

**United Nations Conference on Trade and Development**

**Investment Policy Review**  
**Rwanda**



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## II. THE INVESTMENT FRAMEWORK

### A. Introduction

Rwanda has embarked upon an ambitious programme to modernize its legislative and regulatory framework for investment, with the aim of fostering a “modern, competitive private sector (...) geared towards capital formation”.<sup>18</sup> Much of the body of investment-related laws inherited after the 1994 genocide was either outdated or not adapted to a market economy. The Government is committed to promoting growth and poverty reduction through the development of a market-driven private sector and it has reformed or put in place a number of key laws and regulations in the past decade. Much still remains to be done to establish a modern and fully operational legal and regulatory framework for investment, but the Government is strongly committed to the modernization efforts and it established a business law reform commission in September 2005. Overall, the progress realized so far is impressive given the situation inherited in 1994.

### B. Constitutional set-up

The Arusha Peace Agreement of 1993 served as the constitutional basis for a government of national unity from July 1994 until a new Constitution was adopted in June 2003. The adoption of the new Constitution by referendum paved the way for the first post-genocide legislative and presidential elections, and represented a further step towards entrenching peace and stability. The Constitution provides a framework for the fundamental individual rights expected in a modern democracy and establishes a multi-party system for the first time in Rwanda since independence, with the exception of a doomed attempt to introduce democracy with the 1991 Constitution.

The Constitution, aside from the usual separation of executive, judiciary and legislative powers, puts in place a number of mechanisms that seek to deal with the consequences of the 1994 genocide and ensure that the peace and stability gained over the past decade are reinforced and sustained. These provisions include:

- Political parties may not identify themselves upon the base of race, ethnic background, region, religion, gender or any other element that can serve as a basis for discrimination;
- Judges, prosecutors and members of the armed forces and the police may not belong to political parties;
- The Constitution establishes Gacaca courts responsible for the trial and judgment of a number of crimes of genocide committed between 1 October 1990 and 31 December 2004 (box II.1).

The Constitution establishes a bi-cameral presidential system. Members of the Chamber of Deputies are elected by direct universal suffrage for five-year terms, following a system of proportional representation. The Chamber has sole responsibility over the passing of the finance bill. Members of the Senate are elected or designated for eight-year terms. The Chamber of Deputies and Senate must both vote on Bills in order to enact them into law.

<sup>18</sup> Ministry of Finance and Economic Planning, Vision 2020.

Strong powers are vested in the presidency, although checks and balances have been instituted in the Constitution. The President is elected by direct universal suffrage with a simple majority of votes cast, for a seven-year term which can only be renewed once. The President is commander in chief of the defence forces and is head of the executive branch of Government. He/she nominates or fires the Prime Minister and has the power to dissolve the Chamber of Deputies, but this may be done only once per presidential term.

### **Box II.1. Gacaca courts: justice and reconciliation**

The active involvement of a large number of people in crimes of genocide in 1994 left Rwanda with a tremendous challenge: providing justice for the victims and avoiding impunity, while at the same time promoting reconciliation. More than 100 000 people were imprisoned in the immediate aftermath of the genocide, and the judiciary system was all but destroyed. By November 1994, the judiciary system consisted of 244 judges, 12 prosecutors and 137 support staff. It was by no means in a position to render general justice, let alone cope with the trial of people indicted for crimes of genocide. Despite efforts to train additional judges and prosecutors, it became obvious that the traditional judiciary system could never cope with the backlog of genocide cases. It was also determined that it was not best positioned to ensure both justice and reconciliation. Gacaca courts were thus created under Law 40/2000, confirmed in the 2003 Constitution and reformed under Law 16/2004.

Gacaca courts and procedures aim to speed up the judicial process, establish participatory justice and promote reconciliation. They are competent to judge crimes of genocide of categories 2 and 3, i.e. those that did not involve planning, incitation, supervision, rape, excessive cruelty or involving people in positions of authority (category 1), which remain the competence of the national jurisdiction. The courts have been established at the provincial and local level, and involve non-professional judges. The proceedings are public and seek to establish the truth about events so as to facilitate reconciliation and the healing process. The Government is also keen to ensure that crimes of genocide do not remain unpunished, as it considers justice a key element to reconciliation.

The Gacaca court system has already brought about significant results, even though a large number of people remain imprisoned. Around 20 000 people were released from jail in August 2005 following guilty pleading procedures that allow a sentence reduction. Prior to their release, they had to go through Ingando (“solidarity camps”) for one month, where they were taught about the law, good citizenship and peaceful co-existence. The successful and peaceful reintegration of prisoners into civil society will also require that they rapidly find a means of subsistence, however. In that respect, the economic transformation and job creation process will be crucial to entrench peace and stability.

While the Gacaca court system has significantly eased the load on the traditional system and provided a more suitable tool for participatory justice, healing and reconciliation, major work remains to be done to further rebuild the traditional judiciary system. A significant number of judges, prosecutors and lawyers still need to be trained, including in technical and business-related fields. ODA assistance would be particularly useful in that area, as is the work of non-governmental organizations (NGOs) such as *Avocats Sans Frontières*.

*Sources: Service National des Juridictions Gacaca and Avocats Sans Frontières.*

Some elements in the Constitution are of particular relevance to investors:

- Every person has the right to private property;
- Expropriation of property rights is allowed only where public interest requires it and following fair and prior compensation;
- Any foreigner lawfully present in Rwanda enjoys the same rights as citizens, except for rights specifically restricted to Rwandans as determined by law;
- International treaties and agreements have seniority over national laws (with the exception of the Constitution) as long as all signatory parties are in compliance with them.

Much remains to be done to ensure the full implementation of the principles spelled out in the Constitution, including through the adoption of a number of new laws, stronger institutions and the emergence of a stronger civil society. Its adoption in 2003 nevertheless represents a major step towards the consolidation of the peace and stability that have been progressively rebuilt since 1994.

## C. Entry, treatment and protection of FDI

### I. Entry and establishment of FDI

Rwanda has put in place one of Africa's most open FDI regime as it does not place restrictions on FDI entry and establishment. All foreign investments are allowed without screening or restriction of amount or sector, and foreign investors are granted national treatment for most intents and purposes.<sup>19</sup> A positive element *per se*, this high degree of openness makes it all the more important that other regulations (relating to public health, consumer interests, environmental protection, etc.) be properly established and enforced (section E).

Investors (local or foreign) who choose to register with the Rwanda Investment and Export Promotion Agency (RIEPA), which was created under Law 14/98,<sup>20</sup> can apply for additional benefits. An Investment and Export Promotion and Facilitation law was adopted in late 2005 to amend Law 14/98 and consolidate all fiscal incentives into the income tax code, which was revised at the end of 2005 as well. The spirit and key elements of Law 14/98 remained unchanged, however (table II.1).

The benefits provided to holders of RIEPA certificates consist mostly in access to facilitation services, fiscal incentives (section D.1), the entitlement to three work and residence permits for foreign citizens (section D.4), investment protection (section C.2) and guarantees for the repatriation of funds (section D.3). The Investment and Export Promotion and Facilitation law of 2005 defines a number of priority sectors<sup>21</sup> and regional headquarters operations, which did not exist under Law 14/98, and which are eligible to additional tax incentives (section D.1). Although all the fiscal incentives are now defined in the income tax code, RIEPA certificates remain the gateway to these incentives, and it plays an administrative role for some of them.

<sup>19</sup> The 2005 Investment and Export Promotion and Facilitation law explicitly states that "foreign investors may invest and participate in the operation of any business in Rwanda, and they shall enjoy incentives and facilities no less favourable than those enjoyed by local investors."

<sup>20</sup> Law 14/98 initially established the Rwanda Investment Promotion Agency (RIPA). RIPA's mandate was widened to export promotion in 2004 and the agency renamed Rwanda Investment and Export Promotion Agency (RIEPA).

<sup>21</sup> ICT, tourism, energy, agriculture and agribusiness, industry, re-export, mines, research and development, education and human resources development and infrastructure.

Incentives to holders of RIEPA certificates apply equally to national and foreign<sup>22</sup> investors, but foreigners are required to invest a minimum of \$250 000 to be eligible for certificates, while the threshold for nationals is \$100 000.<sup>23</sup> The minimum capital requirement is interpreted flexibly by RIEPA, which considers all capital injections over the period of the business plan. The other main requirements for eligibility are: (1) providing information on the capital structure and ownership of the company; (2) maintaining proper accounts and financial statements; (3) registering and filing returns with the Rwanda Revenue Authority (RRA); and (4) providing annual reports. In turn, RIEPA is required by law to consider the request for and deliver, if eligible, a certificate within 10 business days.

**Table II.1. RIEPA certificates, eligibility conditions and benefits**

	Previous regime	New regime
<b>Eligibility conditions and obligations</b>		
Minimum capital requirement, nationals	\$50 000	\$100 000
Minimum capital requirement, foreigners	\$100 000	\$250 000
Capital and shareholder structure	yes	yes
Filing and reporting requirements	yes	yes
Detailed business plan (5-year projection)	yes	yes
<b>Benefits to holders</b>		
Access to facilitation services	yes	yes
Condition for some fiscal incentives	yes	yes
Fiscal incentives in investment law	yes	no
Work and residence permits, number and (minimum investment)	3 (\$100 000 or \$50 000)	3 (\$100 000)
Facilitated recourse to int'l arbitration	yes	yes
International transfer of funds guarantees	yes	yes
Guaranteed tax-free repatriation of expropriated assets	yes	yes

Sources: Law 14/98 and 2005 Investment and Export Promotion and Facilitation law.

RIEPA, which became operational in 2000, was established from the start as a one-stop centre providing support services for incorporation, licensing, Customs clearance, access to land and immigration. It has firmly established itself in Rwanda's institutional landscape and currently employs around 30 professionals. The mandate of the agency is wide-ranging and includes:

- Investment and export promotion;
- Investment and export facilitation;
- After-care services;
- Policy advocacy on investment and export issues.

<sup>22</sup> Citizens of COMESA countries or companies incorporated in Rwanda and majority-owned by COMESA nationals are considered "national investors".

<sup>23</sup> The minimum capital requirements were revised upward in 2005 from \$100 000 and \$50 000, respectively, under Law 14/98. This rule is the only exception to national treatment provided for in the Investment and Export Promotion and Facilitation law.

The legal requirements that make RIEPA certificates the gateway to a number of fiscal incentives and other benefits is not optimal. As indicated below, making the fiscal regime attractive in general, with outcome-determined incentives, would be more appropriate to serve the country's interests.

Discriminating against small investors through minimum capital requirements is not in Rwanda's interest. Small investors should not be granted less favourable conditions than larger investors, particularly in an economy like Rwanda, where they are likely to play a key role. The initial size of an investment is not necessarily a good indicator of the potential benefits to the economy in the medium term. This is particularly the case for investments in the services sector, which typically require little upfront investments in financial capital but have a high human capital intensity.

The following approach to RIEPA certificates is thus recommended:

- Lift the minimum capital requirement as an eligibility condition;
- Preserve a capital requirement to benefit from automatic access to 3 work permits;
- Lift the certificates' role as a condition to obtain fiscal incentives;
- Use general eligibility conditions for certificates to promote an "induction" programme.

The "induction" programme would effectively seek to promote responsible corporate behaviour by RIEPA certificate holders. Registration with RIEPA would provide access to general benefits, but would also require that the company's key officers complete an induction programme on Rwanda's key business laws, corporate responsibilities (employment practices, tax compliance, observance of health and safety standards, environmental protection) and business ethics. The certificate could lapse if the investor becomes or remains non-compliant for tax purposes. RIEPA certificates and eligibility conditions would thus not discriminate on a size basis, but would promote good business practices and compliance with Rwanda's laws.

## 2. Treatment and protection of FDI

Article 42 of the Constitution specifies that "every foreigner legally residing in the Republic of Rwanda shall enjoy all rights save those reserved for nationals as determined under this Constitution and other laws." In addition, the Investment and Export Promotion and Facilitation law of 2005 stipulates that foreign investors benefit from incentives and facilitation on terms no less favourable than those granted to national investors.

The Constitution also grants protection over private property rights, which can be expropriated only for reasons of public interest and following fair and prior compensation. In addition, holders of RIEPA certificates are entitled to fair compensation in a convertible currency in case of expropriation. They also benefit from the guarantee that the compensation will be free of any tax or duty and freely transferable overseas.

RIEPA certificates also facilitate recourse to international arbitration in case of an investor-State dispute. Pending efforts to reach a negotiated settlement (but *not* the exhaustion of local judicial remedies), registered investors may request international arbitration under either an applicable bilateral treaty or a multilateral agreement – including the International Centre for Settlement of Investment Disputes (ICSID).<sup>24</sup> In general, investors seeking recourse to ICSID arbitration must obtain the agreement of the State. In contrast, consent to international arbitration (including with ICSID) is explicit for holders of RIEPA certificates, and does not require the exhaustion of local judicial procedures.<sup>25</sup> RIEPA certificates also offer the option to predefine the mode of arbitration to use in case of dispute, in which case both the State and the investor are bound by that mechanism.

