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Transport Reform in Pacific Rim Nations: A Progress Report and Outstanding Challenges

ABSTRACT

Road Transport Reform in a Federal System

The formulation, implementation and administration of land transport policy in Australia reflect Australia's federal system of government. There are tensions between levels of government and considerable differences in the policies and practices of the different States and Territories.

Road funding in Australia is determined within a federal structure characterised by 'vertical fiscal imbalance': the Commonwealth possesses a disproportionate share of taxation powers, whilst States and Territories are responsible for a disproportionate share of expenditure.

During 1991 and 1992 a wide-ranging review of Commonwealth/State arrangements was initiated by Commonwealth, State and Territory governments as part of a series of Special Premiers Conferences. One of the outcomes of this process was the creation of the National Road Transport Commission, with the job of improving the efficiency of road transport in Australia through a uniform (or zonal) set of charges for heavy vehicles and the introduction of regulatory arrangements (for all vehicles) which are uniform or consistent across jurisdictions.

If the NRTC is successful in its task, it will represent a major shift towards greater uniformity in the formulation and administration of road transport policy in Australia. The reform process contains lessons relevant in other countries, particularly those with federal systems.

The purpose of this paper is to explore the processes which led to the establishment of the National Road Transport Commission, to examine the role of the Commission and to discuss its achievements to date.

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1. INTRODUCTION

As in most Federal systems of government, there is continuing debate in Australia about the 'right' balance between national and regional (State or Territory) responsibility for various aspects of life. Transport, and road transport in particular, is no exception. The Australian Constitution and subsequent agreements between governments give responsibility for functions. Neither air nor road transport (in the modern sense) existed at the time of framing the Constitution so no specific responsibility was allocated. Civil aviation powers were conceded by the States to the Commonwealth in the Air Navigation Act 1920, but no general agreement on road transport responsibilities occurred until July 1991.

As a result of that agreement, the National Road Transport Commission was formally established in January 1992. This paper discusses the reasons for its establishment and the progress in achieving objectives to date.

The sources for this paper included reports prepared in the lead-up to the agreement, published commentaries, and discussions with some of those involved in framing the agreement. Some judgement has been required in interpreting the views of the parties involved as there was often some conflict about what happened or why it happened.

2. ROAD TRANSPORT REGULATION

Road transport regulation includes measures covering the registration, operation and charging of vehicles, the licensing of drivers, and measures to ensure compliance with the regulations. Generally, this regulation has been the responsibility of the States and Territories in the Australian federal system.

The post-war increase in the use of road transport included an increase in interstate road transport, the regulation of which has been subject to some uncertainty. Section 92 of the Constitution provides for free trade between States, but has been variously interpreted by the High Court over time, ranging from excluding the States from any regulation that may restrict the movement of interstate goods to excluding only regulations that discriminate between vehicles which are operated within a State or between States.

Charges

The regulation of charges for vehicles has been subject to more dispute under Section 92 than the regulation of vehicle operations. The Hughes & Vale case established that States could not apply registration fees to vehicles operating interstate (in 1954), but that they could apply charges which recovered the road maintenance costs imposed by vehicle use (in 1955). Road maintenance charges were applied to heavy vehicles in the form of ton-mile taxes until the truck blockades of 1979. Payment of these taxes was relatively easy to avoid and they were therefore regarded as inequitable by many road transport operators. When road maintenance charges were abolished, most States replaced them with business franchise fees on the sale of fuel (petrol and diesel).

In 1984, the National Road Freight Industry Inquiry recommended that the Commonwealth government impose registration fees on heavy vehicles which only travel interstate (NRFII 1984). Its analysis of the recovery of road costs from users showed that interstate vehicles performed poorly relative to those vehicles which operated within a State or Territory. The Federal Interstate Registration Scheme (FIRS) commenced in 1987 following a recommendation on charge levels by the Inter-State Commission (ISC 1986). The ISC had been re-established in 1984 by the Commonwealth Government as a means of investigating areas of reform affecting interstate transport.

FIRS was not successful in solving the charging or cost recovery questions associated with heavy vehicles used for interstate travel. The charge levels were set so as only to recover maintenance costs of roads and have not been increased since 1988 (except for the introduction of charges for B-Doubles in 1991). They are well below those applying in the two major States (New South Wales and Victoria) for the vehicles most commonly used for interstate transport. FIRS was, however, successfully used to encourage the introduction of higher mass limits in those States and B-Doubles in Victoria (see below).

