

**Institutional Support to the Malawi Ministry of Transport**

**Institutional Infrastructure  
And  
Final Report**

**Submitted to:**  
USAID/Malawi  
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**Prepared by:**  
Institutional Reform and the Informal Sector (IRIS)  
2105 Morrill Hall  
University of Maryland, College Park  
College Park, MD 20740

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**INSTITUTIONAL SUPPORT TO  
THE MINISTRY OF TRANSPORT**

**Reports and Deliverables**

- ◆ **Institutional Infrastructure and Final Report**
- ◆ Transport Policy
- ◆ Railways Legal Framework
- ◆ Railway Organizational Structure Regulatory Unit
- ◆ Road Traffic and Transport Legal Framework
- ◆ Road Traffic and Transport Organizational Structure
- ◆ Inland Waters and Shipping Legal Framework
- ◆ Inland Waters and Shipping Organizational Structure
- ◆ Aviation Legal Framework
- ◆ Aviation Organizational Structure
- ◆ Transport Data Base Report
- ◆ Computer Systems Report

## Table of Contents

I. Background:.....	1
II. The IRIS Project.....	9
III. Transport Policy.....	11
Development of Malawi’s National Transport Policy.....	12
Revised Transport Policy.....	12
Policy Framework within the Ministry of Transport.....	13
Conclusions and Recommendations.....	14
IV. Ministry of Transport.....	15
Institutional Infrastructure.....	15
Organizational Structure of the Ministry of Transport.....	16
Transport Planning Unit.....	17
Recommendations of the Functional Review of the Ministry of Transport.....	18
Functional Responsibilities of the Transport Planning Unit.....	19
Areas of Increasing Responsibility.....	20
Reorganization of Government Transport Functions.....	20
Training Requirements.....	23
V. Railways.....	26
Recommendations and Conclusions for Railway Organizational Structure.....	32
Recommendations for Railway Legal Framework.....	33
VI. Inland Waters and Shipping.....	35
Recommendations for Inland Waterways Organizational Structure.....	38
Recommendations for Inland Waterways and Shipping Legal Framework.....	39
VII. Road Traffic and Transport.....	39
Recommendations for Road Traffic Organizational Structure.....	41
Recommendations for Road Traffic and Transport Legal Framework.....	42
VIII. Aviation.....	43
Recommendations for Civil Aviation Organizational Structure.....	47
Recommendations for Civil Aviation Legal Framework.....	49

## **Institutional Infrastructure and Final Report**

### **I. Background:**

The transport cost burden on economic activity is especially heavy in Malawi because of the country's land-locked status, relative small size, and the dominant role of the agricultural sector in commercial activity. It has been estimated that transport costs alone account for over 40% of the value of Malawi's imports. Even for domestic freight and passenger traffic, the poor condition of Malawi's roads significantly increases transport and vehicle costs and transit times. The result is that transport cost and limited service are serious impediments to improving Malawi's economic development and trade.

Although it is not possible for Malawi to alter some conditions, such as its land-locked status, that lead to the high transport cost burden, it is especially important that Malawi use every effort to make its transport institutions and services as cost efficient as possible. Any reduction in transit cost or improvement in transit time will reduce the cost of Malawi's imports and increase the competitiveness and profit margins of Malawi's exports on world markets. This in turn leads to improved living standards and stimulates economic growth and employment. Conversely, however, any misallocation of transport resources or market failure increases the transport burden on the economy and hinders Malawi's ability to move forward.

This project is only indirectly concerned with filling potholes or providing new transport infrastructure. Its real focus is on strengthening the institutional capacity of the Ministry of Transport and ensuring that Malawi's transport policies, including transport legislation and regulations, provide the proper environment for market forces to operate. If successful, this will promote improved transport service and efficiency while still allowing the government to protect the public's legitimate interest in transport safety, environmental protections, and economic fair play.

### **The Economy**

Malawi is a relatively small country (48,000 square miles or 120,000 square kilometers) in Southern Africa without direct access to the sea. It has a population of 10 million people with an annual GDP per Capita of less than \$200. Over 80% of its population are dependent on agriculture for livelihood and subsistence.

Table 1 shows the relative share of export commodities by value. The three primary export crops, tobacco, tea and sugar together consistently account for about 80% of Malawi's export earnings. Tobacco, the major commodity, alone accounts for over 60%.

**Table 1**  
Domestic Exports  
(% share of total value)

	1994	1995	1996	1997	1998*
Tobacco	62.1	65.3	64.1	59.8	62.8
Tea	9.6	6.9	5.5	12.5	11.7
Sugar	8.2	6.8	7.3	5.2	5.5
Other Agriculture	7.5	8.6	8.4	9.1	7.7
Other Export	12.6	12.4	14.8	13.3	14.5
Total	100	100	100	100	100
Total Agriculture	87.4	87.6	85.3	86.6	87.7

\*Revised Projections

Source: National Economic Council, National Statistical Office, Treasury Reserve  
Bank of Malawi

Table 2 shows the quantities of selected major import commodities over time. The volume of fertilizer and paraffin imported vary significantly from year to year. Between 40 to 45% of all fertilizer movements occur during October and November.

**Table 2**  
Quantity of Selected Import Commodities

	Petrol	Paraffin	Diesel and Other Fuels	Fertilizers	Coal
	Ltrs 'mn	Ltrs 'mn	Ltrs 'mn	Tonne '000	Tonne '000
1991	65.3	10.5	100.8	244.6	11.0
1993	75.0	13.9	108.3	201.0	2.1
1995	70.8	20.4	106.5	129.3	128.9*
1997**	95.7	21.1	131.9	126.6	15.3

\*This is likely to be a statistical error.

\*\*The figures for 1997 are provisional.

Source: Monthly Statistical Bulletin

This heavy dependence on the agriculture sector, and particularly the tobacco crop, subjects the country's economy to sharp swings from variations in weather and world product prices. In recent years, there have also been periods of severe drought.

The dependence on agriculture also has important implications for Malawi's transport sector. Export demand is seasonal, creating transport capacity problems during peak periods and leaving transport equipment under-utilized during the rest of the year. It also reduces backhaul opportunities for transporters, which increases transport costs. When truckers cannot find cargo for both legs of a trip, the total cost of the round trip must be borne by the single cargo movement. These structural problems play an important part in Malawi's high transport cost structure.

## The Transport Sector

### International Flows

In 1996 and 1997 total international transport flows were 750,030 and 920,820 tons respectively, of which 75-80% were imports.<sup>1</sup> Table 3 shows the volume of international traffic over time by border post.

**Table 3**

International Trade by Border Post, 1985-90-97									
Tonnes ('000)									
Border post	1985	1990	1991	1992	1993	1994	1995	1996	1997
<b>EXPORTS:</b>									
Kaporo	15.00	23.86	32.98	33.62	120.73	223.99	130.95	6.20	5.63
Mchinji	155.00	27.78	91.37	35.22	19.13	69.75	89.98	35.40	34.68
Mwanza	187.00	144.14	9.55	118.22	13.48	173.81	224.21	101.76	106.07
Nacala	8.00	9.60	13.00	13.59	93.28	37.27	35.17	38.75	28.00
Sub-total	365.00	205.38	146.90	200.65	246.62	504.82	480.31	182.11	174.38
<b>IMPORTS</b>									
Kaporo	13.00	116.80	122.17	194.50	171.22	29.90	29.30	81.13	52.06
Mchinji	252.00	150.32	866.14	379.08	120.76	53.41	52.34	69.64	83.59
Mwanza	233.00	457.56	44.98	453.02	766.06	655.68	642.57	312.74	503.23
Nacala	0.00	26.40	23.40	56.01	95.64	105.86	77.47	104.41	107.56
Sub-total	498.00	751.08	1056.69	1082.61	1153.68	844.85	801.68	567.92	746.44
Total	863.00	956.46	1203.59	1283.26	1400.30	1349.67	1281.99	750.03	920.82

Source: Ministry of Transport

Not only has the volume of international traffic varied greatly during this period, but also there has been a rather dramatic shift between the principal transport corridors used by Malawi for its international trade. The border post of Kaporo serves the northern route to Dar es Salaam, Mchinji traffic goes through Lusaka to Durban, and Mwanza serves the Tete corridor to Beira or Durban. Nacala services rail traffic to the Mozambique port of Nacala. Table 4 shows the percent of annual traffic through each border post.

Prior to 1980 almost all Malawi's international traffic flows went by rail to the ports of either Beira or Nacala. Conflict in Mozambique closed the rail routes by 1985 forcing the use of longer, and more expensive, routes to Durban. This diversion of traffic from the Mozambique ports increased transit distances by 200 through 300 per cent. It was during this period that the concept of a Northern Corridor was promoted as an alternative route to the port of Dar es Salaam.

<sup>1</sup> National Economic Council report 1998

**Table 4**  
International Trade by Border Post  
(% of Tonnage)

	1985	1991	1993	1995	1997
Kaporo	3.2	12.9	20.8	12.2	6.3
Mchinji	47.2	79.6	10	10.8	12.9
Mwanza	48.2	4.5	55.7	68.4	66.2
Nacala	1	3	13.5	8.6	14.7
Total	100.1	100	100	100	100.1

In 1985 only about 3% of Malawi's international traffic went through Kaporo. By 1993 this had risen to almost 20%. Since then it has fallen sharply. Additional competition from the new rail concession is likely to create further pressure on Kaporo's share of traffic. The Mchinji border post was heavily used during the period of conflict and in 1991 its share rose to nearly 80%. As the routes to Beira and Nacala became available once again, however, its share has steadily fallen to about 12%. Mwanza and the Tete corridor is the most frequently used route to Beira and Durban. This route was almost closed during the conflict but has since regained a traffic share of 60-70%. Nacala's share of traffic has increased since Malawi Railways was restructured. Its share is likely to rise even higher after the railway concessionaire begins operation.

#### Domestic Flows

Information on domestic freight transport is very limited. In the past, the Agricultural Development and Marketing Board (ADMARC) provided a possible source of information because it was responsible for the marketing of all agricultural products and kept records of road freight shipments. With the liberalization of agricultural marketing, ADMARC now purchases only about 2% of Malawi's agriculture production (1% of Maize, 14% of Tobacco, and 33% of Cotton). This amounted to about 59,160 tons of maize, cotton and tobacco in 1997. ADMARC is still, however, the single largest purchaser of domestic transportation.

#### Road Passenger Transport

The road passenger transport industry has been extensively deregulated since 1992. The major inter-city bus line, Shire Bus Lines (formerly Stagecoach), now faces significant competitions on many routes and has consolidated its business to a few major routes. There is very limited information on the extensive minibuses operators that have sprung up and are now serving many areas. It is estimated that Shire Bus Lines accounts for about 30% of the country's road passenger market. Shire handled 35,671,000 passenger trips in 1998.

Passenger service in rural areas remains a significant problem, especially during the rainy season when many roads are impassable. Despite efforts to increase the availability of non-motorized transport, there is little information on the use or availability of transport in rural areas.

## **Institutional Support to the Ministry of Transport**

The current project of institutional support to the Ministry of Transport was conceived in the early 1990's when donors were assisting Malawi and much of the rest of Southern Africa in reopening rail lines and improving transport corridors. It quickly became evident to both USAID and the World Bank as well as the Malawi Government that simply rehabilitating the rail line and providing new locomotives and spare parts was not enough to guarantee efficient low cost transport service. The underlying problems were broader than simply increasing transport capacity. They involved transport institutions and public policy. The transport enterprises and government institutions themselves required fundamental change.

Although Malawi Railway, a governmental parastatal, had suspended international operations from 1985 until 1990 it had not reduced staff or rationalized operations or equipment. When the railway reopened it was able to recapture only about 15% of Malawi's international traffic.

The World Bank estimated that government subsidy to the railway at that time was equivalent to about six percent of Malawi's total annual public expenditure and would account for around 25 per cent of Malawi's projected fiscal deficit for FY 1990/91. It was clear that unless something was done, government subsidies to the transport sector would bankrupt the country.

In the face of these conditions, USAID undertook the Malawi Railways Restructuring Program whose purpose was "to reduce surface transport costs on smallholder inputs and export crops through increased railway efficiency, reliability and intermodal competitiveness." The program has three objectives:

- (a) improve the efficiency and reliability of the Nacala Corridor
- (b) restructure, commercialize and eventually privatize Malawi Railways, and
- (c) formulate a transport policy that fosters a sound environment for commercially viable transport businesses.

In describing the Transport Sector Policy component, USAID indicated that the objective was to create a fair and open competitive environment within and between surface transport modes, and to ensure that investments in transport infrastructure are consistent with national transport policy. To achieve this a project was designed to (a) formulate a coordinated transport policy that fosters a safe and competitive transport environment for commercially viable and financially sustainable transport enterprises, (b) prepare amendments to relevant legislation and subsidiary regulations in support of policy reform, and (c) build capacity to analyze policy impact so that government can better design, select and revise policy. USAID also indicated that some training would be provided along with computer software and hardware to augment the Ministry's general computing capacity.

The current IRIS project is designed to address the Transport Policy component of the Malawi Railways Restructuring Program. The consultants, working together with Ministry of Transport teams addressed three key areas: transport policy analysis and development, data base and computer system review, and regulatory and legal reform. These three main components will be discussed in greater detail later on in this report. The project also evaluated and made

recommendations concerning the establishment of a railway regulatory unit within the Transport Planning Unit (TPU) of the Ministry of Transport to oversee Malawi Railways after its concessioning.

In addition to regular meetings and working sessions with the MoT committees, the consultants interviewed a number of individuals, both within and outside government, who were involved in the transport sector. A symposium was held at Club Makokola on April 22 and 23, 1999 to gather input to the project. Key government and private sector officials involved in Malawi’s transport sector met to review and discuss the primary transport issues facing the country today. The Final Report reflects the views of many of these individuals as well as the observations and recommendations of the IRIS team.

This report includes both the Institutional Infrastructure and Final Report deliverables under Contract PCE-I-00-97-00042-00, Task Order No. 805.

### **The Transport Sector in the early 1990’s**

The World Bank conducted a comprehensive review of the Malawi transport sector in 1992. It found that economic rate regulation and restrictions on entry and exit of new firms characterized the transport sector. Many transport firms such as the Railway and Lake Services were government parastatals that incurred large deficits and provided poor services. Road passenger service was restricted, and inadequate. Malawi didn’t have an approved transport policy. The World Bank concluded “To a large extent the issues facing the Malawi transport sector are policy-related, and as such can be addressed effectively through regulatory reform and restructuring of transport enterprises.”<sup>2</sup>

As a result of their review, The World Bank made a number of recommendations. These included, among others, restructuring Malawi Railways, removing economic rate regulation, and rewriting the Road Traffic Act. Table 5 shows the number of World Bank recommendations by mode and indicates the current status of these recommendations.

