSP	GO	IK	
	UNIT	PRICE	PRICE	PRICE	
Plus	Average Platt's FOB	USD/MT	665.60	637.65	659.08
Plus	Freight and Insurance	USD/MT	25.00	25.00	25.00
Plus	Insurance	USD/MT	1.00	1.00	1.00
Plus	Premium	USD/MT	20.00	20.00	20.00
Sub Total	COST CIF DAR	USD/MT	711.60	683.65	705.08
LOCAL COSTS PAYABLE TO OTHER AUTHORITIES					
	Wharfage 1.6 % of CIF	USD/MT	11.39	13.13	11.28
	Destination inspection 1.2% of FOB	USD/MT	7.99	7.65	7.91
	SUMATRA USD 0.25 per MT	USD/MT	0.25	0.25	0.25
	TBS 0.20% of CIF	USD/MT	1.42	1.37	1.41
	TIPER fees USD 0.15 per MT	USD/MT	0.15	0.15	0.15
	Transit loss (0.5%) CIF	USD/MT	3.56	3.42	3.53
	Demurrage (Estimate)	USD/MT	3.00	3.00	3.00
	Finance Cost	USD/MT	1.50	1.50	1.50
	TOTAL LOCAL COSTS	USD/MT	29.25	30.46	29.03
Sub Total	Landed cost - Dar Es Salaam (CIF + LC)	USD/MT	740.85	714.11	734.10
Sub Total	Conversion Landed Cost Per Cubic Meter	USD/M3	545.15	595.09	577.13
Sub Total	Conversion Landed cost Tzs per Litre	Tzs/Ltr	703.75	768.23	745.04
GOVERNMENT TAXES					
Plus	Fuel Levy	Tzs/Ltr	200.00	200.00	-
Plus	Excise duty	Tzs/Ltr	339.00	314.00	52.00
	TOTAL GOVERNMENT TAXES	Tzs/Ltr	539.00	514.00	52.00
	EWURA LEVY	Tzs/Ltr	6.10	6.80	7.10
Plus	Oil Marketing Companies and Dealers Margins	Tzs/Ltr	243.95	123.77	188.66
	EX- DEPOT PRICES	Tzs/Ltr	1,492.80	1,412.80	992.80
Plus	TRANSPORT CHARGE DSM (VAT INCL.)	Tzs/Ltr	7.20	7.20	7.20
Price	Average DSM Pump Prices	Tzs/Ltr	1,500.00	1,420.00	1,000.00

Improved compliance by oil companies is expected when new licences are issued to companies.

It is now determined that bulk procurement of petroleum products is a course to be adopted hence the following elements be put in place:

- (i) A tendering mechanism and procedure for procurement through International Competitive Bidding (ICB).
- (ii) A tendering mechanism and procedure to procure the most competitive financing arrangements from amongst interested banks.
- (iii) An independent non-profit making coordinator to organize tenders and necessary correspondences.
- (iv) Rules and procedures to bind all licenced petroleum importers responsible for bulk procurement.
- (v) An independent, accountable, well resourced unit to coordinate the process will be set-up either by Oil Marketing Companies or such other procurement agency that can demonstrate ability to administer the system efficiently and without conflict of interest.

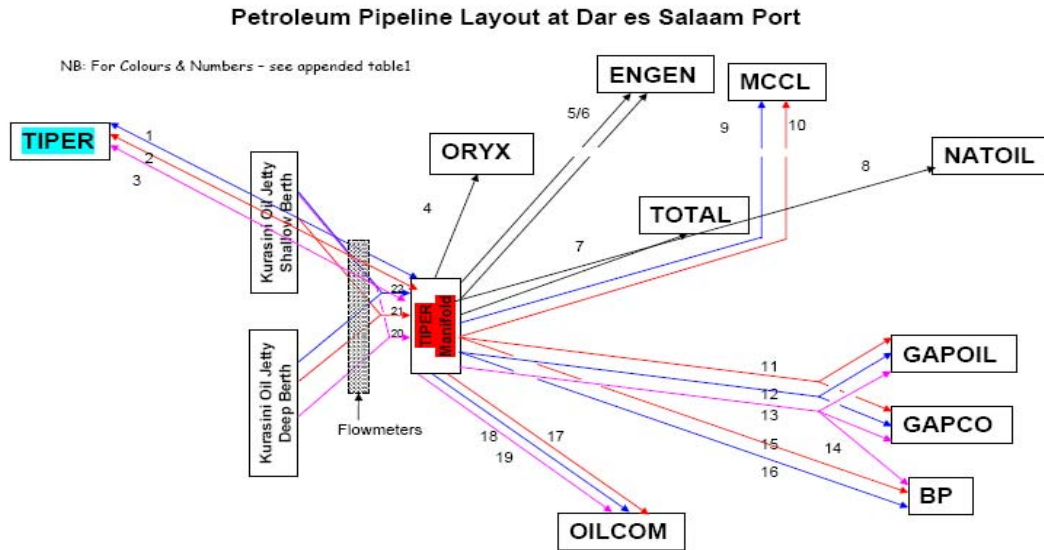
5.2 UNLOADING

5.2.1 Characteristics of petroleum products unloading

Approximately 90% of petroleum products imports to Tanzania are unloaded at the Kurasini Oil Jetty (KOJ) at the port of Dar es Salaam. There are two jetties, KOJ1 and KOJ2 for bigger ships up to 40,000 metric tones and 5,000 metric tones respectively at Kurasini. Products at the Dar es Salaam port are received through a common and single manifold which is owned by TIPER. Imported products are measured by flow meters (14 in number) owned and maintained by Tanzania Ports Authority (TPA). Some of the companies have multiple lines capable to offload different products simultaneously while others have only one line necessitating batch offloading which takes longer time.

In addition to the two jetties there is a single point mooring facility capable of handling up to 120,000 vessel metric tonnes. This facility is currently used for offloading spike crude for Zambia. Other unloading facilities are located at Tanga, Mtwara, Musoma and Mwanza ports. The Petroleum receiving facilities layout at the KOJ is as shown in a schematic diagram (Figure 1) below.

Figure 1 : Petroleum Pipelines Layout at Dar Es Salaam Port



5.2.2 Defects in the existing system of petroleum products unloading

Stakeholders have identified the following defects in this link of the petroleum products supply chain (See Appendix 2):

- (a) Uncoordinated shipping by numerous operators sometimes creates high occupancy rate of the berthing facility which contributes to higher demurrage costs.

- (b) Importation of large quantities of homogeneous cargo (single product) which leads to longer time to offload through a single line hence unnecessary accrued demurrage charges.
- (c) Efficiency of unloading petroleum products is affected by turn around time spent by Tanzania Bureau of Standards (TBS) to draw samples from the ship, obtain the results of sampling and allowing it to offload the products.
- (d) Frequent breakdown of flow meters has been creating disruption of continuous unloading of petroleum products.
- (e) Other issues relate to low pumping pressure from the offloading tankers. As a result, lay time to discharge products increases leading to demurrage charges.

5.2.3 What form of regulation and/or other steps would be most appropriate?

There is clearly a monopoly on KOJ1, KOJ2 and SPM. On that basis, there is a need for EWURA to regulate economic as well as competition law matters.

