

**TABLE OF CONTENTS**

Executive Summary	v
List of acronyms	viii
<b>1. INTRODUCTION</b>	<b>1</b>
1.1 Background	1
1.2 Objective of the study	2
1.3 The Commission's mandate to undertake the study	2
1.4 Methodology	3
1.5 International learning	3
1.6 Delivery of Public Services	4
<b>2. INSTITUTIONAL REFORM IN TRANSPORT - THE CREATION OF AGENCIES</b>	<b>7</b>
2.1 Characteristics of the administration and provision of transport services in South Africa	7
2.2 Institutional framework	8
2.3 Principles for institutional reform in transport	8
2.4 The objective of the creation of agencies	10
2.5 How the agencies would work	10
<b>3. MANDATES GIVEN TO THE AGENCIES</b>	<b>12</b>
3.1 South African Civil Aviation Authority (Act No. 40 of 1998)	12
3.2 Cross-Border Road Transport Agency (Act No. 4 of 1998)	12
3.3 South African Maritime Safety Authority (Act No. 5 of 1998)	12
3.4 South African National Roads Agency Ltd (Act No. 7 of 1998)	12
<b>4. GOVERNANCE FRAMEWORK</b>	<b>13</b>
4.1 General principles	13
4.2 Corporate governance in South Africa	15
4.3 The role of Parliament in the governance framework for transport agencies in South Africa	17
4.4 Role of the responsible Minister	19

4.5	Role of the board in the governance framework for public enterprises	20
4.6	Boards and directors	23
4.6.1	The Board	23
4.6.2	Chairperson and Chief Executive Officer	23
4.6.3	Directors	23
<b>5.</b>	<b>PERFORMANCE FRAMEWORK</b>	<b>24</b>
5.1	Introduction	24
5.2	Performance objectives for the transport agencies	25
5.2.1	South African Civil Aviation Authority (SACAA)	26
5.2.2	Cross-Border Road Transport Agency (CBRTA)	26
5.2.3	South African Maritime Safety Authority (SAMSA)	27
5.2.4	South African National Roads Agency Limited (SANRAL)	28
<b>6.</b>	<b>PERFORMANCE MONITORING</b>	<b>30</b>
6.1	Introduction	30
6.2	Stakeholder survey results	31
6.2.1	Stakeholder surveys: South African Maritime Safety Authority	31
6.2.2	Stakeholder surveys: South African Civil Aviation Authority	34
6.2.3	Stakeholder surveys: Cross-Border Road Transport Agency	37
6.2.4	Stakeholder surveys: South African National Roads Agency Ltd	38
6.3	Public accountability	41
6.3.1	Requirements	41
6.3.2	Assessment	44
6.4	Effective and sound management	45
6.4.1	Requirements	45
6.4.2	Assessment	46
6.5	Efficiency and effectiveness in the provision of services	49
6.5.1	Background and definitions	49
6.5.2	Selection of indicators and benchmarking	52
6.5.3	Performance indicators: South African Maritime Safety Authority	53
6.5.4	Performance indicators: Civil Aviation Authority	60
6.5.5	Performance measures: Cross-Border Road Transport Authority	68
6.5.6	Performance measures: National Roads Agency Limited	75

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<b>7. CONCLUSIONS ON FINDINGS</b>	<b>79</b>
7.1 General	79
7.2 Primary findings	79
7.3 Effectiveness of the monitoring of performance	82
7.4 Effect of the creation of agencies on staff	83
7.5 Other lessons learnt	84
7.6 Criteria for the outsourcing of regulating functions	85
<b>8. RECOMMENDATIONS</b>	<b>86</b>
8.1 General agency-related recommendations	86
8.2 Recommendations specifically affecting the NDoT and its agencies	88
<b>9. BIBLIOGRAPHY</b>	<b>89</b>
Appendix 1: Guideline applicable to Boards	92
Appendix 2: Details of workshops/stakeholder interviews	94
Appendix 3: Agency performance questionnaires	103
Appendix 4: Analysis Of Questionnaire Responses	108
Appendix 5: SANRAL overview of Government employees pension issue	110

The Public Service Commission wishes to thank the Minister of Transport, the Department of Transport and the Boards, Chief Executive Officers and the stakeholders of the following Agencies for their cooperation with this study:

- CROSS-BORDER ROAD TRANSPORT AGENCY;
- SOUTH AFRICAN MARINE SAFETY AUTHORITY;
- SOUTH AFRICAN CIVIL AVIATION AUTHORITY; AND
- SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED.

## EXECUTIVE SUMMARY

### Introduction

The argument is frequently raised that public service bureaucratic structures do not lend themselves to innovative, efficient, effective and responsive service delivery. In order to address this problem, the Government has sought innovative approaches to service delivery by looking at alternative organisation and governance arrangements. One such example is the creation of the agencies during 1998 by the Minister of Transport to perform functions and services previously provided by the Department of Transport.

The question, however, is whether the objectives of this type of restructuring are being achieved. A study of the following transport agencies will be informative and may be of benefit to those executive authorities that are considering alternative organisation and governance arrangements:

- South African National Roads Agency Limited (SANRAL);
- South African Maritime Safety Authority (SAMSA);
- South African Civil Aviation Authority (SACAA); and
- Cross-Border Road Transport Agency (CBRTA).

The process of transport institutional reform in South Africa had as its aim the liberalising of the transport sector and establishing a stable macro-economic environment within which the private sector is exposed to real economic signals and market forces, while at the same time reforming the public sector. An essential element is an approach to the management of the transport sector that seeks the improvement of performance by giving managers clear objectives, the flexibility to manage their inputs and processes, incentives to perform, and by holding them accountable for delivering the agreed performance.

The heart of the process is the realisation that transport must be managed, not merely administered. It is not adequate only to provide the infrastructure and services - transport assets must be managed to ensure that the optimum return is obtained from the considerable investment made in these facilities.

The strategy for improving the management of transport includes setting clear management objectives and monitoring performance against these objectives. To evaluate the efficiency of management, performance measures are necessary.

There is a worldwide move towards promoting principles of good governance, ethical standards and integrity in private and public institutions. In South Africa the prime documents setting out requirements in this matter are the King Report on Corporate Governance for South Africa and the Public Finance Management Act (PFMA) (1 of 1999).

## Methodology

The methodology followed was to hold meetings with the Chief Executive Officers (CEOs) and senior officials of the respective agencies and examine a wide spectrum of relevant issues. The agencies were, for the most part, co-operative in providing the information requested. The next step was to assess the nature of stakeholder interactions by the agencies themselves and, where written comments were received, to analyse the information presented. An example is the surveys conducted by SAMSA in February 2002. The approach to such surveys was also discussed, wherever possible, with the senior staff at each agency in the preliminary workshops with the agency review team.

A standard template questionnaire was used as the basis for discussion with a wide spectrum of stakeholders. Some of the interviews were conducted by telephone, but all interviews with senior persons were face-to-face, in-depth discussions that yielded considerable additional information over and above the standard questions asked. Obviously, in some areas the external respondents' knowledge was limited, especially in respect of agencies' internal policies. However, selected board members were also interviewed in order to try to obtain an insight into these "grey" areas. In the end, a fairly consistent picture emerged.

## Lessons learnt

Some of the lessons learnt in the course of this study, and which are more fully elaborated upon in the report, are as follows:

- It is essential that the controlling department should both have and perform an effective monitoring role in respect of the functions being delivered by the agencies.
- It should be realised that the agencies are merely service providers and that the broad strategy directions and overall policy for the functions being delivered must remain with the Department. In addition, membership of, for example, regional and international forums and bodies should reside in the Department and not in the agencies.
- More care should be given to the selection of board members and especially the chairpersons, to ensure that knowledgeable, experienced and resolute people are selected, who fully understand and exercise their fiduciary responsibilities.
- Attention, and perhaps even prescription, needs to be given to establishing the lines of relationships and communication between the Minister, the Department, the board and the CEOs. It is important also for the board to monitor the performance of the CEOs and management independently, perhaps in closed meetings without the presence of these officials.
- Should future agencies be contemplated, all issues relating to service benefits, such as pension matters, should be fully resolved before any staff are transferred from Government service to the agency.

## **Conclusions**

The main questions addressed are whether the innovative agency concept is an appropriate mechanism for the delivery of certain transport services and whether this delivery function is being performed better or worse than when the services were delivered through the Department. It is concluded that the answer is positive and the service is generally better. The creation of agencies did benefit service delivery. However, a number of significant improvements can be made with regard to issues such as management, transparency and board procedures. The handling of staffing matters during and after the creation of the agencies is also a matter for concern.

## **Key recommendations**

Recommendations include that the necessity to clarify overlaps between the functions of the Department and the agencies and the need for the Department to be strengthened in order to be able to carry out effective monitoring of the agencies. The enabling legislation for the creation of public enterprises/agencies should be reviewed on a regular basis to ensure continued relevance and alignment with government policy. A Minister's Stakeholder Forum should also be set up to ensure stakeholder information is not "filtered" by the agencies. The monitoring procedures by the Department should be designed to encourage compliance with both the King Commission Report and the PFMA. The Department should provide the strategic direction for all stakeholders in the transport sector. Legislation should also be examined to ensure that the agencies are more closely harmonised with the Department to give effect to the above points.

**LIST OF ACRONYMS**

AG	Auditor-General
ALPA-SA	Airline Pilots' Association of South Africa
AMSA	Australian Maritime Safety Authority
ATNS	Air Traffic Navigational Services
ATSU	Air Traffic Service Unit
BCE	Bridge Condition Exposure
CBRTA	Cross-Border Road Transport Agency
CEO	Chief Executive Officer
DEAT	Department of Environmental Affairs and Tourism
Department	National Department of Transport
DDG	Deputy Director-General
DG	Director-General
EEI	Expenditure Efficiency Index
FAA	United States Federal Aviation Authority
GAAP	Generally Accepted Accounting Practices
GEPF	Government Employees Pension Fund
HRD	Human Resource Development
HTE	High Texture Exposure
ICAO	International Civil Aviation Organisation
LRE	Low Rut Exposure
MOU	Memorandum of Understanding
MRCC	Maritime Rescue Coordination Centre
NDoT	National Department of Transport
NEPAD	New Partnership for Africa's Development
NRDI	National Road Development Index
NSRI	National Sea Rescue Institute
OCI	Overall Condition Index
OPSC	Office of the Public Service Commission
PE	Public Enterprise
PFMA	Public Finance Management Act
PSII	Private Sector Investment Index
RCE	Return on Construction Expenditure
RME	Road Maintenance Effectiveness
SAAF	South African Air Force
SACAA	South African Civil Aviation Authority
SADC	Southern African Development Community
SAMSA	South African Maritime Safety Association
SANRAL	South African National Roads Agency Ltd
SAR	Maritime Search and Rescue
SARP	Standards and Recommended Practices
SDI	Service Delivery Innovation



STCW	Standards of Training and Certification and Watch-keeping for Seafarers
STE	Smooth Travel Exposure
TGWU	Transport and General Workers Union
USI	User Satisfaction Index



# 1. INTRODUCTION

## 1.1 Background

Since the election of the new democratic government in 1994, there has been a drive to transform the Public Service into an efficient non-discriminatory, accountable service delivery instrument. While some progress has been made in terms of enhancing accountability and promoting good management practices, the Government is still faced with a huge service delivery challenge that can be addressed only by increased efficiency and effectiveness. It has therefore initiated a project for improving service delivery to the public, termed Service Delivery Innovation (SDI).

There has been a worldwide shift in focus from the traditional service delivery approaches to various innovative means, which may be more effective, cost-efficient, customer-orientated, flexible and innovative. They can be broadly categorised as follows:

- partnering;
- shared service delivery;
- corporatisation (public enterprises);
- commercialisation; and
- outsourcing, etc.

One of the arguments raised is that public service bureaucratic structures as they currently operate do not lend themselves to innovative, efficient, effective and responsive service delivery. Alternative approaches in the delivery of services are therefore being sought. However, removing units from the ambit of the public service and direct ministerial control, especially if Parliament is providing the budget, have major governance implications. The question currently being addressed by this study is whether the objectives sought from this type of restructuring have actually been achieved and, whether the Government should allow or promote the creation of agencies to deliver services. It was agreed that an evaluation of the four transport agencies would be informative and could be of benefit to those executive authorities considering alternative organisational and governance arrangements for service delivery.

The National Department of Transport ("the Department") has been at the forefront in introducing service delivery innovation. It is the core function of the Department to ensure that the basic transport needs of all South Africans are met. During 1998 the Cabinet approved that this Department could split routine service delivery from policy and run the key service units in a more businesslike manner. The four agency units created at the time were the:

- South African National Roads Agency Limited (SANRAL);
- South African Maritime Safety Authority (SAMSA);
- South African Civil Aviation Authority (SACAA); and
- Cross-Border Road Transport Agency (CBRTA).

The Cabinet approved that there should be a review of all commissions and regulatory agencies, more vigorous financial controls should be applied and there should be an agreed policy framework for the pay structures of all extra-departmental agencies. The Cabinet further agreed that the matter be jointly addressed by the Ministers of Finance and of the Public Service and Administration. Concern was also expressed about the ad hoc manner in which public enterprises are created by various national and provincial departments. It was noted that the proliferation of highly differentiated public enterprises created a risk of horizontal fragmentation within government's machinery for service delivery.

The new Public Service Management Framework that came into being in July 1999 gives executive authorities and accounting officers responsibility for determining their own institutional arrangements in order to be responsive to the specific context and dynamics in which they have to deliver services. This should, however, be achieved within the constitutional requirement for a single public service for the national and provincial spheres of government. Currently, a large number of institutions responsible for policy implementation and service delivery fall short of the Public Service Management Framework.

These approaches are sometimes erroneously perceived to be synonymous with contracting out, and it is suggested that they lead to job losses. However, from research by the World Bank and elsewhere, it is clear that these approaches do not necessarily lead to job losses and can, in some instances, generate employment and facilitate black empowerment, as in the idea of "employee-owned companies". In general, these initiatives can lead to better management and better-structured job opportunities for employees with such jobs being more likely to be sustainable in the competitive world of the future. Moreover, many of the approaches result in no net employment loss, only better results for customers. This report analyses the position of the four agencies in question in the specific South African context, having due regard to the sensitivity of the views of organised labour.

## **1.2 Objective of the study**

The objective is to study the creation of service agencies and the lessons learnt from them. It will show whether the purpose of these innovations was achieved. The performance of this sample of four agencies will be analysed to ascertain whether this example of service delivery innovation was successful. The study has to show whether accountability, efficiency and effectiveness in service delivery were indeed achieved by the creation of such agencies. The report on this study will also be of use to other executive authorities and departmental heads that may be considering alternative organisational strategies or governance arrangements for service delivery.

## **1.3 The Commission's mandate to undertake the study**

The Constitution, 1996, mandates the Commission to -

- promote the governing values and principles for public administration as set out in section 195 [section 196 (4)(a)];

- investigate, monitor and evaluate the organisation of the public service [section 196 (4)(b)];
- propose measures to ensure effective and efficient performance within the public service [section 196 (4)(c)]; and
- give advice and provide an evaluation of the extent to which the Constitutional values and principles such as efficient, economic and effective use of resources; development-orientated public administration; and response to people's needs; are complied with [section 196 (4)(e)].

A consultancy firm, CSIR Transportek, on behalf of the Office of the Public Service Commission, has duly undertaken the research study that forms the basis of this report.

## 1.4 Methodology

The methodology followed was to meet with the Chief Executive Officer (CEO) and senior officials of the respective agencies and examine a wide spectrum of relevant issues. The agencies were, for the most part, co-operative in providing the information requested. The next step was to assess the nature of stakeholder interactions by the agencies themselves and, where written comments were received, to analyse the information presented. An example is the surveys conducted by SAMSA in February 2002. The approach to such surveys was also discussed, wherever possible, with the senior staff at each agency in the preliminary workshops with the agency review team.

A standard template questionnaire was used as the basis for discussion with a wide spectrum of stakeholders. Some of the interviews were conducted by telephone, but all interviews with senior persons were face-to-face, in-depth discussions that yielded considerable additional information over and above the standard questions asked. Obviously, in some areas the external respondents' knowledge was limited, especially in respect of agencies' internal policies. However, selected board members were also interviewed in order to try to obtain an insight into these areas. In the end, a fairly consistent picture emerged. For full details of the stakeholders interviewed see Appendix 2.

## 1.5 International learning

International experience highlights the fact that these innovative approaches have been implemented in different ways and with differing results. The challenge of corporate governance in developing countries is daunting. In advanced market economies, the rich and complex governance system (of policy, laws, regulations, public institutions, self-regulated professional bodies and managerial ethos) has evolved over centuries. In emerging markets, however, many elements of this mosaic are absent or countries are ill-equipped to address the corporate governance challenges they face.

Though reform is difficult, many countries have taken some of the necessary steps and a few have taken most of them, improving their institutions and human resources. Those that have stayed the course have seen impressive gains in corporate governance and economic performance. But even in this group, reform has been a long, uneven and sometimes fragile process of successes and reversals.

Reforms have proved most effective when they have focused on fundamentals and have combined a complementary mixture of laws consistently enforced and incentives for institutions to take voluntary actions. They have emphasised a comprehensive strengthening of external sources of discipline and internal incentives to improve corporate governance, especially by making corporate boards more effective and competent to exercise their duties of oversight and control over management. They have typically involved requiring transparency, notably through the timely disclosure of material information about the operations of the corporation.

On the internal side, the focus of the reform is to make corporate boards more effective and competent to exercise their duties of oversight and control over management.

For these measures to work effectively, countries need to develop the necessary institutions and build human capacity.

Evidence seems to suggest that, if properly implemented, these measures can lead to important service delivery improvements of a nationally significant order. Although in some countries and some examples, service has deteriorated, South Africa has the opportunity to learn from wide international experience and ensure that the most serious pitfalls are avoided. Success in implementing these approaches is more likely if they are -

- tailored to suit local conditions;
- implemented in an accountable, open, transparent and competitive manner;
- subjected to a rigorous review and monitoring mechanism in respect of accountability, good management and effectiveness in provision of services; and
- disseminated and communicated comprehensively.

## **1.6 Delivery of Public Services**

1.6.1 Service delivery programmes are also increasingly facing the following challenges:

- too many current service delivery programmes are archaic and inefficient;
- intractable economic issues, including high unemployment, high public debt commitment and dwindling resources for public service delivery;
- South Africa's position as a player in a global economy which demands high levels of efficiency and effectiveness in the public sector; and
- the emergence of the information age, in which the rapid development of information and communication technology has brought about worldwide trends of delivering services in new and innovative ways while, at the same time, enhancing the efficiency and effectiveness of services.

Because of these challenges, government has had to examine all possible means of rapidly and effectively improving the delivery of services. This has required a fundamental review of the way government conducts its business. Worldwide, this has led to a shift in focus from the traditional approaches in service delivery to alternative means which are more businesslike, client-oriented, flexible and innovative, and which incorpo-

rate the principles of good governance.

1.6.2 There are many and various systems available to the Government for improvements to service delivery, one of which is the creation of public enterprises or government agencies. This involves the setting up of public enterprises at arms' length from the Public Service to deliver specific services (usually self-contained services) on commercial principles, or in formal partnership with players from the private or voluntary sectors. These enterprises usually fund (fully or partially) their operations by way of user pay levies. The recent creation of the South African National Roads Agency Limited (SANRAL), the South African Civil Aviation Authority (SACAA), the Cross-Border Road Transport Agency (CBRTA) and the South African Maritime Safety Agency (SAMSA) by the Department are typical examples.

1.6.3 The Public Finance Management Act (1 of 1999) and the Public Finance Management Amendment Act (29 of 1999) contain a number of criteria for establishing whether an organisation is a public enterprise, for example:

- the Government owns a majority of the voting shares in the entity;
- the Government (the Minister) has the power to dismiss a majority of the members of the governing body of the entity or, where no such body exists, has the power to dismiss the chief executive and replace the governing body or the chief executive with a governing body which is primarily responsible to the Minister.

1.6.4 There are a number of reasons why public enterprises are important, inter alia:

- they use significant public resources and represent a major area of taxpayer investment;
- public enterprises are responsible for the effective use of the public funds under their control and for the proper management of the assets under their stewardship;
- Parliament has important long-term interests in public enterprises that go beyond the delivery of outputs in a given year, these interests being concerned with accountability, organisational capability, responsiveness to the objectives and priorities of Parliament, corporate integrity, and the quality of management; and
- public enterprises have increasingly been used to give effect to government policy, so that the entities' performance has a significant impact on the quality of government administration.

Public enterprises or agencies are responsible for the effective use of the public funds under their control and also for the proper management of functions entrusted to them and of the assets under their stewardship. The performance of these bodies has a significant impact on the quality of government administration. They exist as separate bodies independent of the Government, normally under the direct control of a board, and with their own enabling legislation. The special characteristics of public enterprises also introduce a number of complex governance issues.

1.6.5 The Canadian Comprehensive Auditing Foundation has done extensive research on governance in general and has identified six characteristics of effective governance. These characteristics must be present in the governing bodies of the entities. In their view, governing bodies -

- should consist of people with the necessary knowledge, ability and commitment to fulfil their responsibilities;
- should understand their purposes and whose interests they represent;
- should understand the objectives and strategies of the organisations they govern;
- should understand what constitutes reasonable information for good governance;
- once informed, should be prepared to act to ensure that the organisation's objectives are met and that performance is satisfactory; and
- should fulfil their accountability obligations to those whose interests they represent by reporting on their organisation's effectiveness.

These characteristics appear easy to achieve but, in practice, are very often not adequately met.

1.6.6 Government agencies enjoy considerable freedom from public sector administrative controls. They are assigned their legislative mandates and powers by Parliament and are thus ultimately accountable to Parliament through the appropriate Minister. They have, however, become increasingly complex to manage. The management challenges that face them have intensified with pressures to do more with less. Fiscal constraints and a taxpayer perception of bureaucratic inefficiency have contributed to a drive for greater productivity. At the same time, the shareholders, interest groups and customers are expecting and demanding more, and good governance is a prerequisite.

The critical importance of well-performing public institutions and good governance for development has come to the fore in the 1990s. Just as it was recognised in the 1980s that public investment projects are less likely to succeed in a distorted policy environment, it has become obvious in the 1990s that neither good policies nor good investments are likely to emerge and be sustainable in an environment with dysfunctional institutions and poor government.



## 2. INSTITUTIONAL REFORM IN TRANSPORT - THE CREATION OF AGENCIES

### 2.1 Characteristics of the administration and provision of transport services in South Africa

During recent decades, with the steady growth of the administrative state, government throughout the world has played a steadily increasing and dominant role in regulating society, and also in providing services which would normally fall within the domain of the private sector. This trend has been particularly strong in South Africa during the 40 or so years that the country was governed under the previous dispensation, examples being the growth of the massive transport monolith, Transnet, and many heavily overstaffed provincial (and previous Self-Governing Territories') roads departments. However, throughout the world it has been realised that the influence of an unduly dominant administrative state is ultimately deleterious to a country's development, and the frontiers of government in its involvement in directly providing services to society have begun to be rolled back.

In South Africa, and particularly in the transport sector, these changes have however, been slow to occur. The South African transport sector has in the past been characterised by extensive government involvement in the administration, regulation and provision of transport services. The Government, through its parastatals, was by far the largest player in both infrastructure provision and operation. Added to this, the institutional framework for the provision of transport services has traditionally been fragmented within and between levels of government and even between different ministries.

The South African economy has for many years been highly dependent on the primary sectors, in which transport forms a significant cost component. During this period the economy, and especially transport operators, in the main government parastatals, have been supported by a protectionist policy environment, resting on principles of security of employment and social security, bolstered by, among other things, import restrictions, industry subsidies, unrealistic spatial development policies and continual enhancement of real wages in a time of diminishing productivity.

These programmes have required large state expenditure, have had an impact on the economy and, over time, have reduced competitive pressures in the transport industry. The only exception to this trend has been the rapid growth of the minibus taxi industry, which unfortunately has also been accompanied by violence and a gross disregard for the law and safety regulations.

Added to the above, there is a seriously inadequate public sector capacity in transport administration at all levels of government.

In summary, therefore, the South African transport sector -

- has been highly regulated;
- was burdened with extensive protection measures;
- allowed limited competition;
- was subject to rigid rules;

- was characterised by a high degree of government involvement in service delivery; and
- was supported by a large and relatively inefficient public sector.

2.2 Institutional framework

The institutional responsibilities for the management of transport in South Africa are set out in the Constitution and are summarised in Table 1. Certain of the services that were required to be devolved to lower levels of government are still performed at a higher level. The primary reason for this is the necessity for the principle of subsidiarity to take place in an orderly fashion, and also because of the lack of capacity of certain provincial administrations to accept the function at present.

Table 1: Institutional transport responsibilities with respect to levels of government

Central Government <ul style="list-style-type: none"><li>• Maritime Safety</li><li>• Air safety</li><li>• Airspace management</li><li>• National roads</li><li>• National airports</li><li>• Road traffic management and safety (broader aspects)</li><li>• Cross-border transport</li><li>• Public passenger transport (temporarily)</li></ul>
Provincial Government <ul style="list-style-type: none"><li>• Airport provision</li><li>• Provincial roads</li><li>• Public passenger transport</li><li>• Road safety</li><li>• Traffic policing and management</li></ul>
Local Authorities <ul style="list-style-type: none"><li>• (Not fully resolved, but in principle responsible for the implementation of public passenger transport needs and for the provision of "local" roads).</li></ul>
Parastatals <ul style="list-style-type: none"><li>• Rail provision, operation and safety</li><li>• Ports policy and operation</li><li>• Rail safety regulator (to be established)</li></ul>

2.3 Principles for institutional reform in transport

The process of transport reform in South Africa had as its aim the liberalising of the transport sector and establishing a stable macro-economic environment within which the private sector is exposed to real economic signals and market forces, while at the same time reforming the public sector.

The basic principles for the realignment of the role of the Government on transport were:

- The Government would maintain an interest in the management of the transport system through a strategic approach rather than by involvement in operational matters;
- public policy should be implemented through the minimum number of administrative units, maximising the use of structures already in place for non-transport matters (e.g. commercial legislation);
- the overall management of the transport sector should be conducted within a multi modal framework;
- any organisation created to manage any part of the sector should be designed to have clearly defined and accountable responsibilities, free from direct conflicts of interest;
- management of the transport sector should be cost-effective, with the costs of intervention (e.g. regulation) to be borne by the relevant interest groups;
- the ownership and operation of transport undertakings is best carried out as a business in the private sector;
- Government transport undertakings should be moved into the commercial sector, either by direct divestment or by corporatisation, which may or may not be a step towards privatisation;
- the delivery of infrastructure (where economically feasible) and services in the transport sector should be separated from transport regulation and from policy development, and should be provided on a commercially competitive basis preferably outside government;
- economic regulation, including quantity controls for the provision of transport services, should be removed and replaced with quality controls;
- competition between the transport modes should be facilitated by removing preferential barriers; and
- safety regulation should be a joint operator/government responsibility, with standards being set through a formal consultative process, the introduction of safety audits and the application of benefit cost analysis. The overarching requirement should be for safety to be achieved at a reasonable cost.

Reform of the public sector in transport also had as its aim the improvement of performance by giving managers clear objectives, the flexibility to manage their inputs and processes and freedom to perform, and by holding them accountable for delivering the agreed performance.

