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DEPARTMENT OF TRANSPORT

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THE NAMIBIAN ROAD SECTOR REFORM: THREE AND A HALF YEARS AFTER IMPLEMENTATION

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This report is based on a paper which was presented at the South African Transport Conference in July 2000.

Part 1 deals with the developments leading up the Reform and implementation of the Reform and is an edited version of the paper delivered at the Transport Conference in 2000.

Part 2 deals with developments after the implementation of the Reform and has been substantially redrafted to reflect the situation as at end September 2003, i.e. about three and a half years after the Reform was implemented.

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THE NAMIBIAN ROAD SECTOR REFORM:

THREE AND A HALF YEARS AFTER IMPLENTATION

EXECUTIVE SUMMARY

Introduction

On 1 April 2000, the Road Fund Administration, the Roads Authority and the Roads Contractor Company commenced operations. This marked the date of the implementation of the Namibian Road Sector Reform, i.e. of new arrangements for financing and managing roads in Namibia.

This report describes the process leading up the implementation of the Road Sector Reform and reviews the situation some three and a half years after implementation. It covers the approach adopted in Namibia, the policy eventually accepted, the issues which have arisen and the strategies which have been adopted to deal with such issues. The conditions which have allowed the reform to take place in Namibia are analysed. Finally, the relevance of the Namibian reform for other countries will be briefly touched upon.

The Road Sector Prior to Reform

At Independence, in March 1990, Namibia was fortunate in having an extensive and well-maintained, if regionally imbalanced, road network. The road network was funded out of the Government's budget and the institutional arrangements were similar to those in most other countries. The Department of Transport, in the Ministry of Works, Transport and Communication (MWTC), was responsible for planning, designing, constructing and maintaining the national road network. Urban roads and streets were - and still are - the responsibility of local authorities.

In anticipation of Namibia's Independence in 1990 from South Africa, the Swedish aid agency, Sida, initiated investigations into the transport and communications sectors in the country. The result was the report *Transport and Communications in Namibia*, published to coincide with Namibia's Independence on 21 March 1990. With regard to roads, the report pointed out that road maintenance allocations had declined in the late nineteen-eighties. A specific project recommended was a Study on Road Taxation, which would look at the question of earmarking and also at the structure and levels of road related taxes.

Developing the Road Sector Reform

The Road Sector Reform in Namibia has developed in two phases. In the first phase, from 1990/91 to 1994/95, the focus of work was mainly on road taxation and road funding issues. However, once Government gave its support to the idea of a road fund in 1995, the work on reforming the road sector was widened to cover all relevant aspects of the road sector, including its organisation and management.

The road taxation study that had been recommended in the report *Transport and Communications in Namibia* was completed in December 1992. The main findings were that the then system of taxes on road users could not be regarded as a road user charging system. However, data available indicated a reasonable balance between actual annual average levels of expenditure on road maintenance and construction and revenue from road-related taxes, such as fuel levies and vehicle licence fees. Although an average increase in road taxes, or user charges, of about 24% was projected to be required in order to attain cost-recovery, the effect on total vehicle operating costs was found to be relatively insignificant at the time.

The findings therefore, in effect, confirmed that a *de facto* system of road user charging was already in existence in Namibia, although this was a fortuitous rather than intended state of affairs. The findings, nevertheless, constituted an important motivation to introduce a system of road user charging and to do so before the “window of opportunity” existing at the time disappeared. The report hence recommended the implementation of a system of road user charges, which would recover costs related to economically justified road construction and maintenance works in Namibia. The above recommendations were approved in principle by the Namibian Cabinet in March 1993. The Cabinet further approved that an Interministerial Committee of Technical Experts (ICTE) be appointed to formulate final policy recommendations concerning the implementation of a system of road user charging for Namibia in accordance with the policies proposed by the study.

The ICTE submitted its recommendations to Cabinet in July 1995. The ICTE confirmed the recommendation of the previous investigation and further found that a road fund should seriously be considered. Cabinet accepted all of the ICTE’s recommendations.

In the course of 1994, a number of developments prompted the MWTC to formulate a broad and comprehensive approach to the restructuring of the Ministry. This strategy was translated into a project which was given the name the MWTC2000 Project. The project document for the MWTC2000 Project presented for the first time an embryo of a vision of a new arrangement for the road sector, including the establishment of a road fund, the introduction of road user charges, and the reform of all operational units of the Department of Transport in the road sector, i.e. the force account units and the plant pool. The MWTC2000 Project was approved by Cabinet at the same meeting at which Cabinet acted on the recommendations of the ICTE.

Under the MWTC2000 Project work on a first preliminary design of the full Road Sector Reform was prepared. The MWTC proposals envisaged the creation - by way of law - of two new agencies of the state, the Road Fund Administration (RFA) to manage the road fund and the road user charges, and the Roads Authority (RA), to manage the national road network.

At the same time, i.e. in 1996, the shape of the third component of the road sector reform was also substantially clarified. Under the MWTC2000 Project a study of the future of the plant pool in the Department of Transport was carried out. A main conclusion of this study was that if the aim was to create a commercially viable entity, it would be necessary to establish a fully-fledged contractor by combining the plant pool with the force account units involved in road maintenance and construction in the MWTC. This idea was accepted by Cabinet, and eventually matured into the decision to form the Roads Contractor Company (RCC).

Implementing the Road Sector Reform

One of the early decisions made was to establish the three new entities in terms of three separate pieces of legislation. One reason for this was that the three entities fall under different Ministers. Another, more important, reason was to separate the road funding function, which is regulatory in nature, from the road management function, which is operational in nature. The Road Fund Administration Act, the Roads Authority Act and the Roads Contractor Company Act were published in the Namibian Government Gazette in October 1999.

The features of the three new independent organisational entities established by the three acts are as follows: The RFA has the tasks of determining (or “regulating”) road funding, managing the road user charging system to raise the necessary revenue and administering the Road Fund "with a view to achieving a safe and economically efficient road sector". The board of directors of the RFA is appointed by the Minister of Finance and is autonomous in being able to determine the expenditure on roads, both as far as maintenance and investment is concerned, and to determine the levels of road user charges which are required to finance expenditure.

The RA is responsible for managing the national road network. However, all maintenance and construction works must be let on contract subject to tendering, with the exception of work to be given to the RCC during the first three years of its existence. The Minister responsible for Transport appoints the board of directors and supervises performance of the Authority.

The RCC, which has evolved from the departmental roads maintenance and construction units, is a Companies Act company. In terms of its legislation it was envisaged to receive preferential treatment during the first three years after its establishment for the award of roads contracts within its capabilities, but must thereafter compete on the open market for such work. The board is appointed by the Shareholding Minister, who is designated by the President. During the initial phase, the minister responsible for transport was designated as the Shareholding Minister.

Developments after the implementation of the Reform

The success of the Road Sector Reform first came under scrutiny when a Road Sector Reform Review Workshop was held in November 2001. All the major stakeholders were invited.

The general view was that the Reform had been necessary and that it had in general succeeded. The main issues identified were that optimum levels of funding were not yet attainable, the increasing backlog in road maintenance and rehabilitation, the Roads Contractor Company’s anticipated problems in becoming fully commercialised and competitive within the there year transition period and the need for steps to be taken to improve stakeholder participation and understanding of the road user charging system.

A positive aspect was that there had been a steady increase in the level of funding provided for the national road network.

Performance of the new institutional entities

The Road Fund Administration

The Road Fund Administration’s core functions are to manage the road user charging system, which comprises (i) the regulation of road funding in terms of economic efficiency criteria, (ii) the raising of sufficient revenue by imposing road user charges, and (iii) to manage the Road Fund in accordance with sound principles of financial management.

While the basic policy objectives of the road user charging system have not been challenged, a number of practical issues as well as questions of legal interpretation have prompted the Road Fund Administration to initiate the *Road User Charging System Review* the purpose of which is to review of the strengths and weaknesses of the legislation and the practical aspects of implementing road user charges. This project was launched in mid 2003 and its finding are expected to be available by the second quarter of 2004. The Review in addition makes provision for an investigation of the macro-economic impacts of economic efficiency in the road sector (MIEERS Study). The intention with this study is, inter alia, to provide a general quantitative basis for consulting with stakeholders about the economic justification for optimal expenditure on roads and the associated road user charges.

The Road Fund's regulatory function, i.e. the determination of the economically efficient road funding level, has presented two issues. Firstly, since the Road Fund Administration Act does not itself explicitly define the concept of an "economically efficient road sector" the Road Fund Administration has had to interpret this concept by means of the rules and principles which it must "frame" in terms of section 19(2) of its Act. The interpretation which has been accepted by the Road Fund Administration is based on the internationally well-known Highway Development and Management Model.

Secondly, the statutory requirement that road user charges must be stable in real terms over the longer term, has had the effect of forcing both the Roads Authority and the Road Fund Administration to adopt a long term planning approach with regard to road funding. A first Medium to Long Term Roads Master Plan (MLTRMP) accepted in November 2003. The Road Fund Administration is therefore now in a better position to quantify future funding requirements to be met via the road user charging system and this in turn has provided a better insight about the future rates of road user charges.

The Road Fund Administration has been obliged to look at issues related to loan funding in order to bridge the gap between short term funding requirements and available revenue from road user charges. Initially a conservative loan strategy was adopted but pressures to deal with road maintenance and rehabilitation backlogs has obliged the Road Fund Administration to reconsider this approach. The Road Fund Administration in 2002 decided to loan money in the form of a limited bond issue, which was executed in local currency in order to eliminate currency risks. Total loan funding has been limited so that future loan repayments could be kept within manageable limits.

The Road Fund Administration will, however, and as shown by the MLTRMP, be obliged to implement relatively rapid increases in road user charges for a few years after which they can be increased more slowly in real terms in later years and as expenditure stabilises at a reasonably constant level. The Road Fund Administration will have to deal with resistance to increases in road user charges if its to meet is mandate of ensuring a safe and economically efficient road sector. In this regard, one of the Road Fund Administration's problems relates to the implementation of mass-distance charges on very heavy vehicles. These are necessary to ensure that such vehicles pay a fair share of road costs (i.e. equity considerations) and to in general increase revenue for the Road Fund. Delays in implementing mass-distance charges have been caused by their technical complexity and the fact that such charges must be implemented in a way which will prevent large scale evasion by owners of heavy vehicles.

As far as its management of the Road Fund is concerned the Road Fund Administration has succeeded in managing revenue and expenditure so that the Road Fund has always had adequate liquidity in the short term while at the same time ensuring long term solvency. However, conventional financial reporting systems do not adequately reflect long term solvency in instances where loan financing strategies are implemented and where the roads constructed with loans cannot be shown as "assets" to balance the loan "liabilities". The Road Fund Administration is investigating ways of presenting its financial statements so as to deal with this matter.

The Roads Authority

The basic function of the Roads Authority is to efficiently manage the national road network. It has also been assigned or contracted by the Minister responsible for transport to perform various other functions. These include the management of the Namibian Traffic Information System (NaTIS), the issuing of cross-border road transportation permits and the management and operation of registering authorities, driving testing centres and vehicle testing stations. The Minister has also authorised the Roads Authority to undertake traffic law enforcement with regard to overload control.

As far as the management of the national road network is concerned the Roads Authority's main challenge has been to prioritise road projects and programmes in accordance with the principles of the road user charging system and in line with limited available funding from the Road Fund. In particular the Roads Authority has had to contend with an increasing backlog in the rehabilitation of the older parts of the paved road network for which a considerably higher than normal level of funding in the short to medium term is required. Notwithstanding constraints in funding, the total amounts provided for managing the national road network have increased each year. The service levels of the unpaved parts of the national road network continued to be acceptable to road users in Namibia as well as visitors from other countries. The first draft of a Medium to Long Term Roads Master Plan (MLTRMP) was finalised at end November 2003. The MLTRMP suggests that longer term optimal road funding requirements are not necessarily as high as initially predicted.

The Roads Authority's Section: Road Transport Inspection Services undertakes some traffic law enforcement functions with a specific focus on overload control. The number of heavy vehicles weighed have increased each year with the result that the number of overloaded vehicles has steadily decreased each year. The above suggests that the measures instituted as a result of the Reform have resulted in greatly improved control of overloading.

The Roads Contractor Company

The Roads Contractor Company (RCC) was unable to become fully commercially competitive during the first three years of its operation, although, from a purely financial point of view it had a small net retained income of about N$0,5 million at that time. However, the RCC's performance cannot be evaluated solely on the basis of its income statement figures because it did not compete for work with other similar companies and its unit work rates were therefore not subjected to testing in a market environment.

It had become evident by the second year of its operation, that the RCC was experiencing difficulties. The Minister of Works, Transport and Communication therefore at the end of 2002 initiated an independent review of the performance of the RCC. The review resulted in a report submitted to the Ministry of Works, Transport and Communication during February 2003. The report ascribed the failure of the RCC to become commercially competitive to a variety of factors, of which the most relevant were that it had no adequate financial resources, commenced its operations with old-age plant and equipment, was overstaffed and that there had been an under-estimation of time required to change the employment culture and work ethics of a previous public service entity.

When the RCC's transitional period expired on 31 March 2003 it became necessary to put in place further formal arrangements between the RCC and the Roads Authority to extend the transitional period. An Executive Arrangement has been signed with the Roads Authority. This will cover a further three year period. In terms of the agreement the RCC will receive road maintenance contracts from the Roads Authority for each of the three financial years following the 2002/03 financial year for an amount of N$237 million, but excluding value-added tax. During this period the RCC is required to annually improve its unit rates. Progress will be regularly monitored.

Compliance by the new entities with various statutory monitoring, transparency, consultation and reporting requirements

All of the new entities, in some cases belatedly, submitted draft Performance Statements to their controlling Ministers at the end of 2002. Not all of these had been finalised at the date of this report. The Procedures Agreement which the Roads Authority must submit to the Road Fund Administration had not yet, due to its complexities, been formally finalised at the date of this report but the parties are operating in accordance with the provisions of the draft Agreement.

The Roads Authority, the Road Fund Administration and Roads Contractor Company have published Annual Reports, which include audited financial statements, as required in terms of their respective Acts.

The Road Fund Administration has arranged formal consultations with stakeholders such as the Ministry of Finance, the Ministry of Works, Transport and Communication, The Ministry of Mines and Energy, the Roads Authority, the Roads Contractor Company and representatives of the road transport industry in finalising its Business Plan.