- (a) Where fees are based on the value of the products rather than on the economic cost of the service (neither are the TIPER manifold fees nor the wharfage fees based on the cost of service) there is a need for the regulator to be involved in the setting of tariffs and charges.
- (b) For its part, TPA is undertaking rehabilitation of both jetties, whereby it is currently installing two extra vegetable oil lines in order to reduce time taken and this work is expected to be completed by March, 2008. TPA is also in the process of commissioning replacement of the Single Buoy Mooring (SBM) facility with one that will cater to the handling of multi-products. All companies with oil terminals should have access to the new facility.

- (c) EWURA will issue a licence for unloading activities and the same should address the problems within that sub-sector of petroleum industry. The licence conditions will include obligations on owners of monopoly facilities to provide non-discriminatory third party access, petroleum importers and shippers to secure an appropriate pumping pressure of tankers as well as setting standards for reliability of the flow meters.
- (d) Regular stakeholder meetings to improve the sector's performance.

5.3 STORAGE

5.3.1 Characteristics of the Petroleum Storage Facilities

Currently, there are 10 Oil Marketing Companies (OMCs), with a total storage capacity of 320,000 metric tones in Dar es Salaam (**See Table 2**). Moreover, there are three more storage depots with about 98,000 metric tons of storage capacity under construction but expected to be operational by year 2009. The storage capacity in Dar Es Salaam excludes a depot belonging to the Government of Malawi, which has a total capacity of about 21,666 metric tones. The table below shows companies' existing storage capacity in Dar es Salaam.

Table 2: Existing Storage Capacities in Dar es Salaam

PHYSICAL LOCATION	COMPANY	TANKAGE CAPACITIES BY PRODUCT (MT)									% Share
		AVGAS	LPG	MSP	JET A1	KERO	AGO	IDO	FO	TOTAL	
KIGAMBONI	TIPER	-	960	12,100	4,400	4,400	42,100	3,360	24,500	91,820	24.5
KURASINI	BPT	1,005	302	2,486	9,388	3,183	14,949	1,105	9,449	41,868	11.2
KURASINI	ENGEN	0	-	5,058	-	3,302	7,356	-		15,716	4.2
KURASINI	GAPOIL	-	-	3,251	-	1,855	19,312	275	3,080	27,773	7.4
KURASINI	GAPCO	-	-	5,288	2,307	2,574	9,000	-	833	20,002	5.3
KURASINI	OIL COM	-	-	4,415	4,717	4,717	15,000	-	5,639	34,488	9.2
KURASINI	ORYX	-	1,050	5,080	0	804	9,246	245	4,800	21,225	5.7
SABASABA	NATOIL	-	-	2,208	-	4,717	5,833	-		12,758	3.4
KURASINI	TOTAL (T)	-	-	6,442	2,296	-	7,646	-	6,698	23,081	6.2
	MGS **			8,830	-	6,289	13,333	-	0	28,453	7.6
	CAMEL OIL **			4,415		9,434	15,000			28,849	7.7
	GBP **			6,623		7,075	15,000			28,698	7.7
DAR TOTAL		1,005	2,312	66,195	23,108	48,351	173,776	4,985	55,000	374,731	100.0
HHI Index value:										1,168	

* Storage depots under construction

Currently, the monthly demand for petroleum products in the country is about 128,000 metric tons. Assuming that 100% of the petroleum requirements pass through the Kurasini Oil Jet (KOJ), and assuming that requirement for the transit trade is for 300,000 MT per year (25,000 MT per month), the readily available capacity in Dar es Salaam (less 3 depots under construction) can handle 61 days-stock products. Companies can thus stock 30 days' products and remain with an operating ullage for 30-35 days. It may be noted that ordering and receiving a cargo from the Middle East takes a period of 15-21 days. The above analysis has not taken into account that at least 15%-20% of the country's petroleum requirements are received through Tanga, Mwanza and Musoma ports.

On the other end, TIPER plans to rehabilitate crude oil tanks which will add up storage by about 170,000 metric tons. Assuming that the total additional storage (TIPER, MGS, GBP and Camel) is brought on stream, Dar es Salaam will have a storage capacity of more than 500,000 MT in the near future. It may therefore be concluded that the available storage capacity in the country is adequate to cover the country's storage capacity for the period of at least 15 years if well managed and utilized.

5.3.2 Access to Storage Facilities

Apart from 10 OMCs that own storage terminals at the Dar harbour, other oil importers have to enter into hospitality agreements with owners of the storage facilities to get access to the facilities.

The storage facilities in Dar es Salaam are strategically constructed around the Kurasini Oil Jet (KOJ). It is evident that it is not feasible that every company must have a storage depot for the following reasons:

- (a) The area will be too congested thereby risking the security of supply; and
- (b) Currently, there is enough storage capacity to cater for both local and transit markets.

Three issues were raised by local OMCs during the inquiry about the payment of hospitality fees⁴:

- (a) unreasonably high hospitality charges ranging between 10 – 20 USD/cubic meter per month as compared to 3 – 5 USD charged by neighbouring countries. Comparatively, TIPER charges \$5 per cubic meter per month for “take or pay” customers (minimum 10,000 MT per month) and \$8 per cubic meter per month for other customers. However, TIPER does not have loading arms necessitating that the companies must have an inland depot to load from.
- (b) discrimination of hospitality charges chargeable to local OMCs as compared to what the majors charge among themselves for the same services and by the same storage facility owner; and
- (c) refusal by storage facility owners to provide access of such facilities to local OMCs.

These complaints seem to suggest that the current operating practices with respect to storage facilities constitute a barrier, especially to new entrants.

5.3.3 Analysis of Competition and Charges in usage of Storage facilities

The next question that EWURA should look into is whether or not the storage structure as it is now hinders competition amongst OMCs. On the competition side, there are two aspects to consider: first, one is existence of monopoly in terms of market concentration of the facilities; and second, the coordinated effort on the side of owners of storage facilities to implement discriminatory prices in order to make it difficult for them to charge lower retail prices, thereby making them uncompetitive.

(a) Analysis on Collusion of discriminatory charges

The information obtained during the public inquiry conducted by EWURA in August 2007 on the economic regulation in the petroleum downstream sub sector indicates that similar

⁴ Local OMCs presentation at Public Inquiry; FCC Submission (2003)

claims as indicated above were also submitted to Fair Competition Commission (FCC) in 2002. In its findings, the FCC concluded that such evidence would not be readily available because all dealers know that it is illegal to engage in such activities. FCC went further to say that, “there being no proof to show that there was a coordinated effort on the part of OMCs that own storage facilities to implement discriminatory prices does not necessarily mean there was no coordination to do so”.

EWURA has a legal obligation to promote effective competition in the regulated sectors. In carrying out its functions it shall take into consideration whether conditions for effective competition exist in the market and if not, it shall investigate and report on the matters and make appropriate recommendations to the FCC.

Since FCC received these complaints and had made its final analysis which was submitted to EWURA as part of the evidence to the public inquiry, EWURA considers the matter determined.

However, as part of its duties, EWURA continues to investigate and shall take appropriate action pursuant to its obligations under the EWURA Act.

