

### III. TRADE POLICIES AND PRACTICES BY MEASURE

#### (1) OVERVIEW

1. Since the genocide in 1994, Rwanda has undertaken various reforms to rebuild its economy. It has made significant progress in economic liberalization and the revision of its tax system by reducing the rates of customs duties and taxes and introducing VAT in 2001. To make revenue collection more efficient, the Rwanda Revenue Authority was established in 1997.

2. In order to boost the economy, reduce non-essential government expenditure and ensure full participation by the private sector in the economy, in 1996 Rwanda enacted the Law on Privatization and Public Investment, under which the Government may liquidate, lease or sell a public enterprise or institution by a presidential order or a law. As a result, 37 enterprises were privatized between 1997 and January 2004.

3. Goods imported into Rwanda are subject to customs duties, VAT, consumption tax and/or advance corporation tax. The tariff, which is essentially escalating in structure, comprises only *ad valorem* duties, the rates of which vary from zero to 30 per cent and averaged 18 per cent in 2003. The preferential tariff applies only to products originating in COMESA member countries. For customs valuation Rwanda has used the transaction value method since 1 January 2004.

4. During the Uruguay Round, Rwanda completed the binding of all its tariff rates. All other import duties and taxes were bound at zero. However, since 2002 a surcharge of 25 per cent has been applied to sugar imports, and preshipment inspection costs and computer costs are paid by importers; moreover, for 241 tariff lines the rates of duty applied are higher than the bound rates.

5. The last remaining export taxes were abolished in 1999. Advantages are provided under the 1998 Investment Code for enterprises operating in free economic zones, but the zones have not as yet been set up. The Rwanda Bureau of Standards was established in 2002 and some 40 national standards have since been adopted. In 1997, the National Tender Board was created and new legislation is shortly to supersede the Decree of 25 February 1959 and the Royal Order promulgated by the King of Belgium on 26 June 1959 for the former colonies Rwanda-Urundi and the Belgian Congo.

6. Competition issues are for the most part covered by the Law of 2001 on the Organization of Domestic Trade. Under that law, the list of products subject to price control is in the process of being revised. The industrial property legislation is likewise undergoing revision; a draft law has been prepared with technical assistance from WIPO to replace the current laws on patents, industrial designs and trademarks, which date back to 25 February 1963, and the ministerial orders implementing them.

#### (2) MEASURES DIRECTLY AFFECTING IMPORTS

##### (i) Registration and documentation

7. All natural or legal persons wishing to import must be entered in the Trade Register for a fee of RF 60,000 and obtain a taxpayer's identification number from the Rwanda Revenue Authority.

8. For customs clearance, Rwanda uses a single document known as the COMESA customs declaration ("CD-COM"), or a simplified document known as 126 *Bis* if the value of the imports is less than RF 200,000 (approximately US\$400). It must be accompanied by other documents including the commercial invoice and bill of lading (air waybill for air freight).

9. Other documents that may be required upon importation include the certificate of origin and proforma invoices (the latter are required by banks).<sup>1</sup> In specific cases, certificates or approval from a competent authority may be required as well for the purpose of sanitary, phytosanitary or other controls (Section (ix)(b)).

**(ii) Customs clearance**

10. The Customs Department is part of the Rwanda Revenue Authority.<sup>2</sup> Efforts have been undertaken to computerize customs operations. The Automated System for Customs Data (ASYCUDA v.2.7) was reintroduced at the airports of Gikondo and Kigali in 2000.<sup>3</sup>

11. Goods worth less than RF 200,000 are cleared directly at the border, using document 126 *Bis*. Goods worth more than that amount are forwarded to the customs warehouse for declaration and payment of duties and taxes. All air freighted goods are transferred to the warehouse.

12. Goods are cleared following receipt of the Notice of Arrival and the "Laisser suivre" by the customs clearing agents.<sup>4</sup> The importer is required to deposit the CD-COM and accompanying documents at Customs for the purposes of registering the declaration and data entry by ASYCUDA. Customs then conducts a documentary and physical verification of the imported goods and collects the import duties and taxes.<sup>5</sup> According to the authorities, the average time for completion of the formalities is two days. Rwanda also applies simplified procedures: fast-track clearance and on site clearance. For homogeneous goods verification is not systematic, but targeted.

13. After payment of the duties and taxes by means of a cheque certified by a commercial bank, the original of the declaration is returned to the importer or customs declarant, who will then pay a fee amounting to 4 per cent of the value of the goods to Rwanda Bonded Warehouses (MAGERWA) for handling services. Thereafter, the importer must remove the goods from the warehouse within 15 days, otherwise they are deemed to have been abandoned.<sup>6</sup> Goods stored in the warehouse for three months without settlement of the duties and taxes are sold by auction.

**(iii) Customs valuation**

14. Since 1 January 2004, Rwanda has used the transaction value method for customs valuation. In the event of doubt regarding the value declared by the importer, goods are released subject to a surety equal to the customs duty on the declared value, plus 25 per cent. Customs then conducts enquiries, which may last for up to three months.<sup>7</sup> If no agreement as to the value is reached with the importer, the WTO Committee on Customs Valuation may be consulted. Rwanda is requesting technical assistance in order to improve implementation of the WTO Agreement on Customs Valuation.

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<sup>1</sup> The certificate of origin is ordinarily required in order for imports from COMESA member countries to benefit from the preferential treatment afforded by Rwanda.

<sup>2</sup> The Rwanda Revenue Authority is supervised by the Ministry of Finance.

<sup>3</sup> Rwanda plans to migrate to ASYCUDA++ in March 2004.

<sup>4</sup> The Notice of Arrival is a document issued by Rwanda Bonded Warehouses (MAGERWA) indicating that the goods have arrived. The "Laisser suivre" is a stamp issued by the transport company or the customs declarant confirming that the goods have been transferred to a warehouse.

<sup>5</sup> Physical verification is carried out on goods not subject to pre-shipment inspection. Verification of homogeneous goods is not systematic and is carried out as determined by Customs Verification.

<sup>6</sup> Storage is free of charge for the 15 days.

<sup>7</sup> During the enquiry, Customs determines the valuation method that may be used.

15. Goods with an f.o.b. value of over US\$3,000 in the case of pharmaceuticals, and US\$5,000 in the case of other products, are subject to preshipment inspection and a bank import declaration.<sup>8</sup> Since 7 June 2002 the inspection has been carried out by Interlink Testing Services International Ltd (ITS), which checks quality, quantity and price. However, Customs is not bound to use the values established by ITS.<sup>9</sup> The current contract with ITS ends in July 2004.

16. Inspection fees amount to 0.84 per cent of the f.o.b. value in the case of non-petroleum products and 0.64 per cent in the case of petroleum products, with a (minimum) flat rate of US\$175. They are borne by the importer.

17. Customs disputes may be taken to the Appeals Council composed of representatives of MINECOFIN, the private sector and the Rwanda Revenue Authority (RRA). Disputes concerning value may be brought before the ORR (where there has been no preshipment inspection); and disputes about classification, before the World Customs Organization (WCO).

**(iv) Customs duties and other duties and charges**

**(a) Overview**

18. Goods imported into Rwanda may be subject to customs duties, value added tax (VAT), consumption tax, and advance corporate tax. Since December 2002, sugar imports have been subject to a 25 per cent surcharge as well (Sections (b) and (c) below). An additional charge, equal to 4 per cent of the c.i.f. value of the goods concerned, is levied on imports in order to cover the costs of storage at MAGERWA.<sup>10</sup> Import taxes accounted for approximately 14 per cent of tax revenue in 2001.

19. As regards customs duties, Rwanda grants at least MFN treatment to all its trading partners. At present it uses the 1996 version of the Harmonized Commodity Description and Coding System (HS).<sup>11</sup> The 2003 tariff comprises 5,583 eight-digit lines of the HS. Rwanda applies only *ad valorem* rates.<sup>12</sup> It applies no seasonal tariffs.

20. Over the last eight years Rwanda has made significant progress in revising its tax system. It has reduced some of its customs duty and tax rates, introduced VAT and created the Rwanda Revenue Authority. It plans to pursue the reform of its tax system, focusing on indirect taxes. As part of the reform Rwanda plans to revise the law on consumption tax and the customs legislation, improve the VAT system and review double-taxation agreements (Chapter II(6)).<sup>13</sup>

<sup>8</sup> National Bank of Rwanda (NBR) 2003.

<sup>9</sup> Some products are exempt from preshipment inspection: arms and munitions (parts and accessories imported by the Government for military or paramilitary use); explosives and pyrotechnic articles; commercial samples; live animals, fruit, vegetables, eggs, fish or fresh, chilled or frozen meat; newspapers and magazines; precious metals, precious and semi-precious stones; works of art, collectors' pieces and antiques; postal letters, packages and parcels; portable goods; goods imported by the United Nations, and diplomatic or consular missions; and personal effects of expatriates employed by international companies.

<sup>10</sup> MAGERWA, a mixed capital company, was established in 1969 to manage public warehouses. Its shareholders are: the Government (6.25 per cent), Rwanda Development Bank (68.74 per cent), Bank of Kigali (6.25 per cent), Commercial Bank of Rwanda (6.25 per cent), SDV (6.25 per cent), AMIFIN Holding (6.25 per cent), and Rwanda Links (0.01 per cent).

<sup>11</sup> Migration to the 2002 version is scheduled for May 2004.

<sup>12</sup> Rates are not indicated for prohibited imports such as asbestos (HS 2524 0000) and articles of asbestos (tariff lines of HS Chapter 68).

<sup>13</sup> Rwanda Revenue Authority (2003).