The Department's philosophies in respect of institutional reform in transport were set out in its 1997/98 Business Plan. In essence these were as follows:

- The Department would, in future, concentrate on policy formulation and strategic planning more strongly than before, and would maintain a regulatory function where this is deemed to be in the national interest. As a result, the Department would become smaller and more focused on national issues.
- The Department would need to play a role in inter-governmental transport matters, ranging from the national/provincial level to the regional level, and also to the world level. This work would typically involve preparing uniform legislation where it is in the national or regional interest, agreements with foreign governments, etc.
- The Department would play a role in the restructuring of certain state-owned transport assets.
- The Department would be directly involved in the creation of certain arm's-length commercial institutions, i.e. "agencies" such as institutions for the provision and maintenance of a primary road network, the provision of maritime and aviation safety survey and safety services and the management of international cross-border road traffic permits.

Appropriate financing principles would be followed, depending on whether the infrastructure is “economic” in nature, could be paid for by its users and could yield measurable returns, or whether the infrastructure could not, or should not, be paid for by its users, but would yield “social” benefits. In reality, most facilities are neither wholly economic nor social, but a combination of the two and the pragmatic approach is therefore to follow user-charging principles with appropriate discounts for disadvantaged groups for economic infrastructure and state funding for social infrastructure where the beneficiaries are mostly poor, but where improvements in accessibility can alleviate poverty and support at least some economic development.

The principles of regulation would be such that government intervention would be minimised and facilitation maximised. Regulation exercised would differentiate between circumstances where -

- specific services are provided under contract (such as commuter transport services);
- monopolies are regulated to prevent exploitation;
- competing operators are regulated to ensure fair competition; and
- contracts are entered into for certain conduct or behaviour.

## **2.4 The objective of the creation of agencies**

As stated above, the process of transport institutional reform in South Africa had as its aim liberalising the transport sector and establishing a stable macro-economic environment within which the private sector would be exposed to real economic signals and market forces, whilst at the same time reforming the public sector. An essential element is an approach to the management of the transport sector that seeks the improvement of performance by giving managers clear objectives, the flexibility to manage their inputs and processes and incentives to perform, and by holding them accountable for delivering the agreed performance.

The heart of the process is the realisation that transport must be managed, not merely administered. It is not adequate only to provide the infrastructure and services - transport assets must be managed to ensure that the optimum return is obtained from the considerable investment made for these facilities.

The strategy for improving the management of transport includes setting clear management objectives and monitoring performance against these objectives.

## **2.5 How the agencies would work**

The vehicle chosen by the Department for the provision of infrastructures and services in transport was arm's-length commercial institutions, i.e. “agencies” for the provision and maintenance of a primary road network, the provision of maritime and aviation safety services and the management of international cross-border road transport permits.

The Department of Transport identified four areas of work carried out which were not basic social services, but services provided for industry that could, and more importantly should, be paid for on a user-pay principle.

The first area addressed was the provision of permits for cross-border travel for passengers and goods. Such permits are issued on the basis of bilateral agreements with our neighbours that limit numbers of and place certain conditions on road users. The Government did not operate this service on a commercial basis - there was no income/expenditure account for the operation, while expenditure was undertaken using the Department's budget and revenue was collected for the revenue account. This is a good example of the type of activity that can be managed at arm's length from government in a commercial environment with limited government regulation.

The next two areas were very similar - agencies for maritime and aviation safety. These carry out similar functions, setting standards for professionals in the field, setting examinations and issuing licences, inspecting ships and aircraft for safety reasons and related activities. In each case there is a service for a fee. The then current reality was that the staff members carrying out these tasks were paid as civil servants and the department was unable to retain enough skilled staff. The cost of the services to the client was subsidised by the State and there was no real link created between the tariff and the cost of providing the service. An agency with a board and a chief executive officer (CEO), created by legislation, could run these operations with user charges and a limited government grant as payment for general services such as the provision of information, etc.

The fourth area was more complex in that it dealt with roads; national roads, in particular. South Africa has approximately 7 200 km of national roads, of which some 900 km are toll roads. The proposal was to create an agency that constructs, maintains and manages roads subject to the policy and strategic planning requirements of the Department, using a surrogate for direct user charges, namely a petrol levy to finance its work. Created by legislation and accountable to the Minister and Parliament, it would also have a board and its own staff.

The net effect sought from these changes was that these activities should be more efficiently managed, with the cost borne by the specific user or beneficiary, and accountability and transparency in the provision of the services should be strengthened. The size of the Department would be considerably reduced, with the main focus of its activities being policy formulation, strategic planning and legislation, regulation and safety promotion and also promoting new and improved developments in transport.

It was emphasised that agencies were constituted as pure service arms of the Department, to deliver certain services such as a road network or the granting of cross-border transport licences, or the regulation (from a safety perspective) of marine and aviation services, with the express proviso that the Department would retain responsibility for policy formulation and strategic planning. The activities of the agencies were to be at the direction, and under the control, of the Department and the Minister.

### **3 MANDATES GIVEN TO THE AGENCIES**

Agreements were entered into between the Government, as represented by the Minister of Transport, and the four separate agencies with specific mandates.

#### **3.1 South African Civil Aviation Authority (Act No. 40 of 1998)**

The primary purpose of the South African Civil Aviation Authority (Agency) is to promote, regulate and support high levels of safety throughout the civil aviation industry.

#### **3.2 Cross-Border Road Transport Agency (Act No. 4 of 1998)**

The mandate of the Agency is to regulate and control access to the cross-border road market by the road transport industry and to facilitate the establishment of co-operative and consultative relationships and structures between public and private sector institutions with an interest in cross-border road transport.

#### **3.3 South African Maritime Safety Authority (Act No. 5 of 1998)**

The mandate of the Authority (Agency) is to ensure the safety of life and property at sea, to prevent and combat pollution of the maritime environment by ships and to promote South Africa as a maritime nation.

#### **3.4 South African National Roads Agency Ltd (Act No. 7 of 1998)**

The mandate of the Agency is to maintain and develop South Africa's 7 200 km national road network and to manage the assets represented by the road and bridge infrastructure.

## 4. GOVERNANCE FRAMEWORK

### 4.1 General principles

The Government, as the servant of the public through Parliament, has the responsibility of ensuring sound governance in the functions entrusted to it by the people.

Governance is generally understood to encompass authority, stewardship, leadership, direction and control. “Governance” therefore refers to the processes by which organisations are directed, controlled and held to account.

Corporate governance is concerned with holding the balance between economic and social goals and between individual and communal goals. The governance framework is there to encourage the efficient use of resources and equally to require accountability for the stewardship of those resources.

The aim is to align as nearly as possible the interests of individuals, corporations and society. The incentive for corporations and for those who own and manage them to adopt internationally accepted standards of governance is that these standards will help them to achieve their corporate aims and to attract investment. The incentive for their adoption is that these standards will strengthen the economy and discourage fraud and mismanagement.

The foundation of any structure of corporate governance is disclosure, and the principal parties involved in the governance of a public enterprise are Parliament, the responsible Minister, and the governing body.

The prerequisites for effective governance include:

- a role for each of the parties that is clearly understood by the other parties;
- constructive relationships based on those roles;
- an effective governing body; and
- a regime for monitoring entity performance that reflects a balance between the interests of Parliament, Government oversight, and the autonomy of the governing body.

Lessons learnt internationally indicate that sometimes there are significant deficiencies related to either corporate and strategic planning or performance measurement and reporting or both. Case studies show that some public enterprises -

- do not have well-articulated corporate visions, values and goals;
- do not have clearly expressed strategies or action plans to achieve their missions and visions;
- do not know the extent to which they are achieving their objectives; or
- do not report adequately on these objectives and strategies to Parliament and the Government.



Accordingly, the Government and the boards and senior management of these organisations are less able to offer clear and effective strategic direction to maximise the likelihood of appropriate performance. In addition, without such clarity of mandate, objectives and strategy, the risk of operating outside their parliamentary mandate increases. Finally, for those organisations, it is difficult to determine whether operations are managed at the minimum cost and whether overall output is optimised or expected outcomes are realised.

What makes corporate governance necessary? Put simply, the interests of those who have effective control over an institution can differ from the interests of those who supply the institution with external finance. The problem, commonly referred to as a principal-agent problem, grows out of the separation of ownership and control. In the absence of the protection that good governance supplies, asymmetries of information and difficulties of monitoring mean that capital providers or controlling authorities that lack proper control over the corporation of public enterprises will find it difficult to protect themselves from the opportunistic behaviour of managers.

Just what constitutes corporate governance is still a topic of debate. From a corporation's or public enterprise's perspective, the emerging consensus is that corporate governance is about maximising value subject to meeting the corporation's financial and other legal and contractual obligations. This inclusive definition stresses the need for boards of directors to manage the interests of shareholders and controlling authorities with those of other employees, customers, suppliers, investors and communities in order to achieve long-term sustained value for the corporation.

From a public policy perspective, corporate governance is about nurturing enterprises while ensuring accountability in the exercise of power and patronage. The role of public policy is to provide public enterprises with the incentives and discipline to minimise the divergency between private and social returns and to protect the interests of the responsible authority.

These two definitions - from public and private perspectives - provide a framework for corporate governance that reflects interplay between internal incentives (which define the relationships between the key players in the corporation or public enterprise) and external forces (notably policy, legal, regulatory and market) that together govern the behaviour and performance of the firm or public enterprise. These arrangements may be embedded in company law, securities law, listing requirements and the like, or negotiated between the key players in governing documents of the corporation such as the corporate memorandums of understanding, charters, by-laws and agreements.

At the centre of the system of corporate governance is the board of directors. Its overriding responsibility is to ensure the long-term viability of the entity and to provide oversight of management. In many countries the board is responsible for approving the entities' strategy and major decisions and for hiring, monitoring and replacing the management. In some countries the board has fiduciary responsibility for ensuring compliance with laws and regulations, including accounting and financial reporting requirements.

Traditionally, the debate on corporate governance has centred on private companies. Yet corporate governance is important for state enterprises as well. State enterprises (ministerial entities, agencies authorised through legislation, and incorporated public entities with the legal status of a company) account for the largest number of firms and the greatest share of value of the corporate sector in many developing countries. State enterprises can suffer from governance problems arising from conflicting mandates that put equal weight on



social goals and commercial ones. They may therefore not be driven by profit incentives and market discipline.

Most state enterprises are also sheltered from the discipline of debt markets. When the government controls the financial sector, state enterprises often receive preferential treatment on loans, with little regard for rates of return or prudential regulation. Directed lending, often at subsidised rates, distorts the efficiency of both government and private sector non-financial enterprises.

Many developed and developing countries are formulating governance models for state-owned corporations and clarifying many of these issues. In many cases these countries are restructuring and “corporatising” state enterprises as an interim measure, replacing civil servants with professional managers, establishing clear performance criteria, distancing the state enterprises from political influence and strengthening their boards.

For example, Canada and New Zealand have formulated guidelines for state enterprises. The guidelines from Canada’s “Crown Corporations and Other Public Enterprises” recognise that effective governance is vital to achieving public policy objectives and corporate commercial goals. The report’s ten recommendations cover three main areas: stewardship, working with management and functions of the board.

- Board responsibilities: The board should explicitly assume responsibility for the stewardship of the corporation.
- Public policy objectives: The board should examine its public policy objectives and legislated mandate periodically to ensure their continuing relevance.
- Communications: The board should ensure that the corporation communicates effectively with the Crown, other stakeholders, and the public.
- Board and management relations: The board and management should develop an effective working relationship.
- Board independence: The board must be able to function independently.
- The position of the CEO: The board should periodically assess the CEO’s position and evaluate the CEO’s performance.
- Renewal of the board: The board should assess its effectiveness and initiate its renewal.
- Education of directors: Directors should receive orientation and education appropriate to their needs.
- Compensation: The board should review compensation for directors.
- Responsibility for corporate governance: The board should assume responsibility for developing the Crown corporation’s approach to governance issues.

The four primary pillars of fairness, accountability, responsibility and transparency are fundamental to all the international guidelines of corporate governance.

## 4.2 Corporate governance in South Africa

As stated before, there is a recent worldwide move towards promoting principles of good governance, ethical standards and integrity in private and public institutions. In South Africa the prime documents setting out requirements in this matter are the King Report on Corporate Governance for South Africa and the Public Finance Management Act (1 of 1999).

The King Report, which is widely acknowledged as a world-class document and also applies to state enterprises, gives the following seven characteristics of good governance:

**Discipline**

Corporate discipline is a commitment by a company's senior management to adhere to behaviour that is universally recognised and accepted to be correct and proper. This encompasses a company's awareness of, and commitment to, the underlying principles of good governance, particularly at senior management level.

**Transparency**

Transparency is the ease with which an outsider is able to make a meaningful analysis of a company's actions, its economic fundamentals and the non-financial aspects pertinent to that business. This is a measure of how good management is at making necessary information available in a candid, accurate and timely manner - not only the audit data, but also general reports and press releases. It reflects whether or not investors obtain a true picture of what is happening inside the company.

**Independence**

Independence is the extent to which mechanisms have been put in place to minimise or avoid potential conflicts of interest that may exist, such as dominance by a strong chief executive or large shareholder. These mechanisms range from the composition of the board, to appointments to committees of the board, and external parties such as the auditors. The decisions made, and internal processes established should be objective and not allow for undue influences.

**Accountability**

Individuals or groups in a company who make decisions and take actions on specific issues, need to be accountable for their decisions and actions. Mechanisms must exist and be effective to allow for accountability. These provide investors with the means to query and assess the actions of the board and its committees.

**Responsibility**

With regard to management, responsibility pertains to behaviour that allows for corrective action and for penalising mismanagement. Responsible management would, when necessary, put in place what it would take to set the company on the right path. While the board is accountable to the company, it must act responsibly to and with responsibility towards all stakeholders of the company.

**Fairness**

The systems that exist within the company must be balanced in taking into account all those that have an interest in the company and its future. The rights of various groups have to be acknowledged and respected. For example, minority shareholder interests must receive equal consideration to those of the dominant shareholder(s).

## Social responsibility

A well-managed company will be aware of and respond to social issues, placing a high priority on ethical standards. A good corporate citizen is increasingly seen as one that is non-discriminatory, non-exploitative and responsible with regard to environmental and human rights issues. A company is likely to experience indirect economic benefits such as improved productivity and corporate reputation by taking those factors into consideration.

Corporate governance, according to the King Report, is essentially about leadership:

- Leadership for efficiency in order for companies to compete effectively in the global economy and thereby create jobs.
- Leadership for probity because investors require confidence and assurance that the management of a company will behave honestly and with integrity in regard to their shareowners and others.
- Leadership with responsibility as companies are increasingly called upon to address legitimate social concerns relating to their activities.
- Leadership that is both transparent and accountable because otherwise business leaders cannot be trusted and this will lead to the decline of companies and the ultimate demise of a country's economy.

The King Report complements the Public Finance Management Act, which is intended to regulate financial management in the national and provincial tiers of government, to ensure that all revenue, expenditure, assets and liabilities are managed efficiently and effectively and to provide for the responsibilities of persons entrusted with financial management. It does outline the fiduciary and other responsibilities of the governing boards of public entities, but it does not provide for the broader approach to corporate governance as set out in the King Report.

In summary, successful governance in the world of the 21st century requires state enterprises and companies to adopt an inclusive and not an exclusive approach. Boards must apply the tests of fairness, accountability, responsibility and transparency to all acts or omissions and not only be accountable to the company, but also responsive and responsible towards the company's identified stakeholders. The correct balance between conformance with governance principles and performance in an entrepreneurial market economy must be found, but this will be specific to each company.

### 4.3 The role of Parliament in the governance framework for transport agencies in South Africa

The public has important rights in relation to a public enterprise or agency, which it exercises through Parliament via the responsible Minister. First, it is fully or substantially funded from the National Revenue Fund, or by way of a special tax, or levy or other money imposed in terms of national legislation. Secondly, it gives effect to Government policy in the provision of public services needed by the community.

Parliament (through the Minister) establishes the boards to oversee the management of most public enterprises. Responsibility for setting corporate objectives in line with Government policies and achieving those objectives lies with the board. The board is also responsible for developing policies governing the day-to-day operations of the entity and ensuring good governance, or overseeing implementation of those policies through the chief executive.

More specifically, Parliament, through the responsible Minister, has the following obligations:

- to exercise control over the agency and to determine its direction, using the provisions of legislation;
- to appoint and dismiss members of the board;
- to ensure that there are no conflicts of interest in respect of board members;
- to approve the size, shape and scope of the entity's operations; and
- to exercise other rights as contained in the legislation.

The board is directly accountable to Parliament (the public) for the performance of the agency. The Minister is responsible for ensuring that the agency is managed in accordance with Parliament's and the public's interests, and so plays a key part in the governance framework for the entity.

Statutes which define the framework within which each public enterprise or agency operates include the Public Finance Management Act and the enabling legislation specific to the entity concerned. Public enterprises receiving funding from Parliament would also have to comply with the Transfer Payments Accountability Framework required by the Treasury Regulations.

The enabling legislation charges the entity with certain functions and gives the board, as governing body, the necessary powers to carry out those functions. Through this legislation, Parliament has also charged most public enterprises or agencies with performing certain functions and exercising specific powers. Parliament therefore has the right to examine the objectives and intentions of public enterprises and to review their performance against those objectives.

Usually the legislation requires that the persons to be appointed to the board should have business, financial or managerial expertise, or special knowledge, skills or experience relating to the functions or powers of the entity concerned. They should also not have any conflict of interest.

A Vote Minister may seek an appropriation from Parliament to obtain services provided by a public enterprise or agency. What the Vote Minister expects to obtain from the agency in exchange for the money may be the subject of scrutiny in the course of the Select Committee examinations of the estimates for the vote concerned and in the course of the General Estimates debate in the House.

The main forum for Parliamentary examination of an agency's performance is the annual financial review. The review of those agencies or public enterprises required to produce a Statement of Intent (irrespective of their sources of funding) must be carried out by the appropriate select committee, following the tabling of the entity's annual report. This examination addresses both performance in the previous financial year and the current operations of the entity. Select committees may draw on the Statement of Intent for the purpose of reviewing performance.

The House may also, during the course of the year, debate particular matters connected with the operations of a public enterprise or agency. Other avenues for Parliamentary scrutiny include formal questions to the responsible Minister, petitions and special inquiries initiated by select committees.

#### 4.4 Role of the responsible Minister

The PFMA provides enabling legislation that makes a Minister responsible for each public enterprise or agency. However, apart from a few specific duties (such as to table accountability documents in Parliament), no legislative guidance is given as to how a Minister is expected to discharge this responsibility.

Particular functions of the responsible Minister include:

- to appoint, or in some instances recommend the appointment of, board members as prescribed by the legislation;
- to consider, comment on and (if thought necessary) make the required modifications to the Statement of Intent (or such other accountability document as the legislation may require) prepared by the board;
- to hold the board to account for its stewardship responsibilities and for meeting the objectives set out in accountability documents; and
- to be answerable to Parliament for the performance of the entity.

A responsible Minister may also have a right to issue a directive to the board or to make other executive decisions affecting the enterprise.

Each responsible Minister is free to decide how best to carry out his or her functions. An effective relationship between any responsible Minister and the board needs to be effective and based on an agreed set of arrangements. In this regard, it is expected that there be -

- regular communication between the Minister and the board; and
- formal reporting by the board on performance against the objectives set out in the Statement of Intent or other specific accountability document.

It is very important that the Minister should not bypass the board by communicating directly with the CEO or other staff in a public enterprise.

The functions which responsible Ministers are expected to perform place demands on them which can be eased by having access to advisers with an understanding of the key issues at the strategic, public policy and operational levels. A Minister might also wish to call on administrative support in carrying out tasks such as appointing board members.

Parliament has given the boards of public enterprises or agencies particular functions, and the powers necessary to perform those functions. Boards normally expect to be held to account for the manner in which they perform those functions and exercise those powers.

A board may sometimes embark on a course of action which conflicts with government policy. In such cases, Parliament generally gives the responsible Minister a statutory right to direct the board on the policy it must follow, although the power is rarely used. Issuing a directive has implications for the governance relationship between the responsible Minister and the board and for the accountability of the board in discharging its statutory functions. Accountability for any decision to issue a directive to the board, and for the effect of any such directive, lies solely with the Minister.

For a number of reasons, Government departments are frequently the primary source of advice for Ministers. Departments have a natural interest in issues affecting their sectors of responsibility and normally have some responsibility for administering the enabling legislation for agencies operating in their sectors.

Departments are also the conduits for any transfer payments to public enterprises. As such, they (the Accounting Officer and the Chief Financial Officer) are charged by the PFMA and the Treasury Regulations with ensuring appropriate spending. The transfer payments accountability framework regulates this.

#### **4.5 Role of the board in the governance framework for public enterprises**

A universally accepted principle of corporate governance is that a board has a fiduciary role. Equally, directors must control the efforts of the board with due enterprise and integrity. As representatives of the shareholders, the board is expected to use its integrity and capability to vet corporate strategies, policies, plans and major decisions, and to oversee and monitor management in the interests of the shareholders and society. The key to good governance of any modern corporation is therefore an informed and well-functioning board of directors.

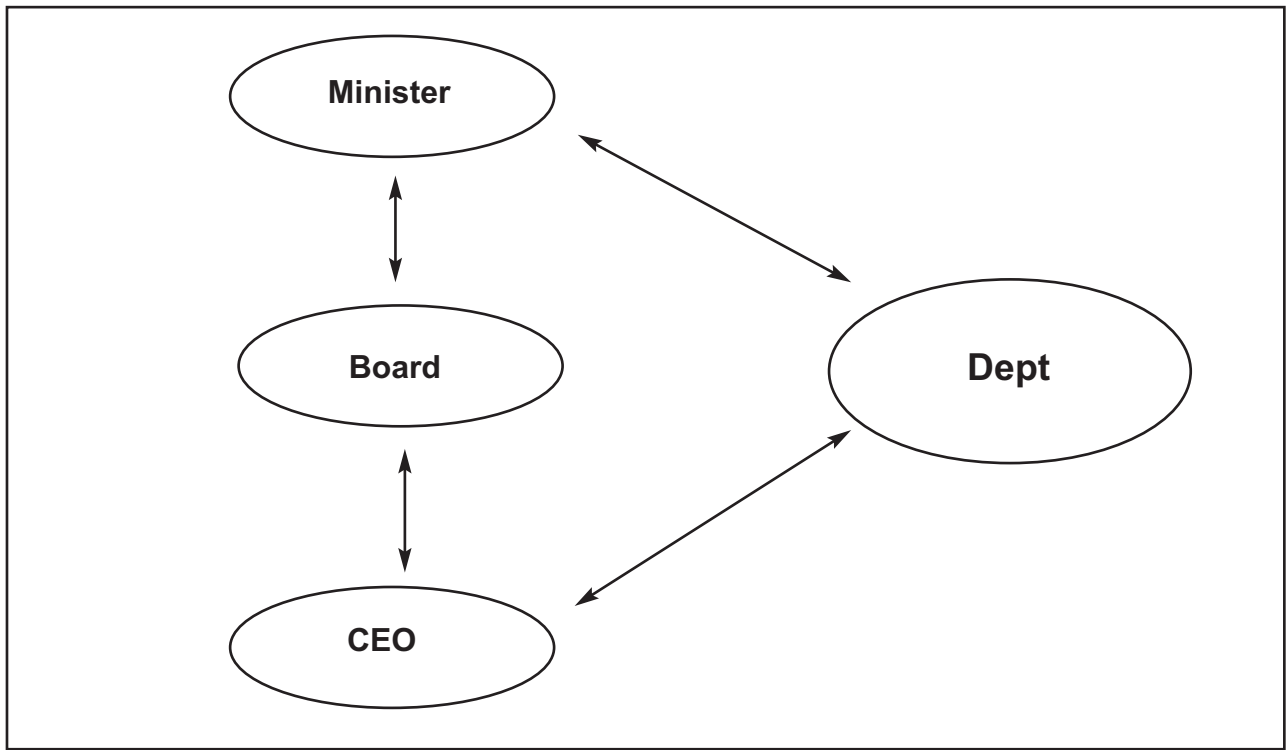
In practice, too many boards have been mere “ornaments on a corporate Christmas tree” as a landmark study of boards by Harvard Business School Professor Myles Mace once put it - “decorative and decorous baubles with no real purpose... Somehow, directors forgot - if they ever knew - that they were in the board room to act on behalf of shareholders...” (Business Week, November 25, 1966, 82).

The role of the board is to govern the public entity by directing and supervising the conduct of the entity’s business. The board is responsible for setting the strategic direction of the organization in accordance with the interests of the public, through Parliament as owner and the Minister, and for overseeing management of the resources that are entrusted to it. The board must account to the responsible Minister for the discharge of these stewardship responsibilities and, most important members should have no potential conflicts of interest in performing their duties.

The board, in turn, appoints the Chief Executive to implement its policies, manage the resources of the organisation and to run its day-to-day operations, within the parameters set by the board. The Chief Executive is responsible to the board by which he or she is appointed and to which he or she must account for achieving the specific management objectives set by the board.

Independent non-executive directors must review annually the performance of the entity’s CEO and senior management. Whether this review is conducted by independent directors or by outside professionals should be left to the entity. However, the review has to be based on clearly defined objective criteria, the norms of which the CEO and other executive directors should know well before the evaluation process starts. Moreover, there should be a clearly laid down procedure for communicating the board’s review to the CEO and his team of executive directors.

The primary relationships between the responsible Minister, the Board, the Chief Executive and the Department are as shown in Figure 1 below.



As evidence of a board operating effectively one can expect to see -

- an explicit written record of the relationship between the board and the responsible Minister, giving rise to a shared understanding between the board and the Minister as to what the board is there to do;
- clear lines of accountability between the chief executive, the board and the responsible Minister;
- declarations of interest by individual board members and stakeholders that no conflict of interest will arise; and
- that board members have an understanding of public sector legislation, procedures and practices, and an awareness of the importance of following acceptable standards of corporate conduct and behaviour.

Expertise and experience on the part of board members in the functions carried out by the specific public entity are to be expected.

Poor attendance at board meetings has practical implications for the effective operation of this governing body. It also affects the board's ability to retain full and effective control over the organisation, monitor the performance of management and draw on the full range of skills and experience for effective decision-making.



Setting maximum board meeting absenteeism in the letter of appointment of the director or in the regulations to the legislation or even in the legislation itself are mechanisms for noting the unacceptability of board absenteeism.

Guidelines and protocols are needed. These describe the procedures and protocols which the board and staff of the public enterprise are expected to follow in their dealings with the responsible Minister, the Department, the Cabinet and Cabinet Committees, the media, the public and Parliament.

A diligent board serves not only as an important source of advice for management, but also as a useful accountability mechanism. Board members who are willing to ask management challenging questions, and who prompt management to prepare thoroughly for board meetings, can encourage sound management practices and ensure that major decisions are not taken without thorough consideration. Boards should be involved in assessing senior management performance and in securing a sound process for succession planning.

To ensure that the best members are appointed to public enterprises, the following are important steps to be considered in the promotion of accountable and effective management:

- planning the composition of the board;
- developing member specifications;
- searching for, screening and selecting candidates; and
- briefing and training new members.

The process of appointment of board members should therefore incorporate the following steps:

- identify the skills, experience and other attributes required for the position;
- identify candidates (including, possibly, by seeking nominations or other expressions of interest so as to provide the opportunity for all suitable candidates to make their availability known);
- evaluate the candidates against objective criteria; and
- select from the short list of candidates the person most likely to fulfil the requirements of the position.

The King Committee has produced a code of conduct which is a voluntary code of significant importance in the private sector. The Johannesburg Stock Exchange has mandated it. It also recommends that public entities subscribe to the code. As such it also has relevance to the S A Transport Agencies and it is complementary to the former Reporting by Public Entities Act, now superseded by the Public Finance Management Act. It is, however, more specific in terms of issues such as stakeholder communications, affirmative action plans and results, etc.

Selected extracts from the King Committee Report are included below as an aid to assessing whether the boards of the transport agencies are performing their task adequately. As has been noted, while the contents of the King Committee Report relate primarily to private companies, they also, for the most part, apply to public enterprises.