As of mid-2006, no international dispute involving the State of Rwanda and a foreign investor had been brought to ICSID for arbitration. Aside from its membership of ICSID, Rwanda has signed bilateral investment treaties (BITs) with Belgium-Luxembourg, Germany and Switzerland, and these were ratified in the 1960s and 1980s. The provisions in these agreements are standard in that they provide for national treatment, guarantee transfer rights and provide for automatic access to international arbitration if local court procedures have been ineffective for a certain period of time. Overall, Rwanda's network of BITs is extremely limited. Additional BITs could reassure foreign investors unfamiliar with Rwanda and provide extra certainty in what is a “frontier territory” for most people (chapter III). “Home country” measures, including political risk insurance could also be used to reduce risk and promote FDI. At the moment, political cover is available through the Multilateral Investment Guarantee Agency (MIGA), but no project has so far been guaranteed by MIGA.<sup>26</sup>

## D. General measures for regulating business

### I. Taxation

Rwanda has made significant efforts to modernize its tax system in recent years, even though further efforts should be made to improve the structure of taxes and their administration. The Rwanda Revenue Authority was established in 1997 under Law 15/97 as an autonomous public body, and it is allowed to retain 6 per cent of total revenue to finance its operations. The RRA was reorganized in 2004 around three departments (large taxpayers, internal revenue and Customs) in order to build synergies in tax management and in services to taxpayers. The large taxpayers department deals with a little under 300 companies and institutions that generate close to 80 per cent of corporate income tax and VAT. The income tax department deals with around 4 000 small and medium-sized enterprises (SMEs) and personal income taxes. Although it is too early to assess the impact of this structural reorganization on the administration of the tax system, the revenue to GDP ratio rose from 9.9 per cent in 1999 to 13.9 per cent in 2004.

#### a. VAT

Value-added tax (VAT) was introduced in 2001 by Law 06/2001 to replace turnover tax. The structure of the VAT system is modern and similar to that of most other countries, and the RRA has succeeded in administering it well within a short period of time. VAT applies to goods and services, whether produced

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<sup>24</sup> Rwanda has been a member of ICSID since November 1979.

<sup>25</sup> All efforts must be undertaken to reach an amicable settlement prior to calling for international arbitration, however.

<sup>26</sup> MIGA is part of the World Bank Group and offers cover for four types of political risks: (1) transfer restrictions; (2) expropriation; (3) war and civil disturbance; and (4) breach of contract.

locally or imported. Two rates were set in 2001: most goods and services are taxed at 15 per cent and exports are taxed at 0 per cent. A number of goods and services are also exempt.<sup>27</sup> The base rate was increased to 18 per cent in 2002, which helped raise VAT collection from 30.5 per cent of total revenue in 2001 to 34.8 per cent in 2004 (table II.2).

Suppliers of taxable goods or services with annual turnover in excess of Rwf15 million (\$26 000) must register, while other suppliers may do so on a voluntary basis. Investors seeking RIEPA incentives are also required to register for VAT purposes. Returns must be filed monthly on an accruals basis. Refunds can be claimed whenever input tax exceeds output tax without condition. The law stipulates that the RRA must refund excess payments within 30 days, or up to a maximum of 3 months if the claim must be investigated. Although the RRA frequently investigates claims, refunds appear to be effected efficiently and expeditiously. The RRA also faces a monthly penalty of 1.5 per cent in case of delays, which is the same penalty that investors face in case of late payments.

No major changes are necessary to the VAT system or its administration. The authorities should nevertheless consider allowing companies to deduct VAT paid on imported services (“reverse charges”) as input VAT. At the moment, deductions are allowed only when services are “deemed not to be available in the local market”, i.e. when there is no single firm producing similar services locally. This definition is far too restrictive, as services may not be available in sufficient quantity and at the appropriate level of quality. Optimally, all VAT charges paid on services imports should qualify for deduction as input VAT when the service is used for business purposes.

**Table II.2. RRA, structure of revenue collection**  
(Percentage of total revenue)

	2000	2001	2002	2003	2004
Direct taxes	28.0	30.4	32.2	30.7	28.3
Corporate taxes	15.4	18.2	18.1	13.7	11.5
Personal taxes & others	12.6	12.2	14.1	17.0	16.8
Taxes on goods and services	54.1	51.8	50.4	50.1	52.2
VAT <sup>1</sup>	21.2	30.5	31.9	33.3	34.8
Excise & others	32.9	21.3	18.4	16.8	17.4
Taxes on international trade	17.9	17.8	17.4	19.2	19.5

<sup>1</sup> Turnover tax prior to 2001.

Source: Rwanda Revenue Authority.

## b. Corporate and personal income tax

The corporate and personal income tax code was overhauled in 1997 under Law 8/97 and was further reformed at the end of 2005 (Law 16/2005). Although the reforms have improved the structure, administration and efficiency of the tax system, the code still suffers from a number of weaknesses.

<sup>27</sup> These goods include: health care, educational services, transport services, books, agricultural inputs, ICT goods and certain goods imported under RIEPA certification.



Key among these are: (1) a lack of clarity and some inconsistencies in different language versions of the laws;<sup>28</sup> (2) a complex and administratively burdensome structure of incentives; and (3) an insufficiently clear vision as to how fiscal incentives can help achieve national development goals and how they should be structured. The income tax code of 2005 will apply from fiscal year 2006. It introduces a number of changes from Law 8/97, without generating a fundamental overhaul. The main characteristics of the income tax code of 2005, compared with Law 8/97 are as follows (table II.3):

- The corporate income tax rate has been lowered to 30 per cent from 35 per cent previously.
- The rules for deductions for depreciation of capital assets have been simplified, and the rates modified. All assets are depreciated on a straight line basis, and the rates closely track the actual useful life of the assets. While rates have been increased in a number of cases, plants and machinery are subject to slower depreciation under the new income tax code.
- Loss carry-forward is bounded to five years, unchanged from Law 8/97.
- The withholding tax rate on dividends, management fees and interest income has been harmonized at 15 per cent. Dividend payments to non-residents were not subject to a withholding tax previously, while agency fees and interest income were taxed at 20 per cent.
- The 2005 code introduces unilateral tax credits on foreign sourced income.
- The 2005 code introduces provisions for transfer pricing, although their operationalization remain to be defined by rules of implementation.

One of the purposes of Law 16/2005 and the Investment and Export Promotion and Facilitation law of 2005 was to consolidate all fiscal incentives in the income tax code. While this has indeed been achieved, most incentives remain conditional upon obtaining a RIEPA certificate. Given the minimum capital requirement to be eligible for such certificates (section C.1), this implies that the incentives will not be available to small investors. The RIEPA-linked incentives are:

- The zero-rating of VAT on imported capital goods and raw materials that are subject to zero-rated tariffs. This incentive already existed under Law 8/97.
- A flat 5 per cent tax in lieu of all other duties (tariffs, excise and VAT) on imported capital goods and raw materials that are not subject to zero-rated tariffs. The exemptions require RIEPA and RRA authorization for each transaction.
- An accelerated rate of depreciation of 40 per cent in the first year, on the additional condition that the investment be at least Rwf30 million (\$54 000) and that the asset be held for a minimum of 4 years. The accelerated rate of depreciation is increased to 50 per cent in the first year for investments located outside the Kigali area or in one of the 10 priority sectors defined by the Investment and Export Promotion and Facilitation law of 2005 (section C.1).
- A special regime has been introduced for international headquarters operations providing a 0 per cent corporate income tax rate and exemption from dividend withholding tax. This regime is conditional upon a minimum capital investment of \$2 million and local expenses of \$1 million per year.

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<sup>28</sup> Kinyarwanda, English and French are the official languages. The issue of consistency between the three language versions of the laws, which are all equally valid and deemed equivalent in Court, is a general issue and not restricted to tax laws. It is particularly important in technical areas, where translations are more difficult and where terms may not exist in Kinyarwanda.

**Table II.3. Corporate taxation, 1997 and 2005 laws**  
(Percentage, unless otherwise specified)

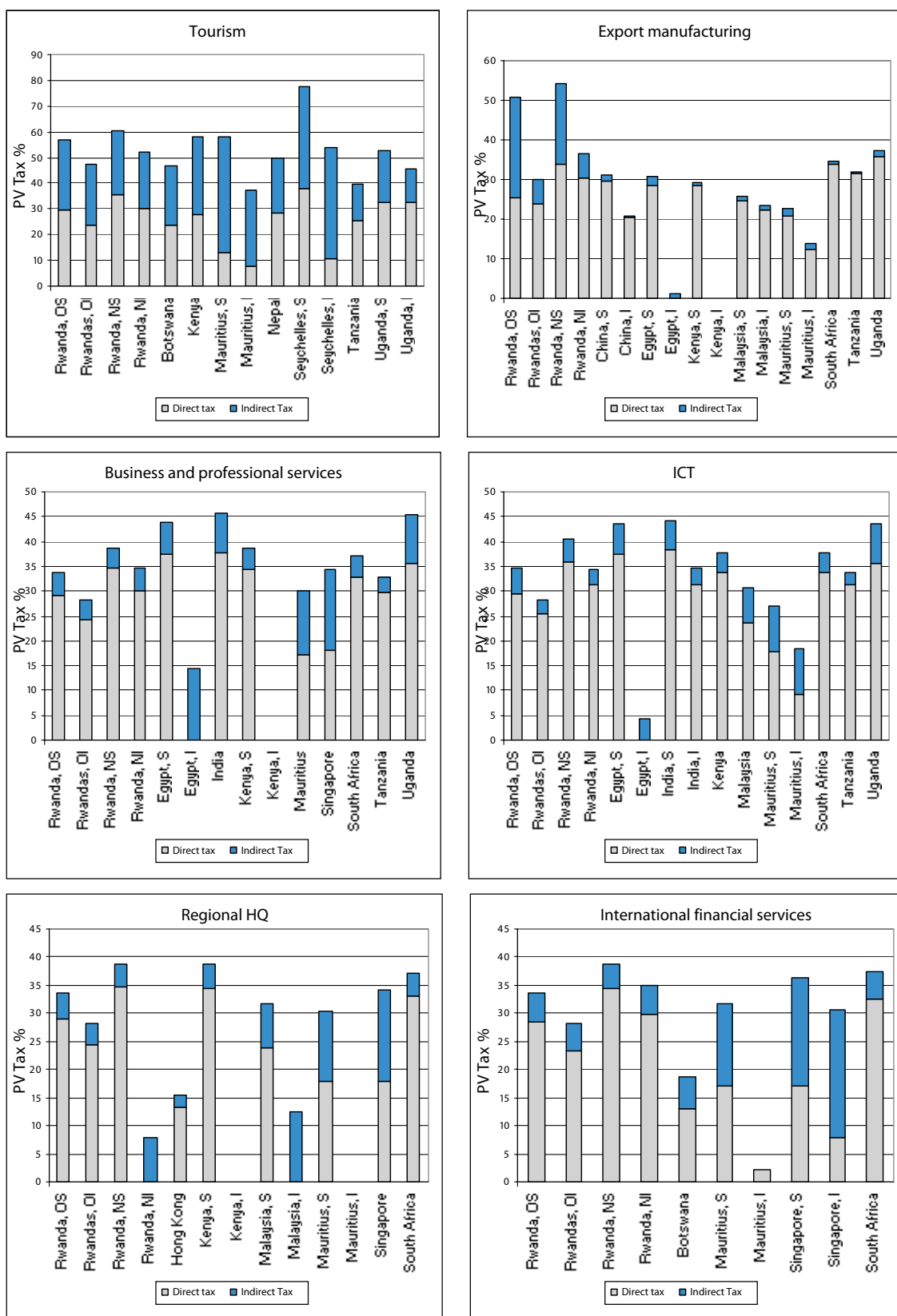
	1997 Code	2005 Code
Corporate income tax rate	35%	30%
Withholding rate dividends to non-residents	0%	15%
Withholding rate on agency fees and interest	20%	15%
VAT rate		
Standard	18%	18%
Exports	0%	0%
Loss carry-forward (years)	5	5
Depreciation rates (straight line)		
Buildings	4%	5%
Plants and machinery	15%	5%
Computers	33.3%	50%
Office equipment	20%	25%
Goods vehicles	25%	25%
Foreign-sourced income	Tax credit under DTT only	Unilateral tax credit
RIEPA certificates necessary for incentives	yes	yes
<b>Incentives</b>		
5 percent flat fee on imports	yes	yes
Investment allowance (30 percent)	yes	no
Accelerated depreciation	no	yes
Employment-based tax rate reduction	no	yes
Export-based tax rate reduction	no	yes

Source: Law 8/97 and Law 16/2005.

In addition to these incentives that require RIEPA certification, the 2005 income tax code introduces two additional incentives based on outcomes:

- A reduction in the corporate income tax rate of 2, 5 or 6 per cent for companies employing a large number of Rwandans (from 200 to more than 900);
- A reduction in the corporate income tax rate of 2 or 5 per cent for companies exporting \$3-5 million a year or more than \$5 million a year, respectively;

**Figure II.1. Comparative taxation of investment**



Source: UNCTAD.

The income tax code includes a number of provisions that impact companies' cash flow. Businesses file income tax returns annually but are required to make anticipatory payments on a quarterly basis, with the amount due equal to one quarter of the total income tax paid in the previous year. Although these anticipatory payments are deducted from the end-year tax due, excess payments are not reimbursed,<sup>29</sup> but instead credited towards future obligations (including future anticipatory payments). Similarly, winners of public tenders face a deduction of 3 per cent of the value of invoice as an anticipatory payment on future income tax. Even though these measures do not affect the total amount of income tax payable, they do negatively affect company cash flow. This may constitute a barrier to investment and business expansion, particularly in a situation where most companies face a high cost of, and difficult access to, finance.

Figure II.1 summarizes the overall tax burden as measured by the present value of tax (direct and indirect) as a percentage of the project's pre-tax cash flow (annex). Data is provided for the regime that prevailed until 2005, under the standard and incentives cases (OS and OI), and for the new income tax law, under the standard and incentives cases (NS, NI). Data for comparator countries is either under a standard regime (S) or under an incentive regime (I). Comparator countries are selected either because they are direct competitors for Rwanda, or to illustrate the fiscal regime put in place by countries that have demonstrated success in developing a certain sector.

In general, corporate taxation in Rwanda does not appear to place an excessive burden on investors or to be uncompetitive relative to a number of comparator countries. Rwanda's regime can be qualified as "average", but it is not among the countries with the lowest tax burden.<sup>30</sup> This statement holds for most sectors with the notable exception of Rwanda's export manufacturing sector, where the burden of indirect taxes is high, unlike most other countries with elaborate duty drawback schemes for exporters.