## (b) Customs duties: levels and structure

*Bound duties*

21. During the Uruguay Round, Rwanda completed the binding of all its tariff lines, 658 (11.8 per cent of the total) of which had been bound before the Round (Table III.1).<sup>14</sup> Rwanda's duties are bound only at *ad valorem* rates ranging from zero to 100 per cent. Duties on non-agricultural products were bound at rates ranging from zero to 100 per cent, and duties on agricultural products at rates ranging from zero to 80 per cent. The simple average of the bound rates is 89 per cent (76.2 per cent in the case of agricultural products and 91.3 per cent for the others); 75.3 per cent of lines are bound at a maximum rate of 100 per cent, 12.9 per cent at a maximum of 80 per cent and only 0.8 per cent (44 headings plus 7 subheadings) are bound at zero per cent.<sup>15</sup>

**Table III.1**  
MFN tariff structure in Rwanda, 2002-2003  
(Percentage)

	Tariff		Bindings before Uruguay Round <sup>a</sup>	Bindings after Uruguay Round
	2002	2003		
1. Bound tariff lines (percentage of all tariff lines)	100.0	100.0	11.8	100.0
2. Duty-free tariff lines (percentage of all tariff lines)	4.9	4.9	0.9	0.8
3. Non- <i>ad valorem</i> tariffs (percentage of all tariff lines)	0.0	0.0	0.0	0.0
4. Tariff quotas (percentage of all tariff lines)	0.0	0.0	0.0	0.0
5. Non- <i>ad valorem</i> tariffs with no <i>ad valorem</i> equivalent (percentage of all tariff lines)	0.0	0.0	0.0	0.0
6. Simple average bound rate	19.2	18.0	17.6	89.1
Agricultural products (HS01-24)	15.1	14.2	9.9	76.2
Non-agricultural products (HS25-97)	20.0	18.6	18.6	91.3
WTO agricultural products <sup>b</sup>	14.4	13.2	11.6	74.8
WTO non-agricultural products <sup>c</sup>	20.0	18.8	18.2	91.4
7. Domestic tariff "peaks" (percentage of all tariff lines) <sup>d</sup>	0.0	0.0	0.0	0.0
8. International tariff "peaks" (percentage of all tariff lines) <sup>e</sup>	40.9	39.3	71.9	97.3
9. Overall standard deviation of applied rates	9.8	10.6	8.4	24.0
10. Applied "nuisance" rates (percentage of all tariff lines) <sup>f</sup>	0.0	0.0	0.0	0.0

<sup>a</sup> Indicators 1 to 5 are calculated on the basis of 5,583 tariff lines in 2003. The other indicators are based on the 658 lines bound before the Uruguay Round.

<sup>b</sup> Annex 1 of the WTO Agreement on Agriculture.

<sup>c</sup> Excluding petroleum products.

<sup>d</sup> Domestic tariff "peaks" are tariffs exceeding three times the simple average rate applied (indicator 6).

<sup>e</sup> International tariff "peaks" are tariffs exceeding 15 per cent.

<sup>f</sup> "Nuisance" rates are those greater than zero, but not exceeding 2 per cent.

Source: WTO Secretariat calculations, based on data supplied by the Rwandan authorities; WTO, Consolidated Tariff Schedule (CTS) database.

22. The other duties and taxes have been bound at zero, but Rwanda applies preshipment inspection fees, a computer fee of RF 500 on imports, and a surcharge on sugar imports. Rwanda has no tariff quota commitments.

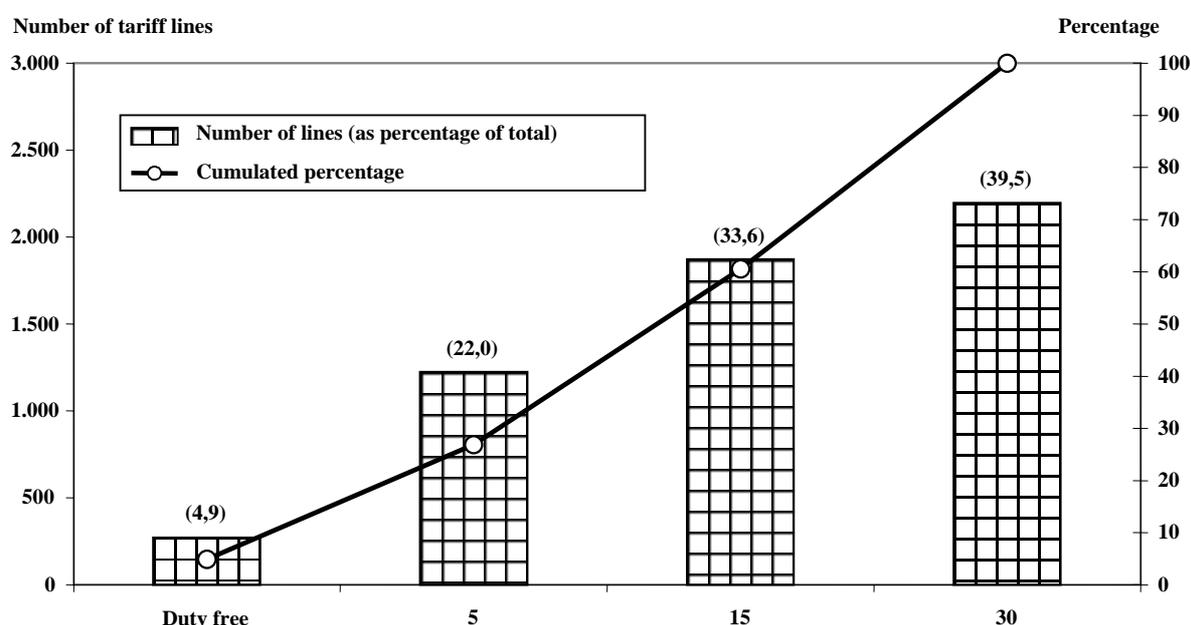
<sup>14</sup> The prior commitments include Benelux Schedule II (Belgian Congo and Rwanda-Urundi section), the Torquay Protocol of 21 April 1951 and the Sixth Protocol of Supplementary Concessions of 23 May 1956.

<sup>15</sup> Tariffs on the following are bound at zero: fish, dried, salted or in brine; milk and cream, whether or not condensed; butter and cheese; wheat flour; cereal grouts of maize; malt; organic dyestuffs; and safety lamps.

*MFN duties applied*

23. Four rates are applied to imports: 30 per cent to finished goods, 15 per cent to intermediate goods, 5 per cent to raw materials and zero per cent to capital goods.<sup>16</sup> These are the four rates of the COMESA common external tariff.<sup>17</sup> The simple average of applied MFN duties was 18 per cent in 2003, as compared to 19.2 per cent in 2002. The 0.59 per cent coefficient of variation shows moderate dispersion (from zero to 30 per cent). The modal rate (which is the most common) is 30 per cent and applies to some 40 per cent of the total number of lines. Around 56 per cent of the lines have rates ranging from 5 to 15 per cent (Chart III.1).

**Chart III.1**  
**Breakdown of applied MFN duties, 2003**



**Note:** The figures in brackets correspond to the percentage of total lines.

**Source:** WTO Secretariat calculations, based on data provided by the Rwandan authorities.

<sup>16</sup> The maximum tariff rate fell from 220 per cent in 1991 to 100 per cent at the end of 1991, 60 per cent in 1995, 40 per cent in 1997 and 25 per cent in 1998, and was then reduced to 30 per cent at the end of 2002.

<sup>17</sup> A few differences in the categorization of goods nonetheless remain. They concern goods which are of "particular importance" to Rwanda's development: certain machines for dry cleaning and ironing (import duty of 15 per cent); industrial inputs, certain unloading, handling, building, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery and equipment, tractors, certain motor vehicles, trailers and semi-trailers, certain washing, cleaning and ironing machines, certain sewing machines and machine tools (import duty of 5 per cent); agricultural inputs, pharmaceuticals, medical furniture, printed books, brochures, leaflets and similar printed matter, newspapers, journals and periodicals, printed maps, certain furnishings, laboratory, hygienic or pharmaceutical glassware, certain tools and implements, certain agricultural, horticultural or forest machinery, and computers (import duty of zero per cent).

24. The zero rate applies to 271 lines, comprising largely pharmaceuticals, nuclear reactors, boilers, machinery and mechanical appliances. The maximum rate of 30 per cent applies to some 40 per cent of the lines.<sup>18</sup>

25. Non-agricultural products according to the WTO definition are the most protected, with an average rate of duty of 18.8 per cent, compared with 13.2 per cent for agricultural products (Table AIII.1). Average rates remain relatively lower in the agricultural sector (7 per cent) and mining (6 per cent) than in the manufacturing sector (19 per cent) when using the International Standard Industrial Classification (ISIC, Revision 2). Of all the sectors in the ISIC, the manufacturing sector has the highest proportion of maximum tariffs of 30 per cent (Chart III.2).