## 4.6 Boards and directors

### 4.6.1 The Board

As may be seen from the preceding discussion, the board is the focal point of the corporate governance system. It is ultimately accountable and responsible for the performance and affairs of the company. Delegating authority to board committees or management does not in any way mitigate or dissipate the discharge by the board and its directors of their duties and responsibilities.

Given the positive interaction and diversity of views between individuals of different skills, experience and backgrounds, the unitary board structure with executive and non-executive directors interacting in a working group remains appropriate for South African companies.

Guidelines applicable to boards are set out in Appendix 1.

### 4.6.2 Chairperson and Chief Executive Officer

There should be a clearly accepted division of responsibilities at the head of the company, to ensure a balance of power and authority, such that no one individual has unfettered powers of decision-making.

The chairperson should preferably be an independent non-executive director.

Given the strategic operational role of the chief executive officer, this function should be separate from that of the chairperson. The chairperson, or a subcommittee appointed by the board, should appraise the performance of the chief executive officer. The board should satisfy itself that an appraisal of the chief executive officer is performed at least annually. The results of such appraisal should also be considered by the Remuneration Committee to guide it in its evaluation of the performance and remuneration of the CEO.

### 4.6.3 Directors

The board should ensure that there is an appropriate balance of power and authority on the board, such that no one individual or block of individuals can dominate the board's decision-making.

Non-executive directors should be individuals of calibre and credibility, and have the necessary skill and experience to bring judgment to bear, independent of management, on issues of strategy, performance, resources, transformation, diversity and employment equity, standards of conduct and evaluation of performance.

## 5. PERFORMANCE FRAMEWORK

### 5.1 Introduction

Public sector managers have for a long time been examining new approaches to strengthening the management capacity of their departments through quality management processes aimed at improving service quality and customer satisfaction. Efforts to initiate such systems have a greater likelihood of success where effective performance objectives have been established and incorporated into the management process. This is because they provide critical information for assessing functional strengths and weaknesses. Ongoing strategic management, and hence effective communication with the legislature, is impossible to track without the development and use of performance measures to monitor progress in achieving the government's strategic goals and objectives.

For effective performance management and monitoring there must be absolute clarity on the mandate. Central to a clear mandate is the definition of -

- the primary market;
- the primary service; and
- the primary service technology.

There must be absolute clarity on the main functions, i.e. the major generic functional activities required to render the mandated services, and also clarity and consensus among top management on the activities involved in these main functions and on the outcomes of these activities.

Furthermore, there must be a sound basis on which to allocate expenditure and the cost of all staff involved in the activities to the outputs generated.

There must be clarity and consensus on the objectives and outcomes that the services are supposed to achieve, or the desired impact on the service recipients' needs and demands that the output is supposed to have.

Such an approach allows the service-rendering agency to have a clear focus on its management tasks to face the challenge of achieving service recipient satisfaction, and to have a sound basis for public accountability.

Despite the handing over, or contracting out, of functional activities relating to the overall responsibility of a particular Government Minister, the Minister still remains fully answerable and accountable to Parliament and the public for the effective fulfilling of his portfolio. This accountability cannot be exercised without effective performance monitoring of the separate agencies that perform their tasks outside of the public service.

Performance measures have long been used in Government programme monitoring and evaluation purposes and in conjunction with traditional performance management systems. In addition, they have been introduced into public budgeting systems to make them more efficiency oriented, i.e. delivering value for money, although often at a micro-management rather than a policy level. Interest in monitoring performance measures in government institutions waned somewhat in the late 1980s, mainly because they were not incorporated effectively into meaningful decision-making processes. By contrast, the current approach to performance measurement takes a strategic perspective, attempts to become more output oriented, is mission driven and emphasises the importance of service quality and responsiveness to customers, measures actual performance against pre-determined targets or standards, and uses benchmarks for external comparisons, where feasible.

For the assessment described in this report of the performance of the transport agencies, the basis of performance monitoring is a three-pronged approach, viz. assessing performance on the basis of -

- public accountability;
- sound management; and
- efficiency and effectiveness in the provision of services.

In deriving indicators to measure or assess performance, the following criteria have been borne in mind:

- performance indicators generally include both quantitative and qualitative measures;
- indicators must include outputs and outcomes related to strategic goals;
- if possible, indicators should possess a “benchmarking” capability;
- no single criterion will provide a fully comprehensive feedback on performance and a “basket” approach is necessary;
- surrogate criteria are sometimes used; and
- in the determination of the effectiveness of the delivery of services, a distinction is made between outputs and outcomes and the indicators used are related to the key targets and tasks of the agency where these have been articulated.

## **5.2 Performance objectives for the transport agencies**

The initial performance objectives and desired outcomes for the separate agencies are given in performance agreements between the respective authorities/agencies and the Minister of Transport. It would be desirable to adjust these objectives regularly based on experience during the preceding period of time. The objectives of the respective agencies are discussed in the following paragraphs.

### 5.2.1 South African Civil Aviation Authority (SACAA)

The Authority is obliged to execute its function, as prescribed in the Act, within the framework of South African civil aviation policy. The Authority is further required to ensure that the civil aviation stakeholders are consulted on and informed of any civil aviation policy development and its implementation, and to ensure that all communications to stakeholders are balanced, understandable, transparent and timeous. The Minister's primary regulatory objectives in monitoring the Authority's performance are to -

- foster development of investment in the civil aviation industry;
- ensure the provision of safe high-quality civil aviation services; and
- promote the provision of civil aviation services at reasonable rates or fares.

In terms of the performance agreement between the Minister of Transport and the SACAA, a monitoring committee is required to be established to discuss and determine -

- financial reporting procedures and managerial controls;
- the provision of advice, documentation and research findings free of charge and against payment for the Minister or Department; and
- any other matter that relates to financial and general management aspects pertaining to the Authority.

The Board of the SACAA is also required to make available to the Minister a code of practice in respect of its financial obligations. The code of practice must provide for mechanisms in respect of -

- the fair reflection of the state of the affairs of the authority in the annual financial statements;
- the responsibilities of auditors, including the obligations to examine and report on the annual financial statements, to review the integrity of the financial information and to evaluate the means used to identify, measure, classify and report on such information;
- adequate accounting records with effective systems of internal control; and
- any other processes and procedures that adhere to general auditing and accounting practice.

### 5.2.2 Cross-Border Road Transport Agency (CBRTA)

The Minister's primary objectives in monitoring the Agency's performance are to ensure that the Agency -

- fosters development of and investment in the cross-border road transport industry;
- ensures the provision of safe, high-quality cross-border freight and passenger road transport services;

- promotes the provision of cross-border road transport services at reasonable rates or fares; and
- encourages the development of small business undertakings involved in cross-border road transport.

The agreement between the Minister and the Agency requires the Agency to develop performance targets in respect of certain indicators for each of the above objectives in order for the performance of the Agency to be monitored. Very little is mentioned in the agreement on the issue of sound governance and good management.

### 5.2.3 South African Maritime Safety Authority (SAMSA)

An interim Memorandum of Understanding (MOU) between the Minister and SAMSA was signed on 31 March 1998, with an understanding that within 6 months from this date the Minister would “prepare a draft of a final MOU to be mutually agreed upon by the two parties”. We have not been given access to such a final agreement nor are we aware that such an agreement exists.

In terms of the interim agreement, SAMSA undertakes -

- to execute its statutory function in an effective and efficient manner;
- to ensure that the Minister is kept informed of co-operation with governmental organisations outside South Africa;
- to meet at least twice a year with the Minister to discuss SAMSA's performance;
- to ensure that SAMSA remains abreast of international and national matters in the maritime environment and to make recommendations in respect of maritime policy to the Minister;
- to ensure that the Minister is kept informed of matters of national concern between SAMSA and other South African state departments and authorities;
- to ensure that the operations of SAMSA are promoted locally and abroad;
- to keep the Minister informed of the reporting on SAMSA in the media and also of disasters and potential disasters of a national nature; and
- to ensure the Minister is kept informed of SAMSA's ability or otherwise to meet its statutory obligations.

In addition, an Annual Report is required to be submitted to the Minister and compliance with the following is prescribed:

- Generally Accepted Accounting Practices (GAAP);
- accounting and auditing in terms of the Public Entities Act; and
- good corporate governance in terms of the Companies Act and following the recommendations of the King Report.

As regards financial reporting, the Board must ensure, among other things that, the financial reporting procedures and managerial controls -

- foster a control environment and corporate attitude that supports proper business practice/identifies areas of financial risk on a timely basis;
- safeguard the Authority's assets in cost-effective ways;
- ensure that transactions are properly authorised and recorded; and
- minimise the risk of fraud and fraudulent financial reporting.

#### **5.2.4 South African National Roads Agency Limited (SANRAL)**

In terms of a Memorandum of Understanding between the Minister of Transport and SANRAL, signed by the Minister on 22 February 1999, the Agency undertakes to carry out its mandate in respect of national roads "efficiently and effectively in accordance with best national and international practice" and also has the exclusive right to "provide national roads in the Republic". It also undertakes to "act in accordance with, and to achieve the targets set in the relevant Performance Agreement". SANRAL, in the MOU, also undertakes to carry out certain activities in respect of maintaining safety on national roads and in terms of doing everything in its power to reduce adverse environmental impacts by virtue of its performing its activities.

In terms of a performance agreement with the Minister, SANRAL is required to pursue certain general performance objectives. These require the Agency to -

- maximise the benefits from the resources allocated to it by prioritising and allocating funding on the basis of maximum benefits for minimum costs and undertaking rigorous auditing processes and proactive financial management;
- optimise the value of the national road network;
- pursue efficiency through developing enhanced administrative, evaluation, information and technical processes;
- pursue road safety at reasonable cost in both the construction and maintenance of national roads;
- provide accurate and timely advice for the Minister and other road controlling authorities and participants in the transport industry; and
- investigate alternatives to the roads mode that will be to the national benefit or could contribute to alleviating the financial burden of roads provision on the taxpayer.

These objectives are, in general, fairly broad in nature and, to evaluate performance, SANRAL has found it necessary to develop more specific and readily measurable indicators for performance assessment. These indicators address the following areas:

- the adequacy of road maintenance;
- road-related safety improvement measures;
- road construction, procurement and control;
- programme/project assessment;
- road performance;
- capital asset maintenance and financial management;
- environmental preservation;
- personnel management;
- technologies development;
- information management; and
- public relations management.

Performance targets are given for each category, though it appears that this required performance has not been monitored and reported upon to the Minister in every case.

However, in its document “Declaration of Intent for the 2002/03 to 2004/05 financial years”, SANRAL has given a statement of its performance goals in the fields of -

- road safety;
- traffic overloading;
- information technology;
- spatial development;
- poverty relief;
- social and entrepreneurial development; and
- the environment.

## **6. PERFORMANCE MONITORING**

### **6.1 Introduction**

A variety of trends and forces in the field of public administration have generated awareness of the importance of performance monitoring. Taxpayer pressure, the move towards the commercialisation and privatisation of public services, and the demand for the curtailing of Government expenditure in many programme areas have generated increased demands to hold Government agencies accountable to legislatures and the public in terms of what they spend and what they produce. These moves signal a new way of thinking as to how performance is defined and how it is measured.

The methodology followed was to hold meetings with the CEO and officials of the respective agencies, in a workshop scenario and on an individual basis, and examine a wide spectrum of relevant issues. The agencies were, in most cases, very co-operative in providing the information requested. The next step was to assess the nature of stakeholder interactions by the agencies themselves, and where written comments were received, to analyse the information presented. An example is the surveys conducted by SAMSA in February 2002. The approach to such surveys was also discussed, wherever possible, with the senior staff in each agency at the preliminary workshops with the agency review team (see Appendix 2).

As the basis for discussion with a wide spectrum of stakeholders, a questionnaire, based on the template shown in Appendix 3, was used. Some of the interviews were conducted by telephone, but all interviews with senior persons were face-to-face in-depth discussions that yielded considerable additional information over and above the standard questions asked. In some areas the external respondents' knowledge was limited, especially in respect of agencies' internal policies. However, selected board members were also interviewed in order to try to obtain an insight into these areas. In the end, a fairly consistent picture emerged. The results of the stakeholders' responses are analysed in Appendix 4.

The results of the assessment of the performance in this report need to be seen in context. The people consulted regarding performance were selected to represent, as far as possible, the full spectrum of people involved and varied from senior government officials, at Chief Director and Deputy Director-General levels, to the heads of bodies such as the Air Traffic Navigational Services (ATNS) and Commercial Airlines official representatives of the industries in the transport sector and other transport user groups. As such, they represent an authoritative segment of society.

In some instances, because the respondents were dependent for their livelihood on some of the agencies, it was requested that names not be revealed for fear of victimisation. (The very fact that this request was made was significant in itself as a reflection on some of the agencies concerned.)

The performance of the agencies is assessed by analysing their performance in four areas, namely stakeholder satisfaction with service delivery performance (described in section 6.2); public accountability (section 6.3); effective and sound management (section 6.4); and their efficiency and effectiveness in the provision of services (section 6.5).



## 6.2 Stakeholder survey results

Service delivery improvement is the first and most important reason for the creation of the agencies. Stakeholder interviews covered 30 organisations or representative bodies and involved approximately 50 interviews of which half were conducted telephonically and half face-to-face. The list was drawn up in consultation with the NDoT and the OPSC (see Appendix 2). All stakeholders interviewed agreed that it was a good idea to use the agencies for service delivery (see responses on Question 3 in Appendix 4). Furthermore, the majority rated the current performance as good while 65 per cent rated it better than that performed under the auspices of the Department. The following other responses to the questionnaire relate to service delivery:

- Question 2 (Consultation)
  - On needs 77% Yes
  - Frequency on needs 69% Seldom
  - On policy 67% Yes
  - Frequency on policy 75% Seldom

It seems that, in general, the frequency of consultation was not done to a level that met with the expectations of the stakeholders on participative policy making.
- Question 5 (Transparency)
 

On average 72 per cent of the stakeholders did see the Business Plans of the agencies. (It can thus be said that the operations of the agencies is transparent to the majority of the stakeholders.)
- Question 10 (Needs)
 

Here again the stakeholders were overwhelmingly in accord that the agencies are performing functions that are needed by the stakeholders.
- Question 11 (Value for money)
 

On average 56 per cent of the stakeholders were satisfied that they get value for their money (being it direct fees or indirect taxes).

### 6.2.1 Stakeholder surveys: South African Maritime Safety Authority

- 6.2.1.1 Two international audits were initiated by SAMSA, i.e. the United Kingdom Maritime and Coastguard Agency was asked to review SAMSA's training and certification functions in 2001 and the Australian Maritime Safety Authority (AMSA) was requested to undertake a peer review in 1999.

The United Kingdom review found that SAMSA's administrative functions were well developed and efficient and recommended the recognition of certificates of competency issued in South Africa.

Discussions with stakeholders by AMSA found the industry to be complimentary of SAMSA, compared with the former Chief Directorate: Shipping, noting that SAMSA had clearly become a customer-focused organisation that is competent and approachable. The industry felt, however, that SAMSA should become more proactive in co-ordinating with Government departments to address such issues as education, unemployment and the removal of tax regimes restricting South African ship-owners.

6.2.1.2 During February 2002, SAMSA itself held stakeholder consultation meetings in Durban, Port Elizabeth, Cape Town and Pretoria. The details of comments and questions are included in Appendix 2. A total of 110 persons attended these meetings. One of the major concerns expressed centred on the proposed increases in fee structure, which the industry believed to be unacceptable when SAMSA had a sizeable reserve fund. A subsidy from this fund would have made it possible for the fees to remain more in line with the general level of inflation. The industry also felt that the increases should have been communicated earlier.

Concern was expressed that salaries paid to SAMSA's cadets were nearly double those paid elsewhere in the industry. Presumably this item was financed from the same reserve fund. The rationale behind this was not seen as transparent.

SAMSA was also requested by some stakeholders to help expedite industry concerns with certain Government departments where a response was slow in being produced.

6.2.1.3 The consultant's agency review project team, in addition, conducted its own stakeholder survey, both by telephone and through face-to-face interviews. The findings (see also Appendix 4) confirmed that SAMSA is delivering a better service than when the function fell under the Department. This was ascribed to fewer restrictions on bureaucracy, an ability to pay market-related salaries leading to close-to-full staff operating capacity and some innovative moves such as establishing a Fishing Vessel Safety Unit. There was an indication from Portnet that it would like to take over the function of SAMSA, but this was not widely considered desirable, as it would lead to a loss of independence for the agency.

Most respondents currently believe that the agency model is the best option and that its functions are essential. However, not all believe that the services are value for money. This is not because respondents are against the idea of user cost recovery, but because they are aware of the existence of reserve funds transferred from the NDoT at the time of the establishment of SAMSA that could be used in this regard. The audited financial statements in the Annual Reports, make reference to the levy equalisation fund "to ensure that annual charges to levies in the shipping industry can be, as far as is practicable, maintained in line with the price increases applicable to the shipping industry".

It was suggested that there should be a move towards costing services more accurately. The industry appeared to be reasonably satisfied, however, with the level of communication by SAMSA. The Annual Report was fairly widely distributed and regular meetings were held with stakeholders.

Certain respondents, who wished to remain anonymous, gave other insights. The first of these was that, although the agency concept was sound, the implementation was hasty because the former Minister and Director-General wanted to see results before vacating office and handing over to a new team. Some outstanding issues had not been resolved at that time and, unfortunately, still remain unresolved today. Chief among these was the failure to clarify pension and post-retirement medical benefits for staff transferring from the public service to the agencies. This single issue was raised countless times during our discussions and has clearly affected morale. There is an urgent need to make a fair ruling and obviously this sets a precedent for any future agencies to be established.

Another factor that was a recurring theme was the reality that the establishment of the agencies denuded the skills base of the Department. The lack of capacity thus created meant that there was an

extremely limited ability on the part of the Department to make policy and monitor the operation and general direction of the agencies. It is also apparent that the Minister would call on the agencies to assist with tasks that should have fallen within the domain of the Department, but for which there was simply no capacity or capability. For example, when SAMSA's budget was last sent in for approval by the Ministers of Transport and Finance, it was deemed to have been approved when no response was received after 60 days. This is in conflict with the Public Finance Management Act.

There was also serious criticism of the technical experience and ability of some board members and there was a perception that some members were appointed for political or transformation reasons and that such selection did not comply fully with the principles set out in the King Commission Report. There also does not appear to have been a formal process whereby members could declare their personal interests and the presence of a trade unionist on the board was questionable in the view of some respondents.

A study of the SAMSA board minutes from the inception of the board to August 2001 reveals a strong emphasis on transformation issues, a polarisation of viewpoints within the board and interference in day-to-day operational management issues, especially in human resource matters. While the need for a transformation process was clearly justifiable, the manner in which it was conducted was questionable in terms of both procedure and professionalism. From the board minutes and the interviews it was found that then SAMSA Board was not very effective in dealing with the balance between issues of demographic representativity and efficient functioning of the agency.

One of the issues that need to be addressed is how effective the agencies are in implementing the proposals made in the White Paper on Transforming Public Service Delivery - Batho Pele. Government departments are obliged to implement, over time, the proposals made in this White Paper. The question that needs to be asked in the case of an agency is whether the time scale should be similar to that of the Government, or extended. One of the major reasons why the agencies were separated from the Government was to improve efficiency and service delivery in line with private sector norms. A balance needs to be found between an appropriate rate of transformation with proper skills transfer and maintaining an efficient service delivery capability. The stakeholder survey indicates that this balance is not achieved in all cases at the expense of quality of service delivery.

A point in the board's favour was that there was a realisation (May 1998) that SAMSA had to comply with the South African Maritime Safety Authority Act 1998, the Public Entities Act 1992, the Companies Act 1973, the King Commission Report and Generally Accepted Accounting Practice (GAAP) on all financial matters. A ruling was made that copies of the above legislation should be kept in the board-room in future. However, managers are doubtful to what extent all the board members were familiar with the contents of these documents and they are of the opinion that new board members should attend a presentation in respect of their responsibilities and obligations under such legislation and/or a Company Directors' course. At the time that the minute book was inspected (April 2002) the minutes had not been formally inserted in the minute book, as prescribed, since August 2001.

Reference was also made to the unresolved matter of the benefits of employees who belonged to the Government Employees Pension Fund. It is understood that there was a recommendation from Deloitte and Touche (auditors) that all salaries be frozen since increases paid out of reserve funds had inflated

salaries beyond market levels, and that the Auditor-General reported a loss of assets that had not been recorded.

6.2.1.4 The overall conclusion on SAMSA is that service delivery is good, and that the organisation is managed efficiently, although there are some questions concerning accountability and much improvement is required in the area of governance.

6.2.2 Stakeholder surveys: South African Civil Aviation Authority

6.2.2.1 In discussions at the SACAA on 23 January 2002 the CEO gave a presentation on aviation safety and the role of SACAA. The following points, which were pivotal to this discussion, were put forward:

- in the past decade there has been an overall decline in the rate of aviation accidents in South Africa;
- the general/recreational aviation users remain the key areas targeted for improving aviation safety;
- the growth in reported aviation incidents is consistent with the rate of growth in air traffic movements; and
- the airline industry has a globally competitive safety record.

The CEO further reported on of quarterly industry meetings, regular meetings with Air Traffic Navigational Services (ATNS) and the South African Air Force (SAAF) and also the Aero Club, the Microlight Association and other bodies. Safety workshops had also been held in seven different locations throughout the country. With regard to international liaison, SACAA meets Southern African Development Community (SADC) aviation organisations and the International Civil Aviation Organisation (ICAO) and participates in international aviation conferences. The CEO did, however, indicate that the lack of capacity in the Department was a problem that led to difficulties in deciding on appropriate national representation at international aviation meetings. He also indicated that SACAA had to undertake tasks (for which they were not necessarily recompensed) that should have been the responsibility of the Department.

6.2.2.2 The reports of independent auditors on SACAA show that there is compliance with GAAP and, as and where applicable, the Authority has complied with the major recommendations of the King Report. During the course of the 2001 audit, however, steps were suggested to tighten up on controls in respect of suppliers of aviation fuel and purchases of inventory required for maintenance and repairs. So far as could be ascertained, these matters have since been attended to.

6.2.2.3 During 1999, ICAO conducted a technical audit of the SACAA and indicated a noticeable improvement over their 1997 assessment. This was followed up by a further ICAO mission in November 2001 which found that SACAA had made significant progress towards implementing recommendations related to airworthiness, the certification of air operators and personnel licensing. The one area where additional work needs to be done, however, is in establishing a comprehensive system of surveillance for air operators. The United States Federal Aviation Authority (FAA) also visited South Africa and reviewed and audited Johannesburg and Cape Town International Airports. These audits yielded positive results, reflecting improvements on previous audits. SACAA undertakes full accident and incident responsibilities on behalf of the Department, resulting in the cost of this function being funded by the Department.

6.2.2.4 In contrast with some of the above discussion, a mixed response on the performance of the agency was received from a range of people interviewed by the agency review team (see also Appendix 4). Overall, however, the performance was perceived as better in most cases than when the function was undertaken by the Department, but the majority of respondents thought that the agency's performance was still patchy and could be improved. Stakeholders also mentioned the following:

- The level of consultation with the industry was generally seen as inadequate. Some respondents had not been specifically consulted and others referred to stakeholder consultation as “tokenism”, “window-dressing” or “orchestrated” and said that industry problems were not meaningfully addressed. In particular, explanations of the costs and approach to service delivery were seen as unclear and unconvincing. In one case, comments invited in respect of revisions to civil aviation regulations were not, the respondent felt, taken seriously. Although this feedback was to some extent anecdotal, the fact that several respondents mentioned the same issues suggests there is some substance to the allegations. Moreover, some respondents did not believe that the cost of services provided was value-for-money.
- Annual Reports appear to have been made freely available, however, and there is reasonable consensus that the agency is an appropriate model and that its functions are essential.
- Comments on the board were less positive. There was criticism of the lack of appropriate skills levels of some members and the “controlling” personality of the CEO was seen as a possible negative factor. Much was made of whether the board was really independent and not just an adjunct to the CEO and the Minister.
- The general opinion on transformation is that the SACAA is slowly meeting its objectives, but sometimes at the expense of expertise. Some posts remain unfilled while a “suitable” person is sought. One respondent suggested that these skills gaps could be filled by using retired or semi-retired experienced people on contract until appropriate incumbents could be found. Skills transfer would then be an essential part of such contract appointments. Some comments were made about the apparent uneven distribution of the workload between the staff and it was also suggested that “hands-on” management was lacking.
- There were anecdotal references to moonlighting activities of some inspectors and suggestions of improprieties in procedures for staff appointments and contract awards. Although it is beyond the terms of reference of this team to conduct a thorough investigation into these matters, the fact that suggestions of irregularities came from more than one source should be viewed seriously. Allegations were also made that there were instances where conflicts of interest were apparent.

6.2.2.5 Another matter of concern raised by some individuals and organisations is the fact that the CEO of SACAA has a dual role in as much as he is also the Commissioner of Civil Aviation, responsible for regulation and aircraft accident investigation. The Airline Pilots' Association, for example, believes that the CEO cannot be both referee and player. Other respondents also expressed this view independently.

International trends, supported by ICAO, are for the creation of autonomous agencies to regulate aviation safety. The Commissioner for Civil Aviation in South Africa plays a critical role adjudicating cases where participants in the civil aviation industry face charges of non-compliance with aviation legislation or regulations. This is similar to the role of the CEO in the case of the New Zealand SACAA or the Administrator in the case of the USA's FAA. Such actions may range from a high-impact action such as the suspension or revoking of an operator's licence to conduct commercial aviation activities to requiring a pilot to retake a test or a reprimand that is placed on record. Accident and incident investigation is a key ICAO responsibility and the resulting obligation is hence delegated by the Minister to the Commissioner for Civil Aviation. The Minister may also appoint a judicial commission to review a major aviation disaster, as was done in the case of the Helderberg and Machel crashes, for example.

The administration of civil aviation regulations thus represents a state's discharge of its international treaty obligations, which are designed to enhance domestic aviation safety and form part of a global aviation system. Because of the wide range of complex responsibilities it is impossible for the Minister to discharge these functions and this is the reason that a Commissioner is appointed who is responsible to the Minister.

The issues raised by the respondents refer to potential conflicts between the role of the commissioner and the role of the CEO and to possible capacity problems in fulfilling both roles. Examples from accident reports were mentioned in which, owing to oversight or error, re-inspections of aircraft were not undertaken or records were missing from SACAA. Reference was also made to under-staffing in the SACAA, especially in the flight operations inspection area.

The intent of the existing legislation is to provide the Commissioner for Civil Aviation with the technical and support capacity to discharge his or her mandate. Proposals to separate this post from the head of SACAA need to be thoroughly investigated in terms of international practice. The SACAA board has an important role to play to ensure good corporate governance and at present there appears to be some lack of conformity between the Civil Aviation Authority Act No. 40 of 1998 and the provisions and intent of the Aviation Act No. 74 of 1962 (as amended).

Attention needs to be given to the functions of SACAA and the scope and responsibilities included in the board's performance agreement with the Minister. The separation of the posts of Commissioner and CEO could be achieved, for example, by establishing a separate technical team accountable to the Commissioner or other mechanisms. However, it is recommended that an independent advisor with international aviation administration experience investigate this issue separately.

- 6.2.2.6 An independent review panel was appointed by the board of the SACAA to investigate, inter alia, allegations of fraudulent and irregular examination practices relating to Airline Transport Pilot Licences. During the period of the investigation the CEO was suspended. However, the panel found that the allegations could not be substantiated, but nevertheless concluded that the SACAA had not kept an accurate record of the licence documents and that there were material differences between the licence records and the licence documents in the possession of some of the pilots. It was also found that the computer records of pilot licences were not sufficiently secured and could be altered without the necessary authority. A number of remedial recommendations were proposed.