With respect to the claim on high hospitality charges, EWURA notes that the claim may be justified.. Therefore, EWURA may use its regulatory powers to require OMCs with storage facilities to publish their hospitality charges on regular basis to instil competition.

(b) Analysis on Market Concentration

In order to determine whether there is a need to correct any market distortion such as the abuse of market power, one must first determine the existence or potential for exercise of such an abuse, in this case, by analysis of market concentration. Market concentration may be measured in numerous ways - one of them is through observation of the Hirschmann-Herfindahl Index (HHI).

HHI is a way of measuring the concentration of market share held by particular suppliers in a market. The HHI is the sum of squares of the percentages of the market shares held by the firms in a market. For a monopoly, where one firm sells all goods in the market the HHI amounts to 10000. In a situation of a perfect competition, with an infinite number of firms with near-zero market shares each, the HHI is close to zero. The larger the index, the more is market concentration. In general, the following rules apply to that index:

- (i) Whereas it remains below 1,000, it indicates competitive market with insignificant concentration;
- (ii) Values between 1,600 and 1,800 usually indicates moderate concentration;
- (iii) Values higher than 1,800 indicates high concentration.

It is important to note that a key pre-requisite to perform an efficient HHI analysis is availability of appropriately structured and up to date information allowing for establishing the market shares of particular companies.⁵

The results obtained in the analysis of market concentration indicate that the HHI index value in **Table 2** above is 1,168. With the definitions of value above, it may be concluded that on the matter of the provision of storage services, the extent of market concentration is small and relatively insignificant. Further, where abundance of storage facilities exists⁶ and numerous players operate in the market one can infer that competition in this sub-sector is quite intensive.

5.3.4 Recommended Regulatory measures

One of the objectives of liberalization of the petroleum downstream sub-sector was to reduce costs in respect of, among other things, storage of petroleum products by eliminating inefficiencies at that

⁵ Ideally, market shares are assessed as shares of particular company's sales' in the overall value of products sold in the market. However, inadequacy of information on sales in monetary terms, a simplified comparison of shares in volume of products sold is employed.

⁶ Comparison of volume of available capacities (459 thousand ton) with annual consumption of about 1.7 million ton leads to the conclusion that in-country storage capacities cover approximately 97 days of consumption.

level of the supply chain. The following measures are recommended to improve efficiencies in the use of storage facilities in the country:

(a) Option One: Introduction of mandatory open access

Introduction of mandatory open access of the storage facilities to all OMCs. However, this would need to be enforced through regulatory instruments such as rules, orders and licences.

(b) Option Two: Introduction of Third Party Access regime

Introduction of Third Party Access regime that provides for an obligation to owners to the extent that there is excess capacity, to offer terms of use to others for payment. Under this arrangement, companies with storage depots must extend hospitality to other players in case they have idle capacity during a particular time period. Third party access will promote competition as it will enable more participants in the petroleum trading operations in the country. It will lead to reduction of storage costs of petroleum products in the country.

- (i) Terms and conditions for accessing use of these facilities should also be published after review and approval by EWURA. In this case, companies with storage depots will be required to publicize, on monthly basis or as otherwise agreed upon, available ullage with their installations together with fees for use by other operators;
- (ii) Among important terms is a condition that licencees should not discriminate between customers or classes of customers as regards to access, tariff, prices, and conditions of service.

5.4 TRANSPORTATION

5.4.5 Characteristics of petroleum products transportation

Most of the petroleum products imported into Tanzania enter through the port facilities of Dar Es Salaam. They are then transported to upcountry destinations. Currently, it is estimated that 80% of the products are transported using roads, 15% by railway wagons and 5% by barges. The use of pipelines to transport petroleum products is the cheapest, safest and most efficient mode of transport, followed by railway tank wagons. Road transport remains the most expensive. Therefore one of the reasons for the high cost of fuel products upcountry (compared to Dar es Salaam) is on account of transportation of the products using the most expensive mode of transportation, i.e. roads.

5.4.6 Defects in the existing system of petroleum products transportation

In addition to higher costs, road transport is one of the most unsafe modes of transport of these hazardous petroleum products. Adulteration, illegal mixing of different petroleum products, is the most common problem linked to transportation of petroleum products. It has also been noted that that transiting petroleum products sometimes results in illegal dumping of untaxed products onto domestic market (creating non-level playing field) and loss of revenue to the Government.

5.4.7 What form of regulation and/or other steps would be most appropriate?

EWURA is currently developing standards for road tankers that will include the use of modern technology to curb the malpractices in the transportation link. EWURA will address these issues when development of transportation licence conditions.

5.5 RETAILING

5.5.1 Characteristics of petroleum products retailing

Petroleum pricing in Tanzania is liberalized. Operators within each category (importers, wholesalers, retailers) usually have a similar cost structure. These include the cost of importation (FOB, I&F), handling charges, taxes and levies for importation and unloading, usual costs of storage, transportation and retail. Finally, operators are also covering their margins. It is estimated that there are between 500 and 700 petrol stations. These are owned by either major companies (including multinationals), or by private individuals.

After liberalization, the number of large petrol stations has mushroomed. Many of those have been constructed in residential areas, thereby threatening public safety, health and environment. It is also noted that not all petrol stations display prices and many of them have no amenities such as tyre inflators or toilet facilities.

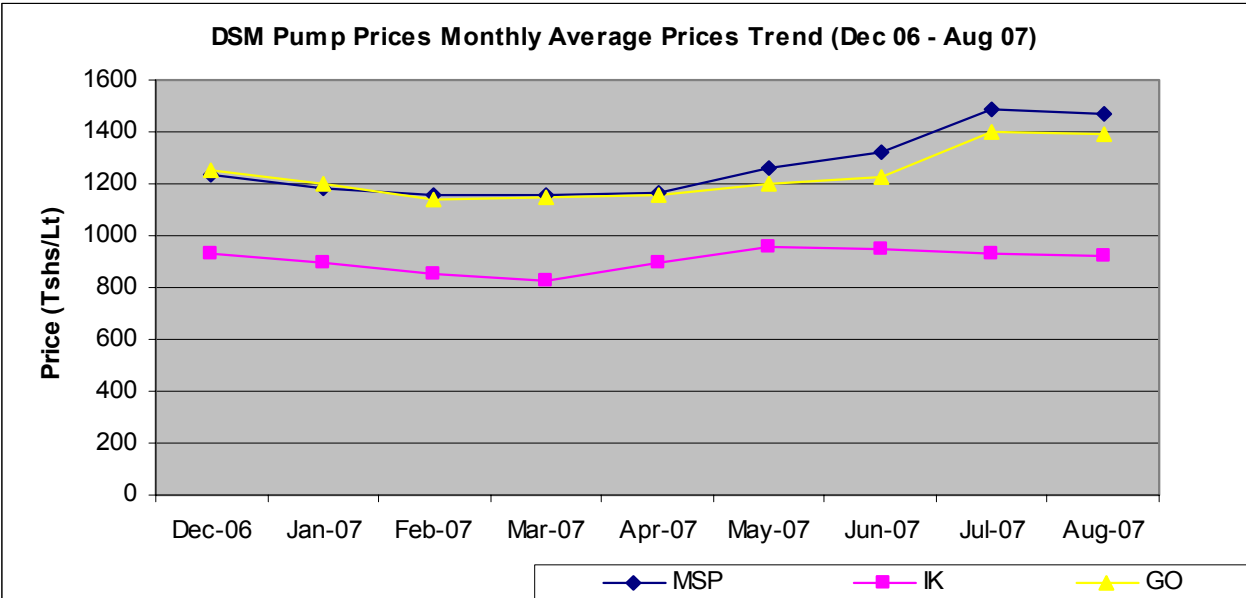
5.5.2 *Analysis of recent petroleum products prices*

