

4.3 LESSONS AND IMPLICATIONS FOR BULGARIAN TRANSPORT PLANNING

4.3.1 Lessons and Implications

a. New and innovative approach of EU's transport and railway development

The railway improvement measures issued with the initiatives of the EU commission are simultaneously tasked with the double missions - tackling the transport problems within EU itself and expanding the EU system for integration into one single European market, It seems certain that transport policy is facing a important change in the EU, or that we are entering a new era in railway transport in Europe. It is certain that Bulgaria will be sooner or later be covered by this new wave of European transport policy.

The EU's transport and railway development policy is a quite consistently logical approach as shown in the preceding sections and as summarized in Figure 3.5.3-1.

- a. First of all, **the twin problems** of transport were identified (One is road transport problems-Congestion and environment, the other is railway problems.)
- b. **Long distance freight traffic**, which now has been largely carried by the road hauliers, was targeted for the railway market in order to solve the twin transport problems.
- c. To exploit this market, improvement measures of **international railway system** were proposed in the EU Council Directives 91/440, 95/18, 95/19 and 1996 White Paper outlined in Table 4.3.1- 1.
- d. In addition to these measures, imposition of **road user charge** covering the direct and external cost was proposed for creating fair competition between road and rail. (The railway traffic demand forecast in this study shows the decline in the rail freight volume after 2015 when the express roads between Sofia and Bourgas/Varna are completed. Therefore this devices are quite important for Bulgaria railway promotion.)
- e Finally to exploit the targeted market, supported by these measures, **combined transport system** was propose to develop into one of the popular transport systems not only for promoting the road hauliers and railway, but also for the solution of the road congestion and environment problems.

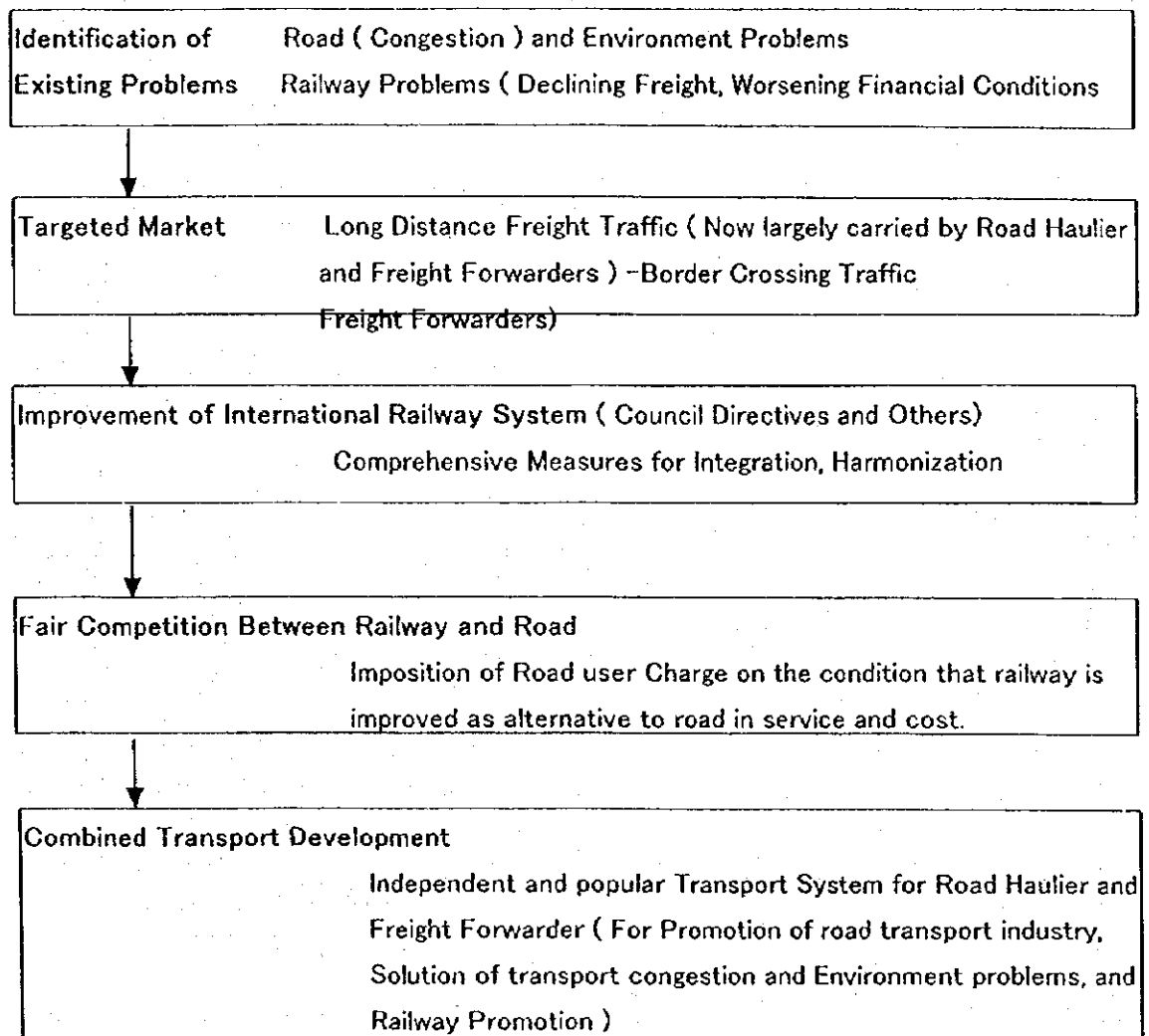


Figure 4.3.1-1 Logical Approach of EU Transport and Railway Development Policy

b. Railways will become an indispensable mode for freight transport connecting the EU with Bulgaria

Even in the EU countries it is suggested that serious increases in road congestion, pollution and accidents will take place if the railway's share of the freight market continues to drop. Road traffic problems seem to be the fundamental reason requiring the improvement of the railway system in the EU. In South-Eastern European countries the abandonment of the politically regulated modal split in favour of rail transport has resulted in the emergence of a large number of private road transport companies, most of them smaller in size. Massive traffic jams and major damage to the environment are the result. Large bottlenecks at border crossing points result in long waiting times and impose a burden on road transport as well as the communities nearby. The forecast, despite the current sluggishness in overall economic

development, still indicates that the volume of goods to be transported will double again within the next fifteen years. The implications of these things to Bulgaria are described below.

It seems most probable that what has happened and is happening in the EU and the surrounding countries as will also take place in Bulgaria without the effective measures such as those which the EU is now taking. This is likely even before the full economic and industrial recovery of Bulgaria.

It is also predictable that the volume of freight between Bulgaria and the EU countries will increase in line with the economic growth. However lengthy and costly travel on the road network will be unavoidable due to the road conditions applicable in the transit countries. In the worst case the limited environmental and transport capacity of the road network may not even allow the passage through those countries to the EU. While there is space road transport capacity left for increased road usage in Bulgaria, the partner trading countries and the transit countries will reach the saturation point of the road transport capacity. In this respect European railway integration including Bulgaria, as an alternative to road transport, is quite vital to ensure the freight path to the EC necessary for Bulgarian economic and industrial growth.

In turn, Bulgaria is also one of the transit countries for the freight traffic in the South Eastern Europe and between Europe-Asia, which will further increase with the enhanced international trade. It has already been shown in Western and Central Europe that the transit freight traffic on road caused the transport problems including the environmental deterioration. The international rail system is also important from the viewpoint of the national transport management policy of Bulgaria.

For these reasons it is expected that the Balkan countries, especially Bulgaria centrally located on the peninsular, will positively participate in and facilitate the creation of the European integrated railway system.

c. The real competitor targeted at in the liberalization and integration of railways throughout the European countries is the road freight, not the railway operator each others.

In other words those most threatened by the railway liberalization is road freight (road trucks), not the railway undertakings, even though the competition between the rail operators intensifies. It may be said that in order to be able to compete against road, the rail operators compete each other so as to provide the more efficient and less expensive freight services.

International trade and linkage (economic, industrial and social) are more essential for the national development of the country surrounded by several other countries on the continent. Accordingly, cross-border freight traffic considerably increases. By nature this traffic is long distance which is more suitable to railway transport. Despite this, in the EU this traffic is mainly transported by road. As a result the EU has targeted cross-border freight as the promising market for railways. The EU seems to say that railways will not stem the decline in rail freight traffic without success in exploiting this international market. This is generally said throughout the EU countries. This can also be applied to Bulgaria judging from the past financial performance of the international freight transport and the potential market to BDZ both currently and forecast. The EU's strategy is unique in that railway improvement is designed for increasing the volume of freight traffic, not fitting it to the currently shrinking rail freight traffic. Liberalization to exploit this market are viewed not only as necessary measures for the railways survival, but also to combat against level of road traffic and to establish a balanced and environmentally friendly national transportation system. The strategy suggests that improvement measures proposed in EU Council directives, White papers and others resources should be performed in the context of the national transport development policies and programmes.

d. New horizon of the National Transport Development

The transport problems at present in the EU and the surrounding countries seem to be represented by the following two major issues;

1. Road transport problems (Congestion, pollution, energy, and safety problems)
2. Railway transport problems (Inefficient service and indebtedness, ineffective use of resources)

It is said that these are two sides of the same coin. The basic policy of the EU is that these two problems must be interrelated and simultaneously tackled, otherwise neither will be solved. The most important point of the policy is to create the environment for optimal allocation of resources through market forces in the transport market.

To achieve this two policies have been proposed. On one hand railway improvements to provide an efficient level of service, and on the other hand the establishment of a beneficiaries charge leading to an equal cost burden (road user charge, which is in favor of road at present).

The imposition of a road user charge covering direct and external cost will only be possible when the railway becomes an alternative to the road from the improvement of railway services

by fair competition between the railway operators. Also the collected road user charges can be used for cost recovery and capital investment for further up-grading the transport infrastructures.

The above discussions are old and new. The road user charge has long been proposed and discussed in many countries. However, because of the difficulties of the real imposition of the road user charge (technically, politically and socially), it has not been fully implemented yet. It may require a change in the national taxation and budgeting system, transport financial system and so on. Even so, as stated in the preceding section, the EU has launched transport pricing toward this horizon. It is deemed that transport pricing will be common in the European countries taking into consideration the increasing seriousness of road transport problems as stated above. Bulgaria will not be an exception. In this regard it is expected that the national transport and railway system should be developed toward this new horizon.

e. Integrated and flexible approach of railway improvement in Bulgaria

EU railway reform and development requires the integration of improvement measures covering many fields from access rights, licensing, charging, train path allocation, independence, separation, to financial improvement. This means that they must be integrated and synchronized, with none of them being omitted. The real effects of railway integration is to reverse the declining market share and to solve the serious and worsening road transport problems.

There is no doubt that integration into the European rail system is the committed policy for Bulgaria. The country's railway improvement is geared towards this integration. The question is how and when. Even in the EC there are several countries that have still not completely applied the Council Directive 91/440/EEC, 95/18/EEC and 95/19/EEC. The gradual opening of access to the national transport market and gradual simplification, optimization and harmonization of the customs and border crossing procedures are the principles agreed in the Conference of the Ministers of Transport of the BSEC and the CEI as shown in section 3.5.3.

Elaboration of the time framework and timetable is not easy. It depends on the many factors such as the progress and consensus of the integration and liberalization of railways in other regions and countries to which Bulgarian rail network is to be linked, consensus building and legislation in Bulgaria itself, and the social, political, economic and industrial situations in the country and others neighbors.

Under these circumstances the more flexible approach, that is Freeway concept, was proposed

by the EU and is now being implemented. This is the operation of an integrated railway system on the existing railway infrastructure with the existing and possible improvement measures at hand. This concept is expected to develop into the full scale integration of the European railway system in the future.

In view of these developments, Bulgaria, through the Conference of the Minister of Transport, should make the following recommendations for gradual improvements;

1. Setting up and agreeing on the time framework or the target years for the implementation of the integrated improvement measures, aiming at the full scale railway integration in the longer term.
2. Seeking the flexible approach, like the freeway concept, for operating the integrated rail system by means of the existing network and any possible measures that become available in the short term. It is necessary to wait for long term solutions described above. This is intended to spur real improvements towards integration, and to gain knowledge and experience of integrated rail operations and cooperation prior to full scale integration throughout the Europe.

The Balkan freeway concept will be one of the eligible candidates for the flexible approaches within the Balkan countries. For instance Bulgaria, Romania and Greece can start on a voluntary basis, and will be eventually connected to the freeways proposed by the EU. The European integration will be completed by the connection of both the developments from the North and the South of Europe.

f. Target-oriented railway reform

Proposals for any separation between the infrastructure management from train operations, the establishment of independent rail undertakings or privatization must be closely related to the market strategy and purpose of improvement for BDZ. The EU's measures for rail improvement are clearly and decisively defined by their strategy and purposes.

The EU's proposals and recommendations suggest that the market essential to the railways' survival is mainly long distance or the international freight traffic. If they fail to exploit this market they are destined to disappear and for this reason all the efforts must be exerted to do so. In this respect the EU is serious about the separation, independence or privatization, rationalization of charging system and train path allocation which are all needed for promoting efficient international freight traffic. These improvement measures seem to make no sense without affecting the international freight development policy of BDZ. If limited to

the domestic freight transport improvement in Bulgaria they are of less significance. In this sense the restructuring or reform plan without clear-cut targets of potential market to be developed will be useless for BDZ.

4.3.2 Proposal of integration process of Bulgarian Railway into the European system.

(1) Pre-conditions and Scenario

It is natural that the integration process is dependent on the progress of development of the integrated railway system in the other countries of the EU and the CEECs, and influenced by the economic growth and transport demand in the planning period. Of course, there are many other factors socially and politically affecting the progress as stated before. Here the discussions are made mainly from the technical viewpoint. The main points of the discussions are illustrated in Table 3.5.4-1.

The following preconditions on the dependent factors are set forth for developing the preliminary proposal of integrating of Bulgarian railway into the European system.

1. Pan European integrated system both technically and institutionally as the Council Directives required is to be completed within the planning period of this study up to the year 2020.

The planning period is divided into three phases-First phase (short term up to 2000), Second phase (Medium term up to 2005), Third phase (Long term up to 2020). Developments and expansion of the EU system are to be made in accordance with this phasing as follows;

The EU rail integration system will be partially established during the first phase period, then be expanded toward South Eastern Europe during the second period, and be fully completed throughout Europe during the third period. It is assumed that the railway improvement for the integration of Bulgaria should be made accordingly.

2. In response to the economic growth (GDP) forecast of 0%, 3% and 5% throughout the three phases, (as projected in the economic sector), general traffic demand which is constrained in the first period, will start to increase and match previous level of traffic level (in the early 1990's) in the second period. The high economic growth (5%) in the third phase will be accompanied by a rapid increase in traffic and significant volumes.

Table 4.3.2-1 Proposal of Integration and Development Process Into European system

	2000	2005	2020
	First Phase	Second Phase	Third Phase
EU Rail Integration system	Partially in EU 	Freeway in CEEC 	Pan-Europe Integration system
Balkan Freeway			
Bulgarian Railway	Conventional Agreement Base →	Freeway →	Integration into EU Rail system
Economic and Transport Situation			
Economic Growth (GDP)	0 % Growth 	3 % Growth 	5 % Growth
Transport Demand	Bottom 	Low Intensity 	High Intensity
Motorization	Low	Start increasing	High
Railway Institutional Improvement			
Integration of national system	Partial Open Access 	Expanded Open Access 	Complete Adoption of Council Directives
	Improved Existing systems for Use of Railway 		Unified/Coordinated Train System by OSS (Licensing, Charging, Train Pass Allocation)
Organisation / Management		Separation of Account and organisation 	Institutional Separation
Financial		Financial Mechanism	
Transportation System Development			
Pan-European Transport Corridor		Combined Transport	C-4 C-8 C-9
Express Way			Sofia-Bourgas and Varna
Transport Pricing		Road User charge	

In this scenario it will be clear that road traffic will start increasing steadily in the second

period. In the third period there will be a further rapid increase without measures to shift it to other modes of transport. This has happened in many of the developed countries, including the EU countries where integrated railway systems are proposed to tackle the problems caused by high level of road traffic and associated congestion. In terms of combating against road traffic growth especially long distant freight traffic, a **two(2) stage strategy** of railway improvements of BDZ will be appropriate.