Compliance with budgeting provisions

The Road Fund Administration has each year failed to prepare and adopt a Business two months before the commencement of its financial year, starting 1 April. This has created problems for entities such as the Roads Authority. The failure of the Road Fund Administration in adopting its Business Plans in time is attributed to problems in finalising loan arrangements. During 2002 Government guarantees for the proposed bond issues (see previously) had to be negotiated over an extended period while there were also delays in reaching agreement about proposed increases in the rates of road user charges.

Funding of functions other than management of the national road network

Up to now the Road Fund Administration has not, as provided for in the legislation, allocated any funding for traffic law enforcement to the Ministry of Home Affairs and certain local authorities who operate traffic police components. This has been due mainly to a shortage of funding but also because the rules and principles to determine the amount of funding which should be allocated in terms of economic efficiency principles had not been finalised. It has proven difficult to draft practical rules to quantify the benefits which accrue from traffic law enforcement (and other similar traffic type functions) - a necessity to justify expenditure in terms of the principles of the road user charging system. However, it is expected that such rules and principles will be available during 2004 and after consultation with stakeholders.

Fuel prices and taxes in neighbouring countries

One of the problems related to the introduction of road user charging systems using levies on fuel is that the levels of such charges are not necessarily the same in different countries. In addition, different countries are likely to adopt different policies with regard to the revenue taxation of fuel. Different policies and circumstances in neighbouring countries are likely to create problems with regard to fuel smuggling and avoidance of road user charges included in fuel prices.

The Namibian Cabinet in 1996 adopted a set of policy principles with regard to the taxation and pricing of petroleum products. It is however, necessary to work towards harmonious policies in different countries with regard to road user charging and the taxation of fuel for revenue purposes.

Concluding Observations

Achievement of key policy objectives

The basic policy objectives of the Road Sector Reform are: (i) to ensure that the road sector in Namibia is safe and economically efficient by regulating funding in terms of economic efficiency criteria applicable to the road sector, (ii) to fully recover road funding requirements, complying with the above criteria, from road users through equitable road user charges, and (iii) to achieve a greater degree of efficiency in managing the national road network.

With the acceptance of the first MLTRMP in November 2003 the quantum of the long term stable funding level complying with economic efficiency criteria has been determined with a reasonable degree of accuracy.

However, the objective to fully recover costs via an equitable set of road user charges has not yet been achieved. It will still take some time to increase the inherited road-use related taxes to the required levels. Further, mass-distance charges to improve equity and increase cost recovery must still be implemented. In the short term limited loan funding will be used to provide funding to eliminate road maintenance backlogs.

As far as efficiency in managing the national road network is concerned, there are still various issues, mainly related to the competitiveness of the Roads Contractor Company, to be resolved. It is believed, however, that a considerable improvement in comparison to the situation prevailing before the Road Sector Reform has already been achieved and that further improvements are likely to be effected during the extended transitional period.

Relevance of the Namibian experience to other countries

It is believed that the road sector reform in Namibia has some relevance for other countries. Firstly, all countries need to have policies in accordance with which expenditure on the road network may be quantified. In this regard the Namibian system providing for an approach based on economic efficiency principles should be broadly acceptable. However, the extent of the role to be played by road users may differ in other countries. All countries need not necessarily opt for full cost recovery from road users as Namibia has been able to do - in part because of the well-established. national road network existing in Namibia when the Road Sector Reform was implemented.

THE NAMIBIAN ROAD SECTOR REFORM:

THREE AND A HALF YEARS AFTER IMPLEMENTATION

PART 1: DEVELOPMENTS LEADING UP TO AND IMPLEMENTATION OF THE REFORM

1. INTRODUCTION

On 1 April 2000, the Road Fund Administration, the Roads Authority and the Roads Contractor Company commenced operations. This marked the date of the implementation of the Namibian Road Sector Reform, i.e. of new arrangements for financing and managing roads in Namibia.

The Road Sector Reform is one of the outcomes of a comprehensive process of policy review in the transport and communications sectors, which commenced shortly after Independence in Namibia on 21 March 1990[1]. The discussion herein deals only with the road transport mode and specifically road infrastructure provision. A more complete review of transport policies can be found in the White Paper on Transport Policy, approved by Cabinet in October 1994.

This report describes the process leading up the implementation of the Road Sector Reform and reviews the situation three and a half years after implementation. Part 1 covers the approach adopted in Namibia, the conditions which have allowed the reform to take place in Namibia and the policy eventually accepted. Part 2 reviews the achievements after three and a half years, the issues which have arisen, the strategies which have been adopted to deal with such issues and the issues remaining to be addressed. Finally, the relevance of the Namibian reform for other countries is briefly touched upon.

2. THE ROAD SECTOR IN NAMIBIA PRIOR TO REFORM

2.1. The road network

At Independence, in March 1990, Namibia was fortunate in having an extensive and well-maintained, if regionally imbalanced, road network. The road network was the result of a broad policy of infrastructure development implemented by the pre-independence authorities during the period from the early nineteen-seventies and until the mid-eighties.

In general, the road network was and still is reasonably well maintained. However, during the last years before Independence and thereafter funding constraints resulted in backlogs in rehabilitation of the older parts of the trunk road network. These backlogs were therefore present at the time when the Reform was implemented.

[1] This process would not have been possible without a well-directed and generous technical assistance programme funded by the Swedish International Development Cooperation Agency (Sida) - at the time known as the Swedish International Development Authority (SIDA).

In the period after Independence a programme of road development focussing on road links with neighbouring countries, other than with South Africa, was implemented with the result that Namibia now has good road links with all its neighbouring countries.

2.2. The road funding

Prior to the Road Sector Reform, roads were funded out of the Government's budget. Although there were taxes, which were specific to road users, such as fuel levies and vehicle licence fees, no linkage existed between the revenue from such taxes and expenditure on roads[2].

2.3. Institutional arrangements with respect to road construction and maintenance

The institutional arrangements for roads in Namibia were similar to those in most countries. The Department of Transport, in the Ministry of Works, Transport and Communication, was responsible for planning, designing, constructing and maintaining the national road network. Urban roads and streets were - and still are - the responsibility of local authorities. The Government in the past subsidised the maintenance cost of urban roads by 50%.

2.4. Road transport services and regulation

Road transport services in Namibia were - and still are - operated by private sector transport operators. At Independence road transport services were strictly regulated. A policy to implement a more liberalised regime, as recommended in the White Paper on Transport Policy mentioned earlier, has been accepted. A new Act, the Road Traffic and Transport Act, was published in 1999. Its provisions are being incrementally implemented.

The new Act removes measures that previously protected the railways against competition from road transport, although in recent years prior to the new Act these measures were largely not enforced. The Act seeks to promote effective and equal competition between road transport operators within Namibia and, in the cross-border road transport market, between Namibian and foreign road transport operators.

As reflected in the White Paper on Transport Policy, it has commonly been believed that heavy road transport operators have not been paying adequately for road use, resulting in unequal competition between road and rail. The introduction of a liberalised road transport regulatory regime was in principle accepted by the railways since it was expected that the new arrangements in the road sector would oblige operators of heavy vehicles to pay the full costs of their use of the road infrastructure. This expectation has not yet been fully fulfilled, *inter alia,* because of technical problems in implementing mass-distance charges on heavy vehicles, one of the road user charging instruments provided for in the new arrangements.

2.5. Road Traffic Safety and Traffic Law Enforcement

The Road Sector Reform as such did not change the arrangements for promoting road safety. However, the Road Fund Administration Act, in accordance with a policy approved by Cabinet, makes provision to in future provide funding support for road safety activities from the Road Fund on

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2 A comprehensive study on transport services in Namibia which was undertaken during the mid-eighties recommended, *inter alia*, that such a linkage be implemented. See Reference 3. This proposal was not followed up in the period leading up to Independence.

the grounds that road users are beneficiaries of the road safety function. Road traffic laws are enforced by the Traffic Police component of the Namibian Police, under the Ministry of Home Affairs while a few larger local authorities operate municipal Traffic Police Forces.

Road safety promotion is currently undertaken in terms of the existing National Road Safety Act, 1972, a South African act taken over at Independence. It will shortly be replaced by a new Namibian act which provides for the implementation of an integrated national road safety management system and the establishment of a Road Safety Agency and a National Road Safety Forum. The functions of the Agency are to manage the integrated national road safety management system which includes preparing a five year National Road Safety Plan (Plan) approved by Cabinet, promoting road safety and coordinating the activities of all role players in road safety. The Agency will, however, not have powers of intervention in the activities of such role players, except by way of the recommendations included in the Plan and approved by Cabinet. The National Road Safety Forum will be representative of all role players in road safety and which will have a deliberative and consultative function, will review the National Road Safety Plan and its implementation, and will provide the Minister responsible for transport with its comments, specifically also about the standard of road safety to be achieved. The act requires the "standard of road safety" to be quantitatively defined in terms of values to be allocated to a set of pre-selected traffic quality indicators[3]. The annual budget of the Agency will be considered and approved by the Minister responsible for transport, provided it is broadly in accordance with the budget figures contained in a Plan, and after consultation with the Road Fund Administration. In considering the budget the Minister will be required to apply principles similar to those in the Road Fund Administration Act. The Budget will be funded from the Road Fund and other sources.

2.6. Transport policy developments at and shortly after Independence

In anticipation of Namibia's Independence in 1990 from South Africa, the then Swedish International Development Authority (SIDA - now Swedish International Development Cooperation Agency - Sida) initiated investigations into the transport and communications sectors in the country. The result was the report *Transport and Communications in Namibia*, published to coincide with Namibia's Independence on 21 March 1990. The report provided a detailed survey of the existing transport and communications sectors, analysed the state of these sectors and identified the short term needs and projects to address these needs through donor financing.

One of the findings of the above report was that the Department of Transport would have to face a number of new challenges after Independence, specifically with regard to civil aviation and maritime affairs, since the Department had previously been mainly a roads and engineering oriented organisation. It also identified the need for strengthening the transport policy development capacities after Independence.

With regard to roads the report pointed out that road maintenance allocations had declined in the late 1980s, and that there were no earmarked taxes on road use. A specific project recommended was a Study on Road Taxation, which would look at the question of earmarking and also at the structure and levels of taxes to ensure that the Government's basic policies with regard to financing of public expenditures would be taken into account.

[3] See the reference to "Road Traffic Quality Indicators" in paragraph 3 of Article 6.12 of the SADC Protocol on Transport, Communications and Meteorology.

3. DEVELOPING AND IMPLEMENTING THE ROAD SECTOR REFORM

3.1. Introduction

The road sector reform in Namibia has developed in two phases. In the first phase, from 1990/91 to 1994/95, the focus of work was mainly on road taxation and road funding issues. The operational and institutional arrangements for road building and maintenance did not initially receive attention. Although the concept of a dedicated road fund was considered, this was also initially not studied in detail as it was uncertain that it would be possible to receive the blessing of the Ministry of Finance for this idea.

However, as the process of policy formulation advanced, two things became clear. The principles being developed for replacing the existing road taxation regime by a road user charging system more or less dictated that a road fund be established. Furthermore, the need to undertake more far-reaching reforms of the road sector became apparent.

Once Government gave its support to the idea of a road fund, in 1995, the work on reforming the road sector was therefore widened to cover all relevant aspects of the road sector including its organisation and management. The second phase culminated on 1 April 2000 with the coming into operation of the new arrangements in the road sector.

3.2. The first phase

3.2.1. Study on Road Taxation - first findings and proposed road funding and taxation policies

The road taxation study that had earlier been recommended was started in October 1990 following a decision by the Swedish Government to provide technical support to, *inter alia*, the transport sector in Namibia. At the time when the study was initially conceived, the basic objective had been to put in place an arrangement which would ensure a sustained source of funding for roads through earmarked taxes on road users, albeit that it was stated that taxes should be "fair" in the sense that they should be so structured as to ensure that individual road users would be taxed in relation to their "consumption" of roads.

However, as the study progressed it became clear that, for the policy to endure over the longer term, it would also be necessary to address the questions: (i) how much should be spent on roads in Namibia, (ii) what proportion of road spending should be recovered from road users, and (iii) how should different categories of road users be made to pay.

The consultants completed the study in December 1992. The main findings were that the then system of taxes on road users could not be regarded as a road user charging system. However, data available at the time of the study (1990/91) indicated a reasonable balance between actual annual average levels of expenditure on road maintenance and construction and revenue from road-related taxes, such as fuel levies and vehicle licence fees. Heavy vehicles were found not to be contributing a fair share of their costs through the existing tax instruments.

The findings therefore, in effect, confirmed that a *de facto* system of road user charging was already in existence in Namibia, although this was a fortuitous rather than intended state of affairs. The findings, nevertheless, constituted an important motivation to introduce a system of road user charging and to do so before the "window of opportunity" existing at the time disappeared.

The study also contained an assessment of the possible impact on vehicle licence fees, fuel levies and vehicle operating costs if a road user charging system based on full cost recovery were to be implemented. An “impact study” should thus be regarded as an important component of any road taxation study, as it determines the acceptability of proposals for Government as well as the general public. Although an average increase in road taxes, or user charges, of about 24% was projected, the effect on total vehicle operating costs was found to be relatively insignificant at the time.

The study therefore strongly recommended the implementation of a road user charging system which would recover road expenditures from road users through road user charges. It was recommended that the road user charges be set to comply with user pay (implying full expenditure recovery), economic efficiency (implying marginal cost pricing) and equity principles.

The above recommendations were approved in principle by the Namibian Cabinet in March 1993. The Cabinet further approved that an Interministerial Committee of Technical Experts (ICTE) be appointed to formulate final policy recommendations concerning the administrative, technical, legal and institutional issues related to implementation of a system of road user charging for Namibia in accordance with the policies proposed by the study and also to give attention to a number of specific issues. These were mass-distance charges on heavy vehicles (in order to ensure that light and heavy vehicles are charged equitably), the system of government road maintenance allocations to local authorities, establishment of a road fund and the revenue taxation of fuel (i.e. taxation for fiscal purposes only).