Although the Law 16/2005 lowers the corporate income tax rate from 35 to 30 per cent, the modelling shows that the tax burden on *foreign* investors will in general *increase* compared with the level under Law 8/97. This is essentially the result of the introduction of a 15 per cent withholding tax on dividends paid to non-residents. The tax burden on domestic investors, in contrast, will fall under the new rules.

This modelling indicates that the fiscal burden is not a major impediment to investment. Yet, Rwanda's "average" position also means that the tax regime is not a pull factor for investment. A number of improvements and modifications could be introduced to make the fiscal regime more attractive and competitive, as part of the strategy to turn Rwanda into a "centre of excellence in soft infrastructure and governance" (see below). The reforms would:

*Make Rwanda's general fiscal regime the most competitive and well-administered in the region*

A number of incremental improvements and modifications could be introduced over the next few years in order to make Rwanda's tax regime a model of excellence in administration, efficiency and fairness, and the most competitive in the region. The recent reduction in the corporate income tax rate is a step in the right direction, as is the decision to provide unilateral tax credits on foreign sourced income. Additional measures to make the *general* regime more competitive could be adopted:

<sup>29</sup> Except if the company is wound down.

<sup>30</sup> With the exception of regional headquarter operations, for which the 2005 law establishes a particularly favourable tax regime, subject to certain conditions.

- Lower the headline corporate income tax rate to 25 per cent in the near future and bring the dividend withholding tax rate to 10 per cent;
- Provide for faster rates of depreciation on durable assets and allow unlimited loss carry-forward in lieu of the current five years;
- Set up a comprehensive duty drawback scheme for exporters;
- Further improve capacity at the RRA, provide more clarity on tax regulations and ensure full consistency between the three language versions of the fiscal laws and regulations;
- Draw up clear guidelines and regulations for transfer pricing;
- Minimize the impact of taxation on companies' cash flow, including through removing the anticipatory payments on corporate income tax and the 3 per cent tax on the value of invoice for winners of public tenders.

*Streamline the administration of incentives*

Incentives provided by law should be easy to administer and widely and readily available to investors. RIEPA certificates should not be required to access incentives and it serves no real purpose to restrict access to tax incentives to large investments and discriminate against small investors, who are likely to play a key role in Rwanda's development. RIEPA could dispense altogether with the minimum capital requirements for certificates.

*Make fiscal incentives outcome-based and targeted to development goals*

Incentives should be conditional upon outcomes and available to all who reach the desired outcome, regardless of other conditions (size, time of establishment, etc.). These could focus on employment creation and export promotion (as is already the case), but could also target the transfer of knowledge and skills. The Government could consider:

- Supplementary deductions from the income tax base for personnel training expenses;
- Targeted incentives to attract foreign skills and entrepreneurship (section D.4).

*Minimize the impact of taxation on companies' cash flow*

This would call for removing measures such as anticipatory payments on corporate income tax and the 3 per cent tax on the value of invoice for winners of public tenders.

**c. Export processing zones**

Although an export processing zone (EPZ) scheme was established under Law 14/98, no zone has been set up so far. The 2005 Income Tax and Investment and Export Promotion and Facilitation laws have reformulated and enhanced the incentives provided under a new EPZ scheme. RIEPA has now identified an area around Kigali to set up an EPZ, and it estimates the development cost at around \$70 million, of which the public sector would cover around \$45 million. The targeted uses and sectors are wide, including logistics, warehousing, manufacturing and services.

Under the new scheme, RIEPA is responsible for the supervision of EPZs, which can be privately or publicly established. Single-enterprise zones are also allowed, and investments in industrial, commercial and

services activities are permitted on the condition that a minimum of 80 per cent of output be exported. Professional and financial services are allowed in the zones. The main incentives are:

- Exemption from import and excise duties and VAT on imported capital goods and production inputs;
- Exemption from withholding taxes on dividends and tax-free repatriation of profits;
- Zero per cent corporate income tax rate for an unlimited period of time.

These incentives provide a virtually tax-free operating environment for firms in EPZs. The Investment and Export Promotion and Facilitation law of 2005 stipulates that RIEPA will assess whether businesses proposing to establish in an EPZ will provide all or some of a number of benefits to Rwanda when granting licences to operate in EPZs.<sup>31</sup> It is not clear that a traditional EPZ is the best instrument to attract the type of investments that the country would benefit most from. In particular, providing a tax-free environment for an unlimited period of time may be excessive, especially if the Government faces the cost of setting up some of the physical infrastructure to EPZs. It also runs the risk of attracting “non-sustainable” investors that choose investment locations mostly for incentives purposes and operate as enclaves with very limited linkages with the economy.

Better targeted incentives aimed at promoting the type of investments that Rwanda needs most may be a more efficient use of fiscal policy tools and scarce government resources. An alternative strategy, modelled around multi-facility industrial parks and free port logistics centres would be more appropriate for Rwanda (chapter III, section E). The experience of other countries, including Kenya,<sup>32</sup> also shows the difficulty of generating linkages and transfers of technology with investments in EPZs that are driven in good part by generous fiscal incentives.

#### **d. Customs duties and inspection**

Rwanda has gradually reduced the level of protection granted to its domestic producers over the past decade, with the weighted average MFN duty rate falling to 10 per cent in 2003 from 25 per cent ten years earlier. It maintains a clear escalation in duty rates, with capital goods subject to an MFN tariff of 0 per cent, raw materials taxed at 5 per cent, intermediate goods at 15 per cent and final consumer goods at 30 per cent. Rwanda’s imminent entry into the East African Community (EAC) and its Customs union will require a harmonization towards lower MFN rates.<sup>33</sup> It will also make it more difficult for Rwanda to further reduce MFN tariffs in the future if it wishes to pursue the policy of the past decade, as this will have to be done in consultation with all EAC members.

The Customs authorities, which are part of the RRA, have achieved significant improvements in administration over the past few years, although key weaknesses and delays remain to be addressed. The RRA eliminated pre-shipment inspection requirements in June 2004 and started implementing UNCTAD’s ASYCUDA++ Customs management system, which should improve Customs clearance procedures. It

<sup>31</sup> Including: (1) creation of high quality jobs; (2) transfers of technology and knowledge; (3) export diversification; and (4) linkages with the local economy.

<sup>32</sup> Much of the FDI in Kenya’s EPZs has been in garments assembly, and driven by AGOA preferences and generous fiscal incentives. As the impact of AGOA preferences diminishes as a result of the integration of trade in textile and garments under WTO rules, the long-term sustainability of these investments has become questionable. A number of companies have been closing cut, make & trim operations in Kenya, leaving little behind little in terms of linkages and transfers of technology.

<sup>33</sup> Customs union MFN rates are 0 per cent for raw materials and capital goods, 10 per cent for intermediate goods, and 25 per cent for final consumer goods.

requires direct trader input of Customs declaration data, which can now be done through the internet, dial-up or dedicated connections or on computers at the Customs offices. The system also allows the RRA to implement a risk-based sorting of shipments along three main routes (red, yellow and green) that require different degrees of documentary or physical inspections.

The authorities indicate that the average time for Customs clearance was around two days under the previous system, and full implementation of ASYCUDA++ is likely to reduce it further. This would bring Rwanda to an excellent regional standard, but still lagging in relation to the best global performers. As a landlocked country, Rwanda also depends on the efficiency of Customs procedures in neighbouring countries, particularly Kenya and the United Republic of Tanzania, the two main points of entry for most goods.

The Customs department has also made efforts to facilitate export procedures in recent years. In particular, it allows shipment inspections on premises for exporters of perishable goods, which cannot be stored at Kigali Kayibanda International Airport due to inadequate cold storage facilities. The Government also abolished all remaining export duties in 1999.

The key weakness in imports and exports handlings resides not so much in the Customs system *per se* as in the physical handling of goods. All imports must transit through MaGeRwa (Magasins Généraux du Rwanda), a bonded warehouse owned jointly by the Government, the Banque Rwandaise du Développement and private companies. MaGeRwa charges a fee of 4 per cent of the value of the goods, 1 per cent as a fee for handling and warehousing services, and 3 per cent as a tax to the RRA.

MaGeRwa's fee is a supplemental tax on imports, and the poor state or insufficient capacity of its infrastructure is the main cause of delays in goods clearance. Efforts to streamline and expedite Customs procedures at the RRA will thus not be complete until similar reforms are undertaken at MaGeRwa leading to: (1) fast and efficient handling of goods; and (2) the elimination of the supplemental tax on imports to leave only a cost-based fee.

## 2. Foreign exchange arrangements

Rwanda adopted a market-determined exchange rate system in 1997 under Law 11/97. The law establishes the statutes of the central bank, the Banque Nationale du Rwanda (BNR), which has full supervisory and regulatory power over the foreign exchange market.<sup>34</sup> It also allows the President, upon recommendation of the BNR and the Government, to fix the exchange rate for a limited period of time, if economic and financial conditions warrant it.

Given the systematic shortage of foreign exchange among private sector players,<sup>35</sup> the BNR is the single most important actor on the market. Large inflows of foreign aid have provided the BNR with sufficient access to foreign exchange to fill the demand for hard currency and orchestrate a progressive depreciation of the Franc from Rwf393/\$1 on average in 2000 to Rwf554/\$1 in June 2006. The BNR allows maximum daily fluctuations of Rwf5 to the dollar over the previous closing rate.

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<sup>34</sup> As per Law 11/97 and Law 28/90 on exchange controls.

<sup>35</sup> This is the consequence of the recurrent trade and current account deficit, as Rwanda typically imports three to four times as much as it exports annually.

Exchange rate regulations were revised in March 2003 and introduced the requirement that foreign direct investors register their operations with the BNR. This is a simple registration requirement aimed at improving data collection, as operations are not subject to approval by the BNR. The regulations also specify that registration gives the subsequent right to foreign investors to freely repatriate current income related to these investments, as well as any amount raised from disposal of assets. Transfer rights for debt servicing obligations are also specifically covered in the regulations.

Rwanda has accepted the provisions of IMF Article VIII that require the exchange rate to be free of restrictions on payments and transfers for current account transactions. Capital account transactions, in contrast, have not been liberalized significantly, with most operations remaining subject to BNR approval.<sup>36</sup> The other main regulations affecting foreign exchange transactions include:

- Importers, exporters and banks are allowed to engage in forward transactions to cover foreign exchange risks;
- Banks are free to open foreign exchange accounts for residents. Non-residents' accounts are allowed but require BNR approval;
- Exporters are required to report all transactions in excess of \$10 000 and must repatriate the proceeds within three months of the goods being physically shipped. Proceeds may be retained in a foreign exchange account with a local bank;
- Local banks are allowed to transfer overseas up to 70 per cent of the earnings of expatriate workers, net of income tax and contributions to social security;
- There are no restrictions on the transfer abroad of dividends, royalties, interest or income from professional services by non-residents.

Rwanda's foreign exchange system is well suited to its economic and financial conditions and favourable to foreign direct investors. The Government could nevertheless consider lifting progressively certain restrictions on capital account transactions so as to favour the emergence of an internationally-oriented banking system (chapter III).

### 3. Labour regulation

Rwanda adopted a new labour code in 2001 under Law 51/2001. Its main provisions regarding labour standards and the protection of workers mirror those of European economies. While many of these protective measures, particularly those regarding child labour, non-discrimination and the right to form trade unions,<sup>37</sup> are entirely legitimate and welcome, the code also introduces rigidities in hiring and firing procedures and in the organization of work that are not best fitted to Rwanda's economic stage of development and labour market conditions. The balance between the protection of existing workers in the formal sector and the need to create new job opportunities through flexible labour regulations is tilted excessively towards the former, particularly for a country where formal employment represents such a small share of the total labour force.

The World Bank's *Doing Business in 2006* ranks Rwanda 128<sup>th</sup> out of 154 countries on its overall "rigidity of employment index", which combines measures of rigidities in hiring, firing and numbers of

<sup>36</sup> While capital account transactions directly related to FDI have been liberalized, other (mostly debt-creating) operations remain subject to approval by the BNR. This includes external borrowing, foreign deposits in domestic banks and outward FDI.

<sup>37</sup> These provisions include a ban on formal employment for children below the age of 16 (with some exceptions allowed for children aged between 14 and 16) and on any discrimination based on gender, ethnic origin or religion.



hours worked.<sup>38</sup> Neighbouring Kenya and Uganda, in contrast, rank 40<sup>th</sup> and 15<sup>th</sup>, respectively, with most developed economies exhibiting a much higher degree of flexibility than Rwanda (table II.4).

**Table II.4. Labour market rigidity index, 2005**  
(0 to 100, 100 = highest rigidity)

	Difficulty of hiring	Rigidity of hours	Difficulty of firing	Overall rigidity index
<b>Rwanda</b>	<b>56</b>	<b>60</b>	<b>60</b>	<b>59</b>
Kenya	33	20	30	28
South Africa	56	40	60	52
United Republic of Tanzania	67	80	60	69
Uganda	0	20	20	13
OECD	29.5	50.0	27.3	35.7
East Asia & Pacific	27.3	30.8	23.3	27.2
Latin America	42.5	53.3	31.0	42.2
Sub-Saharan Africa	48.1	63.2	47.8	53.1

Source: World Bank (2005a).

The main elements limiting labour market flexibility include:

- Fixed-term contracts are deemed indefinite contracts as soon as they are renewed for at least two successive terms, unless there has been an interruption requested by the worker. Fixed-term contracts are also limited to a maximum of two years. The three EAC countries have no limit on the duration of fixed-term contracts.
- The trial period during which an employee may be dismissed without compensation or formal justification is restricted to six months.
- Dismissals may lead to indemnities equivalent to up to 6 months of wage, or 1 year if the worker had been employed for more than 10 years. The average total firing cost (in weeks of wage) is estimated by the World Bank's *Doing Business* at 54 weeks, compared with 47 weeks in Kenya, 38 weeks in the United Republic of Tanzania and 12 weeks in Uganda.
- The contractual work-week may not exceed 40 hours, and any work in excess of that is considered overtime and must be compensated accordingly. Overtime is capped at 10 hours per week.