1. Adoption of the Freeway concept on the existing system with practical improvements possible. This will be effective for emerging road traffic growth during the second period.
2. Full scale integration into the European railway system as envisioned by the EU Council will be needed to be able to compete against the efficient road freight transport in the middle of the massive traffic growth during the third period.

In conclusion, it is expected that BDZ will establish the Freeway system, however rudimentary, during the second period, and to adopt the EU integration which will be completed during the third period.

(2) Integration and Development Process

The two stage strategy is likely to dictate a flexible approach during the first and second periods (up to 2005). This is considered as the transitory or gestation period used for consensus building, social/political maturity and coordination/negotiation with other countries. The definite approach during the third period (up to 2020) is considered as the take-off period used to substantiate the EU integrated system by the decisive actions of the government toward the EU Council Directives. This could well coincide with the Bulgaria's full membership into the EU.

The integration and development process consists of railway institutional improvement and transport and railway system (infrastructure) improvement as listed in the Table 4.3.2-1. It is obvious that both of them must be coordinated and go hand in hand. However the infrastructure development requires a great amount of capital investment and a long period of time, so it is likely be protracted. Effective use of the existing infrastructure with rehabilitation/repair and bottle neck improvement projects requiring relatively small level of investment, and along with easier and possible institutional improvements is one of the

significant elements for the development and integration process.

What should be done in the third period is quite clear. That is final measures aimed at completely complying with the Council Directives covering all the items stipulated. However it seems quite difficult to make it clear, at this moment, what should be the improvement progress to be made during the transitory period up to 2005. Because what is difficult or possible/impossible and to what extent in the liberalization for possible improvements will differ within each of the countries concerned. The size and magnitude the preliminary integrated rail system as proposed in the Rail Freight Freeway concept will become clear through the negotiation/coordination among them.

However the logical procedure for Bulgaria can be proposed as shown in that previous table and summarized as follows, subject to further discussions.

Rail institutional improvement

The logical first step for integration is open access and the right to use the rail infrastructure. Taking into consideration its repercussion on the society and to avoid unnecessary apprehension, partial open access should be started in the first period. In the second period it should be expanded on careful examination of the results of the first. These will provide lessons on how to completely adopt the open access required in the Council Directives. This will be the main task in the third period.

As repeatedly stated in this section, the open access must be accompanied by facilitation /simplification of the use of rail infrastructure, otherwise the value of open access will be undermined. For this purpose the existing system must be improved so as to maximize the efficient use of the existing system in the first and second period before the united/coordinated train system operation by OSS comes in during the third period.

The efficient use of the existing infrastructure requires the improvement of licensing, pricing and train path allocation even in the existing framework.

The efforts for integration, as stated above, must be accompanied by organizational /management reform, the EU Council Directive emphasized. It includes independent status (especially from government), separation, competition and so on. Among others separation will be the most important task because others will evolve on the base which it provides. This is supposed to have great impact internally and externally. The Council Directive 91/440/EEC states that separation of accounts is compulsory, while organizational/institutional is optional.

Following this rule it would be desirable that the former should apply during the second period as a first step for the complete separation due to take place during the third period. Finally, the sound financial base is one of the essential preconditions for the successful operations supported by the improvement measures stated above. In this regard the Council Directive recommended the establishment of financial mechanisms to help reduce the indebtedness of each undertakings to a level which does not impede sound financial management. In the case of BDZ the financial expert in this study predict that BDZ is not so heavily indebted that it can be recovered through the account of the regular rail operation in the forthcoming several years.

Transport System (Infrastructure) Development

It is clear that the transport railway infrastructure must be improved and developed to accommodate the European integrated rail operations enhanced by the measures as listed above. Pan-European Transport C-4,C-8.C-9 are scheduled to be completed by 2010(Layer 2). These corridors will be the major international routes for the integrated railway systems which are proposed to be operational during the third period. Attention must be paid to the international trunk roads or highways which are also to be constructed in parallel within these corridors. Serious competition between railways and roads (long distance freight truck) will occur on the corridors.

This is a basic need of improvement of railway transportation services to be able to compete against the road transport. In association with the corridor construction, the introduction of transport pricing (road user charge) on the corridors with the view to create a fair basis for competition has been discussed among the countries concerned.

A very essential condition, among others, for the possibility of road user charge imposition is the existence of the other alternative transport choice. Since during the second period the freeway will be an alternative to the long distance freight transport, the application of the road user charge may become possible during this period.

“It is recommended that the systems and measures for the improvement of Bulgarian railway in such sectors as organization, financing, tariff policy , personnel, train operation(train path allocation), infrastructure (permanent way, rolling stock, signaling and others), marketing and so on be elaborated in the integrated manner in the perspective of the integration process into the European systems as drafted above.”

More specifically, they must be the measures designed to improve the existing BDZ ailway as well as respond to EU integration so that the existing problems will be solved in the process of harmonizing the existing systems with European systems.

BDZ MANAGEMENT ASPECTS

CHAPTER 5 RAILWAY NETWORK, ORGANIZATION AND RELATED LAWS/REGULATIONS

5.1 RAILWAY NETWORK

5.1.1 Overview of the network

Current dimension and overview of all the railway lines and segments of BDZ are shown in Table 5.1 - 1 and Fig. 5.1 - 1.

The data are based on the information collected and analyzed as of November, 1996 by the cooperation of BDZ staff.

For reference, each category of Table 5.1 -1 is annotated as follows;

Category	Annotation
Line	single-digit number: main lines, double-digit: secondary lines
Segment (name)	classified by BDZ practice
Kilometer	duplicated train operation on same track: single segment
No. of Railway Stations	halts(stops) excluded
Number of Trains/daily	international trains included
Max. speed (passenger)	actual maximum speed (not designed) of passenger-express trains
Train Block	unless otherwise stated: telephone blocking

As shown in Table 5.1-1, BDZ's railway network totally comes to **4,031 km**, which are classified into the main lines of **2,718 km (67.4%)**, and the secondary lines of **1,313 km (32.6%)**.

Additionally, the networks consist of the standard gauge lines of 1,435 mm with route length of 3,787 km and the narrow gauge lines of 760 mm with the extension of 244 km (6%).

Classification of lines such as sub-main lines, branch lines and connecting lines is not yet clarified or defined on the criteria based on market economy..

Double track lines account for **23.8% (960 km)** of the networks, and all belong to the main lines, with the almost comprehensive double track being only **Sofia to Varna (532 km)** on the Line 2.

In the meantime the electrified tracks extend over **2,478 km**, accounting for about **62%** of the network and **81%** of the main lines.

Maximum speed of 120 km/h ~ 130 km/h is presently attained on particular segments over the Line 1.

At present, BDZ' railway traffic mainly flows on the Main Lines, especially centering on the Lines of No.1, No.2, No.3, No.4 and No.8.

Additionally, revenues for Main Lines account for more than 95% while the route lengths occupy 67% of all the network..

5.1.2 Features of the Main Lines

Table 5.1-2 shows the summarized data of main lines and sections.

The features of main lines can be briefed as follows;

a) Line 1

- The section between Sofia and Plovdiv (156km) constitutes the most important route of BDZ running parallel with the competitive motorway.

However, the section of Sofia to Septemvri (103km) comprises a lot of steep gradients and sharp curves, forcing the maximum output of locomotives as well as drivers' attentiveness.

- Line 1 is situated on the international route between Turkey and West European countries through which an international train "Balkan Express" passes. The section of Krumovo to Svilengrad adjacent to Turkish frontier remains yet to be electrified and double-tracked.

- Reinforcement project of track is under way in the section of Septemvri to Bazarzak.

b) Line 2

- Line 2 is an important line connecting Sofia with Varna facing to Black Sea and forms the international route to Rumania and Russia through Ruse on Line 4 where an international train "Bulgarian Express" is operated.

- Small and medium sized cities are located in chain along the route, but the Line 2 makes a little detour to disadvantage as compared with the road way.

Line 2 is unique in BDZ lines. It is all double-track and electrified. A speed increase is expected for future.

- Enlargement of tunnel size as well as alteration of the line route will start between Voluicck and Mezdra under the support of international organs.

c) Line 3

- Line 3 occupies the most important position of freight train transport from Sofia to Black Sea, and prepares a comparative easiness of through-operation of freight train thanks to track layout.
- Line 3 is the most profitable line of BDZ, but is single-tracked intermittently while all electrified. Therefore, the complete double-tracking of the line is desired.
- The population is small and scattered along the line. The increase of general passenger traffic cannot be expected, but tourist resources abound. The increase of tourist traffic is hopeful.

d) Line 4

- Line 4 constitutes the international routes, one route from Sofia to Rumania and Russia via Line 2, and the other from Rumania to Turkey via Line 1.
- The line is currently outnumbered by the road modes in terms of traffic of both passenger and freight, because it is single-tracked and mountainous with a lot of steep gradients and sharp curves. A drastic improvement will be needed for the Line to be integrated to the prospected Crete Corridor No4.
- Line extension of Podkova to Aegean Sea is expected by BDZ.

e) Line 5

- The Line 5 extends southward from Sofia to Greece, constituting the international route. Paralleled roadway now beats the railway in terms of freight and passenger traffic due to zigzag alignment of the route down south. In the meantime, the projects of electrification and signal improvement start off under the support of international organs, intending for smooth through-operation to Greece.
- The section between Sofia and Dupnitsa plays a role of urban transport to some extent.

f) Line 6

- Tunneling excavation in Macedonia is projected to develop an international route connected to Line 6, but the schedule is yet to be known.
- The section of Voluyak to Razmenna (32km) near Sofia is a revenue line.

g) Line 7

- BDZ expects Line 7 will be an international route to European countries via Rumania if the second bridge across the Danube River is constructed. But it is now hard to foresee the future of the on-going negotiations for the bridge construction among countries concerned.

h) Line 8

- Line 8 is now one of the most important revenue lines to BDZ, which forms the connection of Plovdiv with Black Sea via Line 3 and Line 4.
- Completely electrified but intermittently single-tracked, tracks are mostly utilized with few margin of spare capacity. For near future, the increase of track capacity is urged by comprehensive doubled-track with automatic signal.
- Reinforcement by adopting long-welded rail is underway on the segment between Plovdiv and Michaerovo.

i) Line 9

- Line 9 is the first railway introduced to Bulgaria.
- It is expected that the Line will be a short-circuit freight route from Rumania to Black Sea and also will serve as combined seamless transport route.

Fig.5.1-1 Railway network of BDZ

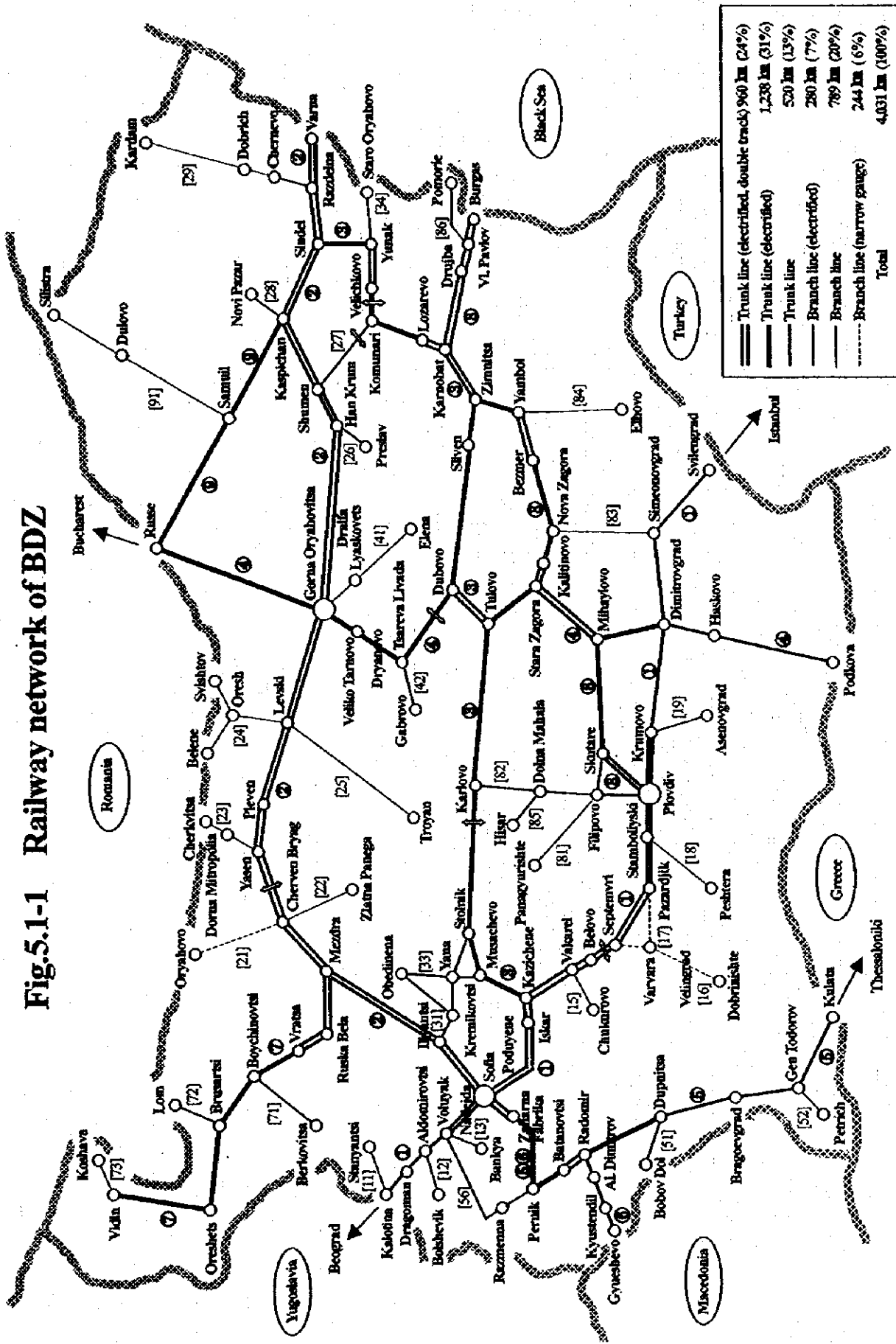


Table 5.1-1 Current situation of railway lines of BDZ

Source:BDZ (Nov. 1996)