With the advantage of hindsight some issues which did not receive detailed attention may be mentioned. Firstly, the study based its findings on the costs to be recovered through road user charges on the most recent expenditure budgets of the Department of Transport, the Traffic Police in the Ministry of Home Affairs, the traffic police components of local authorities operating such components as well as the road maintenance expenditure figures supplied by local authorities. It did not specifically address the process of roads budgeting and the methods to be applied in regulating the level of roads expenditure, in other words whether the appropriations which had been made reflected expenditure levels which could be justified on economic grounds. The question as to how much should be spent on roads in Namibia was therefore not fully addressed. Secondly, it did not address institutional and legal issues related to the implementation of the road user charging system except in as much as it referred to the possible establishment of a road fund for which rules and a controlling entity, such as a roads board, might need to be established.

3.2.2. Further policy development - the Interministerial Committee of Technical Experts (ICTE)

The ICTE commenced its work in mid-1993 and its recommendations were submitted to Cabinet in July 1995. The ICTE confirmed the recommendation of the previous study for the implementation of a road user charging system as well as the proposed basic policy principles and types of charging instruments to be used. The ICTE further found that a road fund should seriously be considered and envisaged that the road user charging system should be managed by a national roads board representing the interests of parties regarded as stakeholders in the Namibian road sector.

One of the issues not addressed in the earlier road taxation study, namely how much should be spent on roads, i.e. the way in which road funding should be “regulated”, was comprehensively addressed by the ICTE. In response to concerns that a road user charging system could potentially raise revenue out of proportion to the needs for expenditure, the ICTE recommended that the envisaged roads board should have the functions (i) to assess individual road projects in terms of economic efficiency criteria, as well as (ii) to monitor that funds are efficiently used. However, at the time the powers of the roads board with regard to road funding and road user charges were seen by the ICTE as being restricted to the making of recommendations to be channelled through the Minister of Finance to Parliament for final approval.

The ICTE identified matters to receive further attention. These were that:

- the policy with regard to taxation of fuel should enjoy attention, since heavy revenue taxation of fuel, in addition to road user levies, could adversely impact on the ability to implement the road user charging principles; and

- Namibia should participate in ongoing Southern African Development Community (SADC) initiatives to implement cross-border road transport charges (transit charges).

The latter matter was regarded as significant since the transit charging systems that were at the time under consideration envisaged charges that, although differentiated according to vehicle mass and axle configuration, would be the same for different countries. In addition, the SADC study aimed at recovery of marginal costs only. Such charges would not be compatible with the proposed Namibian road user charging system[4] and could therefore result in problems of discrimination between domestic and foreign road transport operators competing in the cross-border road transport market.

The ICTE report, as in the case of the previous study, also did not make any specific proposals about the institutional structures which should be implemented as part of the process of implementing a road user charging system since it regarded such an investigation as outside its terms of reference. It did, however, refer to an in-depth review of institutional structures within the transport sector which was then about to be initiated by the Ministry of Works, Transport and Communication. The ICTE's view was that if measures were not put in place to ensure efficient use of funds, most of the advantages of the road user charging system would potentially be negated.

A feature of the ICTE's mode of operation was that interested ministries were required to be represented by senior officials. These were responsible to ensure that the road funding policy development process took proper account of the policies in their line ministries. Open discussion was encouraged at regular progress meetings and it was therefore possible to not only address concerns of individual ministries but to also generate acceptable and even innovative solutions to problems raised. The role of outside consultants was restricted to investigating specific technical issues. The eventual policy proposed by the ICTE was therefore an "own effort" rather than that of a contracted consultant.

Before finalising its recommendations the ICTE made available its draft report to the Namibian Transport Advisory Board, a statutory body representing various interested public and private sector stakeholders in transport. The Board expressed strong support and stated a few concerns, which received attention before the report was finalised. The result was that the final policy proposals submitted by the ICTE reflected a common view, which paved the way for acceptance by the Cabinet and subsequent implementation.

The Cabinet accepted all of the ICTE's recommendations. Although the ICTE had not, in view of opposition from the Ministry of Finance, made an explicit recommendation with regard to a road fund,

[4] One of the reasons being that "standardised" road user charges would not necessarily reflect the actual cost of road use in Namibia.

the Cabinet decided that such a fund should be established. The Cabinet furthermore directed the Ministry of Works, Transport and Communication to proceed with the implementation of the road user charging system.

3.3. The second phase

3.3.1. The MWTC2000 Project

As part of the Swedish aid, support had already in 1990 been provided for undertaking a restructuring of the Ministry of Works, Transport and Communication (MWTC). At independence the MWTC had 8500 employees who were mainly involved in operational tasks and only to a limited extent in policy making - and related - endeavours. It was a recommendation of the report *Transport and Communications in Namibia* to do something about this, and soon after Independence work to transform what was then the Department of Posts and Telecommunications into commercial entities was started. This reform process was completed in 1992. Subsequently in 1993, the MWTC carried out a preliminary study regarding the commercialisation and operation of air navigation services and airports, and also appointed a restructuring committee for the Government Garage. In the same year, the Ministry was drawn into institutional development work as part of the reintegration of Walvis Bay into Namibia. The MWTC was charged with finding an appropriate arrangement for the future operations of the Port of Walvis Bay, which until then had been managed by Portnet, a division of the South African parastatal Transnet. Also, in 1994, Cabinet authorised a full-scale study to be carried out on the future of the Division of Plant and Equipment ("the plant pool") in MWTC.

In the course of 1994, these developments, along with the growing pressure - internally and externally - to develop a broader and more comprehensive approach to the restructuring of MWTC, prompted the formulation of a strategy for the restructuring of MWTC. This strategy was translated into a project which was given the name the MWTC2000 Project, and agreement was subsequently reached between the Namibian Government and the Swedish Government to co-finance the project on a fifty-fifty basis. The focus would initially be on all operational aspects of the Department of Transport.

3.3.2. The shape of the new arrangements in the road sector

The project document for the MWTC2000 Project presented for the first time an embryo of a vision of a new arrangement for the road sector, including the establishment of a road fund, the introduction of road user charges, and the reform of all operational units of the Department of Transport in the road sector, i.e. the force account units plus the plant pool.

The MWTC2000 Project was approved by Cabinet at the same meeting at which Cabinet acted on the recommendations of the ICTE. At one stroke there was clear political support for moving ahead with a comprehensive road sector reform, and the onus was now on the MWTC to prepare a blueprint for such a reform. The ground had then, in fact, already been laid out for the drafting of such a blueprint, as a large contingent of MWTC staff members - including representatives of the Ministry of Finance - had visited New Zealand in August 1994 to study the road sector arrangements in that country. For various reasons, the MWTC had become aware that the reform process undertaken by New Zealand during the period 1984-94 of the government sector, in general, and of the road sector, in particular, was of particular relevance to Namibia. The visit to New Zealand had also proved this to be the case.

This was evidenced by that the basic proposal which was subsequently prepared for the road sector reform was heavily influenced by the New Zealand arrangements. The MWTC[5] proposals thus envisaged the creation - by way of law - of two new agencies of the state, the Road Fund Administration which would be responsible for regulating the level of road funding, managing the road user charging system to raise sufficient revenue and, related thereto, the managing of the Road Fund and the Roads Authority, the main responsibility of which would be to manage the national road network.

There was therefore from the start a separation between the road funding and road management function. The MWTC blueprint also clarified the roles and powers of these two entities, and set out a framework to be used to draft the required legislation.

Following from the above, the idea of implementing a representative national roads board for managing the road user charging system and the Road Fund was dropped. This was a logical outflow of the decision that road funding should be regulated in accordance with economic efficiency principles which should form the cornerstone of the proposed new road funding policy. It became clear that the above task could not be devolved upon the members of a board selected to represent the interests of their individual constituents. A board so composed would tend to take decisions on the basis of “acceptability” to the majority of members and be coloured by the individual interests of represented parties. It was further realised that the technical complexities of economic analysis techniques to determine road funding amounts and to set the levels of road user charges to raise the required funding could best be dealt with by an organisation with appropriate professional expertise. The eventual recommendation was therefore that both the road user charging system and the Road Fund should be managed by the Road Fund Administration. It was furthermore recommended that the board of directors of the Road Fund Administration should be empowered by the legislation to determine road funding amounts and set the levels of road user charges. The exercise of these powers, however, would be subject to the basic principles of the road user charging system. These principles would be spelt out in legislation thereby obliging compliance by the board in the performance of its functions. The reform for Namibia was therefore taken a step further than what is now the case in New Zealand.

Additionally, to ensure that the views of stakeholders would be taken into account, it was recommended that the legislation include obligatory provisions for consultation with stakeholders concerning the road expenditure programme and the setting of road user charges. The board of the Road Fund Administration would be accountable and would have to report regularly on both its intended performance and procedures and its actual achievements as measured in terms of the basic objectives set out in the legislation.

At the same time, i.e. in 1996, the shape of the third component of the road sector reform was also substantially clarified. As mentioned, a study had been undertaken under the MWTC2000 Project of the future of the plant pool. A main conclusion of this study was that it would not be feasible to establish the plant pool as a company on its own. If the aim was to create a commercially viable entity, it would be necessary to establish a fully-fledged contractor by combining the plant pool with the force account units involved in road maintenance and construction in MWTC. This idea was accepted by Cabinet, and eventually matured into the decision to form the Roads Contractor Company.

5 See "A Proposal for Restructuring of the Namibian Road Sector", 1996-03-31, third version.

3.3.3. Drafting the legislation

Once the various institutional issues had been satisfactorily resolved, the process to draft legislation was started. One of the early decisions made was to establish the three new entities in terms of three separate pieces of legislation. One reason for this was that the three entities fall under different Ministers. The Minister for the Road Fund Administration is the Minister of Finance, the Minister for the Roads Authority is the Minister of Works, Transport and Communication while the Roads Contractor Company falls under a Minister designated as the "shareholding minister". Another, more important, reason was to separate the road funding function, which is regulatory in nature, from the road management function, which is operational in nature.

Prior to their approval, the draft Bills for the Road Fund Administration, the Roads Authority and Roads Contractor Company were referred to the Parliamentary Standing Committee on Economics. The latter invited comment and arranged public hearings, which resulted in minor adjustments to the Bills, before they were accepted in the National Assembly.

The Road Fund Administration Act, the Roads Authority Act and the Roads Contractor Company Act were published in the Namibian Government Gazette in October 1999. In terms of separate Government Notices each Act became effective as from 25 October 1999. However, not all the provisions of the Acts, e.g. the road user charging system, came into immediate effect. The various Acts became fully operational with effect from 1 April 2000.

3.4. The features of the new organisational entities in the road sector

3.4.1. The Road Fund Administration

The objective of the Road Fund Administration is to ensure the achievement of a safe and economically efficient road sector by means of its management of the road user charging system. The road user charging system is defined in the legislation as being an independent system to regulate road funding based on the principles of economic efficiency and full cost recovery[6]. In terms of the definition the system comprises, in sequential order, determination of (i) the amount of funding, (ii) the manner of allocation of funds, and (iii) the rates of road user charges. The fact that the legislation distinguishes between the actions of determining the amount of funding, the manner in which it actually allocates funding and the rates of road user charges emphasises the dual role of the Road Fund Administration in, on the one hand, "regulating" funding in accordance with economic efficiency principles (i.e. initially without reference to availability of funds) and, on the other hand, "providing" funding through its imposition of road user charges and the use of other revenue sources. The Road Fund Administration must seek to ultimately reconcile economically efficient funding requirements with the funding it actually provides.

The board of directors of the Road Fund Administration is appointed by the Minister of Finance in consultation with the Minister responsible for transport from among persons with who have expertise relevant to the functions of the Administration.

The Road Fund Administration has autonomous powers to determine the expenditure on roads for both maintenance and development. It must apply safety and economic efficiency criteria in determining the justified expenditure amounts for individual road maintenance programmes and

[6] See section 1 of the Road Fund Administration Act. The sequential nature of the decision-making process is further reinforced by the legislation in section 20(4) of the Act dealing with the budgeting process.

investment projects.

The Road Fund Administration must each year, after consideration of its revenue resources and expenditure commitments, release a five year Business Plan containing its "manner of funding" determinations, i.e. the *actual* annual funding programme (which may in the short term, if there are funding constraints, differ from the "economically efficient" funding programme).

The Business Plan must contain details about funding allocations to the Roads Authority as well as other "approved" authorities. These include, *inter alia*, local authorities who receive funding for the traffic-related maintenance costs of urban streets and for major urban arterials, various road traffic law enforcement authorities, authorities responsible for operating traffic information systems, etc. The Plan must also contain details of the rates of road user charges the Road Fund Administration intends to impose. The Business Plan must, further, contain an analysis of factors which may affect implementation of the Plan and particulars of the measures to be taken to counter such factors. Only the first year of the five year expenditure programme in the Business Plan is approved for actual expenditure. The Road Fund Administration has a responsibility as well as powers to monitor and ensure that funding allocations are efficiently used by the Roads Authority and other authorities.

The procedure to be followed by the Roads Authority and other approved authorities in submitting budgets as well as the procedures to be followed and the principles to be applied by the Road Fund Administration are defined in the Road Fund Administration Act. The Road Fund Administration is obliged to approve, in principle, applications for expenditure which comply with its funding criteria (referred to as "amount of funding" determinations in the Act). These criteria, or the "rules and principles" as they are referred to in the Act[7], must be framed by the Road Fund Administration and made available to the Roads Authority and other approved authorities qualifying for funding from the Road Fund.

The Road Fund Administration must determine the rates of road user charges in accordance with full cost recovery (or user pay), equity, pricing efficiency and stability principles. The road user charges which the Road Fund Administration is empowered to impose comprise: (i) annual vehicle registration and licensing fees, (ii) road user levies on petrol and diesel purchased for on-road use, (iii) charges on motor vehicles based on their travelling distance and mass, physical dimensions and loading (so-called mass-distance type charges), and (iv) entry fees on foreign registered vehicles. The Road Fund Administration must avoid substantial changes in the rates of road user charges in any one year and seek to achieve stable long term road user charges. The latter requirement is of particular significance since it provides a basis in accordance with which the "manner of funding" (or actual annual budgeting) determinations can be harmonised and coordinated with the more rigidly defined economically efficient "amount of funding" determinations.