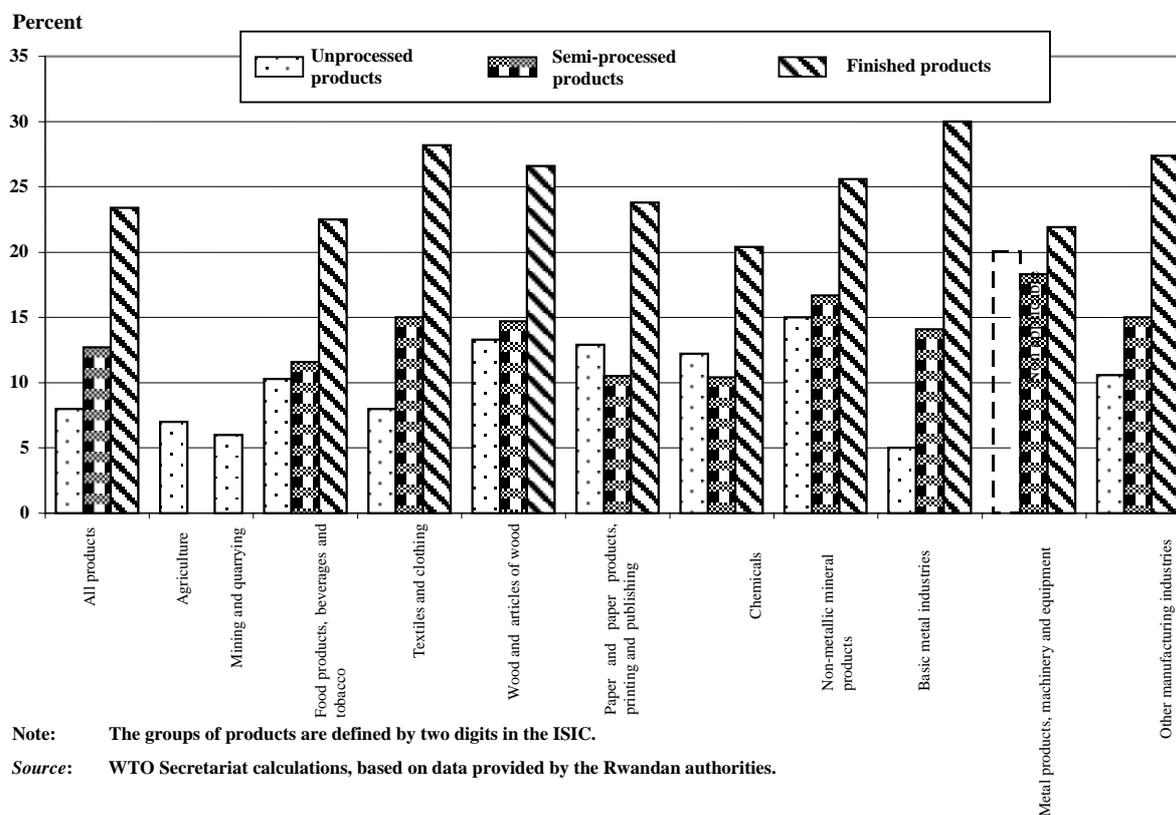
26. Overall, there is clearly pronounced tariff escalation, with average rates ranging from 8 per cent on products in the first stage of processing to 12.7 per cent on those in the second stage, and 23.4 per cent on finished products. The sole exceptions are the paper and chemicals industries, where escalation is mixed, the average duty on non-processed products being higher than that on semi-processed products but lower than the average on finished products (Chart III.3).

27. All in all, the rates of customs duties applied to 241 tariff lines are higher than the bound rates (Table AIII.2). The lines in question comprise only products for which the duties were bound before the Uruguay Round, namely: certain fishery products; agricultural products (dairy products and products of the milling industries, certain thickeners, fats, oils, sugars and sugar confectionary, artificial honey, fruit and certain other edible parts of plants, various food preparations); toothpaste; toilet articles; plastering materials; certain colouring matter, paints and varnishes; certain carpets, floor coverings and wall coverings; furniture; certain clothing and textile products; various products of glass, cast iron, iron or steel; certain toys, funfair, table or parlour games and musical instruments; certain lamps and lighting appliances; refrigerators; certain air conditioning machines and heat pumps; tractors; liquid or liquefied-gas fuels; polycondensation products; certain metalized yarns; certain electric bulbs; parts of primary cells and primary batteries; certain transmission apparatus.

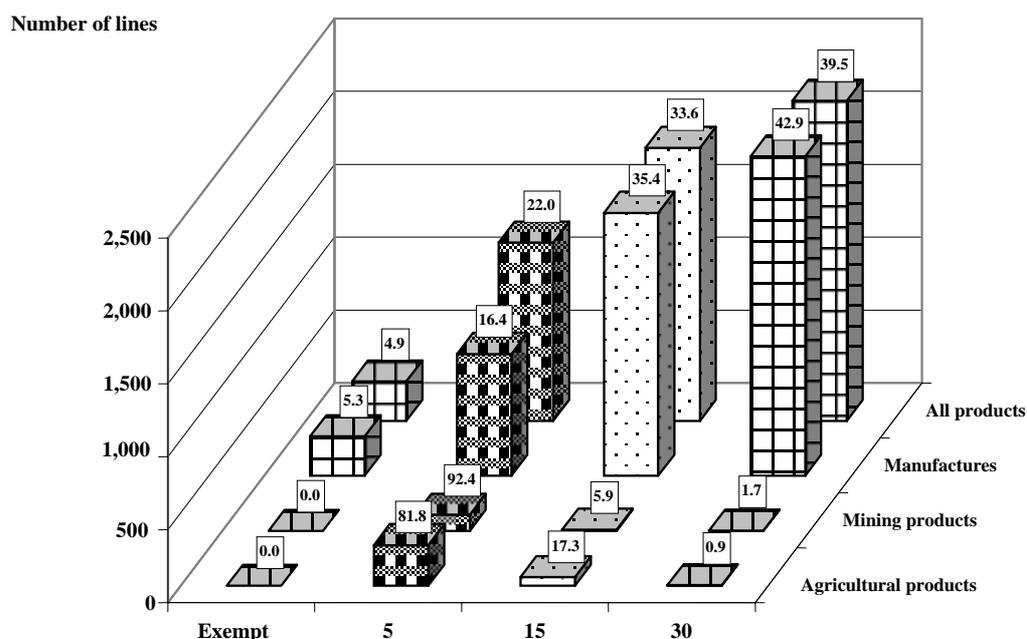
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<sup>18</sup> Goods such as: preparations of cereals, flour, starch or milk; pastry cooks' products; preparations of vegetables, fruit, nuts or other parts of plants; explosives; pyrotechnic products; matches; pyrophoric alloys; combustible materials; photographic or cinematographic goods; articles of leather; saddlery and harness; travel goods; handbags and similar containers; articles of animal gut; manufactures of esparto or basketware; carpets and other textile floor coverings; ceramic products; ships, boats and floating structures; works of art, collectors' pieces and antiques.

**Chart III.2**  
**MFN tariff escalation, 2003**



**Chart III.3**  
**Breakdown of MFN duties by sector (ISIC definition)<sup>a</sup>, 2003**



<sup>a</sup> Figures on labels indicate percentage of total lines.

*Source:* WTO Secretariat calculations, based on data supplied by the Rwandan authorities.

(c) Other duties and taxes

#### *Value added tax (VAT)*

28. VAT was introduced in 2001. It is applied, at the zero rate or the standard 18 per cent rate, to locally produced or imported goods and services. For imports, it is levied on the c.i.f. value, plus any customs duties and entry taxes, including the MAGERWA charge. For locally produced goods it is calculated on the transfer price.

29. The zero rate applies to goods imported by diplomatic missions accredited in Rwanda; goods delivered or services supplied under an agreement between the Government and donors or in the context of projects financed from foreign funds; goods, services or imports covered by the technical assistance agreement, or projects which are exempt under Rwandan legislation.<sup>19</sup>

30. Certain goods and services are exempt from VAT: all non-processed agricultural and livestock products; agricultural inputs, materials and equipment; generic drugs; goods imported

<sup>19</sup> Law No. 06/2001 of 20 January 2001 introducing VAT.

under certificates of investment;<sup>20</sup> lighting gas (kerosene); certain financial services, including insurance; and certain transport services (mainly passenger or railway).<sup>21</sup>

31. Goods or services suppliers with an annual turnover of at least RF 15 million or at least RF 3.75 million for the last quarter of the year of activity must register for VAT. The same applies to any taxpayer with a lower turnover but who opts for VAT. Registration entitles them to claim back the VAT paid on sales or to deduct from VAT the tax levied on purchases eligible for exemption or refund.

*Domestic consumption tax (excise duty)*

32. Domestic consumption tax is applied to certain goods (both imported and locally produced) at the following rates: 70 per cent on brandy, wines, liquors and whisky; 60 per cent on cigarettes; 57 per cent on beer; 39 per cent on lemonade and juices; 37 per cent on gasoline (other than for aircraft), fuel oil and lubricant; 15 per cent on vehicles of over 2,500cc; 10 per cent on vehicles exceeding 1,500cc, but not 2,500cc, on milk powder and mineral water; and 5 per cent on vehicles not exceeding 1,500cc.

33. On imports, the tax is applied on the same basis as VAT; and on local products, on the basis of the ex-factory price.

*Preshipment inspection fees*

34. Preshipment inspection fees of 0.84 per cent of f.o.b. value are levied on imports of non-petroleum products, and of 0.64 per cent on imports of petroleum products. The fee must amount to at least US\$175 per inspection, and is borne by the importer.

*Special tax on sugar*

35. A 25 per cent special tax on sugar was introduced by Law No. 41/2002 of 31 December 2002. It applies only to imports and is based on the c.i.f. value.

*Other*

36. In addition, Rwanda charges a computer fee of around RF 500 and levies a 5 per cent advance on corporate tax, payable by operators with no tax clearance. The advance is based on the c.i.f. value of the imports, plus customs duties, the 4 per cent MAGERWA charge, VAT and consumption tax.

(d) Tariff preferences

37. Rwanda joined the COMESA free-trade area on 1 January 2004. Since then, it has applied a zero per cent preferential tariff to products originating in other COMESA member countries.