No	Line	Segments		Kilometer	Number of Railway Stations	Track		Electrified with Catenary	Number of Trains/daily (Both directions)			Max. speed (Passenger)	Train Block	
		Name	Name			Single	Double		Passenger	Freight	Mix			
1	1	Dimitrovgrad	Voluyak	55.378	10	55.378				29	26		100	SA
2	1	Voluyak	Sofia	7.835	2		7.835	7.835		70	12		90	SA
3	1	Sofia	Iskar	9.5	3		9.5	9.5		82	10		75	A
4	1	Iskar	Kazichene	4.876	2		4.876	4.876		82	25		120	A
5	1	Kazichene	Septemvri	88.404	11		88.404	88.404		64	19		120	A
6	1	Septemvri	Plovdiv	53.045	7		53.045	53.045		58	17		110	A
7	1	Plovdiv	Krumovo	8.286	3		8.286	8.286		56	31		100	A
8	1	Krumovo	Dimitrovgrad	69.543	8	69.543				22	16		100	SA
9	1	Dimitrovgrad	Simeonovgrad	22.99	3	22.99				14	26		85	SA
10	1	Simeonovgrad	Svilengrad	42.693	4	42.693				12	10		80	SA
11	11	Kalotina	Stanyantsi	15.682	2	15.682				16	4		50	SA
12	12	Bolshevik	Aldomirobtsi	13.61	2	13.61				12	3		70	SA
13	13	Voluyak	Bankya	10.778	2	10.778		10.778		36	1		100	SA
14	15	Vakarel	Chukurovo	12.966	2	12.966					5	10	60	
15	16	Septemvri	Dobrinishte	124.66	14	124.66				8	1	8	45	
16	17	Pazardjik	Varvara	16.314	2	16.314				2	0		40	
17	18	Stamboliyski	Peshtera	28.338	5	28.338				6	2		70	
18	19	Krumovo	Asenovgrad	10.039	2	10.039		10.039		34	2		100	SA+A
19	2	Sofia	Iliantsi	4.843	3		4.843	4.843		91	9		60	A
20	2	Iliantsi	Mezdra	82.946	15		82.946	82.946		79	22		110	SA
21	2	Mezdra	Yasen	93.754	12		93.754	93.754		88	20		115	SA
22	2	Yasen	Levski	51.623	7		51.623	51.623		50	35		110	SA
23	2	Levski	G. Oryahovitsa	54.153	7		54.153	54.153		38	30		110	SA
24	2	G. Oryahovitsa	Shumen	137.378	13		137.378	137.378		33	28		110	SA
25	2	Shumen	Kaspichan	22.99	4		22.99	22.99		41	20		110	SA
26	2	Kaspichan	Sindel	49.078	6		49.078	49.078		35	13		120	SA
27	2	Sindel	Razdelna	6.084	2		6.084	6.084		51	41		100	SA
28	2	Razdelna	Varna	29.18	7		29.18	29.18		63	27		100	SA
29	21	Cherven Bryag	Oryahovo	102.576	7	102.576				13	2		50	

1229.542 167 525.567 703.975 724.792

A:Automatic
SA:Semi-automatic

No	Line	Segments		Kilometer	Number of Railway Stations	Track		Electrified with Catenary	Number of Trains/daily (Both Directions)			Max. speed (Passenger)	Train Block	
		Name				Single	Double		Passenger	Freight	Mix			
30	22	Cherven Bryag	Zlana Panega	33.333	3					6	4		60	SA
31	23	Yasen	Cherkvitsa	43.426	5					6	4		75	
32	24	Oresh	Belene	13.566	2					4	2		60	SA
33	24	Levski	Svishtov	47.732	4					18	5		75	SA
34	25	Levski	Troyan	82.647	7					6	6	4	75	SA
35	26	Han Krum	Preslav	6.874	2			6.874		5	2		60	
36	27	Shumen	Komunari	50.395	3			50.395		11	0	2	70	SA
37	28	Kaspichan	Novi Pazar	4.927	2			4.927		20	2		60	
38	29	Razdelna	Kardam	104.501	12			104.501		8	16		100	SA
39	3	Iliantsi	Stolnik	29.34	6			29.34		14	21		110	A
40	3	Kazichene	Stolnik	17.043	3			17.043		18	8		100	A
41	3	Stolnik	Karlovo	118.14	15			118.14		29	35		100	A
42	3	Karlovo	Tulovo	73.817	11			73.817		24	23		100	SA
43	3	Tulovo	Dubovo	8.397	2				8.397	32	34		100	SA
44	3	Dubovo	Zimnitsa	91.865	11			91.865		25	25		120	SA
45	3	Zimnitsa	Karnobat	34.107	4				34.107	51	39		120	SA
46	3	Karnobat	Komunari	80.751	9			80.751		21	13		100	SA
47	3	Komunari	Sindel	37.285	6			37.285		18	17		100	SA
48	3	Obedinena	Yana	3.69	2			3.69		4	12		60	A
49	3	Obedinena	Kremikovtsi	4.435	2			4.435		4	8		60	A
50	3	Musachevo	Yana	4.9	2			4.9		4	2		100	
51	32	Yunak	Staro Oryahovo	24.603	3			24.603		4	1		60	
52	4	Russe	G. Oryahovitsa	109.997	13			109.997		26	14		70	SA
53	4	G. Oryahovitsa	Dubovo	106.255	14			106.255		27	69		65	SA
54	4	Tulovo	Stara Zagora	27.626	5			27.626		16	6		60	SA
55	4	Stara Zagora	Mihaylovo	22.344	4				22.344	38	27		100	SA
56	4	Mihaylovo	Dimitrograd	33.6	5					16	17		70	SA
57	4	Dimitrograd	Podkova	119.073	8			119.073		15	13	2	70	SA

1334.669 165 1214.44 120.229 877.788

No	Line	Segments		Kilometer	Number of Railway Stations	Track		Electrified with Catenary	Number of Trains/daily (Both Directions)			Max. speed (Passenger)	Train Block	
		Name				Single	Double		Passenger	Freight	Mix			
58	41	G. Oryahovitsa	Elena	43.499	3	43.499				2			SA	
59	42	Gabrovo	Tsareva Livada	17.248	2	17.248		17.248		12	6	50	SA	
60	5	Sofia	Pernik	32.488	7	29.288	3.2	32.488		54	5	95	SA	
61	6	Pernik	Batanovtsi	6.891	3	6.891		6.891		35	15	90	SA	
62	6	Batanovtsi	Radomir	7.658	2		7.658			35	20	80	SA	
63	5	Radomir	Dupnitsa	42.744	6	42.744		42.744		21	20	110	SA	
64	5	Dupnitsa	Kulata	118.63	13	118.63				19	15	90	SA	
65	51	Dupnitsa	Bobov Dol	18.68	3	18.68		18.68		16	10	75	SA	
66	52	Gen. Todorov	Petrich	8.917	2	8.917				20	1	75		
67	6	Voluyak	Razmenna	32.34	4	32.34		32.34		8	16	80	SA	
68	6	Razmenna	Pernik	15.572	2	15.572		15.572		6	19	70	SA	
69	6	Radomir	Kyustendil	54.499	6	54.499				17	14	90	SA	
70	6	Kyustendil	Gyueshevo	34.1	2	34.1				3	0	55	SA	
71	7	Mezdra	Brusartsi	92.53	12	75.067	17.463	92.53		47	24	80	SA	
72	7	Brusartsi	Vidin	86.944	9	86.944		86.944		16	10	80	SA	
73	71	Boychinovtsi	Berkovitsa	39.006	4	39.006		39.006		26	5	80	SA	
74	72	Brusartsi	Lom	24.334	3	24.334		24.334		26	10	80	SA	
75	73	Vidin	Koshava	19	1	19					4			
76	8	Plovdiv	Mihaylovo	81.652	10	65.462	16.19	81.652		32	10	100	SA	
77	8	Stara Zagora	Nova Zagora	33.041	4	24.541	8.5	33.041		26	26	60	SA	
78	8	Nova Zagora	Zimnitsa	59.497	7	36.549	22.948	59.497		32	22	80	SA	
79	8	Karnobat	Drujba	42.342	5		42.342	42.342		41	41	110	SA	
80	8	Drujba	Burgas	17.54	4		17.54	17.54		41	32	110	SA	
81	81	Filipovo	Panagyurishte	71.28	4	71.28				6	0	65		
82	82	Filipovo	Karlovo	60.491	7	60.491		60.491		24	2	110	SA	
83	82	Plovdiv	Filipovo	5.7	2	5.7		5.7		60	6	65	A	
84	82	Dolina Mahala	Hisar	16	2		16	16		16	0	85	SA	
85	83	Nova Zagora	Simeonovgrad	61.521	6	61.521				4	28	60	SA	
86	84	Yambol	Elhovo	43.065	2	43.065				8	2	60	SA	
87	86	Parlov	Pomorie	25	1	25					1			
88	9	Russe	Samuil	93.159	10	93.159		93.159		13	15	80	SA	
89	9	Samuil	Kaspichan	49.245	6	49.245		49.245		10	12	70	SA	
90	91	Samuil	Silistra	112.374	5	112.374				7	5	75	SA	

1466.987 159 1331.146 135.841 875.102

4031.198 491 3071.153 960.045 2477.682

Total

Table 5.1-2 Current status of main lines of BDZ

Main lines

Source: BDZ Nov.1996

Line	kilometer	Number of Stations	Track (km)		Electrification (km)	Financial balance			
			Single	Double		Revenue (M.leva)	Expense (M.leva)	Cost recovery ratio	
1	Dimitrovgrad-Sofia - Plovdiv-Svilengrad	362.55	53	190.60	171.95	171.95	2,000.7	2,593.6	77.1
	(Sofia - Plovdiv)	(155.8)	(23)		(155.8)	(155.8)			(110.7)
2	Sofia-Mezdra-Varana	532.03	76		532.03	532.03	3,692.7	3,462.7	106.6
	(Sofia - G. Oryahovitsa)	(287.3)	(44)		(287.3)	(287.3)			(127.9)
	(G. Oryahovitsa - Varna)	(244.7)	(32)		(244.7)	(244.7)			(82.9)
3	Iliantsi-Karlovo-Tulovo-Yana	503.77	73	405.89	97.89	503.77	4,144.1	2,917.4	142.0
	(Iliantsi - Tulovo)	(238.3)	(35)	(238.3)		(238.3)			(173.1)
	(Tulovo - Yana)	(265.5)	(38)	(167.6)	(97.9)	(265.5)			(120.7)
4	Ruse - G. Oryahovitsa - Dubovo - Tulovo - Dimitrovgrad -Podkova	418.90	49	396.55	22.34	296.32	1,352.5	1,832.4	73.8
	(Ruse - G. Oryahovitsa)	(110.0)	(13)	(110.0)		(110.0)			(142.3)
	(G. Oryahovitsa - Dubovo)	(106.3)	(14)	(106.3)		(106.3)			(97.7)
	(Tulovo - Dimitrovgrad)	(83.5)	(14)	(61.2)	(22.3)	(80.1)			(39.2)
5	Sofia-Pernik-Radmir-Dupnitsa-Kulata	193.86	26	190.61	3.20	75.23	487.8	847.7	57.5
6	Voluyak-Pernik-Radmir-Gyueshevo	151.06	19	143.40	7.66	62.46	383.8	763.4	50.3
	(Voluyak - Razmenna)	(32.3)	(4)	(32.3)		(32.3)			(124.2)
7	Mezdra-Vidin	179.47	21	162.01	17.46	179.47	457.4	693.1	66.0
8	Plovdiv-Stara Zagora-Nova Zagora-Burgas	234.07	30	126.55	107.52	234.07	2,082.8	1,697.8	122.7
9	Ruse-Samuil-Kaspichan	142.40	16	142.40	0.00	142.40	320.6	586.6	54.7
Total		2,718.12	363	1,758.02	960.05	2,197.71	14,922.4	15,394.7	96.9

5.2 ORGANISATION

5.2.1 Government and BDZ

(1) General

The relationship between the government and BDZ is institutionalised by the new railway law and the public service contract between them. The law is based on the concepts that are popular in the European Communities, and establishes the relationship between them including the form of multi-annual negotiable public service contracts and the role, responsibilities and authorities of BDZ. "The law of the Bulgarian State Railways" was promulgated in June 1995 and the "Contract Plan between the State and BDZ for the period 1996-1998" was concluded in February 1996.

The Ministry of Transport in general is in charge of the policy making and regulatory functions. The law prescribes the responsibilities of the State (as the owner of BDZ and as a representative of BDZ's clients) and those of BDZ (as the infrastructure authority and railway transport service provider). Concerning the railway transport, BDZ is to operate independently in a commercial manner according to market principles, and based on the contract the State is to compensate BDZ for the losses incurred as a result of social tariffs or public service obligation imposed on BDZ and assume partial responsibility for the railway infrastructure.

(2) The Law of the Bulgarian State Railways

The law stipulates the statutory position of BDZ and also clarifies a number of aspects of the relationship between BDZ and the State. Based on the law the National Company BDZ with a status of state enterprise under the Commerce Act was established and registered in Sofia in August 1995. The activities of BDZ are to be based on the principles of the Commerce Act.

The law determines:

- the statute, the assets, the activity and the management of BDZ
- the rights and obligations of BDZ in management and utilisation of the assets conceded
- the rights and obligations of BDZ which cover the development, repair and maintenance of the railway infrastructure and its exploitation

Main roles of the State and BDZ prescribed by the law are as follows:

1) The State

- to fund the development, repair and maintenance of the railway infrastructure and its exploitation
- to compensate BDZ for all losses, incurred due to the application of social tariffs or the obligations for ensuring compulsory public services that the state has assigned

The Minister of Transport

- to implement the general transport policy of the state in the field of railway transport
- to exercise the powers over the activity of BDZ
- to appoint the members of the Management Board and those of the Control Board of BDZ
- to appoint the Director General of BDZ at a proposal by the Management Board
- to control over the technical exploitation and safety of movement on the railways

The Council of Ministers (at a proposal by the Minister of Transport)

- to approve a long term program for the development of railway transport as well as decisions for the modernisation and development of the existing railway network, including the construction of new railway lines
- to stop the exploitation, close and liquidate railway lines

2) BDZ

- to participate with the state in the funding of the activities of the development, repair and maintenance of the railway infrastructure and its exploitation with the receipts from BDZ's economic activity
- to implement obligatory public services on the basis of contract with the State that is updated annually
- to implement the activities for the development, repair, maintenance and exploitation of the railway infrastructure on the basis of a contract with the State

(3) Contract Plan between the State and BDZ for the period 1996-1998

The Contract between the State, represented by the Minister of Finance and the Minister of Transport, and BDZ represented by the Director General was concluded as programmed by the law. The duration of the contract coincides with that of the "Railway Rehabilitation Project" (RRP) for the time being. It consists of the text and appendices that contain the concrete information, e.g. the financial resources for each fiscal year required to compensate the losses, the category list of passengers for free of charge or reduced tariffs. The annual programme on infrastructure and some appendices related to financial resources are to be updated annually according to the economic situation, traffic demands, etc.

Main contents of the Contract are as follows:

1) General

- It regulates the responsibilities of the State and BDZ, the agreed indicators for each activity and the terms of payment for the services rendered by BDZ.
- The State assigns and BDZ undertakes to carry out the development, repair, maintenance and operation of the railway infrastructure, public service obligations, keeping a separate accounting from BDZ's operational work.

2) Rights and responsibilities of the State

- The Minister of Transport specifies the qualitative and quantitative indicators regarding the railway traffic obligations which BDZ otherwise would not undertake in consideration of its own commercial interests alone.
- The State provides the earmarked funds for the following:
 - the development, repair, maintenance and operation of the railway infrastructure
 - compensation of the losses resulting from the application of social passenger tariffs
 - railway transport training and railway infrastructure engineering and so forth

3) Rights and obligations of BDZ

- BDZ carries out passenger and freight transport against payment according to market prices.
- BDZ provides public service obligations on a contractual basis.
- BDZ, governed by its commercial interests, is entitled to initiate complete or partial cancellation of services with low passenger flow intensities.