EWURA performed analysis of petroleum prices between a period of December 2006 to August 2007 and between June 2007 to August 2007, a period under which there was increase of taxes in the petroleum products prices. This analysis is based on the information available to EWURA from Platts quotations and Dar es Salaam pump price surveillance done by EWURA as contained in the **Table 3 and Graphs 1 & 2** below:

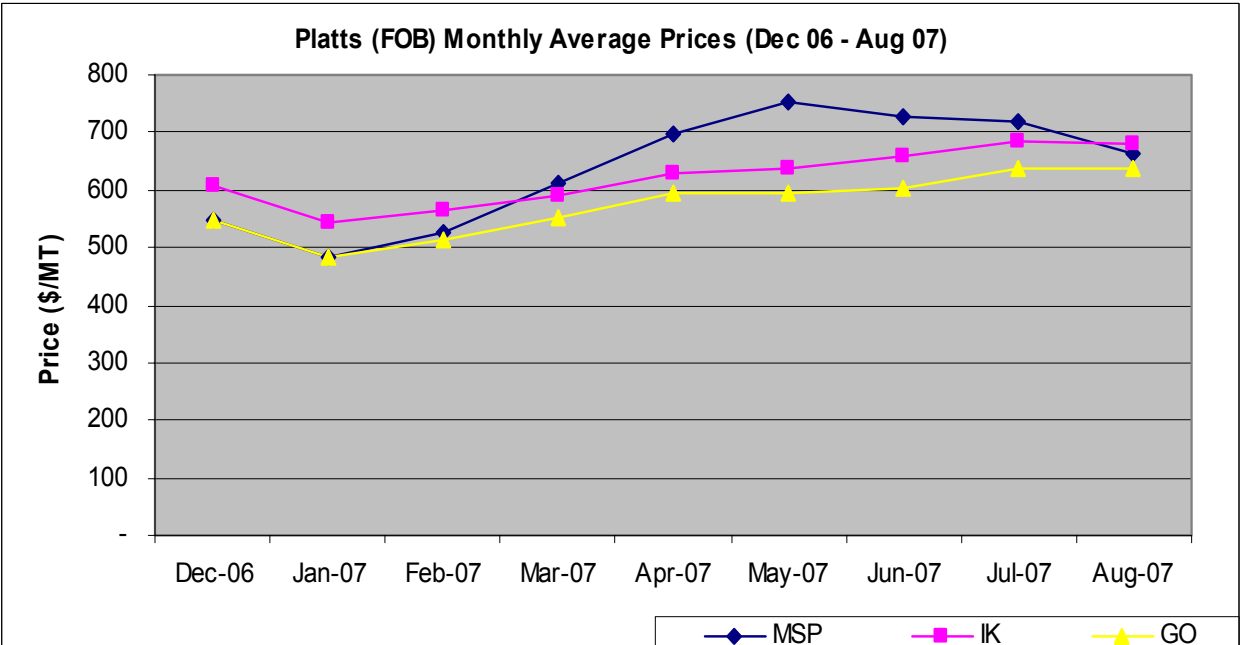
Table 3: Comparison of World Petroleum Products Prices to Dar es Salaam Pump Prices - December 06 to August, 2007

	Super Petrol				Kerosene				Diesel			
	DSM Prices (TZS/lit)	% Change	Platts (FOB) Prices (\$/MT)	% Change	DSM Prices (TZS/lit)	% Change	Platts (FOB) Prices (\$/MT)	% Change	DSM Prices (TZS/lit)	% Change	Platts (FOB) Prices (\$/MT)	% Change
Dec-06	1232.27		548.58		932.81		605.50		1250.00		546.95	
Jan-07	1182.41	-4.05%	482.08	-12.12%	891.79	-4.40%	541.88	-10.51%	1200.00	-4.00%	482.74	-11.74%
Feb-07	1155.17	-2.30%	525.15	8.93%	852.79	-4.37%	562.59	3.82%	1143.26	-4.73%	511.60	5.98%
Mar-07	1156.27	0.10%	613.40	16.80%	826.93	-3.03%	591.24	5.09%	1145.38	0.19%	550.00	7.51%
Apr-07	1168.13	1.03%	698.80	13.92%	896.98	8.47%	628.43	6.29%	1154.36	0.78%	594.01	8.00%
May-07	1261.87	8.02%	753.76	7.86%	953.98	6.35%	637.22	1.40%	1202.24	4.15%	593.18	-0.14%
Jun-07	1320.80	4.67%	728.43	-3.36%	946.44	-0.79%	657.28	3.15%	1224.63	1.86%	603.88	1.80%
Jul-07	1482.68	12.26%	719.99	-1.16%	932.50	-1.47%	685.60	4.31%	1398.27	14.18%	636.12	5.34%
Aug-07	1472.10	-0.71%	664.39	-7.72%	922.24	-1.10%	680.91	-0.68%	1392.11	-0.44%	639.36	0.51%
Average												
(Dec 06- Aug 07)	1270.19	2.38%	637.18	2.90%	906.27	-0.04%	621.18	1.61%	1234.47	1.50%	573.09	2.16%
(Jun 07 - Aug 07)	1425.19	5.40%	704.27	-4.08%	933.73	-1.12%	674.60	2.26%	1338.34	5.20%	626.45	2.55%

Graph 1: DSM Pump Prices Monthly Average Prices Trend (Dec 06 – Aug 07)



Graph 2: Platts (FOB) Monthly Average Prices (Dec 06 – Aug 07)



5.5.3 *Main conclusions deriving from this analysis are as follows:*

- (a) The Minister for Finance (MoF) announced new taxes on petroleum products on 15th June 2007 to be effective from 1st July 2007. The Tanzania Revenue Authority (TRA) recorded stocks of the petroleum products on 30th June and confirmed⁷ availability of stocks which were enough to last for 13 days. According to TRA and MoF, the stock was expected to be sold at old prices (i.e. without including new tax increases but to the contrary, the OMCs raised prices in unison from 1st July 2007.
- (b) During the same period (June 2007 – August 2007) the rate of change of prices in the international oil markets was lower than the local market prices. The prices in the local market for MSP and GO rose at a higher rate as compared to the international market, whereas there was a drop in the prices of kerosene.
- (c) The proportionality of the international and local rates of change in prices during June to August 2007 was distorted. The increase in taxes was TZS 124/Litre, TZS 122/litre and TZS 0/litre for petrol, diesel and kerosene respectively. However, the actual price increase was TZS 135.10/litre, and TZS. 35.47/litre for petrol and diesel respectively, while the price for kerosene dropped by TZS 31.56/litre. This shows that the increase in prices were higher than the respective increase in the taxes in petrol products but was lower in diesel and in respect of kerosene, prices went down.
- (d) These concerns were brought to the attention of Tanzania's OMC's on at least two occasions. Most could not explain or justify the seemingly high increases. The few that tried to, did so by contesting TRA's assertion, that is, that by the end of June, the stocks available had been fully paid for with regard to Tax.
- (e) Interestingly, it is the TAOMC, and not individual OMC's, that presented a potentially plausible explanation for the high costs. This does little to allay fears from other stakeholders that the association could be used as a form of a cartel by facilitating discussions, and taking common positions on prices (collusion).

