

## II. TRADE AND INVESTMENT REGIMES

### (1) INSTITUTIONAL FRAMEWORK

1. The fifth Constitution of the Rwandese Republic was adopted by referendum on 26 May 2003 and published in the Official Gazette on 4 June 2003. It establishes the separation of powers, guarantees fundamental rights, recognizes multiparty rule and prohibits political organizations from identifying themselves on the basis of race, ethnic, tribal or clan origin, region, sex, religion or any other consideration that may give rise to discrimination. The principal aim of the Constitution is to achieve greater democracy and diminish the risk of another genocide. The first democratic presidential election since the 1960s took place on 25 August 2003 and the first multiparty legislative election from 29 September to 1 October 2003.<sup>1</sup>

2. Legislative power is vested in a Parliament consisting of a Chamber of Deputies and a Senate. The Chamber of Deputies is composed of 80 members, as follows: 53 are elected by direct universal suffrage through a secret ballot with closed-list proportional representation; 24 seats are reserved for women (two from each province and the city of Kigali) elected by the district, town and Kigali city councils and the executive committees of women's organizations; two members are elected by the National Youth Council and one by the Federation of the Associations of the Disabled. All members of the Chamber of Deputies are elected for a five-year term.

3. The Senate is made up of 26 members serving an eight-year term (non-renewable except in the case of former heads of State), at least 30 per cent of whom must be women, and of former heads of State on request to the Supreme Court. Twelve of the 26 Senators are elected through secret ballot by the executive committees of the sectors and the district and town councils; eight are appointed by the President of the Republic (with mandatory representation of Rwanda's traditionally most disadvantaged community); four are designated by the Forum of Political Organizations; and two are elected by the academic staff of the country's universities and other public or private higher learning institutions.

4. Executive power is vested in the President of the Republic (who is also the Head of State) and the Government. The President and the Prime Minister may not belong to the same political party. The President is elected by direct universal suffrage (through secret ballot on a relative majority of votes cast) for a term of office of seven years (renewable once only). The Cabinet is made up of the Prime Minister, Ministers, Secretaries of State and such other members as may be designated by the President. The Prime Minister is appointed by the President of the Republic. The other Cabinet members are appointed by the President on the Prime Minister's recommendation. They are selected among the various political organizations, having regard to the distribution of seats in the Chamber of Deputies and without prejudice to the selection of independent candidates not belonging to any particular party. The majority political party in the Chamber of Deputies may not hold more than 50 per cent of government seats.

5. In the process of obtaining information and exercising oversight of government action, members of the Senate may address oral or written questions to the Prime Minister, to which responses are provided either by the Prime Minister in person or through the Ministers concerned. The Senate is also empowered to set up commissions of inquiry, but may not conduct interpellation or introduce a motion of censure. The Chamber of Deputies may challenge the responsibility of the

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<sup>1</sup> The promulgation of the Constitution by the President of the Republic marked the end of the transition period. Institutions set up during the transition period remained in place until the establishment of the corresponding institutions provided for in the new Constitution. Only the renewal of the judiciary is still pending.

Government as a whole or of individual Cabinet members through a censure motion. The motion must be signed by at least one fifth of the members of the Chamber where it involves a Cabinet member or by at least one third where it involves the Government as a whole; it is passed through secret ballot by a two-thirds majority of the members of the Chamber. A vote against the Government as a whole entails the latter's resignation, to be tendered to the President of the Republic by the Prime Minister.

6. The Prime Minister may challenge the responsibility of the Government before the Chamber of Deputies through a vote of confidence in respect of approval of a government programme or the adoption of legislation. Withdrawal of confidence requires a two-thirds majority vote of the members of the Chamber. A no-confidence vote entails the resignation of the Government, which the Prime Minister must tender to the President of the Republic within 24 hours.

7. The President of the Republic may – only once during his term of office and after consulting the Prime Minister, the Presidents of both chambers of parliament and the President of the Supreme Court – dissolve the Chamber of Deputies. The Senate may not be dissolved.

8. Judicial powers are exercised by the ordinary courts (the Supreme Court, the High Court of the Republic, the provincial and Kigali city courts, and the district and town courts) and the special courts (the *Gacaca* and the military courts).<sup>2</sup> All the ordinary courts except the Supreme Court may include chambers with special jurisdiction or independent chambers. No provision is made for the establishment of extraordinary courts. For the time being, trade disputes are heard by the courts of first instance. According to the authorities, the forthcoming reform of the judiciary will provide for the provincial courts and the Kigali, Butare and Ruhengeri courts to comprise one chamber with special jurisdiction in respect of trade and fiscal matters and another competent to hear cases involving social matters.

9. Districts and towns have legal personality and enjoy administrative and financial autonomy. A National Dialogue Council, made up of the President of the Republic and five representatives of each district and town council, designated by their peers, discusses *inter alia* matters relating to the State of the Nation, local authority and national unity. An Ombudsman is entrusted, among other tasks, with the responsibility of liaising between the country's citizenship and public or private institutions and services; preventing and combating injustice, corruption and related offences in public or private services; and receiving and examining complaints by individuals and private organizations against public or private agents or services, and drawing the authorities' attention to those complaints with a view to reaching a satisfactory settlement. The Ombudsman is not empowered to intervene in the investigation or judgment of court cases but may bring complaints submitted to his attention before the courts or services conducting the investigation.

## (2) POLICY FORMULATION AND IMPLEMENTATION

10. Policy is framed and implemented through legislation. Every Deputy and the Council of Ministers may conjointly propose laws and amendments thereto. Draft laws are put before the two chambers and voted both article-by-article and as a whole. Ordinary laws are adopted by an absolute majority and organic laws by a three-fifths majority of attending members of each chamber. Any law the adoption of which would entail a fall in national revenue or increased government expenditure must be accompanied by a proposal for raising revenue or achieving equivalent savings.