**Table 5**  
**1992 World Bank Action Plan Recommendations**

Mode	Number of Recommendations	Done	Not Done	Not Known Other
Railway	31	25	4	2
Air Malawi	5	5		
Lake Service	6	2	4	
Road Freight	10	7	3	
Road Passeng	10	7		3

<sup>2</sup> Malawi Transport Sector Review Selected Issues – 1992, World Bank

## **Malawi's Progress to Date**

With respect to the railway, two of the uncompleted recommendations concern suggestions that are not practical today. The only remaining recommendation with much merit concerns providing incentives for faster loading/unloading of trains and wagons. Even here, efforts are currently being made to collect demurrage.

The road and aviation sector recommendations are essentially complete. Only the Lake Service has a number of recommendations outstanding.

Malawi Railways has been substantially restructured since the World Bank review and the process of concessioning the railway is almost complete. The Road Traffic Act has been rewritten. Economic regulation of rates and routes has been essentially eliminated except in the aviation sector.

Malawi has established the Privatisation Commission with broad powers to privatize or concession public interest in enterprises. In addition to Malawi Railways, the Privatisation Commission has scheduled the eventual divestiture of a number of other transport companies including, Shire Bus Lines, Mpwepe Boat Yard, Air Malawi Ltd., Air Cargo Ltd., and Malawi Lake Services Ltd.

A new National Road Authority, funded from a dedicated fuel tax, has been established to decentralize the rehabilitation and maintenance of Malawi's roads. The Ministry of Works that previously had this responsibility is currently being phased out.

The Government of Malawi developed a transport policy framework and after consultations with relevant stakeholders produced a proposed draft National Transport Policy.

In summary, Malawi has already made a lot of progress toward deregulating and restructuring its transport sector. It has completed, or has the mechanisms in place, such as the Privatisation Commission and the National Road Authority, for completing the principal transport policy and operational recommendations of outside consultants such as the World Bank. The country has already undertaken a number of important and difficult steps to facilitate necessary change.

Have these changes in Malawi's transport sector made any difference? Although hard data is difficult to come by, conversations with shippers and carriers seem to confirm that, in real terms, transport costs have fallen a bit. In addition, transport capacity has grown. Malawi Railways, perhaps provides an example of the impact that new policies have had. In 1990 it took several weeks for a round trip to the port of Nacala by rail. Today rail wagons make the trip in a matter of days. As mentioned earlier, the railway/lake annual deficit amounted to about 12% of the total government deficit. Today the railway is about breaking even. A railway concession will end all government payments to the railway and provide an annual payment of at least \$US 500,000.

It should be noted that the full benefits from the changes and new transport initiatives that Malawi has undertaken will take time to develop. Competition between the railway and road haulers for international traffic should continue to reduce real transport costs and improve service for both modes.

## Continuing the Process of Change

While Malawi has accomplished a lot in restructuring its transport sector, there is much that remains to be done. The importance of completing the process of restructuring and deregulating the transport sector has become even more urgent for two reasons. First, the fiscal constraint on government is becoming even tighter. Second, donor priorities are changing. Transport is beginning to get a smaller share of Malawi's donor funding.

Table 6 shows total transport expenditures adjusted for inflation for government transport

**Table 6**

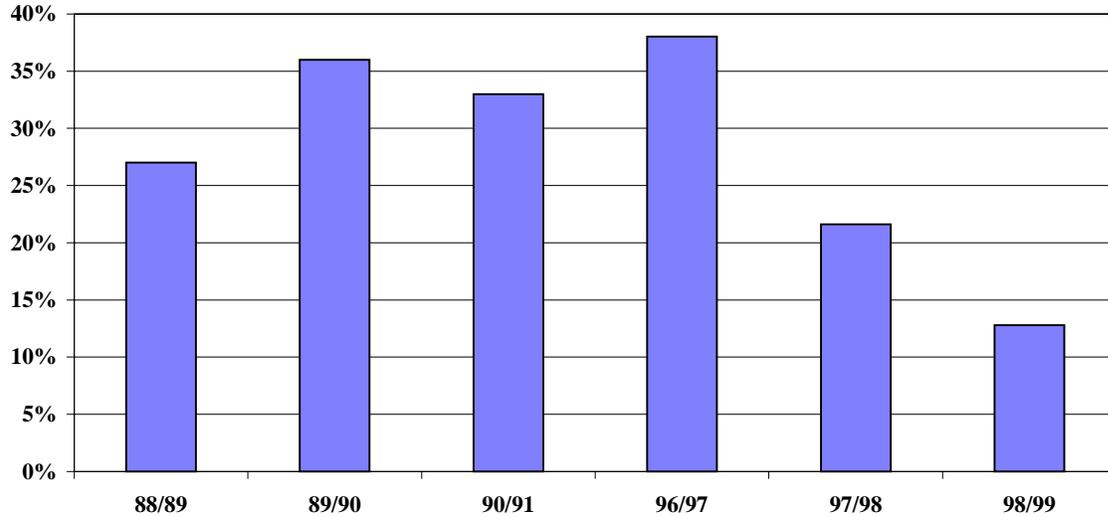
<b>Total Transport Expenditures Adjusted (000kw)</b>			
Ministry of Transport	96/97	97/98	98/99
Recurrent	50,160	52,977	35,953
Development	55,644	70,136	154,547
<b>Total MOT Expenditures</b>	<b>105,804</b>	<b>123,113</b>	<b>190,500</b>
Ministry of Works			
Recurrent	113,612	109,909	37,551
Development	1,049,391	448,432	509,105
<b>Total MOW Expenditures</b>	<b>1,163,003</b>	<b>558,340</b>	<b>546,656</b>
National Roads Authority			
Recurrent			229,008
Development			
<b>Total NRA Expenditures</b>			<b>229,008</b>
<b>Total Transport Expenditures</b>	<b>1,268,807</b>	<b>681,454</b>	<b>966,163</b>

agencies for the last three years. Recurrent expenditures are Government of Malawi operational expenses. Development expenses are a combination of donor and local funding for specific development projects.

Total transport expenditures for the 98/99 period (both recurrent and development) are only 76% of what they were in real terms during the 96/97 period. While total Government of Malawi recurrent expenditures are expected to rise 85% (due to the NRA's dedicated fuel levy fund), the situation is a bit more bleak for the Ministry of Transport which has seen its recurrent expenses fall almost 30% in real terms in the last two years. Development expenditures have also dropped sharply.

Chart 1 shows Malawi's transport development expenditures as a percent of Malawi's development expenditures for all sectors for the last decade. While there was extensive donor interest in rehabilitating the transport sector during the early 1990's other sectors of Malawi's economy are beginning to receive a bit larger share of available assistance.

**Chart 1**  
**Transport Development Expenditures as % of Total Malawi Development Expenditures**



Clearly, in the face of these continuing fiscal constraints, Malawi needs to make its transport sector as efficient as possible. The IRIS project will provide a start and some much needed support and assistance. There is much, however, that the Ministry of Transport must do itself. This includes prioritizing transport programs and projects, ensuring that needed legislation is enacted and that regulations are approved, seeing that transport laws and regulations are enforced, continuing the deregulation and concessioning process, and improving transport safety, particularly for road traffic.

## **II. The IRIS Project**

Despite the number of positive moves toward deregulation and government reorganization, a lack of institutional capacity continues to hamper the Government of Malawi's efforts to refine, implement and monitor transport policies and regulatory reform. The IRIS (Institutional Reform and the Informal Sector) project is designed to provide this support and strengthen the ability of the MoT to adapt to the changing transport sector environment.

The following conceptual design underlies the IRIS project:

- The National Transport Policy (NTP) is needed to establish the country's transport environment and outline the basic **transport principals and policies** with respect to the transport sector.
- The **laws and regulations** provide a framework for implementing the transport policy. Poorly drawn or inadequate legislation can create unintended policy conflicts or hinder the operation of legitimate policy objectives.
- The **organization of transport institutions** such as the Ministry of Transport and its operating Departments is important because they must administer and enforce the laws and regulations. A weak or inappropriate institutional structure can thwart the best-planned policies and legislation. Accurate and relevant data is also important because it is necessary

to monitor the development, implementation, and enforcement of policies. Computer technology is an aid to compiling data and insuring its accuracy.

The IRIS project provides support in each of these areas. The principal project components and objectives are:

- Transport Policy

To review and revise the Proposed National Transport Policy, in conjunction with the Ministry of Transport Policy Committee, to ensure that the policy statement outlines Malawi's transport philosophy and provides the proper framework and foundation for the country's transport legislation, regulation, and institutions. The Transport Policy should encourage transport system efficiency and promote private sector participation and investment.

- Regulatory and Legal Framework

To review the transport laws and regulations to ensure that they are consistent with and support the goals and objectives of Malawi's transport policy.

- Organizational Structure

To review the organizational structure and functions of the Ministry of Transport and its operating Departments and make recommendations to improve their ability to monitor and enforce the policies, laws, and regulations that affect their transport sector.

- Railway Regulatory Unit

To evaluate the need for a railway regulatory unit to monitor the proposed concession of Malawi Railways and to draft a terms of reference for such a unit if it is found necessary.

- Transport Data and Analytical Capability

To review and assess the usefulness of the transport data being collected and recommend improvements in data collection and analysis.

- Computer Support

To determine the type of computer hardware and software required to support proper data collection and analysis.

It should be noted that the capacity of other institutions that interact with the transport sector is quite important to the implementation of sound transport policy. An effective court and legal system is necessary to enforce legislation and provide for legal sanctions. The new Competition and Fair Trading Commission (1998) will also have an important role in preventing anti-competitive practices not only in the transport sector, but throughout Malawi's economy.

Currently there are only about 200 lawyers, including the judiciary and civil service system, in Malawi. There has been a 20% loss in the legal profession in the last five years, and there are only about six new law school graduates each year.

### **III. Transport Policy**

The development of a National Transport Policy Statement (NTPS) outlines a country's transport philosophy and provides the framework and foundation for the country's transport legislation, regulation, and institutions. While it is possible for a country to get along without developing a National Transport Policy Statement, a good NTPS can help focus national efforts and resources on agreed upon goals. This helps avoid conflicting policies and conserves scarce transport financing.

A sound transport policy that is imbedded in a favorable legislative and regulatory framework with effective institutions provides an environment that encourages transport system efficiency and promotes private sector participation and investment.

It is a particularly appropriate time for Malawi to be reviewing its NTPS. The country is in the process of shifting from a system of government operation and management of large portions of the transport sector to a system that relies on the private sector for the operation and management of its transport sector. This shift has important economic, safety, environmental, and public interest implications. The process of developing a NTPS provides an opportunity for the government and the private sector to reflect on these issues and develop a transport policy that best meets Malawi's needs.

The actual process of developing the transport policy is as important as the final NTPS itself for a number of reasons. First, it compels the Government and the transport sector to identify and focus on transport developments and issues. It highlights problems. Second, it draws together a diverse group of interests involved in transport and forces them to develop a consensus, at some level, on what the country's transport objectives and goals should be. It identifies possible alternatives and solutions. Third, if the process of developing a transport policy is successful, it will lead to a prioritization of transport needs and objectives that takes into account existing budget constraints and possible revenue sources. It leads to implementation. At this stage, the transport policy improves the efficiency of government expenditures on transport and insures that the most important transport problems receive priority.

It should be noted that while the National Transport Policy Statement provides a relatively fixed statement of transport goals and objectives, the actual process by which government and the transport sector develop and implement transport policy is ongoing and evolutionary in nature. In both cases the process is often as much political as it is economic. Although every country's transport policy will be a bit different reflecting its own circumstances, most countries that have a competitive private sector orientation will at least share the following common goals in developing their transport policy:

- Development of a common set of objectives and goals to guide and promote the transport sector
- Ensuring that resources that are spent on transport are efficiently utilized

- Providing policy guidance to transport sub-sectors
- Providing a stable framework for private sector participation and investment
- Encouraging improved system performance

### **Development of Malawi's National Transport Policy**

Malawi has come a long way in the process of developing a transport policy. The process first began in earnest in 1994. At that time much of Malawi's transport sector, both passenger and freight, was financed, managed, and operated by the government. Service levels and transit times were often poor and transport costs were high. The annual deficit of Malawi Railway/Lake Service alone was threatening to bankrupt the government. With the assistance of USAID and the World Bank, Malawi made an important decision to shift from public financing and operation to a market-based transport system that encourages private sector operation and investment. A letter from the Minister of Finance to the World Bank on November 2, 1994 articulated the need for a new policy that promotes economic deregulation and the evenhanded treatment of modes. This letter also transmitted the initial transport framework paper and called for consultation with stakeholders to develop a transport policy.

Discussion over transport policy continued in Malawi during 1995, both within government and with the transport sector. The Ministry of Economic Planning and Development developed a draft Rural Transport Policy. In December 1995 the Minister of Transport formed a Transport Policy Committee with representatives of Civil Aviation, Maritime, Road Traffic, the Economic Planning and Development, and the Ministry of Works.

On May 27-28, 1996, a workshop for government agencies and officials was held and a draft National Transport Policy was discussed. Based on these discussions, the draft was revised and the new draft was presented to stakeholders at a workshop on National Transport Policy held at Broadzula, Mangochi August 12-14, 1996. Stakeholder comments were incorporated and the Proposed National Transport Policy (PNTPS) of Malawi was prepared. The Ministry sent this document to Cabinet where it has been referred to Sub Committee. This was the policy statement provided to the IRIS team when it first met with the Ministry of Transport Policy Committee in February 1999.

The Proposed National Transport Policy Statement reflected a lot of hard work and effort by the government and stakeholders. It essentially fulfilled the first two reasons mentioned above for developing a transport policy document. That is, it identified and focused government and public interest on transport issues and involved the diverse groups and individuals involved in the transport sector in determining Malawi's transport objectives and goals

### **Revised Transport Policy**

It became apparent during the first few meetings of the Ministry of Transport Policy Committee that the existing Proposed National Transport Policy of Malawi was a bit out of date and could benefit from some revision. The PNTPS indicated, for example, that the Government would be responsible for railway maintenance. Under the proposed concession agreement, however, this

will be the responsibility of the concessionaire. The PNTPS is primarily a consensus document. It identifies common issues and objectives but does not attempt to resolve or address more difficult issues, such as prioritization of transport goals or consideration of fiscal constraints that the Malawi Government must face in dealing with the transport sector. There also was a lot of repetition in the text of the PNTPS concerning each transport sub-sector.

The IRIS team, in conjunction with the Ministry of Transport Policy Committee and with the assistance of the Transport Planning Unit prepared a revised Proposed National Transport Statement. The revised Statement divides the original PNTPS into two sections, the main policy section and an appendix where support detail has been provided. Much of the statistical data in the earlier document has been eliminated from the revised version. The statistics were out of date and in some cases inaccurate.