The last report of the ISC (before it again ceased to exist) recommended significant changes to all vehicle charges and road funding, and a National Commission to be responsible for these areas (ISC 1990). There was no agreement on the recommendations in the report by the Commonwealth, States and Territories. It was however a contributing factor to road transport reform being placed on the Special Premiers' Conference agenda that ultimately led to the establishment of the National Road Transport Commission.

Vehicle Operation

Each State and Territory regulates the operation of vehicles with respect to vehicle standards, weights and dimensions. There was no Constitutional objection to these regulations applying to interstate vehicles as occurred for charges. For example, the vehicle dimensions limits applied by a State were required to be observed by all vehicles operating in or through that State no matter where the vehicle was registered. There was a Section 92 case against Victorian height and length limits applying to interstate trucks in 1960, but it was not successful (ISC 1986:57).

Commencing in the 1970s much was gained in achieving uniformity for vehicles travelling interstate. The Economics of Road Vehicle Limits (ERVL) and the Review of Road Vehicle Limits (RoRVL) studies, undertaken by NAASRA in 1975 and 1985 respectively, examined vehicle weights and dimensions; as a result they are became more uniform throughout the country. In New South Wales and Victoria, the adoption of the higher mass limits recommended by RoRVL was achieved after the Commonwealth government granted the higher mass limits to FIRS vehicles. They were adopted along with mass permit fees which were imposed on all vehicles operating within or through those two States no matter where they were registered. These mass permit fees were applied to FIRS vehicles until 1988 (ISC 1987). Although weights and dimensions had become largely uniform for vehicles operating interstate, the mass permit fees created a new disparity.

The ISC examined the harmonisation of vehicle regulations and suggested there would be benefits in more uniformity, although it was unable to quantify these benefits (ISC 1988). A specific recommendation was for the Commonwealth to mandate national design and construction standards for new vehicles. Differences in vehicle standards had reduced with the Australian Design Rules (ADRs) which were developed over many years by working parties (within the Australian Transport Advisory Council [ATAC] structure) of Commonwealth, State and Territory officials and representatives of manufacturers and road users. However, these were not adopted in all jurisdictions. The Commonwealth used its Constitutional powers to regulate the standards applying to new vehicles under the Motor Vehicle Standards Act 1989. Vehicles constructed by companies in Australia are regulated under the corporations power and imported vehicles under the external affairs power.

Under the auspices of ATAC, phased introduction of a National Heavy Vehicle Driver Licence scheme commenced in 1991. It applies to drivers of vehicles with a gross mass in excess of 15 tonnes. The major benefits of the national driver licence are expected to be in the enforcement and compliance areas.

Remaining significant differences in regulation of interstate vehicles are largely confined to the administration and enforcement of regulations, the operation of overmass and overdimension vehicles, the registration of vehicles, and the regulation of driver behaviour. The differences in registration fees (and other factors) associated with the registration of a vehicle mean that vehicles are not always registered in the State or Territory in which they are based. Vehicles owners who move residence are required by legislation in each State and Territory to change registration and generally meet a different set of requirements.

3. PROCESS

The agreements which govern the operation of the NRTC were the product of the Special Premiers' Conference (SPC) process. Three Special Premiers' Conferences were held over a period of just over a year. The first conference was held in Brisbane in October 1990. It was at this conference that the Overarching Group on Land Transport (OAG) was established. At the second SPC held in Sydney in July 1991, the Heavy Vehicles Agreement was signed and provision made for the establishment of the National Road Transport Commission on an interim basis. The Light Vehicles Agreement was agreed to at the Premiers and Chief Ministers Meeting held in Adelaide in November 1991. This 'SPC' was notable for the absence of the Commonwealth. The Light Vehicles Agreement was signed by all jurisdictions by the middle of 1992.