6.2.2.7 Overall, it may be concluded that SACAA operates a little more effectively than when it was part of the Department. It has been very successful in some regulatory areas (e.g. world leader in the regulation of air ambulances, and recreational and experimental aircraft), but there is a lack of hands-on management in running the business side of the agency. Stakeholders, for the most part, do not believe they are being listened to and doubt that they are receiving value for fees charged. Concern is also expressed about lack of capacity in some areas such as the flight operations inspectorate.

### 6.2.3 Stakeholder surveys: Cross-Border Road Transport Agency

6.2.3.1 The mandate of the agency is to regulate and control access to the cross-border road transport market. The vast majority of stakeholders interviewed by the agency review team believe that a better service is rendered by CBRTA than by the Department and all believe that the service delivered is somewhere between good and satisfactory.

6.2.3.2 The CBRTA conducted its own stakeholder survey and reported in May 2000 that no major problems with service or staff were identified. Although there was some questioning of the basis of Regulatory Commission decisions, the need for such a committee was not disputed.

Some permit applicants have had difficulties in properly formulating (in writing) and presenting (at hearings) their applications. This applies mainly to the minibus taxi applicants. The CBRTA has attempted to overcome this problem with its Customer Service Centre, by encouraging such applicants to be represented at hearings by their taxi associations and by offering training to taxi association representatives.

Operators welcome the same-day service for temporary permits and for some freight permits, but feel that the time lapse in obtaining long-term permits (about three months) is too long. They recognise the need for advertising the application, for periods of grace within which objections can be lodged, and for periods of notice before meetings, but believe the whole process is too laborious in relation to most of the permits granted, except in cases with major implications.

Transport inspectors are regarded as strict, but reasonable. Where doubts arise, they are prepared to contact the CBRTA head office or the operator's head office. There was a feeling that the CBRTA's regulation enforcement activities should be strengthened. Various malpractices were referred to, including the use of tourist permits to provide scheduled passenger services, or of freight permits used to convey passengers.

Liaison is by way of Route Management Groups, the website and ad hoc information meetings. Although this is considered to be good, it was noted that there was a distinct lack of formal documentation such as Annual Reports.

6.2.3.3 In their stakeholder analysis the consultants found that all respondents confirmed support for the agency model and agreed that the function was essential (see also Appendix 4). The cost of permits did not appear to be an issue and applicants believed they were getting value for money.

Mixed views were held about management and accountability. The frequent changes at top manage-

ment level, suspicions about possible conflicts of interest and concerns that skills and experience were vested in too few key individuals were expressed in the survey. Progress with transformation issues was seen to be positive, however, and the board was seen to have a good balance of skills and representation.

As with other agencies, much unhappiness could be detected within the CBRTA concerning the lack of progress in sorting out issues related to the pension fund in the case of former employees of the Department.

6.2.3.4 In analysing the documentation available and from interviews with the officials from SAMSA no evidence was found of any declaration of a potential conflict of interest among board members and no proper definition of the role of the board and the CEO. The agency's representatives again raised the issue of lack of capacity in the Department.

6.2.3.5 In summary, however, the CBRTA appears to be rendering a good service and certainly one that was a marked improvement over the system prevailing when it was part of the Department.

#### **6.2.4 Stakeholder surveys: South African National Roads Agency Ltd**

6.2.4.1 The South African National Roads Agency Ltd was established in April 1998 as an independent statutory company operating along commercial lines to maintain and develop South Africa's national road network. In organisational form it therefore differs from the other three agencies. It is estimated that the asset value (excluding land) under the Agency's management exceeds R5 billion. SANRAL is the largest of the four transport agencies with a head office in Pretoria and four regional offices located in Pretoria, Cape Town, Pietermaritzburg and Port Elizabeth. It is funded through treasury allocations, toll income and loans and has established itself in the sphere of public-private sector partnerships using innovative financial instruments.

The current 7 200 km of national roads under the Agency's jurisdiction consist of both toll and non-toll roads, the latter being funded through the National Treasury. Unfortunately, Treasury funding has fallen to a level where it is no longer possible to meet the needs for maintaining the existing network, but many of the non-toll roads carry insufficient volumes of traffic to make tolling a viable proposition.

SANRAL has put forward a plan (Horizon 2010) that could triple the size of the existing national road network by incorporating key provincial roads that are deteriorating rapidly through a lack of funds. An option is to fund this expansion through a private sector borrowing and concessioning programme.

The Agency has embarked on an awareness strategy "to inform, educate and communicate" with the general public and transport operators regarding the advantages and challenges of road provision and the user-pay principle. In December 1999 a Communications Officer was appointed to assist in strengthening public relations. A client perception survey is being planned.

6.2.4.2 Of the four agencies, SANRAL is the most efficient, judging by the stakeholder responses (see also Appendix 4). Most people agree that SANRAL's functions are more efficiently undertaken by the Agency than they were by the Department and virtually all respondents indicated that the service performance was good. This was attributed to the greater focus on its core business and the competence



of its staff. Few respondents could comment meaningfully on whether the Agency was meeting transformation objectives as very little information was made available in this regard. Several respondents advocated that the road network under the jurisdiction of the Agency be expanded and most raised the lack of available financial resources as a serious issue.

A public participation process is embarked upon before any building or major upgrading of a road, to take the public's views into account. However, some respondents indicated that a lack of proper consultation in planning issues was evident between the different authorities in each tier of government. This may, however, be due to the lack of an effective inter-authority co-ordinating mechanism.

In terms of public relations, respondents in general felt that the Agency was rather remote in that they were "informed" rather than "listened to". Annual Reports and other documents are regularly made available, but input from the public is not encouraged in a friendly way. The Department of Finance believes that it is not as well informed about road programmes and intentions as was the case before the Agency was created. (This discussion was, however, held before the release of the Horizon 2010 document.) One respondent also suggested that more users be represented on the board of the Agency and while another pointed out the lack of female representation. Another, a senior government official and a member of the SANRAL board, called for the appointment of "one or two experienced, wise, road engineers" to the board in addition to the current members. All respondents believed the functions of the agency to be essential, but few could say whether they were getting value for money. This is because they did not have a good enough grasp of the cost inputs involved. The researchers tried to compare costs of, for example, road construction and rehabilitation of roads under both NDoT and SANRAL, but this exercise is inconclusive since there were hidden overhead costs in NDoT and both inflation and market conditions vary greatly which make the analysis questionable.

Serious concern was expressed about the lack of capacity and oversight capability in the Department. Some respondents suggested that the Minister needed more help to map out an appropriate road policy and that the Agency was leaning too heavily towards toll roads, which had a severe impact in some instances on the disadvantaged sections of the population from a cost perspective. It was recommended that the agreement between the Minister and the Agency be reviewed periodically to ensure that the strategy being followed is fully in line with Government policy and that a senior person from the Department should also sit on the board. Two respondents questioned whether the independent statutory company model was the ideal organisational structure for the Agency. Several respondents pointed out that the Agency undertook some tasks which correctly should have been the Department's responsibility, but which fell to SANRAL to do because of the lack of expertise in the Department.

- 6.2.4.3 With regard to the board members, it was confirmed that a declaration of interests did occur in terms of the Company's Act and copies of such declarations were made available. The board meets regularly and proper records are kept. As was the case with SACAA, the strong "controlling" personality of the CEO and his frequent direct contact with the Minister (effectively bypassing the board) was seen as a possible negative factor both at board level and in terms of adequate delegation (see cautionary notes in the King Report). The other side of this coin, however, is that forceful leadership ensures that "things get done". Management within the Agency was generally considered sound, except possibly in the area of human resources. Most respondents, however, lacked the information to say to what extent transformation objectives were being met.

6.2.4.4 With regard to reports from the Auditor General's Office, there were qualifications to the 1999 and 2000 audits to the extent that an opinion could not be expressed on the financial statements. The issues were as follows:

- There was no contract between the Minister and the Agency relating to the transfer price of assets and liabilities.
- There were differences in purchase prices for land, buildings, equipment, etc. from values disclosed in the final financial statements of the National Road Fund.
- A fixed asset register was not maintained as required by the Companies Act 1973 (Act 61 of 1973), and an incomplete register of expropriated land was evident.
- The taxation commitment and related liability of the Agency could not be calculated.

Various shortcomings were also revealed in the Agency's system of internal control.

The Agency responded to the issues raised by the Auditor-General in the 2000 Annual Report as follows:

"The birth of the agency in April 1998 and its transformation from civil service to corporate entity posed many challenges and raised many issues, not the least of which was the establishment of a finance function. Some of these issues were the subject of comment by the Auditor-General in his report in the year ended 31 March 1999 and some of them are unfortunately still unresolved.

"In this regard, significant improvements have been made in the continuing development of internal and management controls as well as, most particularly, with regard to the establishment of a formal Fixed Asset Register, which has facilitated the accurate accounting for depreciation. Continuous progress is also being made in the verification of the details of the Land Register inherited from the former Roads Board. Similarly, the project of identifying unrecorded portions of land expropriated by the agency's predecessors is underway and proceeding satisfactorily. However, its completion may take several years.

"Furthermore, until such time as the issue of shares to the Minister of Transport is concluded, the transfer of the assets and liabilities taken over by the agency will be considered unverifiable from an audit perspective and will be a subject of qualification in the Auditor General's report. This matter no longer rests with the Agency.

"In addition, as pointed out in the Chairman's Report, fundamental taxation directives relating to the year ended 31 March 1999 are still outstanding from the Receiver of Revenue. Consequently, the agency's taxation position cannot be determined and this too will give rise to qualification by the Auditor-General".

6.2.4.5 The Agency has developed a Financial Code that seeks to lend definition to the provisions of the Public Finance Management Act and prescribes the ethical framework for the administration of the Agency's financial arrangements. On a more specific level, financial policies and procedures are documented in detail and updated as necessary.

6.2.4.6 The internal audit function is outsourced and is mandated to perform a comprehensive risk assessment

of the Agency's operations upon which to base the three-year internal audit plan. SANRAL has an active audit committee that meets to consider, inter alia, the Agency's accounting policies, internal controls, financial statements and both internal and external audit reports.

- 6.2.4.7 Overall, this Agency has the best performance of the four transport agencies, despite declining real funds for non-tolled national roads, and the public has no doubt that SANRAL is well organised.

### **6.3 Public accountability**

#### **6.3.1 Requirements**

In this report, accountability is taken to mean an obligation to account for a conferred responsibility and to give justification for what has been done in terms of society's values. Effective accountability is often linked with disclosure in the form of a report or reports, and how the entrusted responsibility has been executed, and sometimes whether value for money expended has been achieved.

Governments in democratic systems have, in general, considered public accountability an essential prerequisite for the efficient production and delivery of public services and for ensuring the true spirit of democracy. The prevailing concepts and practices of public accountability can be traced to a wide range of developments in economics, political science, public administration and law.

Democratic accountability was the starting point for many countries in the course of administrative reform during the 20th century. This means a mix of political and administrative accountability. The government (ministries and the bureaucracy and its constituent parts) in this system is accountable to the political leadership (elected or otherwise) of the country for its actions and performance. Ministers, for example, are accountable to the parliament/legislature in democratic countries. Civil servants, in turn, are accountable to their ministers. Accountability here is seen as a macro-level concept as it is difficult for a minister or legislature to supervise or control the individual acts of all civil servants and their departments. Furthermore, it does not distinguish between a government's intermediate and final service delivery. The instruments of macro-level accountability include legislative reviews of ministry activities, periodic audit reports on public expenditure, and the practice of questioning ministers in parliament on government activities. Political leaders/legislatures act as surrogates for the public in the system of democratic accountability. Unfortunately, the effectiveness of these macro-level accountability devices has been eroded a great deal in recent times with the expanding role of the state and the growth in government agencies, without adequate reporting requirements, in the provision of public services. Also, public expenditure audits and programme reviews may be delayed or be inadequately performed in many countries.

The expansion of public services that require technical expertise in their production and delivery has led to the practice of professional accountability in the public sector. The experts (doctors, engineers and other specialists) involved in these tasks are guided by their professional norms in being accountable for the services they provide. They exert considerable autonomy in defining the public interest, on the basis of professional norms, and in deciding on the nature and content of the services. The criteria of accountability here are heavily influenced by the norms internally (from the supply side) agreed upon by the pro-

professional councils. This type of accountability at the micro-level has much broader application in the context of specific services than is true of the general concept of democratic accountability discussed above. It does not supplant democratic accountability, but acts as a supplement and as a response to the increasing complexity of public services.

In recent years judicial systems and specially devised laws in some countries have been used to augment the accountability of individual civil servants and agencies or units within government that are responsible for the production and delivery of public services. The growing interaction of the public with the bureaucracy and the dysfunctional impacts of secrecy and anonymity in government on the efficiency and effectiveness of services have contributed much to the emergence of the legal accountability concept. By and large, its practice is concentrated in the more developed countries that have an educated public and a democratic political system. Its evolution is associated with the public's right to seek information from government, the right to sue individual civil servants and public agencies in courts of law and the power of courts to make the latter financially liable for violations of the public interest.

The pattern of the historical evolution of public accountability reveals the following three significant features:

- The original thrust of government accountability to the public rested with the political leadership at the macro-level. Attention to accountability as a means of controlling the behaviour of individual civil servants or government officials for public services is a relatively recent development.
- The focus of the key instruments and measures used to effect public accountability has traditionally been on inputs and not on outputs. In most cases, the latter tend to be diverse and are complex to measure and to aggregate, though in recent years there has been much progress on this front. On the other hand, public expenditure that is an input and a common denominator can be easily measured and audited. Internal processes can be assessed as there are generally norms concerning their use in government (e.g. the sequences and procedures to be followed for decision-making and the implementation of decisions).
- Apart from legal accountability, a recent development, the primary concern of the concept of accountability has been internal control. Political leaders, agencies and bureaucrats act as proxies for the public and hold those reporting to them accountable through control systems within the relevant organisations. Legal accountability, however, introduces the concept of the public intervening directly to ensure accountability. The dominant pattern has thus far been one of vertical or "upward" accountability and not of "outward" accountability. ("Upward" refers to the hierarchical approach to control and "outward" to the accountability towards the public, a horizontal relationship.) Outward accountability, with its focus on the public as "customers to be served", needs to be given greater attention.

A government's performance and that of its agencies in respect of public services can be unsatisfactory for a variety of reasons:

- They often have a monopoly of certain services, leaving little incentive for officials to be efficient. Public servants and agency staff may consider themselves accountable to the public or society at large in an abstract sense, but may not feel accountable to those for whom they provide

specific services. Their financial compensation also typically does not depend on their responsiveness to the public.

- Often the public/beneficiaries do not have the ability or the incentive to demand efficient services or to insist on greater public accountability. It is also possible that some segments of the public (special interest groups) may capture an undue share of the benefits at the expense of weaker sections. Lack of political power, information gaps and a variety of institutional factors have exacerbated this tendency.
- The nature of some public services is such that measurement and quantification of their benefits are not easy. This is not to suggest that measurement and quantification cannot, or should not, be improved. This further complicates public accountability that has traditionally focused on the internal means of supervision and control (hierarchical control) in public agencies.

Since public services tend to vary in all these respects, there is not a simple or single answer to the complex issue of public sector accountability. The three sources of poor performance referred to above clearly show that any solution to the accountability problem must take into account both the nature of the services involved and the characteristics of the relevant public services.

From the point of view of the public, there are two basic factors that influence accountability:

- One is the extent to which the public has access to alternative suppliers of a given public service. The question here is whether there is potential or scope for the public to withdraw from the system when it is dissatisfied with a public service. It most definitely cannot do so in respect of the functions provided by the agencies set up under the transport ministry.
- The second is the degree to which it can influence the final outcome of a service through some form of participation or articulation of protest/feedback, irrespective of whether the exit option exists. In other words, can they make their voice heard in order to enhance accountability? Is there adequate consultation by the agency? Although there is much work to be done to achieve this aim, a process of monitoring agency performance will aid in creating public accountability.

The four transport agencies assessed in this report have all had similar accountability arrangements put in place. Broadly, the arrangements entail accountability being managed and controlled by a Board of Directors, appointed by the Minister of Transport. The Annual Budget and Business Plan and, in one case, SANRAL, a Strategic Plan have to be approved by the Minister of Transport. In addition, the agencies are required to submit an Annual Report to the Minister.

Each agency has a Chief Executive Officer, responsible for managing the enterprise, who is accountable to the Board for the performance of his or her duties.

There are minor variations between the agencies in respect of this broad description of the accountability framework.

### 6.3.2 Assessment

The assessment of accountability in this study rests mainly on the degree of consultation with all relevant stakeholders and the extent of the reporting to the public at large by the agencies.

The broad overall conclusion is that the agencies have not very successfully carried out consultation requirements with the industry as a whole or with specific stakeholders such as the Department (this specifically excludes the Minister), the clients for whom the services delivered by the agencies are provided, or with other branches and levels of government. It has been suggested by various people that while limited attempts at consultation have been made by the agencies, the spirit has not been one of true consultation, but rather one of autocratically giving the agency's viewpoint and not listening to the response.

Regarding the necessity to account for the designated responsibilities, decisions and actions, once again performance does not appear to be very good. Although Annual Reports are prepared, these sometimes appear very late and the distribution of the reports, or access to them, does not appear to embrace all the clients and the public at large. The accent in distribution appears to be mainly (with some exceptions for specific agencies) based on the Parliamentary and government sector, to the exclusion of the general public and industry.

An area of particular concern is the apparent non-disclosure by board members of some of the agencies of possible conflicts of interest. It is generally accepted, and also made clear in the King Report on Corporate Governance, that written declarations of interest by board members should be made on their appointment so that potential conflicts of interest do not arise. Despite a request that these written declarations be made available, only SANRAL was able to provide the study team with such documents. This does not suggest that there were in fact undisclosed conflicts of interest amongst board members, but merely that there is a deficiency in the requirements for accountability in some agencies.

Other areas where there could be improvement are in the procedures for the awarding of tenders and in the drawing up of delegation schedules, though, once again, there is no uniformity in performance across all agencies. Only in two cases were formal delegation schedules or arrangements or written clear lines of responsibilities made available. Unfortunately, there were also unsubstantiated "hints" of impropriety regarding the awarding of work to the private sector in at least one case. To follow up this matter would need far greater resources and powers than were available to the study team, whose assessment had to be based on untried anecdotal evidence. A statement was also made at a senior (Director-General) level in the Department of Transport that, arising to the lack of proper monitoring, there is the possibility of corruption in the agencies.

The dual role played by the CEO of the Civil Aviation Agency is also an area for concern. In this position, the incumbent is both the Commissioner for Civil Aviation with, inter alia, an economic regulating role, and the head of the agency responsible for investigating violations in respect of air safety. Apart from the obvious conflicts of interest that arise, the person involved has an obligation to his Board to Control in respect of safety and also to the Minister and the industry at large in respect of commercial airline operations. This matter needs to be resolved and an independent investigation is proposed. To a lesser extent, there is also a potential conflict between economic and safety regulations in the Marine Safety Agency.



It would be reasonable to say, based on its discussion with people both inside and outside the agencies, that there is considerable room for improvement regarding accountability within the agencies.

## 6.4 Effective and sound management

### 6.4.1 Requirements

In the absence of market discipline resulting from competition, it is essential for many reasons, not the least of which is the fact that public funds are involved, that sound and effective business practices be incorporated into the management of Government agencies.

The requirements for effective and sound management generally focus on the following areas:

- policy making;
- financial administration;
- human resource administration;
- control mechanisms; and
- responsiveness to public needs.

The agencies have therefore been assessed in respect of management against the following aspects of sound management:

- The extent to which there are proper or adequate definitions and an articulation of the mission of the agencies, their objectives in achieving the mission and the standards and intervention levels in respect of achieving the objectives.
- In respect of financial management, there are two aspects that need to be addressed: the extent to which sound and efficient practices are employed in respect of using the available funds in the best and most effective manner and, secondly, the control or auditing of the use of funds in an accountable manner. In measuring the agencies against the cost effectiveness, i.e. value for money, of performing their functions, whether proper financial accounting systems are in place and also audit reports by private Chartered Accountants or reports by the Auditor-General will be of relevance.
- Cost effectiveness in exercising the functions assigned to the agency should include the extent to which proper programming of the work is carried out to conform with the likely availability of funds, whether long-term financial and physical planning are correlated, and whether efforts to access all relevant funding sources are in place. Also of relevance is the extent to which the allocation of (generally scarce) financial resources to the different needs or functions of the agency takes place in an objective manner consistent with the goals and mission of the agency.
- The audit procedures will generally have been strictly circumscribed in the founding agreement and attention in this respect is focused on examining Auditor-General or private auditor's reports and compliance with the provision of the Public Finance Management Act.

- Staff of the four agencies concerned will, in the main, have been subjected to a considerable change in working conditions compared with their previous public service environment. Such changes require new staff policies and greater emphasis on training programmes. The human resource aspect of the transition process from public service to commercially-based agencies needs to be adequately addressed to smooth the institutional transition.

Accordingly, the assessment of the performance of the agencies in respect of human resource management looked at their efforts in the areas of:

- skills development and motivational training;
- conditions of service;
- work methods and practices;
- personnel competency assessment;
- skill-mix requirements; and
- staffing ratios.

Control and monitoring of management activities is an element that can affect an institution's performance. It is becoming more commonplace in institutions, both in the private and public sectors, for the performance of managers to be measured against the success, or the attainment of the objectives of the institution. The four transport agencies were therefore assessed regarding the extent to which performance agreements for managers are in place and how regularly they are checked to assess the performance of individual managers. For other staff the existence or otherwise of performance measures, such as the "balanced score" approach, are taken into account.

Client or customer focus is an essential ingredient of effective management and the quality of management is influenced by the extent to which it understands customer requirements and directs the agency's activities towards ensuring that these requirements are met. This aspect of the performance assessment of the agencies has, in the main, been conducted through consumer surveys.

#### 6.4.2 Assessment

The report on the assessment of performance in management-related matters spans all the agencies. However, there is a variation between the agencies in respect of management performance. Since the objective of this study is to examine whether the overall concept of agencies has been a successful innovation, and does not involve a precise audit of a specific agency, the report is general in approach and any particular comment should not be taken as applying to any specific agency.

As stated earlier in this section, the assessment is based on the following broad subdivisions of the management function:

##### *Policy*

The main area of concern regarding "policy" is that there does not appear to be any explicit matching of agency policy with government policy. A comment from a senior level (DG) of the Department is that "some of the agencies think they do not have to adhere to government's goals and policies". In addition, there do



not appear to be clear guidelines to staff on overall policy matters. There might be several reasons for this situation. One obvious reason is the almost total lack of consultation and interaction between staff of the agency and the Department. For that matter there does not appear to be much interaction between the Minister and the respective Boards. The primary contact appears to be between the Minister and the CEOs. For various reasons, this is not a sound arrangement.

There appears therefore to be a deficiency in the agencies in the field of policy formulation and articulation, with no clear guidelines on this matter between the relative responsibilities of the agencies and the Department.

#### *Communication and co-ordination*

As mentioned above, the communication channels appear to be dysfunctional. In place of the appropriate line of communication between the Minister and the board and the board and the CEO, and between the Department and the agency, the most frequent line of communication appears to be between the Minister and the CEO, with little or no communication between the agencies and the Department.

More specifically, the agencies do not always know who would be the responsible person at the Department to contact regarding the different matters or subjects that concern them. This makes it difficult for the agencies to be efficient and effective in their daily operations. For operational purposes, regular contact between the relevant functionaries is necessary.

Communication lines between the Ministry/Department and the agencies are vague. An example of this is the communication on international affairs that can be from line functionaries, the Ministry or the Departmental International Liaison Officer. This confuses the agencies as they never know which person is actually dealing with such affairs and whom should they contact in this regard.

The agencies are of the opinion that the Department is not aware of what the roles of the agencies are or what, except in very broad terms, they are actually doing.

The role of the agencies with regard to international contact, for example the ICAO, IMO and SADC, is not clear enough. The margins of their responsibilities are either not defined or the Department disregards existing arrangements, leaving the agencies uncertain as to how to act in this regard.

The view of the Ministry and the Department on the direct or indirect involvement of the agencies with Southern African and African initiatives such as SADC and NEPAD is not clear.

Because the roles of the Minister, the Department, the board and the CEO are not adhered to, the agencies are of the opinion that the Minister, the officials of the Department and the board members tend to "meddle" in the daily operations of the agencies.

#### *Organisational matters*

It is in this area that perhaps the major problem lies, that of the role and competency of the Boards of Control of the agencies. While once again there was a variation in the findings on the various boards, the evi-

dence presented highlighted the following deficiencies in individual boards:

- inadequate consultation in the appointment of board members;
- delays in replacing board members who cease to serve on boards;
- inadequate briefing of board members or understanding of their duties;
- no evidence of monitoring of the performance of CEOs by the boards;
- inadequate experience and technical expertise possessed by many board members in the functional activities of the particular agency;
- undue interference in detail by board members in the management of the agency; and
- inadequate attention by boards to establishing the strategic direction of agencies.

In one particular instance, a remark was made by a senior member of the industry that “the board was not strong enough to stand up to a domineering CEO”. It would appear that in the creation of any new agency, or in the reappointment of board members to the current boards, attention needs to be paid to these matters.

Another structural or organisational matter which merits attention is the exact form the agencies should take. Although there is general agreement on the agency concept, it was suggested by a senior government official of the National Treasury that a company structure might not be the best form. This view is echoed by the Minister’s Advisor, who suggests that the corporate form of structure, taken literally, could enable the board to act independently of the Minister’s or Government’s policies and requirements. Furthermore, there is a feeling that the Memorandum of Understanding between the Minister and specific agencies should be reviewed more regularly, so that, *inter alia*, greater clarity can be obtained on the relationship between the various role players involved, and the Department’s monitoring function can be reinforced.

This supports the perception that a review of the specific structure and form of government agencies or public enterprises is needed.

#### *Financial management*

The performance of the agencies in respect of financial control appears to be adequate, though the study team was not made privy to all audit reports. In the case of SANRAL, some of the comments made by the AG, while valid, such as the establishment of a fixed asset register, may take a few years to put into effect. The important thing is that the issue is being discussed transparently in the Annual Reports and a process is in place to rectify the situation.

In respect of the management of finances, although the overall performance appears to be adequate, there were suggestions made by at least one of the persons consulted that the travel budget appears to be too high in the case of a particular agency, and also by more than one respondent that the collection of revenue based on user charging could be improved. In the case of SAMSA, we are awaiting confirmation in the 2002 Annual Report that some irregularities have been noted for attention by the board.

#### *Personnel management*

The area of personnel management would appear to need improving. Although it is generally felt that the transformation objectives are being successfully pursued, there appears to be much dissatisfaction amongst the staff in general regarding the management of staff matters. Some of the issues that arose included -

- long delay (years) in resolving pension matters, i.e. in the transfer of employees' benefits from the Government Employees Pension Fund (GEPF) (See also Appendix 5);
- a medical aid scheme; and
- unbalanced salary scales (in certain instances).

SAMSA, in particular, has had difficulties in finding an appropriate balance between issues of demographic representativity and the efficient functioning of the agency. The board seems to have become too involved in day-to-day operational management issues.

The study team was not presented with any evidence of attention being paid to analyses of staffing ratios or of skills development programmes.

#### *Control mechanisms*

Certain of the agencies (SACAA and SAMSA) have taken steps to benchmark their performance - however, this is primarily the consequence of their membership of international associations. The results of this benchmarking generally indicated satisfactory performance with improvements in specific areas requiring attention. SANRAL indicated that it had undergone a peer review where its operations were assessed by experts in the fields of engineering, management and financing - but it could not produce any written substantiation of this exercise. Regarding performance by individual staff members, one agency indicated that staff performance was monitored through a "balanced scale" approach - no other agency indicated that they used such a system.