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<sup>2</sup> The traditional *Gacaca* courts, involving the municipal councils, are responsible for prosecuting and judging the crime of genocide and other crimes against humanity committed between 1 October 1990 and 31 December 1994 (except those falling within the jurisdiction of other courts).

11. Within its spheres of competence, the Senate receives draft laws only once they have been adopted by the Chamber of Deputies, with the exception of the organic law on the internal organization of the Senate.<sup>3</sup> In the event of disagreement between the two chambers, a joint commission has the task of proposing a compromise. Failing consensus by the two chambers on the compromise solution put forward, the draft law or bill is returned to the initiator.

12. Laws are promulgated by the President of the Republic within 15 days of the receipt by the Government of the final text adopted in Parliament. Before a law is enacted, however, the President may refer the text back to Parliament for a second reading. If Parliament then adopts that same law by a two-thirds majority in the case of ordinary legislation and a three-quarters majority in the case of organic laws, the President must promulgate the law within the scheduled time-frame. Laws adopted in Parliament are countersigned by the Prime Minister and the Ministers and enacted by the President of the Republic; they take effect from their date of publication in the Official Gazette and, in the event of an emergency, once they have been posted up in the provincial capitals.

13. In the event that Parliament should be unable to convene, the President of the Republic may issue decree-laws adopted by the Council of Ministers that have the same effect as ordinary laws. Decree-laws must be confirmed by Parliament at the session following their adoption, failing which they lose their binding effect.

14. The Government's trade policy is laid down by the Ministers for Foreign Trade and Finance. Depending on the matters involved, trade policy is coordinated with other relevant ministries, such as the Ministry of Agriculture, and other government institutions, such as the National Bank of Rwanda (NBR), the Rwanda Revenue Authority and the Rwanda Investment Promotion Agency (RIPA). The private sector too is consulted in meetings held on the initiative of both parties.

15. A Foreign Trade Board is due to study and propose procedures for the implementation of general foreign trade and licensing policy; give its views on the rules and procedures applied and suggest corrective measures; express its views on annual and pluriannual import and export forecasts and propose adjustments; examine and propose export promotion measures; give its opinion on any issue relating to foreign trade, either on its own initiative or at the request of the Minister for Foreign Trade or the Governor of the NBR; and study questions relating to regional integration and other international economic matters.<sup>4</sup> A Presidential Economic Council, without formal ties to the ministries, advises the President on such issues. According to the authorities, the private sector is consulted on an informal but regular basis through the Public/Private Partnership Forum headed by the Chairman of the Rwandan Private Sector Federation.

16. At the Government's suggestion and following consultation with the Supreme Court, the President of the Republic may submit to referendum any matter of national interest and any draft law (ordinary law, organic law, or law ratifying a treaty) that may affect the operation of State institutions. The President must enact any law adopted by referendum within a period of eight days from the date on which the results are made public.

17. The President of the Republic negotiates and ratifies international treaties and agreements. Parliament is informed once the process is completed. However, the ratification of certain treaties,

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<sup>3</sup> In the legislative sphere, the Senate is empowered to adopt *inter alia* laws relating to the revision of the Constitution; organic laws; laws relating to the establishment, modification, operation and dissolution of State or parastatal institutions, and land organization; and laws relating to international treaties and agreements. The Senate's advisory opinion is sought before final adoption of the Budget by the Chamber of Deputies.

<sup>4</sup> Law No. 34/91 of 5 August 1991 amending Law No. 22/1989 of 23 December 1989 on the Organization of Foreign Trade. The Board is still not in operation.

such as trade treaties, treaties or agreements relating to international organizations and those involving State finances, is subject to prior authorization by Parliament.

### (3) MAIN LAWS AND REGULATIONS

18. Rwandan law establishes the primacy of international legal instruments, including the WTO Agreements, over domestic legislation. Duly ratified or approved international treaties or agreements rank above domestic legislation once they have been published in the Official Gazette. In addition to international treaties and agreements, in accordance with the hierarchy of laws the Constitution is followed, in decreasing order, by organic laws, ordinary laws, decree-laws, presidential orders, Prime Minister's orders, ministerial orders, instructions<sup>5</sup>, and regulations.

19. In the trade sphere proper, domestic and foreign trade are governed by a variety of instruments. Domestic trade is regulated by Law No. 35/91 of 5 August 1991, as amended and supplemented by Law No. 15/2001 of 28 January 2001. The Law establishes free trade and enshrines the principles of pricing freedom and consultation with the private sector in the event of market failure. It also contains provisions governing competition (Chapter III(4)(ii)).

20. Foreign trade is regulated by Law No. 22/1989 of 23 December 1989, as amended by Law No. 34/91 of 5 August 1991. The Law establishes a Foreign Trade Board responsible for studying and giving views on foreign trade issues; laying down rules pertaining to mandatory import and export documents; drawing up a list of imports exempt from formalities imposed by the Law; and defining products that may not be imported. It also provides penalties in the event of infringement, including import over-invoicing and export under-invoicing.

21. Customs legislation comprises a number of texts which cover the customs system, the various customs schemes and border taxation (excise duties, consumption tax and customs duties) (Chapter III(2)(iv) and (v)). Table II.1 below lists the main trade-related legal instruments in force in Rwanda.