Special Premiers' Conferences

The political environment

Labor has traditionally been centralist in its attitude to the distribution of political power (Galligan and Mardiste: 1991). As a reformist party, it saw the States as impediments to the economic and social reforms it wished to engineer. These attitudes were moderated during the early years of the Hawke government as the party realised that major Constitutional change was unachievable. The attitude of Labor to the federal system was also influenced by the fact that Labor had achieved political power in most States in the 1980s. The result was a preparedness by the Labor government in the early 1990s to seek economic and social reforms through the federal system.

Microeconomic reform was a central policy of the Federal Labor government at this time. Though the government boasted of its achievements, it faced widespread criticism that their impact had been too little and too late. Many of the targets of microeconomic reform lay in instrumentalities controlled by State governments. Transport, electricity generation and distribution, and non-bank financial institutions were high on the agenda. These were areas in which the Commonwealth had to act through the States or with their co-operation. The States also sought to improve the competitiveness of their business sectors by improving the efficiency of service provision by government instrumentalities.

Fletcher and Walsh (1991:23) have argued that:

> '... the commonwealth saw the need to further increase emphasis on microeconomic reform as its core economic strategy. Here the role of the states is pivotal. With one or two relatively minor exceptions, it is state functions that are at the heart of microeconomic reform in transport (road, rail, ports), energy supply, industrial relations, regulations more generally, other infrastructure such as water and sewerage supply, as well as education and training.'

The States had been facing financial pressure from the Commonwealth and sought a re-examination of federal-state financial relationships. Pressure for reform of fiscal arrangements came from a united group of Labor and non-Labor premiers. The Special Premiers' Conferences only took place because the Premiers believed that the imbalance between revenue raising and expenditure responsibilities would be addressed and vertical fiscal imbalance would be redressed. The existence of this carrot was a major factor contributing to the reforms which were agreed (Gruen and Grattan 1993:228):

> 'The states always saw the first priority of any review of federalism as the financial arrangements; the Commonwealth was more concerned with how to promote economic efficiency.'

The attitude of Prime Minister Hawke played no small part in creating a political environment conducive to reform of federal-state relationships. It has been argued that, following his election victory in early 1990, Hawke was looking to make his mark as a political leader (Gruen and Grattan 1993:227). Many of the significant policy measures of the Labor government in earlier years had been in the economic area. Kudos had been shared between Hawke and Treasurer Keating. Hawke was perceived by many as an effective chairman rather than a driving force on policy issues. Hawke's New Federalism initiative can also be seen as an attempt to bolster a leadership under threat. In the event, the New Federalism initiative was one of the contributors to Hawke's demise as Prime Minister.

Whatever his motives, the role of Hawke during the Special Premiers' Conferences was crucial to the successes which were achieved. Hawke assisted the process through lending it the weight of the Prime Ministerial office, through personal intervention with political leaders in search of agreement and through the resources of key personnel in the Department of Prime Minister and Cabinet.

The Special Premiers' Conference process was also strongly supported by Premier Greiner of New South Wales. Greiner saw the opportunity to apply the managerialist reforms he had used in New South Wales on a national level. His status as a non-Labor politician gave bipartisan support to the reform process.

The period of the Special Premiers' Conferences was unusual in that no elections were scheduled. Government leaders were able to devote their attentions to longer term issues free from an immediate need to justify themselves to their electorates.

The result of these influences was that a political environment was created in which fundamental change was possible. It has been argued in one commentary that (Fletcher and Walsh 1991:2):

> 'Certainly, the reform processes that have been set in motion propose the most fundamental rethinking and restructuring of the Australian federal system by political leaders since federation in 1901.
>
> ... some central aspects of the *processes* by which reform is being promoted - especially the series of Special Premiers' Conferences... - constitute remarkable and valuable innovations in setting the framework for the future conduct of intergovernmental relations in Australia.'

The reforming spirit of the Heads of Government did not survive to the third of the Special Premiers' Conferences, scheduled to be held in Perth in November 1991. The full Heads of Government meeting did not proceed due to differences over Comonwealth-State financial relations. Instead, leaders of States and Territories met independently in Adelaide and resolved several issues (including extension of the National Road Transport Commission's responsibility for some aspects of light vehicle

regulation), but the reform momentum had dissipated. The subsequent accession of Paul Keating to the Prime Ministership confirmed the change in political atmosphere.

John Bannon argued that a major factor in the problems which beset the reform process in late 1991 was the early election called in New South Wales in 1991 (Bannon 1992:2).