No evidence was presented of the monitoring of and actions necessary for performance agreements for senior managers and the impression gained is that this area has not received adequate attention.

#### *Responsiveness to public needs*

This aspect has been discussed in the section dealing with accountability and, in general, performance appears to be inadequate.

The overall picture gained in respect of management competence is that is adequate, but could be improved. In some areas, such as meeting transformation objectives, the record is good, but in others, such as pension management and human relations, the record is not good. Also, the study team was not shown any evidence of corporate or strategic planning. Regarding responsiveness to public needs and consultation, the record is not good and an autocratic spirit appears to prevail in general.

## **6.5 Efficiency and effectiveness in the provision of services**

### **6.5.1 Background and definitions**

Before attempting to measure performance quantitatively, it is necessary to define what is being measured. For the purposes of this evaluation the following definitions are adopted:

- Goals: General statements of an end state, a desired direction of change, or an ideal function of the transportation system (e.g. improve road user safety)
- Targets: Quantifiable end states which would signal the achievement of a particular goal (e.g. reduce road fatalities by 10 per cent)
- Objectives: Concrete, measurable milestones towards a goal (e.g. produce road safety educational packages)
- Activities: Courses of action taken to reach an objective (e.g. write educational material)
- Outcomes: Broad systemic results or impacts achieved (e.g. accident rates reduced, jobs created)
- Outputs: Products, services or activities delivered through the use of inputs (e.g. policy notes written, negotiations successfully concluded, permit applications processed)
- Inputs: Resources used for activities in the process of producing outputs (e.g. human resources provided, budgets spent)

The exact manner in which these concepts and the relationships between them are conceptualised may vary depending on the context in which they are used. For the purposes of this analysis the concepts are considered to be functionally related as follows (see Figure 2):

Inputs are used to undertake activities, as the basic building blocks of an organisation's work. Outputs, as the direct result of this work, are produced to meet certain objectives. The quality of outputs is thus substantially within the control of the agency. The quantity of outputs, on the other hand, is determined both by the amounts of inputs and internal efficiency, and by the external demand for outputs (e.g. the number of permit applications received). Outputs contribute to the outcomes, usually together with other factors that are not within the control of the agency. There is thus a fundamental difference between measuring outputs and outcomes: outputs are substantially under the control of the agency, but outcomes are not. Outputs should be measured against the objectives of the agency; and outcomes should be measured against the goals of government or of society.

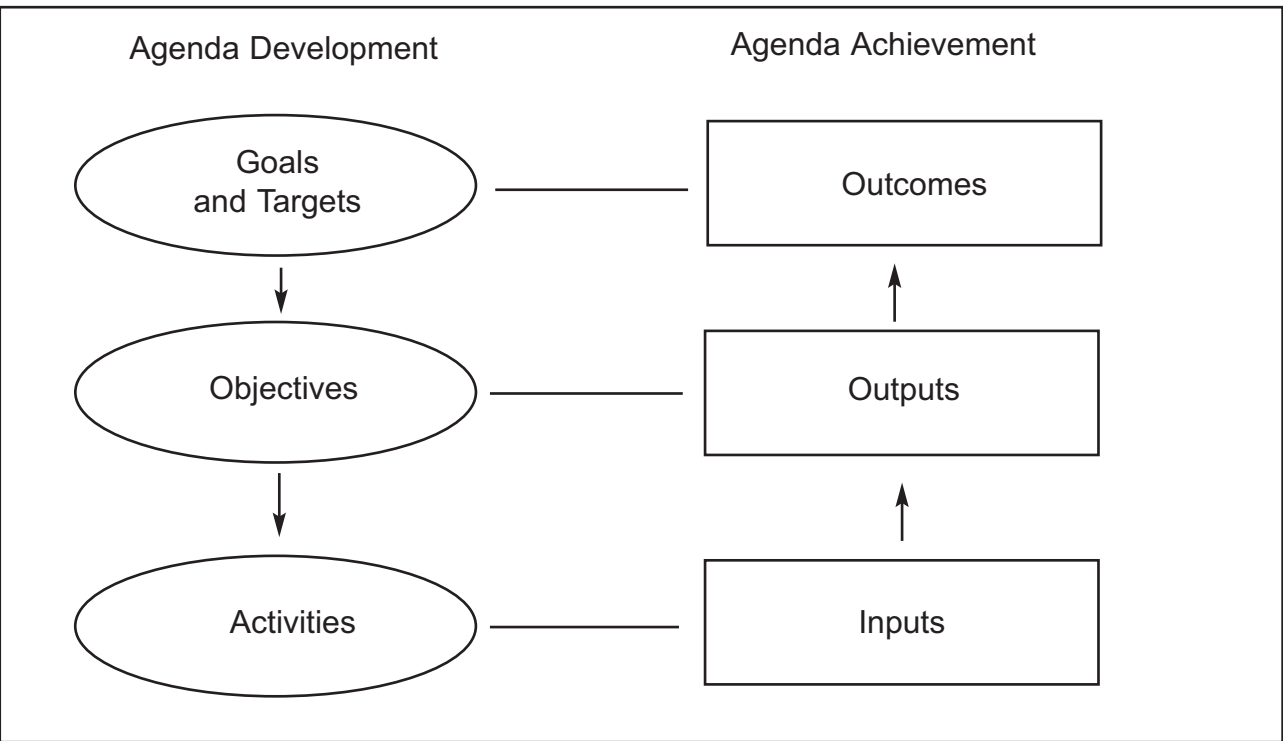


Figure 2 :Relationship between fundamental concepts

The purpose of this evaluation is to measure three aspects of the agencies' performance: efficiency, effectiveness and cost-effectiveness. In relation to the concepts defined above, these aspects are defined as follows (see Figure 3):

**Efficiency:** This is the relationship between the inputs used in the production of outputs. It reflects the internal productivity of the agency's service delivery functions. Unfortunately, no data were available on the amount of inputs used by any of the agencies in performing particular tasks. Efficiency indicators could therefore not be measured directly, but the cost-effectiveness indicators provide an overall impression of efficiency.

**Effectiveness:** The degree to which the agency's outputs and outcomes contribute towards achieving the objectives and goals of government. Three types of indicators measure effectiveness:

- Output quantity indicators: Reflect the workload and the size of the agency's activities
- Output quality indicators: Reflect the quality of the agency's outputs
- Outcome indicators: Reflect the achievement of government's goals

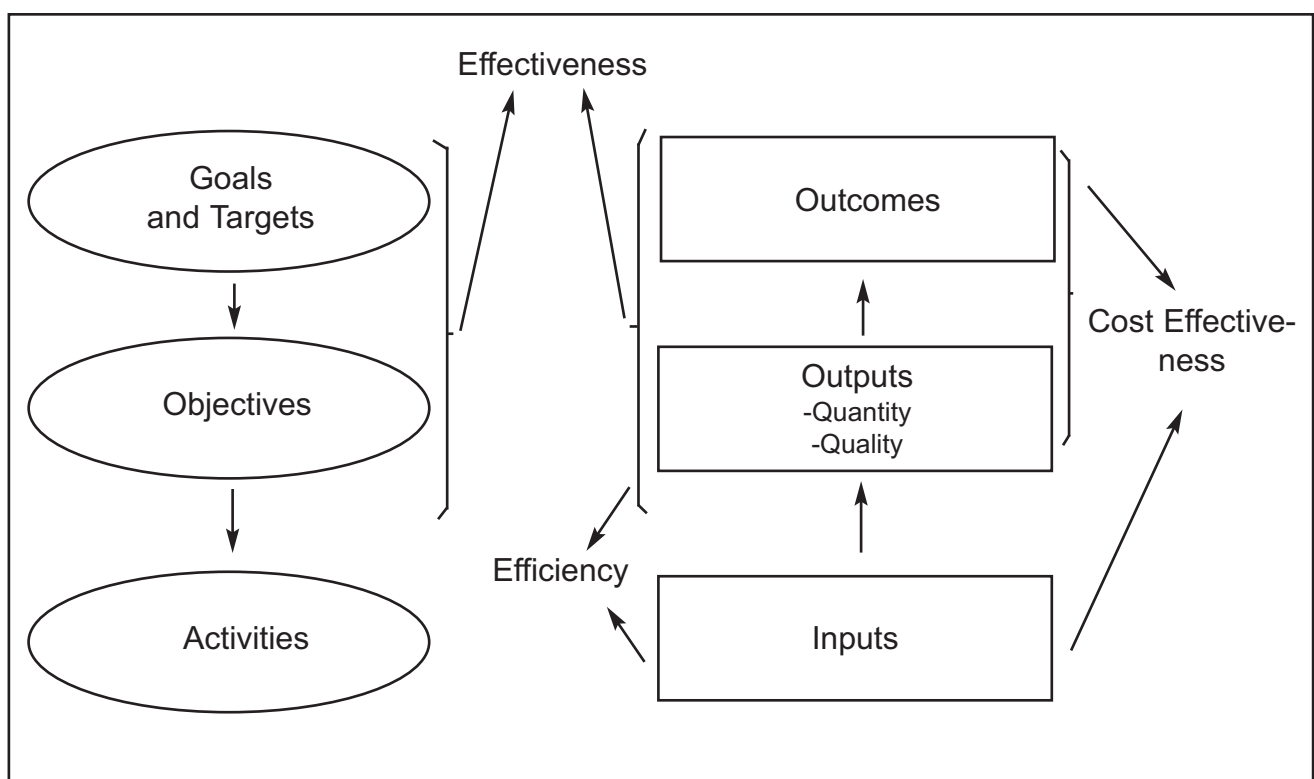


Figure 3: Relationship between indicators used

The distinction between outputs and outcomes is important as it relates to the effectiveness of the agency. Generally speaking, outputs are direct products of the agency's efforts. Output indicators answer the questions "What is the agency doing, and how much of it?". Outputs are therefore more directly under the agency's control. Non-achievement of output targets can typically indicate problems with internal efficiency or insufficient inputs (i.e. under-staffing or under-funding).

Outcome indicators, however, answer questions such as “What contribution is the agency making to government’s goals”, or “Is it doing the right things?”. Outcomes are typically not under the agency’s control, but are affected by many external factors. The most prominent example is for safety outcomes: Safety outcome indicators are partly determined by the agency’s effectiveness in promoting safety, but they are also affected by factors such as weather patterns, economic conditions, and so forth. Outcome indicators for a single year can therefore easily be skewed by a single major accident, especially in the maritime and aviation industries, where single catastrophic events can have many casualties, compared with the relatively small base number of incidents.

Outcome indicators must therefore be interpreted with care. First, it is better to interpret trends in the indicator over multiple years than to focus on specific years that may be outliers. Secondly, the external environment and its likely impacts should be taken into account.

Cost-effectiveness: The amounts of government resources used per unit of output, or per outcome achieved. Because of the difficulty of direct measurement of the funds used in achieving particular outcomes, two substitute indicators are used:

- Dependence on government funds: Reflects the level of direct subsidy received from government; and
- Revenue sources: Reflects the trends in income generated from all sources, including government and users.

### 6.5.2 Selection of indicators and benchmarking

The following criteria were used in the selection of performance indicators:

Relevance: The indicator must measure the performance of the agency relative to the goals of the agency or of government

Measurability: The indicator must be measurable with the available data and preferably be quantitative (for this part of the exercise)

Accuracy: The indicator must give an accurate reflection of what it claims to measure - i.e. reliable data sources and accurate definition

Repeatability: Where possible the indicator must rely on continuing data sources, to allow its continued use in future for ongoing performance measurement.

Where possible indicators were interpreted against a number of factors, such as -

- trends in the economy and the specific industry;
- internal targets set by the agency for its own performance;
- the overall performance of the agency as indicated by the whole package of indicators;
- the Government’s expectations of and involvement in the agency; and
- benchmarks of similar agencies in the United Kingdom and Australia (where available).

Where possible, indicators were also compared with the performance of the relevant section of the Department before the creation of the agency, so as to present a before-and-after type of picture. Unfortunately, owing to the organisational structure of the Department before the creation of the agencies, comparisons of financial figures were not possible or tenable.

### 6.5.3 Performance indicators: South African Maritime Safety Authority

#### Introduction

The performance measures used for indicating the performance of the Maritime Safety Authority are shown in Table 2. The measures of effectiveness relate to the following three major objectives of the agency, as described in its mission statement:

- Ensure the safety of life and property at sea;
- Prevent pollution of the sea by ships; and
- Promote the development of South Africa as a maritime nation.

Data for the period after SAMSA's establishment on 1 April 1998 were provided by the agency and data pertaining to the Chief Directorate: Shipping of the National Department of Transport for the period 1996 to 1998 were extracted from previous Departmental annual reports.

Table 2: Performance measures: South African Maritime Safety Authority

Agency objective	Performance measure
Ensure the safety of life and property at sea	<u>Quantity of outputs:</u> <ul style="list-style-type: none"> <li>o Number of certificates of competency and qualification issued</li> <li>o Number of local general safety surveys conducted</li> <li>o Number of other surveys conducted</li> <li>o Number of vessels inspected under port state control</li> </ul> <u>Quality of outputs:</u> <ul style="list-style-type: none"> <li>o Number of Search and Rescue incidents handled</li> <li>o Number of lives saved</li> </ul> <u>Outcomes:</u> <ul style="list-style-type: none"> <li>o Number of casualties to South African ships</li> <li>o Number of deaths and injuries to marine personnel</li> <li>o Number of offences committed besides oil pollution</li> </ul>
Prevent pollution of the sea by ship	<u>Outcomes:</u> <ul style="list-style-type: none"> <li>o Number of oil pollution incidents</li> </ul>
Promote the development of South Africa as a maritime nation	<u>Outcomes:</u> <ul style="list-style-type: none"> <li>o Number of ships on South African Ships Register</li> <li>o Gross tonnage on South African Register</li> <li>o Number of ships calling at South African ports</li> </ul>
<i>Government objective:</i> Improve cost-effectiveness of providing aviation safety and security related functions	<u>Cost-effectiveness:</u> <ul style="list-style-type: none"> <li>o Percentage of funding received from the Treasury</li> <li>o Annual change in revenue sources</li> </ul>

*Quantity of outputs*

As a safety regulator, SAMSA's activities are primarily oriented towards the inspection of ships, their equipment and personnel to ensure compliance with international and national safety standards. Box 1 shows the trends in some of the activities undertaken.

Local general safety surveys are statutory surveys offered on demand to the industry. All South African ships have to be surveyed annually. Both these and other types of surveys show a slight decline since 1998, but this is probably related to declining demand conditions in the industry. No pre-1998 data are available for comparative purposes.

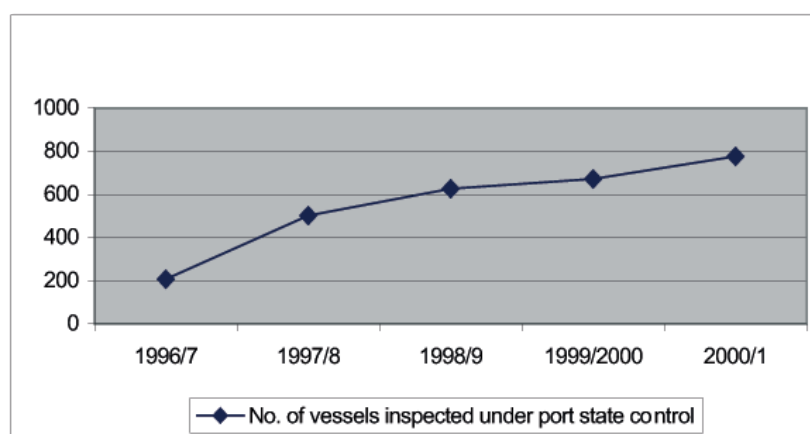
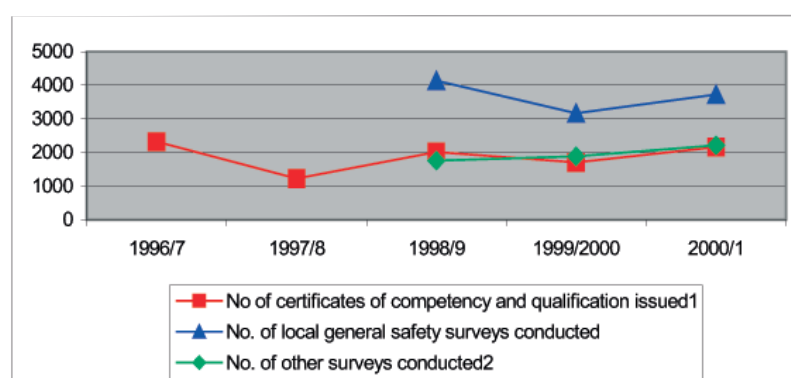
The certification of seafarers reflects SAMSA's activity in bringing South Africa's standard of training in line with international standards. While the number of certificates of competency issued has shown some annual fluctuation, SAMSA has expanded the range of certificates offered since 2000/2001. The quality of its certification process is further discussed below.

Port State Control inspections are carried out in terms of South Africa's international responsibility to ensure that foreign vessels calling at ports are seaworthy and do not pose a risk to crews or the environment. The number of inspections has risen dramatically from before 1998, reflecting in part SAMSA's success in filling vacancies among their inspectors, which was a problem before 1998. This trend, coupled with the decrease in the number of ships calling at South African ports (see below) means that SAMSA is inspecting a larger proportion of ships than before. A target of 750 inspections was set - and exceeded - for 2000/1. This represents about 10 per cent of ships calling at South African ports - substantially below the 25 per cent target set by the International Maritime Organisation (IMO). SAMSA advised that the IMO target of 25 per cent is considered too high for local conditions, as South African vessels are also surveyed in other countries and do not need to be surveyed again for a year. Considerable additional resources would have to be devoted to port state control inspections if the target had to be raised closer to the IMO objective.



	Cheif Directorate Shipping		SAMSA		
OUTPUT	1996/7	1997/8	1998/9	1999/2000	2000/1
No. of certificates of competency and qualification issued <sup>1</sup>	2332	1227	2018	1713	2166
No. of local general safety surveys conducted			4139	3172	3728
No. of other surveys conducted <sup>2</sup>			1759	1891	2220
No. of vessels inspected under port state control	207	502	626	672	777

Notes: -- indicates data not available  
 1 Includes all certificates of competency and small vessel skipper certificates  
 2 Other surveys include hull surveys, IOPP surveys, Class 1 explosive cargo surveys, grain and timber surveys, and stability book approvals



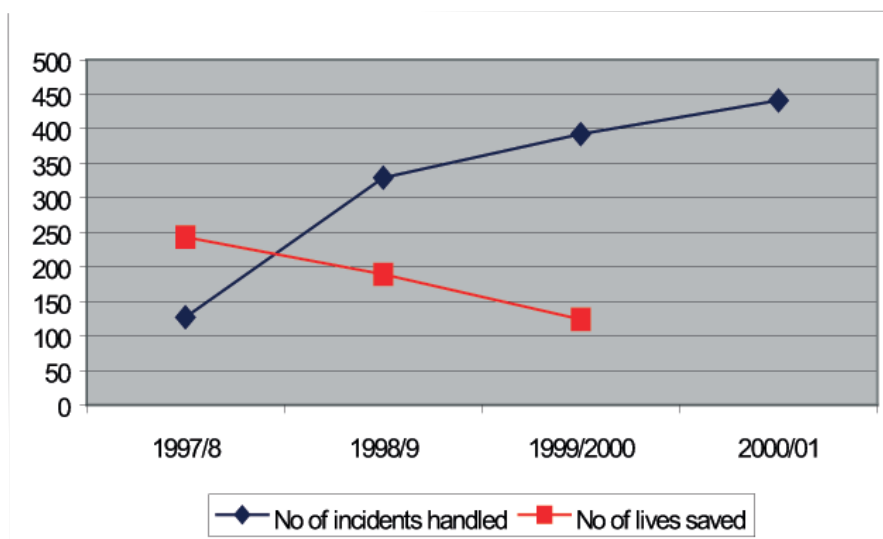
Box 1: Quantity of output measures: SAMSA

### Quality of outputs

Box 2 indicates the quality of the maritime Search and Rescue (SAR) services offered by the SAR authorities. SAMSA is responsible for providing oversight of maritime SAR activities, but does not undertake actual operations. It depends to a large extent on the voluntary co-operation of various agencies such as the National Sea Rescue Institute (NSRI), the Navy and the Air Force. The figures include both SAR operations co-ordinated by the Silvermine Maritime Rescue Coordination Centre (MRCC) and SAR operations undertaken by other SAR organisations.

	Cheif Directorate Shipping	SAMSA		
Output: Search and Rescue	1997/8	1998/9	1999/2000	2000/1
No. of incidents handled	127	329	392	441
No. of lives saved	243	189	124	

Notes: -- indicates data not available  
Source: SAMSA Annual Reports & Personal communication  
SAMSA responsible for oversight of SAR, not operations



Box 2: Quality of output measures: SAMSA

The number of SAR incidents handled has increased significantly, while the number of lives saved has decreased. It is impossible to draw any conclusions from this, as the number of lives saved depends on a number of factors, including the severity of each incident and the number of false alarms. SAMSA believes the low number of lives saved is an indication of effective prevention and education, as South African SAR capabilities are generally believed to be of high quality. It is, however, thought that the MRCC is coming under increasing pressure, with too few staff to handle rising numbers of incidents. SAMSA and the Department are currently setting up a national SAR organisation to improve co-ordination.

Two international audits provided the opportunity to benchmark the quality of SAMSA's activities against international norms. The first relates to the standards of training and certification of seafarers provided by SAMSA. The United Kingdom Maritime and Coastguard Agency (MCA) undertook an inspection and review of SAMSA's training and certification functions in 2001. The review team was satisfied that SAMSA was in compliance with the requirements of the International Convention on Standards of Training and Certification and Watchkeeping for Seafarers (STCW 95) and recommended that the MCA recognize certificates of competency issued in South Africa. SAMSA's administrative functions were found to be "well developed and efficient with high standards being maintained both from the point of view of administration and the control and coordination with the training providers". Evaluations of training and education facilities at the Cape Technikon and Wingfield College found that officer-training programmes are well established and high standards are maintained.

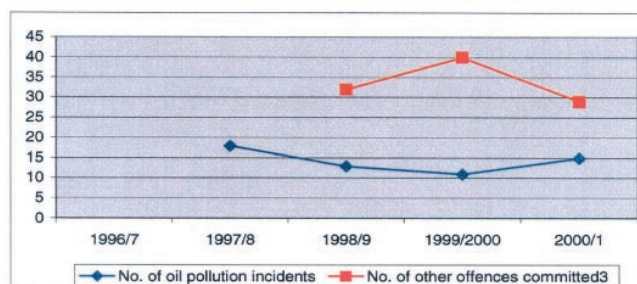
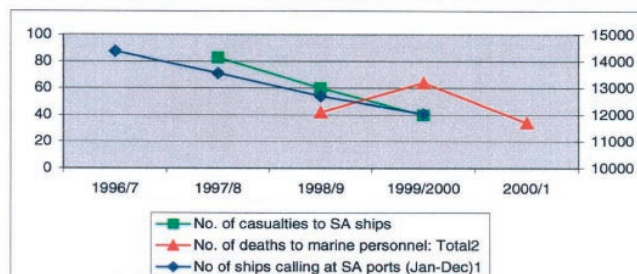
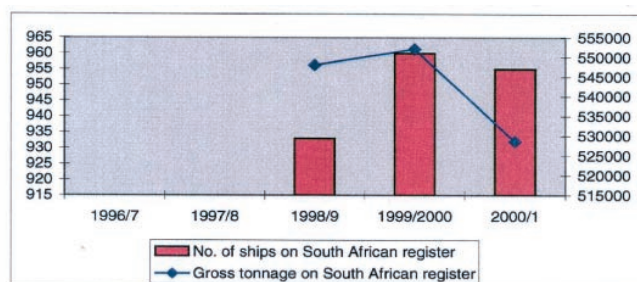
The second international review was a peer review done by the Australian Maritime Safety Authority (AMSA) in 1999 at the request of SAMSA. Although not specifically intended as a benchmarking study, the review does afford some insights into the weaknesses and strengths of SAMSA in comparison with AMSA. Overall, the review found that “in world terms SAMSA is considered to be in the upper echelons of maritime safety agencies”. AMSA found the standard of surveying and inspection of ships at SAMSA to be high and in line with their own procedures.

#### *Effectiveness of outcomes*

The outcomes for which SAMSA has responsibility in terms of its statutory functions include the promotion of South Africa as a maritime nation, maritime safety and the prevention of oil pollution. Box 3 shows the outcome measures that can be quantified. The measures should be interpreted bearing in mind that safety outcomes are affected by some factors over which SAMSA does not have control.

	Cheif Directorate Shipping		SAMSA		
OUTPUT	1996/7	1997/8	1998/9	1999/2000	2000/1
No. of ships on South African Register			933	960	955
Gross tonnage on South African Register			548085	552124	528721
No. of ships calling at SA ports (Jan-Dec) <sup>1</sup>	14383	13559	12695	12041	
No. of casualties to Sa ships		83	60	40	
No of deaths to marine personnel: Total <sup>2</sup>			42	64	34
Convention ships			8	1	3
Small vessels			12	30	14
Stevedores			1	3	3
Sa fishing vessels			21	30	14
No. of oil pollution accidents		18	13	11	15
No. of other offences committed <sup>3</sup>			32	40	29

- Notes: -- indicates data not available  
1 Source: Portnet (in transport Statics 2001)  
2 Excludes deaths of perssonel of foreign fishing vessels  
3 Inclcludes submerged loadlines, unseaworthy fishing vessels, incorrect manning & operating without safety certificates

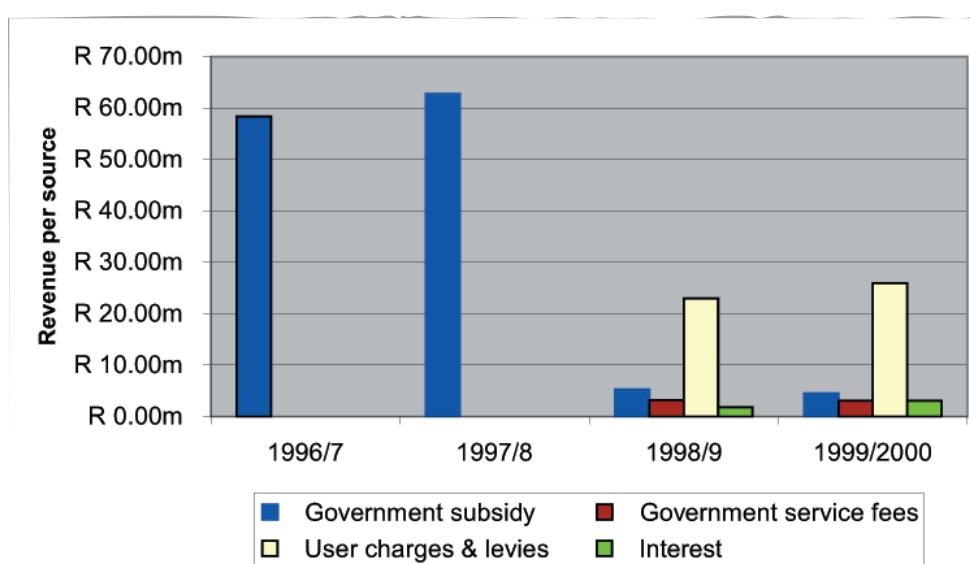
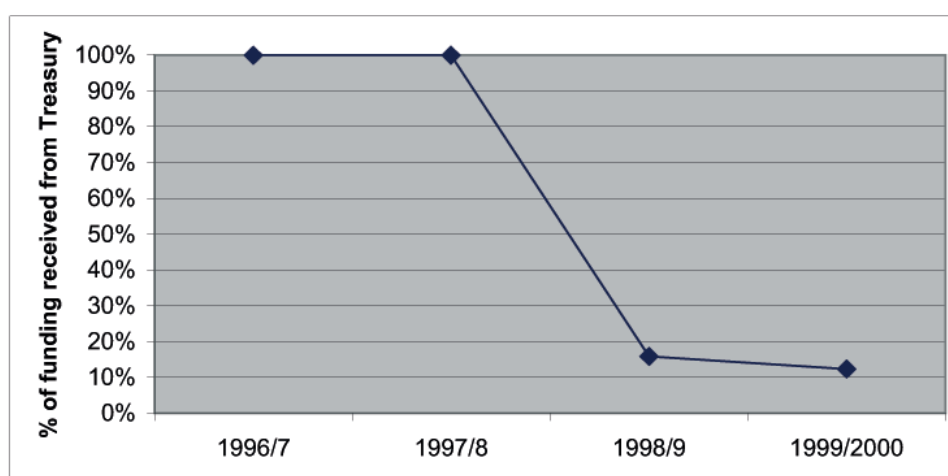


### Box 3: Outcome measures: SAMSA

The maritime industry has grown over the past decade, with the number of ships calling at South African ports growing by 17 per cent between 1991 and 1997 (data provided by Portnet). However, since 1997 the trend has been downwards (Box 3), related to international economic conditions. The number of South African flag ships has grown between 1998 and 2001, but the gross tonnage has decreased as a result of the de-flagging of 10 large (Convention) ships. Most of these transferred to the Namibian flag. Evidently conditions such as taxation are not conducive to the expansion of the South African register. This is an issue that SAMSA is reportedly pursuing with the central Government.

