

**BACKGROUND DOCUMENT TO THE POLICY
STATEMENT FOR THE TRANSPORT SECTOR**

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ABBREVIATIONS AND ACRONYMS

AACA	Afghan Assistance Coordination Authority
ADB	Asian Development Bank
AIS	Aeronautical Information Service
AIA	Afghanistan Interim Administration
ANS	Air Navigation Services
ATA	Afghanistan Transitional Authority
ATC	Air Traffic Control
ATM	Air Traffic Management
BOT	Build-Operate-Transfer
CAA	Civil Aviation Authority (UK)
CBO	Capacity Building Office
CBU	Capacity Building Unit
CNA	Comprehensive Needs Assessment
CNS	Communication and Navigation Services
FAA	Federal Aviation Administration (US)
IATA	International Airline Transport Association
ICAO	International Civil Aviation Organisation
MCAAT	Ministry of Civil Aviation and Tourism
MOT	Ministry of Transport
MPW	Ministry of Public Works
NDB	National Development Budget
NDF	National Development Framework
NGO	Non-Governmental Organisation
Sida	Swedish International Development Cooperation Agency
TIGA	Transitional Islamic Government of Afghanistan
TISA	Transitional Islamic State of Afghanistan
TOR	Terms of Reference
TSR	Transport Sector Review
WB	World Bank

1. INTRODUCTION

This Background Document contains the material used in order to draft the Policy Statement for the Transport Sector, as well as to identify the issues to be addressed in the Action Plan of the Transport Sector Review (TSR). It comprises:

- General information about the transport sector, including the legal structure, the government institutions, infrastructure and the operators.
- The basic ideas made use of to develop the Policy Statement
- The detailed reasoning underpinning specific policy recommendations made for the period up to the end of 2008, which is the period on which the TSR focuses.

The basis for the Background Document is the draft Phase 1 report prepared by the TSR Consultants in early April 2003. This draft report has subsequently been modified and edited in order to be able to serve as the Background Document for the Policy Statement.

2. THE CURRENT SITUATION

2.1 The Legal Structure

Afghanistan has gone through a number of written constitutions starting with the first in 1923 and the last in 1990. The Bonn Agreement¹ is the basis for the current provisional arrangements for governance in Afghanistan pending the adoption of the new constitution and the set up of a permanent government. It provides for the following:

- a) A new constitution shall be adopted within eighteen months of the establishment of the Transitional Islamic Government of Afghanistan (TIGA) by a constitutional Loya Jirga convened for that purpose (i.e. by the end of 2003). This will be followed by elections and a permanent Government by the end of 2004.
- b) The constitution of 1964 shall, in the interim and in so far as it is not inconsistent with the Bonn Agreement, be the supreme law of the land. Provisions in the constitution relating to the monarchy, executive and legislative bodies are not to be applicable.
- c) TIGA shall respect international law and maintain peaceful and friendly relations with neighbouring countries.
- d) Existing laws and regulations shall be applicable, to the extent that they are not inconsistent with the Bonn Agreement, the 1964 constitution or with international obligations to which Afghanistan is a party.

¹ Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions, Bonn, 5th December 2001.

It further mandates that the TIGA shall have the power to repeal or amend the existing laws and regulations. It is silent on the power to make new laws. TIGA shall, however, have the right to issue decrees for the “peace, order and good government of Afghanistan”.

Many of the existing articles in the 1964 constitution which are uncontroversial and based upon universally accepted principles may, in all probability, be adopted in the new constitution. However, the making of any new law will have to be postponed until this new constitution is formally adopted as the supreme law of the land.

The task of identifying existing applicable laws related to the transport sector is fraught with difficulty. None of the Ministries concerned has comprehensive information on the state of the law that governs them, and only rarely are copies of laws applicable to their area of responsibility available to them. None of them (with the possible exception of the Ministry of Interior), has a legal department nor an advisor on legal matters. The Ministry of Justice, which was the depository of all laws and Parliamentary Draftsman, is in a better position to assist, but it too faces limitations in access to verifiable sources of information and readily available documentation. To the extent possible and with these limitations in mind, the final list of laws on transport contained in the Annex 1 to this Background Document has been vetted with the assistance of the Ministry of Justice.

TSR has been advised that no proposed road transport specific legislation is under preparation or consideration at the present time. Some legislation in the civil aviation sector has been recently promulgated or prepared. This includes a measure on the general framework for civil aviation (it is believed that there is nothing in what TSR proposes that contradicts this law), Decree 715 on the Afghan Ariana Airline company and Decree 575 on airports.

One important general piece of legislation for the transport sector was enacted by the Council of Ministers in September 2002. This is the Law on Domestic and Foreign Private Investment in Afghanistan (serial #803). This law permits any qualified domestic or foreign entity to invest up to 100 percent in any sector of the economy - whether production or service-related. The wording implies that it encompasses the private sector provision of both infrastructure and services in the transport sector. The law is reflected specifically in the recently prepared framework for civil aviation. In the case of civil aviation the law means that services on domestic routes can be provided by non-Afghan companies and, subject, to the provisions of bilateral agreements, on routes to other countries. In road transport, the new law in effect provides for that companies wholly owned by interests outside Afghanistan can run trucks within Afghanistan.

2.2 The Structure of Government in Transport

This section describes briefly the three ministries with responsibilities in the transport sector, i.e. the Ministry of Transport (MOT), the Ministry of Public Works (MPW) and the Ministry of Civil Aviation and Tourism (MCAT). The Ministry of Rural Rehabilitation and Development, which is responsible for rural roads, and the Ministry of Interior, which operates the regulatory system for vehicles and drivers, have not been part of the TSR.

2.2.1 Ministry of Transport

The Ministry of Transport (MOT) is today responsible for the government-owned fleet of trucks and buses as well as for regulating operations of privately owned commercial vehicles (trucks, buses and taxis).

The Ministry was first established in 1979 with the advent of the Communist government in Kabul. Prior to its elevation to ministry status, Transport was a department within the Ministry of Commerce. Before 1978, both freight and long-distance bus services were left to the private sector. The public sector had a role only in urban bus services in Kabul. In 1978, enabling legislation authorised governmental provision, nation-wide, of freight and passenger services.

Reportedly, in 1990 MOT controlled approximately 1600 trucks, 1000 buses and extensive workshops. In a classic example of central planning, the rolling stock were allocated annually to various routes and uses based on estimated requirements submitted every year by all agencies, public sector enterprises and principal private industries. A series of dispatch checkpoints around the country enabled the Ministry to track performance and location of all vehicles on a regular basis. Over time, planning, workshops and vehicles have all been gradually lost. The provincial checkpoints evidently survive under the Private Sector Department (see below) but are now focused primarily on private vehicles.

Every six months, a commission chaired by the Deputy Minister of Transport and including representatives of the Ministries of Finance, Justice, Home, Commerce and Public Works sets tariff rates for commercial vehicles, whether governmental or private. The principle is to calculate the vehicle operating cost by class of vehicle and route type and to add a margin of 10%. (Anecdotal evidence suggests that the authorised rates fall below market levels as it is alleged that private operators actually charge more.)

Aside from the operational agencies comprising the government-owned fleet of trucks and buses (discussed below), the MOT employs about 1180 persons, 910 of them in Kabul. Over 70 percent of the total (834) are in the Private Sector Department.

The Private Sector Department in the Ministry of Transport is responsible for the regulation of private trucks, buses and taxis within or entering Afghanistan and the enforcement of allowable tariffs. This requires staff in all the major provincial capitals as well as in selected cities in Pakistan, Iran and, soon, Tajikistan.

In principle the Private Sector Department sets technical standards for private commercial vehicles and inspects them for compliance during the licensing / renewal process. In practice it is stated that the Department operates on the assumption that it is in the owners' interest to maintain their trucks, buses and taxis in optimum condition in order to minimise operating costs. Accordingly, little or no technical surveillance actually occurs.

MOT's Private Sector Department collects a fee of five percent per carriage contract from private trucks and three percent per trip from inter-provincial private buses, based on authorised charge rates. (No fee for taxis.) These are fees, not tolls, but are collected at national or provincial borders or the outskirts of major cities at locations shared with Ministry of Public Works toll stations. (The collection of tolls was recently halted but not the MOT fees; see Section 2.5.)

These MOT fees are supposedly intended to defray the expenses of maintaining the Private Sector Department but receipts are allegedly inadequate for this purpose. Moreover, it is reported that MOT-designated moneys deposited in Ministry of Finance accounts are retained rather than actually passed on to MOT.

2.2.2 Ministry of Public Works

The Ministry of Public Works (MPW) was initially responsible for virtually all government construction and maintenance. This included roads and bridges, airports, public housing, water, etc. All aspects from planning, design, construction and maintenance were carried out in-house through a number of MPW construction companies. Before 1992, a single department within MPW, Road Construction & Development, alone totalled over 5,000 employees.

Over the years, the size and scope of MPW have been reduced, in part through attrition as, lacking resources, there were no projects. More significantly, a portion of the MPW portfolio (e.g. housing, water, etc.) has been shifted to the Ministry of Urban Development and Housing.

Today the total staffing of MPW is 2,200 persons, and its mandate covers the following activities :

- Road sector planning
- Road construction and maintenance
- Road toll collection (however, see below in Section 2.5)
- Survey and design
- Vehicle maintenance (of own vehicles & equipment)
- Airport design and construction (maintenance is for MCAT)
- Inland waterway terminals
- Railways

MPW has operated essentially as a large-scale engineering, construction and maintenance organisation. Anecdotally, MPW claims an historic capacity to handle as many as eight major projects simultaneously. Today, spokesmen acknowledge an inability to take on a single big job because of a lack of equipment and in consequence donors, and other organisations in particular the AACA, are in effect taking over the planning, preparation, procurement and contract management work for projects currently in hand.

Although there have been some subsequent additions to MPW's stock, the overriding message remains clear. On a nationwide basis MPW's resources are extremely limited, and a high proportion of what is on hand is currently inoperable.

MPW, whilst headquartered in Kabul, maintained staff and equipment in every major provincial capital in order to undertake local projects and maintenance. These MPW personnel collaborated closely with the provincial governments and many of the workers were on the provincial payroll although funding came from Kabul. Scarcity of resources over the years, however, has eliminated the flow of funds from the centre so that, in many places, retention of personnel and equipment has become a *de facto* provincial obligation and

expense. In other places, evidently the centre was able to provide some support for salaries but little or none for actual construction and maintenance projects. The centre - provinces relationship must be addressed now that project funds are beginning to flow again and will soon constitute very considerable sums.

2.2.3 Ministry of Civil Aviation and Tourism

The current organisation of MCAT comprises, in respect of civil aviation, eight departments, covering Operations (airports, except Kabul plus aviation safety), Documents/Licences, Meteorology, Planning, Technical (includes air navigation services), Law/ Regulation, Administration, Finance, Human Resources and Kabul International Airport. The MCAT is also responsible for Ariana, two hotels and in general for the stimulation of tourism.

Like other parts of the administration its functions have been significantly disrupted in recent years. The stimulation of tourism is for the moment not a real function; many of the airports are still controlled by the military and the original Afghan equipment is lost or destroyed. Ariana is theoretically corporatised but the theory is not fully implemented. There are 801 staff employed in civil aviation related departments; but as in other parts of the government significant number of staff are nearing retirement age and new recruitment and training programmes are necessary.

TSR notes that the organisation mixes operational and safety functions. This occurs at a general level -- all department heads report to the same Deputy Minister -- but also at a lower level. For example, the Operations Department runs airports (other than Kabul) but also regulates safety.

2.3 **Road Transport and Traffic**

2.3.1 MOT Operations

The system which has existed for the past twenty years or so and which was based on centrally owned bus and lorry companies, has effectively collapsed. Only a small fraction of the trucks owned by government in the early 1990's remains available and operational. A similar situation applies to the former fleet of publicly-owned buses. In both instances, only a handful of new vehicles have been supplied by donors during 2002, although more buses are expected in 2003.

The surviving operational components of MOT consist of the Kamaz freight agencies and the Millie bus agency. The electric bus agency operated Czech-made trolley buses along three routes in Kabul. Although this department remains in the MOT organisation chart and its staff of 25 remain on the payroll, its vehicles, workshops and power supply network have been completely destroyed.

The Kamaz agencies operate Russian-made Kamaz lorries. In 1990 MOT had nine such agencies throughout the country with a total fleet of some 1600 vehicles. Some of these agencies are reported to be self-sustaining; rates are apparently set commercially albeit by a governmental commission chaired by MOT. The agencies themselves, however, assert that they need seed money (e.g., to re-establish communications capabilities) in order to survive. Once a lorry leaves its base it is difficult to monitor its whereabouts.

In principle, profits, if any, are ploughed back into the agency if MOT approves the management plan for the coming year; otherwise profits go to MOT. In practice, it is reported that no revenue reaches MOT headquarters, at least none from outside Kabul.

The standard for employment levels in the Kamaz agencies was an average of three staff positions per truck. However, though the fleet has reduced, the number of staff have not (or at least not to the same extent).

MOT also has a major surviving workshop at Hairatan in Balkh Province near the border with Tajikistan. This facility provides repair and maintenance services to Kamaz lorries and NGO vehicles in the vicinity. It is reported to be self-sustaining.