- (f) At first, the OMC's contested TRA's position. Later, however, they attributed the increase to the need to start accumulating resources that would be sufficient to replenish stocks that were likely to be obtained at a higher cost on account of increase in prices in the International Oil Market. In this regard, the TAOMC, commented that "it is not an uncommon practice in any business sector for companies to base their pricing decisions on replacement cost".
- (g) Although the replacement cost explanation may be plausible, evidence from Platt's suggests that prices on the International oil market were actually on a downward trend during the period May – August 2007.
- (h) The fact that all OMC's, in unison, set prices is contrary to what is expected to take place in a competitive environment, as explained in 4.1; it is also more akin to collusion/cartel behaviour than (to) robust competition.
- (i) The public therefore may have a valid reason to believe that the OMC's took advantage of the increase in taxes in order to take unjustified profits. However, in the absence of tax laws to deal with windfall gains, and lack of defined limits for profits in a liberalised trade, it is difficult to address this problem. Nevertheless, in future, as was indeed the case in the past, it is advisable that tax increases be made to be effective immediately after the budget speech day.

5.5.4 Result of *the* concentration analysis

Information concerning market shares and analysis of the market concentration in terms of end-user petroleum supply is contained in the **Table 4** below:

Table 4: Tanzanian Petroleum Market Shares

Tanzanian Petroleum Market Shares and HHI analysis (2006) Data	
<i>Company:</i>	<i>Market share:</i>
Acer	4.47%
BP	14.09%
Engen	2.97%
Gapoil	5.18%
Gapco	10.41%
Hass	1.83%
Kobil	3.78%
MGS	2.79%
Natoil	4.57%
Oilcom	18.46%
Oryx	11.06%
Shell	7.03%
Total	8.68%
Others	4.73%
TOTAL	100.00%
HHI index value:	1,123

The analysis above indicates that as far as end-user sales are concerned it is evident that only a relatively insignificant market concentration exists in end-user petroleum supply market.

5.5.5 Defects in the current system of petroleum products retailing

- (a) The sale of diesel mixed with kerosene is rampant in the retail petroleum business. Mixing is a function of opportunity and motive. Opportunity arises from three factors. First, the government has provided the opportunity by setting disparate tax rates for the two products. Second, the products are mixable. Third, transportation of the products in trucks across a vast country provides every physical opportunity to mix. The motive is the drive to easily increase profits in what has heretofore been an unregulated sector. The results are unfair advantage, poor quality product and economic and physical damage to consumers.
- (b) Some petrol stations do not post prices in conspicuous places to their petrol stations
- (c) It can be noted from the trend of local petroleum prices that some companies continually exercise price leadership as a result this anomaly while other companies occasionally raise prices even if they have not imported new stocks that would justify price rises;
- (d) It can be noted from **Graphs 1 and 2** above that companies do not determine retail prices in the same way that international prices are set. Most of the time local prices seem constantly to rise even if there is a drop in international prices.;
- (e) Most of petrol stations have been constructed with little regard for national health, safety and environmental standards. The infrastructure is very often in poor condition (owing to a lack of maintenance and investment), posing a threat to health, safety and environment.
- (f) Some of new entrants do not possess licences to operate petrol stations. Sometimes small companies smuggle products from neighbouring countries and sell them untaxed on local market thus damaging the country's treasury and gaining an unlawful competitive edge.

5.5.6 What form of regulation and/or other steps would be most appropriate?

The following steps are recommended in order to achieve a more transparent and competitive retail petroleum products business in Tanzania:

- a) Ideally, EWURA should not regulate prices. This would be contrary to both the National Energy Policy as well as the policy on competition and utility regulation. This later specifically states that prices of goods and services will be set only where competition is unavailable – e.g. “natural” monopoly situations.
- b) EWURA should take steps to ensure that end-user prices are more transparent and publicly known than they have been in the past. This will facilitate increased levels of competition and customers’ awareness of the petroleum prices in general.
- c) Transparency and proper data reconciliation (imports, sales, transit, tax exempted etc.) along the whole supply chain will help to limit tax evasion and product adulteration. This will also serve to level the playing field and establish a more competitive petroleum retail business.
- d) Through licence conditions and if necessary Orders, EWURA should require licencees to post on clearly visible price boards in front of gasoline stations both the prices charged and discounts and any trade incentives or promotions on offer.
- e) EWURA should take steps to ensure that good quality products are sold in the market. EWURA’s efforts to acquire a mobile laboratory and to mark and tag kerosene should be given a priority.
- f) Through licence conditions, EWURA should require retailers to buy petroleum products only from licenced suppliers.
- g) EWURA should enforce compliance to the required petroleum installations standards and should institute a rigorous system to ensure that the necessary construction/siting permits are in place. EWURA should collaborate with TBS and other stakeholders in this aspect.

5.5.7 What form of regulation and/or other steps would be most appropriate?

EWURA should take steps to ensure that end-user prices become more transparent and publicly known. This will facilitate increased of competition and customers’ awareness of the petroleum prices generally. EWURA should take the following four steps to do so:

- (a) **Competition issues:** Through licence conditions EWURA should require licencees to publish prices on clearly visible price boards in front of gasoline stations;
- (b) **Competition issues:** EWURA should publish information on average prices on its website and in newspapers;
- (c) **Competition issues:** Through licence conditions EWURA should require retailers to buy only from licenced petroleum products suppliers; and
- (d) **Technical issues:** EWURA should take steps to ensure that all required construction/siting permits are in place;

EWURA intends to take the above described steps. In addition, in collaboration with TBS and other stakeholders EWURA will adopt standards for petroleum facilities (including retail facilities).

6. CONCLUSION

Taking into account the arguments and comments advanced by stakeholders during the Inquiry, scrutiny and detailed discussions set out in Part Two of this report, EWURA concludes that the petroleum downstream sub-sector is in many ways deficient. The sector is characterized by multiple importations of small petroleum products quantities, tax evasion, lack of information and data, adulteration of products and general inefficiencies in the various segments of the petroleum supply chain. The Government's decision to expand EWURA's mandate to include economic regulatory functions is therefore timely.