It is possible to dispute the Road Fund Administration's "amount of funding" (but not its "manner of funding" determinations) applying to road projects and programmes submitted for approval by the Roads Authority and have them referred for adjudication by an independent panel of experts. Such adjudication is required to state the extent to which the decisions under dispute give effect to the principles contained in the legislation. The provisions relating to the dispute adjudication process restricts the findings of the panel of experts to purely economic efficiency considerations, i.e. they may not adjudicate the Road Fund Administration's decisions with regard to the levels of road user charges and the manner in which it proposes to allocate funding. However, the latter decisions of the Administration are, as are any other of its decisions, subject to a complaints procedure but any finding

[7] See section 19(2) of the Road Fund Administration Act.

in respect of a complaint is not binding on the RFA.

The Road Fund Administration must consult widely with interested parties, as directed by the Minister, before finalising its decisions. It has to submit a Performance Statement containing particulars of its intended future strategies, funding allocations and road user charges to the Minister of Finance for approval.

The Road Fund Administration must annually submit to the Minister an Annual Report which contains, separately, its own as well as the Road Fund's audited financial statements and an assessment of its achievements in relation to its Performance Statement. The Minister is required to table the Annual Report and the latest copies of the Performance Statement and Business Plan in Parliament.

3.4.2. The Roads Authority

The objective of the Roads Authority is to efficiently manage the national road network with a view to achieving a safe and economically efficient road sector. Management of the national road network is defined in the legislation as comprising planning, designing, maintaining and constructing the roads forming part of the national road network. The Roads Authority's function of managing the national road network includes the prevention of the "excessive damaging of roads by road users or other parties" which is understood to refer to overloading control. The Roads Authority is not permitted to itself undertake physical work relating to road construction and maintenance. All work must be let on contract, with the exception of work to be given to the Roads Contractor Company during the first three years of its existence.

The Minister responsible for Transport (i) appoints the board of directors, (ii) supervises performance of the Authority by way of a Performance Statement, and (iii) may prescribe minimum standards and measures for the management of the national road network to achieve a safe road system or to ensure basic accessibility to all parts of the country.

The Roads Authority manages the proclaimed national road network as a whole, and is therefore also responsible to implement road projects which the Road Fund Administration would not be able to fund for purely economic efficiency reasons. In this regard the Roads Authority must undertake any road project or programme which the Minister of Works, Transport and Communication considers necessary "in the national interest" rather than for traffic reasons. However, to the extent that such projects would not qualify for funding from the Road Fund, funding must then be provided from Parliamentary appropriations or other sources[8].

The Roads Authority is statutorily empowered, on such conditions as may be agreed upon, to advise and assist the Minister responsible for transport in the exercise of any power or duty which the Minister is required to exercise or perform in terms of the Roads Authority Act or any other law. Functions which may typically be performed by the Roads Authority on behalf of the Minister are functions in terms of the Road Traffic and Transport Act such as the operation of the Namibian Traffic Information System (NaTIS), registration and licensing of vehicles and operation of vehicle testing stations and driving testing centres.

The Roads Authority must submit a Procedures Agreement, subject to review every three years, to the Road Fund Administration. The purpose of the Procedures Agreement is to enable the Road Fund Administration to assess whether the Roads Authority will make effective use of funds allocated

[8] Refer to section 16(4) of the Roads Authority Act.

to it by the Road Fund Administration. The particulars to be included in a Procedures Agreement are prescribed by the Roads Authority Act and the Procedures Agreement must be finalised by way of consultation between the parties.

The Roads Authority must in addition prepare and submit a Performance Statement, which must be reviewed at least every three years, to the Minister responsible for transport to enable the Minister to assess the performance of the Roads Authority. The particulars to be included in a Performance Statement are prescribed by the legislation.

The Roads Authority must annually submit an Annual Report to its controlling Minister. The Annual Report must contain details of all the Roads Authority's projects and programmes and an assessment of its achievements in relation to its Performance Statement. The Minister must table the Annual Report and the audited financial statements of the Authority in Parliament.

Any person who is of the opinion that the Roads Authority has failed to comply with any provision of its legislation or of a Procedures Agreement or Performance Statement may lodge with the Minister a written complaint. The Minister must consider and investigate any complaint and may either dismiss a complaint or, if the complaint is valid, give the Roads Authority a written directive to comply with the relevant provision.

3.4.3. The Roads Contractor Company

The Roads Contractor Company, which has evolved from the departmental roads maintenance and construction units, is a Companies Act company in which the State holds all the shares. The object of the Roads Contractor Company is to undertake any work relating to the construction or maintenance of roads in accordance with sound and generally accepted business principles. Certain provisions of the Companies Act, e.g. those dealing with membership, do not apply to the Roads Contractor Company. The President of the Republic of Namibia designates a Minister or Ministers as Shareholding Minister. The Shareholding may, subject to Cabinet approval, alienate shares held by the State or issue shares to any other person.

At its establishment employees of the Ministry of Works, Transport and Communication previously employed in roads construction and maintenance were offered employment opportunities in the Roads Contractor Company. The Roads Contractor Company also took over the plant pool and other assets of the previous departmental organisations at a value agreed between the Minister responsible for transport, currently the Shareholding Minister, and the Minister of Finance.

As mentioned previously, the Roads Contractor Company, in terms of the provisions of the Roads Authority Act, receives preferential treatment during the first three years after its establishment for the award of roads contracts by the Roads Authority within its capabilities, but thereafter it must compete on the open market for such work. The board is appointed by the Shareholding Minister. The Minister responsible for transport was designated as the first Shareholding Minister.

The Roads Contractor Company must before the commencement of every third year submit a draft performance Statement to the Shareholding Minister. The particulars to be contained in a Performance Statement are prescribed in the legislation and covers matters such as the business planning principles to be followed by the Company, its dividend policy, the measures to be implemented to protect the Company's financial soundness and the measures by which the Company's financial and operational performance are proposed to be assessed.

The Company's Annual Report is required to include its audited financial statements and a report on its performance in relation to its Performance Statement. The Shareholding Minister must table the Annual Report in Parliament.

3.5. Setting up the new institutional entities

To set up the three new entities, implementation teams were formed under the MWTC2000 Project umbrella. These initially comprised consulting teams to do all the preparatory work, and included a Rapid Adjustment Programme (RAP) consultant to introduce the previous force account units to commercial thinking.

Later on the work to direct these consultants was taken over by Project Leaders, one each for the three organisations as well as one for the RAP, who also had to ensure proper linkage into and communication with affected staff in the Ministry of Works, Transport and Communication and the Ministry of Finance.

As from May 1999, shadow boards were appointed by Cabinet, to act as the interim boards of the new entities. The shadow boards could in principle take all decisions required to set up the new organisations, including the identification of the CEOs and senior staff, but all these decisions subsequently had to be ratified by the boards which were formally appointed once the new laws came into force in October 1999[9].

3.6. Restructuring the MWTC after the Reform

The creation of the Roads Authority and Roads Contractor Company, with the responsibility for the performance of functions which had previously been that of the Department of Transport in the Ministry of Works, Transport and Communication, meant that the Department of Transport had to be restructured to be able to perform effectively within the new operational and regulatory environment created by the Reform.

The new arrangements shifted the emphasis from the performance of operational functions to the performance of monitoring and regulatory functions. At the same time the transport policy advisory function, which earlier had been identified as in need of strengthening, required attention.

The MWTC therefore, in 1999, initiated a study which culminated in a report "Proposed Functions and Organisational Structure for the Department of Transport following Restructuring in the Road Sector". The report made extensive proposals as to the way in which the Department should be restructured and at the same time also dealt with some of the restructuring requirements related to the other modes of transport (rail, air and shipping) which were part of the broader process of restructuring in the transport sector which was at the time ongoing. It was recognised that the restructuring requirements for the latter could not yet be fully finalised since various studies were still being completed.

The principles guiding the restructuring process were therefore:

- the basic functions to be performed in the road sector remain essentially unchanged, the focus is on the parties performing them and the relationship between such parties;

9 The new boards were appointed with effect from 13 December 1999.

- the MWTC must retain the capacity to review road infrastructure planning and network development because the ownership function relating to the national road network remains with the Minister responsible for transport;

- the Minister responsible for transport must retain control of regulatory functions, both economic and quality regulation of road transport, implying availability of the necessary capabilities to advise the Minister;

- arrangements should be made for "governance" issues related to the new, but also various existing, parastatals falling under the administrative control of the Minister;

- the capabilities with regard to policy review, formulation and enforcement should be strengthened;

- the capabilities with regard to interpretation and administration of legislation, the latter being the instruments for ensuring implementation of policy and adherence to regulatory requirements, should be strengthened; and

- the numbers of Government employees should be kept as low as possible without sacrificing quality of personnel and the capacity to supervise work done by consultants.

The proposals contained in the report mentioned above were approved by the Office of the Prime Minister and various organisational adjustments in the MWTC were subsequently implemented. The process is, however, ongoing as further reforms in the transport sector are being implemented.

4. FACTORS WHICH PLAYED A ROLE IN THE REFORM PROCESS IN NAMIBIA

4.1. Favourable conditions for change

Conditions for bringing about a change in the road sector arrangements in Namibia were favourable for a number of reasons:

- the road network was already well-developed and in a relatively well-maintained condition at the time when the decision to implement the reform was taken – although a relatively manageable road maintenance and development backlog had developed by the time that the reform was eventually implemented;

- the level of road funding was, and has remained, reasonably adequate;

- there was a reasonable balance, although not as close as some years ago, between the revenues from existing relevant road taxes and expenditure on roads;

- the road sector had, by international standards, a simple organisational structure since the Ministry of Works, Transport and Communication was responsible for the bulk of the roads in the country and local authorities for their own roads; and

- the policy aspects had received in-depth attention and Government had shown itself to be strongly supportive of new policies which would promote efficiency and equity.

The effect of the above, in summary, was that the introduction of a system of road user charging did not bring about drastic changes in the costs of operating vehicles nor were there any serious fiscal implications for Government's revenue and expenditure account.

4.2. The approach adopted

The approach adopted in Namibia was influenced by the situation at the time. Namibia was newly independent and there was a decision by Government to review economic development policies on a wide front. This approach included a review of transport policies.

The features of the approach adopted which proved to be of particular relevance were:

- Government's declared economic policy objectives relating to the efficient use of resources, growth in the economy, creation of employment opportunities and a narrowing of the income gap were of direct relevance to the transport sector and were taken as point of departure;
- policy was developed step by step rather than all at once;
- Government and stakeholders were kept apprised of each development and the policy development process included the active participation of interested other ministries and parties;
- an early formulation of the main road taxation policy principles and subsequently full development of the policy parameters of the entire reform, and approval in principle of these at the highest executive level;
- the quantitative impacts of proposed policies were determined and made known;
- the implications of the policies for cross-border road transport operations were assessed and the available institutions for multilateral discussion and negotiation used to promote a wider understanding and acceptance of harmonious policies;
- the creation of an interministerial committee which allowed for the early identification of potential conflicts between ministries and the resolution thereof;
- policy development took place and was driven by parties in Namibia, while foreign consultants provided expert technical and other inputs as required;
- an evolutionary style was adopted, allowing for innovation; and
- the need for concurrent institutional change was recognised and the project reformulated accordingly.

Factors which prevented a more rapid progress to completion were:

- the involvement of many parties, also those outside Namibia;
- the need to comply with public service procedures in obtaining approval for and bringing about organisational change and transferring personnel;

- the fact that a broad strategy of restructuring in other transport modes was undertaken at the same time, thereby deflecting attention and capacity away from the road sector; and

- a lack of sufficient manpower within the Ministry to supervise work on a variety of different projects at one and the same time.

Eventually the reform process took longer than initially expected. With the advantage of hindsight it has become clear that the total scope of the policy and institutional restructuring process was underestimated.

4.3. The role of external financial and technical support

The process of transformation in the Namibian transport sector has been strongly supported by the inputs of Sida, the foreign development aid agency of Sweden. It is worthwhile to record the form that these efforts took, as well as their impact.

As mentioned, the Study on Transport and Communications for Namibia (STCN), published at Independence by Sida, provided a solid basis for effective direction of subsequent donor assistance. It allowed the early launching of a broad policy study on transport as well as of work on more specific priorities.

Finally, mention should be made of Sida's flexible mode of operation, which allowed its support to be piggy-backed to the MWTC's own resources. This made it possible for the MWTC to make use of the human resources available in the region, and in very flexible ways, which greatly facilitated the implementation of the reform process.

PART 2: DEVELOPMENTS SINCE THE IMPLEMENTATION OF THE REFORM

5. INTRODUCTORY REMARKS

This part charts the progress in implementing the Road Sector Reform policies during the period 1 April 2000 up to end September 2003.

The success of the Namibian Road Sector Reform first came under scrutiny about a year and a half after the Reform was implemented when the Ministry of Works, Transport and Communication hosted a Road Sector Reform Review Workshop in November 2001. The Workshop provided confirmation that the Road Sector Reform had in general succeeded, although a number of problem issues were identified. These are discussed in section 6 below.

In terms of the basic policy objectives of the Road Sector Reform, its success should be measured in terms of the following critical performance areas:

- Determination, and general acceptance, of the medium to long term real, stable road sector funding programme necessary to ensure a safe and economically efficient road sector;

- determination of the real, stable, equitable rates of road user charges to ensure provision of the above funding;
- implementation of strategies to implement increased rates of road user charges, specifically fuel levies;
- implementation of loan strategies to deal with short to medium term funding deficits;
- implementation of mass-distance charges for very heavy vehicles;
- improvement of the performance of the Roads Contractor Company;
- clarification of the role of the Road Fund Administration in providing funding support for various road traffic functions in terms of the Road Traffic and Transport Act; and
- clarification of various policy and legal issues.

The performance of each of the new entities and the progress in dealing with the above-mentioned issues are discussed in section 7 hereafter.

6. ROAD SECTOR REFORM REVIEW

During November 2001 a workshop, the Road Sector Reform Review, was arranged by the Ministry of Works, Transport and Communication with the objective to review progress in implementing the Reform and to identify problems and measures to deal with them. Delegates from all the major stakeholders attended.

There was general agreement that the Reform had been necessary and an improvement on the previously existing arrangements. Various issues were identified. These are worth discussing in some detail since they provide a valuable insight with regard to the reform process and how it has changed the operational and decision-making environment in the road sector in Namibia.