MOT's Millie (public) buses have traditionally been sourced from Germany and India. At one time these buses numbered a reported 1,000 and provided services throughout the country as well as internationally. Today, the remaining 126 operable vehicles are restricted to Kabul where, even if they were all committed to public routes, they would be insufficient to meet the city's needs. In fact, of the current Millie buses in Kabul, it is reported that 67 are assigned to Ministries and part-time to public bus routes; 55 are assigned full-time to 25 different public bus routes; and 4 are held in reserve. The MOT charges the various Ministries for the use of the buses.

The 55 buses full-time on public bus routes are new, donated in 2002 (5 by Iran, 50 by India). Reportedly, another 400 buses donated by India, another 45 donated by Iran and 100 from Japan will soon reach the country. The Millie bus agency has 560 staff, including drivers, for its 126 operable vehicles, an average of 4.4 persons per bus.

2.3.2 Private Road Haulage

The Afghan private sector has traditionally had a very strong presence in the road transport industries. A large number of privately owned trucks are registered within Afghanistan. In addition, a considerable number of Afghan transporters who relocated to Pakistan over the past decade have become actively engaged in goods transport, both within Pakistan as well as across the border to various destinations in Afghanistan.

2.3.3 Public Transport

Long distance transport occurs between regions and major cities and also to neighbouring countries, such as Pakistan and Iran. The preconditions for this service have deteriorated during the last decade. Demand has been suppressed because of unrest and war and the quality of service is low because of the generally bad road conditions throughout the country. (The travel time by car between Kabul and Kandahar was 4 hours 20 years ago and is now 14 hours). Fares vary from distance to distance and types of vehicle used. For example, a passenger travelling to Mazar-I-Sharif is charged 200 Afs by bus, 300 by flying coach, 350 by Town Ace, and 600 by Corolla.

Urban transport is to be found mainly in Kabul and provincial capitals. In the period before 1992, this was a priority service, to a large extent provided by the public sector in the form of organized fixed route bus transport. Today, much of urban transport is provided by the private sector with buses and taxis. Public transport in Kabul carries about 80% of all vehicle trips.

Regional transport occurs in different forms in rural areas, for example connecting villages to local hubs or towns, and also within small conurbations. This is not confined to motorized vehicles but can take place through walking and animal drawn vehicles as well, often for very long distances. Passenger transport and goods transport must often be combined and there is not always a clear line between what is a commercial operation and not. People are travelling mainly by taxis and trucks in Pul-I Khumri and other cities of the region. Bad road condition and lack of transport facilities to some districts are major transportation problems. There are 16 truck and 10 taxi transport agencies functioning in Pul-I Khumri, 5 agencies in Takhar and Kunduz, and 6 agencies, including trucks, carrying passengers and goods in Faryab.

The fare varies from distance to distance. For example, passengers travelling from Pul-I Khumri to Kabul, Badakhshan, Takhar and Kunduz are charged between 100 – 400 Afs. In the same way, those travelling from Kunduz to Imam Sahib, Takhar, and Dashti Archi are charged between 100 to 125 Afs; from Takhar to FaizAbad, Farkhar and Rostaq between 250 and 300 Afs; from Faryab to Qaisar, Kohistan, Shirintagab, Dawlatabad and Andkhoy between 95 to 135 Afs; and from Maimana to Jawzjan, Badghis and Hirat between 100 to 450 Afs.

2.3.4 Private Buses

According to official figures, there are 165 registered long-distance private bus companies; 101 based in Kabul, 64 in provinces, with a total of 14,007 buses. For Kabul itself, there are 7 bus unions with a total of some 900 buses, mostly minibuses and vans and mainly old ones. (According to another source some 2 000 buses are registered in Kabul but this does not necessarily mean that they operate there).

2.3.5 Taxis

The taxi system in Afghanistan is widespread and well organised. Taxis provide all kinds of passenger transport; long distance, urban and regional trips as well as international trips between e.g. Kabul and Peshawar.

According to MOT there are 24 taxi unions registered in Kabul and 27 in provinces with a total of 29,131 vehicles. The estimated number of taxi unions in the country varies, however, from 39 (JICA)² to 51 (MOT). In Kabul, the number of active unions is at present reported to be 5 with a total number of some 4,800 taxi cars.

The real number of taxis operating in and outside Kabul is generally assumed to be much higher and figures up to 30 000 have been mentioned. The number of taxis registered in Kabul is said to be some 20 000 but this figure does not give much guidance since the area of operation may not coincide with the place of registration

Taxis in Afghanistan are painted white and yellow in different patterns depending on where they operate; within a city or outside. In Kabul, taxis are also supposed to operate within operating zones indicated on the vehicle. In practise, however, these rules are not enforced and taxis can operate at will.

² Pacific Consultants International (2003): The Urgent Rehabilitation Support Program: Rehabilitation Study of the South-Western Area & Public Transportation Study of Kabul

Unofficial taxis, without the white and yellow colour code, exist but to what extent is for natural reasons difficult to estimate. However, at least in Kabul, their number appears smaller than one would expect.

2.3.6 Intermediate Transport

A major proportion of road passenger transport in Afghanistan is carried out not by large buses but by small and intermediate size vehicles of a variety of forms and shapes. This category ranges from small Japanese vans in the cities, to minibuses on the main roads and to powerful Russian four-wheel drive vehicles, still preferred in mountainous areas.

The type of three-wheeler passenger vehicles well-known in e.g. Pakistan, India and Thailand, (“auto-rickshaws”, “tuk-tuks”, etc) exist in some Afghan cities but usually not in large numbers. In Kabul, auto-rickshaws are few and limited to one or two areas.

2.4 **Roads**

The road network comprises about 6,000 kilometres (km) of national roads of which 3,300 km are primary highways, including 2,400 km that were originally paved. The national primary road network largely consists of the ring road (Herat - Kandahar - Kabul - Mazar-i-Sharif - Shibergan - Maimana - Herat) and six international links to neighbouring countries. The 615 km Shibergan - Herat section is only partly constructed and is generally unpaved. The remaining network comprising 2,700 km of secondary national roads and 15,000 km of provincial roads is either gravel or earthen. The tertiary road network consisting of village access roads is totally unpaved.

More than two decades of conflict combined with a prolonged lack of maintenance has resulted in damage to long stretches of roads, critical structures, bridges and the snow galleries on the approach to the Salang tunnel. Overall, the road network has been rendered only partially usable and then only at a significantly high transportation cost. Large sections of the roads in the south and east have been lost. Nearly all resources for road construction and maintenance have been lost.

2.5 **Road Financing**

The current situation in Afghanistan is that road users pay no specific taxes on vehicles, fuel and spares. Until recently and in theory, Afghanistan had a self-financing system for roads. The pedigree was a toll system implemented in 1974³, which generated funds for the central revenue fund, but did not contain any elements of earmarking. The tolls were collected by way of a system of toll stations scattered throughout the country. As from 1999, a new system was implemented by way of a new regulation replacing the previous one⁴. The new system continued the previous toll collection system, but also introduced earmarking. The toll revenues were to be spent on construction, reconstruction and maintenance of paved highways as well as the maintenance of other paved roads. Toll collection was organised by

³ *Toll Fees for Motor Vehicles*, Official Bulletin, No. (238), dated 7 October 1974

⁴ *Regulations for Collecting Toll Fees*, Official Bulletin, No. (786), dated 13 July, 1999

the MPW and the tolls were viewed as a source of revenue for the Ministry of Public Works (MPW). Through a decision by the High Council of Ministers on September 23, 2002 this road toll system was abolished⁵. The reason is that in a number of locations, unauthorised toll collection stations had been established by private parties thereby creating hardships for travellers without contributing to the maintenance programme.

Reportedly, in major provinces the revenues realised from the previous toll system were sufficient to offset the majority of maintenance expenditures. MPW was responsible for collecting the tolls, generally at provincial boundaries.

2.6 Civil Aviation

2.6.1 Transport Services

The situation in civil aviation is similar. Bahktar Afghan Airline (which used to run domestic services) no longer exists; Ariana is a shadow of its former self. Through the years it operated a network of 21 international destinations extending to Bangkok in the east and London in the west. The past decade, however, witnessed a downturn in traffic and interruptions of operations due to continuous instability. Many of its aircraft have been destroyed.

The airline acquired recently two Boeing 727's, one leased and one purchased; and has taken delivery of three used A300-B4 from Air India donated by the Indian government. The aircraft came with crew for six months but with no spare parts or ground equipment. The Ariana fleet now stands at three B-727 aircraft, three A300-B4, two Antonov 24 and one IL-76 freighter. The B4 aircraft are quite old, and have a short range. The airline operates flights to Dubai, Sharjah, Delhi, Tehran, Islamabad and Amritsar. Frankfurt and Istanbul have been added to the route network and are operated by a once weekly combined flight. Ariana is, not surprisingly, heavily over-manned.

Ariana suffers an acute equipment shortage in all fields ranging from handling and maintenance to office equipment. Its systems are largely manual and out of date. There is a great need for in-country training to process sufficient numbers of staff through an upgrading programme of the respective airline disciplines.

In order to attempt to meet the training requirements in the various disciplines, starting from management training, through to ab-initio training for all disciplines, management have decided to re-establish the Technical Training Centre at the airport. But Ariana's operational, commercial and financial activities need to be restructured in order to rehabilitate it as an international airline in all areas.

2.6.2 Infrastructure

The infrastructure position is parallel to that in the road sector. Airports lack modern navigational aids; runways and terminal buildings need to be modernised. The system of Air Traffic Management faces critical deficiencies. The present services do not meet international standards and practices with which Afghanistan, as an ICAO Contracting State, is required to

⁵ Decree General No. 43 of September 23, 2002, Special No. 13, (1381 H.Q)

comply. Further information about airports and the air navigation system is available in the Annex to the Overview report on Civil Aviation in the Action Plan.

3. FRAMEWORK FOR POLICY FORMULATION

3.1 National Development Framework

The general objectives of the government are set out in the NDF and are made more specific in the National Development Budget for 1381 and 1382 (2003-2004). They state that the development within the transport sector in Afghanistan is likely to follow most reforming economies and move towards an institutional structure where :

- Central government sets policies and investment priorities.
- Provincial, urban and local government is responsible for allocating resources and managing expenditures on a decentralised basis in their own geographical areas.
- The main role of the Ministry of Public Works, or its successor body, is to manage external contractors who would be appointed on a competitive basis.
- The government will, in time, privatise the public transport fleet and the national airline.
- Independent regulatory bodies will be established to oversee the performance of monopolies and to ensure that acceptable standards of safety are achieved in air transport etc. (i.e. road transport).
- A rational and equitable programme of user charges will be introduced in the form of levies on fuel, vehicle licensing charges, and tolls on key roads to generate funds that can be earmarked for maintenance of the highways and roads network.

These intentions are reflected in the Policy Statement for the Transport Sector. This Statement is, in addition, based on the assumptions and the vision elaborated on in the following sub-sections.

3.2 The Assumptions and Vision

3.2.1 Basic Policy Objectives

The Policy Statement is based on the assumption that the basic policy objectives of the Government are to:

- ❑ promote economic growth;
- ❑ eradicate acute poverty; and
- ❑ strengthen national unity.

To attain these objectives, resource utilisation in the transport sector must be radically improved. This will have to be achieved whilst adequately addressing public interest issues such as:

- the provision of safe and secure transport services;
- the protection of the environment;

- the promotion of gender equality, attention to women needs in transport and participation of women in the sector;
- the improvement in accessibility to rural and urban areas; and
- the promotion of competition.

3.2.2 Means to Attain the Objectives

The main functions in the transport sector can be identified as follows:

- The supply of transport services, including intermediate services such as freight forwarding, clearing, and other agency services.
- The provision and preservation of infrastructure.
- The performance of regulatory activities to address public interest issues.
- The performance of policy making and overall monitoring of sector development.

Following the NDF, it is assumed that efficiency in the provision of transport services will best be attained by allowing competition and private sector participation. Transport services are, in general, best produced subject to the minimum of economic regulation with regard to entry, capacity and pricing.

The public sector has a much more central role in the provision of infrastructure on account of characteristics that cannot easily be handled by private interests, including high risks, network effects and other external effects. However, there is a need to be cognisant of international experience in relation to arrangements for the planning, provision and operation of infrastructure that may significantly contribute to efficiency. These include:

- The need for delegation of management to autonomous organisations within a governance framework providing for effective enforcement of accountability.
- The importance of ensuring involvement by the users of infrastructure in the governance of the organisations charged with management. This may also entail decentralisation of the management of infrastructure.
- The importance of establishing self-financing mechanisms for the preservation, and also provision, of infrastructure facilities.
- The need to engage contractors by competitive tendering procedures for the provision and preservation of infrastructure facilities.

This notwithstanding, it should be recognised that a market-based approach in the transport sector combined with autonomous management and self-financing of infrastructure facilities, whilst necessary, is not sufficient means to ensure a well-functioning transport sector. There are a number of public interest issues to be addressed as well, and these require regulation, which is a domain of the public sector.

The nature of the regulation required varies. Thus, some issues are not simply a concern of the transport sector, but cut across all sectors of the economy. For example certain aspects of environmental control relate to activities in other sectors as well. And the promotion of competition is a regulatory activity which apply throughout the economy; it is therefore not considered further here.