**Table II.1**  
**Main trade laws and regulations in force, February 2004**

Area	Legal instrument
<b>Domestic trade and competition</b>	Law No. 35/91 of 5 August 1991 on the Organization of Domestic Trade
	Law No. 15/2001 of 28 January 2001 amending and supplementing Law No. 35/91 of 5 August 1991 on the Organization of Domestic Trade
	Ministerial Order No. 22/MINICOM/91 of 16 October 1991 establishing the list of products and services subject to price fixing or the profit margin regime
	Ministerial Order establishing the list of sensitive products and services subject to price fixing
	Ministerial Order No. 004/15.01/82 of 15 November 1982 enacting Law No. 31/1982 of 13 September 1982
	Ministerial Order No. 6/12/04/72/Commint of 30 March 1972. Locations where street vending is prohibited.
<b>Foreign trade</b>	Law No. 22/1989 of 23 December 1989 on the Organization of Foreign Trade
	Law No. 34/91 of 5 August 1991 amending Law No. 22/1989 of 23 December 1989 on the Organization of Foreign Trade
<b>Customs duties</b>	Law No. 25/2002 of 18 July 2002 establishing the import tariff
	Law No. 42/2002 of 31 December 2002 on the import tariff for products on the supplementary negative list
<b>Customs system</b>	Law of 17 July 1968 on the Customs System (subsequently amended)
	Law No. 04/2000 of 19 April 2000 amending the Law of 17 July 1968 on the Customs System

Table II.1 (cont'd)

<sup>5</sup> These are issued by authorities designated by law, such as the Governor of the NBR and the Commissioner General of the Rwanda Revenue Authority.

Area	Legal instrument
<b>VAT</b>	Ministerial Order No. 08.09/FIN 4 of 27 July 1968 implementing the Law on Customs Operations, as amended
	Law No. 40/2002 of 31 December 2002
	Law No. 06/2001 of 20 January 2001 introducing value-added tax, as amended
	Ministerial Order No. [...] of [...] laying down directives and procedures for applying value-added tax (VAT)
	Law No. 23/2002 of 10 July 2002 amending Law No. 06/2001
	Law No. 17/2002 of 10 May 2002
<b>Special tax on sugar</b>	Law No. 41/2002 of 31 December 2002
<b>Privatization</b>	Law No. 2 of 11 March 1996 on Privatization and Public Investment Presidential Order No. 08/14 of 3 May 1996 establishing the National Privatization and Public Investment Commission
<b>Government procurement</b>	Decree of 25 February 1959 Royal Order of 26 June 1959, and general terms and conditions
<b>Intellectual property</b>	Legislative Order No. 41/63 of 24 February 1950 on unfair competition and enforcement Law of 25 February 1963 on Patents Ministerial Order No. 5/10/67 of May 1967 implementing the Law on Patents Law of 25 February 1963 on Trademarks Ministerial Order No. 3/10/67 of 18 May 1967 implementing the Law on Trademarks Law of 25 February 1963 on Industrial Designs Ministerial Order No. 4/10/67 of 18 May 1967 implementing the Law on Industrial Designs

Source: Information provided by the Rwandan authorities.

#### (4) TRADE POLICY OBJECTIVES

22. Trade policy is a component of Rwanda's economic policy. Promotion of the country's social and economic development and poverty reduction are its long-term goals. These are defined in the "Rwanda Vision 2020" programme aimed at raising Rwanda to middle-income status over a period of 20 years. In addition to poverty reduction, the objectives include sound political and economic governance; transformation of the rural economy; development of services (primarily tourism), industry (mainly textiles) and human resources; development and promotion of the private sector; and regional and international economic integration.

23. To attain these objectives, Rwanda plans to accelerate its economic growth; to stimulate its economy through programmes geared towards disadvantaged areas and social strata; to promote food security by using quality seeds and fertilizer and improving storage facilities; to diversify its exports; to encourage its small- and medium-sized enterprises; and to make more effective use of its natural and human resources. It recognizes that development of the private sector calls for more extensive liberalization, privatization and strengthening of the partnership between the public and private sectors.

24. Rwanda believes that the multilateral trading system will contribute towards the country's international integration. It intends to seize the opportunity provided by the establishment of the customs union of the Common Market for Eastern and Southern Africa (COMESA) in order to continue liberalizing its trade regime. In January 2004, Rwanda entered the COMESA free-trade area, having completed the elimination of duties on imports from other member countries. This now enables it to obtain raw materials and other inputs at lower cost and to enjoy broader market access. Rwanda has also applied for membership of the Southern African Development Community (SADC) in order to improve prospects for its agricultural exports. It considers that experience at the regional level will provide good preparation for more effective participation in the world market, without regional opportunities hampering global prospects for the time being. Rwanda also intends to take

advantage of the benefits afforded by the ACP-EU Agreement and the African Growth and Opportunity Act (AGOA) through investment promotion efforts. It has, moreover, initiated the process for joining the East African Community (EAC).

**(5) TRADE AGREEMENTS AND ARRANGEMENTS**

**(i) World Trade Organization (WTO)**

25. Rwanda has been an original member of the WTO since 22 May 1996, having been a contracting party to the GATT since 1 January 1966. As a least developed country (LDC), Rwanda benefits from more extensive special and differential treatment than that given to developing countries, in particular longer transitional periods and less onerous commitments. Nevertheless, Rwanda's insufficient capacities have hampered its active participation in the multilateral trading system and have delayed its implementation of the WTO Agreements. The result is that it has been unable to make the best use of the opportunities afforded by the system. Rwanda's technical assistance needs are outlined in section (7) below.

26. Rwanda's notifications to the WTO are limited to three areas (Table II.2). Rwanda has not signed any of the WTO plurilateral agreements and is not an observer to any of these agreements.

**Table II.2**  
**Status of WTO notification obligations, June 2003**

WTO Agreement	Obligation	Periodicity	Symbol of latest notification
Anti-dumping (Article 16.4)	Report	Semi-annually	G/ADP/N/41/Add.1, 19 October 1998
Customs valuation (Annex III, para. 1)	Extension of the delay for implementation of the Agreement	At the end of the period of delay granted to developing and least developed countries	G/VAL/W/84, 12 June 2001
Subsidies and countervailing measures (Article 25.11)	Report	Semi-annually	G/SCM/N/40/Add.1, 20 October 1998

Source: WTO documents.

