

Regional Activity to Promote Integration through
Dialogue and Policy Implementation (RAPID)
REGIONAL MARKET INTEGRATION



**SUPPORT FOR
TRANSPORT AND TELECOMMUNICATION REFORM IN
SOUTHERN AFRICA:
PROTOCOL IMPLEMENTATION**

TECHNICAL ASSESSMENT REPORT:

**REVIEW OF NAMIBIA RAILWAY AND
RAPID SUPPORT OPTIONS**

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ABBREVIATIONS

MoWTC	Ministry of Works, Transport and Communications
RAPID	Regional Activity to Promote Integration through Dialogue and Policy Implementation
RCSA	(USAID) Regional Center for Southern Africa
SADC	Southern Africa Development Community
SWA	South West Africa
TNL	TransNamib Holdings Ltd
USAID	United States Agency for International Development

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TECHNICAL ASSESSMENT REPORT: RAPID ASSISTANCE FOR NAMIBIA RAILWAY

1. INTRODUCTION

1.1 THE RAPID ACTIVITY

RAPID (Regional Activity to Promote Integration Through Dialogue and Policy Implementation) is an initiative hosted by RCSA (the Regional Centre for Southern Africa of the USAID) as part of its development assistance programme to Member States within SADC (Southern African Development Community).

RAPID is designed to provide quick-response, short-term technical services to support policy analysis, policy dialogue, and the implementation of policy changes within SADC Member States. Within this context, RAPID offers assistance to SADC Member States to pursue regional market integration

Transport plays a critical role in the integration of regional markets. This role is clearly recognized in the SADC Protocol on Transport, Communications and Meteorology which calls on Member States to “*establish transport, communications and meteorology systems which provide efficient, cost-effective and fully-integrated infrastructure and operations, which best meet the need of customers and promote economic and social development while being environmentally and economically sustainable.*” (Article 2.3).

A major portion of RAPID (Task Order 2.1) provides technical support to SADC Member States as they position their transport infrastructure and operations in terms of the Protocol as stated above.

National railways are a strategic part of each Member States’ transport portfolio. Viewed collectively, SADC’s railway system has the potential of an efficient, cost-effective, and seamless regional railway service, and one that can compete with road transport operators.

To achieve this, however, and in terms of the Transport Protocol, Member States are required to commit to an economic and institutional restructuring of railways. This includes granting railway service providers autonomy, increasing private sector involvement in the national railway, enhancing its operational efficiency, and promoting the establishment of integrated transport systems. To achieve this, the Protocol calls on the Governments of the Member States to expand and strengthen capacity to develop, implement and monitor supportive railway policy, legal and regulatory frameworks.

These are specific objectives within the Protocol, and they form the basis that has guided our investigation of assistance that can be offered to the railway sector in Namibia, under the RAPID activity.

1.2 APPROACH

Our approach to this assignment has comprised extensive desktop study of reports, policy documents, and legislation, and an in-country assessment during which interviews were held with public and private sector stakeholders, including the national railway and its Holding Company. The in-country assessment was conducted by an interdisciplinary team comprising:

- Mr. Larry Phipps, a Railway Specialist;
- Mr. Rory Downey, an Institutional Development Specialist; and
- Ms. Tracy Field, a Legal/Regulatory Specialist.

The in-country visit occurred between 3rd and 8th December 2000. A list of persons interviewed is attached (**Annex A: Namibia In-Country Visit: Interviews**).

This report, compiled from the material reviewed and from information gleaned during the interviews, presents the findings and recommendations of the consultant team and is focused on assistance the RAPID team can offer to strengthen the railway transport sector in Namibia. The report also provides an overview of current participation by donors other than the USAID in order to identify areas of potential synergy and avoid potential overlaps.

These findings and recommendations are based on the current status of Namibia's railways as presented to the consultants and are based on a review of the legal/regulatory framework as it currently exists.

2. **NAMIBIA RAILWAYS REVIEW**

2.1 BACKGROUND

Namibia's railway system operates from a connection with Spoornet near Uppington/Nakop, north through Windhoek to Walvis Bay. From this core mainline route, branches extend from Seeheimnoord to Luderitz (318km); from Windhoek to Gobabis (225 km); from Kranzburg to Tsumeb (391 km); from Otavi to Grootfontein (90 km); and from Otjiwarongo to Outjo (69 km). The rail network covers 2382 km.

The railway has been operated as a Namibian parastatal since 1990 and has seen tonnage hauled decrease from 4 million annual tons in 1980 to 1.5 million tons in 1999 due mainly to reduction in mining and import traffic from South Africa. Given these volumes, the self-sustainability of the railway as an independent going concern and as it is currently structured, is questioned.

The management of the railway has been restructured several times in recent years and now is a subsidiary company within TransNamib Holdings Ltd, operating as TNL. Its operations include the road transport sector. In recent years financial performance has been marginal and prospects for the future, as now structured, remain to be seen.

The most recent restructuring removed the airline component, Air Namibia, from the holding company. As a part of the restructuring, the government has agreed to repay approximately N\$172 million from the airline's previous losses, to the railway, in four equal annual installments. The first installment of N\$43 million has been received. Future installments have already been secured as collateral for loans established from commercial sources, and these installments from Government appear to bolster the working capital required to support ongoing operations. Unless volumes and revenues are improved significantly, the railway faces difficulties within a few years when these installments are no longer received.

Current management views its responsibility as operating the railway for profit and as a private company, and dependant upon internally generated funds for its capital and expense needs. Privatization, as envisioned by the protocol, with private sector investors, is not an immediate goal. Management believes that profitability within the current structure is possible, and that in the future a degree of privatization will come about through the sale of some of the shares that are currently held by the Ministry of Finance. Beyond the sale of shares at some time in the future, there is no immediate plan to privatize through concession.

Staffing levels are high, although there is not the level of overstaffing that other parastatal railways in the region face, and there is currently no plan in place for any significant downsizing of the workforce.