Other issues are exclusive concerns of the transport sector, such as safety, security and the dimensions and environmental features of vehicles and aircraft. Regulatory activities in these

areas essentially comprise the setting and enforcement of -- or the provision of incentives to abide by -- standards. Regulation is primarily directed towards individuals or companies.

With regard to accessibility and gender, regulation may include standard setting and enforcement, but the issues at hand may require a more pro-active role by the public sector. Accessibility is related to the provision of transport and infrastructure services at affordable prices to certain communities, which would be inadequately served by way of a purely market-based approach. These communities, in addition, often tend to be poor and to live in very remote areas of the country or in inaccessible parts of urban areas.

The role of the state with regard to accessibility is threefold:

- To formulate policies and establish standards with regard to accessibility.
- To identify and establish an institutional framework which can effectively identify and put in place the means to implement policies and improve and achieve standards of accessibility.
- To provide finance to ensure improved accessibility.

Since much regulation is of an operational nature, efficiency in performing regulatory functions can often be achieved by delegation to autonomous organisations, agencies, which perform their business within a transparent governance framework. This applies e.g. to the performance of regulatory functions to promote safety and security in transport and infrastructure operations, as well as to improve the environment. It is desirable that such organisations are largely self-financing. As stated in the NDF, it is the Government's wish to promote the development of agencies of this nature.

Policy formulation, international relations, the drafting of legislation and sector monitoring are obvious functions for the public sector, and indeed the main functions to be performed by a ministry in the transport sector.

3.2.3 Phasing of Policy Implementation

The TSR focuses on the coming 5 years, including policies and reforms to be implemented during these years. An iterative technique has been used in order to identify which policies to strive for in this time perspective. The first step consists of drawing up a vision for the transport sector in about 10 to 15 years, and the policies and structure of that sector in terms of NDF and the objectives presented above. The second step has consisted of an identification of specific constraints to the realisation of this vision during the coming 5 years. This effort is reflected in Sections 4, 5 and 6 of this Background Document, and then summarised in Section 7.2. Taking the vision and constraints into account, it has been possible to identify what can actually be achieved during the coming years, and this analysis then forms the basis for the specific recommendations on policy development and institutional change made in this Background Document. These are developed in Sections 4, 5 and 6, and then summarised in Section 7.3. The recommendations have subsequently been taken further as part of the Action Plan of the TSR.

3.2.4 The Vision

In terms of the overall objectives and the means identified to attain these objectives, and based on international experience, the following vision may be formulated for the transport sector.

Transport services: Transport operations will be performed by private operators, subject to competition. This will apply to the provision of taxi, road haulage and bus transport, all intermediate services and air transport services. Subject to international agreements, competition is also expected to rule on international routes, including with respect to air transport, bus transport and road haulage.

Transport operations will normally be provided without public subsidy. However, certain domestic services may be provided under public service obligations, in order to ensure that minimum standards of accessibility in the country or urban areas are met. Such public service obligations will be procured by competitive tendering.

Roads: The national road network will have been rehabilitated, and where required, upgraded. It will be managed by an autonomous road agency, and its preservation and further development financed by road user charges, which are not part of the consolidated budget. Provincial and local roads will be managed by provincial and/or local road authorities, and a substantial part of their costs will also be financed by way of road user charges. A road fund will have been established to collect the road user charges and to serve as the procurer of road services from the road agency and local roads authorities, and hence to serve as the regulator of the road sector. Donor assistance will be directed towards the development of rural roads required to improve accessibility. Road works will mainly be done by contractors, including under long-term contracts for maintenance. A substantial amount of work will be contracted out to small contractors using labour-based techniques.

Airports and the air navigation system: The airports of the country will be managed by a number of airport companies. It is expected that these, with the exception of the airport in Kabul, will essentially have provincial ownership. The airports will be self-financing for their operations (but not necessarily for their development). The air navigation system (ANS) will be operated by a separate corporate self-financing entity; it will also operate the ANS at the airports. Legislation establishing the airports and ANS corporations will enable the facilities and services to be privately financed and operated in terms of a concession. A system for economic regulation, comprising mainly self-regulatory arrangements, with regard to the airports and ANS will have been established.

Safety: A new agency for the regulation of safety, security and environmental protection in aviation will have been established. Similarly, the regulation of road traffic with regard to safety and environmental aspects specific to the road sector will have been entrusted to another agency, also expected to handle registration of licences and vehicles. Both as concerns aviation and road traffic, Afghanistan will regulate safety and security adequately in terms of internationally accepted standards.

Railways and rivers: Investments in river transport facilities and railways will be encouraged. River and railway transport developments will essentially be a responsibility of the private sector. The government may participate in such developments provided that demonstrated

economic benefits may be derived there from, which cannot be captured by private investors, or in order to improve accessibility to remote regions in a cost-effective manner.

Organisation of government in transport: A new ministry will have been established, to replace the current three ministries in the transport sector, i.e. Ministry of Transport, Ministry of Civil Aviation and Tourism and the Ministry of Public Works (MPW), and will be charged with policy work for the road sector, road transport, multi-modal transport, air transport, and new modes, such as rail and river transport. This new ministry will ultimately also be responsible for road traffic (except enforcement), an area which today partly falls under the Ministry of Interior, as well as policy matters related to rural roads, which are today handled by the Ministry of Rural Rehabilitation and Development. The new ministry will additionally have become responsible for international relations and for preparing the public budget in the sector. The ministry will have a staff of a couple of hundred persons.

To ensure accountability of the new agencies and corporations, an explicit governance regime will have been put in place. The governance regime will encompass objectives for these organisations that may be measured, the publication of periodic and annual reports to shed light on the attainment of the objectives, and arrangements to allow for the involvement of users and other stakeholders. The day to day monitoring of these organisations will normally be performed by the new ministry in the transport sector.

3.3 Capacity Building

The NDF places emphasis on the private sector in rebuilding and developing the transport sector. The key to trigger this development, but also to ensure a balanced approach with adequate attention paid to the public interest issues, is building the capacity of the public sector. The challenge is formidable in view of the shortage of skills and the fact that the ministries until recently were steeped in a culture inappropriate to the future needs. To be able to move forward, the existing ministries will have to be used as a platform to implement change and reform.

The following steps are envisaged by Government as part of capacity -- including institution - - building:

- Each ministry will set up a new department to be charged with capacity building. This capacity building office (CBO) is envisaged to be given priority reform and restructuring (PRR) status in terms of the decree on Priority Reform and Restructuring within Ministries and Government Agencies⁶. This Decree allows for departments of ministries to be given priority reform and restructuring (PRR) status, so that individuals appointed to key posts in these departments may be offered better conditions on a time-limited basis and subject to performance.
- Each CBO should be provided with a technical assistance (TA) team comprising three types of experts: (i) development of the management and administration of a ministry; (ii) experts in the specific functions of the ministry concerned; (iii) experts in training in the skills to be possessed by the ministry concerned. The TA team leader would report to the head of the CBO, and on an interim basis to the minister/deputy minister.

⁶ See further Information Paper 4.1 in the Action Plan, including its annex which contains a copy of this decree.

- The CBO will design new departments corresponding to the future needs of the Ministry. Once such a department has been designed, and key staff members identified, an application for PRR status will be made, and the department will then be launched. A separate TA will normally have to be provided in order to launch the new department.
- New structures, including envisaged future airports corporations, ANS corporation, and agencies in aviation, roads and road traffic, will initially also be established as a new department, which will be given PRR status. Once this department has been set up, and basic recruitment completed, the next step will be prepared by the CBO, leading up to the launching of the agency or corporation, and subsequent closure of the department in question. Again, a separate TA will normally have to be provided.

It is expected that the capacity building units can be established in the form of a department within by the three transport ministries by the end of 2003 (1382).

3.4 Gender

The Bonn Agreement requires that the government shall also ensure the participation of women as well as the equitable representation of all ethnic and religious communities in the Interim Administration and the Emergency Loya Jirga.

Regulatory activities with regard to gender normally cut across all sectors in the economy, for example measures to promote women careers in the public service. But there are also some transport sector dimensions to be noted:

- There are specific enforcement issues with regard to the use by women of taxis, buses and other means of transport, to ensure an equal treatment of both sexes.
- There is a need to identify and develop transport solutions which are responsive to the needs of women. An implication of this is that the organisations charged with the management of infrastructure and the provision of solutions for meeting accessibility standards must also review needs from a gender perspective. This may be achieved by ensuring women representation on boards in agencies and/or incorporating appropriate instructions in planning and design manuals.

The TSR will make no specific recommendations with respect to gender. The approach is rather to ensure that a capacity is established for dealing with gender issues as they arise, when the reform process has been initiated. To this effect, it is proposed that the CBO (see Section 3.3) should serve as the gender focal point to the Gender Advisory Group (which is part of the framework for interaction between the government and donors), as well as prepare and implement a gender operational policy.

4. ROAD TRANSPORT AND TRAFFIC

4.1 Introduction

As explained in Section 2.3.1, the centralised system of the provision of road haulage services has effectively collapsed; and that in the absence of a governmental policy, private enterprise

has filled the gap. It would clearly be contrary to overall government policy to seek to re-create the system of centralised provision of services.

In any case even in developed economies the road haulage industry is typically composed of small and medium enterprises with 75% - 80% of its capacity supplied by companies operating fewer than five lorries. And companies which at one time operated large fleets are shifting their emphasis into acting as logistics organisers and chartering in the lorries they need from smaller operators.

In passenger transport equally the trend is away from centralised companies. Long-distance passenger transport is sometimes restricted in order to protect the railways but in the case of Afghanistan that problem does not arise. Practice in the provision of passenger services in conurbations varies considerably, though if there is governmental involvement it is local or regional rather than national.

The numbers make it abundantly evident that the Afghan private sector is willing and able to meet the nation's transport needs, at least in terms of commercial services (e.g. trucks, buses and taxis) along the major corridors. In consequence, the main policy questions are how to build on the developments that have taken place, what degree of regulation is necessary in the public interest and how to harness the available skill base within MOT in order to channel this private sector initiative to ensure safe, environmentally sensitive, comprehensive and cost-effective provision of services. The present regulatory oversight of the MOT Private Sector Department is an example of a public sector role which is necessary but, conceivably, should be both re-directed and strengthened.

4.2 The MOT Operations

The first question to be settled is what to do about the rump of the Kamaz lorry and Millie bus organisations. TSR suggests that the most effective course as well as that most responsive to the NDF and other policy guidance would be to transfer to private commercial operation the surviving remnants of the Ministry of Transport's fleet of lorries and buses. Nevertheless, several arguments have been put forward to justify the retention by MOT of its relatively small remaining fleet of vehicles. These are:

- With respect to freight transport (Kamaz), the government should have a minimal capacity to serve at least a portion of its own needs as well as to be able to respond on short notice to emergency situations (e.g., natural disasters).
- Regarding passenger transport, the Millie buses offer some visible evidence that the government is concerned about and is providing services to the individual citizen in the street.
- Furthermore, the availability of publicly-owned MOT buses ensures there will be no market gap whereas private operators, motivated only by the profit motive, may neglect certain low density urban or rural districts to the detriment of the residents therein.

The TSR acknowledges the potential validity of these arguments, at least for the near term. At the same time, with respect to both Kamaz Agencies and Millie Bus, the objective must be to avoid spending scarce public resources on rebuilding or continuing enterprises which the private sector within Afghanistan has amply exhibited its ability to handle fully. Therefore, at

a minimum, a commitment to authentic commercialisation is essential. Thereafter, in the unfortunate event that commercialisation should fail to stem the need for subsidies, a clear exit strategy should be implemented.

It is recognised that there may be a need for some further public expenditure to effect the transition to commercialisation successfully, but this should be relatively small scale. Training courses in management, commercial accounting, etc., may prove necessary; communications equipment, properly equipped non-governmental office and maintenance accommodations and other facilitating infrastructure may be needed. If requirements are properly documented and justified, donor assistance might be sought to facilitate the change.

Recommendation 1.1:

TSR recommends that the MOT truck and bus operations be commercialised. There is need to design a project to prepare for commercialisation.

4.3 Deregulation of Domestic Operations

Present legal framework provides for the control of entry into and prices in both road haulage, bus transport and taxi operations. Effectively this regulatory system has collapsed. Some regulations which are still enforced appear to be the consequence of a centralised economy and in present circumstances of questionable value. An example is the requirement that vehicles entering any province report to the local office of MOT's Private Sector Department to report their planned itinerary and routing within that province. While this may have been a useful technique in the past by which MOT could monitor and track its own Kamaz trucks, there appears to be no justification for or benefit derived from requiring private trucks to do the same. Other examples include the practice of route licensing and of requirements for "union" membership for all inter-provincial commercial operators.

The practice of MOT establishing rates for private transport operators is also subject to question, especially since official rates are reportedly widely ignored and only sporadically, if ever, enforced. Road haulage rates are notoriously difficult to regulate and TSR suggests that it would be sensible, and in accordance with general governmental objectives to abandon price regulation in the road haulage sector. There may be a social case for regulation of passenger fares, though TSR is inclined to think that it would not be necessary on intercity services; see further below.