Duplication, such as the description of the need for human resource development contained in each sub-sector, was eliminated, and the section consolidated in the appendix.

Functions that are no longer the responsibility of Government under a competitive system have been eliminated. Training of railway workers, for example, will become the responsibility of the concessionaire and not the government in the future.

Finally, the revised document now clearly articulates that the Government of Malawi will be looking to the private sector for financial support for future expansions of Malawi's transport infrastructure.

The Revised Transport Policy was distributed at the Transport Symposium at Club Makokola on April 22-23, 1999, and an invitation was made for written comments. A follow-up letter was sent to all Symposium participants indicating that the comment period would close May 7. Comments were received from, among others, Malawi Cargo Centers Ltd., Press Corporation Ltd., and the European Union. These comments were addressed and incorporated, where appropriate, in the Revised Policy Statement at a meeting of the Ministry of Transport Policy Committee on May 12, 1999.

### **Policy Framework within the Ministry of Transport**

The Ministry of Transport, with the transfer of planning functions from the Ministry of Works and the Ministry of Economic Planning and Development, will be the primary agency of government responsible for transport policy and planning<sup>3</sup>. It has the overall responsibility for developing the National Transport Policy and ensuring a safe, efficient, effective and coordinated transport system that responds to the needs and promotes the development of the Malawi economy.

The Transport Planning Unit (TPU) is the principal policy and planning unit within the Ministry of Transport. It provides support to, and advises the Principal Secretary and the government on all major transport issues. The Departments of Road Traffic, Marine, and Civil Aviation are responsible for implementing and monitoring these policies in their respective sub-sectors.

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<sup>3</sup> As of 27 June, the MoT and MoW were combined into the Ministry of Transport and Works. The new Minister is Peter Chupa.

In the past, it appears that most major transport planning and budget decisions were made at the highest political levels. Decisions were passed down through the Ministry for implementation. The level of feedback from lower levels of government and from all but the largest transport organizations was fairly minimal. This command and control approach effectively transmitted decisions to the government owned transport sector, but did not secure the benefits of a participatory approach. Large fiscal deficits arose and corrective actions were not taken. With the increasing participation of the private sector in transport operations and financing, however, there is a greater need for bottom-up involvement and transparency in transport decision making. This has important implications for transport policy.

The Ministry will need to provide more detailed justification for its transport decisions and planning priorities. The private sector will demand this rigorous analysis before being willing to commit private resources to transport initiatives.

Weak law enforcement and an overburdened judicial system have also negated important transport policies. The overloading of trucks, for example, is widespread despite legislation prohibiting this. Full implementation of an effective transport policy will require a strengthening of a number of Malawi's institutions.

### **Conclusions and Recommendations**

The revised Proposed National Transport Policy of Malawi provides a suitable transport policy framework to encourage the safe and competitive development of transport services and enterprises, which in turn provide improved transport services at lower cost. Realization of this goal, however, requires much more than the development of a policy document. The following recommendations are therefore made to help insure fulfillment of the policy goals. It is recommended that the Ministry of Transport:

- ◆ Seek Cabinet approval of the revised National Transport Policy in order to give it official standing and provide for its implementation.
- ◆ Develop a Transport Action Plan as outlined in the Policy Statement. The action plan would detail the procedures for implementing each strategy outlined in the Policy Statement.
- ◆ Require individual sub-sectors to develop action plans on a bottom up basis wherever possible. The action plans should clearly indicate the lines of authority, responsibility and accountability.
- ◆ Instruct sub-sectors to prepare and justify their budgets and programs on the basis of their consistency with the objectives contained in the revised PNTPS.
- ◆ Review sub-sector regulations, policies, and procedures for consistency with the revised PNTPS.
- ◆ Reactivate the Inter-Ministerial Transport Committee. This Committee should meet at least quarterly to consider transport sector issues.

- ◆ Prepare an annual report on the status of Malawi's transport sector and the progress being made toward implementing the National Transportation Policy.
- ◆ Broaden the interaction between the Ministry and the transport sector, particularly shippers and passengers. The Ministry has good contact with the larger shippers and carriers. There appears to be much less contact with smaller operators and passengers.

## **IV. Ministry of Transport**

### **Institutional Infrastructure**

Other IRIS project reports deal with the organizational structure of the Ministry of Transport's Civil Aviation, Road Traffic and Marine Departments. This section of the final report concentrates on, and describes the institutional infrastructure and functions of, the Ministry of Transport's headquarters Management Unit. As described in the Government of Malawi's 1996 Functional Review, the Management Unit "is the central core of the Ministry of Transport and Civil Aviation. Its role is to set and direct policy, to plan and coordinate the activities of the Ministry and to manage the Ministry efficiently and effectively". The Management Unit is composed of a Transport Planning Unit and three administrative units. The three administrative units are Financial Management, Internal Audit, and Human Resources. Particular emphasis will be given in this report to the transport planning, policy and coordination roles of the Transport Planning Unit. The report will also examine staff and skill rationalization and provide training recommendations to strengthen the institutional capacity of the MoT headquarters.

There are two major changes occurring in Malawi's transport sector that are going to have a profound impact on the roles of the Ministry of Transport, and particularly its Transport Planning Unit. The first is the shift by the donor community from a focus on new infrastructure and corridor development to an increased emphasis on promoting maintenance, rehabilitation, and development of existing infrastructure and transport corridors. The second important change is Malawi's move from a highly regulated government funded and operated transport sector toward a more decentralized market oriented transport sector that is funded primarily by the private sector and transport users.

While both these changes will bring major benefits to Malawi, such as reduced government expenditures, increased efficiency, and economic growth, the changes are also going to affect the way the Ministry of Transport operates and the way it protects and promotes the public interest. The full impact that transport deregulation and concessioning will have on the role of the Ministry of Transport and particularly its headquarters unit is only gradually being realized by some of the government officials most directly involved.

During the 1980's and early 1990's Malawi's transport priority and that of most international donors was in development of transport corridors and in reopening the traditional routes such as the rail line to Nacala. Well over 25% of Malawi's development expenditures were devoted to the transport sector. During this period the Northern Corridor was developed and the rail line in Mozambique to the port of Nacala was rehabilitated. Most of these projects are essentially complete. While there are still other transport development projects that may be desirable, the current emphasis is shifting to maintenance and rehabilitation of existing infrastructure. The

creation of a National Roads Authority, the establishment of a dedicated fuel tax, and the pending World Bank loan to the road sector are all examples of this shift. In addition, the share of transport development expenditures to total Malawi development expenditures has fallen to less than 20% of total Malawian development expenditures during the 97/98 and 98/99 budget periods.

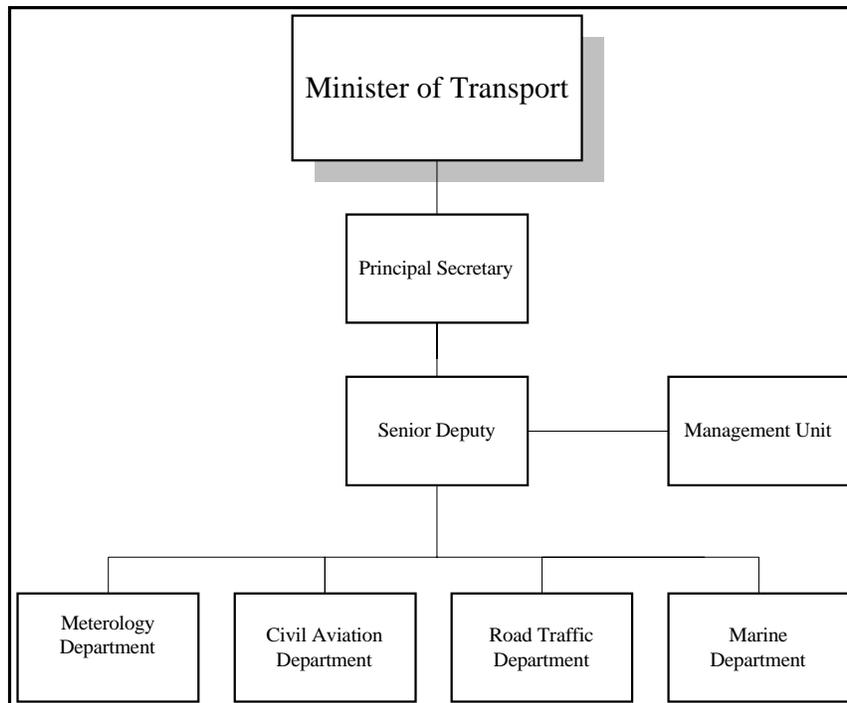
The economic deregulation of Malawi’s transport sector since the mid-nineties has also been impressive. The concessioning of Malawi Railways and the proposed concessioning or privatization of the Lake Services, Air Malawi, Shire Bus Lines and other transport enterprises will also profoundly change the transport sector that the Ministry of Transport must oversee.

The Transport Planning Unit will feel the impact of these changes quite strongly, particularly because the TPU is the central planning and coordinating agency for the Ministry of Transport. It is likely that in the future less emphasis will be placed by the TPU on new project development and coordination of donor transport projects. Instead, monitoring and coordinating of transport activity and promoting and regulating transport safety will receive greater attention. The IRIS project, for example, is recommending the creation of a railway regulatory section in the TPU.

**Organizational Structure of the Ministry of Transport**

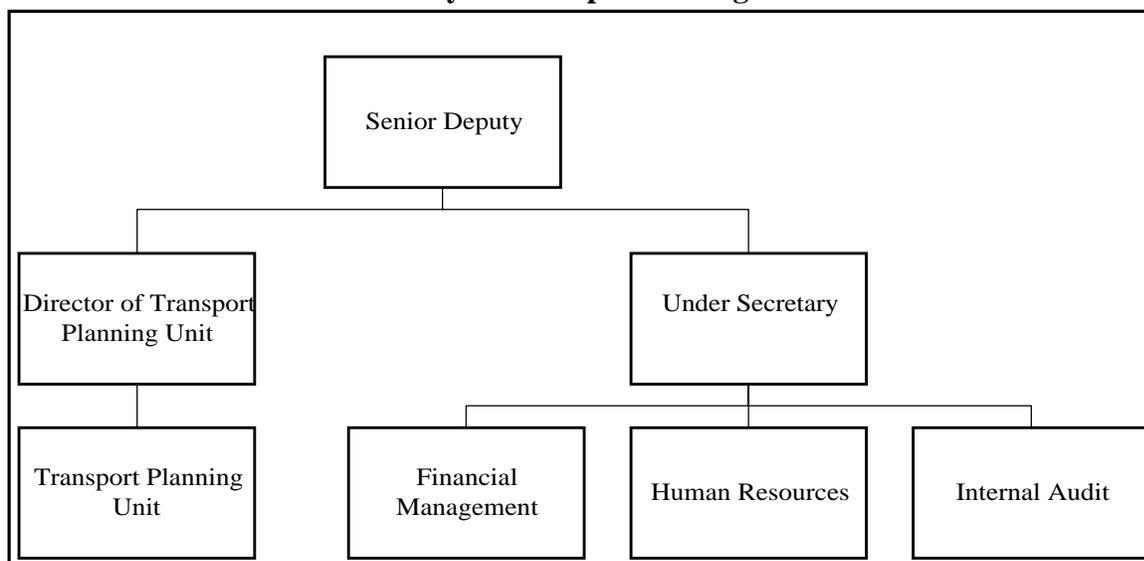
A Minister appointed by the President heads the Ministry of Transport. Day to day activities and execution of transport policy are coordinated through a Principal Secretary and Senior Deputy Secretary. Table 7 indicates the operating elements and Departments of the Ministry of Transport. This report is primarily concerned

**Table 7  
Ministry of Transport**



with the organization and functions of the Transport Planning Unit and collaterally with the organization of the MoT's general administration units.

**Table 8**  
**Ministry of Transport Management Unit**



The Management Unit is headed by a Senior Deputy Secretary who reports directly to the Principal Secretary. It is composed of three general administration sections; Financial Management, Human Resources, and Internal Audit, and a Transport Planning Unit. The general administration sections report through an Under Secretary to the Senior Deputy. The Transport Planning Unit reports directly through the Senior Deputy to the Principal Secretary. Table 9 shows the authorized and filled Posts of the Transport Planning Unit.

### Transport Planning Unit

The authorized staffing is slightly different than is shown in the Government of Malawi's

**Table 9**

AUTHORIZED POSTS		FILLED POSTS	
Director of Transport Planning		Filled	
Deputy Director of Transport Planning		Vacant	
(4) Principal Transport Officers		Vacant (2), Long Term Leave (2)	
(5) Senior Transport Planning Officers		Filled (3), Leave (1), Vacant (1)	
(7) Transport Planning Officers		Filled (4), Vacant (3)	
Senior Statistician		Vacant	
(2) Assistant Statistician		Filled (1), Vacant (1)	
(2) Shorthand/Typists		Filled (1), Vacant (1)	
(2) Data Preparation Clerks		Filled (1), Vacant (1)	
<b>Total Authorized Posts</b>	<b>25</b>	<b>Total Filled Posts</b>	<b>11</b>

Functional Review. The functional review suggested a staffing level of 22 for the Transport Planning Unit if the NEC planning posts are included. Posts for four additional transport

planning officers have also been established as a result of the rural motorized transport project. The functional review recommends two data preparation clerks, but it appears that only one is currently authorized. Two Principal Transport Officers are on long term leave, one to SATCC, and the other to the African Development Bank. A Senior Transport Officer is studying in Europe.

Less than half of the twenty-one professional transport officers and only two of the four support staff that are authorized for the MoT's Transport Planning Unit are currently filled. Five of the top six posts, including the post of Deputy Director currently remain unfilled. This poses some serious staffing problems, including a potential supervision problem since all these posts appear to report directly to the Director of Transport Planning. The Director's duties frequently require official travel. Priority should be given to filling the Deputy Director post and the two vacant Principal Transport Officers posts.

The transport officers work in two man teams with assigned responsibilities for specific modes or transportation projects. These teams usually consist of a Senior Transport Planning Officer and a Transport Planning Officer. Currently there are five teams plus one transport planning officer who assists the teams and perform other assignments as required. The responsibilities of the teams are:

Team 1. Road Transport issues including bus, minibus and taxis.

Team 2. Malawi Railways, Lake Services and all transport corridors. This team is also responsible for transport policy development and SADC activities.

Team 3. Civil Aviation and Meteorology. This team is also responsible for COMESA activities and environmental issues.

Team 4. Rural Transport. This team is working on the Rural Motorised Transport Project. They are also tasked with assisting on road transport issues.

Team 5. This team is responsible for Data Management. They work closely with the Senior Transport Planning Officer who has been assigned the responsibility for coordination of Data Management issues.