Some of the major deficiencies can be addressed through technical, safety and economic regulation. Others will require EWURA to act, together with the FCC as the sector's competition regulator. On the basis of the Inquiry, EWURA concludes as follows:

- 6.1. No conclusive evidence has been adduced that there was **a coordinated** effort on the part of OMCs to set petroleum prices. Nevertheless, the unison petroleum price increase experienced from 1st July 2007 is out of the ordinary coincidence and is not in tandem with economic theory relating to competition.
- 6.2. The fact that the defence offered by OMCs (replacement cost) to explain the increase is not supported by facts on the ground lends credence to the suspicion that there was concerted activity on the part of the OMCs to realize unjustifiable gains at the moment that the Government raised taxes on petroleum products. However, applying retrospectively EWURA's powers of intervention in cases of this kind would be inappropriate.
- 6.3. In the future, all Oil Marketing Companies importing petroleum products in Tanzania, should use a bulk importation system where importation of petroleum products will be done competitively and transparently using an open tender system through International Competitive Bidding. The intention is to enable procurement of petroleum products from the cheapest source, in line with Petroleum Regulations, to access cheaper financing through a competitive bidding process involving banks, and to take advantage of the economies of scale. It is expected that the system will be effective by 1st March 2008.

- 6.4. EWURA shall, in consultation with relevant institutions, review the local fees and charges paid by importers for services provided by various entities in the importation process.. EWURA's review will include wharfage charges, destination inspection fee, SUMATRA charges, TBS charges, TIPER manifold fees and demurrage costs.
- 6.5. With effect from 1st January 2008, and on a monthly basis, all OMCs that own storage facilities shall publish their hospitality charges for the next three months. The terms and conditions for third party access shall also be published by the respective OMCs after being reviewed and approved by EWURA.
- 6.6. All petrol stations should as soon as possible, but in any case not later than 31st December 2007, publish on clearly visible price boards in front of petrol stations, both the prices charged and discounts and any trade incentives or promotions on offer.
- 6.7. Retailers shall buy petroleum products only from licenced petroleum products suppliers;
- 6.8. All existing operators in the petroleum wholesale and retail business are required to apply for respective licences by 31st December 2007. A late application fee of TZS. 1,000,000/= will apply to licence applications received after 31st December 2007.
- 6.9. Effective 1st November 2007, EWURA will be publishing Import Parity Prices and conduct market surveillance prices to promote effective competition. This information is provided to assist consumers to make informed decisions on their purchases.

Appendix 1

MATRIX OF STAKEHOLDERS COMMENTS ON ECONOMIC REGULATION IN THE PETROLEUM DOWN STREAM SUB-SECTOR IN TANZANIA

S/N	STAKEHOLDER	TYPE OF SUBMISSION	COMMENTS OR IMPROVEMENTS
1	Tanzania Ports Authority, P.O. Box 1130, <u>DAR ES SALAAM</u>	Written	<ul style="list-style-type: none"> (a) Coordinated importation of petroleum products; (b) Importation of multi products cargo instead of large homogeneous cargo; (c) Limited number of receiving lines to some OMC's terminals; (d) Regular Stakeholders meetings to improve the oil industry performance; and (e) TPA will install two vegetable lines and one LPG line to reduce time taken by oil tankers to offload products.
2	Tanzania Petroleum Development Cooperation P.O. Box 2774 <u>DAR ES SALAAM</u>	Written and Oral	<ul style="list-style-type: none"> (a) Establish a National Oil Company, by reviving COPEC (T) Ltd; (b) Introduce Bulk Procurement on International Competitive Bidding (ICB) basis to achieve competitive prices and economies of scale; (c) TPDC be assigned the role of coordinating bulk procurement task for OMCs for the first five (5) years after which task shall be assigned to a non profit making entity; (d) Introduce a single or limited petroleum products import entry point(s) to curb tax evasion through transit trade and improve data collection; (e) Make TIPER a Bonded Oil Depot to benefit from economies of scale, control tax collection, improve transit cargo and security of supply;

S/N	STAKEHOLDER	TYPE OF SUBMISSION	COMMENTS OR IMPROVEMENTS
			<p>(f) Regulate petroleum facilities including depots and pipelines to allow new entrants and reduce hospitality costs;</p> <p>(g) EWURA should develop an independent formula for determination of margins and overhead recovery rates;</p> <p>(h) Control of taxes on transit products, tax exempt petroleum products and lowly taxed kerosene;</p> <p>(i) Designation of entry points be accompanied by appointment of consortium of institution(s) to reconcile petroleum product imports;</p> <p>(j) All vehicles with transit petroleum trade be monitored using satellite system;</p> <p>(k) Consider Dar es Salaam as a tax collection point for transit petroleum products by bilateral arrangements and harmonization of tax rates on petroleum products among importing countries;</p> <p>(l) Colouring lowly taxed kerosene, with stiff penalties for products adulteration;</p> <p>(m) For compliance of technical and safety standards, EWURA must ensure that petrol stations are either: owned and operated by qualified oil companies; owned by qualified oil companies and operated by agents of oil companies; or owned by a person but operated by a dealer who must be an agent of a qualified oil company; and</p> <p>(n) Introduce compulsory pump price notice boards disclosing prices charged, discounts offered and trade incentives or promotions to enhance competition.</p>

S/N	STAKEHOLDER	TYPE OF SUBMISSION	COMMENTS OR IMPROVEMENTS
3	Ministry of Energy and Minerals P.O. Box 2000 <u>DAR ES SALAAM</u>	Written	<ul style="list-style-type: none"> (a) Publish benchmark prices weekly for all the petroleum products in all regional headquarters; (b) Put in place a reporting mechanism for all OMCs to submit; and (c) EWURA should submit to MEM status of quality of petroleum products in the country and measures taken to control the situation.
4	EWURA CCC	Written	<ul style="list-style-type: none"> (a) SUMATRA charges on petroleum products, (inherited from the former Tanzania Freight Bureau), initially meant for controlling freight inflation are no longer relevant. The charges were justifiable at the time the exchange rate was under the strict control of BOT; (b) The destination inspection charge of 1.2% is unjustifiable and it appears that some importers do not pay; (c) TBS should only be charging testing and inspection fee and only for the period when EWURA is not performing these functions. The 0.2% of the cost of insurance, freight & VAT should not be charged by TBS; (d) Charges to cover ocean & tank evaporation losses be removed as they are covered in the OMCs and dealers margins plus operating costs; (e) Demurrage charges are unnecessary and avoidable. OMCs should add more pipelines in their respective oil farms. Any cost of delay on the side of OMCs, TBS or TPA should not

S/N	STAKEHOLDER	TYPE OF SUBMISSION	COMMENTS OR IMPROVEMENTS
			<p>be passed over to the consumer;</p> <p>(f) A detailed explanation on the justification of TIPER Manifold fees is required. TIPER is no longer in operation and worse enough the manifold is left unattended. The manifold be attended by TPA and get away with the charges;</p> <p>(g) Joint procurement option poses a danger of collusion among OMCs and denies achieving competitive prices of petroleum products. However bulk procurement will facilitate economies of scale;</p> <p>(h) A robust monitoring system will be required if EWURA decides to opt for price band as a way to control petroleum product prices. Need to establish a monitoring system to capture all incurred costs by OMCs; and</p> <p>(i) Retail price CAP is recommended in order to control frequent unjustifiable rise of fuel prices by retailers</p>
5	EWURA GCC	Written	<p>(a) The increase in fuel prices that occurred in July 2007 leads to suspicion of collusion and profiteering. OMCs need to give convincing reasoning to explain the increase;</p> <p>(b) The fuel price build up be wholly reviewed by EWURA in collaboration with relevant authorities such as TRA, SUMATRA, TBS, TPA, OMCs to identify and reduce unnecessary burden to final consumer;</p> <p>(c) EWURA's mandate to regulate oil prices should be used where there is an abuse of market</p>