2.2 THE NETWORK

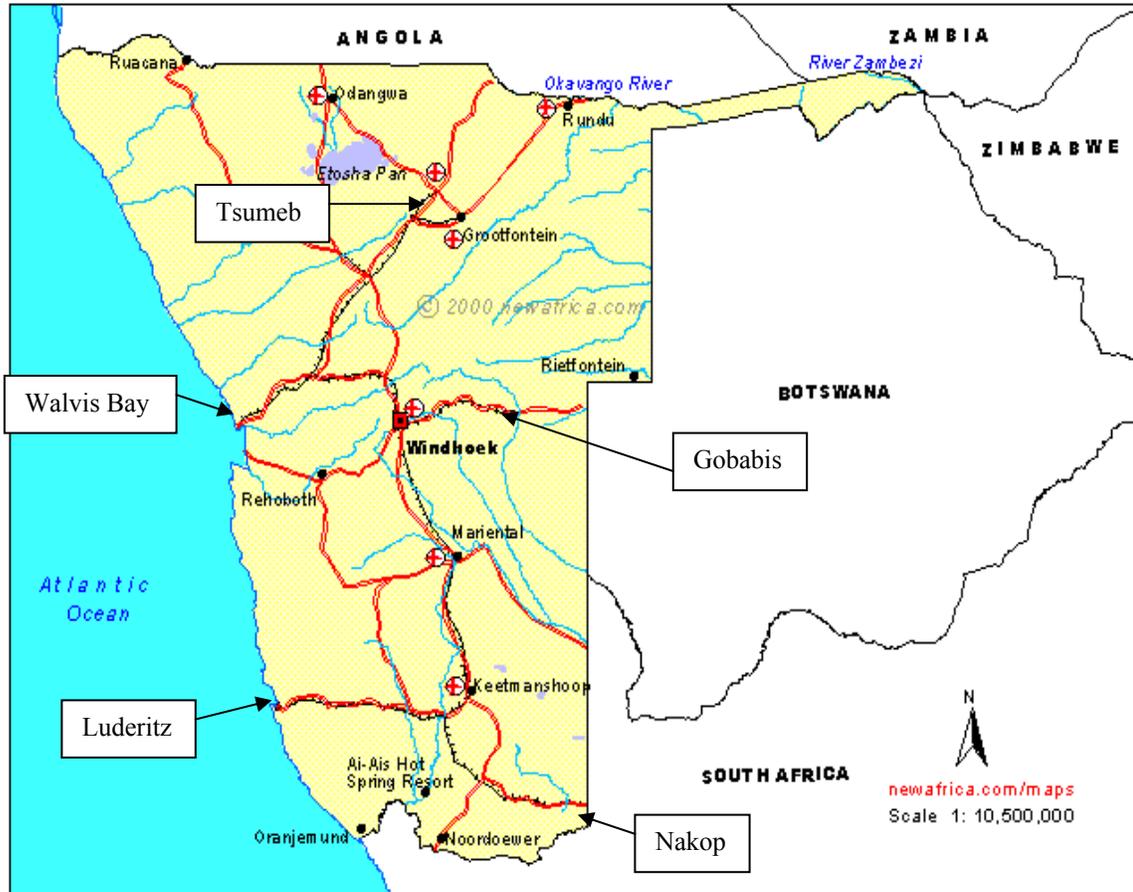
The mainline core route extends from Uppington/Nakop to Walvis Bay. Interchange to and from Spoornet is accomplished at Ariamsvlei, near Nakop, for traffic moving to and from South Africa. The traffic on this route is moved to Windhoek for marshalling, and for dispatches to Walvis Bay and other points on the branch lines. The branch line from Otjiwarongo to Outjo is currently out of service and is not covered by this report. The branch line between Seeheimnoord and Luderitz, which has been out of service and in disrepair, is now undergoing rehabilitation at government direction and expense.

Approximately two trains operate in each direction between Nakop and Windhoek. This core route handles 900,000 gross tons each year (60% of total TNL tonnage) and is one of the key corridors of TNL. Beyond Windhoek trains are operated for Walvis Bay and also for the branch line from Kranzburg to Tsumeb and Grootfontein. Approximately three trains in each direction run between Windhoek and Kranzburg daily. There, 1.5 trains in each direction are moved between Kranzburg and Otjiwarongo where trains are broken and switched for movement to either Tsumeb or to Grootfontein. The trains destined for Walvis Bay travel through Kranzburg to Walvis Bay. Total annual gross tonnage handled between Windhoek and Kranzburg is 750,000 gross tons; between Kranzburg and Walvis Bay approximately 625,000 tons; and between Kranzburg and Otjiwarongo approximately 386,000 tons. Movement beyond Otjiwarongo is principally to Tsumeb, to which 175,000 tons are being moved in 1.5 trains per day in each direction. Only 84,000 tons move on the branch line to Grootfontein, in only 1 train per direction on alternating days.

The branch line to Luderitz is being rehabilitated at government expense in order to better support port development and mining activity along the route. Very little tonnage currently moves on that line. In 1999, this amounted to 97,000 gross tons between Seeheimnoord and Aus with only 1,000 tons continuing to Luderitz. Train movements average less than one in each direction each day.

Between Windhoek and Gobabis the principal movement is fuel oil to supply the international airport, with the total route handling 260,000 gross tons, of which 144,000 (55%) moves beyond the airport to Gobabis. One train per day in alternating direction is operated on this line.

NAMIBIA OVERVIEW MAP



2.3 MANAGEMENT, LABOUR AND PERFORMANCE

2.3.1 Management

Within TransNamib Holdings Limited, the railway operates as a semi-autonomous company, having its own Chief Executive who reports to the entity's own Board of Directors. The company is organized along functional lines with the operations department comprising the largest segment. Three Regional Managers (the Chief Civil Engineer, the Chief Mechanical Engineer, and Manager Operations Planning) report to the Senior Manager Operations, who in turn reports to the Chief Executive. Other department heads who report to the Chief Executive include Commercial Services, Human Resources, Finance and several staff departments. Most of the department heads and middle managers are experienced railway managers.

There are two management agreements entered into between the Government and TransNamib Holdings that govern the management and operation of the Namibian Railway. The first, *The Performance Agreement*, sets out certain performance standards for the railway. The second, *The Agreement For The Management of The Namibian Railways*, outlines the scope of work, maintenance parameters and maintenance standards, reinvestment and upgrading parameters, and establishes procedures for regulating the railway. Copies of the agreements are attached as annexes. A review of each agreement is important as they weigh heavily on the future prospects for the successful financial operation of the railway.

The agreements stipulate that the ownership of the railway vests in the State and that it will be managed by the holding company. The agreement includes terms and conditions providing for:

- “The compilations and publications of Railway Procedures in pursuance of any direction issued by the Minister relating to:
 - The minimum standards for the maintenance of the railway,
 - Any other matter connected to the functioning of the railway...
- The basis on which an upgrading of the railway will be funded by the State and the holding company....”

Maintenance is defined as the maintenance work required to maintain the railway to the standards provided for in the railway procedures and includes maintaining proper geometry, fasteners, switches, lubricators, bridges, markers, vegetation control, rail welding, surfacing and inspection.

Reinvestment is defined as including rail relay; re-sleepering, re-ballasting and resurfacing; and bridge replacement. All of these categories are caused by wear and tear, and replacement is required with the same type, design standard and quality of material. Upgrading is defined to include rail relay with heavier rail, re-sleepering and re-ballasting to provide for increased axle loads and higher speeds, and rail welding to increase serviceability.

For each of the three categories, maintenance, reinvestment and upgrading, the contract sets out which party--the State or the holding company (TNL)--is responsible for funding the project. Essentially, all maintenance and reinvestment activities are to be funded by the holding company. The funds for upgrading to improve design standards, to reduce maintenance costs or meet market demand are to be provided by the holding company, where the holding company initiates the change. The State will fund only that part of upgrading which the State requests and which the holding company cannot reasonably recover from the users.

The difficulty inherent in this approach is determining just what constitutes normal wear and tear. In the case of the Namibian railway, so much normalized replacement has been deferred that a rail relay or a re-sleepering is not just maintenance, but is instead a capital improvement brought about by the years of deferred maintenance. The burden for omissions of the past ten years thus falls upon the holding company (TNL), which will be required to fund those renewal projects, which should have been undertaken by the State over the past ten years. It is difficult to see how the holding company itself will be able to generate the funds necessary to make up for the ten years of under-funding of normalized maintenance as experienced when the railway was under the State control. Further discussion on the extent of past under-funding will be discussed in the infrastructure section.

Conclusion: The management agreement, as set out above, will not bring about an improvement in the railway infrastructure and, therefore, continuing deterioration of the infrastructure could be anticipated. A thorough evaluation should be made of the condition of the infrastructure, the expected life of its components, and an independent assessment of the capital improvements required to overcome the deferred maintenance of the past. Funding should be based upon whether the improvements are simply ordinary maintenance, or whether the needs are to overcome investment and maintenance omissions of the past. Alternative funding mechanisms should be investigated.