Control of the road transport reform process

Fletcher and Walsh (1991:14) argued that the agenda was being set by central departments and that the process was designed to shift control over policy from line departments to central departments. Was this the case in the road transport area?

The reform of road transport regulation was controlled, at a bureaucratic level, by the Commonwealth-State Overarching Group on Land Transport. This body was chaired by a senior officer from the Department of Prime Minister and Cabinet, and those who attended came from: Premiers departments; treasuries, transport departments and roads authorities at state and federal level; and local government.

Three working groups reported to the Overarching Group on Land Transport (OAG). The working groups dealt with Road Funding; Heavy Vehicle Registration and Regulation, and Heavy Vehicle Charging. The efforts of these working groups formed the basis of the two reports of the OAG (OAG 1991a, 1991b) which led directly to the Heavy Vehicles Agreement and the Light Vehicles Agreement. The two Agreements were incorporated into the NRTC Act 1991.

The drafting of the Agreements was controlled by the OAG. In general, the Agreements accurately reflect the sections of the reports from which they are drawn. Much of the wording of the Agreements is taken directly from the OAG reports. The genesis of the Agreements can be traced back to the 1990 Inter-State Commission Report and the reports which preceded it (see above).

Regulatory differences

One of the thrusts of the Special Premiers' Conferences was the removal of any variations in regulations which retarded Australia's economic performance. This was a key aspect of the microeconomic reform agenda of the Commonwealth. The successes were manifested in areas including mutual recognition of standards in occupations and sale of goods, food standards, regulation of non-bank financial institutions and the agreements on heavy and light vehicles.

The major disparities in heavy vehicle regulation with economic implications affect those vehicles which spend a high proportion of their time travelling interstate. Standards for new light vehicles have shown little variation between jurisdictions since the Australian Design Rules have been applied on a national basis. In any case, most

light vehicles spend most of their time in a single jurisdiction. This is not so for heavy vehicles engaged in interstate trade.

One of the major concerns of the OAG reports was regulatory disparities between jurisdictions, including registration and road laws. There appeared to be general agreement to address the concerns, but agreement does not necessarily translate into regulation which is uniform or consistent. Many of the areas involved are highly technical and have ramifications for other aspects of regulation. Variations may reflect different judgements on empirical matters, different trade-offs between safety and efficiency, different operating conditions or the entrenchment of historical accidents.

In general, line agencies had been moving towards national uniformity in the regulation of road vehicles and road use for many years. A major problem was that uniformity would be agreed at top level (ATAC) and then interest groups would divert it or the implementation or administration would vary between jurisdictions. The result would generally be the continuation of non-uniformity. Although there were many areas where special cases were argued, the general perception by manufacturers, service providers and regulators was that greater uniformity was both desirable and attainable. A major problem was that the process was cumbersome and could easily be blocked by special interest groups.

The general political mood of the Special Premiers' Conferences was in favour of reform and there was an active search by Heads of Government and central agencies for gains to be made. The regulation of road transport provided an ideal issue. Much of the basic work had been done but political impetus was required to yield results.

Whilst the gains were not immediate, the creation of the NRTC provides the structure for the achievement of uniformity or consistency in the regulation of road transport. Once the template legislation is installed, reform can also proceed to meet the objectives of safety, efficiency and reduced administration costs specified in the Agreements.

Funding and investment

Road funding and investment arrangements in Australia are frequently seen as a source of inefficiency, for example (Forsyth, 1992:192):

> 'There are several factors that constitute constraints to [transport] reform. One of these is the federal system or, more specifically, the way it operates in Australia. With roads, a system of a Federal Government imposing taxes on fuel, and then giving grants to states for specific road works, is not conducive to efficient allocation of funds. Efficient investment allocations in different states and actual allocations, are not highly correlated; moreover the system does not create incentives for efficient allocation within states.'

The first Overarching Group report (OAG 1991a) contains a brief consideration of funding and investment arrangements while the second report (OAG 1991b) contains an extensive discussion of the issues involved. There was no resolution of road funding as part of the SPC process. There were opposing views between central and line departments (eg on hypothecation), and between jurisdictions (eg on road fund distribution). It is unlikely that the Agreements would have been made if road funding were included, so disparate were the views.