An important conclusion emerging from the Reform Review was that while the administrators within the new system had been given clearly defined obligations, they had also been provided with an extensive policy and legal framework to assist them.

A further conclusion was that more efforts should be made by the Road Fund Administration and the Roads Authority to promote the participation of stakeholders such as road users in order to obtain their understanding of the principles for road funding and their support for roads expenditure programmes and the related road user charges.

A noticeable development, which became increasingly apparent, is that both the Road Fund Administration and the Roads Authority had established themselves as distinct and separate organisational entities with strongly individualistic cultures. Typically, the Roads Authority, in its role of manager of the national road network, is applying pressure for increased funding allocations from the Road Fund. The Road Fund Administration, on the other hand, in its role as independent regulator of road funding, is providing only such amounts of funding as it is able to generate through the road user charging system and by way of loans which would not threaten the future liquidity of the Road Fund. There is therefore a certain amount of healthy tension between the Road Fund

Administration and the Roads Authority which obliges both parties to constantly re-examine and interpret their respective mandates on the basis of the principles contained in the relevant legislation.

The Road Fund Administration, at the Reform Review, stated that in the short term it had no alternative but to provide funding on the basis of "what is possible" rather than what is necessarily "economically efficient" or optimal. This was because of constraints in increasing road user charges more rapidly. As a consequence the Road Fund Administration saw its immediate strategy as being: firstly, to use available funding for those projects and programmes which yield the best returns rather than to implement all road projects and programmes which it are economically viable, secondly, to improve on its efforts to substantiate its funding needs, thirdly, to adopt a longer term planning approach to enable it to comply with stability principles, and, fourthly, to obtain wide support from stakeholders.

The Roads Authority raised concerns about the increasing road maintenance and rehabilitation backlogs. The Roads Authority regarded the current funding levels as inadequate for it to comply with its mandate of providing and maintaining the national road network at economically efficient service levels, but acknowledged the problems confronting the Road Fund Administration in raising the necessary revenue by way of the road user charges inherited at the commencement of the Reform.

While the Roads Authority and the Road Fund Administration, the two major parties, thus regarded themselves as not yet able to claim that they were fully achieving their respective statutory mandates, the situation was not necessarily seen as being negative. Firstly, there had been an increase in the level of funding provided for the national road network in comparison to before the Reform. This was possible because of: (i) the increased availability of the previous road use related taxes as sources of earmarked revenue for the Road Fund in comparison to what was previously the case, (ii) increases in the rates of road use charges, and (iii) contributions from loan funding agreements which had previously been negotiated and which had become operational after the implementation of the road sector reform. Secondly, a very desirable separation between the roles of managing the national road network and regulating and providing the funding had been achieved. The current interaction between the Roads Authority and the Road Fund Administration was therefore regarded as healthy rather than otherwise.

A particular concern was the performance of the Roads Contractor Company. The Roads Contractor Company regarded its ability to perform efficiently as hampered by the organisation and equipment it had been obliged to take over due to its creation out of the former Departmental roads construction and maintenance units. The Roads Contractor Company stated that it might take longer than the transitional three year period envisaged in the legislation to become commercially competitive and financially independent.

Representatives of the road transport industry reiterated their support for the Road Sector Reform but expressed their dissatisfaction at having to pay an "inefficiency premium" due to the performance of the Roads Contractor Company.

7. THE PERFORMANCE OF THE NEW INSTITUTIONAL ENTITIES

7.1. The Road Fund Administration

7.1.1. General

The Road Fund Administration is essentially a new organisation performing a function which previously did not exist and which therefore had to be built up from scratch.

The Road Fund Administration's performance should be evaluated in terms of its main functions, namely: (i) the regulation of road funding in terms of economic efficiency criteria, (ii) the raising of sufficient revenue by imposing equitable and stable road user charges, and (iii) the management of the Road Fund in accordance with sound principles of financial management.

The basic policy objectives of the road user charging system have not been challenged, but a number of practical questions as well as questions of legal interpretation have inevitably arisen. In response to this the Road Fund Administration has decided to review the road user charging system by launching a project, the *Road User Charging System Review*. This project was launched in the middle of 2003 and is currently ongoing. The Review will cover the strengths and weaknesses of the legislation, the operation of the road user charging system and assess the economic implications of having an efficient road sector. The findings and recommendations of the Review are expected to be available by the second quarter of 2004.

7.1.2. Establishment and consolidation of the Road Fund Administration

The Road Fund Administration commenced operations on 1 April 2000 with a board of directors initially comprising three members and with a staff complement of fifteen out of an approved post structure of eighteen posts. During 2003 the Minister increased the number of board members to five. Some of the approved posts are still vacant. It is likely that the Road Fund Administration will extend its staff complement as it implements various more sophisticated financial management systems, those road user charges not yet implemented (mass-distance charges) and adjusts its capacity to more thoroughly evaluate projects and programmes submitted to it for funding.

The small size of the Road Fund Administration is in line with the initial concept for the Road Sector Reform which envisaged that the funding regulatory function and the management of the road user charging system should be entrusted to a small but professional and independent organisation.

Some operations, such as the operation of the cross-border charging system, have been outsourced. The latter arrangement will be reviewed when the current contract expires. Use is made of consultants for specialised tasks, such as drafting of regulations required in terms of the RFA Act and the development of management and information systems.

The board of directors effected some staff changes at the top level about one and a half years after commencement of operations but otherwise the Road Fund Administration has been a stable organisation. It is developing policy guidelines with regard to specific matters (such as foreign loan funding).

7.1.3. Determination and regulation of future road funding

Its regulatory function, i.e. the determination of the economically efficient road funding level, in stable real terms, is one of the main functions of the Road Fund Administration. The determination of funding requirements is also a pre-requisite in order to manage the road user charging system in such a way that road user charges are implemented which are, as required by the legislation, reasonably stable in real terms over the longer term.

In this regard there have been two main issues which the Road Fund Administration has had to address. Firstly, since the Road Fund Administration Act does not itself explicitly define the concept of an "economically efficient road sector" the Road Fund Administration is required to interpret this concept by means of the rules and principles which it must "frame" in terms of section 19(2) of its Act. The interpretation which has been accepted by the Road Fund Administration is based on the internationally well-known Highway Development and Management Model (the current version is HDM-4) calibrated as far as reasonably possible at this stage for Namibian conditions. It provides for an analysis wherein the benefits, for the road sector, resulting from the implementation of a particular road project or programme - expressed in terms of reduced vehicle operating and other costs, e.g. accident costs - must be compared with, and exceed, the costs of implementing the relevant project or programme. The Road Fund Administration has finalised "rules and principles" relating to, specifically, road projects following consultation with interested parties. Rules and principles for other types of expenditure supported by the Road Fund, e.g. traffic law enforcement and adjudication and the traffic-related maintenance of streets in any urban area, are in the process of being finalised.

A second issue, the importance of which became increasingly apparent during the course of implementing the road user charging system, was that road funding could not be effectively "regulated" on a year-to-year basis. The economic efficiency and the price stability principles of the legislation logically complement each other and have the effect of forcing both the Roads Authority and the Road Fund Administration to adopt generally accepted methods of economic analysis and, further, to do so within a medium to longer term time frame. The Roads Authority has, as provided for in the draft Procedures Agreement between the Authority and the Administration, accepted a first Medium to Long Term Roads Master Plan (MLTRMP), completed in November 2003. The intention is for the MLTRMP to be periodically reviewed and updated.

The Road Fund Administration is therefore now in a better position to quantify future funding requirements to be met via the road user charging system as well as the rates at which road user charges must be set. According to the MLTRMP the required long term average annual expenditure is higher than the present funding levels which confirms that increases in road user charges must be implemented for a number of years. The MLTRMP also highlighted that higher than average expenditure in the short to medium term is necessary to eliminate road maintenance backlogs. It is, however, justified to fund such expenditure by way of bridging loans rather than by temporary increases in road user charges.

On the basis of the findings of the MLTRMP it is now possible for the RFA to proceed with more confidence in managing the road user charging system. The fact that the Road Fund Administration has not yet achieved its mandate is not seen as either a failure of the Reform or as a failure by the Road Fund Administration. It was accepted at the onset that it would take some years to fully implement the Reform and to achieve optimum funding levels fully supported by road user charges. However, both the magnitude of the task of completing a long term roads master plan and the strength of the opposition to more rapid increases in the rates of road user charges were underestimated.

7.1.4. Road user charges and the longer term funding issues

The issues relating to the revenue side of the Road Fund Administration's business plans have so far proven to be both complex and sensitive. Revenue requirements are dictated by expenditure requirements and must of necessity be addressed within a longer term planning approach since road user charges must, in terms of the legislation, be reasonably stable in real terms over the longer term.

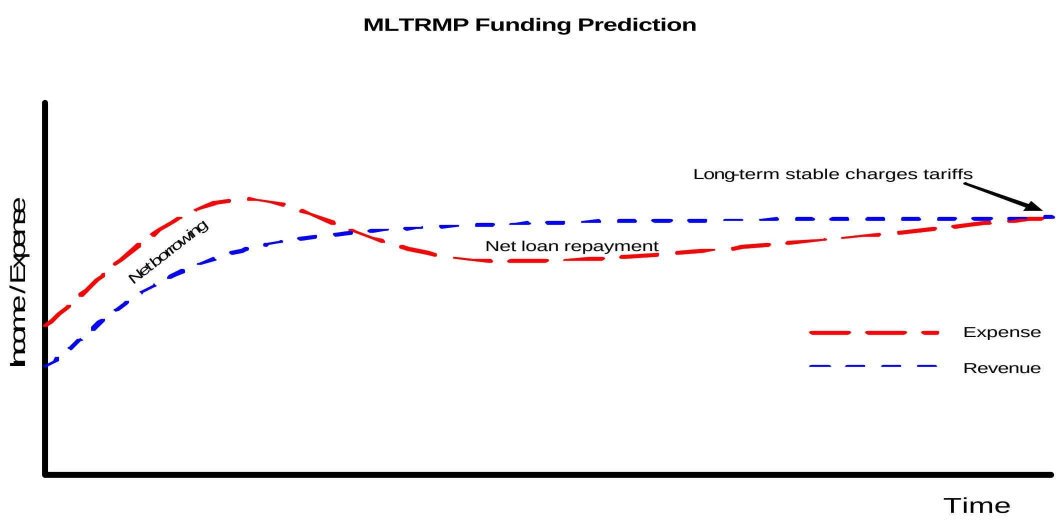
The basic revenue instrument at the disposal of the Road Fund Administration is the set of road user charges. The implementation of various road user charges is discussed in section 7.1.5 below. The Road Fund Administration is, however, also empowered to obtain funding by way of loans. Ultimately, however, all expenditures from the Road Fund, whether initially funded by loans or not, must be recovered through road user charges and therefore, in a longer term context, loans do not provide "extra" funding.

It has been found that the issues related to loan funding are, *inter alia*: (i) they result in extra costs which, in the case of foreign loans, may be considerable and cannot always be accurately predicted because of exchange rate fluctuations and are therefore risky, (ii) they may obscure the fact that the rates of road user charges are inherently too low and hence in the short term provide road users with a false sense of security that what they are paying for road use reflects costs, and (iii) they may have either positive or negative implications for equity between different generations of road users.

The Road Fund Administration adopted a conservative loan strategy during the first three years of its existence by using only such loan funding as was negotiated prior to the implementation of the road user charging system. There is an understanding between the Road Fund Administration and the Ministry of Finance that the currency risk of such "on-lended" foreign loans will be borne by the Ministry of Finance. Any new foreign loans taken up by the Road Fund Administration will, however, not have this relieving facility. Concerns in this regard therefore compelled the Road Fund Administration to refrain from committing to any new foreign loans during the first two years of its operation despite pressures to do so. However, during 2002 the Road Fund Administration, after careful consideration, decided to loan money in the form of a limited bond issue. These bonds have, furthermore, been issued in local currency in order to eliminate currency risks. The expectation is that, if currency fluctuations are taken into account, the eventual interest expenses will be favourable when compared to loans which are designated in foreign currencies even if the latter are available at so-called "soft" rates. Loan funding will be used mainly to finance the elimination of road maintenance backlogs and road network development projects. The justification for this is that the relevant expenditures have longer term benefits which can therefore be equitably shared between present and future road users. The Road Fund Administration has limited the total loan funding amount so that future loan repayments have been kept within manageable limits.

Until recently the extent to which and the rate at which road user charges should be increased during the next few years were not known and proposed increases were therefore somewhat speculative. With the acceptance of a first MLTRMP (see earlier) an indication was obtained of future funding requirements and, consequently, future road user charges.

The graph below represents the Road Fund Administration's strategy for managing initial high expenditure and limited revenues from road user charges over the longer term by way of bridging loans.



It also shows that revenues from road user charges are intended to be increased relatively rapidly for a few years but then more slowly in real terms in later years as expenditure stabilises at a reasonably constant level. However, during later years the revenue level from road user charges will have to be maintained at a level above the actual expenditure level in order to repay loans.

The success of the Road Fund Administration's above strategy depends on its ability to overcome resistance to increases in the rates of road user charges. Without such increases the Road Fund will be obliged to curtail expenditure since there is a limit to the amount which can be loaned.

7.1.5. The implementation of road user charges

The road user charges which may be implemented by the Road Fund Administration are: (i) vehicle licensing and registration fees, (ii) levies on petrol and diesel sold for on-road use, (iii) entry fees on foreign registered vehicles temporarily entering Namibia, and (iv) charges based on the distance travelled on-road by motor vehicles and which may be based on the mass or other physical dimensions of a vehicle (the so-called weight-distance or mass distance charges which are envisaged to be paid by heavy vehicles and which include "abnormal load fees").

Fuel levies on petrol and diesel and vehicle registration and licensing fees have been only moderately increased during the first three and a half years. The income from entry fees is currently not significant since these charges are mainly designed to recover from foreign road users the part of the road use cost paid by local road users reflected by vehicle registration and licensing fees[10]. The bulk (about 80%) of the revenue from road user charges currently derives from fuel levies. During the second year the Road Fund Administration implemented a system of fuel levy refunding for fuel used off-road. This enabled the Road Fund Administration to comply with equity principles in its legislation but

[10] It should be noted that the Namibian road user charging system does not specifically identify cross-border charges as a separate category of road user charge. The SADC Protocol on Transport, Communications and Meteorology has specific provisions with regard to cross-border charges. Namibia, in addition, is party to the Memorandum on Understanding on Road Transportation in the Common Customs Area of the Southern Africa Customs Union which also has provisions with regard to cross-border charges. In terms of the Namibian road user charging system "cross-border" charges would merely be the equivalent road user charges paid by foreign registered vehicles which temporarily enter Namibia.

reduced its effective income.