2.2.2 Labour

Labour force levels have declined by approximately 700 employees since 1996. In 1999 a voluntary separation program resulted in approximately 400 employees leaving the service. Retrenchment costs were born by the holding company. Currently there are approximately 2250 railway unit employees, with the commercial department having 65 employees, human resources having 22, finance having 108, management services having 132, and operations having 1919. Operations is comprised of northwest region having 305 employees; central south having 552;

RSA having 87; operations planning having 20; mechanical rail having 197; mechanical road having 189; and maintenance of infrastructure, telecom, and electrical having 533. These numbers include those whose principal duties are associated with road transport.

There is no well-defined plan to reduce employment to a targeted level, although it is acknowledged that the number of employees is currently greater than the needs of the service. A well managed operation utilizing mechanized maintenance techniques, outsourcing the repairs of certain mechanical components, and streamlined staff and accounting functions would require approximately 600 employees for the railway part of the operation. This manpower projection is based upon two man train crews operating 200 trips of 200km per year with a 50% reserve; 100 man hours per wagon for repairs; two men per locomotive; sufficient 5 man squads at appropriate intervals for maintenance of permanent way; adequate station and dispatching personnel and a general and administrative staff of thirty employees.

Conclusion: A manpower plan should be developed to staff the railway at the level required for efficient operation of this size. Surplus employees should be given the retrenchment benefits required by law and placed in other industries where they can be productively engaged. Funds from reduced payroll could be allocated to the maintenance of the railway infrastructure and equipment.

2.2.3 Performance

Over the past two decades tonnage handled has declined sharply. From the 1980 level of 3.9 million tons, the decline brought 1990 tonnage down to 1.6 million tons where it held fairly steady until 1999 when it decreased to 1.4 million tons. Compounding the decline in total tonnage was the shift in traffic mix, which resulted in ton kilometers (tkm) decreasing due to shorter length of haul. Tkm was down to 846 million in 2000, only 24% of the 1980 level of 3.5 billion.

Namibia Railway: Freight Volume 1994 to 2000

TONS TRANSPORTED	1994	1995	1996	1997	1998	1999	2000
LOCAL	1,169,280	1,206,864	1,276,000	1,115,715	1,252,812	1,068,791	1,083,498
IMPORT	416,640	426,564	368,368	341,221	331,476	282,787	286,679
EXPORT	94080	100,572	115,280	130,140	115,591	98,613	99,970
TOTAL TONS	1,680,000	1,734,000	1,760,000	1,587,077	1,699,881	1,450,191	1,470,147
TOTAL TKM (000)	1,075,000	1,077,000	1,082,000	970,000	983,000	867,100	846,000

With the decrease in traffic, revenues and earnings have also declined in real terms. While comparison of financials is somewhat difficult due to restructuring, it is apparent that the financial performance of the railway has worsened in recent years. Operating income after expense has been negative for each of the last three years. After allocation of Group Administration Expenditure, the accounting of which has apparently changed, the losses are significant. The following chart shows performance over the last 7 years. Group Administration Expense allocated to the rail unit is assumed at the 1994 rate, actual is probably higher. The 1999 annual report did not State railway revenues, expenses and income/(loss) separately from the Group as had been done in earlier years.

Namibia Railway: Financial Performance 1994 – 1999

(000)	1994	1995	1996	1997	1998	1999
REVENUE	155,619	156,940	165,737	166,550	173,021	169,731
EXPENSE	139,778	148,487	153,264	172,599	177,542	***
OPERATING INCOME	15,841	8,453	12,473	(6,049)	(4,521)	***
GROUP ADMIN EXPENSE (ESTIMATED)	14,200	14,200	14,200	14,200	14,200	14,200
NET INCOME (LOSS)	1,641	(5,747)	(1,727)	(20,249)	(18,721)	***
DEPRECIATION	2,139	2,174	2,965	4,347	4,360	4,195

Note: depreciation is included in Expense, and is here shown separately for purposes of analysis. *** Data for railway segment unavailable in annual report due to restructuring and accounting change. Group admin expense assumed at 1994 level, not separately reported for railway segment.

Depreciation appears low for an entity possessing a 2382 km railway asset. Two factors account for this. In the first instance, expenditure for rail, sleepers and ballast are expensed at the time of renewal rather than capitalized, and thus there is no depreciation on the infrastructure. Secondly, the rolling stock fleet was entered in the books at cost when transferred from South African Transport Services. These rolling stock assets are carried at cost less depreciation, annual depreciation is very low due to the age, and the assets are at a near fully depreciated book value. Replacement cost, however, will reflect today's purchase prices of almost N\$10 million for a freight locomotive. In the accounts of the railway, however, it appears that the depreciation charges are based upon an asset valuation that is less than 10% of today's replacement cost.

This understatement of depreciation was clearly recognized in the 1995 White Paper on Transport Policy, prepared by the Minister of Works, Transport and Communication. The report states in part *“As concerns the equipment, on the other hand, there is a need to consider that it will have to be renewed eventually, and that the investment in the new equipment should also yield a return. Considering the replacement cost of locomotives and wagons required to sustain the present level of operation as well as the requirement for a return on capital, the annual capital cost for the equipment should at least amount to a sum of the order of N\$ 20 million.”*

To amplify on this point, the 1996 annual report reflected rail rolling stock cost of N\$57.0 million, with accumulated depreciation of N\$34.7 million. This book value covers a fleet of over 50 locomotives with an average age of 30 years, and 1,600 wagons with an average age of 25 years. While not all are required for service, and while eventual replacement might not be in new equipment, it should be noted that replacement of only ten locomotives at N\$ 10 million would require N\$ 100 million. An analysis of the freight wagon fleet would result in similar conclusions, i.e. depreciation charges and reserves for equipment replacement that appear inadequate for the railway.

As is discussed further in the report, investment/expense for infrastructure renewal is similar. Present rates of renewal and reserves for replacement are inadequate.

Conclusion: Present provisions for equipment replacement and renewal are inadequate and the financial statements appear to understate depreciation expense. A replacement plan, developed around significant improvement in equipment utilization, making use of in house rehabilitation

programs, and acquiring second hand equipment where possible, should be developed and reserves to fund that plan should be accounted for.

2.3 TNL RAIL TRAFFIC

2.3.1 Local

Local traffic makes up the majority of TNL tonnage, accounting for 74% of the total in 1999. The local traffic share of total has increased as the import/export from South Africa has declined. The major categories of the local traffic are mining, agriculture, bulk liquid, and containers.

Ores and minerals account for 212,134 tons which principally consist of flourspar from Okoruso to Walvis Bay for export, 67,846 tons; lead concentrate from Aus Neck to Walvis Bay for export, 23,239 tons; salt from Swakopmund to various destinations, 32,200 tons; manganese from Walvis Bay to Arandis, 35,398 tons; copper concentrate from Kombat to Tsumeb, 15,017 tons; copper ingots from Tsumeb to Walvis Bay, 10,251 tons, (copper is also starting to move from Walvis Bay to Tsumeb); and coal from Walvis Bay to Tsumeb, 16,580 tons.