Road user charges

The issue of road user charges for heavy vehicles received extensive attention during the SPC process. Under the Heavy Vehicles Agreement (HVA), the NRTC was required to determine (for approval by Ministerial Council) heavy vehicle charges to apply from 1 July 1995. The HVA contains a set of Charging Principles which imply use of a similar methodology to that used by the Inter-State Commission and by the Working Group on Heavy Vehicle Charging.

The Charges Determination issued by the Commission in June 1992 (NRTC 1992b) has been approved by Ministerial Council and legislation has been passed by the Commonwealth Parliament for the ACT. Adopting legislation has not yet been passed in other jurisdictions.

Under the Heavy Vehicles Agreement, the cut-off for a heavy vehicle is 4.5 tonnes gross vehicle mass. This cut-off was agreed to by the Working Group on Charges on the grounds that it would give the Working Group on Regulation, Registration and Licensing greatest flexibility in developing a national system of heavy vehicle registration. The suggestion appears to have been accepted without much question by the OAG.

Differences in charges are only of importance for vehicles travelling between jurisdictions. Travel between jurisdictions is concentrated in the heaviest vehicles, particularly 6-axle articulated trucks. During the deliberations of the OAG, South Australia argued for a demarcation point of 15 tonnes. This is the vehicle mass used for the national heavy vehicle driver licence and is used in some Australian Design Rules. Use of the 15 tonne limit would restrict nationally determined charges to the vehicle types on which cross-border travel is concentrated.

The Charging Group was chaired by an officer from the Department of Economic Development in Western Australia. The group had a membership of around 15, a mixture of officers from central departments (eg Economic Development, Treasury) and line departments (eg Transport, Roads).

The charging methodology adopted (and passed on to the NRTC in the Heavy Vehicles Agreement) was taken from the Inter-State Commission. A significant input into the ISC work was made by the Australian Transport Advisory Council (ATAC) Working Group on Road Cost Recovery. The PAYGO cost allocation template used by the ISC

and modified by the NRTC was developed by the ATAC Working Group. A similar approach is in use in many parts of the world. It involves the use of cost-occasioned relationships to allocate road expenditure to vehicle categories. Charging systems are then established to pass these costs on to road users.

Two major issues which faced the group were: whether there would be linkage between the revenue obtained from road user charges and subsequent expenditure on roads; and which vehicles would be included in the charging systems the group was to explore. It was understood early in the process that charging and expenditure would not be linked. Once the funding issue was taken off the agenda, it was obvious that only heavy vehicle charges could be addressed. The discussions then became essentially technical in nature. Discussions were dominated by line departments and attention was focused on charging systems based on a combination of fixed (ie registration) and fuel charges and designed to fully recover actual expenditure on roads.

Proposals for charges based on marginal cost pricing and fuel-only charges were rejected. Marginal cost pricing received little support and the proposal was not subjected to detailed analysis. Several jurisdictions, notably South Australia, argued for consideration of a fuel-only charging option. The analysis of the Working Group indicated that fuel-only would lead to a degree of under-recovery from heavy long-distance vehicles which was considered unacceptable. However, the primary reason that the issue was not considered further was the difficulty of revenue collection and distribution.

A number of States had developed their own versions of the PAYGO template as part of the ATAC Working Group process. In some cases, notably NSW, this was done in consultation with industry associations. This tended to lock these States into their pre-determined positions in the subsequent Working Group discussions.

The indicative charges calculated by the group included registration charges around current NSW levels, and well above the levels in most other states. This was accepted by central departments because of the prospect of additional revenue and met the approval of most line departments, satisfied that the technical work was sound.

The Heavy Vehicles Agreement provides for separate charging zones to reflect different cost levels. Zone A comprises New South Wales, the Australian Capital Territory, Victoria and Tasmania (and the Commonwealth for voting purposes) and the remainder of jurisdictions are in Zone B, considered to be the low-cost zone. Separate charging zones were not recommended by the Charging Group. They were used by the OAG as a means of achieving support for the Agreement from Western Australia, South Australia and Queensland. In the event, the NRTC Charges are identical for the two zones.