4) Domestic public passenger services compensated by the State

- Categories of passengers for free of charge (as to 1996)
 - disabled and blind citizens 2 two-way trips per year
 - mothers with three or more children 1 two-way trips per year
 - and so forth
- Categories of passengers for 50% discount from the regular tariff (as to 1996)
 - full-time students every trip
 - aged people (women over 55, men over 60) every trip

and so forth

5) Annual funds by the State (as to 1996)

The annual funds for railway infrastructure and compensation of losses for 1996 were set as listed below.

in BGL million

Infrastructure	maintenance	900	1,814
	investment	914	
Compensation	social passenger tariffs	1,500	1,590
	charge-free and reduced tariff	90	
Total			3,404

Thus the payments of the costs for infrastructure expenditures and the compensation of losses have been implemented by the Contract. But there are differences between the amount requested by BDZ and that accorded finally. According to the Contract, BDZ shall submit / propose annual programme on infrastructure related costs for discussion by September of the preceding year, and the State shall reach a decision on the proposed programme by November of the preceding year. And then the state participation in the financing is specified annually under the state budget.

In order to realise the sound management of BDZ and to enhance the effectiveness of the Contract, it is essential that BDZ should submit the request for the subsidies with fuller documentary support and that BDZ should continue intensive negotiations with the State even after the decision. On the other hand, the Government should observe the contracted payment of the subsidies so far as it has approved. The financial situations of the time should have been taken into considerations before the Contract was signed.

But as to the past case, the annual funds and compensation by the State have been settled unilaterally by the State without such intensive negotiations. It seems that this is caused by the following circumstances.

- The State cannot afford to pay for the funds and compensation sufficiently because of the financial difficulties.
- There cannot be the true negotiations on an equal footing, as the Minister of Transport reigns over the authority of BDZ as a matter of fact.
- The indicators regarding the railway traffic obligations to BDZ have not been specified by the Minister of Transport yet, so it remains uncertain what kind of railway services meet PSO definitely. The same with the indicators for the "development" and

“maintenance” of the infrastructure, which the Government shoulders.

- BDZ has no full documents to support its request for the subsidies till now.

Thus regrettably, to prove the above mentioned, the Contract setting the funds for 1997 has not yet been concluded as of September 1997.

(4) The draft law on the railway transport

The Bulgarian government is now preparing 7 draft laws and 22 draft regulations to comply with the EU Directive 91/440 and related EU Regulations. Four out of the seven draft laws are being materialised first. All of them are reported to be legislated by the end of 1999. “The draft law on the railway transport” is one of these four.

This law is based on the concept of the separation between infrastructure management and transport operation and aims at the introduction of open access to the Bulgarian railways. The law regulates the status, procedure and conditions about using of the Republican Railway Infrastructure (RRI), including :

- the legal status of the RRI which belongs to the State
- the order and procedures for using, upkeeping and exploiting the RRI
- the licensing and statute of the railway undertakings (called in short “Railways”)
- assignment / acceptance of the obligation for public service
- the transport relations between the “Railways” and their customers

Main contents stipulated by the law are as follows:

(RRI)

- The RRI includes railway roads, adjoining and belonging terrain and buildings, equipment, installations, technical resources, etc.
- The RRI is a public state property.
- The state *designs and finances* the development of the RRI as well as it *orders and controls* its maintenance and repair.

(Manager and Operator of RRI)

- The Minister of Transport concludes a contract for management of RRI with the Manager of RRI, and assigns by means of contract the exploitation of the RRI to the Operator of RRI.
- The maintenance of the RRI is organised by the Manager of RRI.
- The Operator of RRI works out the schedule of the traffic and the plan for making up trains, and manages the train work in the RRI, keeping the requirements for safety and reliability.
- The Operator of RRI concludes with the Manager(s) of RRI administrative, technical and

financial agreements for their joint activity in relation to the charges, the control of the train traffic schedule and the given rights for access to the RRI.

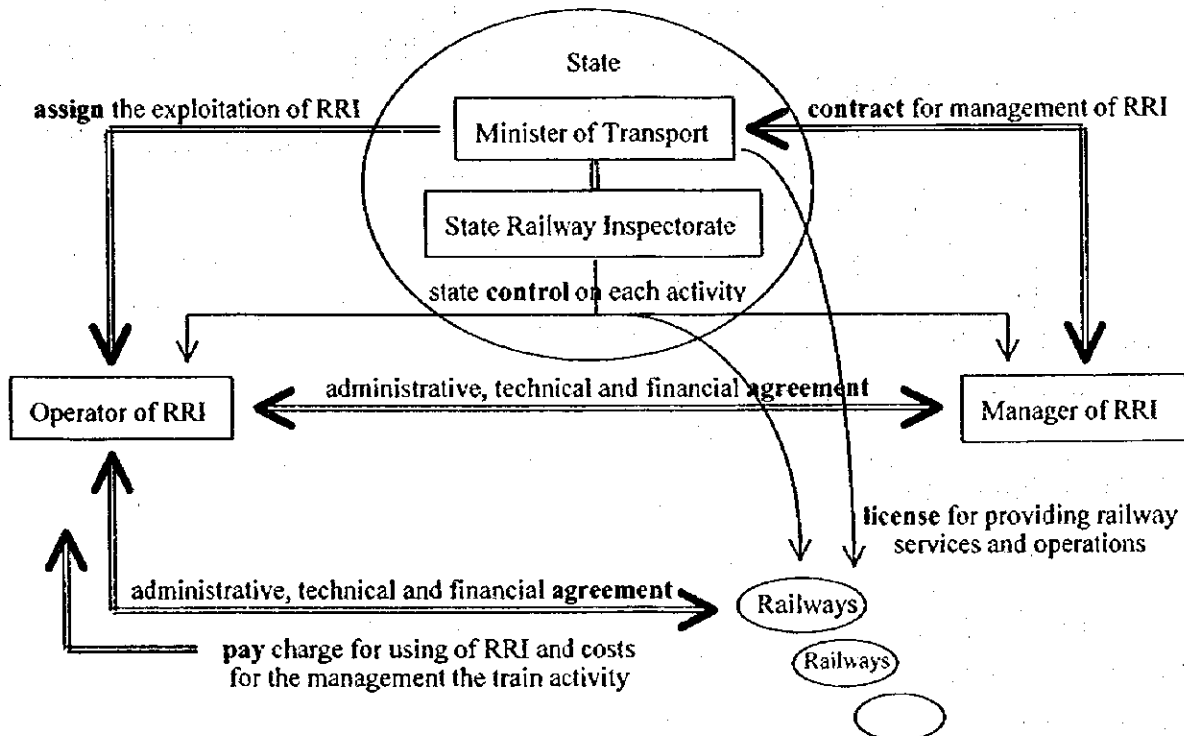
(“Railways”)

- Legal or natural persons whose activity is to provide railway services and operations shall be licensed as the “Railways” by the Minister of Transport. The license is a necessary requirement for the access to the RRI, but it does not ensure such access.
- The “Railways” have right for the equal access to the RRI according to the procedure, prescribed by the Regulation, issued by the Minister of Transport.
- For using of the RRI, the “Railways” conclude administrative, technical and financial agreements with the Operator of RRI.
- The “Railways” pay the charge for using of the RRI and the costs for the activity of the Operator of RRI according to the Regulations approved by the Minister of Transport.
- The collected funds paid for using of the RRI are used for maintenance, repair and development of RRI only.

(State control on the railway transport)

- State control on the management and exploitation of the RRI, technical exploitation and safety of the traffic are performed by the Minister of Transport through the State Railway Inspectorate.

The relationship among the organs prescribed in the law is therefore outlined as below.



Thus the draft law prescribes to make the framework of the separation of infrastructure and operation and open access, while it does not mention the future role of BDZ at all. Judging from the related articles of the law, all of the current Departments concerning Infrastructure in BDZ seem to be envisaged as the Manager of RRI, similarly the Operation Department as the Operator of RRI. However it does not simply mean the institutional separation of BDZ. It will be possible that BDZ is at the same time the Manager of RRI, the Operator of RRI and one of the "Railways".

We have no information about the preparing 7 draft laws and 22 draft regulations except "the draft law on the railway transport" and "the draft regulations on railway freight and passenger transport", so the following matters should be made clear in other laws and regulations being prepared:

- future role of BDZ
- way of the separation of BDZ — institutional or otherwise, timing for the execution, etc.
- governmental affordability of the cost increase related to the infrastructure management and PSO compensation
- measures to prompt the new "Railways" except BDZ to access to the RRI
- measures to enhance the competitive capacity of BDZ as a "Railway"
- harmonisation with the preceding programme of BDZ for improvement of passenger service (described later in 5.2.2 (3))

5.2.2 Internal organisation

(1) Current organisation

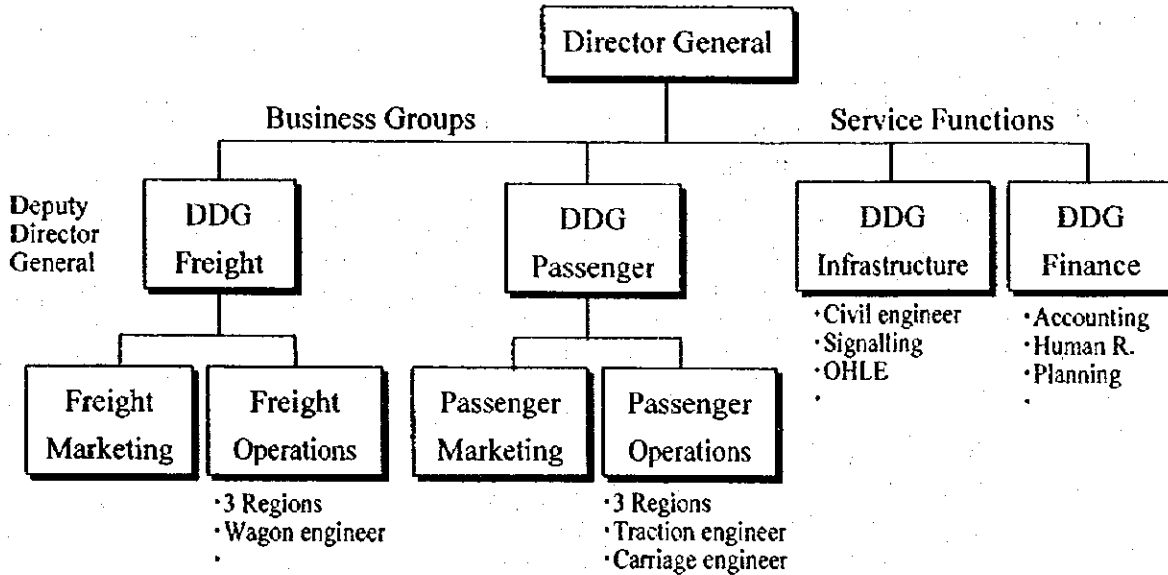
In RRP, BDZ aims to create a modern organisation structure based on a commercial/marketing focused business unit structure. The main purpose of the reorganisation is to stress the leadership and responsibility of the marketing and commercial functions. The existent organisation structure of BDZ is outlined in Fig.5.2.2-1.

(Intermediate organisation)

Five Deputy Directors General are appointed as responsible for the key issues, namely Operations & Marketing, Traction & Rolling stock, Infrastructure, Strategic Development and Finance & Human Resources (see Fig.5.2.2-2). The marketing and product development functions are managed by the Deputy Director General responsible for Operations & Marketing. The ultimate commercial/marketing focused organisation, which the JICA Team as well as the RRP aim at, consists of two business groups (Freight and Passenger) and two service functions (Infrastructure and Finance). Each of the business groups includes

operations, traction and rolling stock in it. See the chart below. On the other hand, current one business group with traction and rolling stock functions outside, independent of it, is therefore considered as intermediate. It is said that this intermediate structure will be gradually changed into the ultimate structure with the evolvement in market and responding products.

The ultimate commercial / marketing focussed organisation structure



(Audit system)

Regarding audit procedures, the firm KPMG completed the audit report for 1995 as an external auditor, but the internal auditor has not been appointed. The system is not yet working.

(Managing and controlling bodies)

The managing bodies of BDZ are the State represented by the Minister of Transport, the Management Board and the Director General. The Management Board is comprised of nine members, who are appointed by the Minister of Transport. Five of them are appointed from outside of BDZ to represent in majority the State and external interests. Four of them are appointed from the inside. The main role of the Board is to review and approve the strategic plans of BDZ. The list of the Management Board reorganised in March 1997 is shown on the next page.

The Director General is to carry out the overall executive management of BDZ.

The controlling body is the Control Board comprising five members of whom at least two are diplomed expert-accountants. None of them can be in employment relationship with BDZ or a member of the Management Board.

Management Board

	Post	in/out of BDZ	Note
1	Chairman	out	Officer of Transport Ministry
2	Deputy Chairman	out	Officer of Transport Ministry
3	member	in	Director General of BDZ
4	member	in	Deputy Director General of BDZ (Strategy)
5	member	in	Deputy Director General of BDZ (Infrastructure)
6	member	in	Senior Expert of BDZ
7	member	out	Officer of Transport Ministry
8	member	out	Officer of Finance Ministry
9	member	out	Deputy Chancellor of the Technical University

(Regions, Districts, Depots)

The headquarters of BDZ is in Sofia, and there are three operational Railway Regions in Sofia, Plovdiv and Gorna Oryahovitsa. As was planned in RRP, several structural changes were carried out at the end of 1996. Five Railway District units, four Building, Construction & Maintenance units and the Refrigerator Transport unit were closed and, four locomotive depots were merged into two. And this year Varna Railway Region was abolished and merged into Gorna Oryahovitsa. The current local organisation chart is shown in Fig.5.2.2-3(1), (2).

(2) Separation of non-core businesses

RRP proposed the separation and privatisation in future of non-core businesses from BDZ. BDZ has fourteen railway plants and two institutes at present. The separation aims at placing BDZ in a position to be able to purchase all the goods and services on competitive conditions, introducing a larger market to the plants than at present, and through it, more cost-effective management and independence from BDZ.

Based on this policy and the decreasing demand for manufacturing / overhauling works, the following restructuring programme was decided in December 1996. Where there are specific investors interested in the railway plants' technology and skills, the joint venture companies will be established with their participation. See 1) below. Where there are no investors, for the time being, BDZ will establish joint stock companies (100% shares owned by BDZ). See 2) below. The latter are to prepare for the future privatisation. The companies will continue for the moment to conduct the current manufacturing and repair works for BDZ on commercial basis by contracts.

On the other hand, the BDZ policy package of December 1996 also included restructuring of the two railway institutes into an independent consulting company and R&D centre. See 3) below.

For their future privatisation some effective measures will be needed to give the managers / workers an incentive to work harder and to implement the plants' rationalisation.

1) Joint Venture Companies with foreign investors' participation

- Manufacturing of concrete sleepers in Svishtov concrete structures plant (The court registration was completed in November 1996. But the expected Italian investor withdrew from the project afterwards, and BDZ is making efforts to seek another investor now. So the start of operation of the new plant is delayed.)
- Manufacturing of railway turnouts in Sofia railway plant (The court registration was completed in 1996.)
- Production of railway signalling & telecommunication components in Sofia signalling & telecommunication plant (ZAT)

2) Joint Stock Company with the intention of future privatisation

- Burgas wagon plant
- Parvomai brake equipment plant
- RVP track & structures maintenance unit
- Levski measurement equipment laboratory

3) Consulting Company independent of BDZ

- Railway Transport Scientific Research & Technological Institute
- Railway Transport Equipment Technological Institute

(3) Programme for improvement of passenger service

BDZ made the improvement programme for passenger transport named "Programme for improvement of the quality of service and effectiveness of passenger service" in May 1997 and the Management Board approved it. Its main objective is to define the BDZ's policy and improvement measures in the field of passenger transport in very short as well as in long term - until 2005. It is being developed according to the resolution of the Management Board. The summary of the programme is as follows.

1) Premise

- The programme has been developed in accordance with the existing legislation applying to

the BDZ activities, e.g. the Law of the Bulgarian State Railways, the Contract Plan and RRP.