	Cheif Directorate Shipping		SAMSA	
Cost effectiveness indicator	1996/7	1997/8	1998/9	1999/2000
% of funding received from treasury <sup>1</sup>	100.0%	100.0%	15.9%	12.3%
Revenue Sources*:				
Government subsidy	R58.34m	R62.80m	R5.2m	R4.50m
Government service fees			R3.21m	R3.08m
User charges & levies			R22.94m	R25.96m
Interest			R1.84m	R3.08m

Notes: -- indicates data not available  
 1 Includes subsidies but excludes government service fees  
 \* Excludes Maritime Fund



Box 4: Cost effectiveness measures: SAMSA

Box 4 shows that income from user charges and levies accounted for about 71 per cent of SAMSA's income in 1999/2000. Fees paid by the Department for services rendered on behalf of the Minister amounted to just over R3 million (eight per cent).

Casualties to South African ships have decreased since 1997/8, but the number of deaths of marine personnel has fluctuated. In 1999/2000 the high number of deaths in small vessel casualties was caused by the loss

of one foreign fishing vessel with a crew of 16 and another South African fishing vessel. Overall, fishing vessel safety appears to be problematic. A programme of ad hoc inspections of South African fishing vessels was initiated in 1999/2000. The number of offences committed has dropped dramatically since then. Data on casualties and deaths are not yet sufficient for assessing the effectiveness of this course of action.

SAMSA does appear to be achieving some success in combating oil pollution, as the number of incidents has dropped since 1997.

#### *Cost-effectiveness*

Cost-effectiveness is measured first in terms of SAMSA's independence from Government subsidies (excluding Government service fees paid by NDoT), which indicates how SAMSA's dependence on direct subsidisation decreased to 12.3 per cent in 1999/2000. The Treasury allocation is expected to decrease to zero by 2001/02. SAMSA has been able to achieve this independence by increasing its revenue raised from other sources. Other revenue sources include:

- Government service fees for work performed for the Government;
- levies on shipping;
- direct user charges; and
- interest income.

The establishment of the Agency and the recovery of costs through user charging did not bring immediate savings to the Department's line item for shipping. The Department's overall expenditure on shipping increased from R62.80 million in 1997/8 to R68.45 million in 1998/9. This included the subsidy and service fee paid to SAMSA, but it also included expenditures on maritime functions retained by the Department, such as maritime regulation, international co-operation, oil pollution clean-up, and Search and Rescue activities.

It should be noted that there is some concern in the maritime industry about SAMSA's proposals to raise fees and levies much higher than the inflation rate in 2002, while the Government service fee shows no increase. From stakeholder meetings held by SAMSA (February 2002) it is evident that it is felt that the Government gets preferential treatment, while the industry has to bear the burden.

#### *Conclusion*

In conclusion, the South African Maritime Safety Agency appears to have been successful in maintaining the standards of oversight and safety regulation of the Chief Directorate: Shipping. Its ability to provide an effective survey and inspection service has been expanded considerably, with the appointment of new inspectors and the initiation of ad hoc inspection programmes in problem areas of the industry. SAMSA appears to measure up well against international standards, although it does not meet international targets for the number of port state inspections of visiting ships to be conducted.

### 6.5.4 Performance indicators: Civil Aviation Authority

#### *Introduction*

The performance measures used for evaluating the performance of the Civil Aviation Agency are shown in

Table 3. The measures of effectiveness relate to the following two major objectives of the agency, as described in the Civil Aviation Authority Act (1998):

- To regulate, control and promote aviation safety and security; and
- To oversee the functioning and development of civil aviation in South Africa.

Data for the period after the SACAA's establishment on 1 October 1998 were provided by the SACAA and data pertaining to the Chief Directorate: Civil Aviation of the National Department of Transport for the period 1996 to 1998 was extracted from previous Departmental publications.

Table 3: Performance measures: South African Civil Aviation Authority

Agency objective	Performance measure
Regulate, control and promote aviation safety and security	<u>Quantity of outputs:</u> <ul style="list-style-type: none"> <li>o Aircraft oversight: Number of activities completed</li> <li>o Personnel oversight: Number of licences issued</li> <li>o Operations oversight: Total number of inspections performed</li> <li>o Airports oversight: Number of aerodromes inspected</li> <li>o Airspace oversight: Number of Air Traffic Service Units (ATSUs) inspected</li> <li>o Flight inspection: Number of navigational aids calibrations</li> </ul> <u>Outcomes:</u> <ul style="list-style-type: none"> <li>o Number of fatalities in aviation accidents per sector</li> <li>o Percentage accidents in relation to registered aircraft</li> <li>o Number of incidents in relation to air traffic movements</li> </ul>
Oversee the functioning and development of civil aviation in South Africa	<u>Outcomes:</u> <ul style="list-style-type: none"> <li>o Number of aircraft registered in SA</li> </ul>
<i>Government objective:</i> Improve cost-effectiveness of providing aviation safety and security related functions	<u>Cost effectiveness:</u> <ul style="list-style-type: none"> <li>o Percentage of funding received from the Treasury</li> <li>o Annual change in revenue sources</li> </ul>

#### *Quantity of outputs*

The SACAA discharges its safety regulation functions through a number of oversight areas. Aircraft oversight involves the certification of aircraft products and parts. Personnel oversight involves oversight in relation to examining, licensing and training of aviation personnel. Oversight of operations is carried out in terms of monitoring information contained in the operations manuals of every operator to ensure compliance with the relevant legislation. Oversight is performed through regular and ad hoc inspections of all operators. Airports oversight involves the certification of airports and heli-ports, and monitoring aspects of infrastructure on and around airports, such as lighting and navigational aids. Airspace oversight ensures the effective management and provision of air traffic services and includes functions such as inspections of air traffic service units (ATSUs), designing, testing and certifying of instrument flight procedures, and the co-ordination of interna-



tional air traffic issues. The Flight Inspection department does not fall under a specific area of oversight, and calibrates the radio navigational aids used by aircraft, both in South Africa and the Southern African sub-region.

As shown in Box 5, data for some of the activities performed within each of these oversight areas are available only from 1999/2000 and 2000/1. In two cases - the number of ATSU inspections and the number of navigational aids calibrations - comparable data for the Chief Directorate: Civil Aviation was available. The trend illustrated by these two cases is one of greatly improved output levels by the SACAA as compared with the Chief Directorate: Civil Aviation. Anecdotal evidence obtained from the SACAA suggests that this trend is representative of increased activities in all other oversight areas as well. Reasons given for the apparent increase in output include the following:

- The size of the domestic aviation industry has grown over time, necessitating an increase in the number of oversight activities needed for effective oversight.
- The scope of the SACAA's services has grown because of its greater involvement in the delivery of services to other SADC countries and also because of the development of new areas of activity, such as the establishment of a medical department.
- The SACAA was able to address a major constraint of the Chief Directorate: Civil Aviation, which was to retain adequate staffing levels by paying market-related salaries. The SACAA is currently expanding its work force by a further 80 people between 2001 and 2004. As a result of its expanding capacity, the SACAA has been increasing its ability to undertake not only scheduled inspections, but also "surprise" inspections of operators, which translates into more effective oversight of the industry.

	Directorate Civil Aviation		Civil Aviation Authority		
OUTPUT	1996/7	1997/8	1998/9	1999/2000	2000/1
Aircraft oversight: No. of activities completed <sup>1</sup>	-	-	-	6 795	7 853
Perssonel oversight: No. of liscences to issue	-	-	-	8 615	12 533
Operations oversight: Total No. of inspectors performed <sup>2</sup>	-	-	-	315	362
Airports oversight: No. of aerodromes inspected	-	-	-	226	133
Airspace oversight: No. of ATSU inspectors	9	4	-	26	40
Flight inspection: No. of navigational aids calibrations (SA & SADC)	94	76	-	201	174

Notes:

- indicates data not available
- 1 Includes exemptions, airworthiness cert's, currency paymts, flight permits, register deeds, cert of parts/products, genl operations and flight rules, approvals/renewals of manuf and design org's
- 2 Includes cer'ts of approval inspections (new & renew) follow-up inspections, surveillance/ad hoc inspections, simulator inspections

Box 5: Quantity of output measures: SACAA

#### *Quality of outputs*

Some indication of the SACAA's performance against an international benchmark is given by the safety oversight audits undertaken by the International Civil Aviation Organisation (ICAO). The SACAA was initially



assessed under this voluntary assessment programme in 1997. A follow-up audit was conducted in 1999 to ascertain the progress made in implementing the recommendations from the 1997 audit report and to reassess the safety oversight capability of the SACAA. A third audit in 2001 was aimed at providing a further update on the progress made in implementing the corrective action plan provided by South Africa in response to the previous audits.

The 1999 audit found the SACAA to be substantially in line with ICAO Standards and Recommended Practices (SARPs). However, a number of shortcomings were identified. Major findings included the following:

- The Civil Aviation Authorities Act (40 of 1998), with its legislation and regulations, and the Civil Aviation Regulations (1998 and as amended) are satisfactory as they allowed the establishment of an autonomous agency that is appropriately empowered to carry out its responsibilities.
- The SACAA has an organisational structure and funding which allowed it to discharge its safety oversight activities.
- The SACAA needed to develop its procedures, requirements and policies further in its various oversight areas.
- There was a need for initial and recurrent training of new inspectors.
- The SACAA needed to be more proactive in the continuing inspection and surveillance of organisations to ensure the continued airworthiness of aircraft.

The SACAA submitted an action plan to address these shortcomings, which was deemed by the ICAO to be satisfactory (with the exception of one recommendation to which no response was received).

The 2001 follow-up audit made the following observations:

- The SACAA had developed a system of manuals that provide comprehensive guidance and standardization for technical inspectors in each department.
- The SACAA had made significant progress in the area of personnel licensing, including the establishment of an aviation medicine department staffed by two qualified physicians.
- The Flight Operations department has created a comprehensive system for the certification of air operators, which is ISO 9000, certified.
- The SACAA has made significant progress towards implementing the recommendations related to airworthiness, including drafting new CARs and developing extensive procedures and checklists.

Some additional work was recommended, but overall it appears that the SACAA has been successful in meeting the international standards for civil aviation oversight set by the ICAO.

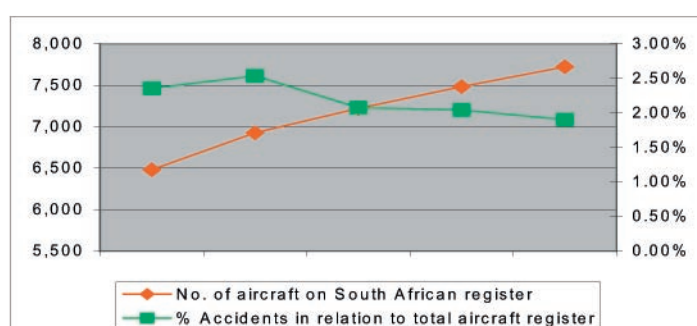
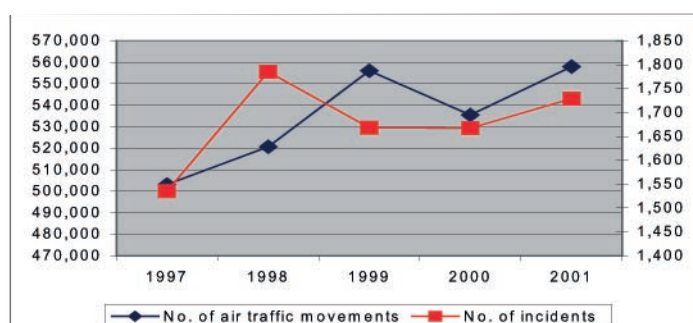
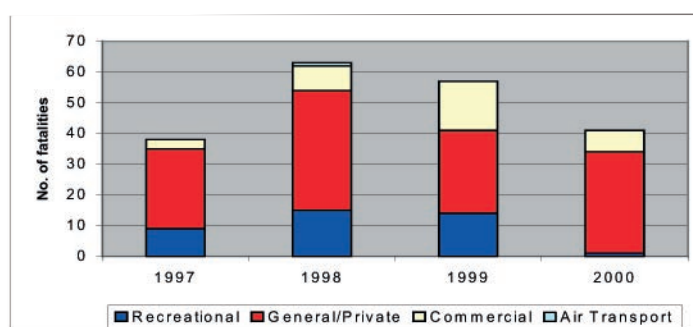
#### *Effectiveness of outcomes*

The outcomes pursued by the SACAA relate first and most importantly to safety and security in the aviation industry. Besides the safety inspection activities undertaken by the SACAA in terms of civil aviation regulations, the Agency is also responsible for proactive promotion of safety. This is achieved through safety promotion campaigns, industry liaison (newsletters, website, and safety forums) and training. Any one particular safety incident typically involves many factors outside the Agency's control; yet the cumulative effect of the Agency's efforts should be traceable in aggregate safety statistics over time.

Overall, aviation safety shows an improving trend over the last decade. The number of fatalities increased markedly in 1998, during the transition between the Chief Directorate: Civil Aviation and the SACAA, but the number has shown a steady decrease since 1998 (see Box 6). A breakdown of fatalities per sector shows that accidents with recreational craft (including microlights) were responsible for a large part of the increase in deaths. The SACAA has accordingly targeted this sector for improved safety awareness.

More telling, however, is the number of aircraft accidents in relation to the number of aircraft registered in South Africa. Registered aircraft grew by 28 per cent between 1996 and 2001. As shown in Box 6, the number of accidents as a percentage of registered aircraft has shown a steady decline since 1996, implying that aviation has become safer in relative terms. The accident rate per 100 000 airframe hours, although not shown here, confirms the same trend. A similar trend is apparent from a comparison of the number of incidents and the number of air traffic movements: while the latter grew by seven per cent between 1998 and 2001, incidents declined by three per cent over the same period.

Outcome		Directorate Civil Aviation		Civil Aviation Authority		
		1997	1998	1999	2000	2001
No. of fatalities in aviation accidents:	Rec	9	15	14	1	-
	Gen	25	39	27	33	-
	Com	3	8	16	7	-
	Air T	0	1	0	0	-
% Accidents in relation to total aircraft register		2.35%	2.54%	2.08%	2.04%	1.90%
No. of air traffic movements		503.093	520.664	556.020	535.460	557.940
No. of accidents		1.535	1.785	1.668	1.667	1.729
No. of aircraft on South African Register		6.481	6.927	7.222	7.484	7.725



Box 6: Outcome measures: SACAA

In terms of aviation security, the SACAA has also made progress since its establishment. In May 1998 - before establishment of the SACAA - the Federal Aviation Administration (FAA) placed both Johannesburg and Cape Town International Airports under a 90 day security watch. The situation was rectified by the SACAA (amongst others) and in October 2001 these airports passed the FAA's audit with flying colours. The FAA recently adopted some of South Africa's security procedures into their new security measures for airports.

*Cost-effectiveness*

The establishment of the Civil Aviation Authority has created an opportunity for markedly decreasing Government subsidisation, by expanding the SACAA's cost recovery from services and charges to the aviation industry. As shown in Box 7, the SACAA's reliance on Government subsidisation (excluding Government service fees paid for accident investigations) has decreased from 100 per cent under the Department, to just under 10 per cent in 2000/1. Its revenues from user fees and indirect charges (including a passenger charge since 1 May 2001 and a levy on aviation fuel for unscheduled flights) showed a simultaneous increase up to 2000. These self-generated revenues have subsequently decreased somewhat as a result of a slump in aviation activity. The SACAA is planning to address this shortfall by raising its user fees to be more in line with the actual costs of service delivery, and raising an additional stabilisation grant from the Department.

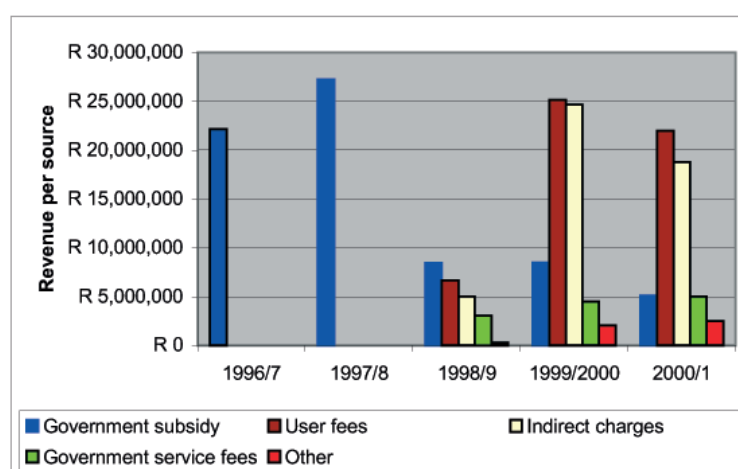
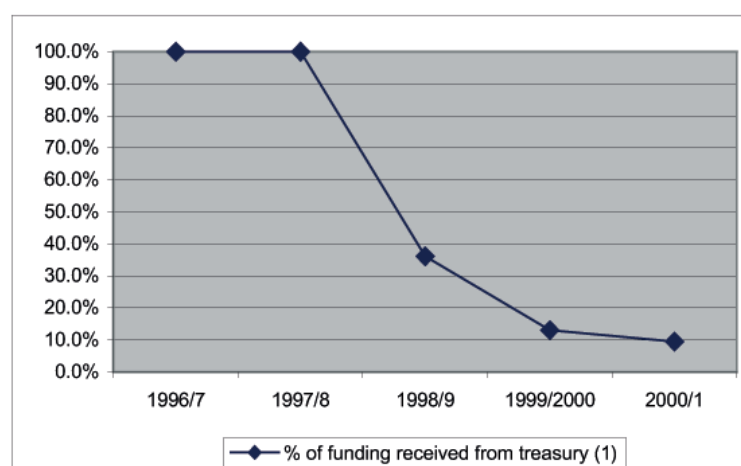
The SACAA provides several services to the Department in exchange for the Government Service Fee. These services include international liaison with the ICAO and SADC, legislative and regulatory support, accident and incident investigation, and ministerial support on request. The SACAA is currently implementing a timesheet system that would enable it to invoice the Department for the actual costs of these services.

The Department has retained some functions related to civil aviation, including air transport regulation, international co-operation and technical support to the Licensing Councils. The overall expenditure of the Department on civil aviation increased from R27.2 million in 1997/8 to R44.1 million in 1998/9.

It does not seem to have realised immediate savings in its line item from the devolution of certain functions to the SACAA. No more recent figures are available.

		Directorate Civil Aviation		Civil Aviation Authority		
Cost effectiveness indicator		1996/7	1997/8	1998/9	1999/2000	2000/1
% of funding received from treasury <sup>1</sup>			100.0%	100.0%	36.2%	13.1%
9.6%						
Revenue sources:	Government Subsidy	R22,149,000	R27,230,000	R8,479,000	R8,500,000	R5,099,914
	User fees			R6,662,250	R25,159,524	R21,977,172
	Indirect charges			R5,016,201	R24,692,297	R18,792,749
	Government service fees			R3,026,000	R4,500,000	R5,000,000
	Other			R268,239	R2,056,561	R2,503,345

Notes: 1 Includes government service fees



#### Box 7: Cost effectiveness measures: SACAA

The Department has retained some functions related to civil aviation, including air transport regulation, international co-operation and technical support to the Licensing Councils. The overall expenditure of the Department on civil aviation increased from R27.2 million in 1997/8 to R44.1 million in 1998/9.

It does not seem to have realised immediate savings in its line item from the devolution of certain functions to the SACAA. No more recent figures are available.

### *Conclusions*

The Civil Aviation Authority has been operating in a fast-growing industry, the effective regulation of which is placing increasing pressures on the Authority's management, operations and finances. The review of the SACAA's outputs over the period from 1998 to 2001 indicates that the Agency has been increasing its oversight activities to keep pace with the growing industry, achieving adequate levels of effectiveness as a safety regulator. This was confirmed by the ICAO, which audited the SACAA's safety oversight programme in 1999 and 2001 and found that the SACAA met international standards set by the organization.

As a measure of the SACAA's overall success in controlling and promoting aviation safety, the safety record has been improving since 1998, both in absolute terms and measured against the amount of aviation activity. The SACAA seems to have contributed to this trend both by improving the effectiveness of its regulatory oversight and by expanding its promotion and communication initiatives.

In terms of changing from a fully State-subsidised entity to a self-funded agency, the SACAA has made significant progress. Its dependence on subsidisation decreased to around 10 per cent (in 2000/1), simultaneously with its growth in revenue from user charges and indirect charges.

#### **6.5.5 Performance measures: Cross-Border Road Transport Authority**

##### *Introduction*

The performance measures used for evaluating the performance of the Cross-Border Road Transport Agency are shown in Table 4. The measures of effectiveness relate to the following three major objectives of the Agency:

- To foster development of and investment in the cross-border road transport industry.
- To ensure the provision of safe high-quality cross-border freight and passenger road transport services.
- To encourage the development of SMME undertakings involved in cross-border road transport.

Data for the post-1998 period were provided by the CBRTA and data pertaining to the cross-border functions of the Directorate: Road Transport of the Department of Transport for the period 1996 to 1998 were extracted from previous Departmental publications.

Table 4: Performance measures: Cross-Border Road Transport Agency

Agency objective	Performance measure
Foster development of and investment in the cross-border road transport industry	<u>Quantity of outputs:</u> o Number of permits issued for cross-border transport <u>Quality of outputs:</u> o Turnaround time for issuing of permits <u>Outcomes:</u> o Number of bilateral/multilateral cross-border agreements implemented
Ensure the provision of safe high-quality cross-border freight and passenger road transport services	<u>Quantity of outputs:</u> o Number of cross-border vehicles inspected o Number of transport-related prosecutions <u>Quality of outputs:</u> o Success rate for transport-related prosecutions <u>Outcomes:</u> o Number of fatal cross-border accidents for passenger services
Encourage the development of SMME undertakings involved in cross-border road transport <i>Government objective:</i> Improve cost-effectiveness of cross-border regulatory services	<u>Outcomes:</u> o Number of SMME freight operators receiving permits <u>Cost-effectiveness:</u> o Percentage of funding received from the Treasury o Annual change in revenue sources

### Quantity of outputs

The major instrument for the regulation of the cross-border road transport industry is the issuing of permits to prospective cross-border carriers. Each permit constitutes a contractual agreement between the Agency and the carrier, stipulating the safety and regulatory conditions of carriage. The number of permits issued over the analysis period is shown in Box 8. For comparison purposes, the total number of permits issued (goods plus passenger permits) during 1996/7 and 1997/8 is also shown. The workload of the CBRTA in terms of permits issued has dropped by 33 per cent in comparison with the Department's days. This is thought to be indicative of both regional factors beyond the Agency's control and improved efficiency in the permit issuing process. The following reasons are thought to have contributed to the trend:

- The number of permit applications received has decreased owing to worsening economic pressures on cross-border operators, and to saturation point being reached on some routes.
- Since August 1998 other SADC countries also issue cross-border permits, relieving the CBRTA of some this responsibility.
- The validity period of some permits has been increased from three months (prior to 1998) to one year, increasing the time interval between issuing of permits.

There is no indication of a decrease in administrative capacity at the Agency with compared to the Department's days.

The law enforcement outputs of the CBRTA decreased during the first one or two years of its operations, as evidenced by the drop in the number of inspections and prosecutions recorded. This is thought to be due, first, to rationalisation of the law enforcement administrative structure and, secondly, to stricter controls over the reporting of inspections. From April to June 1998 no prosecutions were possible because of administrative delays related to the implementation of a fine schedule under the Cross-Border Road Transport Act (1998). During 1999 the Agency closed some of the local offices inherited from the Department, in order to rationalise its operations in line with major cross-border movements. This resulted in a drop in its law enforcement complement. The number of law enforcement officers has since been increased to a level 63 per cent above its former level. The CBRTA has furthermore implemented a strict management system to verify the inspections reported by cross-border inspectors - a control that was absent under the Department. The Agency therefore places more trust in the current inspection data and feels that previous figures could have been inflated. The latest figures show that both inspections and prosecutions are at levels comparable to the pre-CBRTA period.

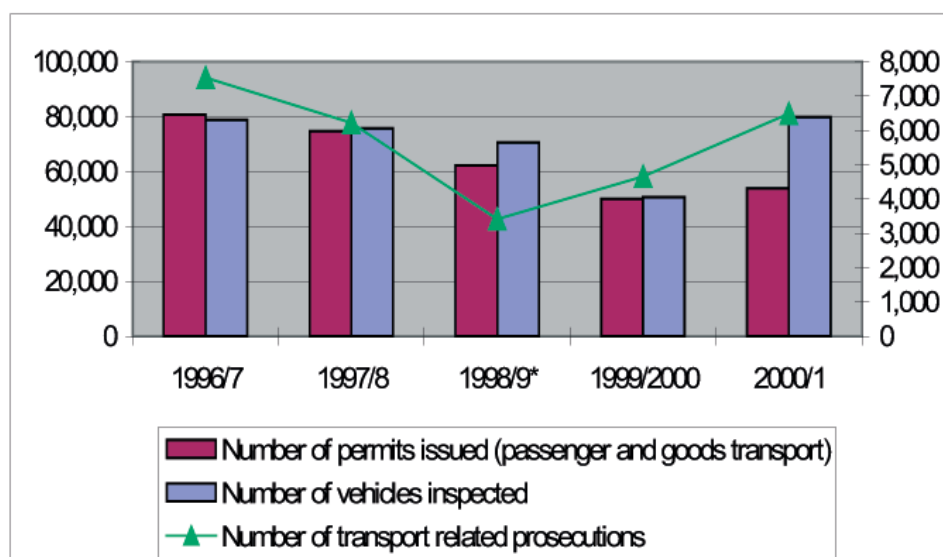


Output	Directorate Road Transport		CBRTA		
	1996/7	1997/8	1998/9	1999/2000	2000/1
No. of permits issued for passenger transport <sup>1</sup>	-	-	7,173	7,536	8,167
No. of permits issued for goods transport <sup>2</sup>	-	-	55,086	42,484	45,734
No. of permits issued (passanger and goods transport)	80,770	74,658	62,259	50,018	53,901
No. of vehicles inspected	78,745	75,655	70,567	50,673	79,857
No. of transport related prosecutions	7,533	6,220	3,417	4,662	6,485

Notes: \* Period April to June 1999

1 Include applications from 9 SADC countries and tourist permits

2 Include applications from 9 SADC countries and cabotage



Box 8: Quantity of output measures: CBRTA

### Quality of outputs

In terms of the turnaround time for the issuing of cross-border transport permits, the Agency provides a higher quality service than the Department did in the period before 1998 (Box 9). The previous turnaround time of 72 hours has been decreased to same-day issuing, except where regulations require that an application has to go through an advertising process.