Overview of Road Transport Reform

Having examined the work of the Overarching Group on Land Transport and the three working groups, we can now return to the argument put by Fletcher and Walsh that the road transport reform agenda was driven by the central departments.

The process of road transport reform in the Special Premiers' Conferences capitalised on pressures which had been growing over many years for a more national approach to transport. The political environment of the Special Premiers' Conferences provided the potential for the achievement of reforms which had previously been under active consideration in transport policy areas. Involvement of central agencies facilitated the process. There is little sense in which the central agencies imposed their policy prescriptions on reluctant line departments.

A key feature of the Special Premiers' Conferences process was to direct the attention of central agencies to reform of the regulation of road transport, in a political environment where a 'crash through' approach was possible. In this way, the involvement of the central agencies enabled the creation of institutional arrangements designed to enable the achievement of the regulatory uniformity and consistency regarded by many as the core of road transport reform.

However, the items included on the reform agenda were not initiated by central agencies. The reforms considered arose from roads and transport areas and were derived from a long process of analysis and report. This process can be traced from the National Road Freight Industry Inquiry through the work of the Inter-State Commission and the Australian Transport Advisory Council to the Special Premiers Conferences. The SPC process enabled the establishment of a structure for the achievement in some of these areas of reforms which had been discussed over this period. Had it not been for the political impetus generated by the SPC process, it is unlikely that the National Commission, recommended by the ISC, would have been established as a means to achieve reform. The specific regulatory reforms themselves continue to be debated.

Other SPC Reform Areas

The NRTC is often referred to in conjunction with the National Rail Corporation (NRC), with an implication that the road and rail reform processes are fundamentally similar. In fact the bodies have little in common. The NRTC embodies a change in the processes of regulating use of roads and is essentially a policymaking body. In contrast, the NRC is a company designed to provide rail transport services and does not have a formal role in the making of government policy.

The establishment of the NRTC can more usefully be compared with the reform of the regulation of food standards and non-bank financial institutions (NBFI).

Attempts to reduce disparities between jurisdictions in the application of food standards began soon after Federation. These attempts met with some success only after control of the process was taken out of the hands of the National Health and

Medical Research Council (which included representation from State and Territory Health Departments) and the Commonwealth Department of Health, and was given to the Commonwealth Bureau of Consumer Affairs and the Attorney-General's Department. This resulted from the identification of food standards as an economic issue as well as a health issue (Nelson 1993).

There are similarities between reform of food standards and reform of the road transport. Prominent among these is the length of time the process has taken and the need for changes in institutional structures as a precursor to effective reform. In the case of food standards, the major reforms of institutional structures were agreed prior to the Special Premiers' Conferences, though formal agreements were signed at the SPCs of October 1990 and July 1991. It was at the latter Conference that State and Territory governments agreed to adopt, without variation, food standards established by the National Food Authority.

In food standards, progress was made when the players in the reform process were changed. This was not so in the case of road transport. As discussed above, roads and transport bureaucrats were closely involved in the reforms. During the SPC processes, roads and transport bureaucrats worked closely with officers from central departments at both State and Federal level. The reforms which were evaluated had all been previously discussed in road transport circles.

Reform of regulatory arrangements governing non-bank financial institutions has important parallels with reforms of road regulation. Concerns about the fragmented system of regulation were highlighted by the failure of a major NBFI. This enabled increased priority to be given to regulatory reform in this area. The SPC process:

> '... provided the ideal vehicle for State Governments to pursue reform of NBFIs on a national, uniform basis.' (Gray 1993:85)

Reforms were built on the work of an inquiry established prior to the commencement of the SPC processes. Template legislation was used to implement a two tier approach of a State-based system of prudential supervision with national co-ordination of uniform prudential standards and practices. The new scheme commenced on schedule on 1 July 1992.

In the reform of both road transport regulation and the regulation of NBFIs, earlier analyses and reports formed a basis for institutional change in the political environment of the Special Premiers' Conferences. Both sets of reforms were based on template legislation (Queensland was the host state for the NBFI legislation).

One major difference between the two sets of reforms was that the institutions and policies for the NBFI scheme were in place by 1 July 1992. Subsequent problems are likely to arise from implementation and operation of the scheme. In the case of road transport, it was only the legislative structure and policymaking processes which were determined in the initial legislation. To date, the only legislation which has been

passed has been in the Commonwealth Parliament (see below). Whilst the reform process for NBFIs appears to be largely complete, the process for road transport has some time to run.