Regarding regulation in general in the road transport sector, the alternatives tend to reflect varying philosophies as to the extent of involvement of government in commercial affairs. The TSR suggests that, wherever possible and deemed appropriate, regulatory policy should build upon past Afghan practice. It will, however, be necessary to modernise, expand and re-direct certain aspects of the prior regulatory regime. In some instances this will mean a more "hands-on" approach to regulation (e.g. in terms of compliance with technical standards and in requirements for mandatory third-party liability insurance coverage). In other, purely economic spheres, a more modern approach would imply a more "hands-off" approach to allow the market to function (e.g., abandonment of route-specific licensing, of mandatory union membership and of governmental mandates for commercial tariffs).

Recommendation 1.2:

The TSR recommends that, as a principle, road transport should be deregulated (however, see also Section 4.6). Entry into the market and pricing should be free. This applies to domestic road haulage, bus transport and taxi operations. As part of the Action Plan a policy paper will be prepared to effect this recommendation.

4.4 International Transport and Transit

Due to the many facets and potential ramifications of international transport and third-party transit, numerous ministries, ranging from Foreign Affairs to Interior to Transport, all play important roles. MOT's primary involvement consists of issuing permits for foreign vehicles to enter Afghanistan. Today this requires MOT representation in selected cities in Pakistan and Iran and soon in Tajikistan.

Inbound vehicles and drivers are allowed to enter the country upon obtaining a permit from the nearest representative of MOT's Private Sector Department. It appears that this is essentially a paperwork and fee-paying exercise as there is no vehicular inspection to ensure minimum technical standards are met.

Outbound Afghan vehicles and drivers are also required to obtain permits prior to leaving the country. Separate permits are required from MOT and from the country they plan to enter. In the latter case, these permits are obtained from representatives of neighbouring nations who are based at embassies and consulates in Afghanistan.

The basis for the current system for regulating international transport and transit, including the role of bilateral and multilateral agreements in this regard, is not clear to the TSR. There is a need to review these operations further and identify a strategy to ensure that Afghanistan's interests are served by the arrangements for enabling these operations.

Recommendation 1.3:

The TSR recommends that the current arrangements for enabling international transport and transit be reviewed and that a strategy be formulated for how to progress towards a policy in this regard.

4.5 Safety and Vehicle Regulation

Anecdotal evidence suggests that, in the past, Afghanistan had a fairly extensive and effective system of road transport monitoring and regulation, although environmental regulations, e.g., regarding fuel quality and vehicular emissions, were reportedly nonexistent.

Today, safety and technical standards, to the extent they exist, appear to be no longer subjects of rigorous enforcement. Weight limits are in place (10-tonnes per axle), but all roadside scales have been destroyed so enforcement is impossible leading to the risk that overloaded vehicles will damage roads and bridges.

As another example, the Technical Section of MOT's Private Sector Department carries out no technical inspection of vehicular applicants for licences, operating on the assumption that commercial considerations will ensure that vehicles are properly maintained in order to minimise operating costs. This heavy reliance on self-discipline and enlightened self-interest is unusual. (Nevertheless, having said this, windshield surveys along selected urban, rural and international routings in Kabul and the southeast have not revealed a predominance of obviously substandard vehicles and equipment such as may be found in many countries. Furthermore, the number of vehicular breakdowns witnessed appears significantly fewer than are found on many roads elsewhere in South Asia.)

Recommendation 1.4:

There is a need to improve and reinforce the road safety regime and the regulation of other public interest matters (e.g. axle load regulations). Under the Action Plan a strategy will be developed for how to accomplish this.

It is understood that vehicles in Afghanistan are normally not insured, and that no third party insurance system is effective. Mandatory third party insurance is fundamental to road traffic as witnessed by that virtually all countries impose such a requirement.

Recommendation 1.5:

There is a need to review the scope for mandatory third party insurance. Under the Action Plan this will be examined further.

4.6 Accessibility

As stated in sub-section 3.2.2, a market-based approach may not necessarily result in the provision of adequate and affordable public transport services to all communities. These communities, in addition, often tend to be poor and to live in very remote areas of the country or in inaccessible parts of urban areas. TSR acknowledges that a regulatory system is necessary in order to ensure that accessibility standards are formulated and that these standards are also being met.

As mentioned, TSR is inclined to think that on inter-city routes the private sector could be allowed to develop in a market free from economic regulation. This is not necessarily the case for passenger transport within conurbations or in rural areas. In conurbations it would be normal for local government to wish to decide how the community should be served and whether the workings of a free market would meet its objectives whilst in rural areas special arrangements may be necessary to ensure adequate access to the nearest population centres. This may require some sort of subsidy, whether direct or cross-subsidy by operators in the relevant conurbation. In these two areas, in most countries, economic considerations are frequently made subordinate to social requirements.

Recommendation 1.6:

There is a need to ensure that reliance on market forces does not leave some urban and rural groups physically isolated. As part of the Action plan the initial steps should be prepared of a

policy and mechanism to ensure minimum levels of accessibility by way of road transport in urban and rural areas.

4.7 Impact on Governmental Organisation

If adopted, the policy proposals above would alter the role of MOT very considerably. It would call for a shift in the nature of its regulatory function, and it would increase the area of public service oversight; however, it would also mean a substantial reduction of in-house responsibilities as operational units are transformed into more autonomous commercial enterprises. It is important to note that there need not necessarily be a net loss of jobs under this proposal, although some shifts within and between departments and the newly commercialised organisations would need to occur.

The personnel required for a largely planning and regulatory function will be less than for operations so that public sector staff numbers will be reduced, but a number of current MOT employees will find opportunities in the newly commercialised enterprises. Only a commercially sized staff, however, should be assigned to each unit, with the rest remaining as Ministry employees, to be retrained as necessary to assume new responsibilities. Certainly, it is unrealistic to expect the newly commercialised entities to prove successful if they are grossly overstaffed from the outset.

At MOT the loss of rolling stock over the years left an overloaded ratio of staff per vehicle, but this will be eased with the arrival of some 500 or more new buses. Rather than hire new staff for the new buses, transfer of some Kamaz agency personnel to the Millie bus agency, should result in more realistic personnel levels.

During any transitional period, there must be complete segregation of regulatory and operational functions between MOT and any newly commercialised truck and bus companies.

Also whilst it is recommended that economic regulation (i.e., setting prices and routes) be minimised or abolished, MOT's future regulatory responsibilities will be enhanced by the very important function of setting vehicle standards to minimise "public costs", e.g., pollution, unsafe conditions, overloading causing undue road wear, etc and provide the regime and functions to ensure accessibility of transport to all.

In addition, there is a need to consider that at present the registers of driver's licences and vehicles are managed by the Ministry of Interior (the police). The normal arrangement in other countries is for a ministry of transport, or an agency under the ministry of transport, to manage these registers, whilst the police focuses on enforcement.

Recommendation 1.7:

There is a need to restructure and strengthen the MOT for new focus on policy, regulation and monitoring, as well as capacity building. Under the Action Plan, proposals should be made for how to accomplish this.

5. ROADS

5.1 Introduction

The road sector is currently viewed as a key to the reconstruction of Afghanistan, and is also the focus of donor support. As set out in the annex to the Overview document for Roads in the Action Plan, considerable resources are being spent on the road network, and even more will have to be earmarked in the coming years, both for reconstruction and maintenance. At the same time, the manager of the sector, the Ministry of Public Works (MPW) will face substantial challenges, not only because of the scale of the operations, but also because the existing structure and arrangements for road sector management are a legacy of the past, and hence outdated. Not only will the road network have to be rebuilt, but also the system for managing roads. A number of issues will have to be addressed including:

- The scope and focus of the MPW operations, including the balance between the centre and the provinces.
- What to do with MPW force account operations.
- The financing of, in particular, road maintenance
- How to build the capacity of MPW
- How to structure the road sector in the longer term.

5.2 Short Term Reorganisation: Centralisation or Decentralisation?

The NDF puts emphasis on decentralisation of road management and road operations. The TSR believes this development is appropriate but only in a medium term perspective, and not in the short term. Indeed the TSR would argue that in the short term there is likely need to even centralise road operations even further, but at the same time this should be done in a way that decentralisation is facilitated later on.

One of the main reasons for strengthening the centre in the short run is the need to reorganise the road sector. The MPW has traditionally been an operator involved in construction and maintenance. A new arrangement, effectively introduced as a consequence of donor involvement in the sector, is that operations to a large extent effectively is being handed over to private contractors, whilst the MPW increasingly needs to focus on the management of the road network. A second reason is that MPW is acutely short of the skills required to fill the new requirements, as witnessed by that many essential functions are now being performed by either the donors (or their consultants) or by other government agencies (primarily AACA). There is a need to rebuild the management infrastructure and this will have to start from the centre. Part of the explanation for this is that MPW development will have to depend profoundly on donor financed TA, and its exploitation will likely be favoured by using a centralised model.

The need to focus resources suggests that it might be appropriate to concentrate responsibility for the road sector even further than is the case at present, by transferring responsibility for rural roads from the Ministry of Rural Rehabilitation and Development to the MPW.

In the medium term, decentralisation should be achieved by transferring functions not to the MPW's regional offices, but to the provincial administrations. It is therefore suggested that,

once the MPW's capacity to act as a road manager has been rebuilt, its functions with regard to rural roads and provincial roads, including maintenance operations, should be transferred to the provinces. The MPW's regional organisation would then be expected to provide support to the provincial road administrations.

Recommendation 2.1:

Reorganise and strengthen MPW in the short term, and in a medium term perspective, decentralise part of road management to the provincial level. As part of the Action Plan more concrete proposals should be presented.

5.3 The Scope and Focus of MPW Activities

The significant role already played by donors in the road sector effectively means that the MPW will need to reorient its focus towards planning of and contracting for works. There will be very limited scope for MPW construction operations in the future. As concerns maintenance, the future will be more complex. Given the lack of a functioning local contractor market as the present, maintenance capacity in the MPW will be required for years to come. This maintenance capacity will primarily be for routine maintenance including operations, as well as to handle emergency repairs in more remote places. Periodic maintenance will likely be handled by contracting with private firms. It is also likely that private firms will take on major long-term contracts for key roads; this is thus a requirement of the World Bank for the future maintenance and operations of the road leading to the Salang Tunnel, including the tunnel itself.

MPW at present has a considerable number of employees in its Construction and Maintenance Departments. This work force will have to be reduced and/or retrained in order for MPW to be able to efficiently meet future requirements.

Recommendation 2.2:

In operations MPW should focus on having capacity for routine maintenance and emergency repairs. As part of the Action Plan, the basic strategy for how to achieve this should be presented.

5.4 Capacity Building of the MPW

The major challenge facing MPW is to build up its capacity to enable it to manage the public road network. It is suggested that the MPW needs to prepare a capacity building strategy, which should also enable it to undertake the kind of reforms and restructuring measures, which have been suggested in the two previous sections. This strategy should build on the capacity building model set out in Section 3.3.

Recommendation 2.3

The MPW should be restructured and strengthened for new focus on planning, procurement, monitoring and capacity building. As part of the Action Plan a program for restructuring and capacity building should be prepared.

5.5 Road Financing

5.5.1 Introduction

This Section considers some of the main issues related to road financing. As ongoing rehabilitation projects, which are generally donor funded, are successively completed, the need for adequate maintenance in order to protect the invested capital will accumulate. Maintenance will continue to be required for the life lengths of the projects and will need some sustainable form of financing. Understandably, the international financing agencies expect Afghanistan to assume responsibility for that financing.

5.5.2 Financial Requirements for Road Maintenance

As of May 2003 the donor funded programme includes about USD 1.4 billion for the rehabilitation of approximately 4,700 km of roads. Considering that not all roads need rehabilitation, this should bring the whole National road network (6,171 km) up to at least fair condition by 2007. The Provincial road network (about 15,000 km) is expected to follow 2008-2011 provided that money will be found. Some 80% of this network is in poor condition and the rehabilitation could cost another USD 1.2 billion. The rehabilitation of the rural and urban roads (some 19,000 km in total) is intended to continue in parallel, for a completion around 2013 and at an estimated cost of 0.2 billion.

The Appendix to the *Overview; Roads* document in the *Action Plan* contains strategies for an optimum maintenance of different road types and with different traffic volumes, once the roads are brought up to a maintainable standard. Any other strategy would result in shorter life lengths and higher long term costs. With average traffic volumes for the respective road types, this resulted in maintenance costs according to Table 5.1 below. The costs include routine and periodic maintenance as well as average levels of winter maintenance and emergency repairs.

Table 5.1: Average maintenance costs for the whole road network

Surface Type	Total km	Average Cost USD /km-yr
Paved	3,800	6,763
Gravel	17,915	4,113
Earth	18,381	937
Whole Network	40,096	2,908

According to current plans the whole network of some 40,000 km will be in an acceptable condition by the year 2012-13. The estimated total costs in Table 5.2 below are based on that same assumption, with unit costs according to Table 5.1.

It may be noted from Table 5.2 that if they are rehabilitated as planned, the provincial and local roads will require half of the total maintenance budget from 2006-07, and more than two

thirds from 2009-10. If the rehabilitation of provincial and local roads should be delayed, the total maintenance costs according to Table 5.2 will be reduced accordingly.