Agricultural products account for 84,300 tons and consist of maize, 45,800 tons, stock feed 6,855 tons, and sugar 31,001 tons. Building products of 78,379 are principally cement from Windhoek to various destinations, 58,646 tons. Containers account for 112,653 tons and move principally from Walvis Bay to various destinations, 54,377 tons; from Windhoek to various destinations, 16,429 tons; and from Tsumeb, 4,330 tons. The largest business segment is bulk liquids which total 629,991 tons, approximately 41% of the total tonnage hauled. Of that, the major flows are petrol from Walvis Bay and diesel from Walvis Bay to various destinations, a total of 331,749 tons; aviation fuel from Walvis Bay to Windhoek, 48,289 tons; and sulfuric acid moving from Walvis Bay to Rossing, 233,481 tons.

Conclusion: With such a small number of commodity flows accounting for a large percentage of total tonnage and revenues, TNL can be expected to concentrate on protecting its existing market share whilst developing marketing strategies to capitalize on these high volume origin-destination flows. Service design is likely to focus on these high volume flows, and schedules would be arranged to maximize equipment utilization on this particular element of the business.

At present only eight customers account for 90% of total revenues and all efforts should be aimed at satisfying the service needs of these clients. While some of these flows might be less susceptible to highway diversion, any diversion in these areas will critically affect TNL performance. Proactive steps to protect these flows and to increase tonnage in alternative sectors and concentrating on what rail does best, i.e. moving bulk commodities in large volumes, would be in the best interests of the business.

It is anticipated that analyses of other business segments are continuously made to ensure that management effort, manpower levels, and equipment supply are not being unduly focused on traffic with marginal returns or on commodities which are more susceptible to highway diversion.

2.4.2 Import Traffic

Import traffic has diminished in importance in the last ten years. Since 1994 import tonnage has decreased from 416,000 tons to 379,333 in 1999. One of the few bright spots in import traffic is the increase in shipments of cement from South Africa, 239,410 tons, mainly to Windhoek. Copper and manganese imports for smelting/refining total 33,331 tons and could be expected to increase as world markets improve. Maize, 44,922 tons and stock feed, 23,192 tons, liquefied petroleum gas, 7,963 tons and container traffic, 12,463 tons make up the balance.

It can be expected that import traffic from South Africa will continue to face strong competition from road carriers, and a shift to the Trans Kalahari highway for traffic moving to the industrial

areas of Gauteng can also be expected. Efforts to retain this traffic should be tempered, and should rather be focused on those bulk commodities for which rail is ideally suited. General cargo will be difficult to retain and, possibly, stringent cost control and management efforts along the Nakop corridor would be preferable to attempt to gain lower volume general traffic against strong odds.

2.4.3 Export Traffic

In terms of tons, export traffic hasn't declined as much as import, but has declined from its 1997 high of 130,000 tons to 94,940 last year. Almost all of the tonnage is zinc concentrate, 83,952 tons last year, moving from Ausnek to Daggafontein. This segment isn't so competitive and won't suffer diversion pressures from the Trans Kalahari, but it represents only 6% of total tonnage. Dependable equipment supply and service should protect this business.

Conclusion: Traffic growth along the Nakop corridor will be difficult to achieve. Intense competition and alternative highway routes make this corridor less important to TNL than in the past. Future growth efforts could be focused around Walvis Bay and should incorporate intermodal opportunities. Import traffic from Walvis Bay destined for the industrial areas around Johannesburg and moving along the Trans Kalahari Corridor is well suited to intermodal transport - utilizing rail from Walvis to either Windhoek or Gobabis and road to destinations beyond. The same intermodal opportunities exist from Walvis Bay to Zambia, moving on rail to Grootfontein, on highway to Livingstone, and on rail from Livingstone to destinations beyond. Returning traffic flows could be handled in a similar, but reverse fashion.

2.5 TNL ASSETS

2.5.1 Infrastructure

The mainline from Nakop to Windhoek is a mixture of steel and concrete sleepers with the preponderance of the rail being 48kg CWR. Most of the 48 kg rail was rolled in the 1970's. The steel sleepers are mainly 40kg sleepers with some 30kg sleepers on the southern end of the line. Between Mariental and Rehoboth there are segments of 57kg rail. A short segment between Holoog and Seeheimnoord is laid with 30kg rail that was installed in the 1950's and 1960's.

The line between Windhoek and Walvis Bay is also a mixture of steel and concrete sleepers, with the rail being mainly 40kg and 48 kg. Of the rail observed, most had been laid second hand and much was rolled in the 1950's and 1960's. A high percentage of that observed has been laid on concrete sleepers with pandrol or fist fasteners. Surface condition on all observed portions was good and this is attributed to the policy of resurfacing on a three-year cycle. A short segment between Windhoek and Otjihavara is scheduled to be upgraded. Track condition improves between Kranzburg and Walvis Bay. The balance of the route is in good condition for the tonnage handled and speeds traveled, which on average are 60kmh.

Between Kranzburg and Tsumeb the rail is 30kg on steel sleepers with the rail having been laid in the 1960's. The surface is adequate and that again is due to the practice of frequent resurfacing and using sufficient quantities of ballast. On all of the routes rail is welded into 36-meter lengths, with some being welded to 72 meters. Joint condition is good. The line to Grootfontein is without ballast, but is adequate for the 84,000 annual tons carried.

The branchline from Windhoek to Gobabis is 22kg rail, on steel ties, but is without ballast beyond the 67km mark. Much of the rail was rolled as long ago as the 1910s and 1920s. Line condition for the approximately 144,000 gross tons moved over the line is adequate, but it will require upgrading and heavier rail if tonnage carried increases. Between Windhoek and the airport some 260,000 tons are carried, and the line was upgraded to 30kg rail in 1970.

Further south, the branchline to Luderitz is presently being upgraded at government expense. Tonnage is very light and second hand 40 kg rail is being used, and laid on concrete ties. It is reported that the decision to upgrade the Luderitz line has not necessarily been based on economic consideration alone – particularly as other segments are more in need of upgrading. Government is, however, itself bearing the costs incurred on the Luderitz line upgrade.

Five hundred employees, assigned in squads of approximately 13 men per squad maintain the track. Each squad is equipped with a 5-ton truck, mechanical tampers, rail saws, etc. Scheduled resurfacing is contracted to tamper manufacture employees, utilizing railroad owned equipment. Rail welding is also contracted out.

There are few speed restrictions on the system and the core mainline routes are operated at 60 kmh.

Conclusion: The Namibia railway infrastructure is adequate for current business levels. However investment in rail and sleepers hasn't been adequate to ensure ongoing serviceability, and has been inadequate to sustain an infrastructure attracting high volume growth. Since acquiring the railway in 1990, the renewal of rail and sleepers hasn't been adequate to prevent deterioration of the infrastructure.

All track components have a finite life, depending upon tonnage carried, track geometry, weather, age and other factors. On a normalized basis, renewal should be based upon predicted component life. In the case of TNL renewals haven't kept pace with the requirement based on the predicted life. As an example, much of the rail was originally rolled in the 1950's, saw service as another railway line, and was subsequently relaid in TNL. While total accumulated tonnage transported cannot be determined, it must be assumed that a major portion of the service life of this rail was expended prior to being relaid for TNL.

An assumed rail life of 50 years would require replacement of two percent each year. Similarly, sleeper life of thirty years for steel ties would require replacement of 3 % each year. Annual costs of rail, sleeper and resurfacing renewals on the assumed life, i.e. 50 year rail life and 30 year steel tie life, are in excess of N\$ 70 million annually. Current budgets allow less than N\$30 million. Furthermore, replacement reserves and annual budgets are insufficient to maintain serviceability in the long term. Immediate attention to this matter is required.