S/N	STAKEHOLDER	TYPE OF SUBMISSION	COMMENTS OR IMPROVEMENTS
			<p>principles by OMCs;</p> <p>(d) There are frequent break downs of flow meters at KOJ which cause delays in offloading petroleum products thus adding costs to the products. A mechanism be put in place to manage and control the flow meters, in order to reduce demurrage charges;</p> <p>(e) EWURA should work closely with the Fair Competition Commission in case of anti-competitive related practice by OMCs; and</p> <p>(f) EWURA should conduct a detailed study including visiting neighbouring countries to share experiences on management of bulk procurement system.</p>
6	SUMATRA P.O. Box 3093 <u>DAR ES</u> <u>SALAAM</u>	Written	<p>(a) SUMATRA does regulate FREIGHT on petroleum products as it does for other types of goods and services and fees are charged along those lines without discrimination. Section 6 of SUMATRA Act states, “...to take over and continue carrying out the functions formally of the Tanzania Central Freight Bureau set out in section 4, 4A and 4B of the Tanzania Central Freight Bureau Act.”; and</p> <p>(b) EWURA should design a cost effective procurement arrangement for importation of petroleum products in the country.</p>
7	TANZANIA REVENUE AUTHORITY P.O. Box 11491	Written	<p>(a) The destination inspection fee of 1.2% is paid to a contracted Service Provider for inspection of listed imported goods. The fee is also used for maintaining a system for customs and clearance of imports. This fee is also being charged by Kenya (2.25%) and Uganda is in the process of determining fees for a similar service. TRA plans to</p>

S/N	STAKEHOLDER	TYPE OF SUBMISSION	COMMENTS OR IMPROVEMENTS
	<u>DAR ES SALAAM</u>		phase out the fee in 2010 and Kenya in three years from now.
8	Dr. Fred Ringo – Representative of the Tanganyika Law Society; and Member of Tanganyika Consumer Protection Association.	Oral	<p>(a) OMCs and the Government should sit down and eliminate unnecessary costs on petroleum products as well as improve tax collection efficiency;</p> <p>(b) Tampering with meters of dispensing pumps at petrol stations should be taken care by the Weights and Measures Agency;</p> <p>(c) A sealing mechanism be put in place for petroleum products being transported by road to curb adulteration;</p> <p>(d) EWURA should restrict the use of drums as means of sale of petroleum products, as it is during the transition from a depot to these drums adulteration takes place;</p> <p>(e) The existing big difference between diesel and kerosene prices (taxes?) be reduced in order to control fuel adulteration;</p> <p>(f) OMCs should not be allowed to set up service stations in residential areas;</p> <p>(g) EWURA should address the issue of leakages and seepages of petrol into water supplies to protect the environment; and</p> <p>(h) Inefficiencies in the petroleum supply chain should be addressed to reduce prices of</p>

S/N	STAKEHOLDER	TYPE OF SUBMISSION	COMMENTS OR IMPROVEMENTS
			petroleum products to consumers.
9	Dr. Mosha – TBS	Oral	<p>(a) TBS charges 0.2% C&F and not 0.2% CIF as “batch certification fee” for all imported products into the country. This is a levy charged world wide by all standards institutions to support standardization activity; and</p> <p>(b) TBS does not charge inspection fees but charges testing fees.</p>
10	Dr. Lutengano Mwakahesya – Ministry of Energy and Minerals	Oral	<p>(a) Adulteration of petroleum products by small OMCs made big OMCs refuse them storage of petroleum products.</p>
11	Union of Local Oil Companies	Written	<p>(a) The definition of “economic regulation” lacks the important and crucial element of petroleum infrastructure in it. These include the whole spectrum of petroleum installations and logistics starting from refineries, oil jets, SBM, storage depots, pipelines, sea/road/railways tankers, petrol stations;</p> <p>(b) Abolition of bonded warehousing system has eliminated small players in the industry who were seen as intruders and unscrupulous traders in the petroleum sectors. Moreover it deprived the petroleum industry the advantage of economies of scale and as a result prices</p>

S/N	STAKEHOLDER	TYPE OF SUBMISSION	COMMENTS OR IMPROVEMENTS
			<p>became uncontrollable and high; and</p> <p>(c) Bulk importation leads to financing of big consignments. This will only be possible with the reintroduction of bonded warehouse.</p>
12	TAOMC	Written	<p>(a) The statement by TRA that in July 2007 <u>all OMCs</u> had 15 days of stock in the country is wrong;</p> <p>(b) During the subject period, the cost of fuel as quoted by Platts increased significantly. It is not unreasonable for any company to increase its prices if its costs increases;</p> <p>(c) It is not an uncommon practice in any business sector for companies to base their pricing decisions on replacement cost;</p> <p>(d) The fuel sector in Tanzania is liberalized as it is in many successful economies worldwide. Thus OMCs can set their own prices at levels they choose;</p> <p>(e) During July 2007 there was a wide range of fuel prices being offered to the Public. The prices in some cases were over TZS 50 apart. This is evidence of a competitive market that is working well;</p> <p>(f) The prices of all fuels in Tanzania during July 07 were not higher than our regional neighbours;</p> <p>(g) EWURA should contact SADC, World Bank, IMF and other entities to get their views on the effectiveness of price regulation in SADC countries that regulate prices;</p> <p>(h) Poor performance of flow meters, excessive time for product sampling, unavailability of engineers when equipment malfunctions and so forth add huge costs to the price of fuel;</p>

S/N	STAKEHOLDER	TYPE OF SUBMISSION	COMMENTS OR IMPROVEMENTS
			<p>(i) Neighbouring countries that have price regulatory systems in place, have the following features:</p> <p>(j) Fuel prices in those countries before taxes are not lower than Tanzania; There is no competition in their petroleum sectors. It is very difficult for new entrants into the respective petroleum sectors. The current status is 4-6 companies supplying the market, where as in Tanzania there are over 40 OMCs. This is a sign of a free and more competitive market</p> <p>(k) Companies have no incentive to become efficient and reduce costs as margins are guaranteed and operating costs are negotiated between the industry and the government;</p> <p>(l) Governments and OMCs operate in a “slate”. Thus it often becomes necessary for the governments to pay OMCs for lost margins when they hold prices steady in spite of the world costs increasing;</p> <p>(m) Since governments do not like paying out revenues, the status of the slates is usually that the governments owe the Oil industry several million dollars at any one time. Thus OMCs then factor this finance cost into their negotiations on the price formula and do not get agreement from the Government for the finance cost, therefore costs go up; and</p> <p>(n) Cost inefficiencies trickle down to the industries supplying the Oil Industry. For example, the fuel transporters know that their costs are factored into the price formula between the government and the OMCs, so they then get together and push their prices up because they know that the Oil Industry has no incentive to negotiate lower transport costs as it will be paid by the Government. End result higher costs. All suppliers to the Oil Industry will adopt the</p>

