

# Corporate governance

## King Report

The draft Code of Governance Principles for South Africa - 2009 (King III) is premised on the new Companies Act, and should be read within that context. It is anticipated that King III will come into effect from 1 March 2010. The new Companies Act was promulgated in April 2009, but is only likely to commence a year after promulgation. The proposed date for commencement is 1 July 2010. For further details regarding the impact of these statutes refer to page 74.

## Introduction

Transnet subscribes to the principles of good corporate governance, including those advocated in King III. The focus is on “apply” rather than “comply”, and the key issue of integrated sustainability is included as a core focus area of good corporate governance. Since the two previous financial years, Transnet has successfully integrated sustainability reporting into its annual report. The Company has a matured Corporate Governance process that meets most of the King III requirements.

The Company's key role remains that of contributing to lowering the cost of doing business in South Africa and enabling economic growth through the provision of appropriate port, rail and pipeline infrastructure and operations in a cost-effective and efficient manner and within acceptable benchmark standards.

The Company has continued its practice of agreeing Key Performance Indicators and measures with the Shareholder representative, the Minister of Public Enterprises, each year. These form part of the Corporate Plan submitted to the Department of Public Enterprises and the National Treasury one month prior to the commencement of Transnet's financial year. Progress against set targets is continuously reviewed by the Board and reported to the Shareholder representative on a quarterly basis.

The Board continued to work collectively, effectively and efficiently in executing the tasks at hand, and further strengthened the constructive relationship with the Acting Group Chief Executive and his management team.

## Board of Directors

The Board's main responsibility is to ensure the sustainable and successful continuation of Transnet's business activities by appropriately directing and controlling the Company. The appointment of non-Executive Directors to the Board is reviewed annually at the Company's Annual General Meeting. The Chairman continuously engages the Shareholder on Board succession plans and invites the Shareholder representative to discuss the strategic objectives which are considered prudent to the Company's success. The Board has found such interactions transparent and most valuable in providing strategic direction to the Company.

## Board composition

The Company's Articles of Association provide that there shall not be less than 10 and not more than 18 Directors of whom not less than eight shall be non-Executive Directors and no less than two shall be Executive Directors. The Board is composed of 14 Directors, two of whom serve in an Executive capacity. Twelve of these Directors, including the Chairman, are independent non-Executive Directors who are free from any business relationships that could hamper their objectivity or independent judgment on the business and activities of the Company, and are appointed by the Shareholder. All Directors have unrestricted access to information, documents, records and property of the Company.

Most of the Directors' terms were extended at the 2008 Annual General Meeting of the Company. See changes to the Board, page 65.

In support of the promotion of gender diversity and equality, the composition of the Transnet Board has a 29% representation of women.

The non-Executive Directors contribute different ranges of skills, business acumen, independent judgement and experience on various issues, including strategy, performance and general leadership whilst the Executive Directors contribute valuable experience understanding of the business of the Company. The Board therefore remains satisfied that there is an appropriate mix of knowledge, skill and attitude to deliver its mandate.

The names and credentials of Directors are contained on page 18.

## Board induction and information

A Board induction takes place when a new non-Executive Director is appointed in order to familiarise such a Director with the Company's operations, risk management procedures, strategy, governing framework and fiduciary duties and responsibilities as emphasised in the Public Finance Management Act 61 of 1973, 1999 (Act No. 1 of 1999) and the Companies Act. In addition to this initial Board induction, the Transnet Board takes the view that all the Directors must continuously learn about the Company and new developments that are likely to enhance the exercise of their responsibilities.

Such continuous training and development takes the form of Board and Committee meetings being held at different sites of the Company's operations to allow the Directors an opportunity to interact more with different parts of the business. An induction and a refresher training session was coordinated for the Board in February 2009. Further, the Corporate Governance and Nominations Committee held a special meeting in November 2008 at Freight Rail - National Command Centre; and the Group Risk Committee met at Rail Engineering, Kilner Park in May 2008, and at the Freight Rail - National Operations Centre in November.

The Company has maintained the practice of submitting focused and concise management reports to the Board as pre-reading material before Board meetings. Further, the Acting Group Chief Executive's practice of circulating a management letter to the Board to keep Directors abreast of developments in the Company in the months when there are no scheduled Board meeting, has continued with good effect.

## Board leadership

Mr Fred Phaswana, an independent non-Executive Director, is highly regarded by both his fellow Directors and the executive team. The Directors unanimously agree, in their responses to the independent Board Evaluation process, that Mr Phaswana has the ability to guide dialogue by allowing all the viewpoints to be heard, whilst ensuring that critical issues are dealt with and decisions are reached.

The Chairman and Acting Group Chief Executive have worked effectively together with the Chairman providing as and when required, appropriate direction and guidance to the Acting Group Chief Executive whilst remaining very independent and free from interfering in executive management.