2.5.2 Locomotives

The TNL fleet today amounts to 47 locomotives, 43 of which are in service, and 4 out of service. Three wrecked locomotives will probably be scrapped. Eight of the locomotives have been rebuilt in the past five years and seven more factory-remanufactured engines are on hand to rebuild another seven (these replacement engines have been on hand for six years awaiting installation). The main freight fleet is old, having average age in excess of thirty years, is principally General Electric, with the U20 C being the main freight locomotive. The fleet has also suffered from maintenance neglect, much of which is due to the pre TNL period when South Africa was unable to obtain replacement parts due to the international embargo.

Despite its age, availability of the fleet is high at 85%. Productivity has room for improvement. Average train speed is 41kmh, average train size 760 gross tons and on average there are 1.3 locomotives per train. Based upon recent performance figures, locomotives are in use only six hours per day.

Conclusion: A review of system schedules should be made to drive locomotive productivity higher by reducing terminal turn around time. A review should also include optimizing yard locomotive usage, including a program to store unneeded locomotives. The internal rebuild program warrants ongoing review to ensure that optimum resource (time, material, finance) efficiencies are derived.

The program for rebuilding locomotives was approved in 1995 but only eight have been rebuilt thus far. The fifteen remanufactured engines were purchased in 1995 and seven remain on hand. As they are applied to rebuilt locomotives they are charged at purchase price, resulting in a rebuilt cost of approximately N\$ 1.4 million. Actual cost in today's prices is closer to N\$ 3.5 million. Rebuilds are accomplished in the locomotive shop in Windhoek. The shop is modern, well equipped and appears productive. At one point component rebuilds were out-sourced but, due to dissatisfaction over costs, they are now completed in house in the TNL locomotive shop.

2.5.3 Wagons

The wagon fleet of 1598 is relatively old but in mechanically sound condition. Of the total, 1475 are equipped with roller bearings and of the 125 friction bearing wagons, 100 are old cattle cars which will be scrapped instead of being converted to roller bearing. The remaining 25 friction bearing wagons are in non-revenue service. The principal maintenance facility is located in Windhoek, staffed with approximately 85 employees who conduct both running and heavy repairs.

Despite the heavy nature of the majority of the bulk commodities transported, the average net load per wagon is only 17.5 tons and there is room for improvement in this regard. Giving consideration to empty return of 100%, the average loaded movement is only 35 tons. Bulk commodities dominate the traffic mix and could be expected to be loaded more heavily. At the average net load level quoted, there are approximately 34,000 loads of local and export traffic – the category of traffic on which TNL wagons are most likely to be used. Based upon that, the fleet makes 21 loaded trips per year and averages only 90 km per day. With business increases forecast, cycle turn times must be improved in order to avoid having to purchase additional wagons. A rationalization of the existing fleet should also be conducted, resulting in the retirement of the older cars in need of major repair.

By reducing cycle times and averaging 40 loaded trips per year the current fleet would be adequate for the increases in traffic forecast. With future marketing efforts focused on bulk commodities and moving short distances, these turn-around times can be reduced even further. Incentives for faster loading and unloading would also help to improve fleet productivity.

Conclusion: Bulk commodities that comprise most of TNL tonnage, and much of which moves in unit shipments, should enable reduced cycle times of the wagon fleet and should allow for heavier loading. With improvement in fleet productivity wagon purchases can be minimized and growth can be accommodated with the existing fleet. The repair facility at Windhoek is underutilized and, like many other railway repair shops in the region, could reciprocally supply services for other railways. A regional effort aimed at rationalizing regional repair facilities should be undertaken.

2.5.4 Asset Renewal Projections

Projections of investment requirements for rail, sleeper, resurfacing, work equipment and bridges have been made. Similarly, locomotive and wagon rehabilitation and purchase requirements over the next ten years, based upon projected component lives and forecast traffic increases have also been made. The total investment required, most of which is due to earlier deferral, in the next ten years is N\$879 million. The N\$ 172 million government repayment, referred to earlier, should be targeted at these required investments and should not be consumed as working capital.

2.5.5 Northern Railway Extension

The northern terminus of the railway is currently at Tsumeb. To the north of Tsumeb a major portion of the population of Namibia resides. While 60% of the population of the country are in the seven northern regions, 40% are in the four regions north of Tsumeb. The construction of a new railway extension of 300 km has been proposed from Tsumeb to Ondango and Oshakati, and at a later date to Oshikango. Alignment has been determined, right of way acquired and clearing of the line has begun. Concrete sleepers for the line are being manufactured at Tsumeb, and

construction of the line is likely to commence in 2001. A decision on methods of financing has yet to be made and the project could be BOT.

Incremental revenue projections associated with the project have been used in our analysis of future revenue and expense projection. The project is justified on an economic development basis but is not financially viable as a stand-alone railway project. As such, TNL should bear no cost of construction or maintenance of the extension. Revenues generated should cover operating cost, but capital recovery or debt service burden must not be placed upon the railway.

Conclusion: Recognition should be given to the fact that this is not a financially justified project. Separate accounts for operation and maintenance of the extension should be maintained, and there should be a clear *and written* understanding of the responsibility of capital and maintenance cost, separate and apart from the existing Maintenance Agreement.

3. REVIEW OF RAILWAY LEGAL/REGULATORY FRAMEWORK

3.1 APPLICABLE LAW

The primary law applicable to railway in Namibia is the *National Transport Services Holdings Company Act, 1998 NTSHCA*.

This law is supplemented by:

(i) The following railway-specific legislation:

- *Railways and Harbours Finances and Accounts Act, 1977,*
- *Railways and Harbours Pensions for Non-Whites Act, 1974,*
- *Railways and Harbours Pension Act, 1971,*
- *Rating of Railway Property Act, 1959,*
- *Railways and Harbours Special Pensions Act, 1955,*
- *Railways and Harbours Pensions Amendments Act, 1941.*

(ii) The following cross-sectoral legislation:

- *Affirmative Action (Employment) Act, 1998,*
- *Namibia Qualifications Authority Act, 1996,*
- *Tender Board of Namibia Act, 1996,*
- *Labour Act, 1992,*
- *State Finance Act, 1991,*
- *Foreign Investments Act, 1990,*
- *Expropriation Ordinance 13 of 1978,*
- *Expropriation Act, 1975,*
- *Companies Act 61 of 1973,*
- *Prescription Act, 1969,*
- *Formalities in respect of Contracts of Sale of Land Act, 1969,*
- *Formalities in respect of Leases of Land Act, 1969,*
- *Soil Conservation Act, 1969,*
- *Price Control Act, 1964,*
- *Income Tax Act, 1962,*
- *Pensions Act, 1956,*
- *Regulation of Monopolistic Conditions Act, 1955,*
- *Preservation of Trees and Forests Ordinance 37 of 1952,*
- *Natives Minimum Wage Proclamation 1 of 1944.*

The laws listed above are derived from different sources; e.g. Namibian statutes passed by the Namibian legislature since independence in March 1990; South African statutes passed by the South African Parliament prior to 1990, and applicable to the territory of SWA (In terms of article 140 of the Namibian constitution, South African statutory law remains applicable in Namibia until repealed, amended or declared unconstitutional); and ordinances, proclamations and regulations issued by bodies or officers appointed by the South African government for the territory of SWA.

Notwithstanding the different sources of these laws, note that:

- All the instruments listed above have the force of law (this is clear from the definition of law in the *Interpretation of Laws Proclamation, 1920*); and
- All of the above can be repealed or amended by a repealing Act passed by the Namibian legislature (i.e. there is no need for different procedures for different sources).