In addition to these provisions, Law 51/2001 provides for a minimum of 18 days of paid holiday per year and establishes a minimum wage (*saire minimum interprofessional garanti*, SMIG). It is currently set at a very low level and is not a constraint to hiring. Law 51/2001 also organizes the right of workers to form and join trade unions, as well as that of employers to form associations.

Labour disputes involving a single employee must be brought to conciliation within the company before any recourse to a labour inspector for another attempt at conciliation. Unresolved disputes are then referred to a competent tribunal. Collective disputes must be referred to a Conciliation Council before they can be referred to a tribunal. Similarly, strikes and lock-outs are considered illegal until an

<sup>38</sup> *Doing Business*, World Bank (<http://rru.worldbank.org/doingbusiness/>).

attempt at conciliation has been made and failed, and typically require a four-day notice. In any case, the right to strike may not infringe upon the right of other people to work.

As mentioned above, most workers' protection mechanisms in the law are entirely legitimate and welcome. Given the crucial need to generate additional formal sector employment and encourage informal sector activities to integrate the formal economy, it would be sensible for Rwanda to allow more flexibility in hiring and firing procedures and in the organization of the work-week, however. In particular: (1) provisions on fixed-term contracts could be relaxed, including the automatic conversion into indefinite contracts; (2) the trial period could be extended to a year or two;<sup>39</sup> (3) the organization of the work-week and workday is rigid even by European standards, and the situation of Rwanda warrants a higher degree of flexibility; and (4) firing procedures would gain from a higher degree of flexibility and lower cost. Far from reducing labour standards to low international standards, such increases in flexibility would bring Rwanda closer to international practice and could promote much-needed employment creation.

#### 4. Employment of foreigners

Rwanda operates a "reactive" system of allocating work and residence permits to expatriates. Although it has not created major impediments to most existing foreign investors, the system is excessively restrictive in defining the types of skills that can be imported and it does nothing to *actively attract desired* skills. As illustrated in chapter I and further addressed in chapter III, one of the single most important barriers to development in Rwanda is the shortage of skills. Rather than *allowing* the import of skills, Rwanda should set up a *proactive skills attraction and dissemination programme* as a key foundation of its investment and development strategy. This scheme should incorporate concrete measures to optimize the dissemination of skills to nationals, thereby contributing to one of the main objectives of Vision 2020.

Under Law 17/99, work permits for expatriates are granted under two conditions: (1) proof that the employer could not find a national with appropriate skills to fill the position; and (2) the expatriate worker must hold a university degree and professional experience commensurate with the position. The first part of this procedure, known as "labour market testing", applies to every request for a work permit. Once the employer has been able to prove to the immigration authorities that there is no qualified national to fill the position, a one-year work permit may be issued. The work permit is separate from the residence permit, which must be obtained independently, also for one year.

Work and residence permits are each subject to a fee of Rwf200 000 (\$360) and may be renewed up to three times. Although the immigration administration has ensured that work and residence permits are delivered rapidly and relatively efficiently, the need to renew permits annually is placing an unnecessary burden on expatriates and employers, as well as on the administration itself. Limiting renewals to three also means that a foreign worker is limited to four year contracts at most, which is unduly short.

Employers are required to hire an "understudy" for each expatriate position. Under this scheme, the understudy is to be trained to replace the expatriate worker in due course. A report on the training of the understudy must be filed each time a work and residence permit is renewed (i.e. each year). Although this programme is aimed at transferring skills to nationals, its impact is limited as only a small number of people benefit from it and as it is rigid in terms of implementation.

In addition to the work and residence permits an employer may obtain through the normal channel,

<sup>39</sup> In August 2005, the trial period was extended to two years in France for workers in small companies (up to 20 employees), as one of the Government's key measures to introduce labour market flexibility and promote employment.

RIEPA-registered investors are entitled to three permits, as long as the investment exceeds \$100 000. The Investment and Export Promotion and Facilitation law of 2005 also introduced the possibility for an investor to obtain permanent residence, which is conditional upon him/her maintaining a minimum of \$500 000 on a term deposit in a Rwandan commercial bank. All expatriates are granted certain fiscal advantages upon initial installation in Rwanda, which consist mainly of the right to import one car for personal use and personal belongings free of duty.

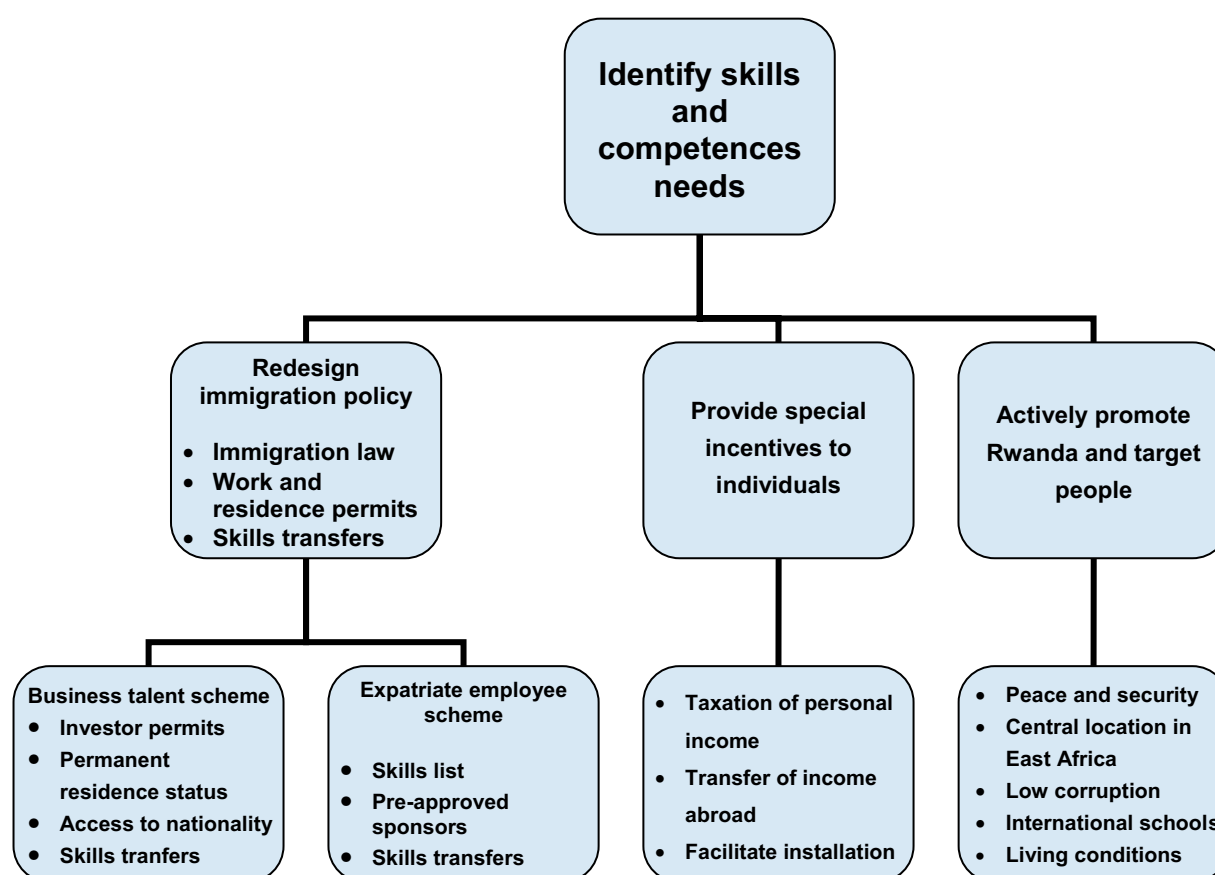
The current system is relatively well administered, but it is excessively restrictive in defining the skills that can be imported (a university degree is required). While it may not be an impediment to investors requiring expatriate managers, the existing scheme does not allow Rwanda to actively attract all the skills, competences and investment that it needs. A *proactive skills attraction and dissemination programme*, in contrast, could be at the core of a development and foreign investment promotion strategy. It would usefully complement and reinforce Government efforts (including with ODA support) to raise human capital through its forceful education policy. Given the small size of its economy and the limited development of the industrial and services sectors, Rwanda is more likely to attract individuals or family-based foreign investors and SMEs than large multinationals (chapter I). Such investors could generate a significant development impact and provide important entrepreneurial, management and technical skills. A skills attraction and dissemination programme could be articulated as follows (figure II.2).

#### **a. Identify skills and competences needs**

Rwanda's population is predominantly rural and possesses little formal skills or training in activities outside traditional agriculture (chapter I). The skills shortage extends to a wide span of fields and activities and is not limited to formal higher education (university training). The Government should first of all draw a list of skills and competences that are particularly needed, based on its national development agenda (Vision 2020 and PRSP). This list would underpin immigration policy and be re-assessed periodically. Given Rwanda's current situation, it should be widely defined and would encompass, at a minimum, the following skills, competences and sectors:

- Entrepreneurship;
- Infrastructure (utilities, telecommunications, transport): engineers, technicians, pilots, ground technicians, management, construction;
- Tourism: hotel management and employees, travel agency and tour operation, ancillary services (restaurants, bars, trekking, etc.);
- Agribusiness: management, technical skills, knowledge of markets and SPS;
- Services sector: legal services, accounting, consulting, banking, financial management, architecture, computer programming, land surveying, ICT and IT-enabled services;
- Mining: engineers, chemists, surveyors, machine operators, technicians, mechanics;
- Manufacturing: management, technicians, mechanics.

Figure II.2. Skills attraction and dissemination programme



### b. Redesign immigration policy

Attracting business and entrepreneurship talent on an “individuals” basis calls for work permit schemes that are fundamentally distinct from those required to facilitate access to necessary competences by corporate entities. Redesigning immigration policy should thus focus on two schemes: (1) a business talent scheme; and (2) an expatriate employee scheme.

#### *Business talent scheme*

One of the key competences that Rwanda would benefit from attracting is entrepreneurship, which would bring associated skills, foster the densification and diversification of the industrial and services sectors and promote the transfer of skills to nationals. A business talent scheme aimed at attracting individual entrepreneurs could be structured along the following lines:

- Create "investor permits" for skilled individuals. A minimum capital requirement<sup>40</sup> would be established to screen *bona fide* investors. It should be associated with a list of desired skills. Investor permits could be made available in given numbers by types of sectors/skills if necessary, and the minimum capital requirement vary across sectors.

<sup>40</sup> The exact amount would have to be determined, but should initially remain relatively small as the capital requirement should be no more than a screening mechanism, and the investor's main contribution would be in terms of skills. An amount of \$25 000 could be considered initially and revised over time as the programme progresses.

- Provide permits for nuclear families. Individual investors need to be allowed to move to Rwanda with members of their nuclear families, who should also be permitted to work in the business.
- Provide certainty on permits. Individual investors need to have sufficient certainty that their permit will be renewed as long as the business is in operation. Clear guidelines and conditions as to how and under what conditions permanent residence status (or citizenship) can be gained should also be established.
- The investor permit should consolidate work and residence permits.

The new scheme established under the Investment and Export Promotion and Facilitation law of 2005 is a step in the right direction. It is not adequately structured to achieve the desired outcome, however, and does not have the features proposed above. In order to promote the integration and smooth assimilation of newcomers into Rwanda's social fabric, it would also be necessary to put in place a number of requirements and/or facilitation measures. These could include:

- Setting up a language test. Although investors attracted under the business talent scheme are likely to speak one of Rwanda's three official languages, this may not necessarily be the case. In order to ensure integration with local communities, obtaining the investor's permit could be made conditional upon demonstrating fluency in English, French or Kinyarwanda, or at the very least upon a commitment to learn one of them. In such a case, renewal of the permit could be made conditional upon demonstrating fluency after a period of about three years. Similar requirements could apply to all members of the nuclear family.
- ODA support could be sought from English- and French-speaking countries to establish evening programmes for adults in their respective language. Such partly or fully subsidized classes should be open to Rwandans and foreigners alike. They would be a good social integration tool for foreigners and would prove very useful for Rwandans as well, as English-French bilingualism among adults is still not widespread.

#### *Expatriate employee scheme*

Established companies may need skills that are not available domestically or in short supply. The second aspect of redesigning immigration policy should make the process of importing skills and competences in short supply as smooth and efficient as possible and provide a clear assessment of the skills needs. The dissemination of skills and competences to nationals should be maximized through well-targeted training requirements. Under the current immigration policy, most procedures for securing work and residence permits are "back-loaded" to the recruitment level. Under such a system, immigration decisions are taken at the (individual) recruitment level: labour market testing is carried out for each position, training requirements are programmed at the individual level and the corporate sponsor for the employee is assessed every time a request is made.

A "front-loaded" approach, in contrast, would bring many procedures and decisions forward in the decision-making process, hence avoiding unnecessary duplication at the individual level. Such a "front-loaded" approach would allocate work and residence permits as follows:

- Draw a list of skills that are in short supply at the national level. For these predetermined skills, the sponsor would not need to conduct individual labour-market test;

- Lift the requirement that the expatriate worker hold a university degree. This condition does not provide an appropriate benchmark to evaluate Rwanda's skills needs;
- Screen sponsors based on their track-record of good-practice in employing expatriate workers (training programmes for nationals, no excessive recourse to expatriate workforce, no overstays, etc.). Sponsors with a good track-record would be subject to less extensive verification than sponsors without track-record or with a poor one;
- Unify work and residence permits;
- Lengthen the period of issuance of the single permit from one-year to up to three years.