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<sup>20</sup> These goods are either exempt or subject to a flat rate tax instead of import duties (Chapter II(6)).

<sup>21</sup> The following are likewise exempt: water supply (for non-commercial purposes) and sewer services (other than pumped sewage disposal); health services and medical services; articles for blind and disabled persons; certain deliveries to hospitals and health centres; deliveries or imports of medicines or equipment for the sick or for medical use or use as protein by accredited persons; certain educational goods and services; books and official journals, cassettes or diskettes for use instead of books; sale or lease of land, sale or transfer of a building or apartment, lease or transfer of right of occupancy of a dwelling in certain cases; delivery of gold ingots to a bank; funeral services; and trade union dues.

**(v) Duty and tax concessions**

38. The customs legislation in force provides for: permanent importation (release for consumption with or without payment of customs duties) and permanent re-importation; a suspensive procedure (temporary importation, transit and storage); and exportation and re-exportation, dealt with in Section 3(ii) below.<sup>22</sup> All the above operations are covered by the COMESA customs declaration (CD-COM).

39. Goods exempt from duties under the permanent importation procedure include: travellers' luggage (including new articles not exceeding a value of RF 10,000 or tobacco, cigars and cigarettes not exceeding one kilogram); items entering under a removal; goods covered by diplomatic, consular or similar immunity; commercial samples "of negligible value"; products and articles for religious purposes; crews' provisions; products and articles for blind and physically disabled persons; educational, scientific or cultural objects; gifts to the State or its organizations, to medical and paramedical establishments, teaching institutions and certain philanthropic organizations; equipment for the repair of transport category aircraft; archives of private persons or companies; coffins, urns and funeral requisites; gifts to be distributed or made available to the population. The permanent re-importation of products that have not benefited from the temporary export procedure is free subject to the conditions set by the Ministry of Finance; the re-importation of products that have benefited from temporary exportation is subject to payment of import duties and taxes on the value added outside Rwanda, although the legislation does not specify the stage of processing from which taxation applies.<sup>23</sup>

40. Under the customs legislation the Ministry of Finance may allow the temporary importation, with suspension of duties and taxes, of goods for re-exportation after use or processing in Rwanda; and of fuel and lubricants, to be loaded before departure from Rwanda, for use by aircraft flying for international airlines. The Investment Code has introduced drawback for all duties and taxes levied on raw materials imported for the manufacture of products destined for export (Chapter II(6)).<sup>24</sup>

41. Temporary importation for a period of less than six months is exempt from duties and taxes in the case of motor vehicles, trucks, vans, trailers and buses or public works equipment. Beyond that period the goods are subject to import duties and taxes payable upon exportation and amounting to one-eighth of the duties and taxes due per period of six full months spent in the country. After four years, the importer must submit an import declaration and pay the requisite import duties and taxes.

42. Under the transit procedure goods may be imported and exported without payment of customs duties, consumption tax or export tax, but unless the Ministry of Finance grants a waiver a surety must be provided. It is equal to the customs duties that would be payable on permanent imports of the goods, plus a lump sum equal to 25 per cent of the duties (and not less than RF 1,000) to cover possible fines.<sup>25</sup> An additional surety may be required for prohibited goods and for imports subject to restrictions or inspection measures.

43. Goods stored in public warehouses are subject to handling and storage charges. The Customs Administration's handling charge is RF 20 per 100 kilograms gross weight, indivisible. Import

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<sup>22</sup> Law of 17 July 1968 on the Customs System and Ministerial Order No. 08.09/FIN 4 of 27 July 1968 implementing the Law on Customs Operations.

<sup>23</sup> Temporary exportation may be authorized by the Ministry of Finance.

<sup>24</sup> Drawback is not really used in practice, as importers prefer temporary importation. But where export was not anticipated at the time of importing inputs or goods to be processed in Rwanda, on occasion small producers apply for refund of import duties and taxes only upon exportation.

<sup>25</sup> If the customs duties payable on the imports are zero, the surety will be only RF 1,000.

storage charges per 100 kilograms gross weight, indivisible and per month, are: indoors, RF 900 for the first and second months and RF 2,250 for the third month; outdoors, RF 450 for the first and second months and RF 1,500 for the third. For exports the charges are RF 150, and RF 500 if storage exceeds two months. The legislation also provides for private and "ad hoc" bonded warehousing.

**(vi) Rules of origin**

44. Rwanda has no non-preferential rules of origin, but a draft customs code provides for the adoption of such rules.<sup>26</sup> The only rules of origin are those of COMESA, applied for preferential purposes (Chapter II(5)(ii)(b)).

**(vii) Import prohibitions, quantitative restrictions and licensing**

45. According to Law No. 22/1989 (of 23 December 1989) on the Organization of Foreign Trade, as amended by Law No. 34/91 of 5 August 1991, the importation of any product which may cause a breach of the peace or endanger the health of the population is prohibited, unless the competent authority grants a waiver. Such prohibitions are for the most part governed by international agreements of which Rwanda is a signatory. The customs tariff expressly prohibits importation only in the case of asbestos and products containing it.

46. In the interests of health, the importation of medicines (for humans or animals), disinfectants, insecticides, rat poison, fungicides, herbicides and other toxic chemicals is subject to the Health Ministry's approval of the pro forma invoice. Imports of certain products, such as explosives or arms, require the prior consent of the competent authorities.<sup>27</sup>

47. According to the authorities, Rwanda applies no quantitative restrictions on imports.

**(viii) Anti-dumping, countervailing and safeguard measures**

48. Rwanda has no legislation on anti-dumping, countervailing or safeguard measures.

**(ix) Standards and other technical specifications**

(a) Standards, testing and certification

49. Until recently, Rwanda had done very little in the area of standardization. Not until 1999 was a focal point established with a view to creating the Rwanda Bureau of Standards (RBS). Established in 2002, the RBS has sole authority for defining national standards. It is responsible for promoting and coordinating all activities involved in standardization and quality and metrology control and for enforcing standards in Rwanda.<sup>28</sup> The RBS assists the Government in planning, formulating and implementing standards policy. It is also in charge of disseminating information, dispensing training, and establishing a quality control system for imports and exports, manufacturing premises, and release

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<sup>26</sup> The draft states that goods wholly obtained in a particular country shall be considered as originating in that country. Where more than one country was involved in the manufacture of a good, the latter is deemed to originate in the country in which it underwent the last substantial and economically justified transformation or processing. The transformation must have resulted in the production of a new good or have constituted an important stage in its manufacture.

<sup>27</sup> Dun & Bradstreet (2001).

<sup>28</sup> Law No. 03/2002 of 19 January 2002 establishing the Rwanda Bureau of Standards.

for consumption and marketing. It is also to develop a national system for certification and accreditation.<sup>29</sup> It is a corresponding member of ISO.

50. The RBS is still in the initial phase of operation: it is in the process of acquiring the requisite equipment and qualified staff. A quality control laboratory, which will be accountable to the RBS, is being set up. A number of laboratories currently suffer from a lack of technical resources and are unsuited to some of the testing that needs to be carried out. Rwanda therefore continues to use the services of other countries for testing, since those of local laboratories are fairly limited and are used first and foremost for domestic needs.

51. The RBS draws up a general work programme on a yearly basis to develop national (optional or mandatory) standards.<sup>30</sup> Industrial standardization committees are set up, composed of the various interested parties.<sup>31</sup> They in turn may appoint expert technical committees or working groups to address one or another aspect. The preparatory work for standard formulation is normally the responsibility of the RBS. The preliminary draft of a standard is submitted for consideration by the relevant technical committee. If adopted, it is submitted to public enquiry for three months. After consideration of all the observations sent in response, a final draft is prepared and, once adopted by the industrial committee, submitted for approval by the RBS Governing Board.<sup>32</sup> Standards are published in the RBS bulletin, and will be published in scientific journals or RBS catalogues. Standards are mandatory if so ordered by the ministry responsible for industry; they are published in the Official Gazette of Rwanda.

52. Rwanda currently has 40 or so national standards (mandatory and optional), which cover food, health and the environment.<sup>33</sup> It is in the process of developing standards on the quality management system (QMS) and the environmental management system (EMS). ISO 9001 is used by some enterprises, such as BRALIRWA.

53. In standardization matters the RBS cooperates with the Kenya Bureau of Standards, the Uganda National Bureau of Standards and the South African Bureau of Standards. Rwanda has not as yet signed any mutual recognition agreements. It is a member of the African Regional Standards Office (ARSO). It has accepted the WTO Code of Good Practice for the Preparation, Adoption and Application of Standards.

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<sup>29</sup> A law on certification is in preparation.

<sup>30</sup> The work programme is based on requests, opinions and suggestions submitted by ministries and public departments, manufacturers and large commercial enterprises, consumers, laboratories, research institutes and universities, regional standardization bodies and any other interested parties.

<sup>31</sup> At present, the RBS has an industrial committee on agriculture and foodstuffs. Others are planned, such as a quality and environment management committee, and committees to be responsible for the standardization of pharmaceuticals and cosmetics.

<sup>32</sup> If the standard is identical to an international standard, the procedure is shortened: the preliminary draft is sent directly for consideration by the industrial standardization committee then forwarded to the Governing Board for approval and publication. Three national standards have been adopted on the basis of the Codex Alimentarius: CODEX STAN 1-1985, Rev.2-1999 (General Standard for the Labelling of Pre-packaged Foods); CODEX STAN 107-1981 (General Standard for the Labelling of Food Additives); and CODEX STAN 146-1985 (General Standard for the Labelling of and Claims for Pre-packaged Foods for Special Dietary Uses).