### **Recommendations of the Functional Review of the Ministry of Transport**

The Government of Malawi, in conjunction with KPMG, conducted a functional review of the Ministry of Transport in 1996. They made the following recommendations concerning the Ministry Headquarters, which includes the TPU:

- That the posts of Deputy Secretary and Technical Controller be combined in the single post of Senior Deputy Secretary, with responsibility for Ministry policy development.
- That the Principal Administrative Officer be deleted.

- That the Human Resource Officer should be upgraded and should focus on strategic issues such as effective establishment control, implementing effective performance appraisal systems, streamlining procedures and improving coordination between line units.
- That the planning functions currently within the Department of Roads in the Ministry of Works and Supplies and the Ministry of Economic Planning and Development should cease, and the responsibility pass to the Ministry of Transport.
- That the Chief Transport Planning Officer reports to the Senior Deputy Secretary
- That there should be dedicated planning teams in the TPU, which relate to the three major departments of Civil Aviation, Marine and Road Traffic.
- That the post of Senior Statistician be created with responsibility for data analysis and interpretation for transport planning and policy decisions.

Most of these recommendations have been carried out, although a Senior Statistician has not been hired or promoted to fill the newly created post.

The Functional Review also recommended that the collection of data and analysis of road traffic statistics should be carried out solely by the MoT and that these activities should cease in the Ministry of Works and the Ministry of Economic Planning and Development. This has not been accomplished, and, depending on how this recommendation is interpreted probably should not be undertaken. As outlined in greater detail in the *Transport Data Base Report*<sup>4</sup>, IRIS believes that the MoT should be responsible for **coordination and improvement** of transport data. It is **not recommended** that the MoT be responsible **for the collection of all** transport data. Existing transport data collection by the National Statistical Council, for example, should continue.

### **Functional Responsibilities of the Transport Planning Unit**

The Transport Planning Unit serves as the principal advisor for the Ministry for all national transport development projects and policy issues. The Unit is responsible for advising the Principal Secretary on multi-modal transport issues and coordinating with regional transport organizations such as SADC and COMESA. Because of this broad mandate, the TPU is potentially involved in almost all activities of the Ministry of Transport and its Departments with the exception of technical operational issues, such as air traffic control, that only impact a single department. A list of the TPU's functions include:

1. Advise the Principal Secretary on transport issues
2. Develop and review transport policy such as the National Transport Policy
3. Insure that the activities of the sub-sector transport departments are consistent with approved transport policies.
4. Conduct transport research and studies
5. Provide economic appraisals of transport projects
6. Provide Cabinet papers on transport issues

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<sup>4 4</sup> *Institutional Support to the Malawi Ministry of Transport, Transport Data Base Report*, IRIS, June, 1999.

## 7. Collect, coordinate, and evaluate transport statistics

In the past the TPU has been responsible for the supervision of several major donor projects, including the Malawi Commercial Transport Project, the Northern Corridor Project, the Rural Motorized Transport Project, and the Malawi Railway Restructuring Project. Several of these projects are winding down, and while they still require some residual attention, they no longer require the staff attention that has been devoted to them in the past.

### **Areas of Increasing Responsibility**

#### **Concessions and Privatization**

The government is in the process of divesting its ownership and operation, or concessioning a number of transport companies. These include Malawi Railways, Air Malawi Ltd., Air Cargo Ltd., Malawi Lakes Services, Shire Bus Lines, Mpwapwe Boat Yard, and Lilongwe International Airport. Many of these companies provide transport services that are vital to Malawi's economy. The Transport Planning Unit should have a key role in promoting the government's divestiture and concession policy. The TPU should assist the Minister of Transport by providing analysis of bid proposals, evaluating the economic impact and benefits of the proposed plans, and insuring that legitimate public interests are protected

#### **Regulation**

The shift in operation of transport companies such as Malawi Railways and the Lake Services to private operation creates a need for regulation of safety practices to protect the public interest. The *Railway Organizational Structure*<sup>5</sup> Report recommends the creation of a railway regulatory unit in the TPU. These regulatory responsibilities will require new skills that the TPU does not currently have. This study is recommending that appropriate training be provided to the new regulatory officer.

#### **Reorganization of Government Transport Functions**

The creation of the National Roads Authority and the likely elimination of the Ministry of Works is dramatically changing the way road infrastructure is constructed, rehabilitated, and maintained. While the Ministry of Transport is represented on the board of the National Roads Authority, there seems to be very limited interaction between the MoT and the NRA at the critical Department or TPU level. Agreements are said to have been reached on how responsibilities will be shared between the MoT and the NRA. It is not at all clear, however, how this will in fact take place at the operational level. The TPU thinks it will be responsible for road planning. The NRA thinks it will be responsible for a national annual plan for road rehabilitation and maintenance. There is a potential for overlapping functions. It is very important that there be a clear understanding of responsibilities between the MoT and the NRA. The MoT has oversight over the NRA, but the scope of this oversight is not defined.

A Memorandum of Understanding (MOU) should be negotiated between the MoT and the NRA to clarify duties and responsibilities of each agency. It is important that the process of drafting

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<sup>5</sup> *Institutional Support to the Malawi Ministry of Transport, Railway Organizational Structure, Regulatory Unit, Institutional Reform and the Informal Sector (IRIS)*. June, 1999.

the MOU be initiated as soon as possible. The NRA is still in the process of acquiring staff and insuring that its funding is adequate for its mission. If negotiations between the MoT and NRA are delayed until the NRA is fully staffed and funded it will be very difficult for the MoT to influence the outcome. It is recommended that there be much greater contact between the senior staffs of the MoT and the NRA.

The Department of Civil Aviation is seeking an ICAO study that will include the drafting of a new Aviation Act. One goal of this study is to create an autonomous Civil Aviation organization. There are several benefits to this proposal. On the other hand, the separation of Civil Aviation from the Ministry of Transport would almost cut the MoT staff in half and reduce its recurrent budget by 46%. The IRIS team has no opinion on the overall merits of an autonomous civil aviation organization other than to suggest it will have a substantial impact on the operation of the rest of the MoT, and that the TPU should be involved in evaluating the recommendations of the ICAO study.

### **Promoting and Coordinating Safety Activities**

Malawi has one of the world's worst road accident rates. While there are many reasons for this, an important one is the lack of effective safety coordination and enforcement between the several agencies of government. The TPU could have an important role in the coordination of safety activities. It could chair a committee on transport safety with representatives from the Road Traffic Department, Police, and the private sector. It could collect and analyze traffic accident statistics from the police. The National Road Safety Council of Malawi (NRSC) has not been effective in this role, partly because they have no official government role. The Ministry of Transport, through the TPU, should assume this responsibility. The safety role would not be limited to roads. Safety regulation is equally important for the rail and marine sectors.

### **Increasing the focus on Policy**

The new Proposed National Transport Policy provides a good foundation for monitoring and directing the activities of the MoT's Departments to ensure that they are in accord with national policy. If the modes are required to provide action plans based on the National Transport Policy, the TPU could monitor the progress made toward achieving the stated goals. It is recommended that the TPU be tasked with preparing an annual MoT report on the state of the transport sector that outlines the goals of the government for the coming year and lists the accomplishments of the government in the previous year. The annual report will provide a degree of accountability to the transport activities of the MoT.

### **Improving the Quality of Transport Data**

The quality and accuracy of available and published data and information on Malawi's transport sector is quite poor. While this is also true for other sectors of Malawi's economy, the Ministry of Transport has the primary responsibility to try and improve its own data evaluating and collection methods. The TPU should undertake the responsibility for ensuring that any data or statistic supplied by the Ministry of Transport is as accurate as possible and had been cross checked with other available data to verify its reasonableness. The Ministry of Transport should inform other agencies in writing, such as the National Economic Council, that publishes transport data of any inaccuracies or inconsistencies in their publications. Transport data should

be included in a Ministry of Transport Annual Report, as recommended in the *Transport Data Base Report*. Any revisions to this data made in future years should be clearly identified and explained.

While donors and consultants can provide some statistical assistance and recommend analytical methods, they cannot reasonable be expected to undertake annual data collection or verification. This is the direct responsibility of the Ministry of Transport. Priority should be given to improving the quality of existing data sources before any attempts are made to start new data collection. The quality of Malawi's transport data at this time is not sufficient to justify the use of sophisticated transport models or analysis.

The *Computer Systems Report*<sup>6</sup> recommends the acquisition of computer hardware, software, and training for the Ministry of Transport headquarters unit. This equipment and training should assist the MoT in improving the accuracy of existing data.

### **Capacity of the Ministry of Transport Headquarters Unit**

The MoT Headquarters Unit has very limited institutional capacity to accomplish its stated mandate. While donors can provide some short term assistance such as upgrading computer hardware and software, and providing staff training, it is going to be much more difficult to address the longer term problems of staff vacancies, high turnover, low salaries, and poor communications. The 1996 Functional Review commented on some of these problems and their impact on the TPU by saying that "These issues have led to a dilution of the central policy making and advisory role of the Ministry..." These problems persist today. Creating sustainability of the MoT's programs in terms of budget and staff is perhaps the biggest problem facing the MoT today. The Ministry needs to continuously review its programs to ensure that scarce staff and resources are devoted to the highest priority programs.

### **Administrative and Financial Functions of the Ministry of Transport Headquarters Unit.**

The administrative and financial functions of the MoT are currently accomplished with a combination of stand-alone computers and written records. This leads to incomplete documentation and increases the clerical error rate. The IRIS project recommends, *Computer Systems Report*, a substantial upgrading of computer hardware and software and the connection of all computers through a local area network (LAN) system. When the administrative and financial staffs have become trained, this should result in a substantial increase in the quality and efficiency of these Units.

The computerization of the administrative and financial units will significantly reduce overall staff requirements. It is recommended that the staff in these units be reduced over time through attrition. Where possible, any monetary savings should be used to upgrade the remaining staff positions. Newly acquired computer skills will make administrative and financial staff more efficient and will increase their value in the private sector. Upgrading staff position levels, where possible, will help retain skilled staff who might otherwise leave.

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<sup>6</sup> *Institutional Support to the Ministry of Transport, Computer Systems Report*, Nathan and Associates, Inc, for IRIS, May, 1999.

## Training Requirements

Very limited training opportunities are currently available to Ministry of Transport staff at any level. While a number of training and workshop activities would be beneficial, the following five levels of training activities deserve priority and are recommended for the MoT.

The first two training activities are designed to increase the awareness and understanding of senior Ministry of Transport executives of the importance of sound transport policy in a deregulated transport environment that relies on the private sector. The MoT's planning role will diminish as transport firms are privatized or concessioned, but its policy and monitoring roles will expand.

Regional training, where available, is recommended for senior and middle level transport officers to improve the MoT's analytical capabilities and to provide some background in safety analysis. The TPU needs to be able to analyze policy issues such as the economic impact of changing the fuel tax. Safety training will increase the awareness of accident reduction programs.

The training for the railway regulatory officer is required to make the new railway regulatory section effective. Computer training for all users is outlined in more detail in the *Computer Systems Report*. It is associated with the project recommendation to provide computer hardware and software to the Ministry.

1. Observation Visit (OV) A three week observation visit to the United States is recommended for the Ministry of Transport's Senior Deputy Secretary and Director of Transport Planning. These are the two senior career officials (below the Principal Secretary) who will be most directly responsible for overseeing and implementing the new roles and responsibilities that are evolving for the MoT as Malawi continues the process of deregulation, concessioning, and divesting transport enterprises. It is especially important that senior management understands and has a commitment to the new transport environment.

### Objectives:

1. To visit and observe policy and planning offices in federal, state, and county transportation agencies. This will provide an appreciation of the policy, coordinating, and regulatory roles of these agencies. It will also demonstrate how government interacts with the private transport sector.
2. To visit transport associations such as the Association of Short Line Railroads, the American Association of Railroads, the American Trucking Association, and the National Industrial Traffic League. This will provide an appreciation of how the private transport sector interacts with government to promote national transport goals and objectives.
3. To visit selected transport companies particularly short-line railways, small trucking firms, and commercial ports. This will provide insight into how regulatory and safety issues are handled in smaller firms. It will also provide a glimpse of the dynamic nature of free enterprise and the innovations that private firms are developing.

4. Meetings with road departments at the state and county level. This will acquaint the visitors with road planning and maintenance practices. These agencies have roles similar to Malawi's new National Road Authority. The MoT has recently acquired oversight of the NRA.

- Location:

It is recommended that the OV begin in Washington D.C. with a visit to the U.S. Department of Transportation and the national transport associations.

There are numerous short-line railroads throughout the United States that would be appropriate, including the Western Maryland Railroad. It is suggested that the American Association of Short Line Railroads be contacted for assistance in arranging the appropriate visits.

Small commercial lake or seaports, perhaps in Illinois, would provide a useful comparison to Malawi's Lakes Service. The American Association of Port Authorities could be helpful in selecting the most appropriate ports.

It is recommend that the State Transportation Departments in either Oregon or California be contacted. Both these States have been very innovative in transport programs. Safety regulation of transit and taxis in small towns or counties would be very relevant to Malawi.

In designing the itinerary for the OV trip, it is important to be aware of the scale of Malawi's transport sector. It is also important to identify programs and practices that are fiscally sustainable for Malawi.

2. Transport Policy Analysis A short internship at the U.S. Department of Transportation, or a four week course in Transport Policy Analysis is recommended for the desk officer currently responsible for transport policy.

- Objectives:

To provide a better understanding of the distinction between planning and policy and equip the candidate with appropriate skills for policy analysis.

- Location:

Possible locations include the Transportation Center of the University of Tennessee in Knoxville, Tennessee or the United States Department of Transportation in Washington D.C.

3. Regional Training A three or four week regional training course is recommended for two Transport Officers at a regional institute such as ESAMI.

- Objectives:

To improve the range of technical skills available to the TPU for policy analysis, project evaluation, and to provide a background in Safety analysis.

- Location: Appropriate regional ESAMI courses are available in Uganda, Tanzania, and Zimbabwe
- Courses: Current ESAMI courses that might be appropriate include:
  - Road and Traffic Safety Management** This five week program is designed to assist in formulating a program to improve road safety and to develop appropriate measures to evaluate National Road Safety Programs.
  - Transport Management Program** This four week program addresses various issues including, transport demand analysis and forecasting, corporate action planning, cost analysis and pricing, financial analysis, and investment decision tools
  - Management Program for Commercialized and Privatized Transport Infrastructures and Services** This two week program reviews the major causes of poor performance in transport. It also provides an introduction to cost recovery in transport organizations.

Caution must be taken in selecting regional transport courses to ensure that they are appropriate for Malawi's new transport environment. Project development and appraisal courses are not a priority at this time.