### c. Set up training and transfer of skills requirements

The import of skills in short supply to support economic activity would benefit Rwanda in and of itself. Allowing foreign entrepreneurs to relocate to Rwanda and facilitating companies' hiring of foreign skills should nevertheless be accompanied by concrete mechanisms to maximize the dissemination of skills, know-how and competence to Rwandan nationals. At the moment, employers are required to put in place an understudy programme for each expatriate employee. A wider transfer of skills to nationals would be ensured with the following mechanism:

- Require entrepreneurs obtaining investors' permits to set up training schemes for national workers;
- Make training and localization a company-wide obligation in lieu of position-specific understudy programmes when expatriate workers are hired. Company-wide training programmes offer more flexibility and opportunities to transfer skills to the entire workforce than understudy programmes. Training obligations could be linked to the number of expatriate workers, turnover, or a combination of these and other factors. The status of a sponsor would also be linked to the quality and scope of its training programmes for nationals;
- Provide limited fiscal incentives for training programmes, including allowing over 100 per cent tax expensing of training costs.

### d. Provide special incentives to individuals

In addition to a framework that *attracts* individuals, the Government would need to set up policies that *entice* them to move to Rwanda. A number of options could be considered, including:

- Duty-free imports of personal belongings upon installation (already in place);
- Non-resident status for personal income tax purposes for a limited number of years;
- Zero-rated (or lower rated) taxation on income earned overseas (e.g. earnings on assets held overseas);
- Deductibility for tax purposes of medical insurance and pension fund contributions overseas;
- Special provisions for the transfer of income abroad;
- Support services for installation (finding housing, schooling, medical care);
- Further encouraging the development of international schools, with curricula in English and French and international recognition of degrees.

### e. Actively promote Rwanda and target people

Once an appropriate policy and regulatory framework has been put in place, the Government will need to actively promote Rwanda as a destination not just for investment, but for individuals to reside.

Given the synergies with general investment promotion, this function would best be carried out by RIEPA. It would involve a slightly adapted promotion and aftercare strategy, based both on investment opportunities and on the attractiveness of Rwanda as a place of residence. The promotion strategy could focus on the following assets:

- Central location in East and Central Africa;
- Peace, personal safety and stability;
- Low incidence of corruption;
- Pleasant living conditions;
- Availability of international schools and modern health facilities.

The Government has been very active over the past decade to entice Rwandans from the Diaspora to return and invest at home. Similar efforts to entice foreigners to reside and invest in Rwanda would best be targeted at individuals from within the region. In particular, investors of various ethnic origins in East and Central Africa, who already have a good knowledge of the region, are most likely to be open to the idea of moving to Rwanda with their skills and capital. A proactive promotion campaign would require providing information on the programme through a dedicated internal portal.<sup>41</sup>

## 5. Land

History, geography and population dynamics have made land issues particularly sensitive and complex in Rwanda. Population density is the highest in Africa and similar to the level in Belgium or Japan, and the population growth rate is one of the highest in the world (table II.5). The hilly nature of much of Rwanda's terrain also generates acute challenges for land use and preservation, and the potential to increase the availability of arable land is extremely limited.

Rwanda has also had to deal with the consequences of the 1994 genocide and previous displacements of population. Around 800 000 Rwandans from the Diaspora returned in the aftermath of the genocide, while around 2 million people fled to the Democratic Republic of the Congo and other neighbouring countries as the FPR forces took control of the country. Most of these refugees returned home in the mid- and late 1990s. This vast displacement of population over a short period of time has created particularly sensitive land ownership issues.

The Government recently elaborated a land policy and adopted a new land law in 2005 that seek to address these and other issues. It aims to provide a unified framework for property titles, which currently fall under a mix of customary law (governing most rural areas) and written law (governing parts of urban districts). The land policy and land law are carefully and well designed and should generate a significant improvement in land use, land management and property titles once implemented. Full implementation, however, is likely to take well over a decade under even optimistic scenarios. The main elements of the land policy and land law provide that:

- All land titles will be translated into written law, as customary land law will progressively cease to apply;
- A comprehensive land registration system and cadastral survey will be established progressively;

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<sup>41</sup> Singapore, which has a very elaborate skills attraction programme, has put in place such a portal: [www.contactsingapore.org.sg](http://www.contactsingapore.org.sg)

- Private property of land is allowed under renewable leasehold titles of up to 99 years. Land property can be sold, mortgaged or bequeathed at will;
- Natural resources in the sub-soil remain property of the State;
- Land will be classified as "rural" or "urban". Ownership over rural land will entail obligations to put it to productive and sustainable use (anti-erosion structures, improvement of its fertility);
- Foreigners will be conferred the same rights over land ownership as Rwandan citizens.

**Table II.5. Land indicators (2002, unless indicated)**

	Rwanda	Kenya	U. R. of Tanzania	Uganda
Population (millions) <sup>1</sup>	8.4	32.0	37.0	25.8
Population growth (%)	2.9	2.0	2.1	2.8
Population density (person/km <sup>2</sup> )	330.9	55.1	39.8	124.8
Population in capital (millions)	0.6	2.2 <sup>2</sup>	2.5	1.2
Rural population (% of total)	93.6	64.8	65.8	85.1
Urban population (% of total)	6.4	35.2	34.2	14.9
Arable land (% of total)	40.5	8.1	4.5	25.9
Arable land per person (ha)	0.13	0.15	0.12	0.21
Arable land in use (% of potential arable land)	156.8	28.5	5.2	48.0
Steeplands <sup>3</sup> (% of total)	75	48	49	47

<sup>1</sup> 2003.

<sup>2</sup> 1999 census.

<sup>3</sup> Slope of 8 per cent or higher.

Sources: World Bank, World Development Indicators, IMF, International Financial Statistics, Food and Agriculture Organization and national sources.

In addition to this, the new land law provides that “the Government shall have the duty of finding land to give to those who have been deprived of their right to own land.” The Arusha Peace Agreement stipulated that refugees have the right to repossess their property upon their return, provided that it is reclaimed within at most 10 years. This provision implies that the Rwandan Diaspora that had been in exile for decades cannot reclaim property lost before the 1990s. It seeks to avoid the disruption that would be generated by moving people away from land or property they have occupied for an extended period of time, but obliges the Government to find suitable land for people returning from long-term exile. In contrast, refugees who fled Rwanda in the aftermath of the genocide and returned in the late 1990s and early 2000s were entitled to reclaim their property. Although all property issues have not been resolved, the return of refugees to their homes has been relatively smooth. Securing land property titles and providing land to the remaining landless Diaspora, in turn, should further strengthen peace and stability in Rwanda.

A sound policy and legal framework has thus been established, even though some accompanying regulations remain to be drafted. The success and impact of the new framework will also depend on the ability to implement the reforms. In particular, progress in establishing a cadastral survey and land



registration system will be crucial. This will require sustained efforts over a long period time and will be central to the Government's objective to ensure a productive, efficient and sustainable use of land.

## 6. Environmental regulations

The scarcity of natural resources, fragility of the environment and high density of population call for particularly careful management of environmental policy. In view of ensuring sustainable development, Rwanda filled an important gap in its legal framework in April 2005 by adopting Law 04/2005 on environmental protection. The Law establishes modern principles in environmental management of land, water, air, biodiversity, landscapes and natural sites. It institutes the principles of polluter-pays and precaution in face of uncertainty, and focuses on prevention of negative environmental consequences through *ex-ante* impact assessments.

Implementing rules and regulations are yet to be drafted that will define in details the types of projects that will require environmental impact assessments (EIAs) and their nature. Public works, mining and all projects involving land development will require EIAs. They will be assessed by the newly created Rwanda Environmental Management Authority (REMA), an autonomous body with broad supervisory powers. REMA will be financed partly by a tax of 0.5 per cent of the amount invested to be imposed on projects requiring EIAs.

## 7. Governance and judiciary system

Rwanda is widely – and rightly – perceived as having a low incidence of corruption.<sup>42</sup> This is the result of a long-standing commitment from the highest sphere of Government not to tolerate corruption at any level. In 2003, Parliament adopted Law 23/2003 establishing sanctions ranging from 2 to 20 years imprisonment for passive and active corruption, together with fines ranging from twice to ten times the amount of the bribe. The Law also has provisions for penalties on legal entities (whether public or private), which include fines of up to ten times the amount of the bribe and exclusion from public contracts for up to 2 years. The law also seeks to prevent corrupt practices by requiring all public institutions to set up internal audit procedures, elaborate rules and timelines as to how and when decisions are taken, and recruit personnel through competitive examinations.

Investors assess the judicial system as generally fair, but not efficient. The most important constraint is the lack of resources and qualified personnel, which creates a backlog of cases and generates problems to render predictable and competent judgments. Few judges have the training and ability to rule on technical business issues. The World Bank's *Doing Business* also estimates the cost of enforcing contracts<sup>43</sup> at 43 per cent of the amount claimed. This compares to 22 per cent in Uganda, 41 per cent in sub-Saharan Africa, and 11 per in OECD countries.

The backlog of cases resulting from a large number of people still awaiting trial for crimes of genocide is also slowing judicial procedures, even though special Gacaca courts have now been established. The work of these courts is beyond the scope of this Review, but their success will be key to ensure a

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<sup>42</sup> This is confirmed by investors' interviews in Rwanda and Transparency International's 2005 Corruption Perception Index. Rwanda ranks 13<sup>th</sup> out of 44 African countries and 83<sup>rd</sup> out of 158 countries globally. The Rwanda index, however, is based on a survey of only 3 institutions (out of a possible 16 sampled by Transparency International to build its index). This means that the interval of confidence for the Rwanda index is wider than for most other countries, whose index is based on a survey of a larger number of institutions. A wider sampling for Rwanda could thus place it in a more favourable position still.

<sup>43</sup> Cost of enforcing payment of an amount equivalent to 200 per cent of income per capita, assuming that the plaintiff is fully in his/her right and that there is no appeals to the judgement.

lasting reconciliation and to building a strong judiciary system. The Government is also making significant efforts to improve commercial justice. It set up an arbitration mechanism in 2004 that has become operational following the training of 38 arbitrators and the establishment of the physical infrastructure. The Government is now working to establish commercial courts in Kigali, Ruhengeri and Butare. Judges have been trained and equipment provided, but the courts are not fully operational yet.

This has the potential to greatly improve the efficiency of the judicial system for investors. Additional measures would still be necessary, however, including:

- Further training of judges;
- Modernizing some key commercial laws and regulations. The Government took a first step in that direction by creating a business law reform commission in September 2005;
- Improving the precision and clarity in the drafting of key commercial laws;
- Ensuring the strict equivalence of all three language versions of the laws.

## 8. Competition regulation

Some provisions on competition are contained in Law 51/2001 on the organization of domestic trade. It specifies that prices are set freely by market forces as a rule, but that the Minister of Commerce, Industry, Investment Promotion, Tourism and Cooperatives has the authority to regulate prices in three cases: (1) monopolies established in view of avoiding speculation in certain sensitive products; (2) monopolies in the production or distribution of specific products; and (3) *de facto* monopolies on consumer goods and services.

Law 51/2001 specifically forbids practices that distort market prices or seek to establish a monopoly. Illegal practices are defined mainly as: (1) implicit or explicit agreements that seek to impede the free movement of goods or services, including refusal to sell and discrimination between buyers; (2) practices that seek to artificially prevent prices from falling; and (3) practices that seek to artificially increase market prices. The law also requires prices to be clearly and publicly displayed.

While Law 51/2001 contains the skeleton of a competition law, many key elements are missing, including in terms of trade practices, M&As, price setting in monopolistic markets and supervision. At present, civil servants at the Ministry of Commerce are in charge of enforcing rules on pricing and competition as no independent competition agency has been established.

Although it may not be urgent to set up an independent competition authority given resource constraints, it is important for Rwanda to devise a competition policy and associated law and regulations. The small size and limited development of the industrial and tertiary sectors make it more likely that existing or new companies be in *de facto* monopolistic situation or enjoy dominant market power. Under such circumstances, it is essential that the authorities be in a position to efficiently monitor, supervise and regulate the price setting and market behaviours of dominant firms. Putting Rwanda in such a position will require drafting proper competition law and regulations and eventually set up a supervisory body. The key elements that will have to be added to the skeleton formed by Law 51/2001 include:

- Provisions as to how much market dominance is to be tolerated. A simple competition maximization policy is not likely to be achievable or desirable: given the small size of Rwanda's economy, some degree of market dominance is inevitable;

- Provisions for mergers and acquisitions;
- More detailed provisions regarding anti-competitive trade practices;
- Mechanisms to monitor and regulate prices in markets with high concentration of power;
- Monitoring and enforcement mechanisms;
- Coordination with the Rwanda Utilities Regulatory Agency (RURA).

## 9. Intellectual property law

Rwanda's main legislation regulating industrial property dates back to 1963. Although it provides for some essential protection for patents, trade marks and industrial designs, including 20 years non-renewable exclusivity for patent holders, the law is no longer in accordance with international standards. Copyright protection, in turn, is regulated by a law dating back to 1983. Rwanda has been a member of the World Intellectual Property Organization (WIPO), the Paris Convention on industrial property and the Berne Convention on literary and artistic works since 1984.

As a member of the WTO, Rwanda is a signatory to the Trade-related Aspects of Intellectual Property Rights (TRIPS) agreement. As a least-developed country, it was initially given until 1 January 2006 to bring national legislation into compliance with TRIPS provisions. In late November 2005, however, the WTO extended the deadline for LDCs to comply with TRIPS to 1 July 2013.<sup>44</sup> The current law has not been a hurdle to domestic or foreign investment so far, and is unlikely to be so in the near future. Rwanda has nevertheless started drafting a new law with technical assistance from WIPO, which should bring it into compliance with TRIPS requirements.