Mass-distance charges have not been implemented, mainly because a suitable and cost-effective technology to measure the travelling distance of heavy vehicles and which would not be vulnerable to evasion is still to be selected. The main objectives with a system of mass-distance charges are to ensure that heavy vehicles pay a fair share of road costs (i.e. equity considerations) and to in general increase revenue for the Road Fund. These objectives can also be achieved, although not without some inequities, by increasing diesel levies or by raising the registration and licensing fees of heavy vehicles to compensate for their underpayment, or by a combination of the latter.

In terms of the principle of non-discrimination, which is applicable to international transport in general, Namibia may not impose road user charges on foreign road transport operators in a manner which would have the effect that such operators pay more, or less, for road use than its own road transport operators. The non-discrimination principle is, strictly speaking, only applicable to cross-border road transport operations. Since Namibia currently does not yet have weight-distance charges on domestic heavy vehicles, and because it would be impractical to have two systems of road user charges for heavy vehicles in Namibia, it has not been practically possible to implement a full system of cross-border charges. Only “entry fees”, which are the equivalent of vehicle registration and licensing fees paid by Namibian registered vehicles, are therefore currently paid by foreign registered vehicles. Problems which will have to be addressed in due course, when cross-border charges are implemented, are: (i) ensuring that foreign vehicles purchase fuel in Namibia or, if they do not, pay an equivalent to the fuel levy paid by local heavy vehicles, and (ii) measuring the distances travelled by foreign heavy vehicles on Namibian roads.

The main problems with regard to road user charges which have up to now confronted the Road Fund Administration are therefore: (i) constraints in being able to raise the rates of road user charges, specifically the road user levies on petrol and diesel, more rapidly, and (ii) the technical problems in being able to implement mass-distance charges. There are statutory constraints which limit the rate at which road user charges may be increased annually. However, the main resistance to increases in the rates of fuel levies has come from the Ministry of Mines and Energy which has opposed such increases on grounds that increases in the pump price of fuel will create inflationary pressures in the economy. The reaction of road users to increases in the rates of road user charges is largely still an unknown since no serious increases have been implemented.

In response to the above the Road Fund Administration has up to now followed a cautious policy in increasing the rates of road user charges. This is in part due to sensibilities that it would not be good politics to force issues so soon after the introduction of the road user charging system and partly because the Road Fund Administration was until recently not in a position to produce quantitative evidence that increased expenditure would be in compliance with the economic efficiency principle, i.e. that increases in expenditure could be justified by reductions in the costs of operating vehicles. The fact that Namibia’s roads appear to be in a relatively good condition makes it difficult to argue in favour of increased expenditure on roads.

The Road Fund Administration’s current five year business plan provides for increases in the rates of road user charges at a nominal rate of about 15% per annum, which represents an estimated real increase of about 5% to 7.5%. In addition, mass-distance charges are proposed to be implemented by 2004/05. The Road Fund Administration has appointed consultants, as part of the Road User Charging System Review (see section 7.1.1), to review all the current road user charging instruments, their effectiveness for their purpose and any constraints that are being experienced or may be experienced in future such as changes in technology, the economy or Government policy. The consultants are also required to investigate how a progressive replacement of the road user levy on diesel fuel by mass-distance charges would affect the overall level of road user charges, taking account of the complexities associated with the administration of mass-distance charges. Current indications are that, due to technical and law enforcement problems, a simple mass-distance charging system based on vehicle categories, and possibly operator categories, and assuming fixed travelling distances for each category, may have to be considered, at least initially.

The Review will also address cross-border charges. The cross-border charging system will become fully operative once mass-distance charges are implemented in Namibia. It remains to be seen what the reaction will be when Namibia does implement cross-border charges. The potential for conflict will be greatly reduced if road user charging systems which include mass-distance charges are also introduced in other countries in the SADC Region and if the policies and technologies are in harmony. The existing multilateral road transport agreements provide a forum for fruitful discussion in this regard and should be exploited by all parties to the agreements.

The Road User Charging System Review, mentioned earlier, makes provision for an investigation of the macro-economic impacts of economic efficiency in the road sector (MIEERS Study). The intention with this study is, inter alia, to provide a general quantitative basis for consulting with stakeholders about the economic justification for optimal expenditure on roads and the associated road user charges. Current expenditure from the Road Fund is in the order of N$750 million per year while vehicle operating costs are roughly estimated at N$3 000 million per year. It would make sound economic sense, from the point of view of the national economy, if an increased roads expenditure of, say, N$150 million (20%) could reduce vehicle operating costs by 5% or more (5% x N$3 000 million = N$150 million)[11].

There are therefore still a number of complex issues relating to road user charges to be resolved. Although the Road Fund Administration is taking steps to address these it is likely to be several years before acceptable solutions are found. It is to be expected that a fair degree of pragmatism will have to prevail since it is unlikely that perfect solutions will be found.

7.1.6. Efficiency in utilising allocated funds

One of the Road Fund Administration's statutory responsibilities is to ensure that allocated funds from the Road Fund are efficiently utilised.

The basic instrument enabling the Road Fund Administration to monitor the performance of the Roads Authority in its use of funds is the Procedures Agreement to be submitted to the Road Fund Administration by the Roads Authority. A detailed Procedures Agreement has been drafted in co-operation between the Road Fund Administration and the Roads Authority but, due to the complexity of the issues involved, this has remained a working document while at the same time being applied by both organisations in a co-operative spirit.

The main strategy to promote expenditure efficiency, however, is the statutory requirement that all road construction and maintenance work must be awarded by way of competitive tender procedures. As previously mentioned herein, the Roads Contractor Company (RCC) has exemption, for a period of three years, from having to tender for road maintenance and construction work to the extent that such work was previously undertaken by the Department of Transport's operational divisions.

[11] Figures from the Terms of Reference for the Road User Charging System Review.

The performance of the Roads Contractor Company is discussed hereafter. In general it is accepted that the Reform has improved the efficiency with which funds are utilised in the road sector since studies undertaken before the Reform had confirmed the inefficiencies of the previous departmental maintenance and construction units. The Reform has also succeeded in making inefficiencies more transparent and in compelling responsible parties to take action. Although efficiencies in the use of funds have improved, there is still room for improvement. See further discussion under section 7.3.

7.1.7. System to exempt or refund fuel levies on fuel used off-road

In terms of the road user charging policy's equity principle, fuel used off-road should be exempt from levies for road use. In terms of the Road Fund Administration Act the implementation of this principle is subject thereto that exemption systems can be practically administered and will not provide a loophole for evasion of paying road user charges[12].

The Road Fund Administration implemented a system of refunding during its second year of operation. The system provides for fuel consumers in certain sectors, e.g. the agricultural sector, the fishing sector, the mining sector, etc. to register for refunding purposes which then qualifies them to claim a refund on a fixed, sector-specific proportion of the fuel levies included in their proven fuel purchases. The refunding system has been generally accepted and has the advantage of being easy to administer. It is open to criticism in that it may inequitably compensate individual users within a given sector. The Road Fund Administration intends to review the system in due course. The Road Fund will have to decide whether the additional costs in improving the equity of the system will be justified. An improvement may possibly, but not necessarily, also lead to some reductions in the amounts of refunding. About 28% of the annual revenue from road user fuel levies currently goes to refunding.

7.1.8. Payment of vehicle registration and licensing fees by Government vehicles

According to the principles of the road user charging system all vehicles should pay road user charges, and this principle has also been accepted by Cabinet. The previous system whereby Government vehicles were exempt from vehicle licence fees therefore, at least in principle, no longer applies.

Government vehicles, however, currently do not yet pay vehicle licence fees. The Road Fund Administration has for a number of reasons not regarded this as an issue to pursue as a high priority, inter alia, because the number of vehicle operated by Government is relatively small in comparison to the vehicle population as a whole and because Government vehicles in any event pay the road user levies on fuel. The issue is therefore one of principle rather than a major factor affecting revenue generation. The Road Fund Administration intends addressing the matter as part of the Road User Charging System Review (see elsewhere).

7.1.9. Value–added Taxes (VAT)

During November 2000 the Value-added Tax Act became operational and replaced the General Sales Tax (GST). The effect of GST had been to tax road construction and maintenance activities at a rate of about 2,5%. The VAT Act pushed this up to an estimated 13,9% with the result that expenditure on roads increased accordingly as did the need to increase revenues generated by the road user charging system.

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[12] See section 18(4)(f) of the Act.

The Roads Authority and the Road Fund Administration were initially not able to obtain relief from paying VAT on the grounds that road users and consumers of road transport services would be burdened with an additional sharp increase in road user charges and that the competitive performance of the Namibian road sector would be adversely affected by such taxes.

Recent developments, following an amendment of the above Act and questions how the Act should be applied in respect of the road user levies included in the supply price of fuel, which is a zero-rated supply, has resulted in some relief becoming available. However, the supply of fuel and the “supply of road use” are in reality two different supplies, even if they are paid at the same time, and it remains to be seen whether the present relieving arrangement can endure in the longer term. The matter is currently under investigation but will, ultimately, have to be resolved, if a solution is to be found, at the policy rather than legal level.

7.1.10. The financial performance of the Road Fund

The Road Fund Administration must manage revenue and expenditure so that the Road Fund is solvent in the longer term and, in the short term, maintains sufficient liquidity to meet its cash flow requirements.

The Road Fund Administration Act provides for a detailed budgeting process, culminating in a Business Plan covering a five year period[13] (see discussion in section 3.4). The Business Plan is presented as a “balanced” revenue and expenditure budget, although loan disbursements can play a role in “balancing” the budget in the short term period covered by a business plan. In the context of the five year Business Plan period the Road Fund Administration therefore finalises the expenditure side of the Business Plan on the basis of its estimates of the revenue from the various road user charges, loan disbursements and various other sources of revenue (such as interest on investments and surpluses carried over from previous years). In a long term context, however, the Road Fund Administration must match the revenue from road user charges with the expenditure requirements necessary to achieve an economically efficient road sector.

While the annually updated Business Plan therefore represents the “planned” revenue and expenditure cash flows during the forthcoming year and four years thereafter, the actual cash flows as reflected in the Road Fund’s annual financial statements provide a better indication of the financial performance of the road user charging system and of the way in which the Road Fund is managed. A comparison between the Business Plan and the end of year financial statements provides a measure of the accuracy of the Road Fund Administration’s revenue projections, on the one hand, and the financial discipline in controlling expenditure, on the other hand.

According to its audited financial statements the Road Fund ended its first year with a modest accumulated surplus (N$17 million) and its second year with a very small net accumulated deficit (N$0.5 million). This situation changed, apparently drastically, during the third year, ending 31 March 2003, when the Road Fund, according to its financial statements, ended with an accumulated deficit of N$130 million in its Balance Sheet. The deficit in the third year is the result of expenditure (N$628 million) exceeding revenue from own sources (N$498 million) by about N130 million during the year.

However, there are several aspects of the financial performance of the Road Fund (or the road user charging system) as reflected by its financial statements which should be elaborated in order to obtain a better perspective of financial performance to date. As the graph on page 28 shows, an

[13] See sections 20 and 21 of the Road Fund Administration Act.

accumulated deficit does not necessarily reflect a solvency problem for the Road Fund if it is part of a planned and controlled deficit funding strategy. In fact the deficit is likely to increase substantially if the earlier graph is representative of the Road Fund Administration's future funding strategies. The revenue deficit in the third year of N$130 million should therefore rather be evaluated by comparison with the Business Plan for the year concerned. Such a comparison shows that the Road Fund Administration in fact budgeted for a deficit of N$165 million and for which loan funding (the previously mentioned bond issue – see section 7.1.4) was arranged. The gap between revenue and expenditure was therefore in fact less than planned.

Conventional accounting practice does not make provision to include the value of "roads" assets, which have been constructed with loan funding, or even the value of any previously existing roads, in a balance sheet. Accounting practice apparently also does not permit of a "long term" balance sheet which would discount future revenues and expenditures. Such an approach would be capable of providing a more realistic and balanced reflection of the Road Fund's longer term solvency. The Road Fund Administration is investigating ways of presenting its financial statements which would provide stakeholders with a more realistic and reassuring picture of the Road Fund's long term financial position.

The expenditure on construction and rehabilitation during 2002/03 by the Roads Authority amounted to N$183 million. Taking the annual cash flow deficit of N$130 million into account it is reassuring to note that the Road Fund's own revenue sources were adequate to fully fund the road maintenance programme and a part of the capital programme.

A further perspective of the Road Fund Administration's performance with regard to its management of the road user charging system and the Road Fund is obtained if the budgeted revenue and expenditure as reflected in the Business Plans for the first three years are compared with actual revenue and expenditure. In the first year both revenue and expenditure were overestimated by about 20% with the net result being the previously mentioned modest surplus. In the second year, after a revision during the course of the year, revenue and expenditure were again overestimated, both by about 14%. By the end of the third year the amount by which revenue was overestimated had been reduced to 6% while expenditure was again lower than the approved budget, this time by 13%. The main reason why revenues were lower than estimated in 2002/03 was that the planned increases in fuel levies were not fully implemented due to opposition from the Ministry of Mines and Energy. Expenditure, mainly by the Roads Authority, was deliberately held back when it became evident that there would be delays in securing Government guarantees for the proposed bond issues. It is evident that the Road Fund Administration and the Roads Authority are coordinating the management of their revenue and expenditure programmes.

The current financial position of the Road Fund is regarded as sound, both from a long term solvency point of view and from a liquidity point of view. It is true that the Road Fund Administration has not been able to fully control the rates at which the rates of road user charges, specifically the levies on fuel, are increased. This is a matter to receive attention. However, the Road Fund Administration has steadily reduced the variance between budgeted and actual revenue.