The quality of law enforcement has also improved, as evidenced by the increase in the success rate of prosecutions from 90 per cent in 1996/7 to

100 per cent in 2000/1. No operators prosecuted in terms of cross-border regulations are subsequently acquitted in court. This reflects a high standard of training and quality of inspection in inspectors.

	Directorate: Road Transport		CBRTA		
Output	1996/7	1997/8	1998/9	1999/2000	2000/1
Turnaround time for issuing permits	three days		same day		
Success rate for transport related prosecutions	90%	93%	99%	100%	100%
Notes: * Applies to goods permits and temporary permits for passenger services					

## Box 9: Quality of output measures: CBRTA

The CBRTA is currently expanding its law enforcement capabilities, for example to improve its ability to do overloading control as a condition under which freight permits are issued.

*Effectiveness of outcomes*

In terms of promoting safety in cross-border road transport operations, the safety outcome measure indicates that the CBRTA is achieving success. Over the three-year period between 1998 and 2001 only four fatal accidents involving cross-border passenger operators were reported (Box 10). Investigations showed that in all cases the operator was not to blame. Unfortunately no data are available on serious accidents involving cross-border freight operators as mandatory reporting of accidents is not a condition of freight permits (as it is in the case of passenger transport).

	Directorate: Road Transport		CBRTA		
Outcome	1996/7	1997/8	1998/9	1999/2000	2000/1
No. of fatal accidents involving cross-border passenger services	-	-	4		
No. of SMMEs receiving goods permits	-	-	448	641	-
No. of bi/multilateral agreements with SADC countries implemented	4	4	8	9	9

## Box 10: Outcome measures: CBRTA

Data on the involvement of SMME operators in cross-border transport activities are incomplete. The available data for 1998/9 and 1999/2000 show an increase in the number of SMMEs receiving permits for goods transport. It is not clear that this is due to any promotional activities of the Agency. The Agency is currently organizing summits with cross-border freight, bus and taxi operators during which the development of SMMEs will be discussed with the industry.

The CBRTA has also been in a position to implement five of the nine bilateral and multilateral agreements with other countries in the SADC region. All of these agreements were signed before 1998, but not implemented immediately.

#### *Cost-effectiveness*

Box 11 shows the CBRTA's cost-effectiveness from the Government's point of view. Between 1998 and 1999 the CBRTA received approximately R6 million from the Treasury as an implementation grant. The Agency currently receives no subsidy or service fee from the Government, but generates all its revenues through permit fees and fines. It is not clear how sustainable this situation is, as regional harmonization requires the costs of South African permits to be lowered substantially to be in line with other countries' permits.

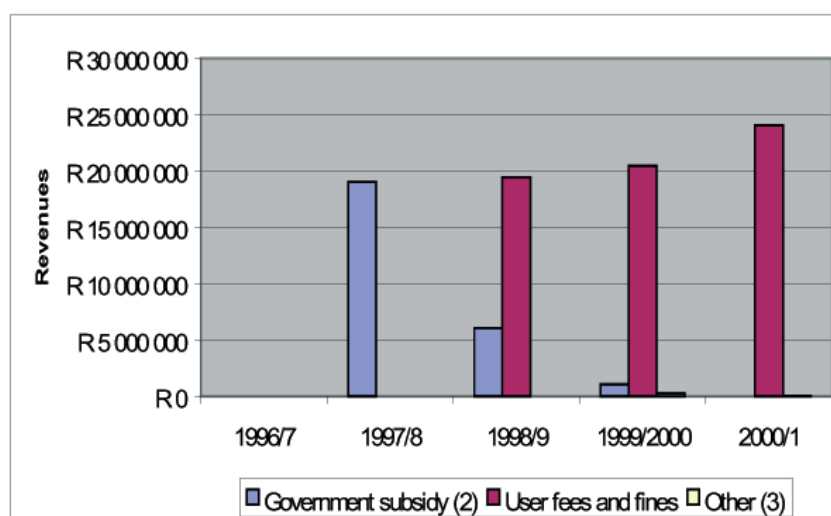
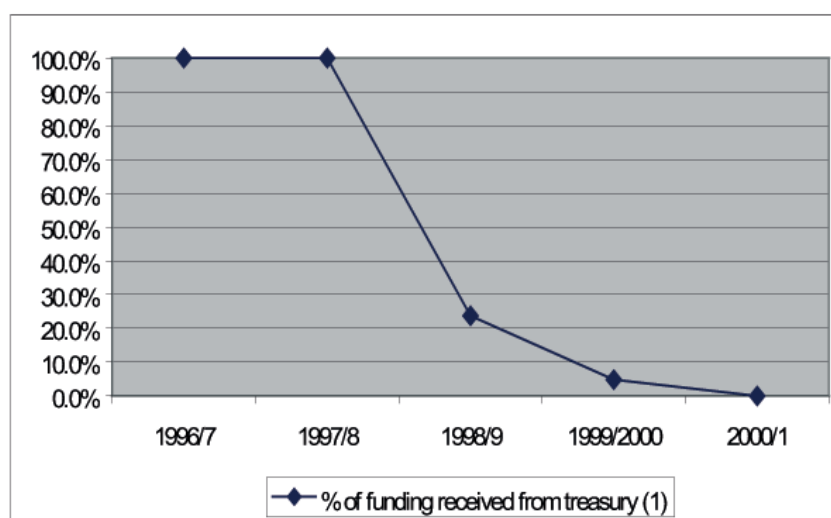
#### *Conclusion*

In conclusion, the CBRTA appears to be achieving high levels of effectiveness in terms of regulating the cross-border road transport industry. Its safety record appears good (even though the safety of freight operators is unknown) and law enforcement appears to be of high quality and level of consistency. Administrative functions are streamlined enough to meet a short turnaround time for permit applications and further improvements are expected through electronic submission of permit applications in the near future. At the same time, the CBRTA has managed to become completely independent of Government subsidisation, relying solely on self-generated revenue. The situation appears to be sustainable, although regional harmonization is expected to present challenges to the Agency's financial sustainability in the near future.

Notwithstanding the CBRTA's current success, the first two years of its existence were characterised by decreased effectiveness. This was largely due to teething problems related to the streamlining of the inherited administrative functions, staff restructuring and implementation of the new Cross-Border Road Transport Act (1998). It is likely that such teething problems are to be expected when Government functions are devolved to alternative service provision models.

	Directorate Road Transport		CBRTA		
Cost effectiveness indicator	1996/7	1997/8	1998/9	1999/2000	2000/1
% of funding received from treasury <sup>1</sup>	100.00%	100.00%	23.7%	4.8%	0.0%
Revenue sources:	Government subsidy <sup>2</sup>		R6,048,000	R1,050,400	R0
	User fees and fines		R19,448,254	R20,453,740	R24,058,561 <sup>1</sup>
	Other <sup>3</sup>			R262,329	R18,127

- Notes: 1 As subsidy or implimentation grant  
 2 1997-98: Expenses budgeted by NDOT for cross border transport activities  
 1998-2001: NDOT implimentation grant invested special reserve fund  
 3 "Other revenue" included once-off income such as profit an sale of assets, and write back of over-provisions



Box 11: Cost-effectiveness measures: CBRTA

### 6.5.6 Performance measures: National Roads Agency Limited

The two major objectives of SANRAL, as provided in the South African National Roads Agency Limited and National Roads Act, No. 7 of 1998, are to:

- develop, maintain and rehabilitate the national roads network; and
- manage the assets represented by the road and bridge infrastructure.

SANRAL published some performance statistics in its annual reports for 1999 and 2000. However, it proved impossible to extract meaningful performance measures owing to inconsistent definitions, with the result that no common basis could be determined for comparison. The Agency also did not supply other performance measures and was not prepared to have an in-depth discussion in this regard. Regarding the second objective, the Auditor-General, on 8 March 2001, expressed concern with regard to the completeness and adequacy of the asset register. Information on subsequent developments was unfortunately not available for further or proper evaluation.

The Agency has indicated that it will use the indicators listed below in the course of its business. However, the Agency states that a clear distinction should be made between toll roads and non-toll roads when applying the indicators because, although the same indicator may be used, the targets might differ. The reason for this distinction is mainly the fact that toll roads are deemed to be self-funding (constant stream of income) whereas non-toll roads depend on the actual allocations from the National Treasury (subject to fluctuating income).

#### *Road Network*

##### (a) Smooth Travel Exposure (STE)

- Description: The proportion of travel undertaken each year on roads with roughness (longitudinal surface undulations affecting the wear on and operating costs of vehicles, road safety, and the impact of the vehicle on the road as a result of the vehicle mass) conditions less than the specified level.
- Purpose: to monitor whether roads are providing acceptable travel conditions.
- Considerations: The Smooth Travel Exposure (STE) indicator represents the proportion of travel undertaken each year on roads with surface roughness less than the defined level.
- Target: 95 per cent of travel on less than 4,2 m/km roughness.

##### (b) Low Rut Exposure (LRE)

- Description: the proportion of travel undertaken each year on roads with rut depth (surface depressions that can hold water and cause a vehicle to aquaplane) conditions less than the specified level;
- Purpose: to monitor whether roads are providing acceptable travel conditions;
- Considerations: the Low Rut Exposure (LRE) indicator represents the proportion of travel undertaken each year on roads with rut depths less than the defined level;
- Target: 95 per cent of travel on less than 20 mm rut depth.

(c) High Texture Exposure (HTE)

- Description: The proportion of travel undertaken each year on roads with macro-texture (visual coarseness of the road surface that affects surface friction at high speeds [ $>60$  km/h] for wet conditions) conditions higher than the specified level.
- Purpose: To monitor whether roads are providing acceptable travel conditions.
- Considerations: The High Texture exposure (THE) indicator represents the proportion of travel undertaken each year on roads with macro-texture higher than the defined level.
- Target: 95 per cent of travel on higher than 0,4 mm texture.

(d) Bridge Condition Exposure (BCE)

- Description: The proportion of vehicles per year that travel over or under bridges with conditions higher than the specified level.
- Purpose: To monitor whether bridges are providing acceptable travel conditions.
- Considerations: The Bridge Condition Exposure (BCE) indicator represents the proportion of vehicles that travel over or under bridges with an Overall Condition Index (OCI) higher than the specified level.
- Target: 90 per cent of travel over or under bridges with an OCI higher than 80.

*Roads Agency Management*

(a) Return on Construction Expenditure (RCE)

- Description: The weighted Internal Rate of Return of total capital construction expenditure per annum.
- Purpose: To monitor the predicted economic benefits to the community from Road Agency capital programmes.
- Considerations: The Return on Construction Expenditure (RCE) indicator is based on weighted Internal Rate of Return estimates of capital projects undertaken by the Road Agency. The Internal Rate of Return is calculated as the discount rate for which community life-cycle benefits equal the Road Agency life-cycle costs.
- Target: IRR  $> 15$  per cent.

(b) Expenditure Efficiency Index (EEI)

- Description: The percentage of annual expenditure allocated to overhead costs.
- Purpose: To monitor the efficiency of the Roads Agency.
- Considerations: The expenditure efficiency index (EEI) is the annual percentage spent on overheads by the Agency compared with the total expenditure of the Agency.
- Target:  $< 5$  per cent.

(c) Private Sector Investment Index (PSII)

- Description: The proportion of total annual expenditure secured from the private sector.
- Purpose: To monitor the attraction of private sector investment.

- Considerations: The Private Sector Investment Index (PSII) is the ratio between expenditure funded from the private sector and expenditure funded from the fiscus.
- Target: 0,85.

(d) Road Maintenance Effectiveness (RME)

- Description: A cost index reflecting the proportion of the road network that is maintained to target conditions and the expenditure per kilometre required.
- Purpose: To monitor the effectiveness of maintenance functions undertaken by the Agency.
- Considerations: The Road Maintenance Effectiveness (RME) indicator represents the cost per kilometre to maintain the roads in a smooth condition (less than defined roughness level).
- Target: Under development.

*Road Systems*

(a) User Satisfaction Index (USI)

- Description: Index of user's qualitative evaluation of satisfaction with national road network.
- Purpose: To provide a qualitative indication of users' perceptions of the performance of the national road network.
- Considerations: The User Satisfaction Index (USI) is a measure of road users' satisfaction with the national road network. The index is based on road users' ratings (roadside surveys) of a number of attributes related to the national road network.
- Target: Under development.

(b) National Road Development Index (NRDI)

- Description: The annual proportion of vehicle travel on the national road network in relation to all vehicle travel in South Africa.
- Purpose: To monitor the importance of the national road network.
- Considerations: The National Road Development Index (NRDI) is the ratio between the total vehicle kilometres travelled on national roads and all vehicle travel in South Africa. All vehicle travel in South Africa will be estimated from the annual litres of fuel sold and assumptions with regard to the vehicle fuel consumption.
- Target: No target since it is just an indicator of importance.

*Awareness plan*

- To ensure that the aims, achievements and professionalism of the agency are properly communicated to the public and stakeholders locally and internationally.
- To ensure that the agency is a strategically focused organisation.
- To develop a communication strategy.
- To implement a public relations and promotional plan.
- To lobby for support for the agency's business.
- To develop and initiate a programme of service measurement to ensure consistent superior service quality.

### *Conclusion*

SANRAL is moving towards the use of consistent performance measures, but is not there yet. Targets vary between tolled and non-tolled roads because for the latter there is currently a funding constraint. Unlike the other agencies, the income level is set by the Department of Finance, based on a levy on the usage of petroleum fuel. These funds are used for the development and maintenance of non-toll national roads. The Agency is expanding its Public-Private Partnerships in the expansion of the toll roads programme. In general, the perception of the performance of SANRAL by the stakeholders is the best of the four agencies reviewed.



7. CONCLUSIONS ON FINDINGS

7.1 General

From this study a number of general trends and issues have emerged as a result of the creation of agencies as service delivery channels for government.

Is the agency concept an appropriate mechanism for the delivery of certain government functions?	>	>	>	>	YES!
Is the service better or worse than that performed by the Department but still					Substantially better, with room for improvement
Has the purpose of the creation of agencies been achieved?	>			>	YES!
The creation of the agencies has, overall, benefited service delivery in the transport sector					

This study has investigated and reported on the policy, strategy and process followed by the Department in the creation of four transport agencies. It has also examined the performance of the agencies in respect of overall governance requirements, the effectiveness of the management activities and their service delivery. The question has been raised whether the agency concept is an appropriate and effective mechanism for the delivery of such Government services. The four transport agencies scrutinised cover the spectrum of road infrastructure provision and management and the regulation of certain transport functions, i.e. cross-border freight operations, maritime transport and civil aviation activities. Based on the analysis reported upon in this document, the answer to the question is that the agency concept is indeed an appropriate mechanism for the delivery of such Government services, and that this service delivery is at least as good as, if not better than when the function was entrusted to the Department. However, certain deficiencies in governance, notably in the areas of transparency and the board structure and processes, and also in management, manifested themselves in the survey. A prime problem is that, contrary to the original constituting philosophy, the agencies, particularly SANRAL, and perhaps SACAA, appear to be acting as, or like, a branch of a Government department instead of as a delivery agent whose mandate is circumscribed by the Department. The direct and regular contact between the Minister and the CEOs, bypassing the Department and the boards of the agencies, is a manifestation of this approach. It is felt that improvements in certain areas of governance and management would materially improve overall performance and accountability.

7.2 Primary findings

The primary conclusions, based partly on information from within (discussions with the CEOs and senior staff of the agencies) and outside (discussions with the major stakeholders) the agencies are as follows:

- In all four agencies reviewed the experience in terms of improved service delivery is substantially positive for both stakeholders and the public at large. One hundred percent of the respondents (see Appendix 4) prefer the model of agencies for service delivery. Most respondents per-

ceive an improvement in service delivery in comparison to the time when the functions were performed as part of the NDoT. Examples of better service delivery are:

- more airspace oversight and navigational aid calibration checks;
  - a lower percentage of accidents in relation to the total aircraft register;
  - turn-around time for the issuing of cross-border transport permits reduced from 72 hours to same-day issuing;
  - the success rate of prosecutions for cross-border infringements has improved from 90 percent to nearly 100 percent;
  - number of vessels inspected per annum under port state control has increased from 207 to 777; and
  - number of search and rescue incidents handled per annum has increased from 127 to 441.
- With regard to cost effectiveness, there has been a move towards full cost recovery from the public for services rendered. In the case of SACAA, the government subsidised portion of income shrank from 100 to just nine percent of total income between 1997 and 2001, while the CBRTA became completely self-funding at the same date. This has resulted in savings by Treasury due to users paying directly for services received. SAMSA has continued to receive some government funding, however, to cover services in the national interest such as maritime regulations, oil-pollution clean up and search and rescue activities, where specific beneficiaries cannot always be identified. Although there has been some resistance from the public towards user charging, more than half of the respondents questioned believed they were receiving value-for-money. In the case of SANRAL, there has been a move towards additional toll roads based on public private partnership arrangements. For non-toll roads, however, concern has been expressed about the adequacy of allocated funds from National Treasury.
  - The chain of relationships between the Minister, the Department, the boards and the CEOs of the agencies was in all cases dysfunctional. In at least two cases, the contact was found to be directly between the CEO and the Minister, with the Department and the board to a large extent being left out of the chain. This prevented the board from exercising its correct functions in terms of good governance as set out in Chapter 5 of this report. While the Minister might have had good reasons for this course of action, it nevertheless detracted from the appropriate functioning of the agency as set out, inter alia, in the King Commission Report and the Public Finance Management Act. In another case, it appeared that the board chairperson did not work through the CEO. However, there appeared to be good reasons for this that was temporary in nature.
  - To some extent, there were failings in the operation of the Boards of Control. These included inadequate expertise on the part of several board members regarding technical and professional aspects of the activities of the individual agencies, an apparent lack of disclosure of possible conflicts of interests by board members in three of the boards, and inappropriate involvement in detail by the board in the management of one specific agency at least. Further to this, board members in general do not appear to have been briefed on their specific responsibilities and authority, nor does the selection process for board members appear to be sufficiently transparent.

- Regarding financial management, although there appear to have been no major improprieties, the assessment team has not been given sight of all audit and financial reports. There is some anecdotal evidence, in one agency at least, of inappropriately high travel budgets and the inability to collect all potential revenue. In addition, although we have not been privy to exact details, there is evidence that inappropriately high salaries are being paid in some instances. There has also been a comment made by one of the senior industry representatives consulted on possible improprieties in tender awards in one specific agency. In general, however, there is no evidence of widespread corruption.
- Regarding management practices, the picture is both “good and bad”. The agencies in general have made progress in meeting transformation objectives. In other aspects, however, such as pension management and human relations (in some instances), the record is less satisfactory.
- It is in the area of accountability and transparency that the record of the agencies appears to be weakest. There is limited evidence of meaningful consultation and interaction with the stakeholders or the industry or with the Department - in fact specific comments have been made to the effect that the agencies seldom become involved in industry professional forums, and that in the isolated instances where this does occur, the interaction is inadequate.
- An area of particular concern is that some agencies occasionally appear to be usurping the role of the Department in respect of providing policy and broad strategic directions for the industry, and in assuming membership of international bodies where membership of other countries is almost exclusively through government departments. Again, this is due to a lack of capacity in the Department, which requests agencies to undertake functions it should carry out itself.
- More effective disclosure, as recommended by the King Committee Report, would assist in improving governance and accountability.
- A greater effort should be made to collect all potential revenue for services rendered and a review should be made of the specific services rendered by the agencies. For example, in the domain of Civil Aviation, is “calibration work” a function of the agency and should the involvement of SANRAL not rather be confined to national roads, with rural, low-cost road involvement being undertaken by local or provincial authorities? Should the roads-based technology transfer endeavour not perhaps be undertaken at provincial level, where it is more applicable? The only reason why SANRAL has become involved is because of a lack of capacity elsewhere.
- There have been suggestions from senior sources in the Government that the “company structure” as used for SANRAL is not the best or most appropriate form for this Agency and that it needs to be revised. This suggests that a comparative review of the legislation frameworks for all agencies needs to be carried out with the aim of ensuring that the agencies remain delivery tools of the Department and not separate independent institutions. In SANRAL’s case, however, cognisance has also to be taken of the fact that its functions differ from those of the other three agencies and that it is outsourcing a major part of its business (toll roads).

- It is difficult to analyse it in detail (because of the lack of data), but it appears that the use and cost of resources has increased following the creation of the agencies. An accurate cost/benefit study would be very difficult to carry out because of the lack of "before" data.
- Despite some deficiencies in the process of the creation of the agencies, and their subsequent operation - which have been highlighted in this report - it would appear that, overall, the creation of the agencies has benefited service delivery, including the regulatory function, in the spheres concerned. The purpose of the innovation of introducing agencies as service delivery mechanisms was to improve the quality of service delivery to citizens and to reduce the burden on the government fiscus by charging for services rendered where practicable. Both of these objectives have been achieved. The concern brought out in this report, and hence the reason for the focus on the governance framework and accountability, is that there is a perception that these aspects have deteriorated at a time when the King Report and the PFMA are demanding higher standards. These matters can, however, be addressed and rectified.
- Because of the nature of the services rendered by the agencies, it is difficult to say exactly what has been the socio-economic impact. Clearly, however, the public perceives an improvement in service delivery, while substantial amounts of funding are raised from the public on a user pays basis, relieving National Treasury of allocating such amounts which can now be spent on welfare, housing, education and so on. Income generated by SAMSA, SACAA and CBRTA already falls within the range of R110 - 120 million annually while some R486 million is raised from agency toll roads. This does not include tolls charged on the fully privatised toll roads where additional new roads have been constructed at no cost to the fiscus. The risk associated with such construction has also moved to the private sector from government.
- In general, the financing arrangements for the establishment of the agencies were found to be sound. All agencies are now moving towards self-sufficiency, but in the case of SANRAL tight control on the allocation of the petrol levy (currently 6c/litre) by the Treasury is leading to an unsustainable situation for non-tolled national roads. This issue is under debate at present as there are pressures on SANRAL to take over certain main provincial roads, which it is understandably reluctant to do without adequate funding.

### **7.3 Effectiveness of the monitoring of performance**

#### **7.3.1 Monitoring from within the agencies**

- Section 6, which addressed performance monitoring, deals in detail with the assessment of specific aspects of the performance of the agencies. Progress is varied and, in some instances, no data exist to produce a complete conclusion. However, on the whole the trend is positive.
- The record in respect of fully articulated service delivery frameworks embracing a policy framework, a strategic plan to implement the policy and specific performance monitoring of action

steps taken to initiate the strategic plan is variable and deserves more attention in some instances.

- In addition to this, the reporting of the activities of the agencies does not appear to be adequate, thus negating any means of assessing performance. Very little evidence of adequate internal performance monitoring (of functions as apposed to personnel) is available.

### **7.3.2 Monitoring by Government (The Department)**

- In most cases, there does not appear to be a proper process for corporate or strategic planning. This is at least in part due to the deficiencies in the Department which should take the lead in this area.
- A very important aspect of the control or monitoring of the agencies by the Department on behalf of the shareholders (the public) is the almost complete lack of capacity in the Department to exercise this function. This failing could result in the agency and/or its board conducting its affairs in a manner that is not congruent with the policy and strategic directions of the Department and of the country.
- It is essential that the controlling Department should both have, and use, an effective monitoring role in respect of the functions being performed by the agencies.

### **7.4 Effect of the creation of agencies on staff**

- Except for a very few posts at lower levels, the majority of staff were retained on the creation of the agencies. Organised labour was consulted in this process, but not all issues were totally ironed out to the satisfaction of all; there was a trade-off between moving forward and attending to 100 per cent of the matters under discussion. In retrospect, this trade-off may have been driven by expediency owing to the need to achieve progress in a given time period.
- In the transfer of posts to the agencies some lower level posts were redundant by the Department, with the result that the incumbents became supernumeraries. The last few supernumeraries were only recently (four years after the creation of the agencies) placed.
- Between the Department, the Department of Public Service and Administration, the National Treasury (Chief-Directorate: Pensions Administration) and the Public Servants Association, all matters (eg. Pensions and medical aid) pertaining to transferred personnel were not finalised. The result is that to date these issues remain unresolved. See Appendix 5 as an example of a matter not finalised.
- The process could have been improved by more consultation with staff, by giving more

attention to the setting up of monitoring systems and by ensuring that certain remuneration/benefit issues were resolved satisfactorily before moving forward.

- Stringent action needs to be taken towards remedying some of the staff grievances (lack of finality on the pension and medical aid benefits, for example) and also a more appropriate level of salary structures in particular cases (unacceptable balance between industry-wide scales and “public service” scales for senior posts within the agencies).
- The manner in which the agencies were constituted - by transferring most existing skilled staff of the Department to the agencies - contributed to the lack of professional capacity in the Department.
- It was found that job security is of utmost importance to staff. Not only the transferred staff and supernumeraries were affected; the remaining staff also feel/felt insecure. Additional pressure owing to job demands they are not trained for and the lack of skilled support influence the performance of staff.

## 7.5 Other lessons learnt

Some of the lessons which were learnt during the process of this study and which are more fully elaborated upon in the recommendations are as follows:

- It should be realised that the agencies are merely service providers and that the broad strategy directions and overall policy for the functions being delivered must remain with the Department. In addition, membership of regional and international forums and bodies should reside in the Department and not in the agencies.
- More care should be given to the selection of board members and especially the chairperson so as to ensure that knowledgeable, experienced and firm persons are selected, who fully understand and exercise their fiduciary responsibilities.
- Attention, and perhaps even prescription, needs to be given to establishing the lines of relationships and communication between the Minister, the Department, the board and the CEO. It is also important for the board to monitor the performance of the CEO and management independently, perhaps in closed meetings without the presence of these officials.
- Should future agencies be contemplated (e.g. National Port Authority, Road Traffic Management Corporation, Road Traffic Infringement Agency), all issues relating to service benefits, such as pension matters, should be fully resolved before any staff are transferred from Government service to the agency. It is also suggested that when a transformation policy is introduced, it should be agreed up front at what pace this should occur, given the need for a balance between experience and affirmative action. Leaving posts unfilled

because suitable candidates cannot be found is not an answer. Consideration should be given to using experienced, recently retired persons, on a contract basis, whose main job should be to impart skills to persons in training.

## **7.6 Criteria for the outsourcing of regulating functions**

The Government can effectively outsource a regulating function if it meets the following criteria:

- It must provide a service for the public;
- It must be possible for it to be identified as a specific entity with a defined area of responsibility;
- It must have a regulatory, but not a policy-making, function;
- It must be possible for the service to be delivered on a commercial basis according to user-pays principles; and
- It must be subject to rigorous review and monitoring processes.