## 10. Corporate governance and accounting standards

The drive to modernize the legal system has yet to extend to a number of commercial laws, which remain obsolete and inappropriate for a private-sector driven economy. Company, bankruptcy and contract laws date back from the 1960s or prior to independence and are no longer appropriate to today's business environment. Similarly, Rwanda does not have a well-established set of accounting standards, and reporting and disclosure requirements are very limited, even for larger companies.<sup>45</sup> Under such circumstances, Rwanda has obviously not put in place any legal requirement in terms of corporate social responsibility. Such requirements should not be a priority at this stage, as the focus should be on enforcing compliance with general business regulations. The few larger companies invested in Rwanda have also started corporate social responsibility programmes of their own.<sup>46</sup>

Government efforts to establish commercial courts (section D.7) will generate significant payoffs only if the judiciary is equipped with appropriate commercial laws to enforce. Modernizing commercial laws should be articulated around two main purposes:

- Facilitate the establishment of companies, big or small. This will require adapting the legal framework to allow the creation of firms under a variety of capital and liability structures, as well as streamlining set-up procedures. Such efforts will be vital to entice businesses in the informal sector to enter the formal economy.

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<sup>44</sup> The deadline for LDCs to provide patent protection for pharmaceutical products remains unchanged at 1 January 2016.

<sup>45</sup> Rwanda scores only 1 out of a maximum of 7 on the World Bank's *Doing Business* index of investor protection. For example, indirect, family or beneficial ownership in private companies need not be disclosed. Neither does information on voting agreements between shareholders.

<sup>46</sup> This includes social projects by MTN RwandaCell or Terracom, the two largest private telecommunications companies.

- Facilitate business transactions and enhance transparency. This will demand a balancing act between raising reporting and disclosure requirements for larger businesses and avoiding an excessive burden on businesses, particularly smaller ones. It will also require clear and predictable contract laws and impartial implementation by commercial courts.

The legislative actions that are called for include the adoption of: (1) a new company law; (2) a new bankruptcy law; and (3) a new contract law. In addition, the Government should promote the use of the recently created arbitration mechanisms so as to lighten the burden of formal court proceedings.

## 11. Selected sectoral regulations

Rwanda has started to reform some key sectoral laws. It adopted a revised framework for telecommunications and established an independent cross-sectoral regulatory agency, the Rwanda Utilities Regulatory Agency (RURA), in 2001. Law 39/2001 gives RURA the mandate to supervise and regulate: (1) telecommunications; (2) electricity; (3) water; (4) waste management; (5) gas extraction and distribution; and (6) transport (of persons as well as goods).

RURA has the mandate to ensure the application of sectoral laws and regulations, to foster loyal competition and protect consumers against abuses where a monopoly situation prevails and to facilitate and encourage private investment. The competition role is emphasized by Law 39/2001 as RURA is expected to closely monitor pricing and trade practices in the six sectors mentioned above, and it has been given genuine enforcement power. Anti-competitive practices are broadly defined to include price fixing, discrimination among buyers, restriction of access, abusive contractual obligations and technical barriers to entry. The law also incorporates provisions to avoid further strengthening of dominant market positions. RURA has the power to ban anti-competitive practices, impose fines,<sup>47</sup> and void a contract between parties.

The establishment of RURA is a very welcome development, and it is sensible to integrate the regulatory functions of a wide range of sectors into a single agency. This should allow not only a better use of limited resources and capacity, but also allow a steeper learning curve for regulators. The effectiveness of RURA will become more and more important in the future as market forces and the private sector increase their role in infrastructure. A successful dismantling of state monopolies in the utilities sector will raise the need for competent and efficient regulation and supervision. It will be crucial, in that respect, that RURA be given the resources it needs to perform its functions and that it be backed by a modern set of laws and regulations to enforce. While a new regulatory framework has already been adopted in telecommunications, similar modernization will have to take place for power, water, and transport for RURA to be effective.

### a. Telecommunications

The telecommunications sector remains small and under-developed, but the Government has made it a priority. It sees it as an essential backbone service for the development of a competitive economy, as well as a source of growth and employment in its own. RURA estimates the penetration rate of fixed and mobile telephony at 1.6 per 100 inhabitants. This amounts to less than 23 000 fixed line subscribers and close to 140 000 mobile phone subscribers (table II.6). Mobile phone subscribers have more than tripled between 2001 and 2004, however, as the quality and availability of service has been much higher

<sup>47</sup> Depending on the practice, fines range between Rwf200 000 (\$350) and Rwf5 million (\$9000) per day.

than for fixed line telephony. Similarly, only about 0.1 per cent of households have a computer at home, and the total number of internet subscribers remains below 3000 for the country as a whole.

The telecom market is dominated by two main operators: Rwandatel, the fixed line operator, and MTN Rwandacell, the mobile phone operator. Rwandatel was fully government-owned until June 2005, when it was sold for \$20 million to Terracom, a foreign-owned internet services provider (ISP). The Government strategy seeks to transform the telecom sector through increased private sector investment and competition under a modern legal and regulatory framework, which was introduced under Law 44/2001 in November 2001. The law provides a set of rules and regulations that reflect modern regulatory approaches and are appropriate to the structure of Rwanda's telecommunications sector. In order to increase competition, the Government granted a mobile licence to Terracom and allowed MTN Rwandacell to operate as a fixed-line operator.

**Table II.6. Telecommunications indicators**

	2001	2002	2003	2004
<b>Subscribers (active lines)</b>				
Rwandatel (fixed)	21 458	25 105	25 565	22 972
MTN Rwandacell (mobile)	44 117	82 391	97 261	137 271
Internet subscribers	1 482	2 047	2 504	2 875
<b>Turnover (million dollars)</b>				
Rwandatel	17.5	17.7	19.7	..
MTN Rwandacell	25.4	28.3	28.5	..
<b>Tariffs (Rwf per minute)<sup>1,2</sup></b>				
Mobile - fixed	..	..	120 (0.22)	132 (0.23)
Mobile - mobile	..	..	88 (0.16)	97 (0.17)
Fixed - fixed (urban)	..	..	14 (0.03)	14 (0.02)
Fixed, int'l - EU	..	..	..	525 (0.91)
Fixed, int'l - USA	..	..	..	465 (0.81)
Mobile, int'l - East Africa	..	..	..	250 (0.44)
Mobile, int'l - rest of world	..	..	..	400 (0.70)

<sup>1</sup> Cost in US dollars in brackets.

<sup>2</sup> Prices exclude VAT of 18 per cent.

Sources: Rwanda Utilities Regulatory Agency, MTN Rwandacell and Rwandatel.

RURA has a number of powers to control prices and trading practices, including the ability to enforce price controls so that prices reflect cost and "reasonable profit" for companies that dominate a segment of the market, as well as the ability impose interconnectivity between operators. Interconnectivity is particularly sensitive in countries where competition does not yet prevail and where a dominant market player may not allow interconnectivity at reasonable cost. RURA's role under Law 44/2001 is to mediate where companies cannot find an agreement, and to enforce one if mediation efforts fail.

RURA also monitors pricing and trade practices (including number portability, restrictive technical barriers and termination charges) and grants licences. It manages a universal access fund that was created in order to provide access to telecommunications infrastructure to rural areas. The fund is financed by a 2 per cent turnover tax on all operators. In 2004, close to \$800 000 was raised for the fund, with about 80 per cent allocated to Artel, a private company, to finance pilot telephony projects in 44 rural areas.

Law 44/2001 has equipped Rwanda with a modern and appropriate tool to develop the telecommunications sector through private investment. Such investment will be essential for competition to emerge, as the sector is still dominated by monopolistic operators in the fixed lines, mobile and international telephony segments, and by a small number of ISPs. Although a second mobile operator should emerge soon, RURA's regulatory and monitoring role will be crucial to the quality and cost of services for the foreseeable future. It is encouraging in that respect that the cost of mobile telecommunications in Rwanda is competitive when compared to other countries in the region (table II.7).

**Table II.7. Cost of mobile telecommunications, 2005**

(Pre-paid base, \$ per minute)<sup>1</sup>

	mobile - mobile <sup>2</sup>	mobile -fixed	mobile - United States	mobile- int'l (regional)
<b>Rwanda</b>	<b>0.17</b>	<b>0.23</b>	<b>0.70</b>	<b>0.44</b>
Democratic Republic of the Congo	0.24	0.28	0.40	0.28
Kenya	0.21	0.33	1.45	0.63
South Africa	0.40	0.40	0.76	0.47
United Republic of Tanzania	0.23	0.30	1.01	0.37
Uganda	0.21	0.21	0.56	0.49

<sup>1</sup> Prices are based on pre-paid plans for all countries, based on peak-time calls. For better comparisons, the same providers are used where available: MTN for Rwanda and South Africa, Celtel for all other countries.

<sup>2</sup> Calls within the same operator.

Sources: MTN and Celtel websites.

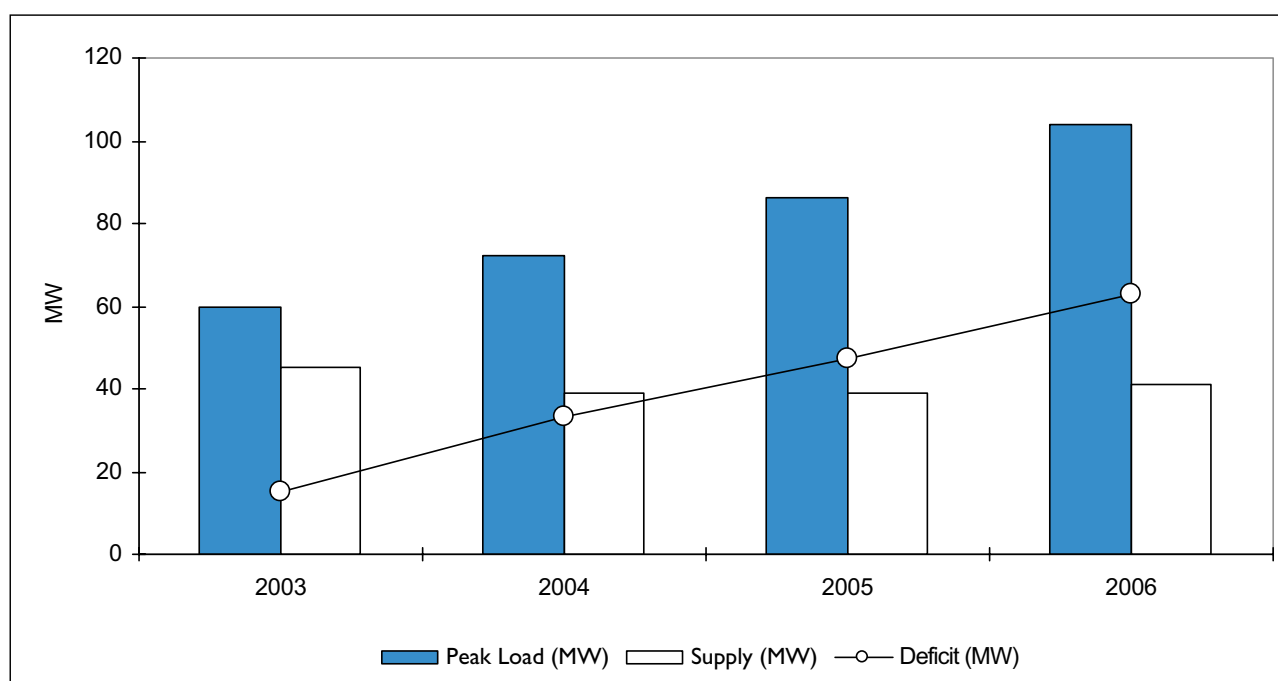
## b. Electricity

Insufficient and unreliable electricity supply is likely the most serious infrastructure constraint to both domestic and foreign investment. All electricity infrastructure (generation, transmission, distribution and micro-power units) was damaged during the genocide, and no new investment in bulk generation capacity took place between 1982 and 2004. Generation capacity is well below national demand, and the interconnectivity with the regional grid is poor and does not extend to the main excess producing countries. This has led to systematic load-shedding across the country, frequent power outages outside scheduled load-shedding times, power surges and high prices (figure II.3).

The Government has little capacity to invest in new infrastructure, and is determined to promote private investment in the power sector instead. At the moment, the entire sector (generation, transmission and distribution) is operated by Electrogaz, a 100 per cent government-owned company, which is also responsible for the water sector. Electrogaz has a generation capacity of 43 megawatts (MW), which is

dominated by hydro-electric plants. This has been at the source of problems recently, with low water levels limiting output. In order to fill some of the supply gap, the Government commissioned two diesel generators in late 2004, which have a very high operating cost. The lack of maintenance and new investments on the transmission and distribution networks have also generated high technical losses, which amounted to about one-third of output in recent years.

**Figure II.3. Electricity supply, demand and shortage**  
(Megawatts, 2003-2006)



Source: Ministry of Infrastructure.

As a first step towards the involvement of the private sector in the power sector, Lahmeyer International – a German consulting engineering company – was awarded a 5-year management contract for Electrogaz in September 2003. Lahmeyer is to turn Electrogaz into an enterprise in corporate form suitable for private investment, and to restructure and expand the electricity and water system. More specifically, it is expected to: (1) provide a baseline assessment of Electrogaz; (2) set up a business plan; (3) introduce a technical- and commercial-loss reduction programme; (4) initiate a tariff review; and (5) analyse independent power producers (IPPs) options. Ownership and the responsibility to finance investments fully remain in government's hands, however.

A key element of Lahmeyer's contract is to revise the tariff structure. At the moment, a single price is charged to all consumers, regardless of total consumption and whether it is peak/off-peak. Electricity was charged at Rwf42 (¢7.4) per kilowatt-hour (kwh) until December 2004, when Electrogaz was allowed to raise the price to Rwf82 (¢14.5)<sup>48</sup> in order to reflect high production costs. The price was further increased in 2006 to Rwf112 (¢19.8) following rising diesel prices.

<sup>48</sup> Excluding VAT of 18 per cent.