27. Addressing the Cancún Ministerial Conference, Rwanda voiced concern over the slow progress in the negotiations on agriculture. It underlined the importance of basing its own economic development on integration in the multilateral trading system in order to achieve sustainable development. Rwanda urged the international community to move forward in establishing a fairer, more equitable economic partnership. It also asked for a commitment by the developed countries to eliminate all export subsidies and remove trade barriers, and called on the developing countries to make the necessary sacrifices to promote and develop South-South trade. It underscored the importance of liberalizing trade in services in the interest of economic development, and of the free movement of persons in achieving such liberalization.<sup>6</sup> However, Rwanda believes that the primary obstacle to its full participation in the multilateral system is a lack of personnel qualified to negotiate and monitor the ongoing negotiation process.

**(ii) Regional agreements**

**(a) Overview**

28. Rwanda is a member of the Common Market for Eastern and Southern Africa (COMESA), the Economic Community of Central African States (ECCAS), the Economic Community of the Great

<sup>6</sup> Statement by the Rwandan Minister of Commerce, Industry, Investment Promotion, Tourism and Cooperatives, Ministerial Conference, Fifth Session, Cancún, 10-14 September 2003. WTO document WT/MIN(03)/ST/137 of 13 September 2003.

Lakes Countries (CEPGL), the Regional Integration Facilitation Forum (RIFF), the Organization for the Management and Development of the Kagera River Basin (KBO), the African Union (AU) and the African Economic Community (AEC). As regards trade issues, only two of these regional agreements (RIFF and COMESA) are truly operational.

29. Rwanda has applied to join the Southern African Development Community (SADC), whose member countries (particularly South Africa) offer favourable prospects for Rwanda's agricultural exports, and the East African Community (EAC) in order to diversify its export destinations. Rwanda expects to derive economic benefits from COMESA membership, as a result of broader market access and increased investment in its economy.

(b) Common Market for Eastern and Southern Africa (COMESA)<sup>7</sup>

30. The COMESA aims to deepen and expand the integration process for member countries by adopting general measures to liberalize trade, which include the removal of all tariff and non-tariff barriers and the adoption of a common external tariff; free movement of capital, labour and goods, and the right of establishment in the region; the adoption of a common set of standards, technical regulations, quality control procedures, certification systems, and sanitary and phytosanitary regulations; tax harmonization (including VAT and excise duties), and provisions on industrial cooperation in spheres such as company law, intellectual property and investment; implementation of a harmonized competition policy; and the establishment of a monetary union.<sup>8</sup> The COMESA has been notified to the WTO under the Enabling Clause.

31. The COMESA should therefore lead to a customs and monetary union. Its free-trade area was set up on 1 November 2000; nine of its member countries were able to meet this deadline<sup>9</sup>, whereas Rwanda has been given a waiver to allow it to apply an 80-per cent reduction of its MFN tariffs on exports from other COMESA members. Rwanda increased the reduction to 90 per cent in 2003, and on 1 January 2004 it entered the COMESA free-trade area. The customs union should come into effect at the end of 2004, with a common external tariff (CET) comprising four rates: 0, 5, 15, and 30 per cent (these rates apply to capital goods, raw materials, intermediate goods, and finished products, respectively). Rwanda has been applying these four rates since the end of August 2002 (Chapter III(2)(iv)(b)).

32. The granting of tariff preferences is subject to regulations on rules of origin. The COMESA lays down four criteria for determining the right to receive preferential treatment: the goods must be wholly produced in the region, without any raw materials of foreign origin; or the imported content must not exceed 60 per cent of the c.i.f. value of all the materials used in production; or the ex-factory value added must account for at least 35 per cent of the price of the finished product<sup>10</sup> or the value added must be at least 25 per cent if the finished good is deemed "particularly important" for the

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<sup>7</sup> At the end of 1994, the Preferential Trade Area for Eastern and Southern African States became the COMESA. In addition to Rwanda, the other members are Angola, Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Namibia, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe. Lesotho, Mozambique and Tanzania have withdrawn.

<sup>8</sup> Further details can be found at <http://www.comesa.org/obj.htm>.

<sup>9</sup> The nine members are Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia and Zimbabwe. Goods transactions among members of the COMESA free-trade area are duty free, without exception.

<sup>10</sup> "Value added" is defined here as being the difference between the ex-factory price of finished products and the c.i.f. value of the inputs imported from countries that are not COMESA members. The minimum level of value added was brought down from 45 to 35 per cent in 2000. Egypt and Uganda, however, continue to apply the 45-per cent threshold.

development of a member State (in accordance with the previously defined list of products); or the processing implies a change in the tariff heading.

33. The COMESA's competition policy is about to be introduced and will be applied as soon as the Council of Ministers has adopted the relevant provisions. The draft provisions prohibit *inter alia* restrictive business practices; abuse of a dominant position; agreements fixing prices; collusive tendering and bid-rigging; market or consumer allocation agreements; allocation by quota as to sales and production; collective action to enforce arrangements; concerted refusal to purchase goods or services from a potential supplier, or to supply goods or services to a potential purchaser; and collective denial of access to an arrangement or association which is crucial to competition. The provisions also lay down merger and acquisition control procedures and establish mandatory notification of annual turnover or assets in the region exceeding a certain threshold (yet to be determined). A Competition Commission is established, with authority to act on its own initiative or upon application by any person or consumer organization.