The Transnet Board is satisfied that the Chairman provides feedback to the Acting Group Chief Executive in a balanced manner after the Board's closed sessions and performance evaluation discussions. At the closed sessions, the Board discusses any matters not appropriately raised in the presence of the executives.

## Succession planning

As part of its corporate governance responsibilities, the Corporate Governance and Nominations Committee ensures that best practice succession planning policies are implemented in respect of the Company's Executive Directors and members of the Group Executive Committee. The appointment of the Company's Group Chief Executive, however, is ultimately the prerogative of the Shareholder - in this instance, the Government of the Republic of South Africa.

When the former Group Chief Executive made known her intention to leave Transnet's employ last year, the Board proceeded to work towards a smooth transition.

To ensure that Transnet was led by the best candidate available, Transnet widened the internal succession pool by including external candidates who were identified by an independent executive search agency in accordance with criteria set by the Board. At the commencement of the process, the former Minister of Public Enterprises, Ms Brigitte Mabandla, MP, was consulted in her capacity as the representative of Transnet's Shareholder.

The rigorous selection process identified only one unanimous candidate for appointment before the departure of the former Group Chief Executive. The candidate, who had participated in the selection process, withdrew his candidature after his name was recommended to the Minister by the Board.

Before the Board could initiate a fresh process, on a fast-tracked basis, to identify a new candidate to be recommended to the Minister, the Minister requested an opportunity to engage with the selection process. To oversee the transition, the Board appointed Mr Chris Wells, the Company's Chief Financial Officer, to take over as Acting Group Chief Executive. A new selection process is now under way.

## Changes to the Board of Directors:

### Appointments

Mr MJ Hankinson - 25 July 2008

Mr MP Moyo - 25 July 2008

Mr A Singh - 6 March 2009

### Resignations

Mr S Nicolaou - 25 July 2008

Ms M Ramos - 28 February 2009.

### Executive Director changes

Mr CF Wells, was appointed as

Acting Group Chief Executive

Mr A Singh was appointed as

Acting Chief Financial Officer

## Board evaluation

The Board is of the view that Board evaluation ensures the continuous improvement of a Board's performance and effectiveness. The Board evaluation process has, up until now, comprised the evaluation of the Board as a whole, the committees, the Chairman, individual director assessment, the assessment of the Group Chief Executive, the Group Company Secretary and the effectiveness of the Company's risk management.

The following are extracts from the current findings on the Transnet Board, from the Board evaluation report of 2008:

*"There is overwhelming confidence in the ability of the Board to supervise (monitor) management, the relationship between the Board and the management as well as the levels of accountability in finance and risk continues to be ranked highly. The understanding of key risks has improved since the formation of a dedicated Risk Committee."*

*"The composition of the Board is deemed appropriate and there is satisfaction with the mix of skills and experience with some of the Board members being noted as having gained more confidence and maturity."*

*"All the Board members continue to respond positively to the process of self-evaluation, and the Company while unique, is viewed as comparing more favourably with other boards."*

The Board evaluation report, together with action plans to address identified areas of development, is submitted to the Shareholder representative annually.



# Corporate governance (continued)

## Key activities of the Board of Directors

The functions designated as Board Reserved Matters in the Delegation of Authority to the Acting Group Chief Executive, include amongst others, the following:

- Approval of the annual Corporate Plan and Budget
- Approval of Transnet's borrowing strategy
- Approval of the Rail Secondary Network Strategy
- Approval of the proposed amendments to the National Ports Act, 2005
- Approval of the annual financial statements and interim reports, as well as determinations on the declaration of a dividend
- Appointment of the Group Company Secretary.

The Board's annual agenda included themes that the Board used for in-depth analysis of specific areas of the business. The themes dealt with included the review of the container growth strategy, proposals and recommendations to deal with economic regulation and the risks associated therewith, and human capital management.

## Directors' remuneration

The remuneration for non-Executive Directors is approved in advance by the Shareholder representative and confirmed at the Annual General Meeting. A table on Directors' remuneration appears on page 186.

Apart from executive succession planning, the Board, together with the Shareholder's, ensures succession planning for the non-executive and independent members of the Board of Directors to ensure that Transnet continues to be led by the best available talent through the continued renewal of skills and expertise as well as ensuring compliance with all the applicable corporate governance laws, regulations and conventions.

## Company secretarial function

The Group Company Secretary is responsible for developing systems and processes which enable the Board to discharge specific functions efficiently and effectively. She is responsible for advising the Board on corporate governance issues, setting the annual plan for the Board in conjunction with the Chairman and monitoring compliance with the Public Finance Management Act, the Companies Act and other relevant legislation as well as keeping the Board updated on new relevant legislation. All Directors have access to her services and guidance. With effect from 1 April 2009, the Board appointed Ms Ayanda Ceba as the Group Company Secretary, following the transfer of Ms Zola Stephen to serve as a member of the Executive Committee of National Ports Authority.