4. Railway Safety Training Six weeks of combined course work and/or internship on a short line railway for the selected candidate to fill the railway regulator safety officer post.
  - Objectives: To provide an understanding of railway safety practices and regulation from the perspectives of both the government regulator and the private railway operator. The candidate should learn to appreciate the need for sound safety practices, while at the same time, recognizing the costs in both time and money that safety regulation place on the private operator.
  - Location: This type of training does not appear to be available regionally. In addition, many regional countries have still not deregulated their railway sector to the extent that Malawi and most developed countries have. Training in the United States is therefore recommended. The U.S. Federal Railroad Administration, the American Association of Railroads, and the Association of Short Line Railroads might all be helpful in arranging the appropriate safety training.
5. Computer Training The upgrading of the Ministry of Transport's computer capabilities is recommended in the *Computer Systems Report*. Training is an essential part of the upgrading. It includes:

1. Software training for 22-25 staff members at all levels in the use of word processing spreadsheet and data base software.
2. Training for two individuals as network administrators

## **V. Railways**

With a route length of only 797 km, Malawi Railways is one of the smaller railway systems in Africa. It has considerable strategic importance to Malawi, however, because it provides an 815-km rail access through Mozambique to the port of Nacala. This route historically was a primary transit route for Malawi's international traffic and today holds the promise for reducing Malawi's transit costs. In addition to provide a low cost route to the sea, a competitive Malawi Railway will provide needed competition to international truck movements to Beira and Durban.

The railway is government-owned and operated (although recently the government has placed operations on a commercial basis). During the late 1980's and early 1990's it incurred large operating losses and provided limited service. In 1995, the Government of Malawi began the liquidation of the former Malawi Railways and transferred the rail operating assets into Malawi Railways (1994). The new company is a limited liability company incorporated under the Malawi Companies Act in 1994.

The Malawi Privatisation Commission began a process of concessioning Malawi Railways at about the same time that Mozambique undertook the process of concessioning the Mozambique portion of the Nacala rail corridor and the port of Nacala. Concession bids for the railway were sought and a successful bidder was selected for further negotiations.

The IRIS project reviewed the legal framework of Malawi laws to ensure that the railway concessioning process itself was sound. It identified and drafted suggested revisions to the relevant legislation to provide a long-term basis for railway concessioning. Suggestions and draft revisions were also prepared to provide the legal basis for government regulation of railway concessions and protection of public safety interests. This is available in the *Railways Legal Framework*<sup>7</sup> Report

The report on the need for an autonomous railway regulatory unit within the Ministry of Transport is included in its entirety in this report. The terms of reference for the unit are included at the end of the railway chapter.

### **Railways Legal Framework Review**

The Railway Act is an old Act (1907) which was enacted to apply in a different policy and operational environment. Even its most recent amendment, (1971) dates back nearly 30 years. It appears that a number of provisions are no longer or have never been applied; e.g., the duty of a railway administration to prepare General Rules for approval by the Minister.

The Railway Act has not provided a legal framework for the concessioning of the Malawi Railways. The concessioning process was instead undertaken under the provisions of the Public Enterprises (Privatisation) Act, 1996 (PEPA). This Act establishes the Privatisation Commission

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<sup>7</sup> *Institutional Support to the Malawi Ministry of Transport, Railways Legal Framework*, Nathan Associates, through Consilium Legis (Pty) Ltd., for IRIS, June, 1999.

as the sole authority to implement the privatization of direct or indirect government ownership of any enterprise.

The consultants found that “in the **short term**, the existing provisions of the Railway Act pose no **barrier** to the concessioning of Malawi railways.” “**In the longer term, the Railway Act does not provide an adequate framework for the management and safety regulation of concessioned railways.**” PEPA is designed for a one-time process of privatization or concessioning. It does not provide a legal framework for a post-concessioning environment, and cannot supplement the Railway Act in this regard.

The current Railway Act also contains a number of anti-competitive provisions that are not consistent with Malawi’s National Transport Policy. Finally, it is necessary to establish a legal basis within the Railway Act for safety regulatory oversight of a private railway concessionaire.

The railway legal framework recommendations provided in a separate report are:

1. Introduce comprehensive provisions to enabling the Ministry of Transport to manage concessions and clarify the relationship with the Privatisation Commission.
2. Deletion of anti-competitive, anti-commercial provisions and provisions conflicting with the concession agreement.
3. Amendment of the concession agreement to exclude the requirement for Ministerial approvals for services, and confirm that the concessionaire is free to set rates and does not need to develop General Rules and introduce the requirement of compliance with safety standards.
4. Amend the concession to accommodate the proposed safety regulatory approach.
5. Amend the Railway Act to provide a statutory basis for proposed regulatory approach.
6. Repeal the Malawi Railways Holdings Company Act (MRHC).

## **Railways Organizational Structure Report**

The need for an autonomous Railways Regulatory Unit under the jurisdiction of the MoT was evaluated, and a draft Terms of Reference for such a unit prepared<sup>8</sup>.

Since Malawi Railways is currently owned and operated by the government, an independent government body was not deemed necessary to regulate it with respect to commercial practices or safety matters. When the railway is concessioned to a private operator, safety regulation oversight should be undertaken by the Ministry of Transport. Such a unit would be responsible for railway industry monitoring, environmental impact, maintenance standards, and safety administration. It would also be assigned the responsibility of investigating major accidents or incidents relating to rail transport, to ensure that there is the possibility of independent investigations. Commercial and environmental monitoring would be the responsibilities of the Competition and Fair Trading Commission and Director of Environmental Affairs

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<sup>8</sup> Railway Organizational Structure Regulatory Unit Report

The purpose of the *Railways Organizational Structure Report* is to describe the rationale for the new rail regulatory framework and to outline and describe the role and responsibilities of a railway regulatory unit within the Ministry of Transport.

## **Background**

Transportation regulatory issues can be divided into three broad categories: (1) economic and competitive regulation, (2) environmental regulation, and (3) safety regulation. A fourth category can be added with respect to Malawi Railways, (4) oversight of the terms of the concession. Since the same issues exist for all modes, any of the first three regulatory functions could be handled on an individual mode-by-mode basis. They could also be combined in a single agency dealing with all modes. Economic or environmental regulatory issues could also be handled on a national basis for all industries through a single antitrust or environmental agency.

Determining how each regulatory category should be handled depends upon the mode, type and amount of traffic, and the current regulatory environment in the country. The cost to the government of providing regulation is also likely to be a big factor. Since Malawi railways will be the first transport concession awarded, it is likely to set the stage for the regulatory framework for the privatization or concessioning of the inland water transport system. Civil aviation regulation is already covered by international agreements.

The principal function of Malawi Railways is to transport import and export commodities from Malawi through Mozambique to the port of Nacala on the Indian Ocean. Malawi Railways and the Mozambique rail link to Nacala form a single rail line that does not connect or interchange at the present time with any other railway in the region. Both the Mozambique rail link and most services at the port of Nacala are also in the process of being concessioned, and are likely to have the same private operator.

Malawi Railways carried 338,000 tons of freight in 97/98 for a total of 50,092,000 ton kilometers. It also carried 452,000 passengers (an average of about 125 passengers per day) for a total of 18,758,000 passenger kilometers. Freight traffic has remained reasonably constant since 1992, but passenger traffic has fallen by 50% due to the elimination of some service.

The railway currently carries about 18% of Malawi's international traffic, a far cry from the late 1970's when the railway carried virtually all of Malawi's international traffic. Since then regional conflict destroyed the rail line to the Mozambique port of Beira and shifted traffic to new road routes to South Africa and Dar es Salaam. There is stiff competition for international traffic by foreign motor carriers. It is unlikely that the railway will ever completely regain its former prominence. It should, however, with efficient operation, be able to capture a much larger share of the market and become a strong competitive alternative to the motor carriers.

## **The Rationale for Regulation**

The motivating force behind the worldwide movement toward privatization and concessioning of government transport enterprises is a belief that the self-interest of privately operated enterprises, responding directly to market forces, tends to create more responsive and efficient companies

offering lower cost products and services than those companies which are owned and run by government. In addition, fiscal considerations push governments to privatize in order to eliminate payments of subsidies to parastatals in favor of receipt of concession fees from private operations.

In a truly competitive market with free entry and exit of firms, there should be very little if any need for economic regulation of rates, services, routes, or entry or exit of firms. Any public service obligation required by the government would be purchased directly in the market place. It is also in the concessionaire's best interest to maintain a safe operating environment. The costs of failing to provide adequate maintenance or causing hazardous spills or derailments are usually far greater than the costs of preventing these problems in the first place. The need for any government safety regulation of railways beyond customary civil and criminal law is somewhat limited, particularly in the absence of significant passenger traffic. In the case of Malawi Railways, the railway right-of-way is a dedicated, single line system with few official grade crossings. A rational company, like a rational person, will tend to follow reasonable safety practices in pursuit of its own self-interest. If the company doesn't, civil and criminal penalties imposed by the court system are sufficient to protect the public if the court system is effective and negligence awards are adequate. This is especially true for a railway, because safety incidents also impose costs internal to the railway company itself.

Nevertheless, it is also true that society cannot rely wholly on the concessionaire's enlightened self-interest to provide for public safety and environmental protection. In some cases an individual or corporation may not act completely rationally; in other cases, an individual or corporation may make decisions on the basis of incorrect or limited information. Short-term interests may be placed ahead of long-term interests, particularly if the concessionaire has resource limitations. In some countries there are a limited number of firms and the markets are not fully competitive. A large firm may also use its size and financial leverage against smaller and weaker firms and rivals to gain unfair advantages. The court system also is often overburdened and it can be expensive and time-consuming to pursue legal remedies. For these reasons, it is necessary for the government to maintain some level of monitoring and regulatory oversight of private transport firms and concessions. Although self-interest provides strong safety and environmental incentives, there may be external costs or benefits accruing to the decision-maker that distort market signals.

The need for, and scale of government regulation is an extremely important issue. By their very nature, regulatory interventions impose additional costs on the private sector that change and distort competitive market signals. If the amount of regulation is too restrictive or expensive, it can lead to an inefficient allocation of resources. For this reason regulatory oversight needs to be kept as simple, unobtrusive, self-regulating, and inexpensive as possible. Regulators are frequently faced with pressure to increase safety standards, regulatory interventions, and inspections without taking full regard of the impact that such measures impose on individual firms. Alternatively, experience over time has frequently shown that many regulators become the captives of the industries they are supposed to regulate. Concerns over "market fairness", for example, may lead to regulatory restrictions that impose undue hardships on potential new entrants. It is very important, therefore, to provide a regulatory framework that protects legitimate public interests, while not being overly intrusive on normal business practices. The regulatory framework should also not impose excessive costs or demands on either government or industry. In this fashion it will be effective and sustainable.

## **Economic Regulation**

In the case of Malawi Railways, there is, with the limited exception of PSO passenger fares, no need for economic regulation of railway rates. Large users who have some market power generate most of the freight traffic. An active trucking industry alternative already exists for both domestic and international freight and it is quite easy (except perhaps for capital and interest costs) for new trucking firms to enter the market if the railway is charging excessive rates. Moreover, after five years, there is a provision for granting trackage rights to other operators in the concession agreement (draft). Thus, even though the railway will have a natural monopoly on rail services within Malawi for at least the next five years, there will be sufficient competitive forces and alternatives to ensure a fully competitive market.

The Competition and Fair Trading Act of 1998 prohibits anti-competitive trade practices, permits the commission to control mergers and takeovers, and regulates the relationship between suppliers of goods and services and consumers. This act appears sufficient to deal with railway economic regulation issues, which might arise. The Competition and Fair Trading Commission that the Act establishes will have jurisdiction over all modes, thus ensuring some degree of fairness throughout the transport sector. There appear to be no special circumstances that would justify the Ministry of Transport's involvement in railway economic regulation.

## **Environmental Regulation**

As mentioned in the *Railway Legal Framework Report*, the Railway Act only deals with environmental issues in a single provision dealing with the carriage of goods of a dangerous nature (Sec 65). The Environmental Management Act of 1996, however, provides for the protection and management of the environment and the conservation and utilization of natural resources. This act provides an adequate framework for addressing environmental issues in relation to the railway. This will encourage equitable treatment across all transport modes. There appear to be no special circumstances that would justify the Ministry of Transport's involvement in railway environmental regulation. Note, however, that an accident involving a hazardous spill in environmental terms would also be treated as a safety incident subject to safety regulations.

## **Concession Oversight**

Monitoring and enforcing the provisions of the concession is a task that must be addressed in all of Malawi's concession agreements whether they involve power, transportation, or telecommunications. Usually the concession requirements can be divided into financial or sector specific i.e., transport in this case, provisions. In the future, after several concessions have been awarded, it may be desirable to create a separate agency to deal with concession requirements common to all Malawian concessions. For the present, however, the organizational alternatives for handling concession requirements appear to be, (1) the Ministry of Transport, (2) the Ministry of Finance, and (3) the Privatisation Commission.

In the current draft Malawi Railway Concession Agreement, both the Minister of Transport and the Minister of Finance are mentioned, although the Minister is defined to mean "the Minister responsible for Transport." As written, it appears that the Minister of Finance is only responsible

for establishing “ a presumptive lease value for taxation purposes where he deems the leasing of a part of the Railway Estate by the concessionaire to a third party not to be on an “arms length” basis.” It is expected that this demarcation of responsibilities will be considered and adjusted during final negotiations of the Concession Agreement.

In the case of the current draft for the Malawi Railway concession, the following functions are mentioned that will require monitoring or enforcement:

- Agreement for changes in PSO passenger fares, stops, and schedules
- Receiving and determining the format for PSO statistics
- Determining the condition of the Railway Estate prior to return
- Authorizing leases that extend beyond the lease period
- Authorizing railway bridge and highway crossings
- Providing for trackage rights for other service providers
- Sale of movable assets
- Operational and safety reporting
- Railway operating statistics
- Forfeiture of the Concession
- Force Majeure
- Annual cash payment for PSO
- Concession Payment
- Financial Reports
- Audit Reports
- Default forfeiture
- Return of portions of the Railway estate

It should be noted that while the list of functions appears long, many of them are one-time or annual events. Others, such as determining the condition of the railway estate, prior to return, or providing trackage rights for other service providers do not need to be done for five to 20 years. Some, such as Force Majeure, or default forfeiture, hopefully will never have to be used.

In general the initial items require some railway knowledge or expertise. These items should remain under the responsibility of the Minister of Transport. The last few items, however, are more likely to have financial considerations. Several of these items, such as annual cash payment for PSO, the concession payment, and audit reports should become the responsibility of the Minister of Finance.

Item 6.3.5 involving grade crossings should be coordinated with the organization responsible for road construction and maintenance (National Road Authority)

### **Safety Regulation**

Malawi Railways, as a government operated corporation, has been essentially self-regulated with respect to safety. The Railway has its own internal safety regulations, and the General Manager is able to establish a Board of Enquiry in the event of a serious accident (Under the Commission of Inquiry Act (Cap. 18:01), the President of Malawi also has the power to establish a Board of

Enquiry). As the *Railways Legal Framework Report* points out, with the concession, there will be a need to develop a safety plan that provides for oversight of the public interest.