34. The monetary harmonization programme is to be implemented in four stages between 1992 and 2025. The last stage should result in a full-fledged monetary union in which there will be either permanently fixed exchange rates or a single currency; full harmonization of the member States' economic, budgetary and monetary policies; full integration of the financial structure; a pooling of exchange reserves; and the establishment of a single monetary authority. A coordination body composed of experts from central banks and ministries of finance in the region has been set up to oversee implementation of the measures and ensure that the harmonization process makes progress towards monetary union.

35. Several institutions have been established in order to facilitate the development of COMESA members. The Eastern and Southern African Trade and Development Bank (PTA Bank) finances foreign trade transactions and projects by public or private investors resident in one of the member States. In 2000, Rwanda was granted a US\$2.6 million loan for the rehabilitation and expansion of a sugar factory (Kabuye Sugar Works SARL); in 2002, it received a loan of US\$1.29 million to build the head office of the Bank of Commerce, Development and Industry in Kigali; and in 2001, trade financing was provided for the import of raw materials and capital goods. The COMESA clearing-house has become less important following the liberalization of the exchange regime in the majority of member countries. Its role has changed and it now focuses mainly on enhancing the efficiency of clearing operations in order to supplement the services provided by commercial banks; to give business persons a form of insurance against political risks in intra-regional trade; and to facilitate harmonization of monetary and budgetary policies within the region.

36. The PTA reinsurance company (ZEP-RE) helps to foster the development of insurance and reinsurance in the region. Rwanda has signed the Agreement establishing the ZEP-RE, and the Rwandan Government and the Rwanda National Insurance Company (SONARWA) are shareholders. The African Trade Insurance Agency (ATI) was set up in August 2001 to boost investors' confidence by providing cover against political risks. The ATI is a COMESA creation, but all African Union (AU) member States may belong to it. The COMESA Court of Justice came into operation in 1998 and has jurisdiction to adjudicate on all matters which may be referred to it under the COMESA Treaty. Rwanda has not been involved in any dispute within this framework so far.

37. The Protocol on free movement of persons is to be implemented in several stages. The first stage involves the abolition of visa requirements, which was to enter into force in 2000; the majority of countries, including Rwanda, no longer require visas for citizens of other COMESA countries. For Rwanda, the COMESA measures to facilitate movement of persons and transit of goods are particularly important because of the country's landlocked situation.



38. According to the authorities, the initial phase of Rwanda's integration into the COMESA has had the following impact on the domestic economy: While some products have become available at low prices to the consumer, there has also been a loss in customs revenue (approximately RF 3 billion between January and September 2003) and a slowdown in activity in certain local industries as a result of competition from products from other COMESA member countries. Rwanda's expectations regarding the COMESA are the removal of non-tariff barriers, free movement of goods, persons and services, and the transfer of technology.

(c) Economic Community of Central African States (ECCAS)

39. In addition to Rwanda, the following are members of the ECCAS: Angola, Burundi, Cameroon, Central African Republic, Chad, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Republic of the Congo, and Sao Tomé and Príncipe. The ECCAS was established in 1985, but the integration process has been at a standstill since 1992 because of peace and security problems in the region.

(d) Economic Community of the Great Lakes Countries (CEPGL)

40. The Economic Community of the Great Lakes Countries was established in 1975 and is composed of Burundi, the Democratic Republic of the Congo and Rwanda. Joint entities were set up, including a joint bank, an agricultural and animal research institute, and an energy generating company (energy from the Great Lakes). The signatories also agreed to apply reciprocal trade preferences and drew up a list of products eligible for such treatment. As a result of the crises in the three countries, the CEPGL is no longer in operation. Consequently, the signatories, including Rwanda, have been unable to apply the preferential treatment agreed.

(e) Regional Integration Facilitation Forum (RIFF)

41. The Regional Integration Facilitation Forum, formerly known as the Cross-Border Initiative, is neither a permanent structure nor a new regional organization. It focuses chiefly on creating the conditions needed for effective implementation of the participating countries' various regional integration initiatives and on ensuring their consistency.<sup>11</sup> The RIFF was developed in close consultation with the region's economic integration organizations. As a forum, it is intended to reinforce and supplement the activities of these organizations. It seeks to integrate the economies of participating countries by facilitating private investment, trade and payments among these countries, as well as cross-border movement of labour and capital. A number of eastern and southern African and Indian Ocean countries belong to the Forum.<sup>12</sup> The RIFF was established in 1992 and is sponsored by the European Commission, the International Monetary Fund, the World Bank, and the African Development Bank. It does not have any regional secretariat and operates on a voluntary basis.

(f) Organization for the Management and Development of the Kagera River Basin (KBO)

42. The Organization for the Management and Development of the Kagera River Basin was established in 1977. Its task is to address all matters pertaining to activities to be developed in the Kagera River Basin, including water and hydropower resources development; the provision of water supplies and related services; agriculture and livestock development, forestry, and land reclamation; mining; transport and communications; trade; tourism; wildlife conservation and development;

<sup>11</sup> The RIFF is open to COMESA, SADC, EAC and Indian Ocean Commission member countries.

<sup>12</sup> The current participating countries are Burundi, Comoros, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

fisheries; industrial development; and protection of the environment.<sup>13</sup> Its members are Burundi, Rwanda, Tanzania and Uganda. The KBO is not operational in practice but negotiations are under way to revive it.

(g) African Union (AU) and African Economic Community (AEC)

43. The African Union came into being on 8 July 2002 as the successor to the Organization of African Unity (OAU).<sup>14</sup> The OAU Treaty had been signed by 30 African countries on 25 May 1963. The objective of the 1991 Treaty of Abuja (Nigeria) is to establish an African Economic Community, but this is not yet in operation.

(iii) **Bilateral agreements and arrangements**

44. Rwanda has concluded bilateral framework trade agreements to facilitate movement of goods and persons with Burundi, the Democratic Republic of the Congo, Kenya, Mauritius, South Africa, Tanzania, and Uganda.