- The ratio of income to cost for the passenger services shall be maintained at level 1 to 2.
- The necessary funds for implementation of the Programme shall be provided through the BDZ's annual plan.

2) Objectives

- To improve the competitive capacity of BDZ in terms of quality of service and effectiveness in the following transport market areas
 - International transport - Balkan countries, CIS and Central Europe
 - Intercity transport - among the urban centres (40 cities) in Bulgaria
 - Suburban transport - on the lines of the bigger urban centres with large passenger flow (Sofia, Plovdiv, Varna, Burgas and others)
 - Other - by ordinary passenger trains
- To carry out the restructuring of the passenger services and to ensure their market orientation. That is :
 - to provide and increase new trains of higher comfort and speed
 - to import and make in Bulgaria the new modern coaches and new EMU-s (electric multiple-unit), and to rehabilitate existing coaches
 - to provide seat reservation service and computer aided ticket vending service at every major stations
 - to develop and introduce a market oriented new tariff
 - to modernise, renew and re-equip the 40 major station buildings
- To put into practice the investment plan concerning the implementation of modern information technologies, rehabilitation of passenger coaches, permanent way repairs and modernisation of passenger terminals

3) Marketing structures

- The passenger service management shall be divided into two (national and local) individual levels, that are self-supporting, by the middle of the year 2000 with the introduction of Passenger Information System.
- The marketing section within the present Passenger Service Department (cf. Fig.5.2.2-2) shall be transformed into the International and Intercity Transport Management Centre.
- The international and intercity trains are to be operated through one national organ (the aforesaid Centre), while the suburban and ordinary passenger trains are through local organs.

- A model functional structure of the passenger service unit as a separate one is shown in Fig.5.2.2-4. The EMU section remains within the Tractive Stock Department, so the necessary traction and EMU shall be supplied by contract with the Tractive Stock Department.

4) Separation and privatisation of ancillary works

- The separation and privatisation of the following works shall be studied continuously.
 - ticketing and seat reservation
 - cleaning and equipment of passenger coaches
 - ticket inspection in suburban trains (on a contractual basis with authorised person)
 - ticketing on consignment for stations that have no regular services

This programme does not intend to introduce the open access to BDZ's railway network. In the programme, passenger transport operation shall be organisationally separated in the reorganised BDZ in order to provide the passenger transport unit with autonomy equivalent to an independent enterprise. But the infrastructure management and the traction work stay in the main body of BDZ, so it will be difficult to provide the sufficient autonomy and responsibility for the passenger transport unit. The international and intercity transport shall be managed on commercial basis competing with the road transport, on the other hand the suburban and other (by ordinary trains) transport shall be managed on contractual basis with the State, the respective municipalities or concerning companies. When the effective contract with the State or others can not be concluded, what should the passenger transport unit do with the operation of unprofitable trains?

The implementation of the programme will precede the structural reform of BDZ that the team has proposed, so the programme, that is being elaborated now in detail, should be harmonised with the structural reform plan.

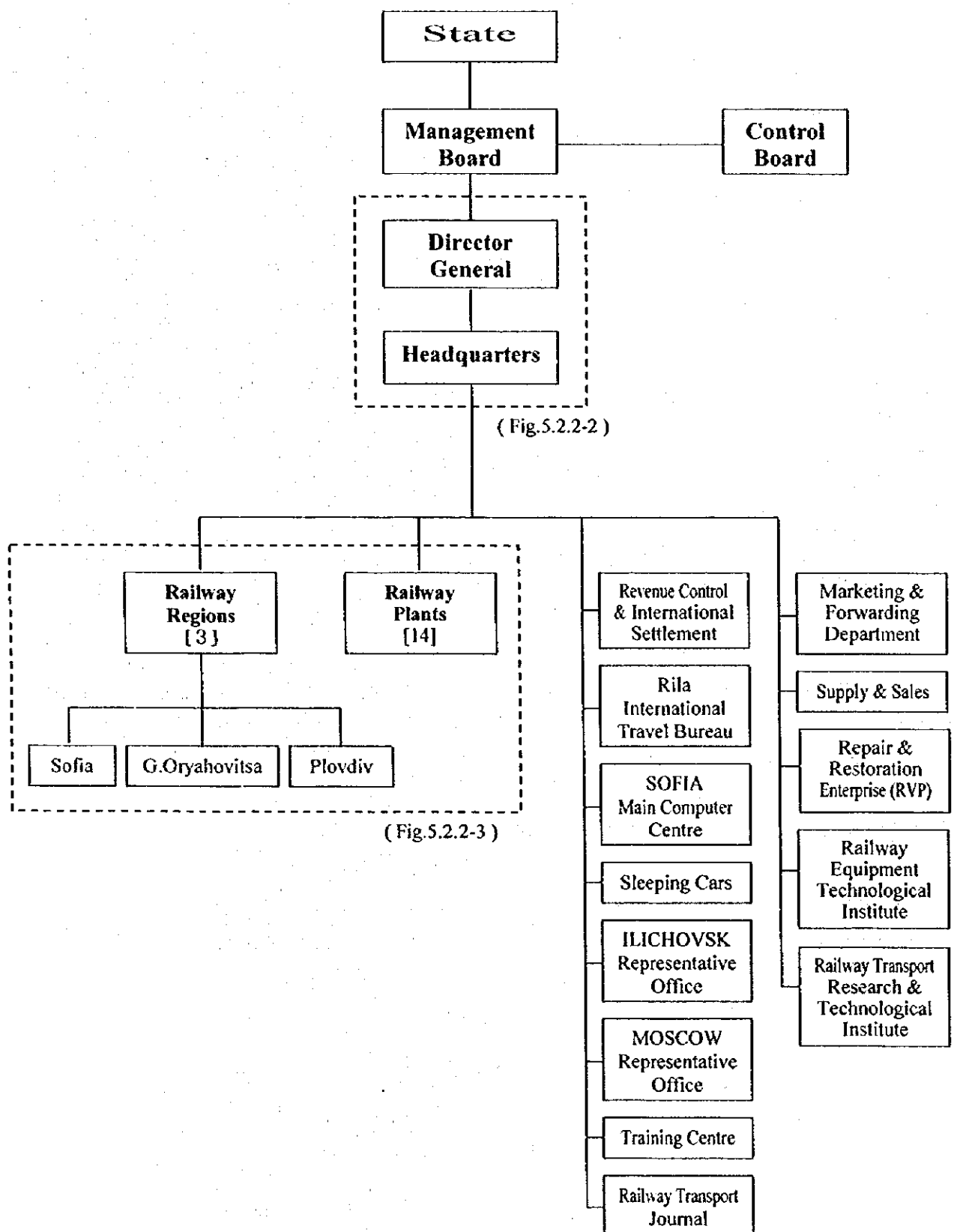
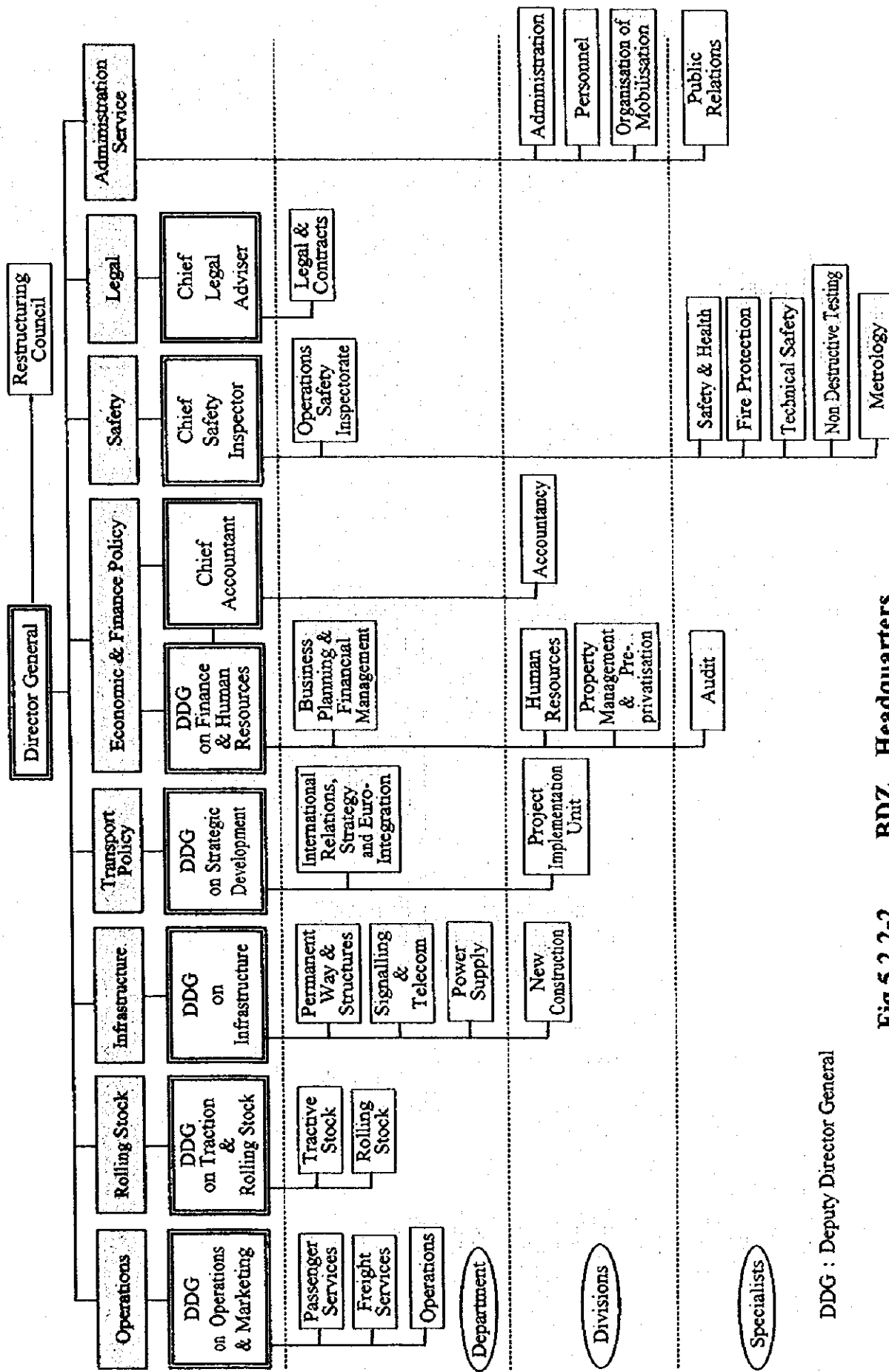