Table 5.2: Total Annual Maintenance Costs (USD Million)

Year	National roads	Provincial Roads	Rural feeder roads	Urban roads	TOTAL USD Million
2002-03	11.8	10.2	4.4	1.7	28.2
2003-04	23.8	10.2	4.4	1.7	40.2
2004-05	30.9	12.7	6.6	2.6	52.9
2005-06	33.1	15.3	8.8	3.5	60.7
2006-07	34.8	20.4	11.1	4.4	70.6
2007-08	34.8	25.5	13.3	5.2	78.8
2008-09	34.8	35.7	15.5	6.1	92.1
2009-10	34.8	45.9	17.7	7.0	105.3
2010-11	34.8	51.0	19.9	7.8	113.5
2011-12	34.8	51.0	21.0	8.3	115.1
2012-13	34.8	51.0	22.1	8.7	116.6
Km	6,171	14,925	17,000	2,000	40,096

5.5.3 Possible Revenues

Government has a very small budget, many urgent priorities and limited possibilities for increasing its revenues in at least the short term. Charging the road users seems to be the only realistic alternative to finance road maintenance. Given that user charges appear necessary, there is a need to examine the revenues that may be mobilised. To illustrate possible revenue volumes, reference will first be made to the toll regime in place until last year (Section 2.5).

From the time when the rehabilitation of the National road network has been completed around 2006-07, about USD 35 million will be needed annually for its maintenance. The network then includes about 4,800 km that have been rehabilitated with international financing, plus another 1,300 km for a total of nearly 6,200 km.

According to estimates based on the twelve road sections for which data are available, the average traffic volume will increase from the present 1,500 vehicles per day (ADT) to about 2,300 vehicles per day and produce around 0.8 million vehicle-km per km and year. With the previous toll charges of 0.11-0.55 AFS per vehicle-km and a typical mix of vehicle types, the average revenue would be about USD 4,000 per km and year.

This is not enough to cover the average maintenance cost for paved roads, estimated at nearly USD 6,800 per km according to Table 5.1. The old toll charges would have to be increased by some 70%, in addition to any increase due to inflation. It is assumed that only traffic on the National roads is tolled, and that the revenues are used solely for the maintenance of these roads. The costs for collecting and managing the toll system are assumed to be small by comparison.

An alternative would be to raise additional revenues by way of a charge on fuel. Assuming average annual mileage and fuel consumption, the whole vehicle fleet would consume about 300 million litres of fuel per year. At the current price of USD 0.35 per litre, a 30-35% fuel surcharge (about USD 0.11 per litre) would be sufficient to collect the USD 35 million needed to maintain the whole National road network.

The user charges estimated above will at the best be enough to maintain and operate the National road network. If the rehabilitation of the provincial and local road networks proceeds as planned, another USD 35 million will be needed for those roads already by 2006-7. By 2012-13 this amount would have increased to USD 80 million, resulting in a total annual cost of USD 117 million for maintaining the whole road network (see Table 5.2).

Two or more of the above types of charges will be needed to raise these amounts or - if this is not possible - the investments will have to be postponed until the maintenance of the network becomes possible.

5.5.4 Further Considerations

A system to finance the operations and maintenance of the Salang Tunnel with approaches (82.7 km) has been agreed with the World Bank. The establishment of the system is intended to be temporary for perhaps five years, starting after the rehabilitation of the stretch is completed in 2-3 years. As formulated, however, the legal arrangements for the system are also intended to be applicable for other rehabilitation projects with other financiers⁷.

The system is based on the following considerations:

- Road tolls are imposed to cover the operations and maintenance of the rehabilitated stretch of road and cannot be used for other purposes or other road sections.
- The collected tolls are deposited into a deposit account from which the contractors for operations and maintenance are paid (Upgraded Road Toll Account). Any other road projects under the same system will need their own, similar accounts
- The intended toll structure is similar to the one used 1999-2000 but the toll level has to be raised significantly (at least for the World Bank project, due to the high operating costs for the tunnel).

While most features of the above financing model are well justified and supported by TRS, the ear-marking of road tolls for individual stretches of road is questionable. If other ongoing and planned rehabilitation projects adopt the same system, the ear-marking would cause an inefficient use of the total resources, as compared to a system where the aggregate revenues are set to meet the aggregate costs. The constraints for improving maintenance management and reducing costs tend to be more, and more severe, if the objects and funds are compartmentalized into smaller units. There is a clear advantage of scale.

Recommendation 2.4

Given the substantial needs that will arise in the near future, TSR believes that it will be necessary to introduce a self-funding mechanism based on road user charges for operations

⁷ 'Toll Road Study for the Salang Tunnel Road'. Attachment 5 to the Emergency Transport Rehabilitation Project, World Bank, 2003.

and maintenance. There is a need, however, to examine this matter further in both a short to medium term perspective, and to develop a policy on and a mechanism for cost-recovery. A policy paper on road funding should be prepared as part of the Action Plan.

5.6 Road Management and Financing in the Longer Term

TSR believes that once the transformation of MPW, which has been outlined above in Section 5.2-5.4, has been completed, in say 5-7, years, then a further stage of restructuring may become appropriate, following an approach which is now increasingly being recognised as best practice. The features of this future development are (i) that substantial revenues may be collected in the form a road user charges (e.g. by way of surcharges on fuel and charges on vehicles) and that the power to allocate these revenues are vested in a government agency, serving as a procurer of services; and (ii) the road management functions, the provider of services, are vested in a separate government agency. These developments cannot take place until government has developed an appropriate governance model for agencies of the state.

In terms of this future model:

- The responsibility for all roads is vested in one minister and his ministry, to facilitate the coordination of plans, programmes and use of available capacity.
- The Minister and his ministry will only be concerned with setting policy and approval of plans and programs, and the monitoring of their implementation. Management of roads and funds are delegated to autonomous agencies.
- One autonomous Highway Agency will be responsible for the management of the national road network; with preparation of plans and programs and with the execution of approved programs. Private sector consultants and contractors for those tasks are selected through competitive bidding.
- There will be provincial, urban and rural road agencies as may be desired following the new constitution. All these should be provided with assistance by the Highway Agency as and when needed.
- There will be one autonomous agency responsible for management of road funding, in particular funding of road maintenance and operations. This agency will be responsible for collection of the funds from the authorized sources, for disbursing the required funds according to approved programmes, and for monitoring that funds are used efficiently as intended.
- The construction industry including consultants will be responsible for delivering the required services and works through competitive contracting, at the time, quality and price specified.

Recommendation 2.5

There is a need to formulate a vision for the long term arrangements in the road sector, as this will also facilitate and guide reform and restructuring of MPW already at this time, as well as of road financing. As part of the Action Plan further details will be worked out for the possible long term arrangements for managing and funding the road sector.

6. CIVIL AVIATION

6.1 Air Transport

6.1.1 International Operations

In seeking to achieve the government's general objectives in the civil aviation sector, it is necessary to take into account the constraints to which the sector is subject. These are particularly significant for international operations. Aviation is unique in that its international operations are subject to intergovernmental bilateral agreements; its standards are set by multilateral agreements (such as the Chicago Convention and its various Annexes) including those on operational standards and principles of charging and the international agreements on liability and on security. This international web of conventions and agreements in practice constitutes a complete international code of regulation for international civil aviation.

There is another more political constraint. The modern pattern of international civil aviation was set in the late 1940's. At that time, civil aviation was regarded by many governments as an infant industry which needed support and protection from stronger competitors; and the existence of a national airline was regarded as a matter of national prestige, a symbol of nationhood. Thus countries moving from colonial status to independence established national airlines. This was made possible by the bilateral system which enabled governments to correct any unacceptable imbalances in the effect of competition by adjustments to the bilateral.

This attitude has changed somewhat over the past 25 years. Aviation is now more widely regarded as an economic activity which should be subject to normal economic and commercial pressures. This is true in particular of the USA and to some degree of Europe.

But even in Europe there are few governments that would willingly let their national carrier go out of business, and the attitude is common elsewhere in the world. The provision in most bilaterals that governments can insist that airlines exercising rights granted under them should be owned and controlled by nationals of that state has facilitated the maintenance of this attitude and, in the opinion of some, obstructed the ability of the market to produce units of a size able to exist in the modern, increasingly global market, without support or protection.

This political factor is particularly significant in the case of Afghanistan. Afghanistan is emerging from 25 years of extreme and exhausting difficulties. Its airline, Ariana, is a shadow of what it was in the 1960's and 1970's. At the same time the world market has become more competitive; the range of aircraft has increased; and large global carriers, with enormous resources and expertise have developed.

It is clear to TSR that the immediate application of open market principles and uninhibited competition would result in the destruction of Ariana. The TSR understands that the TISA would regard this as unacceptable and that it prefers a policy which allowed Ariana a period in which to recover from the effects of the past 25 years.

In terms of the government's general objectives this will mean deferring for a time the application of full open market principles in favour of a degree of support and protection. It will, however, give them the possibility of taking a decision in due course on whether the airline should be state-owned and to what extent it should permit, or encourage, private sector

investment in it. Certainly without such a period of support and protection, the decision whether to have a state-owned or a privately owned airline will be academic.

Such a period of support and protection will also facilitate Ariana's re-acceptance amongst other international airlines. The development over the years of tickets interchangeable amongst airlines and the concomitant IATA Bank Settlement Plan requires a degree of trust amongst airlines as to the financial and operational reliability of the airlines with which they deal. In the next few years only support from the Afghan government can ensure this trust and thus give Ariana the flexibility to enter into whatever agreements it thinks desirable to achieve its commercial objectives. It would also facilitate any arrangements which Ariana might need to make with a non-Afghan airline to help in the process of its reorganisation and reestablishment.

In the above paragraphs TSR has argued for this policy in the interests of Ariana itself. There is however an objective of government policy for which it is equally important. Modern economies depend on good communications. It is of course possible that a free market system would produce services adequate for these purposes. But at the present stage of Afghanistan's recovery it would, in TSR's view, be rash to rely wholly on the market for this purpose. An open market system suits predominantly countries with strong airline industries able to benefit from the freedom which open skies provide.

In the case of Afghanistan it would probably result in a series of route monopolies run by third country airlines (assuming of course that they found the Afghan market sufficiently attractive to operate at all). Furthermore, since the aviation safety and security system in Afghanistan has not been ICAO certified (see below), there is a risk that Afghanistan might not be served adequately by other airlines in the event of a demise by Ariana.

It seems to TSR rather that aviation policy should seek consciously to ensure that Afghanistan has the international connections which it thinks necessary for the redevelopment of its economy. The policy suggested above may carry an economic cost. But if it is used consciously to create an airline attractive to private capital, it should be regarded as an investment, the cost of which will eventually be recouped. It will, however, be necessary for the government to assess from time to time in consultation with Ariana whether the time has come to realise its investment.

TSR will therefore assume that the objective of Afghan aviation policy in the international sphere is to create a framework within which Ariana can be maintained and gradually develop a viable network of services within which the government can ensure that Afghanistan has the air communications which it thinks adequate in the context of its overall economic policy; and within which it can, as circumstances allow, gradually begin to provide greater scope for competition to develop. It will thus be able to retain for itself the freedom to decide, where the objectives of the NDF conflict, what priority it wishes to give to each of them.

One consequence of this would be that as it renegotiates its bilateral agreements, the Afghan government should seek bilaterals along the model of Bermuda I⁸, rather than the more openly competitive models which are becoming more common. This will enable the Afghan government to insist on cooperation with the other country's airline rather than competition, as least until it judges that Ariana has recovered enough to face more competition. It will also

⁸ Bermuda I is the original post-World War II type of bilateral, which is still extensively used. It provides for equality of opportunity, but also for review if the workings of the market are unacceptable to either party.

give the government the possibility of differentiating between long-haul routes, where such forms of cooperation as code-sharing might be suitable, and the routes to neighbouring countries where the market might be expected to grow more quickly and where more flexible regimes might be appropriate. It will be most important that Ariana develop its network in a way best calculated to bring in revenue; and that the government carefully tailor its bilateral negotiations to these objectives.

Recommendation 3.1:

TSR recommends that the government uses the facility provided by the bilateral system and the traffic rights created under it to afford Ariana on international routes the protection necessary for it to be competitive and in consequence to enable the government to take a rational decision in due course on its privatisation. In consequence a second Afghan airline should be authorised by the licensing authority (see next section) only on routes where its competition would not significantly detract from this objective. Ariana is, however, expected to be profitable and only to serve routes not expected to be loss-making in a medium term perspective.

There is a need to consider strengthening the capacity of MCAT to negotiate bilateral agreements with expertise from abroad to ensure that the above objectives are fulfilled..

6.1.2 Domestic Operations

Of the factors set out in the Section 6.1.1 on international operations, only one is relevant to domestic operations, i.e. should domestic operations be regarded as an economic area which can be left to market forces or should it be regarded as a means of ensuring a system of communication which the government regards as necessary for the rebuilding of the overall Afghan economy? These two objectives are not, of course, mutually exclusive.

From the discussions TSR has had it seems likely that at least some domestic routes would be commercially viable and even, in one view, that there would be scope for competition on some of them. But it is certain that many of the routes operated by Bahktar Afghan Airline between the 22 airports in the period before 1978 will have to be regarded as public services operated for social and development reasons rather than commercial ones.