<sup>33</sup> Some standards dating back to before independence (as far back as 1915 in some cases) have become obsolete. The ministries responsible for agriculture, health and trade are currently revising them.

(b) Sanitary, phytosanitary and environmental measures

54. The legislation on stockbreeding and veterinary medicine is old. It consists of some 60 texts dating from 1915 to 1975. A CEPGL agreement on animal health applies to member countries.<sup>34</sup>

55. The legislation in force requires the importation, exportation and transit of pets to be covered by a certificate of origin and health issued by a veterinary officer of the animals' country of origin. The competent Rwandan authority determines the entry and exit posts to be open, either permanently or temporarily, for the importation, exportation and transit of pets. It regulates all matters pertaining to the post-arrival requirements for pets, and the equipment and proper running of veterinary entry posts and adjacent quarantine stations where these exist.

56. Imports of meat or foodstuffs of animal origin from a country affected by rinderpest, foot-and-mouth disease, contagious pleuropneumonia or swine fever, are prohibited unless the competent veterinary authority grants a waiver. Importation remains contingent on the production of a certificate of origin and health issued by the official veterinary service of the exporting country stating that the products are from regions where no occurrence of the disease has been recorded for at least 60 days.

57. According to a study by the Inter-African Phytosanitary Council (IAPSC) of the African Union, no quarantine or veterinary posts are currently in operation at borders. There are a few check points on major highways to inspect the "Permit for the Movement of Livestock and Animal Products". At present, only live animals and foodstuffs of animal origin arriving in the capital are monitored by the veterinary service.<sup>35</sup>

58. Rwanda has no specific laws or regulations to govern the protection of plants and plant products.<sup>36</sup> The International Plant Protection Convention is Rwanda's instrument of reference for the protection of plants against diseases. Rwanda is also a member of the Inter-African Phytosanitary Council (IAPSC), whose role is to promote the establishment of harmonized African phytosanitary regulations and to coordinate plant protection procedures in Africa. The IAPSC has identified various plants and parts of plants; these are subject to specific entry conditions.<sup>37</sup>

59. Under a presidential order, plant products are subject to inspection and the delivery of a phytosanitary certificate, with a view to detecting agents that are injurious to plants and crops, or diseases that endanger plants and crops.<sup>38</sup> Every product of plant origin that enters Rwanda must be covered by a certificate of origin issued by the competent authority. For plants leaving Rwanda, the Ministry of Agriculture, Livestock and Forestry issues the certificate of origin. Phytosanitary

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<sup>34</sup> There is also a Decree of 29 June 1910 on the Manufacture and Marketing of Foodstuffs and its implementing text, an Ordinance of 17 October 1911 on the Packaging, Preparation and Manufacture of Foodstuffs. Both texts are now obsolete.

<sup>35</sup> Inter-African Phytosanitary Council of the African Union (2003).

<sup>36</sup> A preliminary draft of a law to protect plants and plant products from diseases and pests and to regulate the use of pesticides has been prepared and sent to the Government for consideration. It provides for phytosanitary surveillance in Rwanda; sets forth the obligations and responsibilities arising from the activities of the economic agents involved in the production and marketing of rootstocks; establishes phytosanitary inspection at borders; lists the measures that may be taken to control the phytosanitary quality of imported plants and plant products; addresses pesticide problems; sets up an authorization and type-approval procedure; lists prohibitions; deals with issues concerning actions by the public authority and the powers of compliance officials; and establishes penalties for breach of the law (ranging from fines to imprisonment).

<sup>37</sup> The IAPSC operates under the Phytosanitary Convention for Africa.

<sup>38</sup> Presidential Order No. 252/11 of 13 November 1975 on the phytosanitary inspection of plants and plant products for import and export, and findings concerning quality and damage.

inspection may be either general, covering all batches, or partial, based on a representative sample of batches.<sup>39</sup>

60. According to an IAPSC study, the regulations are difficult to apply at present owing to a lack of equipment and human resources. The plant protection laboratory, destroyed during the 1994 genocide, has not as yet been rehabilitated; and the Plant Protection Division of the Ministry responsible for agriculture has no equipment for analysis and therefore bases certification on morphological observations and customers' declarations. In an emergency it can turn to the laboratories of the Seeds Department or the Rwanda Bureau of Standards.

61. Type approval of pesticides is not regulated. Pending the enactment of a new law, the Plant Protection Division draws up a list of authorized products taking into account their toxicity, the Rotterdam Convention and the Stockholm Convention, EU directives, opinions of users, importers and distributors and a World Bank mission memorandum. The list is updated every two years. The recognized importers of pesticides are at present the Ministry in charge of agriculture, Agrotech, Africhem, the Coffee Board (OCIR-Café) and the Tea Board (OCIR-Thé), agricultural projects and private sector representatives who sit on the National Tender Board (NTB).<sup>40</sup>

62. In the context of environmental protection, Rwanda has ratified a number of conventions, including the Framework Convention on Climate Change and the Kyoto Protocol; the Convention to Combat Desertification; the Convention on Biodiversity and the Cartagena Protocol on Biosafety; the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer; the Stockholm Convention on Persistent Organic Pollutants; the Rotterdam Convention on the Prior Informed Consent Procedure; the Basel Convention on the Transboundary Movements of Hazardous Wastes and their Disposal; the Ramsar Convention on Wetlands; and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

63. The production and marketing of any product or toxic substance that affects the environment are prohibited. A study currently under way provides for a plastic waste management mechanism.

(c) Marking, labelling and packaging

64. The labelling of prepackaged foods is governed by Rwandan Standard RS-CODEX STAN 146-1985 (Section (a) above), which was adopted recently.<sup>41</sup> Labels must as a rule give the name of the product, the ingredients, the net weight, the name and address of the manufacturer, packer, distributor, importer, exporter or vendor, lot identification, date marking and storage instructions and instructions for use. All the mandatory information must be in one of the three official languages (French, English or Kinyarwanda); the same applies to instructions for the use of pharmaceuticals. For generic medicines, one set of instructions per lot is accepted.

65. Goods and containers must be labelled and marked clearly to facilitate identification of the articles indicated on the accompanying documents/forms. In accordance with practice, parcels must indicate the addressee and port of entry, and must be numbered (unless their contents are easily identifiable without numbers).<sup>42</sup>

<sup>39</sup> Inter-African Phytosanitary Council of the African Union (2003).

<sup>40</sup> Inter-African Phytosanitary Council of the African Union (2003).

<sup>41</sup> It is based on international standard CODEX STAN 1-1985, Rev.2-1999 (General Standard for the Labelling of Pre-Packaged Foods).

<sup>42</sup> Dun & Bradstreet (2001).

(x) **Government procurement**<sup>43</sup>

66. Government procurement in Rwanda is still governed by the Decree of 25 February 1959 and the Royal Order promulgated by the King of Belgium on 26 June 1959 for the former colonies of Rwanda-Urundi and the Belgian Congo. These texts were applied until the National Tender Board (NTB) was established (1997) to oversee implementation of the legislation on government procurement and to organize and manage the procurement process in a transparent manner in the interests of combating corruption.<sup>44</sup> A draft law on government procurement is in the process of enactment.

67. Generally speaking, the 1959 legislation applies to contracts for works, supplies and transport. Contracts are ordinarily awarded by public adjudication involving open competitive bidding and advertising rules. Contracts worth not more than RF 500,000 in all or the execution of which can be entrusted only to artists, entrepreneurs or suppliers able to provide specific technical, financial and professional guarantees, may be awarded by restricted adjudication.

68. Negotiated adjudication is used *inter alia* for contracts not exceeding RF 250,000; contracts for additional supplies or works that cannot be awarded separately or which involve expenditure amounting to not more than 20 per cent of the main contract; contracts which must be kept secret; contracts for the supply of an item of which there is only one, or the execution of artistic works; contracts concerning items the sale of which is in the hands of a single firm or is reserved to holders of patents of invention, patents of improvement or patents of importation; contracts for which there have been no bids or for which the bids were unacceptable; contracts which, for reasons of urgency, need to be awarded before the date set for adjudication; contracts for the purpose of testing or study; or contracts for which the state of the market precludes the normal play of competition.

69. In terms of pricing, contracts may be fixed-price (performed for an all-inclusive price), unit price (only unit prices are fixed) or mixed (a combination of the other two).

70. The new draft law introduces a number of innovations and changes. It expressly covers procurement of services; introduces a preference for local suppliers and entrepreneurs and for small enterprises;<sup>45</sup> introduces planning and decentralization of government procurement; includes rules to prevent corruption and conflicts of interest; requires regular auditing of procurement operations; and allows decisions concerning the award of contracts to be challenged before the contracting authority and the Standing Committee for Administrative Appeals, the latter's decisions being open to review.<sup>46</sup> Under the draft law, the contracting authority may grant a margin of preference to bids proposing certain local products provided that the margin is clearly indicated in the tender documents. A margin of preference of up to 15 per cent on prices may likewise be granted to Rwandan entrepreneurs. The draft law also addresses the development or information technology and the use of such technology for online procurement operations (over the Internet).

71. The draft law provides for various methods of awarding contracts: open bidding, with or without prequalification (bidding in two stages), restricted bidding, requests for price quotation, single

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<sup>43</sup> This section is based largely on information from the NTB, available online at: <http://www.ntb.gov.rw/>.

<sup>44</sup> Prime Minister's Order No. 91-03 of 31 December 2002 amending Prime Minister's Order No. 13/02 of 29 July 1993 on the Establishment and Organization of the National Tender Board.

<sup>45</sup> The preference for small enterprises consists in reserving certain contracts exclusively for them. The type and maximum value of these contracts is determined by the NTB.