3.2 LEGAL REVIEW

The legal review below uses two sets of benchmarks: firstly, current policy statements; secondly, the key policy statements contained in the SADC Protocol (see section 1.1 above). In other words, the key questions are: Does the existing legal framework:

- Adequately support a separation between shareholding and regulatory functions?
- Ensure an adequate flow of information to the shareholding Ministry?
- Allow for the creation /consolidation of holding and subsidiary company structures?
- Adequately support separation of infrastructure from operations?
- Adequately support railway concessioning (although not currently under consideration)?
- Allow for privatization of the railway through the sale of shares?
- Adequately provide for safety and environmental regulation of the railway with appropriate supporting institutional provisions?
- Provide the labour perspective?

The new *NTSHCA* is exemplary in many respects and, in some instances, can be presented as a “model” for other SADC countries to emulate. Unlike the railway law in most other States, the Namibian law expressly recognizes the need for safety regulation and provides an enforcement mechanism in the form of ministerial directives. The Act further provides a skeleton framework for concessioning, vests shareholding and regulatory functions in different Ministries and provides for the conclusion of a performance agreement to be concluded between the State, as owner, and TNL. Despite these positive features, in some areas the legal framework can still be improved, as discussed more fully below.

3.2.1 Separation between shareholding and regulatory functions

The *NTSHCA* separates the shareholding and regulatory functions of Government by providing for the President to designate a Minister or Ministers to exercise the rights and duties attached to the State’s shares (Sec 3(2)). The Ministry of Finance has been designated as the shareholding Minister.

Regulatory functions vest with the Minister responsible for transport.

Shareholding functions

The Act provides for a 3-year performance agreement to regulate the relationship between the shareholding Minister and TNL. While this agreement goes a long way towards clarifying TNL’s role, and its expected performance and operating principles, it remains inadequate as an

enforcement instrument. The consequence of TNL's failure to comply with any provision of the agreement has no specified internal effect (e.g. suspension or dismissal of board members). Further, the agreement is easily amended: the shareholding Minister and chairperson of TNL's board merely signs the amendment(s), and the Minister subsequently tables these in the National Assembly.

The *NTSHCA* does not provide a clear list of the shareholding Minister's functions. A reading of the Act indicates that the shareholding Minister must determine procedures for and approve the draft performance agreement prepared by TNL and table the company's annual report in the National Assembly.

The shareholding Minister has power to demand information from TNL (see also 3.2.2 below), and the Act empowers the Minister, with the consent of Cabinet, to sell any of the State's shares in TNL. The TNL board must consult the shareholding Minister on the appointment of the chief executive officer, and the Minister responsible for transport must consult the shareholding Minister in directing TNL to continue or discontinue any transport service or approving a request to terminate or curtail a transport service. Apart from these provisions, there is no further indication of the shareholding Minister's powers.

Regulatory functions

The *NTSHCA* does not provide a comprehensive list of the regulatory Minister's functions and powers. A reading of the Act indicates that these functions and powers are as follows:

- The regulatory Minister must specify the transport services that may not be terminated or curtailed by TNL without prior approval of the regulatory Minister, acting in consultation with the shareholding Minister.
- The regulatory Minister, in consultation with the shareholding Minister, may direct TNL to perform or discontinue any activity necessary for, or expedient to the national interest or to discharge an international obligation of the State.
- The regulatory Minister must compensate TNL, from monies appropriated by Parliament, for additional costs incurred as a direct result of any Ministerial direction if the costs cannot reasonably be recovered from users.
- The regulatory Minister may issue written directions to TNL relating to minimum standards for maintaining any railway line, or anything required for achieving and maintaining a safe and functional railway system and protecting the environment (Sec 13(4)). The language of the provision suggests that the power is broad enough to include railway services. TNL must compile and publish railway procedures to support any such Ministerial direction.
- The regulatory Minister must receive complaints from persons who are of the opinion that TNL has failed to comply with an applicable safety standard. The Minister may dismiss the complaint or commission an inquiry. If the inquiry proceeds, the regulatory Minister may ultimately direct compliance with the standard.
- The regulatory Minister can approve the construction of new railway lines, and can request the transfer of land from TNL to the State on which railway lines are situated.
- The regulatory Minister can amend or revoke certain operating provisions specified in a schedule to the *NTSHCA*.
- TNL must consult the regulatory Minister before granting any railway concession on railway transferred to the State (Sec 13(2)).

Conclusion. The Act's allocation of powers and functions between the shareholding and regulatory Ministers respectively does not appear to have adequately taken into account the need for complementarity and the extent to which actions of the one may impact on the other. For example:

- TNL's decision to concession is taken in consultation with the Minister responsible for transport, and the Minister of Finance plays no role. However, a decision to concession may impact on the company's operational and financial performance.
- The Minister responsible for transport is not party to conclusion of the performance agreement between the Minister of Finance and TNL, and yet is vested with powers to issue directives with regard to safety and the continuation or cessation of services that may impact on the extent to which targets in the agreement are met.
- The Minister of Finance is vested with powers to request information from TNL, but not the Minister responsible for transport. The latter may also require access to information for purposes of executing his role.

The need for complementarity stems from the fact that the Ministers responsible for finance and transport respectively form part of the same Government, and should therefore tend to collaborate and co-operate in respect of the same resource. In this regard, the RAPID Team can offer to review the range of existing powers and functions allocated to each Minister in order to effect a clearer separation of complementary powers and functions.

3.2.2 Adequate flow of information to shareholding Ministry

The shareholding Minister may at any time request information from TNL to perform his functions in terms of the Act. The request must be written, and must specify the information required.

Conclusion. This provision does not adequately support the White Paper policy positions that more information must be made available to the State. Firstly, there is no legal obligation on TNL to comply with the shareholding Minister's request. Secondly, even if the TNL does comply, it may delay forwarding the information, as the *NTSHCA* does not provide a time limit within which TNL must respond. Thirdly, the shareholding Minister's power only extends to information required for performance of his function in terms of the Act. As indicated in 3.2.1 above, these functions are vaguely defined.

Apart from these legalistic shortcomings, policy-makers should consider whether the Ministry of Finance has adequate institutional capacity to capitalize on this power. Elsewhere in the region (e.g. Swaziland) a special monitoring unit has been established within the Ministry of Finance to monitor the financial performance of State-owned enterprises. Such a monitoring unit should establish firm financial performance targets, which if not met, lead to the concessioning of TNL to stem the drain on the fiscus.

The *NTSHCA* should be amended to address the legal shortcomings identified above.

The RAPID activity can be used to present the concept of a special monitoring unit to the Ministry of Finance, facilitate debate on introducing such a unit in Namibia, and drafting the statutory provisions to establish the unit.

3.2.3 Creation / consolidation of holding and subsidiary company structures

The *NTSHCA* envisages a holding company structure. The assets (excluding railway infrastructure), liabilities, rights and obligations of the former State-owned corporation TransNamib Ltd are transferred to TransNamib Holdings Ltd (TNL), a public company incorporated in terms of the *Companies Act, 1973*. All subsidiary companies of the Corporation

are acquired by TNL on the transfer date.¹ Section 15(1) of the Act allows for flexible transfer arrangements between the Holding Company and subsidiary companies or between subsidiary companies of business, property, assets, liabilities, rights, concessions, authority, licenses, permits; etc in the group. This legal mandate recently served as justification for the recent consolidation of TNL into TransNamib Ltd.