What seems to be needed, therefore, is a policy which allows commercial operations where they are viable but which envisages government subsidy where they are not. In considering this, a number of issues arise:

- (i) Should domestic services be provided by Ariana or should the 1971 concept of a separate domestic airline be adopted?
- (ii) Whether or not a separate domestic airline is envisaged, should it have a monopoly or can competition be envisaged? And if competition can be envisaged, how can government ensure that it does not become destructive?
- (iii) How can the government ensure that the country's overall economic and social needs are met?

The high point of Afghan aviation was the first seven or eight years of the 1970's. At that time Ariana had a significant international network; and Bakhtar serviced a comprehensive domestic network. As far as TSR can tell from those who remember those days, the system worked well. Since the purpose of this report is to look forward to more "normal" times, TSR believes that the decisions taken in the early 1970's should not be lightly ignored. In practice TSR sees considerable advantages in separating the operation of international and domestic services. Until the road network is restored, the regions and indeed the economy as a whole will depend heavily on aviation to provide the communication network necessary for the revival of the economy. This will mean the provision of services both for the carriage of passengers and for the carriage of goods.

It is also necessary to bear in mind the political objective of binding the regions to each other and to the capital. This may well require services to be provided for which there is no commercial justification.

For these reasons TSR recommends that at least for a number of years, the provision of domestic services should be separate from the provision of international services. The latter should primarily be the responsibility, and the preserve, of Ariana. It does not follow, however, that the provider(s) of domestic services should be state-owned. How market forces and government subsidy might be combined to get the best of both worlds is discussed further below.

It has been suggested that it would be commercially sensible that the definition of "domestic services" should be extended to cover services to neighbouring countries, on the grounds that the regions have strong economic links with one or more of such countries and the viability of the services would thus be enhanced. TSR does not recommend this. It will be very difficult to draw a line between different "international" services and it would militate against the political objective of binding the regions and the capital together.

From 1971 Bahktar Afghan Airlines had a monopoly of domestic services. TSR is not qualified to judge whether any particular route could sustain competitive services; indeed any judgement made now would not necessarily be valid in the future. But if there are entrepreneurs ready to provide a commercial service, even in the face of competition, it would be entirely in accordance with the government's overall objective of the maximum use of the private sector to let them try. As the economy develops, and as the road system is restarted, TSR would expect to see conflicting trends.

Some routes, which in the immediate future might be profitable because of the damage to the road system, might find profitability harder to achieve as the system is restored; this would, TSR thinks, apply in particular to cargo operations. On the other hand, the restoration of the economy should increase demand and some routes, not initially profitable, might become so. What is needed therefore is a system, the primary objective of which is to further the economic development of the country. To this end it should:

- (i) Allow the government to license services on commercially viable routes.
- (ii) Allow the government to get competitive bids to run services on routes which are not commercially viable but which it regards as necessary for social and development reasons.

- (iii) Be flexible enough to allow routes to move as circumstances change, from the non-commercial category to the commercial category and indeed also in the reverse direction.

In the draft civil aviation law there is a provision (reflecting one in the National and Foreign Investment Law (803 of 2002)) which allows aircraft operators to be foreign owned. If this provision is finally adopted, there would be three sources of potential applicants to run domestic services: Ariana itself, Afghan owned private sector operators and non-Afghan owned operators. The system should treat all these types of operator on an equal basis. This means that on domestic routes Ariana would not have the protection which this paper proposes it should have on international routes.

The question then arises of whether the licensing system should be operated within central government or by an independent agency. The NDF and the NDB envisage the use of licensing authorities, possibly outside the main government structure. Whether the process of licensing takes place outside the main government structure or within it is an issue for the Afghan government and indeed one that can be changed as things develop. There are valid precedents either way. In principle, TSR considers that the government's overall objective would be most efficiently met by building up a licensing system within government and subsequently, when it is working well, transferring it to an independent agency.

It is normal for a government to set out in legislation the objectives which it intends to apply in deciding its policy both towards international operations and towards operations on domestic routes. There are several possible objectives. The airlines generally, and for obvious reasons, prefer the predominant objective be the development of a healthy airline industry, with all the other being "taken into account". In TSR's view, in the case of international services, this would be reasonable. It implies that to implement the policy on international services outlined above other Afghan operators should only be licensed to compete with Ariana on routes where competition from a second Afghan airline would not damage the viability of Ariana on those routes. At least initially TSR thinks this will mean that little use will be made of the licensing procedure though there may be routes to neighbouring countries on which it is possible to envisage more than one Afghan carrier. There will of course very often be a reciprocal carrier from the other country involved in a route; and the degree of competition to which the route is subject will depend on the wishes of the partner country.

The decisions in particular cases will lie in the negotiation of the bilateral agreement. The licensing procedure would only be involved if the economics of the route, and the terms of the bilateral, made it possible to envisage a second Afghan carrier, or if the government wished to use the licensing authority to advise it, for example, on the level of fares to be charged or the capacity to be deployed on the route. For this to be possible, of course, it would be necessary first to build up the necessary expertise.

For domestic routes, the criteria against which applications should be judged would e.g. be to meet the needs of the economy as a whole, to increase employment and to meet the needs of the regions. It would be normal for these criteria -- or some version of them -- to be contained in legislation. In that case, however, it would be important that the government had the flexibility to vary the weight it gave to individual criteria -- both the economic and the environmental and social criteria -- according to the circumstances or its policies at any particular time.

Recommendation 3.2:

TSR recommends that a licensing system should be created with the two-fold function

- On domestic routes:
 - To approve, or to choose between, applications to operate commercial services.
 - To invite tenders, and to decide the allocation of contracts, for services on which commercial services are not viable.
- On international routes:
 - To decide on applications from airlines other than Ariana to operate on international routes.

TSR recommends further that applications to operate both commercial and non-commercial services on domestic routes be invited from Ariana, Afghan private sector operators and non-Afghan operators established in Afghanistan.

Options for the sort of system that a licensing authority might seek to develop will be worked out as part of the TSR Action Plan.

6.2 Governance of Ariana

Although Ariana has a separate corporate structure, its relationship with the government and the degree of governmental interaction, and conversely of operational and commercial freedom, have not been properly worked out. It is necessary for the fulfilment of the policies outlined above and indeed for the international acceptability of Ariana for this to be sorted out.

The current shareholding is:

2000	Shares by the Ministry of Civil Aviation and Tourism
1000	Shares by the Ministry of Finance
400	Shares by the Chamber of Commerce
500	Shares by Da Afghanistan Bank
250	Shares by Pashtany Tejarty Bank
250	Shares by Bank Millie Afghan

The Minister of Civil Aviation and Tourism is the Chairman of the company.

In most state-owned airlines it is normal for the government to have some say in the operation of the airline. It is normal for the government to appoint all the directors of the company. But they are usually appointed on the recommendation of the Chairman and are chosen for the expertise which they can bring to the company rather than as representatives of the government and in some cases for broader political reasons.

It sometimes happens, however, that the government appoints one of its officials as a non-executive director specifically to advise the company on government policy and to act as the Minister's eyes and ears. It is, however, most unusual for the Minister himself to act as Chairman; this is generally thought to confuse the overall policy of government with the detailed commercial running of the airline. The issue is important in a number of respects:

- (i) In the international sphere, partner airlines would have to be assured of the commercial approach of Ariana.
- (ii) The fact that the Minister is the Chairman itself blurs the distinction between the policy and regulatory responsibilities of the government and the operational and commercial responsibilities of the airline.

TSR recommends, therefore, that consideration be given to creating a board with a strong element of aviation -- or business -- professionals to run Ariana and that -- perhaps after an introductory period -- the government's interest be met by the appointment of a senior official as a non-executive director. Any such official should, however, not be involved in the functioning of the licensing system (see Sub-section 6.1.2).

It is necessary that the role of the government be precisely defined. The analogy here should be that of the corporate headquarters of a company involved in a number of operational areas. This would normally include:

- The approval of Ariana's business plan.
- A requirement that investments above a certain level should be specifically approved by the government.
- The power to set a target rate of return on net assets which the government thinks it reasonable for Ariana to achieve over a specified period.
- A power to require Ariana to operate a service in the public interest. This power should be used with great reticence and would have to be associated with a power to pay Ariana for the provision of the service. This would be important to preserve the general commercial approach of the airline, which would in turn be essential if the government wishes in due course to have the possibility of privatising it whether wholly or in part.
- A power to lend money to Ariana, to require Ariana to maintain and establish reserves or to require sums standing to the credit in Ariana's reserves to be deemed government loans or investment in Ariana.
- A power to establish rules on the repayment of, and the payment of interest on, government loans.
- The right of Ariana to borrow money on the market and in different currencies, subject, above certain limits, to the consent of the government. This may include the power to borrow by means of the issue of stock.
- A requirement that the employees of Ariana be subject to the ordinary law of employment, compensation for industrial injuries, social security, etc. and the power for Ariana, as it thinks fit, to maintain pension schemes whether contributory or otherwise. Any requirement to employ more staff than commercial prudence could justify should be subject to a negotiated arrangement for compensation.

The above are, of course, just an indicative list of the issues that are likely to arise between a government and a nationally owned enterprise. TSR has listed them to indicate the sort of things in which the government as principal shareholder may legitimately have an interest; but especially to make the point that outside such areas Ariana should be free to take its own decisions in the light of its own commercial and operational judgement without having to seek the approval of, and without any intervention on the part of, the government.

Recommendation 3.3:

TSR recommends that Ariana's commercial independence be expanded. The relationship between Ariana and the government should be clarified by amending Ariana's Articles of Incorporation, and a contract should be entered into between Ariana and the government. A policy paper on the proposed new governance framework shall be prepared as part of the Action Plan.

6.3 Infrastructure

6.3.1 Airports

In terms of airports policy, the two most relevant objectives are decentralisation and commercialisation.

It seems likely that for some years at least there will not be enough services using the regional airports and possibly even Kabul itself to make a wholly commercial approach feasible. Notwithstanding, the TSR believes that the government should move away from its present policy of reliance on in-house provision of all airport services.

There is thus no real reason why the government should provide airside services connected with the operation of aircraft and land-side services. At many airports in the world these services are provided by independent companies or by the airlines, and this principle should as far as possible be applied in Afghanistan also.

As concerns the airports proper, it is perfectly feasible to run airports from a government department and there are many countries where this happens, although it is becoming less and less common. The weakness of having a government department run the airports is that they tend to be treated as a public service and commercial enterprise tends to be lost. A better solution in TSR's view is to create a corporate entity to own and run the airports. Its shares initially should be held by the government, though as with Ariana it will be important that its executives, though appointed by the government, are chosen for their commercial, technical and operational expertise; and that the government's powers to intervene -- as has been suggested for Ariana -- are either limited to a broad investment and financial control (initially of course the calculation of the grants necessary to maintain the airports until traffic builds up) or to the giving of directions in the public interest for which the airport company should be compensated.

It will be important also that this organisation should not be seen in the regions as control, or domination, from Kabul. TSR suggests therefore that the regional interests should all be represented on the main board; and that immediately below the main board of the company, there should be a smaller executive board, the duty of which would be to organise the day-to-day running of the airports, and to prepare proposals on investment and finance and other major issues for the approval of the main board.

It would also be reasonable under such a structure for the regional governments in due course to hold shares in the airport company, though it might be sensible for central government to hold the majority of the shares.

If the government decides, as a matter of principle, to devolve to the regions the ownership and control of the regional airports, the corporate structure would still be the most appropriate. In this case, however, there would be separate companies for each region. The initial lack of profitability in the case of most, if not all, the airports, would involve agreements between central and regional authorities on the amount of subsidy the central government should provide and for how long. One option might be for central government to ensure that the runway and navigational equipment is adequate and then to hand over the airport to a corporate entity set up by the regional authorities.

The issue of whether airport prices should be controlled raises a number of difficult issues. Airports are in practice a monopoly and it would be normal for the owner (the government in effect) to exploit its monopoly powers. On the other hand, to go too far in that direction would deter the provision of services important to the revival of the country's economy.

TSR suggests, however, that at this stage in the recovery of the Afghan economy any routine regulation would be unnecessary and merely add to the costs of administration. The government would have two interests: to make revenue for itself and to ensure that the airports serve to redevelop the general economy. These objectives pull in different directions and the result of this friction could well be a satisfactory balance. On the assumption, therefore, that the airports are owned, and run, by a separate corporate structure or structures, TSR suggests that the government should only intervene in the pricing policies adopted by the airports if, in practice, the objective of raising revenue begins to discourage commercial activities.

The statute setting up the corporate structure(s) would thus include the power, but not the obligation, of government to intervene in airport pricing, if in its view the airport charges constituted an abuse of its monopoly position and if it could be shown that they were inhibiting the redevelopment of the economy.

Recommendation 3.4:

TSR recommends that the airports be managed by a single corporate entity analogous to a private sector company for a number of years until the airports have been brought up to operational fitness and the traffic has built up enough to create the potential of profitable operation. A decision on whether to devolve responsibility to, say, five regional centres should be taken at that point. A proposal for how to effect this change should be prepared as part of the Action Plan.