Fig.5.2.2-1 BDZ Organisation Structure



DDG : Deputy Director General

Fig.5.2.2-2 BDZ Headquarters

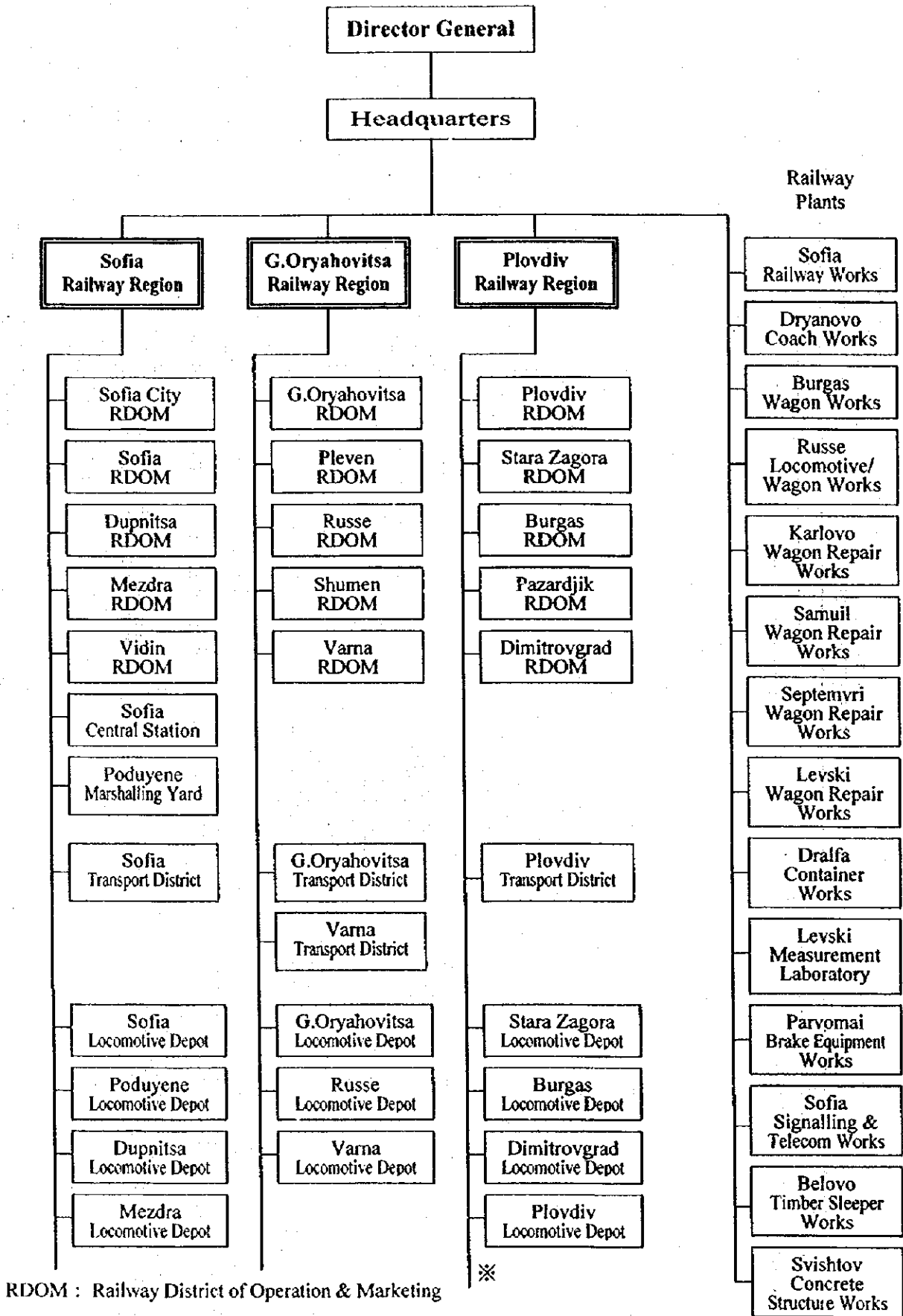


Fig.5.2.2-3(1) BDZ Local Organisation Chart

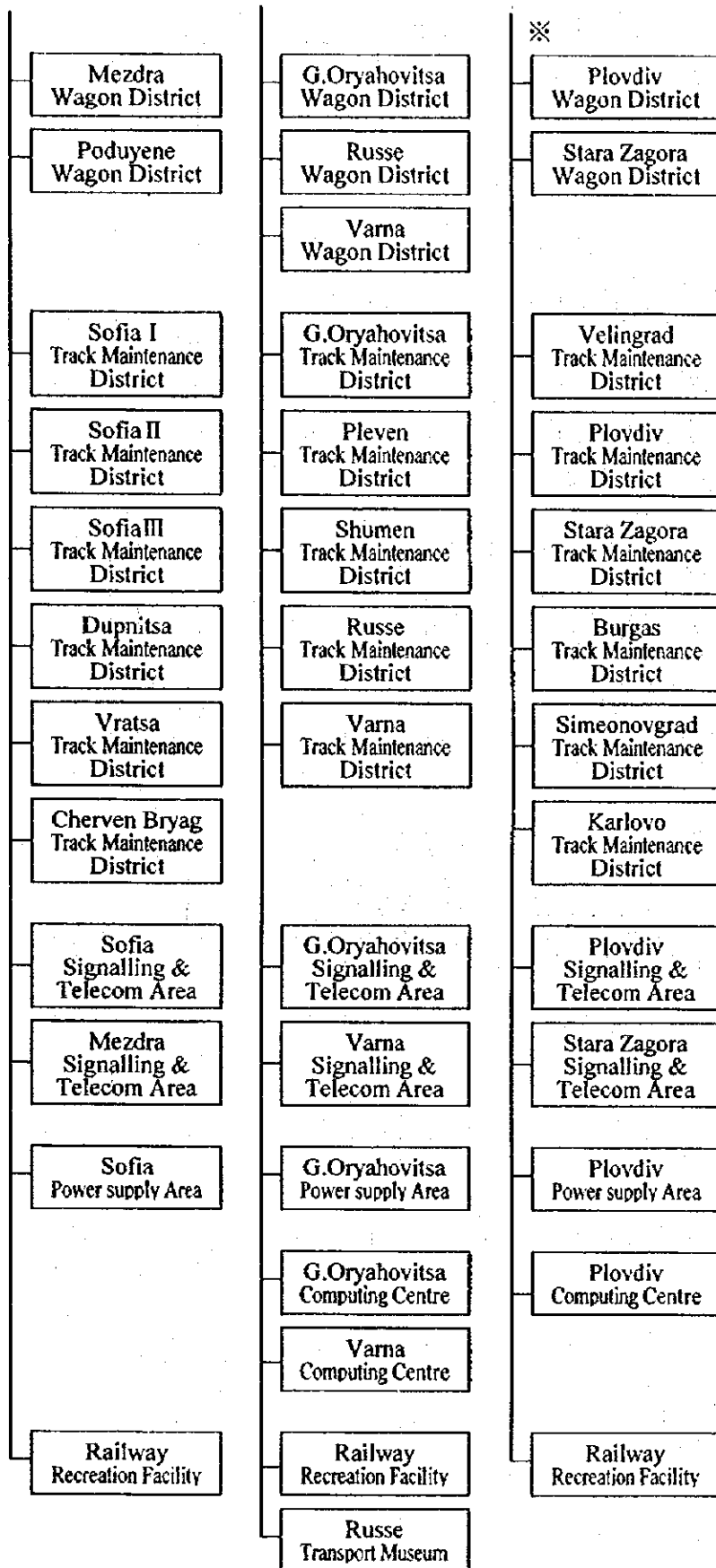
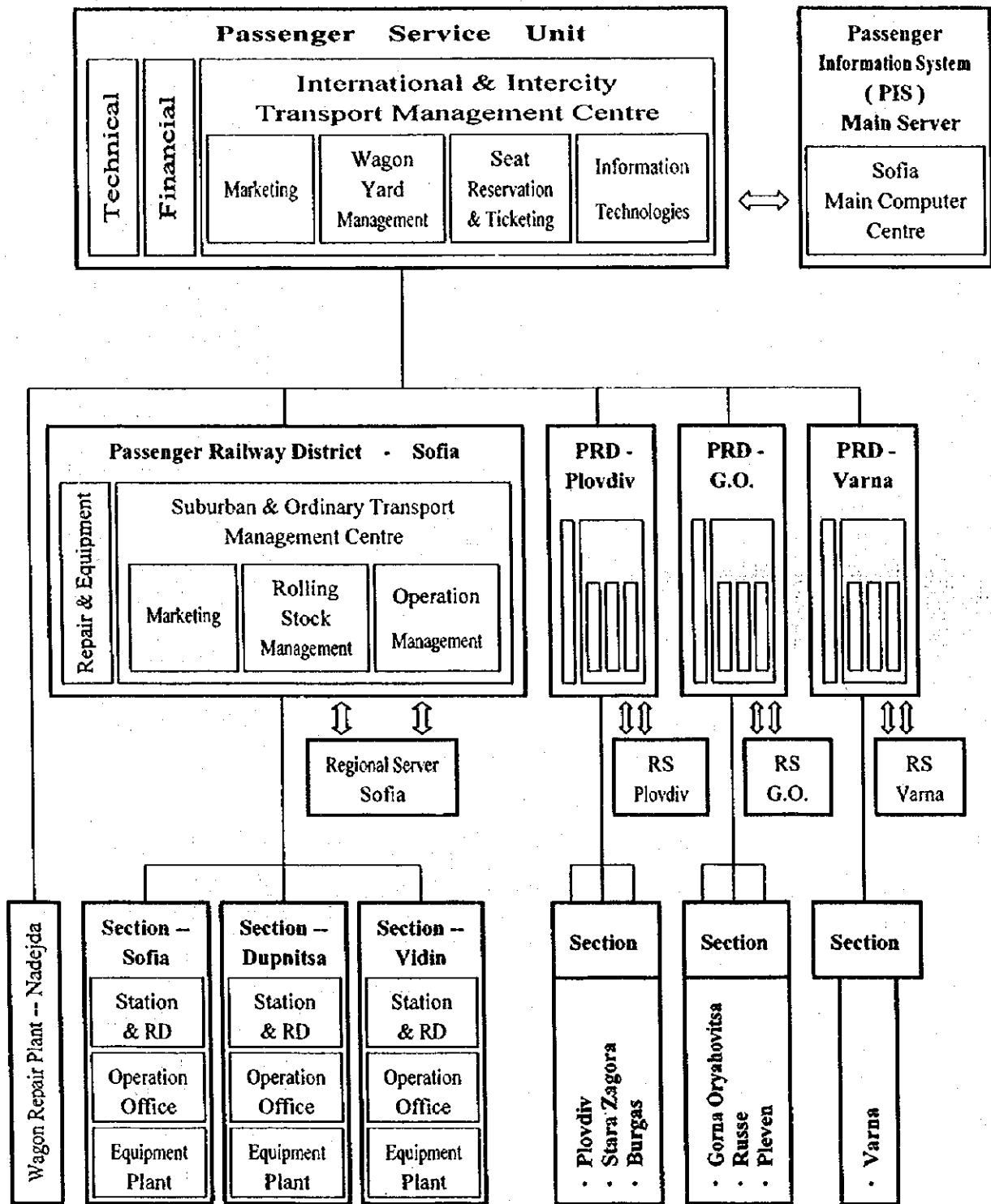


Fig.5.2.2-3(2)

BDZ Local Organisation Chart



PRD : Passenger Railway District
 RS : Regional Server
 RD : Railway District

Fig.5.2.2-4 Model Functional Structure of "Passenger Service Unit"

5.2.3 Necessity of the Government policy

(1) Establishment of a long-term transport policy

The team proposes the master plan for long-term management improvement of BDZ. We hope that this plan will provide a basis on which the railways will continue to play an appropriate role in the Bulgarian transport system and BDZ may successfully and steadily improve its management. For this purpose, it will be necessary, first of all, to establish a comprehensive long-term transport policy which includes all measures to solve the problems that Bulgaria now faces. Such establishment of the policy will effectively make the management improvement of BDZ possible.

Transport systems are improved through the market mechanism. For this purpose, the market mechanism must be based, as a rule, on the principle that beneficiaries and generators should pay for the costs, and it must reflect free competition among various transport modes in the transport market and free choice of modes by users. In order to form such transport market and promote market competition, it will be necessary to reconstruct the domestic transport network and formulate the system such as the rationalisation of cost-sharing etc. At the same time, the Government must appropriately meet the needs for the preservation of environment and the energy conservation. However, it will be hard to solve these problems without a wide national consensus and powerful policy measures by the Government.

Accordingly, the Government should identify the problems to be solved in the transport sector, such as listed below, and promptly establish a comprehensive long-term transport policy which includes all measures to solve the problems.

- improvement of transport network adapted to the change in economic and social situation
- provision of high-grade transport service in terms of speediness, reliability, convenience, etc.
- preservation of global and living environment
- maintenance and improvement of public transport services as a minimum
- encouraging the improvement of the transport system that is effective in terms of energy, productivity, etc.

(2) Comprehensive long-term plan for the investment of transport infrastructure

The improvement of the transport network as well as the improvement of the ordinance is

indispensable for building up the effective transport system. The transport network, which consists of various modes such as railways and roads, must be such that each mode effectively performs its own proper functions on one side, and all modes as a whole, which substitute and complement each other, effectively perform their functions on the other side. Such improvement of the transport network is realised by appropriately combining the network of various modes. For this purpose, the investment plan of transport infrastructure must not be as independent plan but be based on the co-ordination of each plan from a comprehensive perspective. This means that the effects of improving the railway infrastructure proposed by the team should be verified by the comprehensive study of improvement of the total network.

The investment of transport infrastructure such as roads, ports and airports will be implemented as in the past by the State, local government, public corporations, etc. and that of railways will be carried out by the State whose responsibility for the railway infrastructure will be made more distinct through the separation between infrastructure management and transport operation. The investment of transport infrastructure is thus carried out as public investment, so the co-ordination of investment projects among various modes and the subsequent effective improvement of the domestic transport network are largely dependent upon the Government policies.

Accordingly, the Government should formulate the comprehensive long-term plan (approximate period of ten years or more) for the investment of transport infrastructure and the similar individual plans for each mode which are harmonised with the comprehensive plan, and should systematically and effectively implement the improvement of transport network. In formulating the plans, the Government should make a thorough study of the items mentioned below and should take care that each item is well harmonised with each other. These plans should be re-examined every two or three years in order to keep up with progress and changes of conditions.

- transport demands and required service level
- way to raise funds for investment and restriction of the total amount for investment
- priority of investment based upon the same criterion
- targeted improvement level
- transport policy needs

(3) Promotion of the pro-environment transport policy

In Bulgaria, as in other countries, the development of motorization promoted by economic growth is likely to make great transport demands especially on automobiles, worsening the problems of environment, energy and management of public transport. The future transport

policy must put greater importance than ever on the preservation of environment and the energy conservation. The Government should therefore adopt the policy that makes effective use of railway which is superior to other modes in relation to reducing air pollution, consumption of energy and dependence on petroleum. However, such policies may impose some new burden and enforce restrictions on automobile users, so a wide national consensus and measures to ease their influence upon people are indispensable for implementation of such policies. Therefore the apt improvement of other modes that can be an alternative to automobiles is needed to promote the utilisation of them. For this purpose also, the Government should take positive measures to improve the service level of railway and its transportation capacity in the future.

(4) Rationalisation of cost-sharing for each mode

A user makes a choice of transport mode through comparing the advantages and disadvantages that transport service brings to him, but the effect of providing transport service extends not only directly to a user but indirectly to the community where such transport service is provided. Indirect effects bring to the community not only advantages (development benefits) but also external diseconomies (social costs) such as noise, vibration and air pollution. From the viewpoint of reasonable cost-sharing, it is necessary to return development benefits to the relevant modes and allot social costs to the very modes that cause them, and finally return or allot them to the user. On the other hand, the rationalisation of cost-sharing is necessary no less from the viewpoint of equalisation of competitive conditions in the transport market than from the viewpoint of reasonable cost-sharing.

The main factors related to the rationalisation are 1) cost-sharing of infrastructure, 2) restrictions caused by public obligation and 3) sharing of social costs. However, the rationalisation of cost-sharing concerning these factors entails various difficulties in practice, and it is impossible for the Government to materialise the rationalisation without taking powerful policy measures. Our basic concept of each of these policies is set forth below. The Government should formulate concrete measures and put them into practice in the future.

1) Cost-sharing of infrastructure

Owing to the separation of infrastructure and operation, which will ensue from the structural reform of BDZ, the possession and responsibility for the management of the railway infrastructure will belong to the State, and the issue of rationalisation of cost-sharing will be fundamentally improved. The problem is what charges are set for use of the infrastructure. Other European countries that have already practised this are dealing with this problem in

different ways. But if the concept of the rationalisation of cost-sharing is put emphasis, it would bring excessive charges. It is necessary to set charges at a low level, at least at the initial stage, setting more importance on the concept of equity in comparison with the infrastructure cost in road transport as well as on the concept of promoting the use of the railways as the measures to preserve the environment and conserve energy.

2) Restrictions caused by public obligation

There are some points which remain to be improved in connection with the restrictions enforced on setting-up of tariffs, the problem of unprofitable railway lines and Public Service Obligation. These issues are interrelated and also related to the cost-sharing of infrastructure as mentioned above. The future Contract Plan must provide that the Government will fully compensate the railways for any losses incurred by PSO. In order to ensure that such losses be compensated, the objects of PSO should be strictly chosen and the basis for estimating the amount of compensation should be clearly specified. The objects of PSO mainly belong to the local and regional transportation, so the responsibility and right should be transferred to the local government so that the local transportation can be maintained and improved to meet the actual local and regional conditions.

3) Sharing of social costs

Taxes and charges represent some of the possible ways to realise the rationalisation of social cost sharing, but the implementation may occur various problems. It is practical to formulate concrete measures for implementation by referring to what have been practised in Sweden based upon the following basic concepts.

- The taxes and charges for the use of roads, railways and other transport infrastructure should be calculated on the basis of the responsibility for social cost verified.
- The taxes and charges should correspond to the total social costs of transport service.
- Responsibility for social costs should be imposed in the form of fixed and variable transport charges.
- The variable charges should correspond to the marginal costs.
- The fixed charges should correspond to the difference between the variable charges and the total social costs.
- Taxes and charges that are not motivated by transport policy such as value-added tax should be equally levied upon every mode.

5.3 RELATED LAWS AND REGULATION

5.3.1 Outline of the structure of regulations of Bulgaria

In those cases where our proposal includes any amendments of regulations or any other norms, we need to examine what kind of procedure is required for amending the relevant norm. Such an amendment of norms would be required in the restructuring of or for splitting BDZ into several companies. In this respect, it is necessary to review the framework of the legal system of the Republic of Bulgaria, because the necessary procedure to amend the relevant norm depends on the kind of norms, such as the constitution or a law, decree or resolution or, a regulation determined by BDZ itself.

The current Constitution of the Republic of Bulgaria (the Constitution) was established by a Grand National Assembly and entered into force in 1991. The Constitution is the supreme law, and no other law shall contravene it (art. 5 (1) of the Constitution). The Constitutional Court shall rule on challenges to the constitutionality of laws and other acts (art. 149 (1) 2. of the Constitution). The Constitution authorizes the National Assembly to pass, amend, and rescind laws (art. 84 of the Constitution). Pursuant to the relevant law, the Council of Ministers shall adopt decrees, ordinances and resolutions, in order to implement the relevant law. The Council of Ministers shall promulgate rules and regulations by decree (art. 114 of the Constitution), and the ministers shall issue rules, regulations, instructions and orders (art. 115 of the Constitution) based on the relevant law. Amendments of the relevant rules, regulations, instructions can be made by the relevant minister.

5.3.2 Regulations governing BDZ

(1) Relevant regulations

BDZ is now governed by various norms as follows (The previous section also referred the Law of BDZ, but the laws and regulations are demonstrated here from the point of view of legal framework relating to BDZ.):

1) The Law of the Bulgarian State Railways (the "Law of BDZ")

The Law of BDZ promulgated in 1995 is the most comprehensive norm which regulate various aspects of BDZ. The subjects of the Law of BDZ are;

- (i) the structure, assets, activities and management of BDZ,
- (ii) the rights and obligations of BDZ in managing and using the assets conceded,
- (iii) the rights and obligations of BDZ in connection with the development, repair and maintenance of the railway infrastructure and its exploitation (art. 1 (1) of the Law of BDZ).

Art. 18 (4) and (5) of the Constitution provides that a state monopoly can be established by law over railway transport, and that the conditions and procedures by which the state shall grant concessions over units of property and licenses for the activities shall be established by law. The Law of BDZ stipulates these conditions.