## Schedule of attendance at Board of Directors' meetings: 1 April 2008 to 31 March 2009

Director	25/4	2/6	24/6	29/8	27/10	20/11	13/2
Mr FTM Phaswana (Chairman)*	✓	✓	✓	✓	✓	✓	✓
Ms M Ramos**	✓	✓	✓	✓	✓	✓	✓
Mr CF Wells	✓	✓	✓	✓	✓	✓	✓
Dr I Abedian*	A	✓	✓	A	✓	✓	✓
Prof GK Everingham	✓	✓	✓	✓	✓	A	✓
Ms NBP Gcaba	✓	✓	✓	✓	✓	✓	✓
Dr ND Haste	✓	A	A	✓	✓	A	✓
Mr MJ Hankinson#	-	-	-	✓	✓	✓	✓
Mr PG Joubert*	✓	✓	✓	✓	✓	✓	✓
Ms NNA Matyumza*	✓	✓	✓	✓	A	✓	✓
Mr MP Moyo#	-	-	-	✓	✓	✓	✓
Mr BT Ngcuka	✓	✓	A	✓	✓	✓	✓
Mr S Nicolaou †	✓	✓	✓	-	-	-	-
Ms NR Ntshingila	✓	✓	✓	✓	✓	✓	✓
Mrs KC Ramon	✓	✓	✓	✓	✓	A	✓
Mr A Singh#	-	-	-	-	-	-	-