6.3.2 Air Traffic Management

The provision of ATM services is frequently referred to as a natural monopoly. It is, however, widely accepted that a closer analysis indicates a more complex picture. For the purposes of this paper, ATM is divided in to the provision of services for:

- (i) Ground control at airports.
- (ii) Approach / departure control.
- (iii) En route control.

At present (i) is provided by the authority controlling the airport (frequently the military), (ii) is provided universally by the military, and only (iii) is handled by the Afghan authorities. TSR will, however, assume for the purposes of this paper a situation in which the current military role is handled by civilian authorities.

Even within these categories, various subordinate functions can be identified. These comprise mainly:

- Meteorological services
- Communications
- Navigation
- Information (AIS)

At present, ATM service providers tend to supply these services as part of the total package, but there is no technical reason why airlines should not contract separately for them. Traditionally all the services referred to have been provided by the Afghan government, and in the present situation TSR inclines to the view that this traditional method should be adopted for the future.

In a report by the FAA on Air Navigation Services Needs the following main points are made:

- (i) The ATM infrastructure has been devastated. The resources of trained air navigation personnel has been critically depleted.
- (ii) Civil aviation needs are not adequately supported by the minimal air navigation services provided. Access to the country's airport is limited and overflight traffic is inhibited.
- (iii) The FAA proposes two tiers of measures: The first comprises a set of relatively low-cost, immediate actions intended to address discrete ANS needs in the near future. The second tier concentrates on improving, over a 2-4 years time frame, MCAT's basic capacity to provide air navigation services, enabling the organisation to support the growth of Afghanistan's civil aviation and comply with ICAO's standards and recommended practices.
- (iv) To implement the second tier will require that major projects be carried out as part of a coherent modernisation effort, based on effective strategic planning. The major element of this plan should comprise two vital strategic planning components : a concept of operations and a national ANS architecture. The first describes the derived end state ATM operating environment; the second provides a master blue print for modernisation. The major elements of this should include a detailed review of current air navigation services, forecast civil aviation demand for services, fiscal projections and modernisation objectives.
- (v) The FAA recommend that MCAT consider the use of international technical expertise to develop these two plans.

The TSR's terms of reference mean that it is only concerned with the 2-4 years of the second tier of proposals. The TSR strongly supports the FAA recommendation at (v) above. There are a number of organisations which provide such an ATM service, including the FAA itself. The terms of the contract should include an obligation to train Afghans in all the various functions involved in the provision of ATM services.

It remains to consider:

- (i) In the longer term should ATM services continue to be provided by a department of central government or a separate, corporate entity ?
- (ii) How should the rule-making function relate to the rule application function and the control of safety ?

On question (i) above i.e. whether ATM services should be provided by the central government or delegated to a separate body, practice outside Afghanistan varies. In Europe, for example, eight countries have corporatised the provision of ATM services though this is a relatively recent phenomenon and in all cases (except now the UK) the corporate structure is wholly owned by the government. Two more countries intend to corporatise the function, two (one of which is France) run it as part of a government department and two as a state or semi-state enterprise. The main argument for corporatisation is to get away from civil service staff rules and rates of pay and facilitate greater flexibility in pay and terms of employment. It may also help to attract commercial investment⁹.

It is not necessary in TSR's view that the rule-making function be separated from the rule-application function. (Question (ii)). There is a current trend in that direction, but in the circumstances of Afghanistan TSR thinks it would be sensible to combine the two in the same body, whether it be a department of central government, or a free-standing, governmentally-owned, body. It will, however, be essential that the regulation of ATM safety be separate from, and be seen to be separate from, the operational role. This is now wholly accepted as the norm. The lack of specific safety targets and standards essentially puts the burden of ensuring safety on air traffic controllers without giving them the benefit of adequate guidance and procedures. This deficiency also would make it difficult to have an objective view on the achieved safety performance of the system. The separation of safety regulation of ATM will, in short, be necessary to re-establish Afghanistan's reputation in this field.

Recommendations 3.5:

TSR recommends that the ATM system be modernised as rapidly as possible; that as a first step a decision be taken on the concept of operations which the government wishes to follow. This could then lead quite rapidly to a second stage which would comprise the implementation of this recommendation. Whichever concept of operations is decided on, the consequent ANS architecture will require a significant training programme. Corporatisation should be considered at a later stage. This is set out in more detail in the Action Plan.

6.4 The Regulation of Safety

In civil aviation general safety standards are set in ICAO. A state's responsibility includes the licensing of operational personnel, the certification of aircraft, air operators and maintenance organisations, control and supervision of licensed personnel, certified products and approved organisations. Some of these duties can be achieved by accepting the certification of other governments (for example aircraft certified by the FAA), but the way in which these responsibilities are carried out is fundamental to Afghanistan's reputation as an effective safety regulator and by extension the acceptance of Ariana by its airline partners and the safety authorities of the states to which it flies.

⁹ Even the current, rather low charges made for overflight services, generate significant income - TSR understands that it provides US\$ 20 million which in the light of the Afghan government sources of income is a significant amount.

It seems clear that MCAT has in the past been fully conversant with the system; and TSR's discussions with other safety authorities indicate a high degree of respect for its regulators.

In the past five years or so, however, the international system has been significantly developed by the introduction of the ICAO safety audit scheme. Under this, ICAO puts together teams, drawn largely from Member States' administrations, which audit the system by which governments administer aviation safety. To pass this audit is increasingly regarded as necessary for a government's safety system to be regarded as reliable; and by extension for their airlines and airports to be regarded as safe. The audits are only done with agreement of, and often at the request of, the government concerned. It is a facility increasingly used by both developing and developed countries -- the UK, for example, has been audited twice at its own request.

It seems clear that the Afghan system of safety regulation will have to undergo an ICAO audit if it is to maintain, or restore, its international safety reputation. It seems equally clear that because of the disruption of recent years, the system will require help to do so.

There are a number of developed country safety authorities which provide, for a fee, a service which puts a safety authority in a position to pass an ICAO audit. The FAA, for example, the New Zealand Authority, the CAA in London or Eurosafe, a consortium of European safety authorities.

It could well be part of such advice whether safety regulation should be carried out by the main structure of government or by a separate licensing authority. If the latter course is chosen, the safety function could be put into the same authority as envisaged earlier in this report for the authorisation of airlines for particular routes (as the UK did in setting up the CAA). It should have the responsibility for regulating the safety arrangements at airports, the system of ATM, the operational safety of Afghan registered airlines and the airworthiness of aircraft though, as indicated, this function might be minimised by the acceptance of, for example, FAA aircraft certificates. Such an arrangement would achieve the separation, recommended by the Joint Donor Mission, of safety regulation from operations. It would also have the advantage of enabling the government to give general guidelines on charges and on the return on investment which the authority should aim for; and would insulate the government itself from any controversial decisions that may have to be taken in particular cases.

The drive to restore the system of regulating aviation safety will involve a significant training programme and recruitment effort.

Recommendation 3.6:

TSR recommends that the government begin urgently the re-building of the aviation safety regulatory system, separate the regulation of aviation safety more clearly from operations, and pass an ICAO safety audit. Proposals for how this should be done will be made in the Action Plan.

6.5 Impact on Government Organisation

Like other parts of the government, MCAT's functions have been significantly disrupted in recent years. The stimulation of tourism is for the moment not a real function; many of the airports are still controlled by the military and the original Afghan equipment is lost or destroyed. Ariana is theoretically corporatised but the theory is not fully implemented. Also like other parts of the government the staff are nearing retirement age and new recruitment and training programmes are necessary.

The organisation mixes operational and safety functions. This is true at a general level - all departments report to the same Deputy Minister, but also at a lower level. For example, the Operations Department runs airports (other than Kabul) but also regulates safety. Although this sort of organisation has in the past existed in many countries, it is now the normal to separate out these two functions. Apart from the general rehabilitation of the administration, this is the main change of principle that needs to be made.

How this should be done, and more generally how MCAT should be organised in the future, will depend to a large extent on governmental decisions on the conclusions of this report. If they are adopted, their impact on the organisation of government will be as follows :

- (i) Ariana will be run without governmental involvement in commercial or operational matters; the powers of government will have to be defined. This is part of the Action Plan.
- (ii) There will be a need to create a separate licensing division to handle applications for licences and to assess and allocate tenders to run non-commercial domestic services. In due course this division might be transferred to an independent agency in accordance with the general policy laid down in the NDF.
- (iii) There will be a need either to create a corporate structure, analogous to Ariana or regional corporate structures, to run the airports. This will involve defining the powers of the government. This is also a part of the Action Plan.
- (iv) When the ATM system has been modernised the running of it could also be transferred either to an independent agency or to a separate corporate entity.
- (v) Equally, when the system of safety regulation is restored, it too might be hived off into an organisation separate from central government. If it is, this function could well be combined with that proposed at (ii) above.

Recommendation 3.7:

Given the above proposals, there is a need to reform, restructure and strengthen the present MCAT. More specific proposals in this regard will be made as part of the Action Plan.

7. SUMMARY

7.1 Introduction

This Section compiles the recommendations made in Sections 4, 5 and 6. The focus is on recommendations for what to do during the coming 4 to 5 years. These recommendations

provide the basis for an identification of the Action Plan, presented in a separate volume of the TSR Report.

Section 7.2 also provides a summary of the constraints to the achievement of the vision of the transport sector formulated in Sub-section 3.2.4, as may derived from the presentation in Sections 4, 5 and 6.

7.2 Summary of Short Term Considerations

The discussions in Sections 4, 5 and 6 suggest that in the short term, the following considerations will have to be taken into account:

- Privatisation is not possible in the near future of the national carrier, Ariana, as it is loss-making. Similarly, in the near future it will not be possible to privatise the Ministry of Transport road haulage and bus transport operations, as the country has received and is receiving a substantial number of donated vehicles. These operations should, however, be commercialised, as a first step towards later privatisation.
- In international air transport operation there will be a need to offer protection to Ariana for a period of time. There are two reasons, viz. the need to ensure international connectivity given that the aviation safety and security system in Afghanistan has not been ICAO certified, and the modalities with regard to international aviation in the region. Ariana is, however, expected to be profitable and only to serve routes not expected to be loss-making in a medium term perspective. Also, the small domestic market, in part on account of the inadequate facilities at present, does not lend itself to open competition for the time being, but may provide scope for a regulated system designed to encourage the participation of the private sector.
- The country at present does not have an established corps of contractors. Whilst construction works, and large maintenance contracts may be handled by way of international contractors, local contractors can for some time only be expected to handle part of the maintenance works. There will therefore be a need for the MPW to maintain limited force account capacity for the time being to perform (routine) road maintenance and also to undertake emergency repairs to supplement the capacity of the private sector.
- The current administrative weakness of the provinces implies that decentralised solutions as concerns e.g. airports and road sector management will have to be delayed for some time.
- For the time being, the financing arrangements in the road sector are subject to agreement reached by the TISA with the World Bank concerning the implementation of the Emergency Transport Rehabilitation Project.
- Fundamental restructuring of the ministries is not possible at present. However, partial restructuring in terms of the Decree on Priority Reform and Restructuring within Ministries may be effected. In addition, there is a need to consider if functions related to (i) vehicle registration and drivers' licensing should be transferred from the Ministry of Interior to the Ministry of Transport, (ii) airport airside infrastructure should be transferred from the Ministry of Public Works to the Ministry of Civil Aviation and

Tourism, and (iii) rural roads from the Ministry of Rural Rehabilitation and Development to the Ministry of Public Works.

7.3 Summary of Recommendations

Table 7.1 contains a summary of the recommendations made in Sections 4, 5 and 6, and the expected output as part of the Action Plan. The recommendations made were provisionally accepted at the meeting of the Steering Committee on 7 April 2003; see Annex 2¹⁰. At that meeting it was also decided that the Action Plan should

- develop a generic approach to capacity building
- identify issues and make proposals with respect to the structure of government in transport in the longer term
- incorporate gender and environmental aspects.

With reference to the Terms of Reference, the Action Plan has been divided into:

- Road Traffic and Transport
- Roads
- Civil Aviation
- Cross-cutting Themes

The Cross-cutting Themes category contains proposals with regard to

- a generic approach to capacity building
- the structure of government in the longer term
- gender aspects¹¹
- legal framework for the transport sector.

The last item was added subsequently, in view of the considerable work done by the TSR in this area.

Based on these further considerations, Table 7.1 summarises all the recommendations made as well as the outputs expected in terms of the Action Plan. As concerns the types of outputs expected, the following distinction is made:

- a policy paper contains recommendations and actions for consideration by the government
- a consultation paper contains recommendations and actions for consideration by the management of a ministry
- an information paper does not contain a recommendations.

¹⁰ The formulations of the recommendations have been altered somewhat, but in effect remain the same. Recommendations 2.3 and 2.4 have changed places between the list in the Decision and Table 7.1. Recommendation 3.1 in Table 7.1 has been added. It was provisionally accepted at the 7 of April meeting, but was not entered into the list as no accompanying action was foreseen at that time.

¹¹ Environmental aspects are considered, where such issues are of relevance.