S/N	STAKEHOLDER	TYPE OF SUBMISSION	COMMENTS OR IMPROVEMENTS
			same strategy.
13	BP TANZANIA LTD P.O. Box 9043 <u>DAR ES SALAAM</u>	Written	<p>(a) EWURA should ensure that there is a level playing field among players in the industry so that each player can make a fair return and that quality products at competitive prices are available countrywide;</p> <p>(b) The problem with price regulation is that structures and prices are fixed for periods when markets are continually changing. This is occurring in the regulated markets of Botswana and Namibia where the public is having to subsidise the motorist because the regulated prices at the pump don't increase at the same rate as the continual movement of International product prices and exchange rates;</p> <p>(c) Introduction of price setting will require institutionalization of stabilization fund to be used by OMCs when there is under recovery of costs. Since price regulation can not cope with the speed by which international markets move, the tax payer has to pay for this structural deficit in regulation. Examples are South Africa, Malawi and Namibia; and</p> <p>(d) EWURA and FCC should govern market failure and abuse of liberalization by players in the market.</p>

Appendix 2: Defects in the Existing System of Petroleum Products Unloading

Topic of discussion	Action Party	Timing Status
<p>1. Product Testing and Sampling:</p> <ul style="list-style-type: none"> - The current practice is too time consuming and hence delays in discharge operations as revealed in recent Ships time sheet. - There is a potential of improvement in terms of reduction of sampling and testing time. This can be achieved through TBS having min Lab near Port, Testing Collaboration between TBS/SGS/Intertek, and or Sampling Ship tanks at outer anchorage. - TPA ready to collaborate with TBS for a small lab at the Port. - TBS confirmed testing time can be lessened to 1hr30min for AGO, 2hrs for Mogas and 3hrs for Jet A-1. - Test results shall be released in the same order so that discharge can start with quicker test grades. 	TBS	Quick win

Topic of discussion	Action Party	Timing Status
<p>2. Flow meters:</p> <ul style="list-style-type: none"> - They are designed to allow a maximum flow rate of 750m³/hour - Currently are being calibrated by offshore Company – Supplier. - Arrangement by TPA is on pipeline to train staff from TPA, TRA and Weigh & Measures so that Calibration of the meters can be done locally to save money and time. - By-Passing and Maintenance. In case of breakdown, TRA Commissioner for Customs and Excise grants permission for By-Pass upon receipt of formal request from TPA DG. This process seem to be too long and time consuming as may not been well understood by stakeholders. There is a need of having a clear procedure showing all line of authorities and their respective delegations who are to be contacted when in need of By-Pass arrangement. - TPA to ensure that there is a standby engineer at the jetty who can attend the breakdown instantly and or request for by-pass if need be in order to avoid delays as a result of meter breakdown. 	<p>TPA</p> <p>TPA/TRA</p> <p>TPA</p>	<p>Medium term win</p> <p>Quick win</p> <p>Quick win</p>
<p>3. Operating pipeline (hoses) 1034kpa / 10 bar and maximum flow rate at 7meter/second velocity based to line diameter.</p> <ul style="list-style-type: none"> - TPA loading master should be firm to ensure that the ships pump at the maximum requested pressure of 10bar (1034kpa). There is nothing like Charter party limiting requested pump pressure. - Note: All vessels are equipped to discharge all its cargoes in 24hrs provided that shore pipelines can allow. 	<p>TPA/Surveyors</p>	<p>Quick win</p>

Topic of discussion	Action Party	Timing Status
<p>4. KOJ1 & 2 – Potential Improvement\</p> <ul style="list-style-type: none"> - TPA is on process to install LPG line at KOJ2 so that the jetty can serve LPG tankers hence reduce congestions at KOJ1 - Construction of extra Vegetable oil line at KOJ1 underway in order to increase discharge rate for Vegetable oil tankers. - There is a need of installing extra AGO line at KOJ1 jet head to the manifold in order to increase AGO discharge rate. 	<p>TPA</p> <p>TPA</p> <p>TPA</p>	<p>Sept 2007</p> <p>Sept 2007</p> <p>Medium term win</p>
<p>5. Individual OMC’s pipeline layout modification/improvement.</p> <ul style="list-style-type: none"> - Oil terminals currently using single line to receive multiple grades should consider installation of extra line in order to allow receiving of 2 or more products concurrently. 	<p>OMC’s</p>	<p>Medium term win</p>
<p>6. Elimination of line displacement.</p> <ul style="list-style-type: none"> - Line displacement found to be wastage of time during discharge and hence should be avoided except when displacing product of different grade. 	<p>Surveyors/ OMC’s</p>	<p>Quick win</p>
<p>7. Berth allocation</p> <ul style="list-style-type: none"> - Currently berth allocation is on first inn first berth basis. - TPA proposed for window booking system but seem to be impractical under current complexity in shipping & marine logistics. OMC’s to contact their respective Shipping departments for a possibility of practicing window booking and communicate with TPA accordingly 	<p>OMC’s</p>	<p>Medium term win</p>

Topic of discussion	Action Party	Timing Status
<p>8. TIPER manifold efficiency.</p> <ul style="list-style-type: none"> - The manifold is owned by TIPER. TPA has no control over it. - Manifold layout is too complex and need to be simplified to allow maximum flow rate. - TPA/TIPER to look for possibility of improving the manifold. 	TPA/TIPER	Medium term win
<p>9. Coordinated Scheduling and Planning</p> <ul style="list-style-type: none"> - OMC's should join together and appoint local company or a professional discharge coordinator who will take care of scheduling, pre-arrival planning and supervision of all discharge operations on behalf of the Shore receiving Companies. 	OMC's	Medium term win
<p>10. Cargo calculations prior to discharge.</p> <ul style="list-style-type: none"> - Eliminate time taken for cargo calculation before discharge. - Discharge to commence immediately once cargo ullaging is completed, then cargo calculation while discharge on progress. 	TPA/TRA /Surveyors	Quick win
<p>11. Hard arm/Hose – Fix hard arms and or replace hoses with correct ones.</p>	TPA	Medium term win

Companies with Petroleum Pipelines at the Dar es Salaam Port

S/N	Company	New/Old Line	Number of Lines	Pipelines Capacity (Litres)
1.	TIPER	Old	3 (MSP, JET A1, GO/IK)	312,000
2.	ORYX	Old	1	33,000
3.	ENGEN	Old	2 (GO/IK, MSP)	72,000
4.	TOTAL	Old	1	33,000
5.	NATOIL	Old	1	174,000
6.	MCCL	Old	2 (GO/IK, MSP)	263,000
7.	GAPOIL	Old	3 (GO/IK, MSP, JET A1)	431,000
8.	GAPCO	Old	3 (GO/IK, MSP, JET A1)	466,000
9.	BP	Old	3 (GO/IK, MSP, JET A1)	509,000
10.	OILCOM	Old	3 (GO/IK, MSP, JET A1)	63,000
11.	GBP*	New	3 (GO/IK, MSP, JET A1)	
12.	CAMEL OIL	New	3 (GO/IK, MSP, JET A1)	
13.	MGS	New	1	117,750
14.	WORLD OIL*	New	2 (GO/IK, MSP)	
	SUM		31 LINES	

Key: * Not yet Operational