✓ = Present

A = Apologies

\* = Member of the Board Ad Hoc Committee on Regulation

† = Resigned during the year

# = Appointed during the year

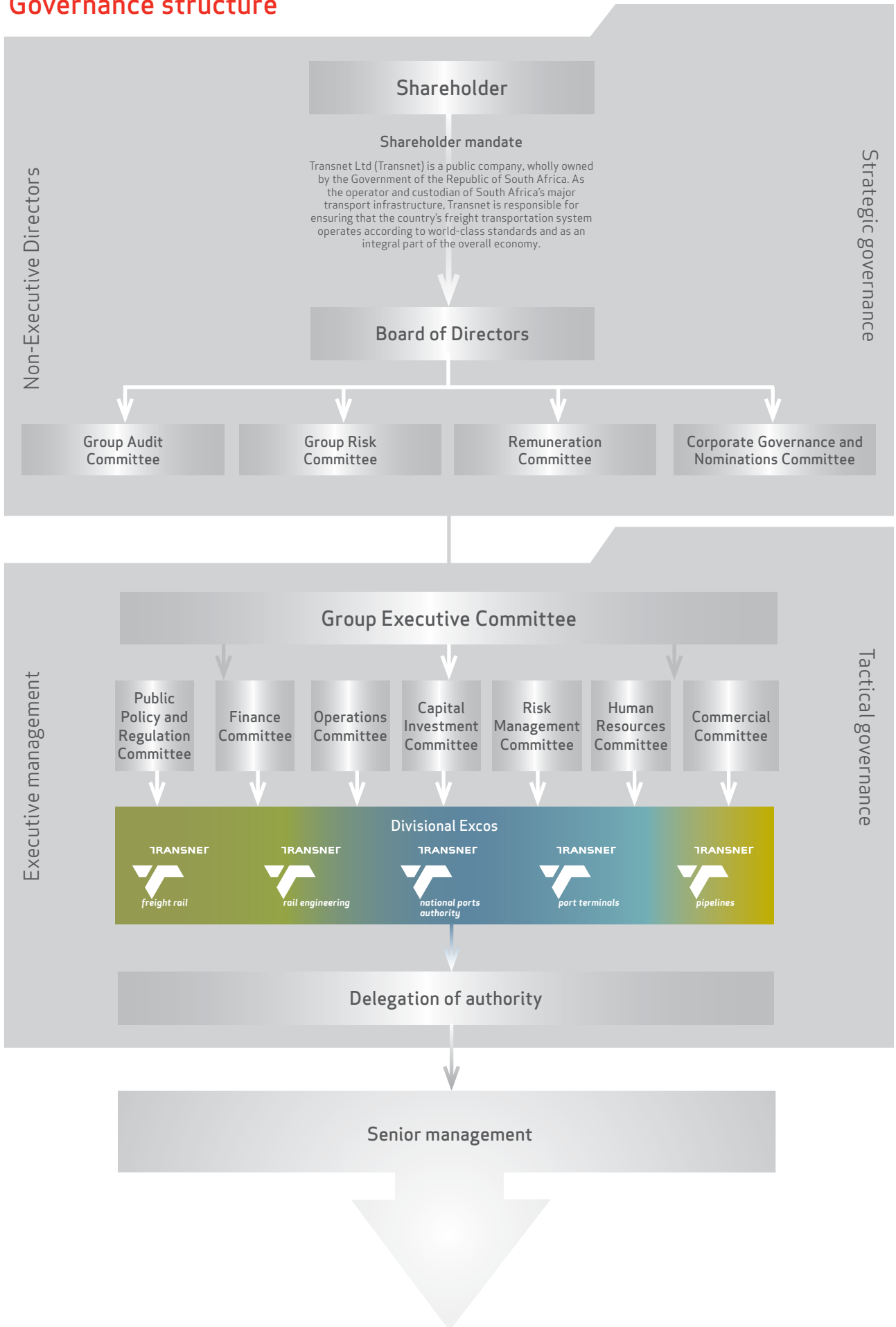
## Board committees

Consistent with King II and general corporate governance best practice, the Board has established committees to assist in discharging its responsibilities. Each committee has a mandate outlining the authority delegated by the Board. The mandate of each committee sets out, amongst others, its purpose, composition, reporting responsibilities, terms of reference in respect of the committee concerned and the right of any member to seek and be provided with independent advice at the Company's expense if such member considers that necessary for the effective execution of his/her fiduciary duties to the Company. The Group Company Secretary provides secretarial services to all the committees. All the committees' members are non-Executive Directors and the Chairpersons are independent non-executive directors.

Minutes of the committee meetings are available to all Directors and are included in the Board meeting documents. The Chairpersons of the committees table reports on the activities of their committees at each Board meeting. Executive Committee members who are considered relevant for the effective execution of the mandates of such committees attend the committee meetings by invitation of its Chairperson.

A meeting of the Ad Hoc Committee on Public Policy and Regulation is convened by the Chairman of the Board.

# Governance structure



# Corporate governance (continued)

## Board committees

### Group Audit Committee

#### Committee

The Group Audit Committee mandate includes the review and approval of the Group Audit Plan with the internal and external auditors, with specific reference to the proposed audit scope and approach to Group risk activities, the effectiveness of the audit and audit fees.

All members of the Group Audit Committee are financially literate. The committee convened five times during the year. The operating divisions have audit subcommittees whose reports are reviewed by the Group Audit Committee. The subcommittees also submit their minutes and unresolved issues to the Group Audit Committee for consideration.

The external and internal auditors have unrestricted access to the committee which ensures that their independence cannot be compromised and they are invited to all Group Audit Committee meetings. The Group Audit Committee holds closed sessions with the auditors, where the auditors can raise any issues which are not appropriate to raise in the presence of management.

#### Functions

The Group Audit Committee also performs, the following functions:

- Receiving and reviewing reports on the adequacy of capital, impairment of receivables, property, plant and equipment, other assets and the determination of provisions;
- Reviewing the accounting policies adopted by the Group and all proposed changes in accounting policies and practices, and recommending to the Board for approval such changes as may be considered appropriate in terms of IFRS;
- Reviewing significant transactions entered into by the Group including, transactions that may change the structure of the Company, acquisitions and disposals of Group companies;
- Annually evaluating the independence and effectiveness of the internal audit function, the one-year operational plan and three-year strategic plan and ensuring that the function is adequately resourced and has appropriate standing within the Group;
- Considering the independence and objectivity of the external auditors and ensured that the scope of their additional services provided was not such that they could be seen to have impaired their independence;
- Receiving and reviewing reports from both internal and external auditors concerning the effectiveness of the Group's internal control environment, systems and processes;
- Reviewing reports on any forensic investigations that are required to be submitted to this committee and ensuring implementation of appropriate action;
- Making appropriate recommendations to the Board of Directors regarding the corrective actions to be taken as a consequence of audit findings;
- Monitoring ethical conduct by the Group, its executives and other senior management;
- Reviewing complaints and handling anonymous reporting procedures;
- Determining the nature and extent of any non-audit services which the auditor may provide to the Group; and
- Preapproving any proposed contract with the auditor for the provision of non-audit services to the Group;

### Group Risk Committee

Risk management is the responsibility of the Board. The Board has delegated the responsibility for providing assurance on the integrity, quality and reliability of the Group's risk management to the Group Risk Committee.

As part of carrying out its responsibilities, the Group Risk Committee holds its meetings at the various operating sites to review the major risks facing the operations as well as the progress achieved in embedding an enterprise risk management culture in the organisation. The Company's top 10 risks and the treatment thereof are reviewed at each meeting of the Group Risk Committee.