The Government of Rwanda recently entered into a joint venture with Dane Associates (an Israeli-Swedish group) to produce electricity from methane gas in lake Kivu.<sup>49</sup> Under the IPP contract, the company will be licensed to extract up to 60 million cubic metres of gas. It is scheduled to produce up to 39 MW when fully on-stream, likely towards the end of 2007. A power purchase agreement (PPA) was signed with Electrogaz for 25 years. The Government provides a guarantee and purchase prices by Electrogaz are denominated in euros. When operational, the power plant should go a long way towards alleviating some of the supply shortage. It should also contribute to lower electricity prices, as the fuel cost of generation is estimated at around ¢2.5 per kwh for methane gas, compared to ¢15 per kwh for light oil.

Government efforts to involve private investors in the power sector must be commended. In order to ensure that private involvement takes place in an orderly and pro-competitive manner, however, a modern legal and regulatory framework should be put in place, similarly what took place in the telecommunications sector. Contractual arrangements may temporarily provide a means to involve private investors, but they should not substitute for a comprehensive legal framework. Such a framework would likely entail the division of the sector into its generation, transmission and distribution segments, each with a varying degree of private sector involvement and competition. Innovative solutions to allow consumers with their own generation capacity to re-inject excess production onto the grid could also be envisaged. Building technical capacity at RURA to oversee the sector will also be vital.

### **c. Banking system**

Rwanda's banking system reflects the size and rural nature of the economy in that it remains small and unsophisticated. However, three privately owned banks have been created since 1995 and the authorities have made significant efforts to improve the regulatory framework in recent years. These efforts have resulted in a stronger banking system, even though major weaknesses in terms of capitalization, asset quality and provisioning persist at some of the banks.

The banking system consists of six commercial banks and three development or cooperative banks. Foreign institutions (private or public) have control or significant interests in four of these, while the public sector (government or parastatals) remains invested in five of them (table II.8). The largest three commercial banks represent 66 per cent of deposits and 57 per cent of loans. Total assets of deposit money banks represented only \$450 million at the end of 2004, with credits to the private sector accounting for about half of these (table II.9). External assets, in turn, represented close to 25 per cent of total assets, reflecting sizeable foreign currency deposits.

<sup>49</sup> The Government owns 30 per cent of the equity, while Dane Associates owns 70 per cent. The project also benefits from a partial risk guarantee from the World Bank. The total project cost is estimated at around \$80 million.



Table II.8. Banking system

	Market share of deposits (per cent)	Market share of loans (per cent)	Ownership structure
Banque de Kigali	26.2	22.6	50% Belgolaise (Fortis, Belgium-Holland) <sup>1</sup> , 50% public
BCDI	22.2	19.6	100% private (local non-corporate owners)
BCR	17.2	15.0	80% CDC group (U.K.), 20% public
BANCOR	7.3	8.6	100% private
BACAR	8.3	9.1	60% FINA Bank (Kenya), 20% Enterprise holdings (Botswana), 20% public
COGEBANQUE	3.4	5.1	100% private
UBPR	9.7	12.8	100% private (local cooperative bank)
BRD	5.3	7.1	55.7% public, 10.5% private (local), 33.8% foreign development agencies
CHR	0.5	0.0	83% public, 17% private (local)

<sup>1</sup> The Fortis Group decided to withdraw from Belgolaise in 2005 and has started to divest from its network of African subsidiaries.

Sources: Banque National du Rwanda, IMF, company websites.

Wide regulatory and supervisory powers are granted to the BNR under Law 11/97 regulating its statutes and Law 08/99 regulating banks and other financial institutions. It has used these powers to put in place relatively strict and restrictive regulations that have left little room for the banking system to put in place innovative financial instruments. Such a restrictive approach was justified by the fragility of the banking system in the aftermath of the genocide. At this stage, however, a somewhat more «hands-off» approach to regulations should be feasible without generating undue systemic risk. Such an approach, in turn, could foster the development of new instruments and a more sophisticated banking system that could benefit the economy as a whole (chapter III).

The main prudential regulations enforced by the BNR include:

- Banks are required to put in place a loan classification system whereby assets are ranked from class 1 ("current") to class 5 ("contentious").<sup>50</sup> Classification of loans under class 3, 4 or 5 requires immediate provisioning of 20 per cent, 50 per cent and 100 per cent, respectively;
- Banks are required to communicate to the BNR and other banks the list of debtors with loans in excess of Rwf 500 000 (\$900) in class 3, 4 or 5. It is strictly forbidden for any bank to extend further credits to these debtors;

<sup>50</sup> Class 1: no delays in interest and principal payments and financially strong debtor.

Class 2: delays in interest or principal payments between 30 days and 90 days, or deteriorating financial situation of the debtor.

Class 3: delays in interest or principal payments between 90 days and 180 days, or important doubts about the financial situation of the debtor.

Class 4: delays in interest or principal payments between 180 days and 360 days, or serious doubts about the financial situation of the debtor.

Class 5: delays in interest or principal payments in excess of 360 days.

**Table II.9. Banking sector indicators**  
(Millions of dollars)

	2001	2002	2003	2004
<b>Assets</b>	<b>344.2</b>	<b>369.0</b>	<b>376.7</b>	<b>452.6</b>
Reserves	34.4	26.4	24.3	28.1
External assets	76.2	82.3	92.6	105.2
Credits to the private sector	170.8	174.3	175.9	230.6
Credits to public sector	19.4	37.7	36.9	44.4
Other	43.3	48.3	47.0	44.3
<b>Liabilities</b>	<b>344.2</b>	<b>369.0</b>	<b>376.7</b>	<b>452.6</b>
Sight deposits	86.7	94.5	94.6	106.3
Term deposits	60.7	83.2	71.2	93.0
Foreign currency deposits	62.9	61.8	77.3	88.3
External liabilities	10.5	17.0	20.7	18.2
Other	123.4	112.6	112.9	146.8
Non-performing loans ratio <sup>1</sup>	36.9	33.7	30.3	..

<sup>1</sup> As a percentage of total loans.

Sources: Banque National du Rwanda and IMF.

- Banks' exposure to a single debtor (or group of debtors) may not exceed 25 per cent of capital. This may be a problem in an economy with very few major corporate clients and where credit to agriculture is almost exclusively focused on tea and coffee;
- Banks are required to set up systems to allow them to measure a range of risks, including credit risk, market risk, liquidity risk and exchange rate risk;
- Capital account transactions with non-residents are strictly regulated. Inward FDI and foreign purchases of Treasury Bills are encouraged, while outward FDI and external borrowing by residents is allowed only after approval by the BNR. Similarly, all other capital account transactions with non-residents require prior BNR approval. This would include banks opening accounts for non-residents or lending in foreign currency to non-residents.

#### d. Mining

Rwanda's mining sector is composed of a few small and low-technology industrial mines and a large number of artisanal miners. Industrial mining is dominated by government-owned Régie d'Exploitation et de Développement des Mines (Redemi), which was created in 1988 on the ashes of the bankrupt Société des Mines du Rwanda. It currently holds 20 concessions covering about 1000 square kilometres and produce mostly cassiterite, coltan and wolfram. In 2000, it had about 500 full-time employees and a turnover of \$1.3 million. Redemi's physical and human infrastructure was severely damaged by the genocide in 1994, and the Government has been unable and unwilling to inject much new capital.

Rwanda does not have an up-to-date geological survey, as most geological work was conducted before independence and did not cover hard rock potential. The geophysical characteristics of Rwanda and the proven mining resources of its neighbours with similar conditions indicate that the mining potential may be significant, however. The Government recognizes that it is not in a position to conduct

a modern geological survey and that it will have to rely on the private sector to explore the mining potential of the country. With that in view, it is preparing a new mining code for adoption by Parliament. The draft law includes most of the fundamental requirements to attract private investment in minerals exploration and mining, but would benefit from some relatively minor changes before it is adopted in order to better safeguard Rwanda's interest and/or provide more certainty and predictability to potential investors (box II.2).

The draft law includes provisions to enable mining companies to enter into early stage agreements that give contractual form to their rights and obligations and to stabilize the fiscal regime. Such provisions should be especially attractive as exploration and mining are long term, high-risk investments. Once the law is adopted, it will greatly assist the promotion of investment in mining for the Government to issue a model form of this agreement.

In contrast, the draft law does not include any provision on royalties or tax arrangements. Particular care will have to be given in that respect when rules are devised, so as to protect Rwanda's interest while at the same time providing a package geared to attracting pioneering investors. It will be advisable for Rwanda to seek technical assistance in devising the fiscal arrangements (corporate tax, royalties, depreciation allowances, foreign exchange accounting, foreign exchange retention) for the mining sector. Such assistance is currently being provided by UNCTAD to the Ministry of Lands, Environment, Forestry, Water and Mines.<sup>51</sup>

## 12. Privatization

The Government launched a privatization programme in 1996 under Law 02/96. It earmarked 75 public enterprises for sale or liquidation in a variety of sectors. Of these, 40 had been privatized by September 2005. A relatively strict set of procedures has been put in place to promote transparency in the sale of public assets and gain public support for the programme. These include the separation of functions between the privatization secretariat in charge of the sales procedures, a technical committee in charge of evaluating tenders and negotiating with buyers, and a national commission in charge of setting policy and overseeing the programme.

All sales of Government assets are subject to public tender whereby interested buyers must submit separate technical and financial bids. The two bids are evaluated separately and in sequence, with the submission of an unsatisfactory technical bid being disqualified regardless of the financial bid. The privatization programme and Government efforts to inform and educate the population about it have so far yielded positive results. In order to ensure that privatization results in higher quality goods and services at a competitive cost, the Government nevertheless needs to strengthen the regulatory framework and institutions in certain areas. This is particularly the case as privatization is extending to the telecommunications and utilities sectors.

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<sup>51</sup> UNCTAD (2006). Strategy for the Promotion of the Industrial Mining Sector or Rwanda.

## Box II.2. Suggested changes to the draft mining law

The key changes that could be introduced to the draft mining law in view of better protecting Rwanda's interest and increasing its attractiveness to foreign investors are:

- The draft law grants exclusive licences for prospecting, which is unusual. Exclusivity means that large areas will be off-limits for other reconnaissance or exploration activities for a significant period. Given the poor state of Rwanda's geological survey, *exclusivity* for prospecting licences is not in the country's interest. It is also not a provision that international investors would expect. Prospecting licences should thus be non-exclusive, as this would better serve Rwanda's interest and would not deter private investment.
- A general provision should be made in the draft law for information gained during prospecting to be furnished to the authorities, who will make the information publicly available when the prospecting licence expires. This is a standard requirement in most countries. It improves the geological survey without deterring private investment.
- The draft law provides that *exploration* licences are issued for up to four years, renewable once, and over a maximum area of 4 square kilometres. This is restrictive and may not be in the Government's interests since Rwanda's hard rock mineral potential at depth is lightly explored. An alternative approach would be to grant exploration licences over larger areas but with relinquishment obligations (e.g. 50 per cent of surface area every two years). When areas are relinquished, all information reverts to the government for open access and this process helps to fill in gaps in the geological survey. Provided that relinquishment is taking place there is no need to prohibit more than one renewal.
- A fundamental requirement for a private investor is that the work and expense involved in finding a commercial deposit gives it the *right* to be granted a mining concession, subject to providing acceptable mining, financing and environmental plans. This principle should be contained in the law, including the key requirements to be satisfied. There should be rights of appeal against rejection of an application for a mining concession.
- The draft law allows the transfer of exploration licences and mining concessions. The conditions under which this is authorized require more definition. A widely used approach is to say that titles may be transferred subject to the responsible minister's approval, such approval not to be unreasonably withheld. The matters to be assessed by the Minister should be explicit, for example whether the transferee has the financial and technical capacity to meet licence obligations. The provisions should also more explicitly cover "farm-ins" – which may result either in changed ownership of the title-holding entity or joint holding of a title. These are necessary to accommodate conventional business arrangements in the industry.
- Regulations to the proposed law will set out the royalties payable. It is important that schedule royalty rates be set at the time the act is published. Royalties should not be left for case-by-case negotiation.

Sources: Draft mining law and UNCTAD.

### 13. Trade agreements

The Government is pursuing an active policy of trade integration with regional partners and has preferential access to the EU and US markets. Rwanda has also been a member of the WTO since 1996, and had previously been a member of the GATT since 1966. As a result of these agreements, Rwanda benefits from extensive preferential access to key markets. This has been insufficient so far to generate a large export sector, however, mostly because of the limited level of industrial development and export capacity (chapter I).

Rwanda has been eligible to the preferential market access granted by the United States under the African Growth and Opportunity Act (AGOA) since its inception in October 2000. AGOA grants duty-free access without limitation of quantity to the United States for about 6400 tariff line items, 1800 more than under the standard Generalized System of Preferences (GSP). The preferences, initially scheduled to end in September 2008, were extended to September 2015 under the second AGOA amendment in July 2004.

The United States also granted special preferences to Rwanda for apparel exports<sup>52</sup> starting in March 2003. In spite of this, however, exports to the United States almost exclusively consist of tea, coffee and ores<sup>53</sup> (table II.10). Similarly, Rwanda benefits from tariff-free and quota-free access to the EU market on virtually all goods under the Everything But Arms (EBA) initiative. Although exports to the EU are slightly more diversified, the bulk of exports also consist of coffee, tea and ores.

The Government is aware that few local firms are likely to be competitive in the short- to medium-term in the production of high value-added goods for exports to the United States and the European Union, and that exports to these markets will likely remain dominated by tea, coffee and a few other traditional goods or commodities. As a result, it has rightly decided to extend its network of trade agreements within the region. Rwanda joined the free-trade area made up of a sub-group of 11 COMESA member states<sup>54</sup> in 2004, and it had been a member of the Common Market for Eastern and Southern Africa (COMESA)<sup>55</sup> from the start in 1994.