This oversight, however, needs to be kept as simple, unobtrusive, self-regulating, and inexpensive as possible. Most of the railway traffic will be freight and most accidents will involve derailments and problems internal to railway operations. In these cases there will be only a limited need for government involvement. When, however, accidents involve death or injury to passengers, the public, or collisions at grade crossings, it is in the interest of both the government and the railway to have government oversight. In the absence of such oversight, public demand for quick government action following any serious railway accident might result in criticism of the government and the creation of an excessively restrictive safety environment.

It should be noted that railway accidents involving death or injury are quite rare, and that the Concessionaire's own potential for monetary loss is likely to be a strong incentive for good safety practices. The Concessionaire will still be subject to all the laws of Malawi, including especially general police powers. These laws include a range of safety, labor, and environmental issues. Some of these laws may provide for inspections by agencies other than the Ministry of Transport. Workplace safety might be an example.

### **Recommendations and Conclusions for Railway Organizational Structure**

There is a need for government safety regulation of the railway concession. Given the transport expertise involved, the Ministry of Transport should have this responsibility.

The Ministry of Transport should also be responsible for monitoring a number of the requirements contained in the Railway Concessioning Agreement.

Economic and environmental regulation, where necessary, should be provided for by the agencies responsible for enforcing the Competition and Fair Trading Act, and the Environmental Management Act.

Railway regulation can be handled by creating a railway section within the existing Transport Planning Unit of the Ministry of Transport. Given the limited amount of regulatory activity involved, particularly during the first five years when there is only one concessionaire, it is not necessary to create a new Department of Railways.

### **Parameters of Government Oversight**

The Railway Act provides the Minister of Transport with sufficient oversight authority to regulate railway safety. In order to exercise this authority in an economically sustainable manner, the Ministry's railway section should supplement the engineering and safety information and reports provided by the Concessionaire with an occasional proactive inspection visit to the railway. This avoids the need for a staff of government railway inspectors and professional engineers to regularly walk track and inspect equipment and yet still provides a check on the accuracy and reliability of the Concessionaire's information and safety program. A large Ministry staff would not only be expensive, but it would duplicate the efforts of the concessionaire's own inspectors and professional engineers. The suggested regulatory approach would require the concessionaire to provide a safety plan for Ministry of Transport approval.

Compliance with this Safety plan would be monitored through personal injury accident reports and regularly scheduled reports of more minor incidents such as freight derailments submitted by the concessionaire. The Minister of Transport, through the railway section, reserves the right to inspect the railway, or require additional information as may reasonably be needed for safety purposes.

The suggested regulatory approach relies on regularly scheduled reporting by the railway to the government of all accidents and derailments and other important incidents. The reports should state the cause of the accident and any measures taken to prevent future occurrences. The current draft concession agreement only provides for an annual reporting of accidents by the concessionaire to the Government. This is not frequent enough to provide a satisfactory oversight function. If this report is to be used as the basis of the Government's safety oversight, it should be made at least semi-annually. Certain accidents, especially serious injuries or death of passengers and staff should be reported immediately. Level crossing accidents with or without injuries should also be reported immediately as per Section 43 of the Railway Act and the subsidiary legislation under this section. Derailments and other operational accidents, without injuries, should probably be reported semi-annually. This would increase public confidence that any review or recommendations made by the Government would be timely.

Under the suggested approach, the Government would not ordinarily conduct direct or periodic inspections of equipment or track but might do so on a scheduled or unscheduled basis from time to time. The Ministry would instead conduct spot checks of the concessionaire's operations and implementation of approved safety procedures, as recommended in the *Railways Legal Framework Report*. Railway inspections could be made from time to time to verify the accuracy of the Railway Administration's record keeping. If there appears to be an unusual increase in certain types of accidents or derailments, or if it appears that a number of accidents are the result of the concessionaire failing to follow previously agreed upon procedures, then the Government could conduct investigations and inspections.

In order for this system of safety oversight to work well there must be some sort of approved safety plan agreed to by the concessionaire and the Government concerning appropriate safety and inspection standards to be used by the concessionaire. The rules should contain a provision concerning the notice and procedures that the concessionaire must take if it wants to modify or change standards, perhaps as a result of a technological advance. Finally, there needs to be agreement on the type of penalties and sanctions that the government may impose in the event of accidents or derailments caused by the failure of the concessionaire to follow agreed-upon safety standards and inspection schedules. The *Railways Legal Framework Report* recommends a requirement that the concessionaire submit a safety plan for Ministerial approval. It is anticipated that there will be a periodic meeting, perhaps annually, where changes or modification in the safety plan by either party can be discussed and agreed upon.

### **Recommendations for Railway Legal Framework**

That the Ministry of Transport adopt a railway safety regulatory approach that relies on reports and engineering and safety information supplied by the concessionaire, supplemented by occasional spot checks of the railway's records and railway visits. To be effective, this approach would require the concessionaire provide a semi-annual safety report and immediately report certain accidents, especially serious injuries to, or death of passengers and staff. Level crossing

accidents with or without injuries should also be reported immediately. This approach will provide a stronger governmental safety oversight role for the railway than currently exists for any other surface transport mode.

- That the Minister wherever possible, consistent with good safety practice and to lower the cost to the government, relies on the Concessionaire's resident professional engineer for advice and recommendations. The right to appoint an independent professional engineer or advisor would be retained for special cases where there appears to be a disagreement or potential conflict of interest. The Railway Act contains several provisions authorizing the Minister of Transport to approve, or take action on the basis of recommendations of a professional engineer that he appoints. Many of these provisions, while important, are fairly routine and would involve unnecessary and costly duplication if both the government and the concessionaire hire their own professional engineers.

That the safety plan, to be submitted by the railway, be discussed and developed jointly between the railway and the government and that there be an annual meeting between the Ministry of Transport and the concessionaire where changes or modifications in the safety plan by either side would be discussed.

#### **Terms of Reference Ministry of Transport Regulatory Unit**

- It has been recommended that the Ministry of Transport create a railway regulatory section within the existing Transport Planning Unit (TPU). This section would, through the Director of the TPU and the Principal Secretary, monitor the Railway and advise the Minister of Transport on activities required under the Railway Act or the Concession Agreement.
- These duties of the railway regulatory section would include:
  - Review the annual railway report and recommend its acceptance or non-acceptance by the Minister;
  - Provide regulatory safety oversight of the railway;
  - Hire and supervise any professional engineers, inspectors, or other staff that might be temporarily required to investigate the railway (for example, in the event of a serious accident);
  - Ensuring that the provisions of the Concession Agreement that are the responsibility of the Minister of Transport are fulfilled;
  - Prepare for any meetings involving the railway and the Ministry;
  - Gather statistics and perform analysis on Malawi and regional rail and international traffic, including operations at the port of Nacala and Beira;

- Interchange information with and represent the Ministry of Transport, as necessary, at regional railway association meetings;
- Receive and investigate public complaints concerning railway service and activities on behalf of the Minister, and make recommendations to the Minister as warranted;

While the scope of the responsibilities of the railway regulatory section is quite broad, a number of these responsibilities require only periodic or annual review. Malawi Railway's safety record compares quite favorably to the other surface transport sectors and there is no need to conduct a greater level of regulatory oversight for the railway than is conducted for other surface modes.

### **Staffing, Qualifications and Training Requirements**

- A single professional Government Railway Officer should initially staff the Railway Section. Over time, depending on the level of effort required to monitor the railway, an additional professional could be added to this section. The selected individual should probably be retained at P6 level to ensure a qualified individual.
- The Government Railway Officer should have an engineering or railway background. In addition, he should have some business, economic, or legal experience. The individual selected should have an understanding of market competition principles as well as an awareness of the public safety obligations of the government.
- The individual selected should receive some initial training in railway safety practices and operations.

## **VI. Inland Waters and Shipping**

### **Inland Waterways Organization Structure**

Passenger and freight service on Lake Malawi was once an important part of the country's transport system. Over the years, as the road system improved and truck competition increased the importance of commercial lake transportation diminished. During the early 1990's there were hopes that commercial lake traffic would significantly increase because the lake was an important link in the multi-modal Northern Transportation Corridor connecting Malawi with the port of Dar es Salaam. The anticipated traffic growth, however, never materialized.

Table 10 shows the change in Malawi Lakes Services cargo and passenger traffic. Cargo traffic has been falling rather steadily both in terms of tons carried and ton kilometers during the last decade. Passenger traffic has also fallen, but not quite as sharply..

**Table 10**

**1980-1997**

	<b>MLS Cargo Traffic</b>				<b>MLS Passenger Traffic</b>			
	Tons Carried (thousands)	Ton Kilometers (millions)	Ton Kilometers Index	Kilometers Per Ton	Passengers Carried (thousands)	Passenger Kilometers (millions)	Passenger Kilometers Index	Kilometers Per Passenger
1980	31.2	10.691	100	342.7	105.1	16.2	100	153.7
1981	28.4	9.695	91	341.4	132.7	18.3	113	138.2
1982	37.3	12.903	121	345.9	169.7	21.7	134	127.9
1983	26.7	8.778	82	328.8	196.6	24.4	151	124.2
1984	36.2	12.887	121	356.0	188.4	21.5	133	114.1
1985	37.0	12.483	117	337.4	200.6	23.2	144	115.9
1986	41.6	13.767	129	330.9	199.7	22.0	136	110.1
1987	29.3	9.79	92	334.1	207.4	22.1	137	106.7
1988	24.6	8.28	77	336.6	184.7	19.8	123	107.2
1989	23.3	8.021	75	344.2	168.0	17.6	109	104.5
1990	22.9	8.201	77	358.1	176.5	17.6	109	99.5
1991	18.8	6.432	60	342.1	163.9	17.7	110	108.0
1992	17.1	5.933	55	347.0	197.1	20.4	126	103.4
1993	11.8	3.682	34	312.0	118.3	10.3	64	87.3
1994	4.6	0.683	6	148.5	162.3	13.2	82	81.5
1995	6.8	4.495	42	661.0	201.1	15.3	95	76.1
1996	13.6	1.426	13	104.9	141.3	10.5	65	74.5
1997	10.4	2.457	23	236.3	132.7	10.1	63	76.3

SOURCE: Transport and Communications Performance Bulletin 1998

NOTE: The 1995 Kilometers per Ton figure is in error. The correct figure is not known.

Malawi Lake Services has the following vessels in service:

- Two passenger vessels, the Mtendere and the Ilala
- Two general cargo ships, the Nkhwazi and the Karonga
- One container ship, the Katundu
- One petroleum tanker, the Ufulu
- One tug, the Viphya
- Five barges and pontoons

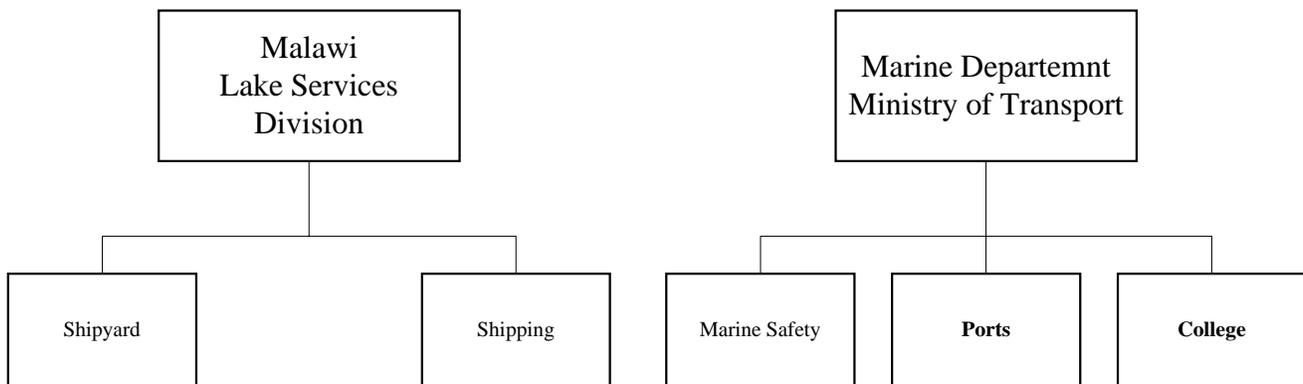
There are also six commercial fishing trawlers on the Lake, and several government vessels. In total there are fewer than thirty large or commercial vessels on Lake Malawi that require annual inspections by Government of Malawi surveyors. Three of the five authorized posts for ship surveyors are currently filled although there does not appear to be sufficient inspection work for all of them. If the ship surveyors were located at a lake port where they inspect vessels rather than in Lilongwe it might be possible to save some travel and personnel expense.

In addition to the larger vessels there are perhaps three to four thousand smaller wooden fishing boats. Boat examiners who have carpentry skills inspect the wooden boats. It appears that no more than one third to one half of the boats are ever inspected in any year. The four boat examiners are located at the lake, but have difficulty, due to budget constraints, in visiting all the towns and ports where boats are located.

Lake Malawi has 21 ports and landing points. Only the four main harbors of Monkey Bay, Chipoka, Nkhata Bay, and Chilumba have much commercial significance.

The old Lakes Service, which was part of Malawi Railways, provided passenger and freight service, and was responsible for port and shipyard operations. It also operated the Maritime College. The current Malawi Lake Services (MLS) was formed in 1995 from the restructuring of Malawi Railways into Malawi Railways (1994). At that time the marine training college and port management and operations were transferred to the Ministry of Transport. Table 11 shows the organization of the Marine Department as it exists today.

**Table 11**



In addition to the headquarters unit, there are three divisions; Marine Safety Division, Port Management and Operations Division, and the Marine College. The Lake Services Division maintains responsibility for Shipyards and Shipping.

**Marine Safety Division**

The current functions of the Marine Safety Division include; ship survey, ship registration, transfers and mortgaging, designation of vessel manning levels, examinations and issuance of certificates of competency for ship offices, accident reporting, arranging preliminary inquiries and courts of investigation, enforcing seaworthiness, manning, and other safety regulations, etc.,. The Division is also responsible for the installation and maintenance of navigation aids and the coordination of search and rescue activities.

**Port Management and Operations Division**

The Port Management and Operations Division consists primarily of personnel that were transferred from the Lake Services company. Port real estate and equipment and port management functions are performed by the Port Management and Operations Division. The

Division also includes a number of stevedores, although plans for contracting out stevedore services are being considered. The Division is responsible for the maintenance and development of the ports and for marine environmental protection services. In addition to the headquarters office there are facilities at Chilumba, Mkhotalota Kota, Likoma, Chipoka, and Monkey Bay.