2) Regulation for Implementation of the Law of BDZ (the "RILBDZ")

RILBDZ was promulgated on 3 September, 1996 in order to implement the Law of BDZ.

The RILBDZ lays down;

- (i) the general provisions of the activities of BDZ (chap. one),
- (ii) the management of BDZ (chap. two),
- (iii) the plan-contract between the state and BDZ (chap. three),
- (iv) railway infrastructure (chap. four),
- (v) compulsory public services and public services of local importance (chap. five),
- (vi) controls for traffic safety (chap. six).

3) Regulation on the Structure and Activities of the National Company BDZ (the "RSABDZ")

Art. 14 (1) 3 of the Law of BDZ provides that the Management Board shall adopt the Regulations of the organizational structure and business activities of BDZ. The matters determined and prescribed by the Management Board in the RSABDZ are;

- (i) the organization and management structure of BDZ,
- (ii) the functional allocation of obligations among operation units,
- (iii) the principles of the relationships among the operation units of BDZ,
- (iv) the organization of economic, trade and financial relationships within BDZ. (art. 3 of the RSABDZ)

The important point here is that RSABDZ is accepted by the Management Board of BDZ and amendment of RSABDZ, for instance an amendment in respect of the current structure of BDZ, can, in theory, be made only by the Management Board.

4) Contract Plan

Art. 30 of the Law of BDZ provides that the mandatory public services shall be the subject of annually updated contract plans, concluded between the State, represented by the Minister of Transport (the "MOT") and the Minister of Finance and BDZ, and that contract plans shall determine the range of services, the regularity, the quality and capacity of the transport, the tariffs and tariffs alleviation and related compensatory mechanisms.

Art. 4 (2) of the Law of BDZ provides that BDZ shall undertake compulsory services in accordance with conditions and procedure, stipulated in an agreement.

Art. 5 of the Law of BDZ also provides that BDZ's business activities such as development, repair, maintenance and operation of the railways infrastructure shall be implemented on an

agreement basis, concluded between BDZ and the State, represented by MOT and Minister of Finance.

The Contract Plan is also stipulated in the RILBDZ .

Art. 6 of the RILBDZ provides that BDZ shall carry out the activities regarding the development, repair and exploitation of the railway infrastructure and the carrying out of compulsory public services on the basis of a Plan Contract with the state.

Art. 7 of the RILBDZ provides that the Contract Plan shall determine;

- (i) the responsibilities of the state as the assignor and of BDZ as the assignee of the activities relating to the railway infrastructure or having the nature of compulsory public services,
- (ii) the contractual indices of every activity,
- (iii) the conditions of payment for the services of BDZ on the part of the state.

Art. 8 of the RILBDZ provides that the Contract Plan, in its part concerning the development, repair, maintenance and exploitation of the railway infrastructure, shall determine;

- (i) the goals that must be achieved in the development, repair, maintenance and exploitation of the railway infrastructure,
- (ii) the funds that shall be ensured by the state for the development, maintenance and exploitation of the railway infrastructure,
- (iii) the funds from the income resulting from the economic activity of BDZ, through which BDZ shall participate in the financing of the activities regarding the railway infrastructure,
- (iv) the obligations of BDZ for the achievement of specific quantitative and qualitative indices characteristic of the condition of the railway infrastructure,
- (v) the responsibilities of BDZ for the development, repair, maintenance and exploitation of the railway infrastructure.

Art. 9 of the RILBDZ provides that the Contract Plan in its part concerning the performance of compulsory public services shall determine;

- (i) the quantities of the specific indices characterizing the compulsory public services,
- (ii) the funds necessary to compensate for the loss of BDZ as a result of performing compulsory public services,
- (iii) the methods of distribution of the exploitation costs of BDZ between the freight and passenger transport.

Art. 10 of the RILBDZ provides that the Contract Plan shall also envisage BDZ funds for;

- (i) drawing up a departmental railway cadastre,
- (ii) the training activity in the field of railway transport and the engineering activity concerning the railway infrastructure,
- (iii) the construction and maintenance of railway sites, the preservation and maintenance of facilities and material funds and ensuring the defense and mobilization preparedness of the railway transport necessary for the country.

Every year within the terms set for drawing up the draft state budget, BDZ shall submit to the Ministry of Finance and the MOT calculations motivating the necessary funds for the financing of the activities, by virtue of the Contract Plan for the following year. The Contract Plan shall be updated every year in accordance with the funds specified by the state budget, for the financing of the activities concerning the railway infrastructure and the compulsory public services (art. 11 of the RILBDZ). The activities to be assigned to BDZ through the Contract Plan shall be financed by funds from the state budget under a mutually coordinated with the Contract Plan schedule, in compliance with the terms and conditions of granting state funds approved by the Law of the State Budget for the corresponding year (art. 12 (1) of the RILBDZ).

Apart from the annual contract plan, the current Contract Plan is in force and is valid from 1996 to 31st December, 1998. The Contract Plan is, of course, not a law, but the Ministry of Justice opined that the Contract Plan was validly entered into by the parties and represents a valid and binding obligation of the State. The Contract Plan for the period 1996-1998 stipulates various points relating to BDZ in detail such as;

- (i) the rights and responsibilities of the State (chap. II),
 - (ii) the rights and obligations of BDZ,
 - (iii) the strategic directions in the activities of BDZ,
 - (iv) the obligations pertaining to the maintenance, repair, development and operation of the railway infrastructure,
 - (v) the domestic public passenger services,
- as mentioned in the Section 4.3, Organization.

5) Council Directive of 29th July 1991 on the development of the Community's railways (the "91/440/EEC")

Although the EEC directive has no direct effect on BDZ, this directive is important for considering the future structure of BDZ. The current Law of BDZ was established in order to fulfill the requirement of the 91/440/EEC. The 91/440/EEC states that in order to render railway transport efficient and competitive as compared with other modes of transport, Member States must guarantee that railway undertakings are afforded a status of independent operators behaving in a commercial manner and adapting to market needs. The Art. 4 also provides that Member States shall take the measures necessary to ensure that (as regards management, administration and internal control over administrative, economic and accounting matters) railway undertakings have independent status in accordance with which they will hold, in particular, assets, budgets and accounts which are separate from those of the State. These aspects of the independence of BDZ are provided in the Law of BDZ.

The 91/440/EEC also requires the Member States to distinguish the provision of transport services and the operation of infrastructure. Member States may provide; (i) that this

separation of the accounts for provision of transport services and the accounts for the management of railway infrastructure shall require the organization of distinct divisions within a single undertaking, or (ii) that the infrastructure shall be managed by a separate entity. In accordance with this rule, art. 25 of the Law of BDZ provides that BDZ shall prepare, conduct and keep the accounts for entire business activities and operations as a state-owned Company and separately accounts of (i) operations and railway services, including mandatory public services and other related commercial activities, and, (ii) repairs, maintenance and development of railways infrastructure.

6) Others

Art. 2. and Art. 3 (1) of the Law of BDZ provides that BDZ shall be established under the provision of Art 62, paragraph 3 of the Commercial Code and that the business activities of BDZ shall be based on the principles of the Commercial Code. Thus, relevant provisions of the Commercial Code will be examined below in relation to the alteration of the organization of BDZ.

Art. 3. (2) 2. of RILBDZ provides that the MOT shall exercise the powers that it shall be assigned pursuant to Decree on the Work of the Management and the Executive Personnel in the Railway Transport, No. 9 promulgated in 1981. But many of the provisions of this Decree have been replaced by the Law of BDZ and other current regulations and the Contract Plan.

(2) Regulations Governing the Management of BDZ

In this section 2), one of the most important points to be carefully thought about is how far the independence of BDZ from the MOT is guaranteed. This point is also relevant to the future relationship between the future organization of BDZ and the MOT. As mentioned below and as we experienced in Japan, even after the privatization of a railway company, it is a difficult issue how far the government retains the power to be involved in the management of the railway company. From this point of view, several provisions in respect of the election of relevant parties and the discharge from relevant positions, and the powers of relevant bodies will be examined.

1) Art. 10 of the Law of BDZ provides that the managing bodies of BDZ shall be; (i) the State represented by the MOT, (ii) the Management Board, and (iii) the General Director, and that the controlling (or supervising) body of BDZ is the Control Council.

The Management Board comprises nine members appointed by the MOT for a five year mandate. Five of the members are selected from outside of BDZ and four of the members are selected from BDZ (art. 12 (1) of the Law of BDZ). The MOT shall conclude the

management agreements with each of the member of Management Board. A quorum of the meeting of the Management Board is six members. The decisions of Management Board shall be adopted by simple majority vote of the members (art. 13 of the Law of BDZ). Thus, in theory, any decision cannot be made by members selected from BDZ alone.

The General Director is elected by the Management Board among its members but the appointment is made by the MOT (art. 14 (1)(2) of the Law of BDZ).

The Control Council comprises five members. The members of the Control Council are neither employees of BDZ nor members of the Management Board. The MOT concludes an employment agreement with each member of the Control Council for a period of five years (art. 17 of the Law of BDZ).

In relation to the independence of BDZ from the MOT, we need to examine the power to discharge the bodies of BDZ.

In respect of the Management Board, first, the Management Board shall be discharged with an act by the MOT (art. 16 (2) of the Law of BDZ). Secondly, it can be disbanded before the expiration of the management agreement by breach of law, or by nonfulfillment of the economic indices or of other conditions provided in these agreements (art. 16 (1) of the Law of BDZ). Thirdly, the MOT shall discharge before the expiration of the term of the management agreement a member of the management board who does not participate in three sequential sessions of the management board without a significant reason, or breaches the conditions provided in the management agreement, or has submitted a written application for discharge (art. 16 (4) of the Law of BDZ).

The Control Council can also be discharged by the MOT by breach of laws or when the Control Council does not fulfill the tasks assigned. Additionally, a member of the Control Council shall be discharged by the MOT, when he or she does not fulfill his or her obligations by submitting a written application for discharge (art. 19 of the Law of BDZ).

The General Director shall be discharged by the MOT by breach of laws or of his or her obligations provided in the management contract.

2) In order to examine the procedure for decision making on several points directly relevant to our report, such as traffic charges, employment policy or investment, it is worthwhile to understand the general idea of the powers of the bodies in BDZ, as well as the MOT and other relevant bodies. The laws and regulations governing BDZ will be analyzed from this point of view. The main powers and activities of the Management Board, the General Director, the Control Council and the MOT are as follows;

(A) Management Board (art. 14 of the Law of BDZ)

- (a) to elect among its members a General Director and propose him or her to the MOT for appointment,
- (b) to approve a regulation for the structure and activity of BDZ,
- (c) by proposal of the General Director, appoint and discharge the deputy general directors, the chief inspector of safety, the chief accountant and the chief legal advisor,
- (d) to approve the annual plans of BDZ,
- (e) to make decisions regarding the sale or liquidation of fixed material assets, for the establishment of real rights and for letting movable and immovable items in compliance with the effective normative acts,
- (f) to propose to the MOT to permit the participation of BDZ in commercial and civil companies and in international organizations,
- (g) to propose to the MOT to make decisions for the disposition and establishment of real rights in immovable properties that are in public state ownership that has lost its basic destination,
- (h) to exercise all rights of ownership and those of the holder on behalf of BDZ which have evolved from shares and bonds in any joint stock companies,
- (i) to make decisions for the use of credits,
- (j) to decide the property transactions of residential units owned by BDZ,
- (k) to define a procedure for financial support of BDZ's employees and their families and for the compensation of employees and clients affected or injured during railway or employment accidents. All funds allocated for those purposes are prior determinate or voluntarily formed,
- (l) to exercise other functions, connected with the management of BDZ in compliance with the effective normative acts,

RILBDZ also provides that the Management Board shall; (i) pass regulations for its work, (ii) draw up a long-term program for the development of railway transport in compliance with the general transport policy of the country, (iii) make a motivated proposal to the MOT for a partial or an all-round termination of the exploitation, closing down and liquidation of railway lines, and (iv) specify the conditions and procedure of implementation of the powers to sell and to lease long lasting fixed assets (art. 4 (1) of RILBDZ).

(B) General Director (art. 23 of the Law of BDZ)

- (a) to organize, rule and control the overall activity of BDZ,
- (b) to approve tariffs for railway transport and services,
- (c) to conclude agreements for railway services, which do not include a clause about tariffs, in the interest of BDZ,
- (d) to appoint and discharge the employees and officers of BDZ,

(e) to represent BDZ before the court, state institutions and third parties in the country and abroad,

(f) to account for his or her activity to the Management Board and the MOT.

RSABDZ also provides that executive management of BDZ is carried out by the General Director according to the rights given to him or her by the law of BDZ, the RILBDZ, the RSABDZ and the Contract Plan (art. 21). Art. 24 of the RSABDZ provides that the General Director approves the management structure and the maximum staff number of the operation units directly reporting to the Central Headquarters as well as the type of management structure of those reporting to the Railway Regions, and that the General Director employs and discharges the management staff of the operation units according a nomenclature of staff approved by him or her.

(C) Control Council (art. 18 of the Law of BDZ)

(a) to control the observing of the normative acts and of the financial discipline of BDZ,

(b) to exercise control over the preservation of the assets of BDZ,

(c) to give a conclusion for the year accountancy report of BDZ,

(d) to implement checks at request by the MOT and the management board of BDZ.

(D) Art. 3 of RILBDZ provides that the MOT shall; (i) have power to exercise the rights of the sole proprietor of the capital of BDZ pursuant to the relevant regulations, (ii) have directive powers in relation to the managing bodies of BDZ in case of emergency circumstances, (iii) have control over the outlay of the financial investment funds, granted from the state budget, from state funds or from banking institutions under a government guarantee, (iv) coordinate with the Ministry of Defense and with the proposals of the district governors. The current Contract Plan provides that the MOT shall organize and approve the rules of the state control on the technical operation and running safety (art. 3 (1)) and in coordination with the municipalities involved, shall specify the qualitative and quantitative indicators regarding the railway traffic obligations which BDZ otherwise would not undertake in consideration of its own commercial interests alone.

Apart from the bodies in BDZ and the MOT, there are several bodies which are involved in the process of decision making in respect of BDZ or the activities of BDZ. The Council of Ministers at a proposal by the MOT shall approve a long-term program for the development of railway transport as well as decisions for the modernization and development of the existing railway network and the construction of new railways (art. 29 of the Law of BDZ). The National Assembly with the state budget shall determine the extent of the funds for the activities, assigned to BDZ with the Contract Plan (art. 31 of the law of BDZ). The municipalities and other corporate bodies shall be able to concede funds and to conclude

contracts with BDZ for implementation of railway transport of the character of public service with local importance (art. 32 of the Law of BDZ).

3) Regulations relating to BDZ's decisions on important subjects such as traffic charges (tariff, fare), wages, employment policy (pension and personnel redundancy) and investments .

In respect of these points, the Prices Act, Labour Act, Collective Labour Contract and other relevant regulations are now being examined. If we find that the legal aspects of these points are important and necessary to be described in this section, these points will be discussed in this part in our later report, apart from the other relevant parts of our report.

4) Regulations relating to the Financial Recovery of State-Owned Enterprises

In respect of financial recovery of BDZ, the Financial Recovery of State-Owned Enterprises Act promulgated in August 1996, Rules on the Enforcement of the Financial Recovery of State-Owned Enterprises Act promulgated in August 1996, and Regulation on the Conditions and Procedure for Using Finances from the Recovery Fund under the State-Owned Enterprises Financial Recovery Act are applicable to the financial recovery of BDZ.