<sup>46</sup> For the time being applications for review must be lodged with the Executive Secretary, but in the future will be addressed to the Governing Body.

tendering (goods, works and services are purchased from a single source) and force account. Contracts with United Nations agencies have their own procedures. Notices of invitations to tender must be published in national newspapers and widely circulated specialist magazines, announced on the radio or posted on appropriate Internet sites. Tender documents must be in English and/or French, as appropriate. All bid opening is done in public. The evaluation procedure usually takes place within 15 days of the closing date for submission of the tender documents.

72. Under the draft law, on approval of the Ministry in charge of finance the NTB will issue standard submission documents and lay down procurement procedures and guidelines. It is required to consult partners in the public and private sectors for the purpose. An internal government procurement committee will be set up in each department and will be responsible for the planning of supplies, the preparation of tender documents, the opening and evaluation of tenders, the award of contracts for procurement not exceeding a specified amount (to be set), and to make recommendations to the NTB for the award of contracts worth more than the specified amount. The contracting authority may not initiate actual supply operations before obtaining clearance from the Finance Ministry stating that the budgetary appropriation to finance the contract is still available. Offers must be submitted in one of the three official languages (English, French, Kinyarwanda). For contracts not exceeding RF 10 million or any other amount set by the NTB, the contracting authority will be required to announce the award publicly *inter alia* on billboards and Internet sites and in newspapers within seven days of the decision.

73. Rwanda is at present in a period of transition in which some provisions of the old legislation are applied concurrently with provisions of the draft law. Since it was no longer possible to apply the 1959 legislation as it stood, the NTB is having to carry out procurement operations and at the same time draw up guidelines on procurement to make good the shortcomings in the legislation.

74. Rwanda has neither a central office for government purchases nor a single awarding authority. Ministries and provinces may conclude contracts of up to RF 3 million without having to go through the NTB.<sup>47</sup> They must nonetheless comply with official procurement procedures and submit monthly reports thereon to the NTB. Districts are authorized to conclude contracts of up to RF 500,000 without applying to the NTB.

75. Applications for budgetary provision, together with the tender documents or a letter stating the purpose of the provision, are sent to the Executive Secretary of the NTB. It is up to the procuring entity to apply for clearance from the budgetary authority certifying the availability of funds.

76. The methods of procurement in use during the transition period are open and restricted bidding. Invitations to tender are disseminated in the national and international media, including Radio Rwanda, Imvaho, New Times, The East African, Nuances, Jeune Afrique, International Herald, UN Development Business, and NTB brochures and public notice boards.<sup>48</sup> In restricted bidding, the shortlist of candidates invited to tender is published. The NTB, the procuring entity and, where appropriate, the fund provider set the deadlines for the submission and opening of bids and draw up the shortlist in restricted bidding procedures.

77. The tender documents are obtained from the NTB upon payment of a non-refundable fee into the Treasury Account (*compte de l'Ordonnateur Trésorier*) at the National Bank of Rwanda. Following publication of the invitation to tender, prospective bidders have at least 90 days in which to prepare their bids in the case of international tenders, and at least 21 days in the case of national

<sup>47</sup> Under the new law, the ceiling will be raised to RF 50 million.

<sup>48</sup> Additional information about past, current or future contracts is likewise available to the public on request.

tenders. During that time they are free to approach the procuring entity or the NTB for any information they need to prepare their proposals. Bidders may modify their offers by an additional provision to be submitted at any time before the date of closure.

78. Bid opening takes place in the presence of the bidders' representatives. The proposals are evaluated by an evaluation committee comprising representatives of the NTB and the procuring entity, and in accordance with the procedures and criteria laid down in the tender documents. The contract is awarded to the bidder who submits the most economically advantageous proposal that meets the established criteria, and who is deemed capable of executing the contract.<sup>49</sup> Unsuccessful bidders are informed by the NTB and recover their bid securities. Failure by the successful bidder to meet the requirements of the contract constitutes grounds for annulment of the award; the procurement unit may then award the contract to the bidder ranked second or call for new bids.

79. Any unsuccessful suppliers or entrepreneurs deeming themselves adversely affected by the award may ask the NTB Secretariat to account for the rejection of their bids. If they are not satisfied by the reply, they may appeal in writing to the Chairman of the Governing Board, unless performance of the contract has already begun. Appeals must be lodged within 10 days of the date on which the complainant became, or ought to have become, aware of the circumstances that prompted the appeal.<sup>50</sup>

80. In 2002, procurement contracts amounted to RF 22.1 billion: RF 7.2 billion for works, RF 3.2 billion for services, and RF 11.6 million for supplies (Table III.2).

**Table III.2**  
Value of government procurement, 1998-2002  
(RF billion)

	1998	1999	2000	2001	2002
Works	12.6	5.3	5.1	10.5	7.2
Services	0.4	1.3	2.2	2.5	3.2
Supplies	7.0	8.0	5.4	5.5	11.6
<b>Total</b>	<b>20.1</b>	<b>14.6</b>	<b>12.7</b>	<b>18.4</b>	<b>22.1</b>

Source: Data supplied by the Rwandan authorities.

81. Rwanda is neither a party nor an observer to the plurilateral Agreement on Government Procurement and has not, for the time being, expressed an intention of acceding to it.

**(xi) Local content requirements**

82. The Investment Code establishes no local content requirements. However, it does provide, without specifying any minimum, that in considering applications for registration from enterprises wishing to operate in a free economic zone (ZEF), the RIPA must carry out an appraisal of their capacity to contribute to certain objectives, including the utilization of locally produced materials. The enterprises are required to indicate in their applications to register their plans for use of these products.

<sup>49</sup> The procurement unit nonetheless reserves the right to accept or reject any bid, and to annul the bidding process at any time prior to the award of contract and reject all bids.

<sup>50</sup> Appeals against a decision of the NTB are lodged with the Ministry responsible for finance, which appoints an ad hoc committee to consider the appeal and decide within 15 days at the most whether it is founded.

83. The draft law on government procurement allows the contracting authority to accord a margin of preference to offers proposing certain local products (Section 2(x)).

**(xii) Other measures**

84. The African Trade Insurance Agency (ATI) covers *inter alia* political risks related to imports. The duration of this facility is five years (plus one year for pre-shipment transactions). Premiums range from 0.4 per cent to 2.5 per cent per annum of the sum insured, and a minimum premium of US\$500 is charged for import transactions (Section 3(vii)(c)).

85. Law No. 15 of 28 January 2001 on the Organization of Domestic Trade provides for implementation of a plan for reserves of petroleum products in the interests of energy security and the regulation of fuel prices, and a plan for the storage of strategic foodstuffs.<sup>51</sup>

86. Rwanda has never applied trade sanctions other than those adopted by the United Nations Security Council or by regional bodies of which it is a member.

87. According to the authorities, Rwanda has never engaged in countertrade or concluded any agreements with foreign countries intended to affect the quantity or value of its imports.

**(3) MEASURES DIRECTLY AFFECTING EXPORTS**

**(i) Registration and documentation**

88. Exporters are required to register in the Trade Register for a fee of RF 60,000. The only documents required for exports are a bank export declaration (DBE) and transport documents. Customs also issues certificates of origin (EUR1, EUR2 and AGOA) if necessary, on presentation of a declaration from the producer; certificates for tea and coffee are issued by OCIR-Thé and OCIR-Café respectively and the others, by the Ministry in charge of trade.

**(ii) Export taxes**

89. According to the authorities, the last export taxes (on coffee) were abolished in 1999.

**(iii) Prohibitions, restrictions and export licensing**

90. According to the authorities, other than restrictions under international agreements of which Rwanda is a signatory, there are no restrictions on exports. A DBE, issued by a commercial bank, is nonetheless required for exports for the purpose of statistics.

**(iv) Voluntary export restraints**

91. According to the authorities, there are no products for which Rwanda has concluded agreements to apply voluntary export restraints.

**(v) Free export zones**

92. The Investment Code allows advantages to enterprises operating in a free economic zone (ZEF).<sup>52</sup> At present, however, the law on the establishment and operation of free zones is still under consideration by the RIPA.<sup>53</sup> Consequently, no such zones exist as yet.

<sup>51</sup> The reserves of petroleum products have already been established.

93. Besides the incentives established in the Investment Code, investors operating in ZEFs should pay only 10 per cent of corporate tax for the 10 years following the entry into force of Law No. 14/98. They should also be exempt from duties and taxes on machinery, equipment and other inputs to production; all other taxes normally levied on enterprises; and withholding taxes and taxes on dividends. Other advantages afforded to them include a one-stop service provided by the RIPA; flexibility in the grant of work permits; and exemption from duties and sales tax on locally produced goods and services purchased as inputs to their production processes.

94. To be eligible for these benefits, the enterprises must contribute to the achievement of objectives such as: the creation of "quality" jobs; attracting modern technology and new investments; transfer of technology and skills; diversification of exports; utilization of locally produced raw materials; and full integration into the economy. Enterprises in ZEFs are required to export at least 80 per cent of their production; or to be engaged in the export of services. The same benefits are granted to enterprises manufacturing under bond that export 100 per cent of their output. Certificates of registration must be issued to investors within 10 working days.

**(vi) Export assistance, promotion and financing**

95. According to the authorities, Rwanda does not subsidize its exports. The main instruments for export promotion are the incentives set out in the Investment Code (Chapter II(6)) and the customs schemes established for the purpose in the customs legislation (Section 2(v)). The VAT rate applied to exports is zero, which means that they are eligible for refund of the duties and taxes on the inputs used to produce them.

96. So far, Rwanda has not set up any arrangements for export promotion or introduced any specific measures for export financing.