### **Marine Training College**

The College, which was transferred to the government in the 1980's, is located at Monkey Bay. It receives support from the International Maritime Organization. The current student body consists of about 10 engineering and deck officer candidate. They are on a three year program. When they graduate another class will begin. The average cost per student per year is 200,545 Kw or \$US 4,664 at the current exchange rate. It will cost about \$US 14,000 per graduate, assuming no students drop out.

### **Privatization**

Both Malawi Lake Services and Lake Malawi Ports require significant subsidies from the Government. Consultants were appointed by the Privatisation Commission to advise on options for the privatization of the two enterprises. They recommended several options. The Privatisation Commission resolved that the company should be closed down and that the government should provide for any necessary public service obligation to provide transport to areas that are only assessable by lake transport. The Ministry of Transport and the Privatisation Commission, however, are not in agreement on the best course for privatizing Malawi Lake Services. A flexible approach is therefore being adopted. The Privatisation Commission will advertise for bids for either concessioning or purchasing Malawi Lake Services as a whole, in business units, or individual assets. The final decision concerning the future of Lake Services will be determined, to a large extent, by the bidders.

### **Recommendations for Inland Waterways Organizational Structure**

The *Inland Waterways Organizational Structure*<sup>9</sup> report makes the following recommendations concerning the inland waterways subsector:

- The full range of activities currently performed by the Marine Department's Port Operations and Management Division should be opened for privatization.
- The Government should assist communities and individuals adversely affected by the transition to prepare for the inevitable restructuring of the Lake Transport System. This might include transferring posts from the Marine Department to other Departments of the Ministry of Transport such as the Road Safety Department.
- The Government of Malawi should eliminate its subsidization of the Marine Training College. Alternatives to public subsidy should be explored, such as combining programs with other colleges. If no suitable alternative is found, however, consideration should be given to closing the college.

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<sup>9</sup> *Institutional Support to the Ministry of Transport, Inland Waterways Organizational Structure*, IRIS, June, 1999.

- Consideration should be given to moving ship surveyors to the Lake so they would be closer to the ships they survey.
- The Marine Department's budget should be revised to indicate the costs associated with surveying and inspection of vessels. This would provide senior Ministry of Transport officials with more useful information concerning the cost/benefit of maritime inspections.
- The Malawi Government appears to be spending a disproportionate amount on the maritime sector in comparison to the road sector considering traffic volumes and the safety records of both modes.

### **Recommendations for Inland Waterways and Shipping Legal Framework**

The Inland Waters and Shipping Act, 1995 (IWSA) provides an adequate framework for safety regulation of lake shipping and poses no impediment to the concessioning of the lake service or ports. However, current licensing requirements for lake services are in conflict with the National Transport Policy objectives of market liberalization and should be repealed prior to initiating service concessions or other commercial reform. The Act does not provide an adequate regulatory framework for commercialized or privatized ports and minimum rules are required regarding the power to concession ports and establish an appropriate regulatory framework for port safety based on ministerial regulation. The *Inland Waters and Shipping Legal Framework* report makes the following recommendations.

1. That the provisions in the Inland Waters Shipping Act 1995 providing for economic regulation of lake shipping services (including IWSA Licensing of Vessels regulations) be scrapped. The existing provisions conflict with the National Transport Policy objective of promoting private investment in lake shipping services and ensuring commercial autonomy for shipping lines in respect of rates, services types, and service frequency.
2. The authority of the Minister to conclude appropriate international agreements regarding the international lake services and related safety aspects should be expanded. The Minister should be provided maximum flexibility in terms of the potential subject matter of agreements. A flexible procedure should be incorporated which obviates the need for a cumbersome parliamentary ratification procedure, finally, the Minister should be empowered to enforce reciprocity and take action against foreign shipping lines where Malawian carriers are subjected to less favorable treatment.
3. Additional provisions are needed to address regulatory requirements in respect of privatized or concessioned ports, which may be accommodated chiefly through regulations issued by the Minister. The IWSA contains limited port-related provisions and will not meet future needs in terms of the Ministry's regulatory role in overseeing private commercial port operations.

## **VII. Road Traffic and Transport**

Road transport presently accounts for about 85% of Malawi's international freight and 95% of its domestic freight market. Virtually all passenger traffic except for international aviation moves by road.

## **Road Freight**

Malawi has a modern Road Traffic Act 1997 (RTA) and has deregulated its road transport sector. New firm entry is based primarily on safety considerations. There are no tariff or route restrictions for freight haulage. While there are numerous Malawian trucking firms (10% of all registered vehicles are goods vehicles over 1524 kilograms), there are less than ten large Malawian trucking firms (over 30 trucks) in the international freight market. Competitive trucking alternatives are limited on some routes for international because freight forwarders prefer the larger firms for volume moves. Competition for international traffic is likely to become more vigorous once the new rail concession becomes operational.

Domestic truck freight rates used to be determined by the Agriculture Development Marketing Board (ADMARC) who had a monopoly on the marketing of certain agriculture products. Since the liberalizing of agricultural markets ADMARC has a less prominent role in setting truck rates. ADMARC, however, is still the largest single user of domestic trucking.

## **Road Passenger Transport**

Shire Bus Lines (formerly Stagecoach Bus Lines) controls about 30% of the commercial intercity passenger traffic. Several smaller bus lines account for 10-15% of this market. The remaining 55-60% of intercity passenger movements are handled by minibuses. With the exception of a few routes that Shire Bus Lines runs in Blantyre, almost all commercial urban passenger movements are handled by minibuses. There are a few taxis, but they primarily cater to hotels and airport trade.

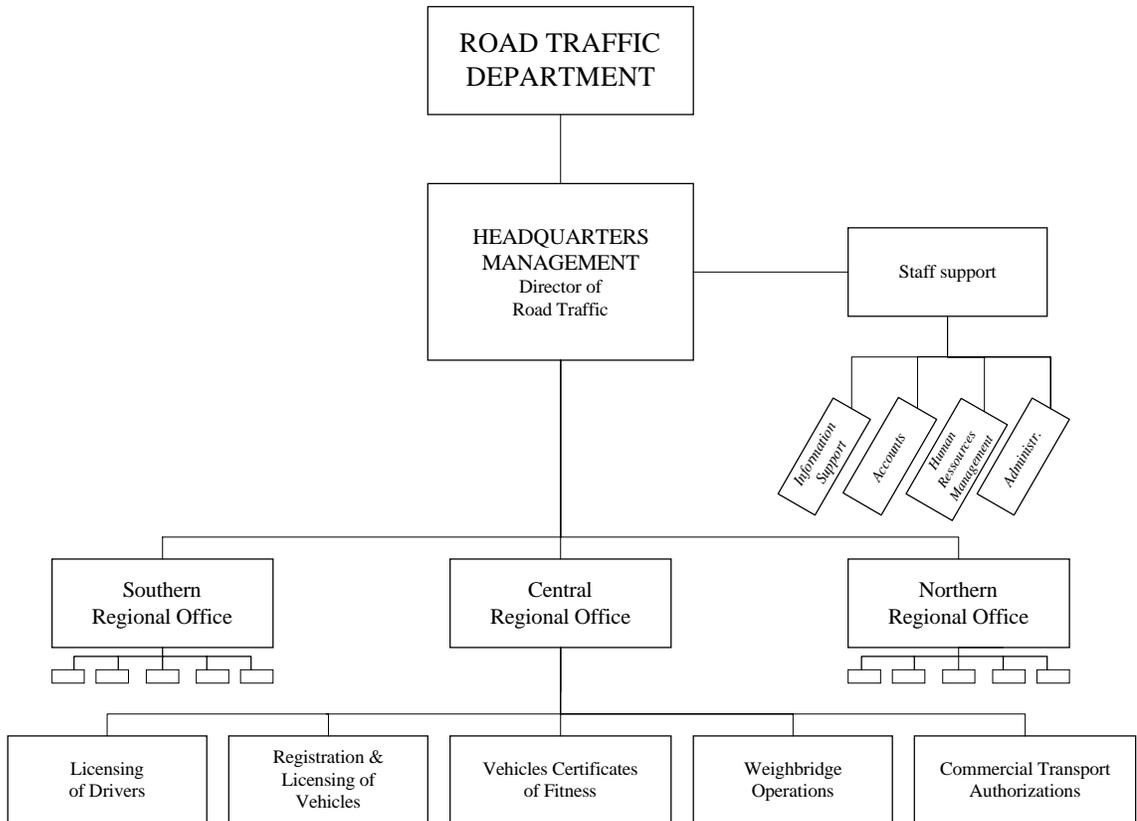
Safety is a very serious problem in Malawi. The country has the highest road accident rate in Africa. The country has averaged about 1,100 fatalities annually for the last six years. While there are a number of reasons for the high rate, lack of effective traffic enforcement is a key factor.

## **Government Oversight**

In addition to the Ministry of Transport, responsibility for the road sector is shared between several agencies. A new National Road Authority is taking over road maintenance and rehabilitation functions from the Ministry of Works. The Malawi Police are responsible for road traffic enforcement and accident investigation. The National Road Safety Council (NRSC) of Malawi is responsible for promoting traffic safety and awareness.

The Ministry of Transport, through its Road Traffic Department (RTD), is responsible for licensing, registration, and safety inspection. Table 12 shows the organization of the Road Traffic Department.

**Table 12**



### Recommendations for Road Traffic Organizational Structure

The *Road Traffic and Transport Organizational Report*<sup>10</sup> makes the following recommendations:

1. The Road Traffic Department draft regulations that were submitted to the Ministry of Justice should be promptly published in the Gazette.
2. The RTD budget should be broken down and presented along functional lines, i.e., licensing of drivers, registration and licensing of vehicles, vehicle Certificates of Fitness, and weighbridge operations. This would help ensure that the allocation of resources between functions is appropriate.

<sup>10</sup> *Institutional Support to the Malawi Ministry of Transport, Road Traffic and Transport Organizational Report*, IRIS, June, 1999.

3. The RTD should seek a ruling from the Ministry of Justice on the extent and limits of the authority of its examiners.
4. The National Road Safety Council (NRSC) should be reconstituted as a non-governmental organization. The insurance companies should be encouraged, but not required to fund the Council. Insurance companies who voluntarily support the NRSC should be represented on the council.
5. The enforcement freight load limits needs to be greatly improved. There are substantial safety benefits as well as road maintenance cost savings from prevention of overloading. A portion of all fees collected should be used to support and upgrade the weighbridge systems. The proposed program of privatizing some weighbridge operations will support this objective.
6. Removing unsafe vehicles from the roads would improve safety. Consideration should be given to requiring passenger vehicle inspections annually. Currently annual inspections are required only for vehicles over 10 years old. The program could be self-financed from inspection fees.

## **Legal Framework**

The current Road Traffic Act was enacted in 1997. A review of this act and other legislation relevant to the road sector is contained in the *Road Traffic and Transport Legal Framework Report*.<sup>11</sup>

In general this report found that the recently adopted Road Traffic Act facilitates a competitive commercial environment through economic deregulation of market access for both domestic and international services. Once the supporting Road Traffic regulations have been gazetted, the Act will also provide an adequate framework for promoting safe road transport. The liberal approach adopted by the Act is undermined by anti-competitive elements occurring in the Malawi Road Transporters Authority Act. In addition, the Road Traffic Act requires supplementation to address regulatory needs which arise from Malawi's international road transport relations. The Act does not yet provide legal authority for the administrative system of overloading control or for government oversight of privatized weighing stations. The following recommendations were made:

### **Recommendations for Road Traffic and Transport Legal Framework**

1. Repeal the Malawi Road Transporters Authority Act (MRTAA), and if feasible, replace with new legislation to promote the interests of all road transporters on a non-discriminatory basis.
2. As an alternative to recommendation 1., amend the definition of "approved transporter" in the MRTAA. The current definition is potentially discriminatory. "Non-Africans" may not become members of the MRTA and membership is open only to those transporters "approved" by the authority. This opens the door to cartel formation and is probably in conflict with the Competition and Fair Trading Act.

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<sup>11</sup> *Institutional Support to the Malawi Ministry of Transport, Road Traffic and Transport Legal Framework*, Nathan and Associates, through Consilium Legis (Pty) Ltd., IRIS, June, 1999.

3. As an alternative to recommendation 1. and a supplement to recommendation 2, delete provisions permitting the Malawi Road Transporters Authority (MRTA) to receive public funds.
4. Introduce a comprehensive legal framework addressing the full scope of Malawi's international road transport relations. The issues to be addressed include; the power of the Minister to conclude agreements, the power to take reciprocal action against foreign carriers where Malawian carriers are discriminated against, the distinction between international and domestic road service permits, optional powers to permit cabotage, facilitatory functions to be performed in respect of border-posts and other matters impacting on efficient international road transport, the power to implement provisions of road transport agreements in relation to the sanctioning of carriers, etc.
5. Abolish the restrictions on double coupling of Malawian and foreign registered vehicles for international transport. These restrictions reduce business opportunities for Malawian transporters by limiting back-haul opportunities.
6. Establish principles to be followed by the Director of Road Traffic in applying administrative sanctions against operators.
7. Provide powers in the Road Traffic Act to introduce a system of administrative control of overloading based on payment of overloading fees. The current RTA provisions do not provide sufficient legal authority for a system of administrative control. Administrative control, however, should be implemented as it avoids the constraints of the criminal justice system and provides for improved enforcement mechanisms.
8. Enable the private operation of weighing stations (including weighing portable scales) subject to government oversight.

## **VIII. Aviation**

Although Malawi's civil aviation sector is not particularly large it is quite important. In 1997, 335,000 international passengers and 6,235 tons of air cargo were handled at Malawi airports.

There are two international airports at Lilongwe and Blantyre, and three domestic airports with paved runways at Mzuzu, Karonga and Monkey Bay. There are also 28 smaller airports, used primarily for tourism and national security. Eight scheduled international carriers, and one domestic carrier, Malawi Airlines, serve the country. In 1997 there were more than 19,730 scheduled, non-scheduled, and general aviation operations.

Twenty-eight aircraft are currently registered with the Department of Civil Aviation. Seven are government airplanes and four belong to Air Malawi. The remaining 17 aircraft are privately owned. The number of registered aircraft has declined slightly since 1996.

A recent ICAO review found Air Malawi to have one of the world's best safety records. This speaks well of both the carrier and the Department of Civil Aviation.