(iv) **Other agreements and arrangements**

(a) The Cotonou Agreement and the "Everything But Arms" initiative

45. Rwanda has signed the Cotonou Agreement (which replaced the Lomé Convention) between the European Union (EU) and 77 African, Caribbean, and Pacific countries (ACP). This Agreement renews most of the non-reciprocal trade preferences already afforded by the EU to the ACP countries. At the Doha Ministerial Conference, the WTO Members granted the waiver, requested by the parties to the Cotonou Agreement, from commitments under Article I.1 of the GATT 1994 (MFN treatment) until 31 December 2007. Before then, the parties should conclude new trade arrangements consistent with the WTO Agreements. This should lead to the gradual elimination of barriers to trade among the parties and strengthen their cooperation in all trade-related areas, particularly through the establishment of a free-trade area within a period of 12 years, i.e. by the year 2020.

46. In September 2002, the EU initiated negotiations with ACP countries in order to conclude bilateral partnership agreements or agreements with various regional groups (regional economic partnership agreements), which should come into effect at the latest by January 2008. These agreements should be based on reciprocal liberalization so that, in principle, Rwanda, like the other ACP countries, should gradually grant preferential access for the EU's exports. Nevertheless, a special clause in the Cotonou Agreement gives LDCs the right not to enter into a reciprocal partnership agreement, in which case the country in question would receive the preferences granted by the EU under the "Everything But Arms" initiative. This initiative was launched in March 2001 and grants duty- and quota-free access for all products imported from LDCs, with the exception of arms. A timetable has been set for applying preferential treatment to sugar, rice and fresh bananas.<sup>15</sup>

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<sup>13</sup> Agreement for the Establishment of the Organization for the Management and Development of the Kagera River Basin, signed at Rusumo on 24 August 1977. Available at: <http://faolex.fao.org/docs/texts/mul16016.doc>.

<sup>14</sup> Almost all African countries belong to the AU.

<sup>15</sup> See WTO (2001) for further details.

(b) African Growth and Opportunity Act (AGOA)

47. The African Growth and Opportunity Act gives extended preferential access to the United States market to Sub-Saharan African countries which meet certain eligibility criteria.<sup>16</sup> At present, 38 African countries are eligible. Rwanda became eligible for the general benefits provided under the AGOA on 2 October 2000 and to those pertaining to textiles and clothing on 4 March 2003. Rwanda's duty-free exports to the United States were estimated at US\$10,000 in 2002, i.e. less than 1 per cent of total exports to the US.<sup>17</sup>

(c) Generalized System of Preferences (GSP) and Global System of Trade Preferences (GSTP)

48. Rwanda receives GSP treatment from industrialized countries. According to the Rwandan authorities, almost all exports (handicrafts, mining products, coffee and tea) enjoy such treatment. Rwanda has not acceded to the GSTP Agreement among developing countries.

**(6) INVESTMENT REGIME**

49. In Rwanda, investment in all sectors is governed by the Investment Code issued by Law No. 14/98 of 18 December 1998 establishing the Rwanda Investment Promotion Agency (RIPA).<sup>18</sup> The RIPA entered into operation in 2000. It is empowered to open branches and as of early 2004 should serve as a one-stop centre for investors.<sup>19</sup> Subject to the provisions of this Law, foreign investors may invest in all forms of activity in Rwanda and are granted national treatment.<sup>20</sup>

50. To qualify for benefits under the Code, investments must be registered with the RIPA. Foreigners are required to invest a minimum capital of US\$100,000 and citizens of Rwanda or of other COMESA member countries no less than US\$50,000.<sup>21</sup> Administrative registration fees amount to RF 120,000. Zero duty-rated imports of plant, machinery or equipment items are exempt from sales tax; otherwise a single flat rate tax of 5 per cent of the c.i.f. value of the items applies in lieu of all duties and taxes that would normally be payable.<sup>22</sup>

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<sup>16</sup> In order to benefit under the AGOA, a country must make progress towards the establishment of a market-based economy, a multiparty system and the rule of law, the removal of discriminatory barriers to trade and investment by the United States, the protection of intellectual property, combating corruption, protection of human rights and labour standards, and the abolition of certain forms of child labour.

<sup>17</sup> *2003 Comprehensive Report on US Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act*, The Third of Eight Annual Reports, May 2003, available at: [http://www.agoa.gov/resources/annual\\_3.pdf](http://www.agoa.gov/resources/annual_3.pdf).

<sup>18</sup> Law No. 14/98 of 18 December 1998 establishing the Rwanda Investment Promotion Agency, which replaces Law No. 21/87 of 5 August 1987 establishing the Investment Code. The Investment Code is currently under revision.

<sup>19</sup> No branches have as yet been opened.

<sup>20</sup> Natural persons from a COMESA member country and commercial companies incorporated under the laws of COMESA member countries are regarded as domestic investors. A commercial company incorporated under the laws of Rwanda may be regarded as a foreign investor if over 50 per cent of the company's shares are owned by persons who are not citizens of Rwanda or of a COMESA member country. The same applies to partnerships in which the partnership controlling interest is owned by a person who is not a citizen of Rwanda or of a COMESA member country. In either case, the investment must amount to at least the equivalent of US\$100,000 in foreign capital.

<sup>21</sup> Banking institutions also require approval by the NBR.

<sup>22</sup> The RIPA is in the process of bringing its investment tax exemption procedures into line with those of the Rwanda Revenue Authority.