7.1.11. Other functions of the RFA – advising and assisting the Minister

The RFA Act makes provision that the Road Fund Administration may, on such conditions as may be agreed upon, advise and assist the Minister of Finance, the Minister responsible for Transport, the Roads Authority or any approved authority in regard to financial aspects related to the management and efficient use of roads or the exercise of any power or the performance of any duty which these parties are or may be required to perform in terms of the RFA Act or any other law.

Tentative discussions were held between the Minister of Finance and the Road Fund Administration regarding the possibility of assisting the Ministry in soliciting funding support for the development of rural access roads, which are of a high social development priority to Government.. The roads to be funded are roads which would not normally, due to low traffic volumes and the resulting implications in terms of the economic efficiency requirements of the RFA Act, qualify for funding from the Road Fund in the near future. A draft agreement is under negotiation between the Minister and the Road Fund Administration.

7.2. The Roads Authority

7.2.1. General

The basic function of the Roads Authority is to efficiently manage the national road network. The extent of this function has been described in section 3.4.2.

The Roads Authority must also undertake any road project or programme which the Minister responsible for Transport considers necessary in the national interest to improve accessibility to or within any area in Namibia (so-called "social roads"). In such a case, and where the Road Fund Administration cannot make funds available through the road user charging system, the Minister must make moneys available through an appropriation by Parliament or any other source.

The Minister has, in terms of the relevant legislation, assigned or contracted the Roads Authority to perform various other functions. These include the management of the Namibian Traffic Information System (NaTIS), the issuing of cross-border road transportation permits, the management of registering authorities appointed by the Minister in terms of section 10 of the Road Traffic and Transport Act, 1999, management of driving testing centres, management of vehicle testing stations and the development and maintenance of property for the above purposes.

The Minister has also authorised the Roads Authority to undertake law enforcement with regard to overload control, cross-border transport control, domestic passenger transport control, transportation of dangerous goods by road, drunken driving control, driver and vehicle licensing; and vehicle roadworthiness testing.

The Roads Authority has therefore had to build itself into an organisation capable of dealing effectively with a diverse set of functions. Each of these has posed its own unique challenges.

7.2.2. Establishment and consolidation of the Roads Authority

The Roads Authority came into operation on 1 April 2000 with a board of directors comprising four members and an initial staff complement of 202. Most of the staff members were recruited from the Ministry of Works, Transport and Communication's organisational components previously responsible for the functions taken over by the Roads Authority. The main vacancies were in the technical posts such as those for Engineers and Roads Inspectors which were only about 50% filled at the end of the first year. This reflected a similar situation existing in the Ministry at the time of the implementation of the Reform.

By the end of the third year the Roads Authority's staff establishment was 255 out of an establishment of 335. The main reason for the increase in the establishment was the creation of posts for Road

Transport Inspectors to staff the organisational component responsible for the traffic law enforcement and other Road Traffic and Transport Act functions assigned or contracted to the Roads Authority by the Minister responsible for Transport. The main reasons for the difference between staff appointed and the establishment are the vacancies for road inspectors, engineers and technicians.

The Roads Authority has developed into an effective functioning organisation capable of performing its basic function of managing the national road network and performing the additional duties which have either been assigned to it or for which it has been contracted by the Minister responsible for transport.

7.2.3. Management of the national road network

The Roads Authority's main challenge with regard to the management of the national road network has been to prioritise road projects and programmes in accordance with the principles of the road user charging system and in line with limited available funding from the Road Fund. In particular the Roads Authority has had to contend with an increasing backlog in the rehabilitation of the older parts of the paved road network for which a considerably higher than normal level of funding in the short to medium term is required.

Funding allocations from the Road Fund for the management of the national road network have been less than requested by the Roads Authority, mainly due to the revenue constraints experienced by the Road Fund Administration. Nevertheless the total amounts from all sources expended each year, which in addition to Road Fund allocations included donations, loan disbursements and Parliamentary appropriations, increased from N$388 Million in the first year to N$425 Million in the second year, with N$596 million being expended on roads and related matters in the third year (N$22 million of the latter amount was expended on the Namibian Traffic Information System[14]). The above increases are, however, less favourable than they appear to be if inflation effects and the introduction of Value-added Tax (VAT) in the place of General Sales Taxes (GST), which became effective with effect 1 November 2001, are taken into account.

Expenditure on routine road maintenance was in general sufficient to ensure that the service levels of the unpaved parts of the national road network continued to be acceptable to road users in Namibia. Visitors to Namibia were in general favourably impressed with the standard of Namibia's unpaved roads.

The first draft of a Medium to Long Term Roads Master Plan (MLTRMP) became available at the end of August 2003 and this report was finalised at end November 2003. Although the MLTRMP is the first of its kind, and should therefore not be regarded as providing final answers, it suggests that longer term optimal road funding requirements are not necessarily as high as initially predicted and that funding needs can be met if the proposed short to medium increases in the rates of road user charges of about 15% per annum are implemented and if the short to medium term road rehabilitation backlog and network development priorities are financed with bridging loans. The first draft of the MLTRMP has therefore considerably allayed previously existing concerns that very substantial increases in the rates of road user charges over an extended period of time would be necessary (in this regard see earlier discussion in section 7.1.4).

[14] The Roads Authority's expenditure on some of the assigned/contracted functions, such as the Road Transport Inspection Services, are not yet accounted separately and are included in the total amount for annual expenditure.

7.2.4. Operation of the NaTIS and related functions

As mentioned previously the Roads Authority Act allows the Minister to assign or contract traffic or transport related functions to the Roads Authority. This is in line with the Reform policies which assume that such functions can be more efficiently performed and funded outside a conventional public service environment.

The Roads Authority currently operates the Namibian Traffic Information System (NaTIS) and performs a number of related functions such as to issue road transport permits, to operate the Cross Border Road Transportation System, to operate vehicle testing stations and driving testing centres, to issue various licenses (e.g. driving licences) in terms of the Road Traffic and Transport Act, to manage vehicle registering authorities and to collect various fees in terms of the Road Traffic and Transport Act. It also collects vehicle registration and licensing fees (one of the road user charges) on behalf of the Road Fund Administration.

The Roads Authority has successfully implemented a number of the modules forming part of the NaTIS, based on the NATIS system developed and operated in South Africa, but customised for Namibia, and by all accounts performs its the various other functions equally well.

The Roads Authority during 2002 took over the operation of a number of vehicle testing stations and driving testing centres from the Namibian Police's Traffic Component. The same year saw the implementation of a Cabinet approved policy with regard to the operation and funding of vehicle testing stations and driving testing centres. This policy covers the distribution of vehicle and driving testing facilities throughout Namibia and also the policies and strategies for financing capital and operational expenditure. In terms of the policies capital costs are financed by Parliamentary appropriations and operational expenditure by way of fees for driving licences and vehicle tests. Currently the policy does not provide for funding from the Road Fund although this would, subject to the approval of the Minister of Finance, be possible in terms of the Road Fund Administration Act[15].

The main issue in regard to the Roads Authority's performance of the NaTIS and related functions is the lack of clear policy with regard to the objectives or standards to be achieved and the principles to be applied in determining how funding should be shared between the Road Fund and the Minister. With the exception of the operation of vehicle testing stations and driving testing centres, where the policies with regard to the funding aspects and also the provision of facilities are clearly defined, no formal policies covering the facilities to be provided and how the funding should be shared between fees in terms of the Road Traffic and Transport Act (which can be seen as a type of direct road user charge), Parliamentary appropriations and contributions from the Road Fund have been accepted. The issue is complicated by the fact that part of the operational costs of operating the NaTIS are funded by the Road Fund Administration under the heading of "NaTIS" while it funds the salaries of NaTIS employees as part of the Administrative expenses of the Roads Authority for managing the national road network. In addition a further part of the required funding, presumably for capital expenditure, has up to now been provided by the Ministry of Works, Transport and Communication. The Roads Authority also pays over to the Road Fund revenues from fees in terms of the Road Traffic and Transport Act and these fees are not separately accounted from fees collected for vehicle registration and licensing.

All of the above issues need to be addressed as part of a comprehensive policy for the management

15 It appears that the RFA has included some funding, with the approval of the Minister of Finance, in its latest Business Plan to make up an expected shortfall in revenue for the operation of vehicle testing stations and driving testing centres.

and funding of traffic quality regulatory functions. Specific problems are foreseen when the Road Fund Administration's rules and principles[16] for the funding of the relevant functions are finalised because the rules and principles will of necessity have to comply with the principles of the road user charging system and will in all probability not provide for full funding of the relevant functions via roads user charge. Currently the Road Fund Administration is in any event not yet able to fully fund such functions in accordance with any rules and principles due to constraints in the available revenue. The extent of the Road Fund Administration's role in providing funding support for road traffic quality regulatory functions is receiving attention. It is not envisaged that the Road Fund will be able to assume full responsibility to fund these functions in terms of the economic efficiency principle.

7.2.5. Overload control and Road Transport Inspection Services

The Roads Authority's Section: Road Transport Inspection Services undertakes some traffic law enforcement functions with a specific focus on overload control and the regulation of domestic and cross-border road transport operations. In the latter regard the Roads Authority has been designated as the competent authority to administer cross-border road transportation agreements to which Namibia is party.

The Roads Authority's responsibility with regard to overload control derives from the definition, in the Roads Authority Act, of the function of "managing the national road network", which includes "the prevention of excessive damaging of roads by road users or any other parties". In terms of the above definition the control of overloading, although typically a traffic law enforcement function, firstly, becomes a responsibility of the Roads Authority, and, secondly, qualifies the function for funding support from the Road Fund, specifically as part of the function of managing the national road network. This provision was included in the legislation in recognition of the need to put in place special measures to control overloading damage to the roads infrastructure as well as to ensure adequate funding[17]. The Road Fund Administration Act, furthermore, provides for overloading fines to be paid into the Road Fund.

The Roads Authority had at the end of the 2002/03 financial year appointed 35 road transport inspectors and installed weighbridges at various locations in Namibia. The number of heavy vehicles weighed have increased each year with the result that the number of overloaded vehicles has steadily decreased each year[18]. The above suggests that the measures instituted as a result of the Reform have resulted in greatly improved control of overloading.

7.3. The Roads Contractor Company

7.3.1. General

The business of the RCC is to undertake work relating to the construction or maintenance of roads in accordance with sound and generally accepted business principles.

In terms of the legislation the RCC was granted a three year preference period for the award of road construction and maintenance work by the Roads Authority, to the extent that such work was previously carried out by the Department of Transport. It was envisaged that this period would be sufficient to enable the RCC to become commercially competitive after which it would have to

16 In terms of section 19(2) of the RFA Act the RGA is obliged to "frame" such rules and principles.

17 Overloading was identified as a serious problem in the White Paper on Transport Policy.

18 Statistics from the Roads Authority's Annual Report for 2001/02.

compete for work in the open market.

The main challenge which the RCC has had to confront has been to position itself as a fully commercialised and competitive company in the road maintenance and construction industry in Namibia[19].

7.3.2. Performance of the RCC to date

The Roads Contractor Company (RCC) was unable to become fully commercially competitive during the first three years of its operation.

From a financial point of view the RCC's performance can be summarised as follows. During its first financial year the RCC recorded a net profit of N$24,9 million, during the second financial year it made a net loss of N$19,2 million and in the third financial year a net profit of N$0,5 million.

The RCC's performance cannot, however, be evaluated solely on the basis of its income statement figures because it did not compete for work with other similar companies and its unit work rates were therefore not subjected to testing in a market environment.

In fact, it became clearly evident during the second year of its operation, that the RCC was experiencing difficulties. In order to remedy this situation the Minister of Works, Transport and Communication at the end of 2002 initiated an independent review of the performance of the RCC. The review resulted in a report submitted to the Ministry of Works, Transport and Communication during February 2003. The report ascribed the failure of the RCC to become commercially competitive to the following:

- No adequate financial resources,
- old-age plant and equipment,
- a lack of technical skills,
- overstaffing,
- low productivity;
- poor discipline,
- poor business orientation, and
- the under-estimation of time required to change the employment culture and work ethics.

7.3.3. Further arrangements with regard to the RCC's operations

Since the RCC's transitional period expired on 31 March 2003 and the RCC had clearly not become commercially competitive it became necessary to put in place further formal arrangements between the RCC and the Roads Authority for an extension of the transitional period.

The RCC has entered into an Executive Arrangement (formalised by way of a Memorandum of Understanding) with the Roads Authority which will last for a three year period. In terms of the agreement the RCC will receive road maintenance contracts from the Roads Authority for each of the three financial years following the 2002/03 financial year for an amount not exceeding nor materially below N$237 million, but excluding value-added tax. The RCC is required to ensure an annual reduction in its unit costs and prices while maintaining satisfactory service levels, thus reflecting

[19] See Annual Report of the RCC for the year ended 31 March 2003.

annually improving competitiveness. The agreement provides that regular meetings be held between the senior management and boards of the RCC and the Roads Authority to review progress with the implementation of the Executive Arrangement.

7.4. Compliance by the new entities with various statutory monitoring, reporting and transparency provisions

7.4.1. Performance Statements and the Procedures Agreement of the Roads Authority

The Road Fund Administration Act, the Roads Authority Act and the Roads Contractor Company Act all require that Performance Statements be submitted to the controlling Minister for approval and that they shall be reviewed at least once every three years. The legislation prescribes the matters to be covered in the Performance Statements.

All of the entities had, in most cases belatedly, submitted draft Performance Statements at the end of 2002. Not all of these had been finalised at the date of this report.

The Procedures Agreement which the Roads Authority must submit to the Road Fund Administration had not yet been formally finalised at the date of this report but, as indicated earlier, the parties are operating in accordance with the provisions of the draft Agreement.

7.4.2. Consultation with interested parties

In terms of the basic policies of the Reform, the Road Fund Administration Act has various provisions providing for consultation with stakeholders before important decisions, such as to finalise the rules and principles for the submission of budgets and the evaluation of projects and programmes, to accept the Business Plan and to determine the rates of road user charges, etc., are taken.

The Road Fund Administration has arranged formal consultations with stakeholders such as the Ministry of Finance, the Ministry of Works, Transport and Communication, The Ministry of Mines and Energy, the Roads Authority, the Roads Contractor Company and representatives of the road transport industry in finalising its Business Plan. The latter includes particulars of its proposed road user charges.