4. OUTCOME

Achievements to Date

The Heavy Vehicles Agreement anticipated that legislation and regulations would be written and adopted by January 1993. The method of achieving national legislation and the work required to obtain agreement on its content, meant that this was an unrealistic timetable. This fact was recognised by some during the development of the Heavy Vehicles Agreement and in the more flexible timetable in the Light Vehicles Agreement.

The template legislation method requires that the national legislation is passed in one jurisdiction and then adopted as law in all the jurisdictions. In the case of the road transport law, the national legislation is to be introduced into the Commonwealth Parliament to apply in the Australian Capital Territory and Jervis Bay Territory. The National Road Transport Commission was formally established in January 1992 so there was little likelihood of legislation being written, debated and passed through eight Parliaments within a year.

As discussed above, there is a fair amount of uniformity in regulations as they affect vehicles operating interstate. The HVA was not restricted to these vehicles, and covered a range of regulations where there had not previously been serious attempts to achieve uniformity. The philosophy and approach to regulation differs between States and Territories and must be resolved prior to the adoption of national law. In the eastern States, there has generally been stricter regulation of road transport due to the desire to protect rail systems, closer settlement patterns and more intensively used roads. In contrast, South Australia has minimised regulations to keep transport costs low due to its distance from the major domestic markets. Western Australia and Northern Territory are sparsely settled and have kept transport costs low to assist residents in isolated areas.

The approach being pursued by the National Road Transport Commission is to develop legislation in modules to ensure achievement of some reform prior to that which could be achieved if the original intent of a single piece of legislation occurred. The national law will integrate these modules into one comprehensive piece of legislation at a later date.

The charges legislation awaits adoption by the States and Northern Territory. Neither New South Wales nor Western Australia voted in favour of the uniform charges

recommended by the Commission and it remains to be seen whether they will adopt the legislation. If New South Wales does not, there is little point in any other jurisdictions doing so because it is the main corridor State for interstate traffic.

The second module nearing completion is the Road Transport Reform (Vehicles & Traffic) Bill. The Bill, which was approved by Ministerial Council in July 1993, will enable the promulgation of regulations relating to vehicle standards, driver standards, traffic regulations and vehicle operations. WA did not vote in favour of the Bill, although it wishes to remain part of the national process. Of the seven sets of regulations proposed, three (heavy vehicle standards, mass and loading, and overmass/oversize) are expected to be presented to Ministerial Council for approval this year. Driver working hours, heavy vehicle roadworthiness standards, operation of B-doubles and road trains, and traffic regulations will be completed in 1994.

Work is proceeding on the Dangerous Goods, Vehicle Registration and Driver Licensing modules. The Dangerous Goods module will draw heavily on the existing dangerous goods code which has achieved a large degree of uniformity in operations, and was developed under the auspices of ATAC. The legislation is expected to be complete prior to the end of 1993.

The NRTC's brief was extended to include some aspects of road transport regulation for all vehicles through the Light Vehicles Agreement of May 1992. This has the potential to simplify the task of preparing legislation and regulations in some respects. In the case of Vehicle Registration and Driver Licensing, the task has arguably been made more complex as light vehicles are only to be included if net benefits can be established. Developing legislation and regulations for all vehicles and drivers would probably be easier, but may have to be done in sequence (heavy followed by light) as the task of establishing net benefits will be significant. If net benefits cannot be shown, nothing will be lost by the sequential approach.

The progress to date has been relatively slow. The NRTC has a life of six years, one and a half or 25 percent of which has expired. In comparison, about 5 percent of the legislative task has been completed. The learning curve has been steep; it was not until October 1992 that approval was received to adopt the modular approach to the legislative programme.

Difficulties have been experienced by both the NRTC and jurisdictions in the consultation process to obtain agreement on the content of legislation and regulations. New methods of working are under discussion to streamline the development and consultation process but it is unclear at this stage whether they will be successful in increasing the pace of work.

The legal drafting task is not insignificant because national laws have to be drafted and existing State and Territory laws must be adapted to enable integration with the

national law. Agreement, or at least consultation, is required with Parliamentary Counsels in all jurisdictions, in addition to consultation on technical matters.