## 8. RECOMMENDATIONS

### 8.1 General agency-related recommendations

The concept of public enterprises, or agencies, for the delivery of certain Government functions is endorsed. However, there needs to be a new emphasis on certain basic principles that should be adhered to. These include the following:

- It should be stressed in the enabling legislation and in the memorandum of understanding between the responsible Department and the enterprise concerned, that the enterprise/agency is primarily/merely a service deliverer whose activities, responsibilities and powers are circumscribed by Departmental policy and strategic planning and directives. Where overlaps of the functions of the Department and the agencies occur, the areas of responsibility need to be clearly defined.
- Membership of, and participation in, official regional and international forums or bodies should be through the Department and not through the agency.
- Effective monitoring of the activities and performance of the agency by the Minister/Department must be carried out and the Department must be seriously strengthened where necessary to enable it to do this. It would, therefore, also be desirable to regularly adjust the performance objectives of the agencies as required by governance developments and policies. Regular stakeholder surveys on the effectiveness of the agencies should be run by the Department, not the agencies, so as to ensure impartiality and that the views of the stakeholders are not “filtered” by the agencies.
- Monitoring should extend to ensuring that Annual Reports are produced timeously and that attention is given to audit comments and qualifications.
- In the process of constituting an agency, attention should be paid to the form of the enterprise to ensure that the powers of the boards are not defined in a manner that, if taken literally, would enable them to act independently of the Department/Minister or not to take cognisance of departmental policies and strategies.
- Particular attention needs to be paid to the structuring of the boards of control of the agencies and to the selection and appointment of board members.
- Boards should be composed of individuals of integrity who have a blend of extensive knowledge, experience and skills in the functions being performed by the agency, under the leadership of a firm and objective chairperson - preferably with experience in the function being performed by the enterprise.
- Before or shortly after appointment, members should declare all their commercial or other interests, and also those of close family members, that might lead to conflicts of interest in the stewardship of the affairs of the agency. Once appointed, directors must give careful consideration to their own integrity in respect of possible conflicts of interest and the potential consequences they may have for the



board and for themselves. In the case of material conflicts of interest, the director should consider resigning from the board. This principle could also be applied to senior management.

- A senior official (DDG level) from the controlling Department should serve on the board.
- Upon appointment, board members should be informed in writing of their fiduciary responsibilities, which should at least cover the monitoring of operational performance, the monitoring of the performance of the CEO and the determination of policy and processes to ensure the integrity of the enterprise's financial, human resource and communications management. A company directors' course is recommended for new board appointees, especially if they have not had previous board experience. Board members should be familiar with the responsibilities outlined in both the PFMA and the King Commission Report.
- Clarity must be achieved regarding the relationship between the board and the responsible Minister, resulting in a mutual understanding between the board and the Minister regarding the powers and role of the board, and also the powers and role of the department in monitoring the activities of the agency.
- In the "staffing" of the enterprise, should any members of the enterprise be persons who previously worked for the public service, details of all personal benefits such as pension and medical aid should be resolved before these persons are appointed to the staff of the agency. The issue of supernumeraries should be addressed immediately with the assistance of the relevant trade unions.
- The CEO has a critical role to play in the success of the agency and special attention needs to be paid to the selection of the CEO, which should be done by the board. This person must be an experienced and respected participant in the industry in which the agency functions and, in addition, must be firm (without being domineering) and have high ethical standards and a positive outlook. This person and his/her partner/spouse should own no equity in any commercial enterprise in the particular industry in which the agency operates.
- The enabling legislation for the creation of agencies should be reviewed and renewed on a regular basis (say every five years) to ensure continued relevance and alignment with Government policy. The same proposal is made for the Memoranda of Understanding (MOUs) between the Minister and the respective agencies.
- Clear directions (and even perhaps a procedural manual) need to be provided for the monitoring by the responsible Minister/Department of government agencies.
- Guidelines also need to be provided on appropriate criteria and time scales for transformation within agencies, ensuring that there is an acceptable balance between making agencies more representative and, at the same time, achieving a gradual improvement in efficiency in accordance with the philosophy adopted in the setting up of the agencies in the first place.

## 8.2 Recommendations specifically affecting the NDoT and its agencies

- While the financing mechanisms in three of the agencies appear to work satisfactorily, the Department should take up the case of the inadequate funding of SANRAL for non-tolled roads with the National Treasury. It would appear that the balance between tolled and non-tolled roads may have been pushed too far and the resultant network could be beginning to have a negative impact on some groups and communities. Moreover, funds for maintenance of existing non-tolled roads are inadequate. The Department should also ensure that all significant requests to the agency for additional work (because of limited capacity) are made on a cost-recovery basis.
- The rationale for the company structure of SANRAL should be re-assessed to ensure that it is the most appropriate for the agency.
- Legislation should be reviewed/amended to ensure that the agencies are more closely harmonised with the Department and to give effect to the recommendations made in the earlier part of this chapter.
- In respect of Civil Aviation, the separate roles of Commissioner of Civil Aviation and the Chief Executive Officer of the SACAA should probably not be vested in one person, or even in the same agency. An independent advisor with international aviation experience should investigate this issue.
- To assist the responsible Minister to monitor and assess the activities of agencies, a separate Minister's forum, consisting of stakeholders in the relevant industry, should be constituted for the functions of the specific enterprises. The Department should provide the strategic direction for the stakeholders in the transport sector.
- Every effort should also be made to resolve the unacceptable deadlock on pension benefits for ex employees of the Department.

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## RELEVANT LEGISLATION

- Aviation Act (as amended) (74 of 1962)
- Basic Conditions of Employment Act (75 of 1997)
- Civil Aviation Authorities Act (40 of 1998)
- Companies Act (61 of 1973)
- Cross-Border Road Transport Agency Act (4 of 1998)
- Employment Equity Act (55 of 1998)
- Labour Relations Act (66 of 1995)
- National Environmental Management Act (107 of 1998)
- Public Finance Management Act (1 of 1999) and Treasury Regulations for departments, constitutional institutions and public entities issued in terms of this Act
- Public Finance Management Amendment Act (29 of 1999)
- Reporting of Public Entities Act (93 of 1992); superseded by PFMA above.
- South African Maritime Safety Authority Act (5 of 1998)
- South African National Roads Agency Ltd Act (7 of 1998)

## OTHER DOCUMENTS CONSULTED

- Accident Reports
- Auditor General Reports
- Business Plans
- Certificate of Incorporation and Memorandum and Articles of Association (SANRAL)
- Curricula Vitae of Board Members
- Employment Equity Plan (where available)
- Financial Statements
- ICAO Audit Reports
- Information Slide Presentations
- Management Reports
- Memoranda of Understanding
- Performance Agreements
- Press Releases
- Procurement and Authority Levels

- Strategic Plans (where available)
- Website Information (where available)
- Workforce and Succession Plan (where available)
- Workplace skills plan (where available)

## APPENDIX 1 - GUIDELINES APPLICABLE TO BOARDS

The following guidelines are applicable to boards:

- The board must give strategic direction to the company appoint the CEO and ensure that succession is planned.
- The board must retain full and effective control over the company, and monitor management in implementing board plans and strategies.
- The board should ensure that the company complies with all relevant laws, regulations and codes of business practice, and that it communicates with its shareholders and relevant stakeholders (internal and external) openly and promptly and with substance prevailing over form.
- The board should define levels of materiality, reserving specific power to itself and delegating other matters with the necessary written authority to management. These matters should be monitored and evaluated on a regular basis.
- The board should have unrestricted access to all company information, records, documents and property. The information needs of the board should be well defined and regularly monitored.
- The board should consider developing a corporate code of conduct that addresses conflicts of interest, particularly relating to directors and management, which should be regularly reviewed and updated as necessary.
- Every board should have a charter setting out its responsibilities, which should be disclosed in its annual report. At a minimum, the charter should confirm the board's responsibility for the adoption of strategic plans, monitoring of operational performance and management, determination of policy and processes to ensure the integrity of the company's risk management and internal controls, communications policy, and director selection, orientation and evaluation.
- The board must find the correct balance between conforming to governance constraints and performing in an entrepreneurial way.
- Companies should be headed by an effective board that can both lead and control the company. The board should comprise a balance of executive and non-executive directors, preferably with a majority of non-executive directors, of whom sufficient should be independent of management so that shareholder interests (including minority interests) can be protected. An obvious consideration for South African companies would be to consider the demographics in relation to the composition of the board.
- Procedures for appointments to the board should be formal and transparent, and a matter for the board

as a whole, assisted where appropriate by a nomination committee. This committee should consist only of non-executive directors, of whom the majority should be independent, and be chaired by the chairperson of the board.

Board continuity, subject to performance and eligibility for re-election, is imperative, and a programme ensuring a staggered rotation of directors should be put in place by the board to the extent that this is not already regulated.

## **APPENDIX 2: DETAILS OF WORKSHOPS/STAKEHOLDER INTERVIEWS**

### **PERFORMANCE ASSESSMENT OF TRANSPORT AGENCIES - PRELIMINARY REPORT- STRUCTURE (provided at stakeholder workshops)**

#### Introduction

##### Institutional reform in transport - the creation of agencies:

- Characteristics of the administration and provision of transport services in South Africa
- Institutional framework
- Principles for institutional reform
- Objective of the creation of agencies
- How the agencies would work

##### Mandates given to the agencies:

- South African Civil Aviation Authority
- Cross-Border Road Transport Agency
- South African Maritime Safety Authority
- South African National Roads Agency Limited

#### Governance framework

##### Role of Parliament in the governance framework for transport agencies

##### Role of Minister

##### Role of the Board

##### Performance objectives for the agencies:

- SACAA
- CBRTA
- SAMSA
- SANRAL

#### Performance management premises

##### Performance monitoring:

- Accountability (governance arrangements)
- Sound management
- Efficiency and effectiveness in the provision of services
- Tools for monitoring - performance indicators/measures
- Stakeholders and consumer surveys
- Current monitoring by THE DEPARTMENT
- Alternative service delivery approaches



## INFORMATION REQUESTED FROM AGENCIES

- Constituting Act
- Agreements with Minister
- Objectives and strategy of agency
- PIs being used
- Annual Reports
- Business plans
- Audit reports (or AG Reports)
- Delegation schedule
- Current monitoring by Department of Transport
- Current internal performance monitoring
- Involvement of Board and Minister
- Board members
- Name
- Qualification
- Expertise
- Attendance at meetings
- Frequency of Board meetings
- Board subcommittee and frequency of meetings
- Process for appointment of Board members
- Terms of Board members
- List of stakeholders
- Details of communication with stakeholders

## PERFORMANCE ASSESSMENT MEASURES

- Accountability
- Auditor General Reports or compliance with GAAP
- Annual Reports
- Appointment procedures
- Qualifications of Board members and declaration of interest
- Delegation schedule/arrangements
- Extent of monitoring by Department of Transport
- Business plans
- Involvement of Minister and Board
- Tender allocation procedures
- King Commission Report requirements
- Frequency of Board meetings, attendance at meetings and chairman's approvals
- Fruitless expenditure
- Reporting to the Public
- Management

- Articulation of policies/guides/objectives
- Extent of corporate and strategic planning
- Details of long term budgeting and compliance with budget
- Project programming versus achiever programme
- HR management
- Organisational structure
- Articulation of policy, objectives and goals
- Asset management procedures,
- Financial management control and recovery systems
- Market/client focus - responsiveness to public needs
- Information systems
- Meeting transformation objectives
- Skills and capacity development programmes
- Internal "performance measurement measures"
- Innovative culture

Between the 18th January and 4th February 2002, initial discussions were held with each of the four transport agencies. The purpose of the discussions were -

- to introduce the project in accordance with the letter of introduction from the Office of the Public Service to introduce the project team and to describe the envisaged structure of the report to be prepared (see structure attached);
- to request each agency to provide information in accordance with a prepared list (see attached); and
- both accountability and management (see attached).

## REPORT-BACK ON INITIAL VISITS TO FOUR AGENCIES

SAMSA (18th January 2002)

Met with:

Capt Brian Watt (Retired CEO)

R. Adm. Trevor Beddy, Executive Manager, Specialist Services

Manie Roodt, Executive Manager, Human Resources

- team was well received and promised full co-operation;
- relevant documents to be collected and sent;
- agreed to workshop;
- access to Board minutes granted;
- advised post of CEO was in process of being filled;
- noted that role of Board and relationship with Minister were critical issues;
- use "Balanced scorecard approach".

## SACAA (23rd January 2002)

Met with:

Trevor Abrahams, CEO

OPSC - also attended

- team was well received and promised full co-operation;
- relevant documents to be collected and sent;
- agreed to workshop;
- noted limited capacity in THE DEPARTMENT a constraint;
- financial issues in respect of work in SADC raised.

## CRBTA (21st and 25th January 2002)

Met with:

George Negota, Chairman of Board

Piet Geringer, Acting CEO

OPSC - also attended

- team was well received and promised full co-operation;
- relevant documents to be collected and sent;
- agreed to workshop;
- access to Board minutes granted;
- advised post of CEO was in process of being filled.

## SANRAL (4th February and 29 July 2002)

Met with:

Nazir Alli, CEO

Judith Annakie, Public Relations Officer

OPSC attended second meeting

- defensive response to team - suggested evaluation of SANRAL unnecessary;
- referred to peer review which appears not to have been documented; also Establishment Act and SANRAL website;
- insisted that CSIR (consultants) first sign a confidentiality agreement;
- not proactive in assisting; after various letters and discussions, a meeting was convened in July 2002. At this meeting SANRAL provided answers to written questions.

In addition, a meeting of the Railroad Association was attended on 21st January 2002 where there was a presentation on the proposed railway safety regulator. Although the Transnet Group falls under the Department of Public Enterprises, note was taken of the approach to establish an independent safety entity.

## MEETING WITH PUBLIC SERVICE ACCOUNTABILITY MONITOR - MR COLIN ALLAN IN GRAHAMSTOWN ON 12 FEBRUARY 2002

Following a discussion on the broad approach to the project, Mr Allan made the following suggestions:

- The essence of the requirements for monitoring accountability is contained in the Public Finance Management Act, especially Chapter VI.
- Also of relevance all the Treasury regulations, available on [www.gov.za](http://www.gov.za) (Reg. Gazette 7048).

The PFMA specifies clear reporting requirements for Public Entities.

The accountability chain involve accountability to Parliament, the Executive and the people. In this respect, the Executive comprises the Minister.

Parliamentary oversight is an important element to be brought into account in the study.

The PFMA requires that all departments/entities should have a service delivery framework embracing:

- a policy framework;
- a strategic plan to implement the policy;
- a specific performance of action steps to initiate the strategic plan;
- an evaluation process to determine progress in achieving objectives.

Some of the criteria to assess accountability are:

- annual reports;
- audit (or AG) reports;
- performance agreements;
- declarations of interests of Board members and CEO to assess possible conflicts of interest;
- disclosure by Board members of possible conflicts of interest;
- process for appointment of Board members and extent of transparency in process;
- whether Board members have been appraised in their duties and responsibilities in this respect;
- any fruitless expenditure (Section 86 and PFMA);
- delegations and channels of reporting;
- job description for staff;
- procurement procedures.

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## Accountability framework

- Board selections;
- conflict of interests;
- potential for mal-administration;
- responsibilities in terms of PFMA reporting requirements.

## SOUTH AFRICAN MARITIME SAFETY AUTHORITY

### STAKEHOLDER MEETINGS: 19,20 AND 21 FEBRUARY 2002

#### COMMENTS AND QUESTIONS:

##### DURBAN:

Invitations were sent to 17 persons and organizations and 21 persons attended.

- It was stated that the SAMSA Cadet salaries had upset the industry and had caused great concern as these salaries were approximately 100 per cent higher than those paid by the industry.
- It was enquired as to whether the Cadets Salaries had been scientifically researched in the SA market place and had they been applied in a transparent manner.
- The representative of the Association of Shipping Lines lodged total objection to any increase in fees and/or levies.
- It was recommended by the representative of the SA Ship Owners Association that consideration should be given to using reserves in place of tariff increases.

##### PORT ELIZABETH:

Invitations were sent to 34 persons and organizations and 22 persons attended.

The main area of concern in Port Elizabeth was that the increases were above the inflation rate.

**CAPE TOWN:**

Invitations were sent to 46 persons and organizations and 44 persons attended.

- A labour representative enquired as to what SAMSA was doing to assist bereaved families in obtaining Death certificates where there were casualties at sea and there were no bodies.
- It was stated that the fishing community had a concern when SAMSA increases safety requirements however the division of Coastal and Marine Management of the DEAT limits the possibility of earning to cover these costs.
- It was enquired as to how many redundancies would there be when SAMSA has installed an upgraded IT system.
- The Oil Industry representative enquired as to what SAMSA was doing to have SA accede to the CLC and FUND Conventions to improve the compensation regime of SA in time of Oil Pollution.
- The representative of the SA Ship Owners stated that the 10 per cent increase in charges and 15 per cent increase in levies was unacceptable and very concerning when considering that the CPI was 7 - 8 per cent. Shipping was in a global recession and such high increases were unacceptable. Further, it was noted that there were R36 m in reserves. It was considered that if R 4 m of the increase could come from reserves and an inflation rate increase applied to charges and levies, the increases would then be acceptable.
- There was added resistance to the level of the increase in user and levy charges in the light of the Government Service Fee for 2002/2003 having a zero increase. Thus government was not faced with an increase in SAMSA charges. Not acceptable as industry was facing an increase.
- An explanation was requested as to the use of the Levy Equalization Fund.
- The SA Ship Owners representative requested information as to how soon the new Ships Registration Bill would be implemented as Safmarine was considering placing vessels on the Flag but could not delay the process too long.
- It was commented upon that whilst in the opinion of most of the industry SAMSA was performing extremely well in maritime safety and pollution matters, there was resistance to SAMSA involvement in HIV/Aids and Crew Welfare.
- A question was asked as to why SAMSA was carrying out another job grading exercise when one was done between 8 and 15 months after commencement. It was considered to be too soon after the last exercise.

- There was general disagreement to the appointment of Head of Internal Audit. This would increase the head count and would put a question on objectivity. There was general debate that external auditors who were independent were best suited to this function.
- Industry expressed concern on no provision for salary increases for the next three years. There was a possibility of losing expertise.
- There was general concern expressed at the level of the SAMSA Cadet salaries which were approximately 100 per cent above the industry norm. This was considered to be a contentious issue.
- It was requested that the SAMSA increases should be discussed much earlier with Industry as most of them had already completed their budgets for the year ahead.
- It was enquired as to whether a Balance Sheet with past, current and future information could be provided at following sessions with the industry.
- It was enquired as to whether SAMSA has made a comparison against the Classification Societies.
- SAMSA was asked was it in a position to identify which users pay for which services.
- With regard to staff training, it was enquired as to whether there were any 'pay-back' clauses.

## PRETORIA:

- A question was asked as to which SETA SAMSA contributed towards and from which it could claim its training refunds.
- It was enquired as to whether SAMSA had sought any benchmarking and were the services rendered benchmarked and costed.
- It was noted that the Government Service Fee had not been increased for the year ahead and this indicated that government was being given preferential treatment.
- It was enquired as to whether SAMSA had considered the change in TRAFFIC size and that coastal feeder services should be encouraged.
- There was general comment that the increases, although above inflation, were acceptable to the particular industry represented by many persons present.

## GENERAL COMMENTS BY THE ORGANISER

- There were no adverse comments on the proposed budget with respect to Income and Expenditure. The comments were all of concern as to how the income was to be achieved.
- The Board should consider using R 3.52 m from reserves, then the increases in the fees and levies could be restricted to 7 per cent which is close to the Inflation Rate and CPI.
- The Board should consider, resolving the Cadet Salaries issue and align with the Industry norm.
- The Board should consider establishing a liaison committee between the relevant government departments to resolve the concerns of industry particularly in the fishing industry and the SA Flag issue.
- The Board should approach the Minister in respect to the outstanding legislation that has been submitted by SAMSA to the The Department officials.

## STAKEHOLDER ORGANISATIONS CONSULTED BY AGENCY REVIEW TEAM

ACSA

Airline Pilots' Association of South Africa

ATNS

Automobile Association of South Africa

BA Comair

Biddulphs Removals

Consultants/advisors/contractors (various - would prefer not to be named)

Department of Trade and Industry

Development Bank of Southern Africa

Eyethu Fishing

Freestate Province Department of Public Works

Gautrans

Johannesburg-Maputo Taxi Association

Johannesburg-Zimbabwe Taxi Association

Moe & Co

National Department of Transport

National Port Authority

National Sea Rescue Institute

National Treasury

Office of the Public Service Commission

Public Service Accountability Monitor

Public Service Trade Unions

Road Freight Association

SABITA

SATAWU

Smit Pentlow

South African Airways

South African Association of Freight Forwarders

South African Bus Operators Association

Tshwane Metropolitan Municipality



APPENDIX 3: AGENCY PERFORMANCE QUESTIONNAIRES

Specimen of questionnaire

(The same questionnaire was used in all instances except for a change of name for the respective agency)

Cross Border Road Transport Agency (CBRTA)

1. How do you rate the performance of the Cross border road transport agency in delivering its functions?

a) Currently as a private agency

Good	Adequate	Poor
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AND

In relation to previous performance by DOT

Better	Same	Worse
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2. Have you, as a client or user of the services provided by the agency been consulted regarding;

(a) Your requirements or needs

YES/NO

If yes: once only/seldom/frequently

(b) The agency’s policy or approach in delivering the service

YES/NO

If yes: once only/seldom/frequently

3. Do you consider the idea of using agencies to perform functions previously performed by government as the best way of service delivery?

YES/NO

Why?

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4. Do you consider the Board members of the Cross Border Road Transport Agency to have adequate expertise with cross border transport issues?

YES/NOT SURE/NO

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**Please elaborate**

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5. Have you ever seen the Agency's;

(a) Business Plan

**YES/NO**

(b) Annual Report of the Board

**YES/NO**

6. (Suppliers only). As a supplier of professional advice or services to the Agency, are you satisfied with its professional appointment or tender or allocation procedures?

**YES/NO**

7. Do you think that the Agency is meeting its transformation objectives?

**YES/DON'T KNOW/NO**

8. What is your overall impression of the way the Agency is being managed by its management?

**GOOD/ADEQUATE/POOR**

9. Would you say that there is a conflict of interests of the Board members within the Agency?

**YES/NO**

10. Are the functions performed by the Agency, from your point of view, a necessity?

**YES/NO**

Elaborate

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11. Are the services provided by the agency a value for money?

**YES/NO**

12. Any other comments you would like to make.

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## APPENDIX 4: ANALYSIS OF QUESTIONNAIRE RESPONSES

1. PERFORMANCE RATING				
		GOOD	ADEQUATE	POOR
• Current	SAMSA	50%	50%	
	SACAA	41%	30%	29%
	CBRTA	57	43%	
	SANRAL	75%	25%	
	Math average	56%	37%	7%
• Compared to previous		BETTER	SAME	WORSE
	SAMSA	40%	20%	40%
	SACAA	71%	15%	14%
	CBRTA	88%		12%
	SANRAL	60%	40%	
	Math average	65%	19%	17%
2. CLIENTS CONSULTED			YES	NO
* On Requirements/Needs	SAMSA		100%	
	SACAA		71%	29%
	CBRTA		57%	43%
	SANRAL		80%	20%
	Math average		77%	23%
* Frequency [Needs]		ONCE	SELDOM	FREQUENTLY
	SAMSA		75%	25%
	SACAA		100%	
	CBRTA			100%
	SANRAL	25%	75%	
	Math average	6%	63%	31%
* Consulted on policy			YES	NO
	SAMSA		100%	
	SACAA		57%	43%
	CBRTA		50%	50%
	SANRAL		60%	40%
	Math average		67%	33%
* Frequency [policy]		ONCE	SELDOM	FREQUENTLY
	SAMSA		50%	50%
	SACAA		100%	
	CBRTA		50%	50%
	SANRAL		100%	
	Math average		75%	25%
3. IS IT A GOOD IDEA TO USE AGENCIES FOR SERVICE DELIVERY?			YES	NO
	SAMSA		100%	
	SACAA		100%	
	CBRTA		100%	
	SANRAL		100%	
	Math average		100%	
4. DO BOARD MEMBERS HAVE ADEQUATE AND APPROPRIATE EXPERIENCE?		YES	NOT SURE	NO
	SAMSA		75%	25%
	SACAA		28%	72%
	CBRTA	50%	25%	25%
	SANRAL	20%	60%	20%
	Math average	18%	47%	35%

5. HAVE YOU SEEN THE AGENCY'S BUSINESS PLAN?			YES	NO
	SAMSA		80%	20%
	SACAA		50%	50%
	CBRTA		57%	43%
	SANRAL		100%	
	Math average		72%	28%
6. AS SUPPLIER, ARE YOU SATISFIED WITH TENDER PROCEDURES?		YES	NO	DON'T KNOW
	SAMSA	75%	25%	
	SACAA	67%	17%	16%
	CBRTA	57%		43%
	SANRAL	100%		
	Math average	75%	10%	15%
7. ARE THE AGENCIES MEETING THEIR TRANSFORMATION OBJECTIVES?		YES	NO	DON'T KNOW
	SAMSA	60%		40%
	SACAA	70%	15%	15%
	CBRTA	50%		50%
	SANRAL			100%
	Math average	45%	5%	50%
8. IMPRESSION OF THE WAY THE AGENCIES ARE MANAGED		GOOD	ADEQUATE	POOR
	SAMSA	60%	40%	
	SACAA	14%	58%	28%
	CBRTA	50%	38%	12%
	SANRAL	75%	25%	
	Math average	50%	43%	7%
9. ARE THERE CONFLICTS OF INTEREST BY BOARD MEMBERS?		YES	NO	DON'T KNOW
	SAMSA	25%	75%	
	SACAA	43%	57%	
	CBRTA	25%	38%	37%
	SANRAL		100%	
	Math average	23%	67%	9%
10. ARE ALL THE FUNCTIONS PERFORMED BY THE AGENCIES NECESSARY?			YES	NO
	SAMSA		100%	
	SACAA		100%	
	CBRTA		100%	
	SANRAL		100%	
	Math average		100%	
11. ARE THE SERVICES PROVIDED VALUE FOR MONEY?		YES	NO	DON'T KNOW
	SAMSA	50%	50%	
	SACAA	43%	43%	14%
	CBRTA	50%		50%
	SANRAL	80%		20%
	Math average	56%	23%	21%

## **APPENDIX 5: SANRAL OVERVIEW OF GOVERNMENT EMPLOYEES PENSION ISSUE**

**The following document was received from SANRAL to endorse the agencies' concern about unresolved personnel matters:**

An outstanding problem is the transfer of employees' benefits from the Government Employees Pension Fund (GEPF). This matter remains unresolved since the inception of SANRAL in April 1998.

Before joining the agency, colleagues were employed by THE DEPARTMENT. They were advised to request that their benefits be transferred individually, in terms of the Rules of the GEPF. This was agreed with all the relevant parties, including the Chief Directorate: Pensions Administration (CD: PA). Hence the agency catered for such a transfer in its founding Act, as well as the fact that any shortfall in the fund would be made good.

Towards the end of 1998, the CD: PA indicated that such a transfer could no longer take place and that their rules only allowed for a group transfer in this case. This obviously held various implications since colleagues had entered into a collective agreement and the transfer benefits as a group did not hold the same benefits, such as change also held certain tax implications which would disadvantage them.

This led to dispute with CD: PA and, despite correspondence at Ministerial level, the matter delayed. The agency sought legal counsel during July 2000 and subsequently came to an agreement with the CD: PA that benefits would be transferred as originally agreed. A workshop was held with colleagues, representatives from the CD: PA, the GEPF actuaries and other financial/tax advisors during November 2000, where colleagues were presented with various options, acceptable to them.

The agency has met all the requirements put by GEPF. Those colleagues, who later opted for a resignation benefit, were fully compensated during February 2001. The remainder have chosen to have their benefits transferred to a Retirement Annuity and have made arrangements with the relevant companies for the receipt of such benefits. To date (July 2002) these transfers have not taken place.