Additionally, Rwanda recently applied for membership to the East African Community, at the same time as Burundi. The EAC, which currently consists of Kenya, Uganda and the United Republic of Tanzania established a Customs union on 1 January 2005, with three tariff bands of 0, 10 and 25 per cent. Free trade among the three current Member States will be established over a period of five years, as Kenya agreed that some of its manufactured goods remain subject to tariffs for the transitional period on account of the more advanced state of its manufacturing sector relative to the United Republic of Tanzania and Uganda. Rwanda and Burundi's membership to the EAC is currently under negotiation, and an agreement could be found in 2006.

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<sup>52</sup> These preferences allow duty-free access to the United States for six types of apparel, subject to certain quantity limitations (on duty-free imports, not on imports in general) applied on an AGOA-wide basis. Rules of origins are also relaxed as duty-free access is granted to apparel made from fabrics imported from non-AGOA countries. This flexibility on the application of rules of origin for preferential access will end in September 2007, however.

<sup>53</sup> Mostly tungsten ores and concentrates.

<sup>54</sup> Burundi, Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Sudan, Zambia and Zimbabwe.

<sup>55</sup> COMESA includes the following countries: Angola, Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe.

**Table II.10. Exports to the United States and the European Union**  
(Millions of dollars)

	2001	2002	2003	2004
United States	7.61	3.31	2.88	5.80
Coffee	0.00	0.04	0.03	0.00
Tea	4.00	2.05	1.95	4.90
Ores, slag and ash	3.16	0.98	0.63	0.69
Other	0.44	0.24	0.27	0.22
European Union <sup>1</sup>	47.18	22.29	21.30	29.16
Coffee	14.80	14.55	12.30	23.19
Tea	1.31	1.89	0.77	1.36
Live trees and other plants	2.99	0.82	0.11	0.47
Ores, slag and ash	0.41	0.98	0.55	1.07
Raw hides, skin and leather	0.65	0.75	0.37	0.59
Other	27.02	3.29	7.21	2.49

<sup>1</sup> 25 members States.

Sources: US International Trade Commission and Eurostat.

Recognizing the rising importance of South Africa as a trade partner and source of investment, Rwanda entered into a bilateral framework agreement that covers a number of issues, from trade to investment and cultural or educational exchanges. In addition to this bilateral agreement with South Africa, Rwanda recently applied to the Southern African Development Community (SADC).<sup>56</sup> While SADC's objectives go well beyond the removal of trade barriers, the group is still a number of years away from even establishing a free-trade area.

## E. Assessment and recommendations

Rwanda faces particular challenges to attract foreign investment given the small size and low level of development of its economy, poor infrastructure, low level of human capital and limited natural resources. As a consequence, it must strive to make the most of all its assets and aim to eliminate all "soft" constraints that unnecessarily hinder investment. Appropriately enough, one of Rwanda's key assets is the Government's awareness of the need to put in place a private-sector friendly legal and regulatory framework, and its willingness and commitment to work in that direction. Rwanda should thus strive to achieve the highest standards in legal and regulatory issues, i.e. do *everything* well (and *better* than its larger neighbours and competitors) in order to position itself as a *centre of excellence in soft infrastructure and governance*.

Striving to do everything well should not disguise the need to prioritize, however, as capacity and resources constraints are strong, and many aspects of the investment framework need modernization despite the efforts that have been carried out so far. The key priorities for reforms in the legal and regulatory framework identified in this chapter are described below. They should underpin the FDI strategy and the development of a strong domestic private sector.

<sup>56</sup> SADC includes Angola, Botswana, Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, the United Republic of Tanzania, Zambia and Zimbabwe.

## I. A competitive and efficient fiscal regime

Although reforming the fiscal system is unlikely to generate much investment (domestic or foreign) in and of itself, providing a competitive, fair and efficient regime should be a crucial element of Rwanda's economic policy. A number of improvements and modifications could be introduced over the coming years as part of the strategy to turn Rwanda into a centre of excellence in soft infrastructure and governance. These improvements should make the general regime attractive and competitive, and turn the RRA into the best tax administrator in the region. The reforms would:

*Make Rwanda's general fiscal regime the most competitive and well-administered in the region*

A number of incremental improvements and modifications could be introduced over the next few years in order to make Rwanda's tax regime a model of excellence in administration, efficiency and fairness, and the most competitive in the region. The recent reduction in the corporate income tax rate is a step in the right direction, as is the decision to provide unilateral tax credits on foreign sourced income. Additional measures to make the *general* regime more competitive could be adopted:

- Lower the headline corporate income tax rate to 25 per cent in the near future and bring the dividend withholding tax rate to 10 per cent;
- Provide for faster rates of depreciation on durable assets and allow unlimited loss carry-forward in lieu of the current five years;
- Set up a comprehensive duty drawback scheme for exporters;
- Further improve capacity at the RRA, provide more clarity in tax regulations and ensure full consistency between the three language versions of the fiscal laws and regulations;
- Draw up clear guidelines and regulations for transfer pricing;
- Minimize the impact of taxation on companies' cash flow, including through removing anticipatory payments on corporate income tax and the 3 per cent tax on the value of invoice for winners of public tenders.

*Streamline the administration of incentives*

Incentives provided by law should be easy to administer and widely and readily available to investors. Small investors should not be discriminated against, which is currently the case as RIEPA certificates serve as the gateway to a number of incentives. This should no longer be the case and eligibility conditions to RIEPA certificates should be reformed (see below).

*Make fiscal incentives outcome-based and targeted to development goals*

Incentives should be conditional upon outcomes and available to all who reach the desired outcome, regardless of other conditions (size, time of establishment, etc.). These could focus on employment creation and export promotion (as is already the case), but could also target the transfer of knowledge and skills. The Government could consider:

- Supplementary deductions from the income tax base for personnel training expenses;
- Targeted incentives to attract foreign skills and entrepreneurship.



*Minimize the impact of taxation on companies' cash flow*

This would call for removing measures such as anticipatory payments on corporate income tax and the 3 per cent tax on the value of invoice for winners of public tenders.

## 2. Skills attraction and dissemination programme

The skills attraction and dissemination programme should be a central element of Rwanda's FDI strategy and its development policy. It should transform immigration policy from a *passive admission* of foreign skills to a *proactive skills attraction and dissemination attraction programme*. The programme (detailed in section D.4) should be articulated around five elements.

### a. Identify skills and competences needs

The skills and competences needs must be clearly assessed. The assessment would underpin the implementation of the immigration policy and would be revised periodically as the economy and local skills develop. Given Rwanda's current situation in terms of human resources and the skills and entrepreneurship gap, and in order to kick-start the programme, a relatively wide range of skills should be included in the initial assessment. The skills need is not limited to competences requiring university or higher-education training.

### b. Redesign immigration policy

Proactively attracting skills and competences will require an overhaul of immigration policy and regulations. The current system only allows the import of certain types of skills (university degree is required) and does nothing to actively attract investors and skills. Redesigning immigration policy should focus on two schemes: (1) a business talent scheme; and (2) an expatriate employee scheme.

*Business talent scheme*

Attracting business talent at the level and scale appropriate to Rwanda's economy requires an attractive set of measures for individuals to establish in the country as small- and medium-scale investors. A business talent scheme aimed at attracting entrepreneurial skills could be structured along the following lines:

- Create "investor permits" for skilled individuals investing in Rwanda, with minimum capital requirements used to prevent the illegitimate use of these permits;
- Provide permits for nuclear families. Individual investors need to be allowed to move to Rwanda with members of their nuclear families, who should also be permitted to work in the business;
- Provide certainty on permits. Individual investors need to have sufficient certainty that their permit will be renewed as long as the business is in operation. Clear guidelines and conditions as to how and under what conditions permanent residence status (or citizenship) can be gained should also be established;
- The investor permit should combine work and residence permits.

Promoting the integration of newcomers into Rwanda's social fabric would also call for language requirements. Investors may be required to be fluent in English, French or Kinyarwanda to obtain the permit, or at least make a firm commitment to learn one of the three languages, and be subject to a test after a number of years.



### *Expatriate employee scheme*

The second aspect of redesigning immigration policy should make the process of importing skills and competences in short supply in Rwanda as smooth and efficient as possible, while at the same time maximizing the dissemination of skills and competences to nationals through well-targeted training requirements. The current “back-loaded” approach to allocating work and residence permits should be transformed into a “front-loaded” approach by implementing the following measures:

- Draw a list of skills that are in short supply at the national level. For these predetermined skills, the sponsor (employer) would not need to conduct individual labour-market test to prove that it cannot find a qualified national to fill the position;
- Lift the requirement that the expatriate worker hold a university degree. This condition does not provide an appropriate benchmark to evaluate Rwanda's skills needs;
- Screen sponsors based on their track-record of good-practice in employing expatriate workers (training programmes for nationals, no excessive recourse to expatriate workforce, no overstays, etc.). Sponsors with a good track-record would be subject to less extensive verification than sponsors without track-record or with a poor one;
- Unify work and residence permits;
- Lengthen the period of issuance of the single permit from one-year to up to three years.

### **c. Set up training and transfer of skills requirements**

Concrete mechanisms to maximize the dissemination of skills, know-how and competence to Rwandan nationals should be established so as to help achieve one of the goals of Vision 2020. At the moment, employers are required to put in place an understudy programme for each expatriate employee. A wider dissemination of skills to nationals would be ensured with the following mechanism:

- Require entrepreneurs obtaining investors' permits to set up training schemes for national workers;
- Make training and localization a company-wide obligation in lieu of position-specific understudy programmes when expatriate workers are hired. Training obligations could be linked to the number of expatriate workers, turnover, or a combination of these and other factors.

### **d. Provide special incentives to individuals**

In addition to *allowing* people to establish and set up businesses in Rwanda, the Government would need to put in place some measures to *entice* them to do so. Possible measures include:

- Duty-free import of personal belongings upon installation;
- Non-resident status for personal income tax purposes for a limited number of years;
- Special provisions for the transfer of funds abroad;
- Support services for installation (finding housing, schooling, medical care).

### **e. Actively promote Rwanda and target people**

Once an appropriate policy and regulatory framework has been put in place, the Government will have to actively promote Rwanda as a destination not only for investment by corporations, but also for individuals to invest and reside in. This promotion and awareness effort would be best targeted at

individuals from within the region with some prior knowledge of Rwanda. It would in a sense be an extension of the efforts already in place to entice Rwandans from the Diaspora to return home and invest.

### 3. Centre of excellence in regulation and soft Infrastructure

Modern regulations and strong regulatory institutions will become more and more important as Rwanda evolves towards a private-sector driven and market-based economy, and as the private sector role in providing backbone services (telecommunications, electricity, water, transport) increases. Such regulations will be essential for three main purposes:

- Protect national and consumers' interest;
- Avoid the potentially negative consequences associated with investments (market dominance, anti-competitive behaviour, environmental damage, health issues, etc.) and ensure good practices (labour standards, corporate social responsibility, etc.);
- Provide the predictable, fair and attractive investment environment that is essential for the private sector to thrive.

The quality of regulations, oversight and Government services should serve as a key element of Rwanda's FDI strategy by turning the country into a centre of excellence in soft infrastructure and governance (chapter III, section D.3). Excellence in administration should be achieved, as a minimum, in the following areas:

- Fiscal administration;
- Customs administration;
- Immigration services;
- Land registration;
- Services to investors;
- Commercial justice;
- Environmental standards.

#### a. Next generation RIEPA certificates

RIEPA certificates should not serve as a gateway to fiscal incentives, which are best structured on an outcome basis. The discrimination against small investors in accessing facilitation services and other benefits should also be removed. Non-capital eligibility conditions to certificates, however, could be used to promote responsible corporate behaviour and compliance with Rwanda's laws. The following approach to RIEPA certificates is recommended:

- Lift the minimum capital requirement as an eligibility condition;
- Preserve a capital requirement to benefit from automatic access to three work permits;
- Lift the certificates' role as a condition to obtain fiscal incentives and eliminate RIEPA's administrative function for tax matters;
- Use general eligibility conditions for certificates to promote an "induction" programme. Registration with RIEPA would require that the company (shareholders and executives) complete an induction programme on Rwanda's key business laws, corporate compliance responsibilities (employment practices, tax compliance, observance of health and safety standards, environmental protection) and in business ethics.

## **b. Sectoral regulations and regulatory oversight**

In addition to general public services, excellence should be achieved in a number of sectoral regulations, including:

- Telecommunications;
- Electricity and water;
- Transport;
- Mining;
- Banking;
- Agriculture.

Building up RURA's capacity should be considered as a matter of priority. Aside from providing it with the necessary resources and qualified staff, it will be particularly important to ensure that RURA's function is supported by modern laws and regulations. While this is the case for the telecommunications sector, laws remain to be adopted for the remaining five sectors<sup>57</sup> falling under RURA's mandate. Given the constraints that they currently represent for economic development, two sectors should be the focus of attention: (1) electricity; and (2) transport, in particular airline and airport services.

## **c. Competition framework for development**

Rwanda currently has only a skeleton set of competition rules and regulations and no competition authority. Yet, the small size and limited industrial and tertiary development of Rwanda's economy make it more likely that existing or new companies be in *de facto* monopolistic situation or enjoy dominant market power. Under such circumstances, it is important that Rwanda start equipping itself with the tools to efficiently monitor, supervise and if necessary influence the price setting and market behaviour of dominant firms.

This would require drafting a new competition legislation in order to, at a minimum:

- Precisely define market dominance and anti-competitive behaviour;
- Provide a regulatory framework for mergers and acquisitions;
- Elaborate monitoring and enforcement mechanisms;
- Define monitoring and regulatory powers on the pricing of goods and services in market segments dominated by one or a reduced number of companies;
- Coordinate the work of the competition authority with RURA.

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<sup>57</sup> Electricity, water, waste management, gas extraction and distribution and transport.