51. A holder of a certificate of registration is eligible for common incentives such as the fiscal measures provided in Law No. 8/97 of 26 June 1997 on the Code of direct taxes on different profits and professional income (as amended and supplemented by Law No. 53/2001 of 30 December 2001); investment allowances of 30 per cent of the value of invested capital during the first year of operations; additional deduction from taxable income of 50 per cent of training, research and product development costs; the right to fully expend the cost of providing the necessary infrastructure; drawback for all duties and taxes paid on raw materials imported by an exporter operating outside the free economic zones, whose access to foreign markets, training, and promotion and trade exhibitions is also facilitated by the Agency; and export tax exemption.<sup>23</sup>

52. The Code guarantees registered investors the freedom to externalize funds for the repayment of foreign loans or interest on those loans; payments of dividends to shareholders who are not citizens of Rwanda or to Rwandan citizens residing abroad; payment of royalties or fees in respect of an agreement for the transfer of foreign technology; payments of emoluments and other benefits to foreign staff employed in Rwanda; externalization of profits or proceeds on disposal of capital assets and of proceeds from the sale of an enterprise for foreigners and Rwandan citizens residing abroad.

53. Registered industrial companies investing at least US\$100,000 in Rwanda are automatically entitled to three work permits for expatriate staff. An investment of US\$50,000 in capital assets is required of enterprises intending to provide professional services, such as accountants, architects, doctors, engineers and lawyers.

54. The Code contains special provisions in respect of investors seeking to exploit a "scarce resource".<sup>24</sup> In consultation with the relevant ministries, the RIPA must determine the nature and number of available investment opportunities; set terms and conditions for the exploitation of the resource in question; specify the mechanism to be used by the Agency to select an investor for each available opportunity; and advertise the investment opportunities. The final selection is made by a team of senior staff from the RIPA and the ministry concerned.

55. The Code provides further incentives in the case of free economic zones, including corporate income tax reduction; duty-free importation of inputs to production; exemption from all other taxes normally levied on businesses operating in Rwanda; a one-stop service; tax-free externalization of funds; flexibility in the grant of work permits; exemption from withholding taxes and taxes on dividends; and exemption from duties and sales tax on locally produced goods and services purchased as inputs to production (Chapter III(3)(vi)).<sup>25</sup>

56. In the event that the State should take possession of or acquire the rights of an investor in a registered enterprise or its assets, or assert a claim of interest in or a right over a property or undertaking, the Code provides for payment, within 12 months, of "adequate" compensation in convertible currency, which may be transferred abroad, free of duty and taxes.

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<sup>23</sup> Pursuant to Article 31 of the Code, the Council of Ministers may accord additional incentives and facilities for projects depending on their nature, national importance, location, or volume of capital investment. The Code also maintains all rights and benefits accorded and all obligations imposed under the previous legislation repealed by the Code; these may be reviewed by the RIPA at the investor's request.

<sup>24</sup> Within the meaning of the Code, scarce resources are "non-renewable resources or resources which renew themselves over a long period of time and whose economic exploitation is, by necessity, restricted to a small number of operators including investments in mining, petroleum exploration and production, fishing and forestry resources, and provision of utility services such as power, water and telecommunication".

<sup>25</sup> The law on the establishment and operation of free zones is still under consideration, meaning that no such zones exist as yet.

57. The Code also establishes procedures for the settlement of disputes between foreign investors and the RIPA or the Rwandan State, including negotiation and arbitration within the framework of bilateral or multilateral agreements on investment protection (the injured party may otherwise also lodge a complaint with the competent Rwandan court of first instance)<sup>26</sup>, or any other international procedure, such as that provided under the Convention of 18 March 1965 on the Settlement of Investment Disputes between States and Nationals of Other States, ratified by Rwanda on 16 July 1979. A company's registration certificate may specify arbitration procedures. In the event of disagreement on the method or forum for arbitration, the injured party may apply to the relevant Rwandan court of first instance.

58. Rwanda is also a member of the Multilateral Investment Guarantee Agency.

#### **(7) TRADE-RELATED TECHNICAL ASSISTANCE**

59. According to the Rwandan authorities, technical assistance is primarily needed to achieve a better understanding and hence more effective implementation of the WTO Agreements; it is also necessary to improve negotiating capability. Rwanda plans to set up a national committee to coordinate WTO-related activities at the domestic level and ensure implementation of the Agreements. At present, the low level of knowledge in this regard and the lack of financial and human resources are still preventing the country from reaping the full benefits of participation in the multilateral trading system.

60. The genocide in 1994 delayed Rwanda's access to technical assistance. A seminar on export promotion was organized and a WTO reference centre was set up in 1998; the centre did not become operational until June 2003. At the same time, a WTO mission initiated the review of Rwanda's trade policy, providing the opportunity for a national trade policy seminar, moderated by the WTO, in Kigali. Rwanda has also applied to benefit under the revised Integrated Framework for Technical Assistance and Capacity Building.<sup>27</sup> Today's stable political climate bodes well for an increase in the number and quality of technical assistance activities.

61. Rwanda's trade-related technical assistance requirements span a number of areas, including the implementation of trade agreements; participation in trade negotiations; formulation of trade policies; supply constraints; and the integration of trade and development policies.

##### **(i) Implementation of agreements, training and policy formulation**

62. Rwanda's chief areas of concern regarding implementation are customs valuation; sanitary and phytosanitary measures (SPS); technical barriers to trade (TBT); competition policy; and TRIPS. Rwanda needs technical assistance in the following areas: Harmonization of its laws and regulations with WTO principles and rules; notifications; staff training and establishment of the necessary institutional structures; and/or formulation of policies which allow greater benefit to be derived from implementation of the Agreements and minimize any possible costs.

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<sup>26</sup> Rwanda has signed double taxation agreements with South Africa and Mauritius and an investment protection agreement with OPEC.