The functions of the Group Risk Committee include, amongst others, ensuring that risk definitions and contributing factors, together with risk policies, are formally reviewed on an annual basis, taking into account that risk, in its widest sense, includes market risk, operational risk and commercial risk, which cover detailed combined risks.

#### Membership and attendance

	15/4	17/6	20/10	13/11	5/2
Prof GK Everingham (Chairman)	✓	✓	✓	✓	✓
Dr I Abedian	A	✓	✓	A	A
Mr MP Moyo #	*	*	✓	✓	✓
Mr S Nicolaou <sup>+</sup>	✓	✓	*	*	*
Mr PG Joubert	✓	A	A	✓	✓
Mrs KC Ramon	A	✓	✓	A	A

✓ = Present  
A = Apologies  
\* = Not a member  
+ = Resigned during the year - until July 2008  
# = Appointed during the year - from 25 July 2008

	28/5	12/9	17/11	4/2
Mr PG Joubert (Chairman)	✓	✓	✓	✓
Dr I Abedian	✓	✓	A	✓
Prof GK Everingham	✓	✓	✓	✓
Ms NNA Matyumza	✓	✓	A	✓
Ms NR Ntshingila <sup>+</sup>	✓	✓	*	*
Mr MJ Hankinson #	*	*	✓	✓

✓ = Present  
A = Apologies  
\* = Not a member  
+ = Resigned from the committee during the year - until 12 September 2008  
# = Appointed during the year - from 25 July 2008

## Remuneration Committee

All the members of the committee are non-Executive Directors. The Group Remuneration Committee considers and approves policy frameworks and best practice standards in respect of remuneration in the Company.

The Group Remuneration Committee considers and approves policy frameworks and practice standards in respect of remuneration and:

- Determines, in line with the fee structure approved by the Shareholder, the remuneration of the Chairman of the Board, which includes a mechanism for the assessment of the Chairman's performance.
- Advises the Board of the recommendations it should make to the Shareholder in respect of the remuneration of non-Executive Directors, including the members of committees.
- Reviews the Group Chief Executive's assessment of performance and approves the remuneration of Executive Directors and the executive management of the Group, giving consideration to both the short-term and long-term components of remuneration.
- Approves the compulsory employee benefits applicable to all levels and categories of employees in the Group, notably retirement funding and health care benefits.
- Is advised of remuneration policies and practices applied below executive management level as deemed appropriate by the Group Chief Executive.
- Reviews the Group Chairman's assessment of the performance of the Group Chief Executive and approve the remuneration of the Group Chief Executive.
- Reviews the performance measures to be used for purposes of annual incentive bonuses for all employees and approve the criteria for participation and the terms to apply.
- Approves recommendations for awards in terms of long-term incentive plans.
- Approves general principles relating to terms and conditions of employment contracts and any material changes thereto, including the terms of contracts of employment of key employees of the Group who perform functions in subsidiaries.
- Recommends a remuneration philosophy for disclosure in the annual financial statements, for approval by the Board.

	2/6	19/11
Dr ND Haste (Chairman)	A	✓
Dr I Abedian	A	✓
Mr PG Joubert	✓	✓
Ms NBP Gcaba (Deputy Chairman)	✓	✓
Ms NR Ntshingila	✓	✓

✓ = Present  
A = Apologies

## Corporate Governance and Nominations Committee

The Corporate Governance and Nominations Committee sets the criteria for the nomination of Directors to be recommended to the Shareholder Representative for appointment to the Board. It also identifies, evaluates and recommends nominees to the Board of Directors, Board Committees, the Transnet Second Defined Benefit Fund Board of Trustees and subsidiary Boards.

The Corporate Governance and Nominations Committee also ensures that succession planning policies are implemented in respect of non-Executive Directors and members of the Group Executive Committee. In carrying out its succession planning responsibilities, particularly in respect of the Group Chief Executive, this committee extends an invitation to the Chairpersons of other committees who are not members of this committee to participate in such deliberations. The Board succession planning process includes in respect of the position of the Group Chief Executive, an assessment of the "nine box matrix" talent management process, applied by the Company for its executive leadership.

The Corporate Governance and Nominations Committee ensures the existence of corporate governance best practice by, amongst others:

- Reviewing and recommending any changes to Board membership;
- Ensuring that an independent annual assessment of the performance of the Board of Transnet is concluded and reviewing the effectiveness of all Board committees; and
- Reviewing periodically the format and content of the Board and committee mandates and ensuring that appropriate Board and committee structures are in place.
- Providing strategic oversight of the sustainability performance of the Company.