Policy/Administrative Structures

The Heavy Vehicles Agreement created a Ministerial Council for Road Transport as a deliberative body to vote on recommendations of the National Road Transport Commission. A second forum of transport ministers was therefore established in addition to ATAC. The membership of the two Councils was not common due to the split of transport portfolio responsibilities in some States. This led to some confusion in responsibility on certain matters, and Ministers requested a review of structures (Review Group 1993). At meetings of ATAC and Ministerial Council in June 1993, Ministers agreed to establish the Australian Transport Council which will subsume ATAC and incorporate meetings of the Ministerial Council for Road Transport. The Australian Transport Council will have the appearance of a single meeting and agenda, but the legislative processes in the NRTC Act will be preserved when considering road transport policy and legislation.

Simultaneously with the review of structures, a working party examined the need for a national transport policy framework (Working Group 1993). Officials are currently developing a framework that could lead to an Intergovernmental Agreement on Transport to pursue improvements in national transport arrangements. In the lead-up to the Federal election in March 1993, the Prime Minister promised a National Transport Planning Task Force to presumably cover similar issues. How these will affect the operation of the National Road Transport Commission is unclear at this stage.

Under the NRTC Act, the national standards (ADRs) promulgated under the Motor Vehicle Standards Act are now to be approved by Ministerial Council (not simply the Commonwealth Minister). Standards development will continue to be undertaken in large part by the Federal Office of Road Safety (FORS), but new procedures have been agreed by the National Road Transport Commission and FORS in a Memorandum of Understanding on the development process for ADRs. These procedures are aimed at ensuring improved justification for, and consultation on, ADRs.

NRTC deals on a one-to-one basis with road authorities, but for some tasks it is more appropriate for Austroads (the association of Commonwealth, State and Territory road authorities) to manage the tasks. NRTC and Austroads agreed on joint working arrangements in April 1993. Much of the work that forms the basis for the regulations now nearing completion (see above) was undertaken by Austroads as a consultant to NRTC.

5. CONCLUSION

The Special Premiers' Conferences had the effect of pushing road transport reform onto a wider political stage in an environment where problems were being identified and solutions sought. Whilst the issues and many of the solutions were derived from road transport consitiuencies, the role of central agencies was essential in re-structuring policymaking instutions.

The NRTC has not produced the results expected in the timeframe envisaged. This is largely the result of over-optimistic expectations by central agencies and politicians unaware of the volume of detailed work required to achieve the changes proposed.

The NRTC grew out of the microeconomic reform process, with the reform being seen as achieving uniformity or consistency in road transport regulation. Uniformity should not however be seen as the totality of reform. The pursuit of uniformity as an end in itself will not be conducive to achieving reform or to maintaining commitment to the process.

Some consider that the application of the same vehicle standards, eg speed limits, weights or heights, to the range of operating environments that exist in Australia will not improve transport efficiency. On the other hand, some standardisation is desirable to reduce the information needs of road users and assist in ensuring compliance with the law and regulations. The achievement of the objectives of road safety, transport efficiency, and reductions in costs of administration of road transport must be kept in view. The major part of the NRTC's current work programme is directed at establishing uniformity or consistency, but some work is underway to improve vehicle productivity and safety. Uniformity is also being achieved by the adoption of best practice where possible.

Commitment to reform is required from governments, transport ministers, bureaucrats and road users. The change in governments and ministers since the SPC has not assisted in this respect. There have also been changes to personnel in the road and transport authorities leading to a loss of collective memory about why the Agreements were signed and what they were intended to achieve. The Agreements were themselves the result of compromises by governments and individuals. With the change in personnel, the compromises are forgotten and the same issues may become stumbling blocks to implementation.

Commitment from road users, particularly the road transport industry, has been strong to date. This is an important factor in achieving reform given the history of road transport regulation in Australia. The commitment could also be related to the fact that recommendations of the Commission have been relatively favourable to industry participants to date. This may not continue indefinitely.

The maintenance of the reform process is dependent on the participants being committed to reform. There was obviously some level of commitment when the two Agreements were signed (July 1991 and May 1992), but whether that can be maintained over the six year life of the Commission remains to be seen.

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