5.3.3 Reorganization and Privatization of BDZ

(1) Issues to be considered for the reorganization and privatization of BDZ

In the later part of this report, a proposal on the possible changing of the organization of BDZ will be made. In this section, regulations and laws of Bulgaria and any future legislation relating to reorganization and privatization will be examined. It is not the purpose of this section to show the "best" organization, but to scrutinise any issues to be considered for any reorganization or privatization of BDZ. Several points in this Section mentioned below do neither imply the proposal of the best organization nor suggest that any reorganization and/or privatization should be made. Such a proposal will be discussed in Section 5.

In this section, the meaning of "reorganization" includes any alteration of the structure of BDZ with or without splitting BDZ into several companies or the privatization of any of the companies.

The three points mentioned below need to be considered in relation to the reorganization and privatization of BDZ.

1) State monopoly and ownership of the land by the State

As mentioned above, according to Art. 18 (4) of The Constitution of Republic of Bulgaria, and the Law of BDZ, railway transport in Bulgaria is the state monopoly. The State,

represented by the Minister of Transport, directed and implemented the transport policy within the extent of its right, given by the Law of BDZ. The State also remains the sole owner of the land on which transport infrastructure is built. Taking into consideration one of the purposes of 91/440/EEC, encouraging competition among railway transport companies, the state monopoly of railway transport ought to be re-considered at any stage in the future. The ownership of land and other premises necessary for railway operation now owned by the State may need to be assigned to other entities such as privatized companies.

Under the current legislation, because of existing non-conditional ownership of the State over the land and other properties, a special Concession Act was adopted 17 October, 1995, followed by Regulations of application of the Concession Act, of 13 December, 1995.

The Concession Act stipulates the grant of the concession not only for using state property, but also for conducting business activities which are a state monopoly established by laws, such as (in the case of BDZ) passengers and freight transport, repair, maintenance and exploitation of the railway infrastructure, etc. Art. 4 of the Concession Act does not include properties necessary for the railway network in the list of the properties to which the concession is to be granted, while Art. 5 of the same Act explicitly stated that the authorization for the conduct of activities for the transport of passengers and goods by rail, whereon a state monopoly has been established by law, may be granted. It is understood that, under the current Concession Act, the State is prepared to grant a railway company to operate railway business which is state monopoly, but will not grant any concession to use any land or other properties necessary for railway network.

In the case where railway services by railway companies other than BDZ are implemented, some amendments on the Concession Act will be required, so that the State can grant the concession on the use of the land and other properties for railway service. This point needs to be considered in the case of reorganization of BDZ as a single enterprise with allowing other railway company's railway business, the case of splitting BDZ into several organization, and the case of privatization.

2) Clarification of the legal status of BDZ

The Law of BDZ did not give a clear stipulation of the status of this organization and leaves several questions open, specifically the legal classification of the BSR as commercial or non-commercial organization. On the one hand, Art. 2 of the Law of BDZ stated that the National Company Bulgarian State Railway is formed as a State enterprise according to Art. 62 pare 3 of the Commercial Code applicable to state owned enterprises which are not commercial organizations. On the other hand, Art. 3 of the Law of BDZ stipulates that the business activities of BDZ shall be based on the principle of the commercial legislation. The clarification of the status is an important part of future BDZ related regulations, and it will

determine the extent of the activity of BDZ (or the railway company born after splitting BDZ), such as non-railway businesses.

3) Clarification of application of relevant laws and regulations

This is a technical matter as to legislation, but it is necessary to clarify that which laws and regulations are applicable to BDZ (or the railway company born after splitting BDZ) itself, to the procedure of splitting BDZ and to the procedure of the privatization (the current Bulgarian legislation gives a specific regulation for the transformation of State owned enterprises for splitting and privatization of BDZ, depending on their present legal status.)

As a general rule of the application of laws and regulation, Bulgarian legislation gives a priority to the special laws which are contemplated to apply to the particular matters, and allows application of the general laws, such as civil law, only to the extent that such special laws do not exist. The Law of BDZ shall prevail over the regulations of the Commercial Code and Law of Obligations and Transactions.

As mentioned in 2) above, under the construction of Art. 62 pare 3 of the Commercial Code and Art. 2 of the Law of BDZ that regards BDZ as a non-commercial state enterprise, BDZ is excluded from the application of most of provisions of the Commercial Code because most of the provisions of the Commercial Code are applicable only to commercial enterprises. Any matters for which there are no provisions of BDZ related laws and regulations applicable, shall be governed by more general laws than the Commercial Code, such as the regulations of Law of Obligations and Transactions. This legal situation, where most of the provisions of the Commercial Code do not apply to BDZ, may also put BDZ in a non-favorable position in Bulgaria among other legal entities which are formed and operated under and according with the provisions of the Commercial Code. Furthermore, founded as a exception to regular commercial companies, BDZ future transformation under the form of splitting or/and privatization is limited to the application of provisions for non-commercial enterprises, which regulation is much less comprehensive.

When any legislation for reorganization of BDZ is made in the future, clarification of applicable laws and regulations need to be considered so that BDZ (or railway companies born after splitting BDZ) will be in a position sufficient to compete with other companies. (For instance, if BDZ contemplates starting a non-rail way business, such as the hotel business, BDZ should have the power to run such business at least with same status as the other companies rendering the same business.)

(2) Reorganization of BDZ as a single entity

As mentioned in 4.4.2 (1) above, the Law of BDZ provides, as comprehensive set of rules, the structure, assets, activities, management of BDZ etc. Also, the Regulation for Implementation of the Law of BDZ and Regulation of the Structure and Activities of the National Company BDZ and the Contract Plan were made in order to implement the Law of BDZ. In so far as the reorganization of BDZ is made as a single organization owned by the state, the possibility that the necessary legislation for the reorganization can be covered by the amendment of these laws and regulations seems to be high.

Even if the reorganization of BDZ is made as a single entity, the following points are to be discussed as important political issues and need to be clearly defined in the laws and regulations;

- (i) whether the state monopoly over railway transport will be remain or abolished,
- (ii) if the state monopoly over railway transport is abolished and other entities start railway transport, under what kind of legal relationship (contractual agreements between BDZ and such entities, or any other type of rights are granted to such entities) the premises of BDZ are allowed to be used by such entities that operate railway businesses.
- (iii) whether the legal status of BDZ is a non-commercial organization or a commercial organization and to what extent the legal capacity is given to BDZ (whether BDZ can perform all kind of commercial activity including non-railway businesses or limited to the railway business)

(3) Splitting BDZ into several entities

1) Process to split BDZ

In theory, there seem to be two possible processes to split BDZ into several organizations.

- (i) One is to make new laws and regulations which are similar to the current laws and regulations relating to BDZ to establish new organizations.

The transformation (including splitting) of the non-commercial state enterprises is implemented in accordance with Art. 5 of the Regulations on the Implementation of the Rights of State Ownership of the Enterprises, under the Ordinance of the Council of Ministers or order of the respective Ministries.

If this process is taken, the Law of BDZ now in force will be abolished and a new law of BDZ which establishes several organizations, for instance, a freight organization, a passenger organization and an infrastructure organization. The new law of BDZ will need to provide for the same matters on each of these organizations as the Law of BDZ now provides, such as the structure, assets, activities and management of each organization, the rights and obligations of each organization in managing and using of the assets conceded, and the rights

and obligations of each organization with the development, repair and maintenance of the railway infrastructure and its exploitation (as the case may be).

Regulations like the Regulation on the Structure and Activities of the National Company BDZ which was adopted by the Management Board as mentioned in 4.4.2 3) and annual contract plans for each organization, either as separate ones for each organization or one regulation and one plan which is applicable to all of these organizations, will also be necessary in order to implement the new law of BDZ.

(ii) The other possible process is to split BDZ under the relevant provisions of the Commercial Code. This process may be considered as a process preceding the privatization.

Art. 3 of the Law of BDZ stipulates that the business activities of BDZ shall be based on the principles of the commercial legislation (which does not necessarily mean the Commercial Code).

Thus, it seems to be possible to understand that the Commercial Code provisions can apply in regards to splitting BDZ into several companies.

In addition, transformation of the state-owned enterprises shall be executed in accordance with the Transformation and Privatization of State and Municipal Enterprises Act (the "Privatization Act"), adopted 23 April 1992, amended SG51/1994, 45/1995, 57/1995, 109/1995 and 45/1996) by dividing all allocated assets into interests and shares as stipulated in the Commercial Code. Even if the direct application of the Commercial Code to the current legal status of BDZ is not possible, the transformation of BDZ into a commercial company can be made under Art. 17 (1) of the Privatization Act which stipulates that the transformation of state enterprises into sole-owner commercial companies shall be effected by the Council of Ministers or by an organ authorised by it.

There are not any more specific regulations for splitting the business activities of state-owned enterprises besides the general provision of Arts. 261 through 263 of the Commercial Code which shall apply for any acts of transformation of enterprises (Art. 261 (1) of the Commercial Code provides that any company may be transformed into another type of company, may merge into another company, split into several companies...)

The procedure of transformation, including splitting, is established with the provision of Art. 262 of the Commercial Code, requiring prior consent and resolution of the Managing bodies, followed by registration.

Art. 262 (2) of the Commercial Code stipulates that the companies shall be liable jointly and severally for obligations arising from the split or splitting off. In addition, Art. 263 regulates securing the creditors' interest in the case of transformation. In the case of splitting BDZ into several companies, the allocation of the debts and liabilities to each companies must be decided. Thus, the application of Art. 262 (2) needs to be excluded and solved by special legislation, and the procedure to protect the interests of creditors needs to be performed by

special legislation. The Commercial Code stipulates two types of commercial enterprises into which BDZ may be transformed, a limited liability company, regulated in Arts. 113 through 157 of the Commercial Code or a joint-stock company, regulated in Arts. 158 through 252. Both regulations are thorough and detailed and both could be applied to the companies born after splitting BDZ without any restrictions (Art. 159 of the Commercial Code provides that in certain cases provided by law a joint stock company may be formed by one person).

2) Several points need to be discussed in splitting BDZ

The following points are to be discussed as important issues and need to be clearly defined in the laws and regulations;

- (i) whether the state monopoly over railway transport will be remain or be abolished,
- (ii) whether the premises in relation to railways will be owned by the State or assigned to these companies born after splitting BDZ, (amendment of the Concession Act may be required)
- (iii) the kind of legal relationship (contractual agreements between the State and such companies or among such companies, or any other type of rights are granted to such companies),
- (iv) whether the legal status of each company is as a non-commercial organization or a commercial organization and to what extent the legal capacity shall be given to each company (all kinds of commercial activity including non-railway business or limited to railway business)

(4) Privatization

1) Procedure of privatization

The main normative act regulating transformation and privatization of the state enterprises is the Privatization Act. It allows state-owned enterprises to be transformed into sole-owner commercial companies either as limited liability companies or joint-stock companies while envisaging several ways for their privatization. Regulations on Implementation of the Rights of State Ownership in the Enterprises adopted by Decree 7 of January 25, 1994 by the Council of Ministers also provides the procedure of the privatization of the state owned enterprises.

The privatization shall be conducted on the basis of an annual program developed by the Privatization Agency and approved by the Council of Ministers. The Privatization Agency shall be established as a state organ with the Council of Ministers for the organization and control of the privatization of state enterprises and for privatization in the cases stated in the

Privatization Act. The administrative bodies of the Agency shall be the Supervisory Board and the Executive Director.

While not stipulated in laws, two methods of privatization in Bulgaria are officially approved- Cash Privatization and Mass privatization.

(i) Cash Privatization

Cash Privatization shall be implemented by regulation of the privatization process for commercial enterprises (state-owned companies already transformed under the provisions of the Commercial Code) and non-commercial organizations to be sold for cash. According to Art. 1 (3) of Privatization Act, privatization of commercial companies could be implemented by:

- transfer of interest or shares;
- transfer of the rights of ownership, parts, assets or separate units;
- transfer of properties such as retail and repair units, warehouses, service stations, workshops, etc.

Privatization shall be made in accordance with the Programs of privatization approved by the Council of Ministers while each decision for privatization shall be taken by different administrations, pursuant to Art. 3 of the Privatization Act, such as public authority, appointed by the Council of Ministers, Privatization Agency, municipal council, etc.

As for the state-owned enterprises which are not previously transformed into commercial companies, their privatization is regulated in Arts. 30 through 42 of the Privatization Act and could be implemented by:

- direct negotiation with potential buyers;
- auction or tender;
- lease contract for 25 years with buy-out clause;
- management contract with buy-out clause or sale to third parties;
- conditional sale agreement.

In these cases the Council of Ministers shall establish the terms and procedure for transformation, shall oversee the execution of the decision through competent authority and transfer ownership rights to the new owners, including any title to land and any other immovable property.

(ii) Mass Privatization

Mass privatization is privatization through Investment Vouchers in accordance with Chapter 8 of the Privatization Act and is limited to the state-owned enterprises which are joint-stock companies. It will be implemented by issuing investment vouchers, a book-entry of non-interest-bearing securities, with a nominal value of 1 investment lev. All citizens of Bulgaria, who have reached the age of 18 has the right to receive 25,000 investment vouchers. The shares or stakes in an enterprise included in the program for voucher privatisation shall be acquired through centralised auction pursuant to a procedure established by the Council of Ministers (Art. 51 of the Privatization Act). A Center for mass Privatization shall be established with the Council of Ministers as an organ administrating the voucher privatization (Art. 52(1) of the Privatization Act).

2) Legal issues to be discussed in relation to the privatization

In the case of the privatization of BDZ, the legal structure of the railway companies after privatization and the relationship between the new railway companies and the government will be the most important points to be considered among other legal matters.

(i) The legal structure of the new railway companies after privatization;

Privatized companies are regarded as companies established under the Commercial Code. Most of the basic structures of the companies, such as activities and management structure, which are currently provided by the Law of BDZ and other relevant regulations will be provided by the articles of incorporation of each company. It is, however, likely that the relationship between these companies and the government, such as the control power of the Government over the privatized companies will be provided by laws to be made for these privatized companies.

(ii) The power of the government to control the new railway companies after privatization;

Taking into consideration the control power of the Minister of Transport over the Control Council, the Management Board and the General Director under the current Law of BDZ as we examined in 4.4.2 (2) above, we can presume that the same kind of control power may be given to the Minister of Transport in the case of the Privatization of BDZ.

This kind of control power of the government over the privatized companies can be implemented by giving preferential shares to the government, upon which the government has veto on important matters of management of the privatized company, although the legality of such preferential shares under Bulgarian laws has not been examined.

Under the Japanese Law regarding the Passenger Railway Corporation and the Japan Freight Railway Corporation (the "Japan Railway Act") in relation to splitting and privatization of the Japanese National Railways Corporation, which was promulgated in 1986, the Japanese National Railways Corporation was split into seven limited liability stock companies, i.e. six passenger service railway companies and one freight service railway company. The appointment and dismissal of representative directors and auditors of these companies requires the permission of the Minister of Transport of Japan. The permission of the Minister of Transport is also required on the business plan for the accounting year of these companies, assignment of substantial properties of these companies, amendment of the articles of incorporation, and operation of any business other than the railway business. How far the control power is given to the government under the new regulation which governs the new railway companies depends on the decision of the legislature. But it is pointed out that control by the government over the privatized companies sometimes tends to impede the activities of the privatized companies in a market economy. For instance, if disclosure of information of the companies is under the control of the government, the requirement of

timely disclosure to shareholders may become difficult. If the distribution of shares and other business decisions require the permission of the government, the decision making and performance of these matters in the most appropriate time may also become difficult. Thus, it seems to be very important to pay attention to the balance of the merits and demerits of control power of the government on the management of these companies.

[Note]

The laws, regulations and other rules examined in this section 5.3 are those which effective in February, 1997 and any amendment thereafter has not been followed.