	8/4	2/6	10/9	2/10	23/10	20/11	5/12	12/1	4/2	12/2	13/2	19/2	4/3
Mr FTM Phaswana (Chairman)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Prof GK Everingham	✓	✓	✓	✓	A	A	A	✓	✓	✓	✓	✓	✓
Ms NBP Gcaba	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Mr BT Ngcuka	✓	✓	A	A	✓	✓	✓	✓	✓	✓	✓	✓	✓
Ms NNA Matyumza	*	✓	✓	✓	✓	✓	✓	A	A	✓	✓	✓	✓

✓ = Present  
A = Apologies  
\* = Not a member

Committee

Functions

Membership and attendance



## Subcommittees of the Group Executive committee

### Public Policy and Regulation Committee (PPRC)

The Public Policy and Regulation Committee ensures that the Group proactively manages public policy and economic regulation risk impacting the Group; and to this end:

- Reviews developments in public policy and economic regulation affecting the Group and provides strategic direction for engagement with relevant organs of state on public policy and economic regulation matters;
- Reviews and approves tariff applications to be made to the economic regulators;
- Ensures the analysis of public policy and economic regulation proposal against comparative international examples; and
- Takes responsibility for the ongoing updating of Transnet's regulatory universe and determines the strategies to be adopted to manage public policy and economic regulation risk.

The PPRC is chaired by the Group Executive: Office of the Group Chief Executive.

### Finance Committee (FINCO)

The purpose of the Finance Committee is to:

- Review overall governance procedures in relation to financial disciplines;
- Identify measures, monitor all financial risks, including but not limited to interest rate, exchange rate, price, liquidity and taxation risks;
- Identify measures, monitor all shared service, procurement, supply chain and ICT associated risks;
- Ensure appropriate financial management frameworks, policies and procedures are adopted in the Group;
- Review the accuracy, validity and completeness of monthly, interim and annual financial results; and
- Assess the performance of the financial and business services structures and any supporting service providers reporting into these structures.

The FINCO is chaired by the Group Chief Financial Officer.

### Risk Management Committee (RISKMANCO)

The Risk Management Committee ensures the quality, integrity and reliability of the Group's risk management by:

- Reviewing the adequacy and overall effectiveness of the Group's risk management and its implementation by management; and hence ensure risk is appropriately considered in decision-making throughout the Group;
- Determining risk identification and measurement methodologies to be used by operating divisions;
- Evaluating performance against risk positions taken;
- Reviewing and assessing the integrity of the risk control systems;
- Ensuring compliance and effective management with the Group's risk policies and frameworks and applicable regulatory requirements impacting the Group;
- Reviewing the risk disclosures of the operating divisions;
- Determining the structures and systems to be used by the Group to prudently manage risks;
- The specific risks to be reviewed at RISKMANCO include:
  - Country risks
  - Technological risks
  - Disaster recovery risks
  - Reputational risks
  - Legal risks
  - Sensitivity risks, e.g. environmental impacts
  - Human resources risks
  - Compliance risks.

The RISKMANCO is chaired by the Group Chief Executive.

### Human Resources Committee

The Human Resources Committee:

- Ensures that the people management strategy and plans support Transnet's business strategies;
- Monitors implementation of people management projects;
- Promotes appropriate standardisation of human resources policies, procedures and systems that are aligned with best practice;
- Ensures good governance in respect of remuneration policies and practices (with the concurrence of the Remuneration Committee);
- Oversees compliance with employment legislation, including submission of annual workplace skills plans and employment equity reports;
- Aims to develop Transnet into an "employer of choice"; and
- Identifies and manages human capital risks.

The Human Resources Committee is chaired by the Group Executive: Human Resources.



### Operations Committee (OPCO)

The Operations Committee ensures planning, formulating, managing and execution of the divisions' operations, strategies and operational performance and:

- Ensures operational decisions are consistent with the strategic focus of the Group;
- Ensures operations are carried out in accordance with business plans approved by the Board;
- Designs and implements operational risk management measures (including those related to safety);
- Ensures operations are consistent with the Shareholder's Compact and the Corporate Plan; and
- Encourages the growth of the business by promoting efficiency and integration.

The OPCO is chaired by the Group Chief Operating Officer.

### Capital Investment Committee (CAPIC)

The Capital Investment Committee ensures the resources that the Group invests for the development of capital projects are strategically managed and to this end:

- Ensures decisions relating to capital expenditure are consistent with the strategic focus of the Group;
- Ensures capital expenditure complies with the budget and business plans approved by the Board;
- Determines the criteria for prioritising capital expenditure projects;
- Monitors the implementation of project plans to ensure that approved capital expenditure projects are carried out with minimum delays;
- Ensures projects in progress are managed within approved warrants and timelines;
- Reviews and amends project expenditure plans where necessary, subject to Group limits of authority and the limitations of the Board approved budget;
- Ensures capital investment projects comply with applicable risk management processes;
- Ensures capital projects are fit for purpose and the associated costs are optimised; and
- Conducts post implementation reviews.