<sup>27</sup> In order to benefit from the Integrated Framework, set up in 1996 and revised in 2002, countries are required to fulfil certain criteria, including the following: (i) firm commitment by the Government to integrate trade into its national development strategy and Poverty Reduction Strategy Paper (PRSP); (ii) the country must at least be preparing its PRSP; (iii) the country must at least be at the preparatory stage for forthcoming meetings of the World Bank Consultative Group or UNDP Round Table; and (iv) the country must provide a conducive operating environment (e.g. infrastructure level, resource base of the World Bank, IMF and UNDP country offices, donor response, and the pace of domestic reform).

63. Rwanda was granted a waiver allowing it to delay implementation of the WTO Customs Valuation Agreement until 22 May 2001. It has requested a three-year extension, arguing the inadequacy of resources. The authorities have drafted a plan of action, specifying that its implementation would largely depend on the amount of technical assistance received, particularly in training customs officials in the content and implementation of the Agreement, including application of the transaction value method.

64. Other specific needs have been identified in the customs sphere, including revision of customs legislation; computerization of customs administration; restructuring of the Customs Valuation Division, strengthening of the inspection process, and establishment of two sections on rules of origin and post-clearance auditing, respectively; training of customs officials in the revised customs legislation; fraud control; post-clearance audit facilities and methods; rules of origin; and training in customs procedures for the private sector.

65. As regards standards and technical regulations, the Rwanda Bureau of Standards (RBS) was established in 2001 but has not yet become fully operational. Support is needed in the preparation and adoption of domestic standards, in circulating the relevant information, and in setting up a quality control system to promote better access for Rwanda's exports to regional and international markets. Technical assistance is also required for the RBS to develop and implement a national certification and accreditation system. Moreover, Rwanda would welcome support in setting up a central standardization laboratory, attached to the RBS, and a food quality control laboratory. The country's existing laboratories lack the necessary technical facilities.

66. In addition to the above, assistance is needed to train staff working for the RBS and the Rwanda Investment Promotion Agency; customs personnel (especially those involved in the "GATT Commission"), and examiners and other officials of the future section on rules of origin. Support is also requested for training in investment and trade promotion; trade negotiations; and project planning and evaluation.

67. Since its entry into the WTO, Rwanda has not taken an active part in the negotiations. The sheer number of negotiations – the Doha negotiations, the COMESA negotiations and negotiations with the EU under the Cotonou Agreement, for example (each with a different scope, timetable and procedures) – is severely stretching the country's capabilities in terms of trade policy formulation. The most pressing needs for technical assistance in this sphere are (i) the identification of sectors and issues important for Rwanda; (ii) training in negotiating techniques; and (iii) identification of the reforms necessary to implement the results of the negotiations. In the negotiations on trade in services, Rwanda needs technical assistance as to how to structure its specific commitments.

68. The Rwandan authorities would welcome technical assistance in drafting a law pertaining to competition policy and another law (Chapter III(4)(ii)(a)) providing for appropriate trade measures (anti-dumping, countervailing and safeguard measures). Rwanda is in the process of revising its industrial property legislation; a draft law has been finalized with WIPO technical support (Chapter III(4)(iv)). Technical assistance needs chiefly concern the training of personnel responsible for implementing and enforcing the new law.

**(ii) Supply constraints**

69. Supply constraints are among the main barriers to the expansion of Rwanda's foreign trade. These are mainly due to Rwanda's landlocked situation, which makes transport more costly; the inadequate transport infrastructure, both within Rwanda and throughout the region; the scarcity of arable land, since Rwanda is one of the most densely populated countries in Africa; the lack of skilled

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staff, aggravated by the consequences of the genocide in 1994; the high cost of electricity, water and telecommunications; and quality management difficulties. Trade financing problems, poor trade information and the low competitiveness of Rwandan manufactures are all obstacles to the diversification of export products and markets.

70. A number of infrastructure-related issues can be found in the PRSP, drawn up in November 2001, and in the Government's sectoral strategies. These include privatization of the national telecommunications company (RwandaTel); investments in the new electric generator; more efficient management of the Electrogaz company (which will remain in government hands until 2007); development of the railway infrastructure; rehabilitation of the Kanombe airport; maintenance and rehabilitation of roads and bridges; and privatization of tea factories and plantations, and of coffee washings stations and processing plants.

71. Rwanda's aim in stating its assistance requirements is to strengthen the institutional capacity of trade promotion organizations; to improve export financing mechanisms and broaden knowledge of available preferential market access schemes; and to acquire the computer and telecomputing equipment necessary to access up-to-date information on international markets. In order to ensure a coordinated response to those needs by the various providers of technical assistance, Rwanda has applied for participation in the Integrated Framework programme, a mechanism whereby six multilateral agencies (World Bank, ITC, UNCTAD, IMF, WTO and UNDP) coordinate the delivery of trade-related technical assistance to LDCs so as to improve coherence in trade-related policies by integrating trade priorities into poverty reduction strategies.

**(iii) Integration of trade in development strategies**

72. The Integrated Framework emphasizes the necessity for each country to take its trade priorities into account in its national development plan or poverty reduction strategy. It also enables donors to target technical assistance more effectively.<sup>28</sup> If foreign trade is to stimulate economic growth and improve people's living conditions, integration should preferably be achieved through commitment at the political and institutional levels and in partnership between the Government and the donors.

73. Political commitment to integration is not yet systematic in Rwanda. Although the final version of the PRSP, completed in November 2001, is closely concerned with trade policy issues, trade (apart from export diversification) is not explicitly recognized as a poverty reduction strategy. When Rwanda becomes a participant in the Integrated Framework programme, a diagnostic study will facilitate the identification of a number of trade policy-related priorities. These can then be incorporated in future revisions of the PRSP.

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<sup>28</sup> A meeting was held between Rwanda and the donors to coordinate the financing of technical assistance.