97. The African Trade Insurance Agency (ATI), established in 2001 and in operation since early 2002,<sup>54</sup> offers insurance facilities of up to five years against political risks related to commercial transactions.<sup>55</sup> The target markets include foreign companies and member countries exporting goods or services to member countries or foreign banks and financial institutions financing exports to member countries. The ATI also offers credit insurance, which can provide cover of the risk of non-payment on domestic and export markets up to a maximum of 90 per cent.<sup>56</sup> State-controlled, State-owned and parastatal companies are likewise eligible for cover, but sovereign entities are excluded.

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<sup>52</sup> The Investment Code is issued by Law No. 14/98 of 18 December 1998 establishing the Rwanda Investment Promotion Agency (RIPA).

<sup>53</sup> Its promulgation is scheduled for 2004.

<sup>54</sup> The founding members of the ATI, which has its headquarters in Nairobi, are Burundi, Kenya, Malawi, Rwanda, Tanzania, Uganda and Zambia. Membership is open to all African countries.

<sup>55</sup> The political risks covered include: war or civil disturbance in the acquiring or transit country; embargo or any other sanction imposed by the United Nations Security Council or any other measure having an equivalent effect; any action or inaction of a government preventing the conversion of local currency into hard currency or the transfer of hard currency out of the country; imposition of exchange control; inability to purchase foreign currency with the local currency of the purchaser's country and/or any transit country; expropriation; seizure of goods, prevention of sale or prevention of export for reasons other than ensuring public health, safety, welfare and protection of the environment; government interference with entities owning insured obligations; cancellation of import or export licences; import and export restrictions; discriminatory imposition or increase of import or export taxes; interference (including by government) with the carriage of goods; and risk of diversion. Natural disasters are not covered.

<sup>56</sup> The ATI is associated with Gerling NCM, the second largest credit insurer in the world.

98. Eligible transactions must ordinarily involve cross-border movement of goods and services and be related to productive activities in the member country.<sup>57</sup> More specifically, the transactions include: the sale of goods and services on credit terms; letter of credit confirmation; leasing; working capital credit for companies; import and export of capital goods, goods to stock for sale or goods for processing; and loans by foreign or local lenders.

99. The maximum amount of the transactions to be insured varies from country to country. Coverage may be 100 per cent of the amount of the transaction. The duration of the exports facility is one year (though a longer period may be agreed). Premiums range from 0.4 to 2.5 per cent per annum of the maximum sum insured, with a minimum of US\$250 for export-related transactions.

#### **(4) MEASURES AFFECTING PRODUCTION AND TRADE**

##### **(i) Incentives**

100. The main incentives are those set forth in the Investment Code (Chapter II(6)). Facilities are afforded to operators wishing to invest in the production, processing, conservation, marketing, distribution and export of agricultural, livestock and fisheries products. They consist of credit lines under the World Bank's Rural Sector Support Project.<sup>58</sup> In the context of the project, up to 40 per cent of the loan contracted (subject to a ceiling to US\$100,000) is refundable from the Rural Investment Facility, a fund financed by the World Bank and managed by the NBR.

101. A project to promote small and micro-enterprises in the rural sector (PPMER) has recently been set up. One of its key components will be a loan facility known as a "*fonds de crédit*" (credit fund), financed by the International Fund for Agricultural Development (IFAD) and managed jointly by the latter and the Union People's Banks of Rwanda (UBPR).

102. The *Fonds spécial de garantie* (FSG), or special guarantee fund, established in 1978 to support rural projects in general, is in the process of being closed down.

##### **(ii) Competition policy and price control**

###### **(a) Competition policy**

103. Rwanda has no specific legislation governing competition. At present, the subject is covered by Law No. 15 of 28 January 2001 on the Organization of Domestic Trade, which establishes liberalization and prohibits dishonest dealings, express or tacit agreements that aim to impair the free movement of goods and services, obstruct the lowering of prices, or encourage artificial price increases in markets or in the event of competition. It also prohibits the conclusion of secret agreements on the formation of uniform prices that are not the outcome of the normal interaction of supply and demand, and any other unlawful practices to establish monopoly markets. The law does not ban monopolies.

104. The Government intends to frame laws and regulations on competition, but the country currently lacks the necessary technical competence. A regional competition policy is being developed within COMESA (Chapter II(5)(ii)(b)).

<sup>57</sup> Goods must originate in a member country (regional content rules may be applied).

<sup>58</sup> The credit can likewise be granted for reforestation and the processing and export of timber, or for the production and distribution of agricultural inputs and veterinary products.

105. Anti-competitive practices have occurred most recently in the spectacles (1999) and petroleum products (2001) sectors. In the first instance, the enterprise concerned used the name of another and was sanctioned by closure. In the second, under threat of sanctions a secret agreement between petroleum enterprises was abandoned.

(b) Price regulation and control

106. Law No. 15/2001 requires prices of goods and services to be determined by market forces unless there is market failure,<sup>59</sup> for example in the form of monopolies organized for the purpose of speculation on increasing prices for sensitive products; professional monopolies on the production and distribution of certain products; and de facto monopolies on consumer goods and services. The list of sensitive goods and services for which prices may be fixed is established by ministerial order. Article 5 of the Law establishes consultation (on marketing and prices) between the Government and operators in the sector concerned for the purpose of price-fixing. Consultation consists of meetings between economic operators using the marketing channels of the product in question and government representatives. The price agreed on must accommodate both the normal interests of traders and the concerns of consumers.

107. According to the authorities, at present, where prices are fixed the reason is market failure. A draft order, once adopted, will confirm price control for goods and services such as: petroleum products, medicines, sugar, rice, cement, medical consultations, water, electricity, public transport and postal services. It will also fix maximum prices and should be adopted in the course of 2004.

108. For petroleum products (gasoline, diesel fuel, kerosene, jet fuel), profit margins are currently fixed at RF 14 per litre for wholesalers and RF 11 per litre for retailers. For electricity, the Order of 7 January 1988 establishes a basic rate of RF 8.5 per kWh.

(iii) State enterprises and privatization

109. The State continues to play a major role in economic activity. There are currently some 41 public companies, nine of which have joint capital, the remainder being wholly owned by the State.<sup>60</sup> The companies operate in the following sectors: industry (including agri-food), mines, hotels, financial services, telecommunications and transport and storage services.

110. Significant progress has been made, however, since the adoption on 11 March 1996 of Law No. 2 on Privatization and Public Investment. The Law allows the Government, subject to approval by the Council of Ministers, to liquidate, lease or sell a public company or institution, wholly or in part. A decision of the General Meeting of shareholders is required to liquidate a company set up under commercial law. The Law was enacted with a view to stimulating the economy and reducing non-essential State expenditure following the genocide in 1994, and the financial support provided by the State to public companies in difficulty. Sale, lease or restructuring must be the subject of a call for tenders.<sup>61</sup> The Law contains a transparency clause requiring the Government to inform the public of the procedure adopted for privatization and to report on progress.

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<sup>59</sup> 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.

<sup>60</sup> State companies are governed by Decree-Law No. 39/75 (7 November 1975) on Public Establishments.

<sup>61</sup> In the case of strategic and large-scale public services and companies requiring heavy investment and specific know-how, privatization is carried out by restricted bidding. In the case of strategic mixed companies

111. At the beginning of 2004 a handbook on privatization was put into use.<sup>62</sup> It provides that the successful bidder must pay at least 50 per cent of the sales price upon signing the contract and make the last payment by the end of the twelfth month at the latest. Payment by instalment must be covered by a guarantee from a bank or other financial institution; property titles will not be handed over until the price has been paid in full. The total price will ordinarily be paid when the sales contract is executed. Applications for tax exemption must be addressed to the RIPA.

112. To facilitate privatization the State undertakes where necessary to take charge of debts accumulated by companies put up for privatization. It reserves the right to take back the sold property if the acquiring company fails to comply with the plan submitted.

113. Presidential Order No. 08/14 of 3 May 1996 established the National Privatization Commission to be responsible for implementing the privatization programme, with the assistance of the Privatization Technical Committee and the Privatization Secretariat, which went into operation in 1997. Other laws supplement the above Order, including the 1996 Law on Finance and the Investment Code, and the laws that arose from the exchange rate reforms of 1996 and 1997.

114. The privatization process began in 1997, the programme providing initially for the sale of 72 companies and institutions.<sup>63</sup> Between 1997 and January 2004, 37 companies were privatized: 17 in the agri-food sector, two in industry, two in mining, one in the petroleum sector and 15 in the services sector (four of which are hotels and tourist accommodation establishments).<sup>64</sup> In addition, the State has sold its share in the equity of five mixed companies and has leased one agri-food company and one hotel. Total revenue from privatization for this period amounts to RF 4.8 billion (not including revenue from leasing).<sup>65</sup> The proceeds of privatization have gone towards restructuring, payment of the privatized companies' debts and the experts' and consultants' fees, State investment in companies and other privatization activities. Table AIII.3 gives details of privatizations both completed and under way.

115. The Government is in the process of speeding up the privatization process by selling, in 2004, two tea factories (Mulindi and Pfunda, the first to be privatized in the sector), selling its (majority) participation in Rwandatel, and handing over the management of Electrogaz to the private sector under a five-year concession contract, signed in September 2003, with a view to reducing production costs.

116. According to the authorities, no companies in Rwanda have a monopoly on imports or exports.

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(energy, telecommunications, banks, agriculture), the Council of Ministers establishes the strategy for distributing shares and stock. A percentage of the shares of mixed companies may be reserved for Rwandans.

<sup>62</sup> The handbook of procedures was published in the *Official Gazette* in October 2003.