The CAPIC is chaired by the Group Chief Financial Officer.

### Commercial Committee

The Commercial Committee is established to provide leadership for the Group's Commercial strategy and initiatives and ensures the maintenance of adequate standards and practices for the Group's commercial interests.

To achieve this, the Commercial Committee will:

- Implement strategies, implementation plans and governance procedures to enhance the Group's commercial interests and practices;
- Develop and implement appropriate Group commercial strategic planning, a Group pricing philosophy and framework, supply chain solutions, sales and marketing strategies and service provisioning strategies;
- Monitor the effectiveness of the implementation of all Transnet commercial initiatives;
- Assess, revise and where required, develop commercial strategies and plans;
- Monitor the implementation of these strategies and plans;
- Formulate and develop the Group's commercial approach and programme;
- Determine the structures and systems to be used by the Group to prudently manage the execution of commercial initiatives for the Group; and
- Ensure that commercial risk is appropriately considered in decision making throughout the Group.

The Commercial Committee is chaired by the Group Executive: Commercial.



## Code of ethics

The Board of Directors and employees of Transnet are subject to the code of ethics. The purpose of the Transnet Code of Ethics ("The Code") is to set ethical standards for business practice, individual business conduct, and to assist all Transnet stakeholders with their ethical considerations, choices, decisions and conduct when dealing with the Company.

The Code stipulates that all business decisions and transactions must be made with uncompromised integrity, honesty and objectivity of judgement. To support this initiative, Transnet has implemented a Gifts Policy which regulates and controls the acceptance and giving of gifts in the Transnet business environment.

The Company also has an independently operated whistle-blowing mechanism, Tip-Offs Anonymous. Matters that have been reported through this mechanism and the progress of investigations in respect of such matters are reported to the Group Audit Committee by the internal auditors. On receipt of a call, investigations are carried out by the Company's internal auditors. Depending on the nature of allegations, some matters may end up being reported to the appropriate law enforcement agencies, e.g. the South African Police Service.

## Conflict of interests

The Group Company Secretary administers the Related Party Disclosures, Registers for the Board and the Group Executive Committee. The Directors and members of the Group Executive Committee are required to sign a Declaration of Interests at all the meetings. The Related Party Disclosures' Registers of the Board are circulated at the first Board meeting at the beginning of each financial year and as and when there has been an amendment to the Registers. Directors and executives who have a conflict of interest on any matter to be discussed at the meeting are required to inform the Group Company Secretary before the meeting. Such a director or executive would then be recused from the meeting when that item is being discussed, unless the Directors or members of the Group Executive Committee, having noted such declarations, are satisfied that no recusal is warranted.

## Fraud risk management plan

In line with its zero tolerance approach towards fraud, corruption and other economic crimes, Transnet has recognised that managing fraud risk is a business imperative, and if sustained, effective fraud risk management will improve the control environment and enhance the Company's operational performance and reputation. A fraud free environment is important to the Company's efforts for the continued provision of an integrated, affordable and manageable port, rail and pipeline solution, beneficial to the South African economy.

As required by Regulation 29.1.1 of the Treasury Regulations prescribed under the Public Finance Management Act, 1999 (Act No. 1 of 1999), Transnet has implemented a Fraud Risk Management Plan from the 2008 financial year, in order to effectively manage the fraud risk to which the Company may be exposed. During the year under review, emphasis was placed on the development and implementation of fundamental fraud risk management initiatives, which were used to create the foundation for a robust fraud risk management strategy aligned with Transnet's Forensic Maturity Model. Some of these initiatives included the formation of the relevant governance reporting structures; the development of several fraud related policies; the development of an electronic case management database; and the identification of high fraud risk areas through the fraud risk assessment process.

This plan was enhanced in the 2009 financial year to have a multi-dimensional focus of being strategic, tactical and operational. As part of such focus, and in order to address the root causes of fraud, greater attention has been given to fraud risks emanating from people, processes and systems. To ensure the effective implementation of the 2009 Fraud Risk Management Plan, focus has also been placed on fraud prevention and detection of fraud elements categorised as high and medium priority for the 2009 year. During 2009, a Supplier Code of Conduct was developed and rolled out. This code informs Transnet's suppliers of the Company's expectations in respect of the behaviour and conduct of entities that do business with Transnet. Further, ongoing and enhanced fraud awareness and anti-fraud training was conducted and forensic data analytics was also performed.