On the occasions when such formal consultations have been held they have resulted in support for the Road Fund Administration's proposals in respect of expenditure and road user charges. Opposition to increases in the rates of fuel levies have come from the Ministry of Mines and Energy in the course of correspondence between Road Fund Administration and the Ministry. This has generally had the effect of preventing such increases even although the Road Fund Administration Act empowers the Road Fund Administration to act autonomously in imposing road user charges.

The consultation process as currently operated by the Road Fund Administration does not specifically include representation and participation of road users in general. This may be difficult to achieve in view of the fact that no formal bodies representing private road users exist.

A broad perception is that the new arrangements in the Namibian road sector are not generally known to the general public and that even if they were there would not be much interest. This can probably be ascribed thereto that the Namibian roads are generally regarded as being in a satisfactory state of repair and that no substantial increases in vehicle licence fees and fuel levies have been implemented since the Reform was implemented.

7.4.3. Publication of reports and other documents

The Roads Authority, the Road Fund Administration and Roads Contractor Company have published Annual Reports, which include audited financial statements, as required in terms of their respective Acts, although not in all instances within the time limits as required by the legislation.

The Road Fund Administration's Business Plan and its Performance Statement, as well as those of the Roads Authority and Roads Contractor Company, have not been published in a form as approved by the relevant Ministers in newspapers circulating nation-wide. Publication is a requirement of the legislation in terms of the transparency policies of the Reform.

7.4.4. Compliance with budgeting provisions

The Road Fund Administration has each year failed to prepare and adopt a Business two months before the commencement of its financial year, starting 1 April. This has created problems for entities such as the Roads Authority. The failure of the Road Fund Administration in adopting its Business Plans in time is attributed to problems in finalising loan arrangements. During 2002 Government guarantees for the proposed bond issues (see previously) had to be negotiated over an extended period while there were also delays in reaching agreement about proposed increases in the rates of road user charges.

The Roads Authority currently submits, and the Road Fund Administration considers, the roads budget without evaluating each road project and programme individually and on the basis of an economic analysis as required in terms of section 20(4)(a) of the RFA Act. It would have been unrealistic to expect that this be done during the first two years since both the Roads Authority and the Road Fund Administration were establishing the necessary skills and organisational arrangements to comply with the rigorous requirements of the legislation. In fact, the draft Procedures Agreement between the Roads Authority and the Road Fund Administration provided that the parties to the agreement would accept the existing Economic Evaluation Manual of the Ministry of Works, Transport and Communication and the report: Roads Planning and Budgeting in Namibia as a basis for proposing road projects and programmes in lieu of the rules and principles to be framed under section 19(2) of the RFA Act, until such times as the rules and principles are available. The above arrangement to apply to the first three budgets and first three Business Plans of the Administration.

With the acceptance of the section 19(2) rules and principles for the funding of the management of the national road network in early 2003 and the first Medium to Long Terms Roads Master Plan (MLTRMP) in November 2003 (see section) it has now become possible for the Roads Authority and the Road Fund Administration to more closely comply with the provisions of the RFA Act[20] in evaluating road projects and programmes.

[20] See section 20(4)(a) of the RFA Act.

7.5. Other issues

7.5.1. Responsibility to fund roads related functions

It was recognised at the start of the road sector reform that its success would depend also on effective law enforcement. The intended equitable apportionment of road costs to different categories of road users will not be achieved unless road users adhere to vehicle roadworthy standards, pay all the road user charges and operate their vehicles efficiently and in accordance with the provisions of all relevant legislation. Overloading has in the past been a particularly serious problem that must be brought under control. From this point of view alone there is justification to utilise the road user charging system to provide funding support for the performance of traffic regulatory functions.

The Reform's road funding policies therefore assist in addressing this problem. The Road Fund Administration Act allows the Road Fund to be used to finance traffic law enforcement and road safety administration (see section 2.5). There are potential further advantages of this approach, firstly, it will secure an increased and more even flow of funding, and, secondly, it will allow for more effective enforcement of accountability in the performance of road traffic control. In the new system, it is thus not only the Roads Authority and contractors who will be expected to act effectively; the same will be expected of the authorities involved in managing the road traffic police and the traffic inspectors.

A further motivation to utilise the road user charging system to fund road traffic quality regulatory functions derives from the "user pay principle", one of the basic policy principles of the road user charging system. This is confirmed by section 17(1) of the Road Fund Administration Act which, in defining the various expenditures for which the Road Fund may be used, states that such use is subject to "the extent that it is to the benefit or road users".

Up to now the Road Fund Administration has not allocated any funding for traffic law enforcement to the Ministry of Home Affairs and certain local authorities who operate traffic police components, but has made provision to begin to make allocations in its forthcoming business plan provided that budget applications in compliance with the principles of the road user charging system are submitted. One of the issues confronting the Road Fund Administration has been to frame the "rules and principles" in accordance with which budget applications for traffic law enforcement allocations should be submitted. Draft rules and principles have recently been completed and consultations with interested parties are now scheduled to take place. The basic principle is that the amount of such allocations should compare favourably with the benefits they provide for the road sector. Compliance with this principle is difficult to substantiate in quantitative monetary terms and the Road Fund Administration must therefore rely on other methods of evaluation. The Road Fund Administration is not responsible to fully fund the traffic law enforcement function but anticipates that it will eventually make a significant contribution to the costs of traffic law enforcement. Only those traffic law enforcement activities which are of direct benefit to the road sector and which are cost-effectively performed will qualify for funding from the Road Fund. Road safety and the enforcement of traffic laws and driver and vehicle standards are regulated by the Minister responsible for transport in terms of the Road Traffic and Transport Act, 1999. In terms of the Act the Minister not only has overall responsibility for public safety on roads, but also the power to determine vehicle, driver and other standards and to impose various fees, for instance for driver and vehicle testing. The Road Fund Administration's task to determine how much funding should be provided by the road user charging system for traffic law enforcement depends on there being clearly defined policies to determine the overall standards and objectives with regard to road safety and traffic law enforcement, the funding resources to be used and the way in which the various funding resources, *inter alia* the Road Fund, should be combined.

These issues were only broadly addressed when the Road Sector Reform was implemented and it has become clear that the policies for sharing the costs of traffic law enforcement and how fees imposed in terms of the road traffic laws should be utilised must receive attention. This is necessary to ensure that the Reform's policies with regard to traffic regulatory functions are given practical effect and that the role of the Road Fund is clarified.

7.5.2. Fuel prices and taxes in neighbouring countries

One of the problems related to the introduction of road user charging systems using levies on fuel, identified prior to the reform, is that the levels of such charges do not need to be, and should not be, the same in different countries. This is because the unit costs (per vehicle) of providing roads are, for various reasons, not the same. Economies of scale play a major role in the levels of road user charges. In addition, not all countries necessarily adopt the same policies regarding the extent of costs to be recovered from road users. Some countries, for instance, may only aim to recover road maintenance costs. All things being equal, countries with lower levels of traffic such as Namibia therefore need to set the levels of road user charges higher than countries with higher road traffic levels.

In addition, different countries are likely to adopt different policies with regard to the revenue taxation of fuel. If one country decides to implement high fuel taxes as an important revenue source, especially if it is a country with relatively low traffic volumes, it will have relatively high fuel prices. Alternatively, countries with high traffic volumes are likely to be able to set the rates of road user charges at relatively lower levels.

It is therefore clear that different policies and circumstances in neighbouring countries could, in fact are likely to, result in the pump price of fuel products such as diesel and petrol being set at different levels. This creates potential problems with regard to fuel smuggling and avoidance of road user charges included in fuel prices. There is also the possibility that some countries will be placed in a favourable position to exploit the potential to tax road users, including foreign road users. The problems in this regard are exacerbated by the fact that few countries seem to have an integrated policy on fuel taxation and pricing.

The Namibian Cabinet in 1996 adopted a set of policy principles with regard to the taxation and pricing of petroleum products. These principles provide, *inter alia*, that the main elements making up the pump price of fuel, i.e. the basic cost of supply, various user charges, and revenue taxes, should each be determined in accordance with clear policy principles. The potential for success of the above policies will be considerably enhanced if other countries adopt similar policies. It is foreseen that the policies with regard to fuel pricing and taxation in different countries will sooner rather than later surface as an issue to be addressed at the international level. The underlying issues are the adoption and implementation of harmonious policies with regard to road user charging and the taxation of fuel for revenue purposes.

The Road Fund Administration, against the background of various other pressing issues as well as the fact that other countries in the Region have been slow to introduce road user charging systems, has not yet initiated contacts with neighbouring countries in respect of fuel taxation and pricing strategies.

8. CONCLUDING OBSERVATIONS

8.1. General

This final section concludes by, firstly, summarising the achievement, to date, of key policy objectives of the Road Sector Reform.

Secondly, it refers to those aspects of the Namibian experience in transforming its road sector which are thought to have played an important role and concludes by asking the question whether what has been done in Namibia could be replicated in other countries, including in Africa.

8.2. Achievement of key policy objectives

The basic policy objectives of the Road Sector Reform were:

- To ensure that the road sector in Namibia is safe and economically efficient by regulating funding in terms of economic efficiency criteria applying to the road sector;

- to fully recover road funding requirements complying with the above criteria from road users through equitable road user charges; and

- to improve the efficiency with which the national road network is managed.

The review of the progress in implementing the Road Sector Reform during the first three and a half years after its implementation provides some answers. Firstly, with the acceptance of the first MLTRMP in November 2003 the quantum of the long term stable funding level complying with economic efficiency criteria has been determined with a reasonable degree of accuracy. The funding "regulatory" objective has therefore largely been achieved.

As far as the recovery of costs via equitable road user charges is concerned, secondly, the picture is less favourable. Because of relatively low existing road use-related taxes existing at the time of actual implementation of the road user charging system it has not yet been possible to raise road user charges to the levels at which they will eventually have to be set. Further, due to the fact that mass-distance charges have not yet been implemented, road user charges currently do not provide sufficient equity between owners of light and heavy vehicles.

Thirdly, the efficiency of the management of the national road network (planning, designing, constructing and maintaining) has been improved in comparison to the situation before the Reform. However, further improvements must be effected mainly by exposing road infrastructure operations to fully commercialised and competitive conditions.

8.3. Important aspects of the Namibian experience in transforming its road sector

The following are regarded as factors which influenced the process of reform in Namibia:

- Conditions for change were favourable because:
  - the road network was already well-developed and reasonably well-maintained;
  - the level of road funding was more or less adequate and in balance with roads-related taxes;
  - policy aspects received in-depth attention and were supported by Government; and

- the introduction of a system of road user charging had no drastic implications.

- Features of the approach adopted were:

  - basic Government policies were available and taken as point of departure;
  - important stakeholders were involved from the start;
  - the impacts in terms of costs, taxes and revenues were assessed early on;
  - the international implications in terms of cross-border road transport operations were assessed and the available institutions for multilateral discussion and negotiation used to promote a wider understanding and acceptance of harmonious policies; and
  - the need for adapting institutional structures was recognised and given attention as part of the process of change.

- Factors which prevented a more rapid progress to completion were:

  - the involvement of many parties, also those outside Namibia;
  - the need to comply with public service procedures in obtaining approval for and bringing about organisational change and transferring personnel;
  - the fact that a broad strategy of restructuring in other transport modes was undertaken at the same time, thereby deflecting attention and capacity away from the road sector; and
  - a lack of sufficient manpower within the Ministry to supervise the work of many consultants working on a variety of different projects at one and the same time.

- The role of external financial and technical support:

  - Sida, the foreign development aid agency of Sweden, provided strong support;
  - the support provided comprised both technical and financial support;
  - the mode of Sida's support which was to piggy-back its support to the MWTC's own resources; and
  - use was made of human resources available in the region.

On the whole the transformation process took longer to implement than planned. It must, however, be accepted that it would have been impossible to progress faster. In fact, a realistic assessment suggests that if the total scope of the policy and restructuring process had been accurately foreseen at the start a less ambitious programme might have been attempted.

8.4. Transforming Government entities into commercially competitive entities

One of the major disappointments of the Namibian Road Sector Reform was that the process of transforming the Roads Contractor Company into a competitive commercial entity has not been as successful as hoped. The reasons for this were reviewed in section 7.3.

A conclusion to be drawn from the above is that the strategies to successfully transform former governmental organisations into viable commercial undertakings are complex and that even a carefully planned approach such as that adopted in Namibia (see section 3.5) will not necessarily ensure success.

In particular, specific provisions may have to be made for the Government to make funding contributions in order to relieve user communities from having to bear the costs of initial "inefficiencies", especially where such costs might tend to disrupt or discredit the restructuring programme itself.

8.5. Relevance of the Namibian experience to other countries

It is believed that the road sector reform in Namibia has some relevance for other countries. Objectives which have been achieved are that:

- the level of expenditure on roads have been increased;
- roads-related taxes have been transformed into road user charges;
- the revenues from road user charges are transparently and effectively channelled into the Road Fund and earmarked for expenditure on roads; and
- a generally accepted and economically justifiable basis for determining the optimum level of expenditure on roads, separated from the general government budget process, has been established.

The above are of relevance to most countries. However, some of the policy principles inherent to the Namibian road user charging system may not be acceptable to the governments of other countries because, firstly, many countries have a serious roads maintenance backlog which it would be both unfair and impractical to devolve on road users, secondly not all countries subscribe to the principle that all road costs should be carried by road users, and, thirdly, many countries would have problems in redirecting revenues from fuel taxes to the road sector in as generous a way as has happened in Namibia. The latter would be a particular problem in countries with low traffic levels since the charges to be imposed on individual road users in the form of fuel levies and other road user charges will be much higher in such countries.

These considerations suggest that other countries should take note of the Namibian road sector reform but design their own road sector reforms in accordance with the practicalities and economic policies in their own countries. Other countries would also do well to also take note of the various issues with which Namibia has had to contend or which it must still resolve and give early attention to these.

Finally, the adoption of policies of full cost recovery and funding roads at the optimum level through user charges in which levies on fuel play a prominent role, has serious implications for fuel pricing strategies and policies. This must be resolved at the international and regional level.

Notwithstanding this and the need for other countries to adopt policies suited to their specific circumstances, the basic approach adopted by Namibia may provide a useful point of departure. The Namibian reform serves as an example that ambitious road sector reforms may be successfully implemented in developing countries.

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