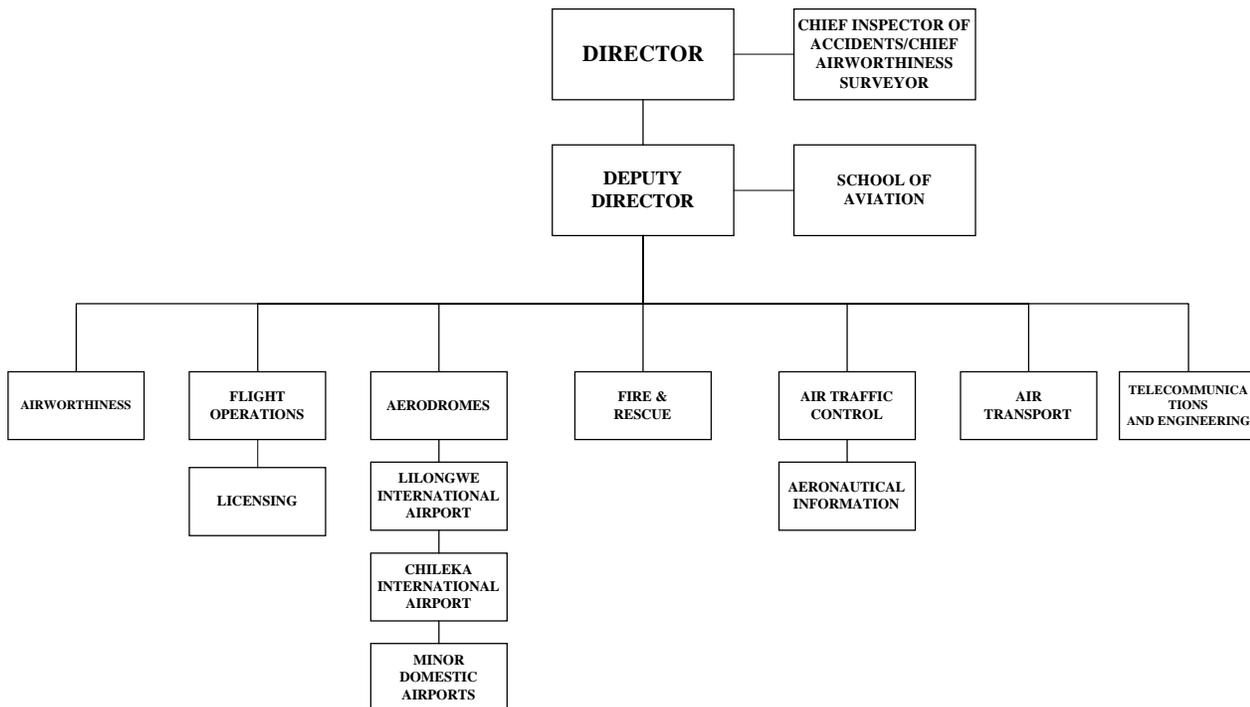
The Government's statutory authorities are contained in the Aviation Act of 1970 (AA). The Department of Civil Aviation (DCA) in the Ministry of Transport is responsible for carrying out these responsibilities.

In order for Malawi to participate in international civil aviation, and as a Contracting State of ICAO, they must comply with the international Standards and Recommended Practices (SARPs) of the International Civil Aviation Organization (ICAO), or file differences thereto. Malawi has done as most other states do and applied many of the ICAO SARPs to the domestic air transport services. The civil aviation laws and regulations and policies as implemented and carried out by the DCA in Malawi are largely shaped by the ICAO SARPs.

### Civil Aviation Department

DCA is the largest of the Ministry of Transport's four modal Departments. Its fiscal year 1999 budget of 21.5 million kwacha accounted for almost 45 percent of the MoT's total recurrent budget. The DCA also employs about 38 percent of the MoT's current staff. Table 13 shows the current departmental organizational structure.

**Table 13**  
*REPUBLIC OF MALAWI*  
*Ministry Of Transport*  
*Civil Aviation Department Organisation Chart*



### Organization and Staffing

There are eight functional units within the DCA, including an aviation training school (Table 13). A Director heads the Department. Since the recent retirement of the Director this position has been vacant. At present the Deputy Director is serving as the acting Director. The Director

has a management and support staff of 11 people including a shorthand typist, five copy typists, an assistant accountant and four account assistants.

The eight functional units report through the Deputy Director to the Director. These units are Airworthiness, Flight Operations, Aerodromes, Fire and Rescue, Air Traffic Control, Air Transport, Telecommunications and Engineering and the School of Aviation. Each of these functional units is headed by a Chief at the P5 level, a Principle Officer at the P7 level or a Superintendent. Principal Officer (P8) heads the School of Aviation.

The Headquarters staff has many vacancies. Two of the key units, Airworthiness and Air Transport, have only one person and each has two vacancies. There seems to be an imbalance between workload and staffing.

ICAO is scheduled to examine the feasibility of restructuring the DCA into an autonomous Civil Aviation Authority (CAA). This study will make recommendations on the organization structure, funding, recruitment, training, and necessary changes to the AA and Subsidiary Regulations to provide for an autonomous CAA. Landing, navigation and passenger fees collected at LIA, CIA and the three minor airports would fund the CAA.

Most of the DCA staff (90%) are located at LIA, CIA, or one of the three larger domestic airports. These include operational personnel with the flight operations, fire and rescue, air traffic control and telecommunications and engineering units. The remaining 28 airports are not staffed. All the airports are under the functional responsibility of the Aerodrome unit. The MoT recurrent budget for fiscal year 1999 allocated 11.5 million kwacha for airport operations.

The present DCA organizational structure does not follow the recommendations of the Government of Malawi Functional Review. The Functional Review recommended combining the DCA's eight functional units into four functional divisions. These were Air Transport Safety, Air Transport Development, Air Transport Infrastructure and Facilities and the School of Aviation.

Many of the DCA's functions are safety related, which is one of the reasons the Functional Review recommends combining them into a single Air Transport Safety Division. The safety regulatory functions are all based upon the authorities conveyed by the AA and the ICAO SARPs.

Malawi's aviation sector has been slower than the other transport sectors to ease market entry or deregulating rates and fares.

The Ministry of Transport should reevaluate the need for the DCA's School of Aviation. The school does not have staff or budget to provide training in important areas of air traffic control, telecommunications and engineering and fire and rescue services. Malawi is already using training facilities in other countries for much of this training.

The ICAO review highlighted the lack of computer automation as one restriction on the DCA ability to effectively carry out its responsibilities. The DCA needs to upgrade and expand their computer capabilities. They have a number of functions that could benefit from automation including processing airport statistics, maintenance of crew licenses, aircraft registers, in-house

communications and the ability to access technical information, which is increasingly made available only on diskette.

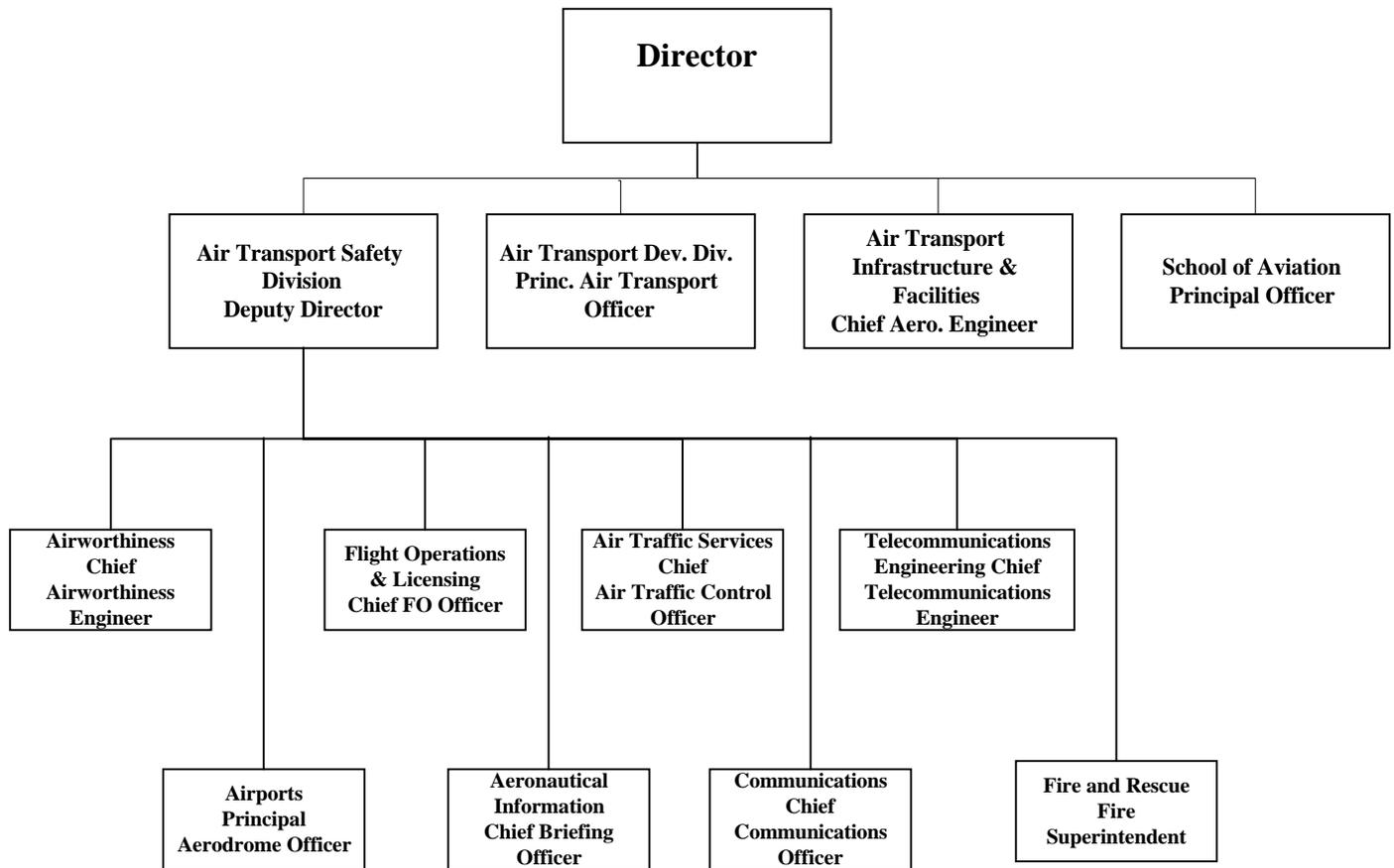
## **Conclusions**

- The DCA headquarter staff carry out their functional responsibilities in a very professional manner. They clearly understand their tasks, the AA laws and Subsidiary Regulations and the ICAO SARPs that shape their functional responsibilities. They understand and follow the DCA organization and chain of command. There is very little overlap and therefore very little confusion on responsibilities.
- DCA's allocation of headquarters personnel is uneven. Two of the units, Airworthiness and Air Transport, appear understaffed while Telecommunications and Engineering seems to have an abundance of staff.
- Most of the DCA headquarters staff is reaching the midpoint or beyond in their careers. All of them have extensive experience in carrying out their programs. DCA needs to focus on recruiting young university trained professionals with engineering and managerial backgrounds to provide the organizational backup and continuity as the more senior staff members begin to retire.
- DCA finds it difficult to compete for qualified personnel. Other parts of MoT have been successful in attracting university-trained personnel. DCA should look to see how they could improve their recruitment program
- The future privatization of Air Malawi Ltd. will not have any effect on DCA organizational structure and functional responsibilities.

## Recommendations for Civil Aviation Organizational Structure

The *Functional Review* recommended the organizational structure for the Department of Civil Aviation shown in Table 14. This structure has not been implemented, but continues to be considered. The following recommendations were made in the *Department of Civil Aviation Organizational Structure*<sup>12</sup>

**Table 14**  
*Functional Review*  
*Recommended Organisational Structure*  
*Department of Civil Aviation*



### School of Aviation

- The Ministry of Transport should reevaluate the need for the DCA's School of Aviation. The alternative to consider could include equipping it to provide basic technical skills training using part-time instructors that are employed in the skills areas, making it a regional specialized aviation technical training center, transferring the facility to the Malawi higher education system to be used for polytechnical transport training, or divesting the facility and do all training through special

<sup>12</sup> *Institutional Support to the Malawi Ministry of Transport, Department of Civil Aviation Organizational Structure*, IRIS, June, 1999.

technical and managerial courses conducted at Malawi university and polytechnical centers and out of the country.

### Staffing

- It does not appear that DCA headquarters needs additional posts. It should fill the Director post quickly as well as the vacant post in the Airworthiness and Air Transport units. DCA should study the reallocation of posts to ensure that the staffing of the units reflects the workload. Staffing patterns should be examined in the ICAO restructuring study.

### Office Automation

- The DCA should upgrade and expand headquarters office automation. All of the unit chiefs and some of their key staff should either have computers in their offices or have access to computers. These computers should be linked to the airports, particularly where the units need to exchange information such as flight operations, air traffic, navigational aids and airport and air transport statistics.

### Training

- Staff training must be a priority objective. The Functional Review cited the need to provide managerial training to the senior headquarters staff. The ICAO safety review cited the need to provide current technical training so that the staff will be better equipped to carry out licensing and certification responsibilities.

### Recruiting

- DCA should enhance their program to recruit university graduates with engineering or managerial backgrounds.

## **Aviation Legal Framework**

The Aviation Act (AA) is the principal regulatory legislation applicable to the civil aviation subsector. It provides for control, regulation and orderly development of aviation and its services within Malawi. A review of this act and other legislation relevant to the aviation sector is contained in the *Civil Aviation Legal Framework Report*.<sup>13</sup>

The Department of Civil Aviation expects ICAO to undertake a redrafting of the Aviation Act in the near future in anticipation of the creation of an autonomous Civil Aviation Authority. This would be an ideal time to incorporate the recommendations concerning market liberalization.

The legal framework study found that there is a need to deregulate Malawi's domestic air service and non-scheduled international and domestic air services markets prior to the privatization of

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<sup>13</sup> *Institutional Support to the Malawi Ministry of Transport, Civil Aviation Legal Framework*, Nathan and Associates, through Consilium Legis (Pty) Ltd., IRIS, June, 1999.

Air Malawi. The current AA does not a sufficient regulatory framework for private aerodrome operations or commercialized air traffic and navigation services.

### **Recommendations for Civil Aviation Legal Framework**

The following recommendations were made in the *Civil Aviation Legal Framework Report*.

1. Scheduled domestic and international, and domestic non-scheduled services should be deregulated. Market entry should be regulated only on the basis of safety licensing. Amendments can be easily effected as only regulation amendments are involved.
2. International scheduled services should be licensed. This would improve reciprocity with other countries where Malawian carriers are required to be licensed and provide some additional revenue. A basic form of licensing, which should be non-interventionist, should be introduced.
3. The authority of the Minister to conclude appropriate international air services agreements should be expanded.
4. The capacity to assess and implement ICAO Standards and Recommended Practices (SARP's) should be expanded and the Director of Civil Aviation should be empowered to issue SARP-related directives.
5. The Air Navigation regulations should be amended to ensure that licensing procedures for aerodromes are based only on safety criteria.
6. The Director should be empowered to set minimum standards for commercialized Air Traffic Navigation Systems based on ICAO SARPS and monitor compliance.
7. The regulatory procedures in the Aviation Act and regulations should be revised to introduce a regulatory approach consistent with the National Transport Policy objectives.