Conclusion. The wide powers conferred upon the holding and subsidiary company boards is acceptable, provided the long-term direction of the public enterprise is clearly defined.

The White Paper proposes a 3-year financial and development plan, but this is not provided for in the *NTSHCA*. In its present format the performance agreement does not commit TransNamib to a particular direction with regard to restructuring.

It is recommended that the *NTSHCA* is amended to meet this requirement.

3.2.4 Separation of infrastructure from operations

The *NTSHCA* separates railway infrastructure and services by providing for transfer of railway infrastructure from TNL to the State. The Act further provides for the State's total shareholding in the company to be reduced according to the book value of the railway on the date of transfer.

The Act defines railway infrastructure to include all main railway lines, railway reserve fences, lines in stations and sidings and the signaling system.

TNL is responsible for management and maintenance costs of railway infrastructure (which includes planning, designing, constructing, maintaining and controlling). The regulatory Minister may instruct TNL to achieve a safe and functional railway, or to protect the environment in relation to railway operations, but no provision for compensation from public monies is made in this regard. The State and TNL share the costs of upgrading an existing line of railway to improve the design standard. The parties have concluded a Management Agreement to regulate their responsibilities regarding railway infrastructure.

The *NTSHCA* prohibits TNL or any other person from constructing or acquiring any new line of railway without the prior written approval of the Minister responsible for transport.

The institutional arrangements regarding railway infrastructure, coupled with the introduction of road user charges, appear to be informed by the principle of road-rail competition as supported by the White Paper (1995); i.e. to level the playing field between road and rail transporters by ensuring that the cost of providing road and rail infrastructure is borne by the State, while operators bear maintenance costs. The arrangements also ensure that the State retains control over strategic assets.

Conclusion. The Namibian arrangements regarding railway infrastructure are unique from a regional perspective, as neither the Protocol nor the Railway MLP requires the separation of railway infrastructure and services. The Act adequately supports the separation of railway infrastructure from services and secures State control over the railway infrastructure. Whether this is effective from a transport economic perspective is beyond the scope of the legal review (see however the discussion in section 2.2.1 above that deals with the unresolved issue of financial responsibility for deferred railway maintenance).

¹ In effect, the *NTSHCA* merely confirmed the Corporation's decentralized structure. During April 1997 three autonomous companies, each operating under its own board of directors and executive management team were incorporated under the *Companies Act*, namely Air Namibia (Pty) Ltd; TransNamib Transport (Pty) Ltd; and TransNamib Properties (Pty) Ltd. The Corporation held all shares in these subsidiary companies.

3.2.5 **Railway concessioning**

The *NTSHCA* authorizes TNL to concession any part of its business relating to the transport of passengers or goods by rail to any person or any part of the railway in consultation with the Minister of Transport before granting a concession.

A decision to concession has potential to significantly impact on TNL's financial performance and the overall functioning of the railway transportation system. As such, it raises questions of a policy and regulatory nature that are cross-cutting – affecting both the shareholding and regulatory Ministers.

Conclusion. Concessioning is a means to promote the optimum allocation of scarce resources, but the current legal framework does not adequately support this. A decision to concession must respond to what is in the best interests of the system and, given the cross-cutting impact of the decision – should involve TNL, the Ministry responsible for transport and the Ministry of Finance.

At a minimum, the performance agreement between the Minister of Finance and TNL should be required to explicitly address concessioning. Ideally, legislative amendment to the *NTSHCA* could be effected to provide for a comprehensive railway restructuring plan that sets out various concessioning scenarios (along the lines of that provided for in the Railway MLP), to be prepared by TNL. Final decision-making authority on such plan should vest in the Ministers acting in consultation with the TNL Board.

Further, the *NTSHCA* could be amended to provide an adequate enabling framework for concessioning in terms of investment (e.g. concession duration, minimum rights and duties of concessionaires) and in terms of the procedural provisions needed to put the concession in place (e.g. tendering authority, tender rules).

Even though concessioning is not envisaged as an immediate strategy, it is recommended that the *NTSHCA* be amended now so that it provides an adequate enabling framework for the Government to use in the future.

Technical assistance can be offered in this regard under the auspices of the RAPID activity, and also in highlighting the potential obstacles posed to concessioning by the *Foreign Investments Act, 1990* as it currently stands.

3.2.6 **Privatization through sale of shares**

Namibia does not have a general enabling legal framework for the privatization of State-owned enterprises through the sale of shares.

The *NTSHCA* allows for privatization of TNL through the sale of shares by implication only, and subject to the following:

- Section 3(5)(a) prohibits the shareholding Minister from selling any of the State's shares or issuing new shares to any person other than the State without the consent of the Cabinet;
- Section 3(5)(b) prohibits the holding company from issuing new shares to any person other than the State without the consent of the Cabinet; and
- Section 17(2)(a) indicates that the shareholding Minister is deemed to be the liquidator of TNL whilst the State is the majority shareholder.

While these provisions acknowledge the potential for the transfer of equity, they do not promote or guide any privatization initiative.

Conclusion. Namibia requires an enabling framework for privatization of public enterprises that can include privatization through the sale of shares. Such framework should also allow for concessioning. Although the *NTSHCA* can be amended to include the appropriate enabling provisions (the SATCC Railway MLP provide guidance in this regard), it would be more beneficial for policy-makers to consider a more general framework applicable to all public enterprises.

3.2.7 Railway regulatory framework

The *NTSHCA* vests railway regulatory functions in the Minister responsible for transport. The relevant powers and functions of the Minister in this regard are outlined in section 3.2.1 above.

The Public Service Commission has reportedly authorized the establishment of a railway safety unit within the MoWTC, but the unit is not yet functional. At present, it has no staff and no policy or legislative mandate or directive. Ministry officials are keen to develop an appropriate policy and legislative framework for an “independent” railway safety regulator and have specifically requested RAPID assistance in this regard.

Conclusion. Current legislation does not provide an adequate railway regulatory framework for the following reasons:

- The regulatory Minister’s power to issue written directions to TNL relating to minimum safety standards is articulated in a section of the Act dealing with railway infrastructure, but the language of the provision suggests that the power is broad enough to include railway services. The *NTSHCA* should be amended to indicate clearly that the Minister’s power extends to railway infrastructure and services.
- The complaints procedure envisaged in the Act is initiated on the basis of TNL’s failure to comply with “applicable safety standard”. However, the *NTSHCA* does not provide a clear means to recognize such standards. This can be achieved in various ways: e.g. Ministerial regulations; rules developed by a technical committee appointed by the Minister; a “verification” procedure whereby the railway or any other party proposes an applicable standard and the Minister verifies the standard; or incorporation of regional or international railway safety standards through a specified process (e.g. publication in the *Gazette*). Appropriate instruments should therefore be identified and included.
- The regulatory Minister does not have adequate enforcement measures at his disposal. The *NTSHCA* needs to provide the Minister, as safety regulator, with a broader array of mechanisms to enforce railway safety regulations. The Act’s existing provision for Ministerial directions and the complaints procedure could be supplemented with the following: (i) requirement on TNL to submit and obtain approval of a multi-year safety and environmental plan; (ii) authority to conduct annual or random audits with reference to the plan; (iii) and authority to impose administrative sanctions or fines in the event that the railway fails to comply with a Ministerial direction.