### Fraud risk management plan

- Reduces opportunities to commit fraud;
- Highlights fraud "hotspots" for areas of concern;
- Establishes fraud deterrence measures; and
- Tip-Offs Anonymous Hotline

As a continuation of the 2009 Fraud Risk Management Plan, certain themes were identified for increased focus. The newly identified themes include: Governance and Fraud Risk Awareness; Fraud Risk Control Monitoring and Enhancement; Forensic Information Technology; Human Resources; and Tenders and Contracts. Such heightened focus will further assist Transnet in achieving a world-class internal control environment and position itself as a leading Company within the fraud risk management arena. The 2010 Fraud Risk Management Plan, approved by the Board and submitted to the Department of Public Enterprises and the National Treasury, has set the following priority areas, which will enhance the Company's fraud risk management effectiveness:

- Development of a Forensic Intelligence Data Centre;
- Continuous control monitoring through forensic data analytics;
- Tender reengineering;
- Contract lifecycle management;
- Third-party compliance; and
- Recruitment and selection.

As is evident from the foregoing, Transnet's forensic maturity has progressed from "Basic" to "Established" through continuous improvement in line with leading practice. In so doing, Transnet places a strong emphasis on an effective anti-fraud programme which has now shifted towards a proactive approach in combating fraud, corruption and other economic crimes.

## **New statutory requirements impacting the governance environment of Transnet**

### **Companies Act, 2008**

It is expected that the new Companies Act will become operative on 1 July 2010. The salient features of the amendments are summarised below.

State-owned enterprises defined in terms of the Public Finance Management Act, 1999, would fall into a specific category of profit companies, viz state-owned companies. Provisions of the Companies Act that apply to public companies, are applicable to state-owned companies, except if the Minister has granted an exemption on request of the Cabinet member responsible for state-owned companies. Specific provisions of the Act extended to state-owned companies are the extended accountability requirements set out in Chapter 3 of the Act. These include arrangements regarding the mandatory appointment of a company secretary, the option of appointing a juristic person as company secretary; the appointment of auditors; the rotation of auditors; and the requirements for audit committees.

Since the Companies Act may not be put into effect within one year after the President has assented to it, Transnet is using this window of opportunity to develop controls for compliance with the Act, and reviewing its current structures and governance arrangements with a view to ensuring alignment with the Act.

### **Public Finance Management Act Amendments Bill**

The Bill was issued during 2008 for comment. Transnet responded however, the Bill was later withdrawn by Cabinet.

### **King III Report**

King III will come into effect from 1 March 2010, until which time King II will apply. King III is aligned to the new Companies Act, 2008, and should be read within that context.

King III deviates from King I and II in that an "apply or explain" basis of corporate governance is mooted in place of the current "comply or explain" basis.

The philosophy of the report revolves around leadership, sustainability and corporate citizenship. It covers the following main topics:

- Boards and Directors
- Corporate citizenship: leadership; integrity and responsibility
- Audit committees
- Risk management
- Internal audit
- Integrated sustainability reporting and disclosure
- Compliance with laws, regulations, rules and standards
- Managing stakeholder relationships
- Fundamental and affected transactions.



## Transnet's status as measured against the first draft of King III

### 1. Boards and Directors >> Compliant ✓

- Role and function of the Board
- Composition of the Board
- Board appointment process
- Director development
- Company Secretary
- Performance assessment
- Board committees
- Group Boards
- Remuneration of Directors

### 2. Corporate citizenship: leadership, integrity and responsibility >> Compliant ✓

- Corporate citizenship: leadership, integrity and responsibility

### 3. Audit committees >> Compliant ✓

- Membership and resources of the Audit Committee
- Responsibilities of the Audit Committee
- Internal assurance providers
- External assurance providers
- Reporting

### 4. Risk management >> Compliant ✓

- Responsibility for risk management
- Risk assessment
- Risk identification
- Risk quantification and response
- Assurance over the risk management process
- Disclosure
- Key risks facing the modern company

### 5. Internal Audit >> Compliant ✓

- The role of Internal Audit
- Internal Audit's status in the Company

>> Under review 🔍

- The need for and role of Internal Audit
- Internal Audit's approach and plan

### 6. Integrated sustainability reporting and disclosure >> Under review 🔍

- Transparency and accountability
- Methods and timing of reporting

### 7. Compliance with laws, regulations, rules and standards >> Compliant ✓

- Companies must comply with applicable laws and regulations
- Adherence to applicable rules and standards
- Board and each individual Director's awareness of the laws, regulations, rules and standards applicable to the company
- Compliance should form part of the risk management process

### 8. Managing stakeholder relationships >> Under review 🔍

- The Company should proactively manage the relationships with its stakeholders
- The Company should identify mechanisms and processes that promote enhanced levels of constructive stakeholder engagement
- Transparent and effective communication is important for building and maintaining relationships
- Ensure internal and external disputes are resolved as effectively, efficiently and expeditiously as possible

### 9. Fundamental and affected transactions >> Under review 🔍

- Disclosure of conflict or potential conflict of interest