<sup>63</sup> Some State companies and establishments, namely the National Post Office and the Rwanda Cement Company (CIMERWA), are not on the list of companies put up for privatization.

<sup>64</sup> Subsidiaries of companies have been counted singly.

<sup>65</sup> In 1999 two companies were leased out: Kigembe Fisheries, for 25 years at US\$20,000 per annum; and SODEPARAL (Rubirizi pastures), for 20 years at a total cost of RF 25 million. However, the State has taken back the Kigembe Fisheries since the leasing company wished to withdraw.

(iv) **Protection of intellectual property rights**

(a) Overview

117. Rwanda has been a member of the World Intellectual Property Organization (WIPO) since 1984. It is a party to the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works.

118. The industrial property legislation is old and obsolete. It comprises the laws adopted on 25 February 1963 on patents, industrial designs and trademarks, and the ministerial orders issued on 18 May 1967 to implement them: numbers 5/10/67, 4/10/67 and 3/10/67, respectively. In order to align Rwanda's legislation with international standards, a draft law has been prepared with technical assistance from WIPO and should be adopted in 2004. Copyright is governed by Law No. 27/1983 of 15 November 1983.

119. Intellectual property issues are the domain of the ministries in charge of industry (industrial property) and culture (copyright).

(b) Industrial property rights

120. The Law of 25 February 1963 on Patents distinguishes between patents of invention, patents of importation and patents of improvement. It protects against counterfeiting such "discoveries" as are likely to be used as industrial or commercial objects, and grants the owner exclusive rights for their use. Invention patents have a non-renewable term of 20 years, the term of import patents is limited by the term of the corresponding foreign patent (but may not exceed 20 years), and an improvement patent expires with the principal patent. Patents are issued without prior examination and for a fee of US\$150.<sup>66</sup> A patent not used in Rwanda as an industrial or commercial object within two years of its taking effect abroad may be cancelled at the request of any interested party. Under the Law, complaints of impairment of owner's rights are heard by the courts.

121. The Law of 25 February 1963 on Industrial Designs grants exclusive right of use to the owner. The right is granted on request for a period of one or three years (renewable up to 10 years), or a non-renewable period of 10 years, for a fee of US\$15, 30 or 60 respectively. Transfer *inter vivos* or by succession is subject to a charge of US\$9.

122. The Law of 25 February 1963 on Trademarks grants to the owner for a charge of US\$30 sole use of a registered trademark; transfer *inter vivos* or by succession is subject to a charge of US\$15.<sup>67</sup> Transfer may be only to an establishment to which the trademark will be of use to distinguish its industrial or commercial objects. Only the first person to make recognized use of the trademark may carry out registration. The Law imposes a fine of up to US\$150 (without prejudice to more stringent penalties under the Penal Code) for counterfeiting, the fraudulent use of trademarks or the marketing of counterfeit trademark goods. Table III.3 shows the evolution of trademark and patent registrations since 1993.

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<sup>66</sup> The Law of 1963 set all amounts in Belgian francs: the authorities have converted them into US\$ at the rate of 1,000 Belgian francs to US\$30.

<sup>67</sup> The Law defines as a trademark any sign that serves to distinguish an industrial product or a commercial object; the name of a person and the name of a commercial or industrial firm may serve as a trademark.

**Table III.3**  
**Registration of trademarks and patents, 1993-2003**

Year of registration	Trademarks	Patents - Importation	Patents - Invention
1993	147	0	0
1994	43	1	3
1995	144	0	1
1996	119	3	1
1997	194	1	4
1998	147	1	2
1999	103	5	4
2000	92	6	1
2001	171	5	7
2002	152	1	1
2003	153	4	0
<b>Total</b>	<b>1,465</b>	<b>27</b>	<b>24</b>

*Source:* Data supplied by the Rwandan authorities.

123. A law of 24 February 1950 on unfair competition, now obsolete according to the authorities, provided for the courts to sanction any act contrary to honest practice, including in the area of intellectual property, defined the content and established fines ranging from US\$3 to US\$60. The law required the court's decision to be displayed outside the offender's establishments or published in newspapers. Recurrent offences were punishable by a prison term of from seven days to two months.

124. The draft law on industrial property now in the process of enactment will make significant changes to the existing legislation. It extends the scope of protection and lays down administrative procedures on filing, examination and issuance of intellectual property titles.<sup>68</sup> It also sets out the formal and substantive requirements to be met when applying to register an invention, a utility model or any distinctive sign for the purpose of protection. Applications must be filed in one of the following three languages: French, English or Kinyarwanda. Foreign applicants are required to be represented by a firm of industrial property agents authorized to practice in Rwanda.

125. The draft law authorizes parallel importation. It sets three requirements for the patentability of an invention: novelty, involvement of an inventive activity and industrial application. There are formal requirements to be met by patent applications, but the patent is issued without any prior substantive examination. The courts may later annul it if the invention does not meet the substantive requirements.

126. According to the draft law, the patent right belongs to the inventor, except for an invention made in the performance of a work contract, in which case the right belongs to the employer.<sup>69</sup> The patent confers on the owner the exclusive right to exploit the invention in Rwanda for a period of 20 years. Compulsory licences may be granted for failure to exploit or inadequate exploitation, and automatic licences are issued if the public interest so requires or if a judicial or administrative body has found the manner of exploiting the invention to be anti-competitive. Any abuse of an industrial property title (counterfeiting, acts of unfair competition in the area of intellectual property) is

<sup>68</sup> The new law grants protection for inventions, utility models, industrial designs, trademarks, collective marks, trade names, geographical indications and layout-designs of integrated circuits.

<sup>69</sup> The employee is entitled to fair remuneration where the economic value of the invention is much greater than anticipated.

sanctioned by the courts.<sup>70</sup> According to the draft law, orders are to be issued for the cessation of the unlawful act, the seizure, confiscation and destruction of the offending object and the payment of damages; the penalties to be imposed are a fine ranging from US\$50 to US\$500,000 and/or a prison term of up to two years. The draft law also allows disputes concerning the application of the law to be taken to the Court of First Instance.

127. Certificates of protection, for a term of 10 years, will also be granted for utility models provided that they are new and are capable of industrial application. Non-voluntary licences will be authorized in the event of non-exploitation or insufficient exploitation.

128. It will be possible to register an industrial design if it has worldwide novelty. Rights to industrial designs will belong to their creators. Registration will confer on the owners exclusive exploitation rights for a term of five years, which may be renewed twice. As in the case of patents, there will be no prior examination of substantive requirements (novelty).

129. The draft law establishes protection for trademarks, collective marks and trade names under six substantive requirements.<sup>71</sup> Contrary to the case of other intellectual property titles, in this case substantive and formal examinations will be required. Registration of a mark will confer on the owner the exclusive right of use for a period of 10 years, renewable indefinitely.

130. The draft law also regulates the use of trade names, defines unfair business practices (including the disclosure of confidential information) and sets forth the available civil remedies.

131. Geographical indications will be protected if a quality, reputation or other characteristic of the product can be attached to its geographical origin. A substantive examination will be required for registration. Only producers carrying on their activities (in connection with the stated products) in the region indicated in the register will be entitled to use the registered geographical indication for commercial purposes.

132. Protection will likewise be granted to layout-designs provided that they are original. The right of protection will belong to the creator. Registration of a layout-design confers on the owner the exclusive right of use for commercial purposes for a term of 10 years. The draft law allows the practice of "reverse engineering": a new original layout-design created on the basis of an evaluation and analysis of a protected design, may be exploited without the consent of the latter's owner.

(c) Copyright and related rights

133. Among other literary, artistic and scientific works Law No. 27/1983 of 15 November 1983 protects written works, lectures, addresses and speeches, sermons; dramatic, dramatic-musical and musical works; choreographic works and pantomimes; cinematographic, radio and audiovisual works; drawings, paintings, architectural works, sculptures, engravings, lithographs and tapestries; photographic works; works of applied art; illustrations, maps, plans, sketches and other three-dimensional works relating to geography, history, topography and architecture; works of folklore and derivative works. Protection is conferred on the authors (author and co-authors where appropriate) for their lifetime and 50 years after the death of the last survivor.

134. In addition to economic rights, the Law confers on authors perpetual, inalienable and inalienable moral rights, the right to claim authorship of their works and in general to oppose any

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<sup>70</sup> The Court of First Instance will hear disputes concerning the application of the relevant legislation. Its decisions may be subject to review in accordance with Rwandan legislation on the jurisdiction of courts.

<sup>71</sup> Article 56 of the draft law.

distortion, mutilation or other modification of their works and any dissemination or reproduction without their consent. With regard to related rights, the Law guarantees protection for 25 years in the case of performances, phonograms and radio broadcasts. The third and fourth parts of the Law deal with translation and reproduction licences and the conditions for granting them.

135. According to Article 82, works of which Rwanda is not the country of origin enjoy protection under the Law by virtue of Rwanda's obligations under the international conventions to which it is a signatory.<sup>72</sup>

136. Infringements of copyright are punishable by a fine of up to RF 20,000 and/or a term of imprisonment of two months to one year. Unauthorized exploitation of a work of folklore or a work that has passed into the public domain is punishable by a fine of up to RF 40,000. Infringing works are confiscated.

(d) New varieties of plants

137. Rwanda has no domestic legislation on the protection of new varieties of plants.

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<sup>72</sup> The following are deemed to be works of which Rwanda is the country of origin: works first published in Rwanda; works created by authors of Rwandan nationality; works the authors of which have their usual place of residence or who stay in Rwanda; cinematographic works the producers of which have their headquarters or usual place of residence in Rwanda; and architectural works erected in Rwanda.