Policy-makers may also wish to consider the establishment of an independent railway regulator at an arms-length from the Ministry responsible for transport. The appropriate policy and legal framework for the regulator could be facilitated by RAPID and ensure that the “light” regulatory approach entrenched in the *NTSHCA* is not lost in the process. The danger of over-institutionalizing the regulator is also to be avoided.

3.2.8 Labour perspective

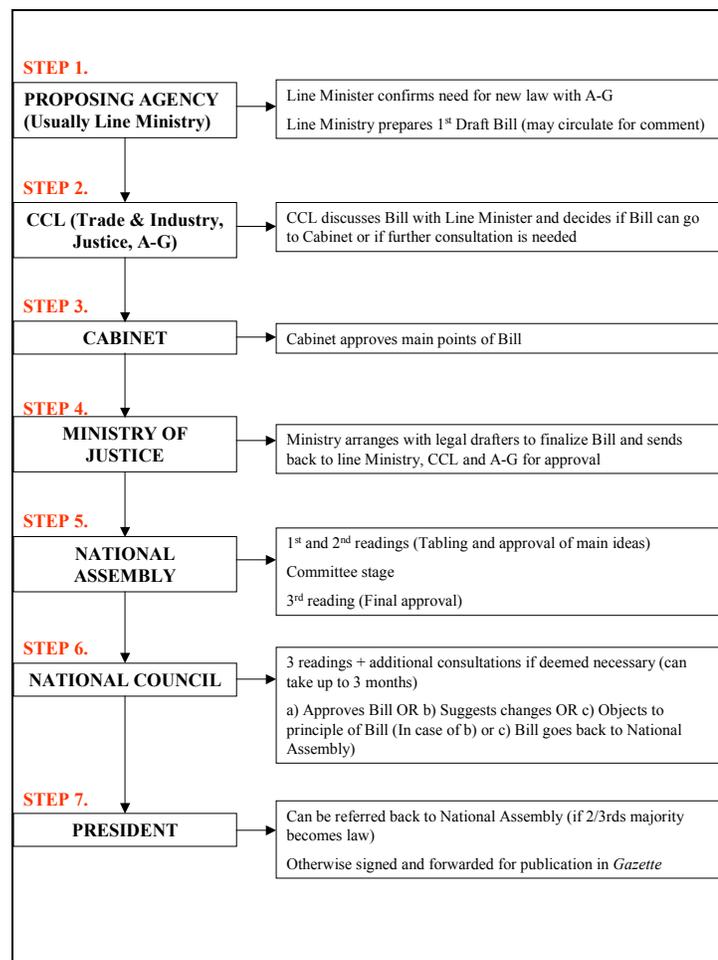
One of the most critical issues from a labour perspective is employee dismissal for operational reasons and the severance packages required by law (regulated by the *Labour Act, 1992*).

Conclusion. At an appropriate time in the future when concessioning is considered, the question of labour should be addressed at the beginning of the process.

3.3 CURRENT PROCEDURE FOR LEGISLATIVE CHANGE

The current procedure in Namibia for the development and enactment of new or amending legislation is illustrated in **Diagram 1** below.

Diagram 1:



As in most States, the legislative process is fairly time-consuming: a draft Bill can take up to a year before it becomes law. This highlights the need to commence with the recommended legislative amendments at the earliest possible opportunity.

Conclusion. The RAPID initiative can offer assistance in this process by physically preparing documentation, by facilitating document preparation and process implementation, and by capacity building further on in-country expertise of the entire process.

4. **RECOMMENDED RAPID SUPPORT ACTIONS**

4.1 MINISTRY OF WORKS, TRANSPORT AND COMMUNICATIONS

The Ministry requires immediate support in the following areas:

- Review of the Management Agreement based on a comprehensive evaluation of the condition of the infrastructure and an independent assessment of capital investments required overcoming deferred maintenance.
- Development of a policy framework for a railway safety regulator.
- Amendment / supplementation of the *NTSHCA* to strengthen the flow of information to the shareholding Ministry, to provide a clearer and more guiding framework for the complementary exercise of shareholding and regulatory functions, to provide for wider participation in a decision to concession, and to strengthen the regulatory and institutional framework for regulation of railway safety and environmental impact.
- Development of new legal framework or supplementation of *NTSHCA* to provide for the role, powers and duties of a railway safety regulator.
- Capacity building and institutional development with the Ministry to establish expertise on the railways industry.

4.2 MINISTRY OF FINANCE

- Presentation of the concept of a Public Enterprise Monitoring Unit and legal / institutional support to establish such Unit.
- Capacity building and institutional development with the Ministry to establish expertise on the railways industry.

4.3 TRANSNAMIB HOLDINGS LTD

The RAPID Technical Team can offer the following support actions to assist TNL:

- Technical Assistance in a thorough evaluation of the condition of the infrastructure, the expected life of its components, and an assessment of the capital improvements required to overcome the deferred maintenance of the past.
- Technical Assistance in development of a manpower plan to staff the railway at the level required for efficient operation.
- Technical Assistance in developing an equipment replacement plan, and improved equipment utilization plan.
- Assistance in evaluating long-term marketing strategy.
- Assistance in establishing a costing mechanism to identify Northern Line Extension costs for reimbursement by the State.

PERSONS INTERVIEWED ON COUNTRY VISIT (4 – 11 NOVEMBER 2000) AND TELEPHONICALLY

Mr P. Amunyela	Regulatory Officer, MoWTC
Mr F. Gschwender	Business Development Executive, Walvis Bay Corridor Group
Mr E. Haihambo	Senior Manager: Operations, TNL
Mike Hill	Senior Manager: Human Resources, TNL
Mr G. Kamseb	Legal Officer, MoWTC
Mr A. Murithi	Chief Economist, MoWTC
Mr C. Nghaamwa	Legal Advisor, Attorney-General's Chambers
Dr P.T. Shipoh	Chief Executive Officer, TNL
Ms Truter	Librarian, Ministry of Justice
Jack Dempsey	Senior Manager: Commercial Services, TNL
Sebastian Husselmann	Section Engineer: Motive Power, TNL
Norman Dentlinger	Section Engineer: Vehicles, TNL
Koos Steyn	Chief Civil Engineer, TNL
Detlef Rix	Section Engineer: Carriage and Wagon, TNL
Thinus Smit	Financial Manager, TNL
Jerome Mouton	Manager: Marketing and Strategic Business Development, NAMPORT

SUGGESTED AMENDMENTS TO THE *NTSHCA*

Section	Subject Matter	Amendment Required
3(2)	Designation and function of the Shareholding Minister	Act must list the functions of the Shareholding Minister
3(5)	Cabinet approval required for alienation of shares or issue of new shares in TNL	Positive authorization for company to alienate share or issue new shares (Cabinet approval can remain as a requirement)
4(b)	Secondary objects of Holding Company are to develop immovable property or conduct “any other business”	Consider repealing: business of Holding Company should be transport-oriented
5(3)	Appointment of chief executive officer	Expand to include nomination procedure, expertise requirements, grounds for dismissal and term of employment
10(2)	Termination or curtailment of transport services	Transport Minister should be obliged to actively consult the shareholding Minister and transport users
11(1)	Complaints procedure applicable where TNL fails to comply with “any applicable safety standard”	Provide clearer indication of “applicable safety standards”
13(4)	Power of the Minister of Transport to issue directions to TNL relating to safety of railway infrastructure	Indication of relation between this section and section 8 (power of Minister to issue directions to undertake activity, subject to compensation from public monies)