Table 7.1: Summary of Recommendations in Background Document and Outline Action Plan

<u>Recommendation</u>	<u>Output as Part of Action Plan</u>
1. Road Transport and Traffic	
1.1 Commercialise MOT truck and bus operations.	1.1 Basic policy paper and design of a project that may be implemented subsequently.
1.2 Deregulate domestic road transport (including taxi operations).	1.2 Basic policy paper and layman's draft of bill.
1.3 Review international transport and transit operations.	1.3 Consultation paper on a policy for international road transport and transit, with strategies
1.4. Develop and reinforce the road safety regime and the regulation of other public interest matters (e.g. axle load regulations)	1.4 Consultation paper with strategies for how to accomplish this.
1.5 Review the scope for mandatory third party insurance.	1.5 Consultation paper on scope for mandatory third-party insurance, with strategies.
1.6 Ensure that reliance on market forces does not leave some urban and rural groups physically isolated.	1.6 Consultation paper on a policy and mechanism to ensure minimum levels of accessibility by way of road transport in urban and rural areas, with strategies.
1.7 Restructure and strengthen MOT for new focus on policy, regulation and monitoring, and capacity building.	1.7 Consultation paper with proposals for how to develop and restructure the MOT.
2. Roads	
2.1 Reorganise and strengthen MPW in the short term, and in a medium term perspective, decentralise part of road management to the provincial level.	2.1 Consultation paper with proposals for how to reorganise MPW.
2.2 In operations MPW should focus on routine maintenance and emergency repairs.	2.2 Consultation paper on how to transform MPW to cease construction works and reduce scope of its maintenance operations.
2.3 Restructure and strengthen MPW for new focus on planning, procurement, monitoring and capacity building	2.3 Consultation paper, with programme for restructuring and capacity building
2.4 Develop a policy on a mechanism for cost-recovery for operations and maintenance.	2.4 Policy paper outlining and evaluating alternative approaches to road maintenance funding in a short to medium term perspective.
2.5 In the long term, restructure road management and road financing.	2.5 Information paper with proposals for the institutional and financing arrangements in the road sector in the long term.

3. Civil Aviation	
3.1 On international routes and with a view to be self-financed, protect and support Ariana until it is firmly re-established	3.1 Consultation paper with proposals for how to strengthen MCAT capacity to negotiate bilateral agreements.
3.2 On domestic routes, solicit provision of services through licensing and service contacts administered by a licensing authority.	3.2 Consultation paper on the implementation of a licensing authority.
3.3 Expand Ariana's commercial independence through clarifying the relationship between Ariana and the government.	3.3 Policy paper preparing for a new governance framework for Ariana.
3.4 Airports should be managed, initially, by a single corporate entity.	3.4 Consultation paper with strategies for how to corporatise airports.
3.5 Modernise the Air Traffic Management System, initially by deciding on the concept of operations.	3.5 Consultation paper with a preliminary design of a strategy for how to modernise ATM.
3.6 Rebuild the aviation safety system, separate the regulation of safety more clearly from operations, and pass an ICAO safety audit.	3.6 Consultation paper with strategy for how to develop and reinforce regulation of aviation safety.
3.7 Reform, restructure and strengthen MCAT for new focus on policy, regulation and monitoring, and capacity building.	3.7 Consultation paper with proposals for how to develop and restructure the MCAT.
4. Cross-cutting themes (no specific recommendations in this Background Document)	
Capacity building	4.1 Consultation paper on recommended approach to capacity building in the transport ministries
Long-term restructuring of the transport sector	4.2 Information paper on proposals with respect to the structure of government in transport in the longer term.
Gender aspects	4.3 Consultation paper on gender aspects.
The legal framework	4.4 Consultation paper on legislation requirements in the transport sector.

REFERENCES

Asian Development Bank: The Comprehensive Needs Assessments (CNA), August 2002.

Asian Development Bank: Afghanistan's Transport Sector on the Road to Recovery, South Asia Department, April 2003

Federal Aviation Administration: Definitional Mission Report on Air Navigation Services Needs, dated 22-26 September 2002, prepared for USTDA.

Liz Alden Wily, Land Rights in Crisis: Restoring Tenure Security in Afghanistan, Afghanistan Research and Evaluation Unit, March 2003.

Pacific Consultants International: The Urgent Rehabilitation Support Program: Rehabilitation Study of the South-Western Area & Public Transportation Study of Kabul, 2003

The National Development Budget for 1381-82, Kabul, October 10, 2002

The Report of The Joint Donor Mission of March 2002.

The Winterization Information on Roads and Airports, Joint Logistics Center (JLC).

World Bank, Emergency Transport Rehabilitation Project, 2003.

The World Bank: Gender & Transport: IMT [Intermediate Means of Transport] Package, guidelines in 13 modules to incorporate a gender sensitive component into a larger transport project, 1999

The World Bank: Gender and transport: A rationale for action, PREM notes No 14, 1999

ANNEX 1: List of Laws Relevant to the Transport Sector

Item	Title of Law	Gazette No./ Year	Content
1.	Constitution	1964 (1343)	Existing constitution. New constitution being formulated and is expected to be ready by end of 2003
2.	Bonn Agreement	5th Dec.2001-1380	States that all existing laws shall prevail until changed.
3.	Decree on Domestic and Foreign Investments	Decree No. 134 in Gazette 803 of 1381 (2002)	Allows foreign investment in all sectors of the economy.
4.	Decree by High Council of Ministers - Collection of Toll Fees for Motor Vehicles	Decree General No.43 of September 9, 2002. Special No.13, (1381 H.Q)	Suspension of the collection of tolls and transit duties on all roads in Afghanistan. See Regulations for the Collection of Toll Fees, No. 223 of June 4, 2001.
5.	Afghan Road Transport Constitution	418 of 1982 (1357) [Not valid-(MOJ)]	Sets the broad framework for the administration of the road transport industry. This Law is no longer in force (MOJ).
6.	Road Traffic Regulations	25 Jadi 1352 (1973) [Not valid - MOJ]	Appears to be regulations made under the Road Traffic Law and contains almost the same articles as the Road Traffic Law.
7.	Road Transport Route Permission Regulations	No.429 of 1979 31 Jawza 1358. In force with amendments [MOJ]: 439 of 1358 683 of 1369 452 of 1359	Regulation made under Road Traffic Law. Requirement for route permission for commercial vehicles, rules for allocation of permission, technical specification of vehicles, documentary records and penalties.
8.	Road Traffic Law	No.484 of 1983 (1360) (Amended 1990,91& 94)	Appears to be the main law for the control and regulation of road traffic, route permission, licensing of vehicles and drivers, vehicle insurance, accidents, assignment of duties of the traffic department and penalty provisions.
9.	Driving Licence Regulations	1360 (1983) Gazette No.484	Regulation made under Road Traffic Law. Driver licensing rules.

10.	Scrapping of Destroyed Vehicles	683 of 1989 (30 Jadi 1367) Not valid (MOJ)	Provides for dealing with vehicles destroyed by accidents or war. This law is no longer in force (MOJ).
11.	Transport Services Regulations	No.696 of 1989 (31 Saratan 1368). Not valid (MOJ)	It appears to be for the control of route permissions, etc. This law is no longer in force (MOJ).
12.	Urban Public (Millie) Buses Regulations	No.654 of 1987 (1366).	To regulate the operations of the urban public buses. Includes rights of passengers, duties of drivers, and standards of operations.
13.	Carriage of Goods Laws	No.630 of 1987 (1365). Not valid (MOJ)	This law is no longer in force (MOJ).
14.	Commercial Code of Afghanistan	696 of 1368 (1968). Dari version available.	Regulates all commercial activities including the formation of companies, transportation contracts, agencies, passenger transport, transport insurance, etc.
15.	Law of Punishment of Transport Violators	28 Assad 1337 [Law not valid - MOJ]	Penalties for the violation of route permits issued by the Public Transportation Authority. Requisition of vehicles in times of emergencies.
16.	Transit Duties and Loading Regulations	No.711 of 1990 (13 Hoot 1368).	The imposition of controls and duties on goods in transit from other countries.
17.	Forestry law	No.795 of 1998 (1379).	The control and management of forests in Afghanistan.
18.	Law of Natural Resources Protection	No.795 of 1998 (1379)	Control and regulation of pollution of the environment.
19.	National Insurance Law	No. 694 of 1980, 31 Jowza 1368	The text of the existing law is not available. The new draft is for the control, regulation and management of the insurance industry.
20.	National Insurance Company Constitution	No.699 of 1980 15 Sonbola 1368	The articles of association for the NIC.

21.	Law of Police and Gendarmes Laws	29 Jadi 1352 (1973). This law is not valid (MOJ). Replaced by 793, 548 of 1362, and 659 of 1366 – regulations related to the formation of the army.	For the establishment and management of the Police force. This law is no longer in force (MOJ).
22.	Law of Employment, Promotion and Retirement of Police and Gendarmes	28 Misan 1352 (1973). This law is not valid (MOJ). Replaced by 793, 548 of 1362, and 659 of 1366 – regulations related to the formation of the army.	Service conditions of the police force. This law is no longer in force (MOJ).
23.	Law of the Jurisdiction and Organisation of the Courts of Afghanistan	739 of 1370	Organisation and jurisdiction of the judiciary.
24.	Construction Works Law	No. 798 of 1380.	Regulates the manner in which all construction works shall be carried out by the MOPW
25.	Law of Municipalities	794 of 1380.	Law for the establishment of the municipalities, duties and powers (including to regulate safety of vehicles on its roads and provision of transport services), local elections, etc.
26.	Transport Operational Committee, Ministers Council	Gazette No. 556 [MOJ – Law probably not valid]	Dari version available

27.	Regulations for organizing activities of the Ministry of Tourism and Transport	Gazette No. 579 of 1364 [Law probably not valid as the Ministries have changed]	Dari version available
28.	Regulations for the Collection of Toll Fees.	No. 223 of June 4, 2001 [Law is valid, but now suspended by Decree No.43].	Law allowing the imposition and collection of tolls on all roads.
29.	Civil Aviation Law	Gazette No. 519 of 1982 (1360)	Provides for the registration of air planes, control of air space, licensing of air services, control of passengers on air crafts, categorization and authorization of airports, flight control, search and rescue, contracts of carriage and offences.
30.	Ariana Articles of Incorporation	Gazette No. 715 of 1990	Provides for the setting up of the Ariana Airlines Corporation.
31.	Income Tax Law	Gazette No. 37 of 1965 (1344)	Law providing for the imposition of income tax, company tax, business tax, fixed taxes on commercial vehicles, import/export tax, etc.
32.	Airports Law	Gazette No.of	Awaiting copy from MOJ and translation.

ANNEX 2: Decision by Steering Committee on 7 April, 2003.

TASKS DURING PHASE 2 (preliminarily accepted on 7 April with additions underlined below)

Road transport

- 1.1 Prepare for commercialisation of MOT truck and bus operations. Output: Draft of basic policy paper, and detailed design of a project that may be implemented subsequently.
- 1.2 Prepare for deregulation of road transport. Output: Draft of basic policy paper, and layman's draft of bill
- 1.3 Develop a policy for international road transport. Output: Consultation paper, with strategies
- 1.4 Develop and reinforce safety and the regulation of other public interest matters (e.g. axle load regulations). Output: Consultation paper, with strategies.
- 1.5 Review the scope for obligatory third-party insurance: Output: Consultation paper, with strategies.
- 1.6 Develop a policy and mechanism to improve accessibility by way of road transport in urban and rural areas. Output: Consultation paper, with strategies.
- 1.7 Develop and restructure the MOT. Output: Consultation paper, with strategies.

2. Roads

- 2.1 Review MPW responsibility and overall organisation from a centralisation/ decentralisation point of view. Output: Consultation paper, with strategies
- 2.2 Develop programme for how to move MPW out of construction and major maintenance operations. Output: Consultation paper, with strategies
- 2.3 Develop policy on and mechanism for cost-recovery. Output: Consultation paper, with strategies.
- 2.4 Prepare for restructuring of the MPW; short term. Output: Policy paper with detailed design of project that may be implemented subsequently.
- 2.5 Develop and restructure the MPW; longer term. Output: Consultation paper, with strategies.

3. Civil Aviation

- 3.1 Prepare for implementation of a licensing authority. Output: Draft of basic policy paper, and layman's draft of bill
- 3.2 Prepare new governance framework for Ariana. Output: Draft of basic policy paper.
- 3.3 Plan for incorporation of airports. Output: Consultation paper, with strategies.
- 3.4 Plan for development of ATM. Output: Consultation paper, with strategies
- 3.5 Develop and reinforce regulation of aviation safety. Output: Consultation paper, with strategies.
- 3.6 Develop and restructure the MCAT. Output: Consultation paper, with strategies.

4 Generic

- 4.1 Develop approach to capacity building. Output: Consultation paper, with strategies.
- 4.2 Identify issues and make proposals with respect to the structure of government in transport in the longer term. Output: Consultation paper with strategies.

5 Operational plan

- 5.1 Prepare action plans (should be reflected in each task above)
- 5.2 Design support projects (should be reflected in each task above, where relevant)
- 5.3 Incorporate environmental and gender aspects (should be reflected in each task above, where relevant).
- 5.4 Prepare budgets and costs of support projects
- 5.5 Prepare 3-year budget estimates with extension to 5 years for MOT, MCAT, and MPW (to the extent possible).