Republic of Rwanda

Rwanda Environment Management Authority (REMA)

20

OPERATIONALISATION OF NATIONAL FUND FOR ENVIRONMENT (FONERWA) IN RWANDA

(FOR CIRCULATION AMONG PARTNER INSTITUTIONS ONLY)

DRAFT REPORT

RWANDA ENVIRONMENT MANAGEMENT AUTHORITY (REMA)

SUPPORTED BY

POVERTY ENVIRONMENT INITIATIVE (PEI)

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List of Acronyms

AIDS	:	Acquired Immuno Deficiency Syndrome
BMCT	:	Bwindi and Mgahinga Conservation Trust
CBNRM		Community Based Natural Resource Management
CDF	:	Common Development Fund
EDPRS	:	Economic Development and Poverty Reduction Strategy
EFR	:	Environmental Fiscal Reform
EFs	:	Environmental Funds
EIA	:	Environmental Impact Assessment
ENR	:	Environment and Natural Resources
FDI	:	Foreign Direct Investment
FMCN	:	Mexican Nature Conservation Fund
GBS	:	General Budget Support
GFA	:	Green Fund Agency
GDP	:	Gross Domestic Product
GEF	:	Global Environmental Facility
GoR	:	Government of Rwanda
MFIs	:	Microfinance Institutions
MINECOFIN	:	Ministry of Finance
MINETERE	:	Ministry of Lands, Environment, Forestry, water and Mines
MTEF	:	Medium-Term Expenditure Framework
NEFs	:	National Environmental Funds
NF	:	National Fund
NFMA		Brazil's National Environmental Fund
NGOs	:	Non-Governmental Organziations
OAG	:	Office of the Auditor General
ODA	:	Overseas Development Assistance
PEI	:	Poverty-Environment Linkages
PPP	:	Public Private Partnerships
RDB	:	Rwanda Development Fund
REMA	:	Rwanda Environment Management Authority
RWF	:	Rwanda Francs
UNCED	:	United Nations Conference for Environment and Development
UNDP	:	United Nations Development Programme
UNEP	:	United Nations Environment Programme
USAID		United Nations

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Executive Summary

This report was commissioned by the Rwanda Environment Management Authority (REMA) with support from the UNDP-UNEP funded Poverty-Environment Initiative (PEI). The Initiative's outcome is the integration of environment into national policy and district planning, policy and budget processes to implement the economic development and poverty reduction measures. Specifically, the objective is to contribute to one of the five outputs, namely: *improved national funding levels for investment in environmental sustainability*. One way of achieving this is the operationalisation of the National Fund for Environment, abbreviated in French as FONERWA.

The provision for the establishment of FONERWA was contained in the Organic Law No.4/2005 determining the modalities of protection, conservation and promotion of environment in Rwanda. The same law provided that a separate law would be made to establish FONERWA. A Drafit Bill exists and it formed part of the basis for the assessment in this report.

FONERWA in the Bill was proposed as an institution under REMA without legal and financial patrimony**.** The Bill further proposes a Steering Committee of five made up of only government and public employees. This approach of establishing funds is common in Rwanda. The laws under which they are established give the funds legitimacy to receive public funding. Hardly are the oversight management organs, financial systems and programming open to the wider public scrutiny. These weaknesses have been observed by the government**.** It is now reviewing how best to harmonise them so as to reduce the transaction costs of keeping several bank accounts.

The lack of legal and financial patrimony and broad-based oversight organ would reduce the credibility of FONERWA as an independent and transparent fund. External funders would hesitate to contribute to its capitalization .Yet many activities have been listed for FONERWA support in the Organic Law. Going a step backward to solicit funding from development partners for capitalizing FONERWA could take time to reach fruition. Already, there is delay in levying and collecting fees for the processing and approval of EIA fees. It is the law establishing FONERWA that is supposed to state the rates for charging.

Owing to the desire by government to harmonise several funds, a proposal to merge and place the funds under the environment and natural resources sector has been put forward for discussion in this report.. The fund could be called Rwanda Fund for Environmental Sustainability. It could accommodate three categories of funds, namely, revolving funds, sinking funds and an endowment fund. Accepting this proposal would again delay the operationalisation of FONERWA because it would require streamling the legal and institutional issues.

A middle ground is for government to operationalise FONERWA as originally conceived but with a long term goal to transform it into a bigger Fund with broader capitalization options. In that case, the government can commit itself to the start up capitalsation for FONERWA. With that knowledge, a strategic and business plan for operationalising and transforming FONERWA can be made with in-build key performance indicators. In the start up period, it would be REMA to house and administratively guide FONERWA. In order to ease accountability, a separate code for the release of funds from the consolidated fund is strongly recommended.

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1: INTRODUCTION

1.1 Background to the study

1. This report was commissioned by the Rwanda Environment Management Authority (REMA) with support from the UNDP-UNEP funded Poverty-Environment Initiative (PEI). The study under which this report was made contributes to Rwanda PEI phase 2, whose outcome is the integration of environment into national policy and district planning, policy and budget processes to implement the economic development and poverty reduction measures. Specifically, the objective is to contribute to one of the five outputs, namely: ***improved national funding levels for investment in environmental sustainability***.

2. The operationalisation of the National Fund for Environment abbreviated as FONERWA in French is one of the many ways government can rationalize the mobilization and utilization of scarce resources for the environment. The rationale for the study comes from the Organic Law No.4/2005 determining the modalities of protection, conservation and promotion of environment in Rwanda. It provided that REMA and FONERWA be established to give effect to the implementation of the Organic Law and that their organization, functioning and responsibilities shall be determined by specific laws.

3. It should be clarified right from the beginning that the Government of Rwanda defines the term environment to also include the natural resources. In the Organic Law: **environment** is a diversity of things made up of natural and artificial environment. It includes chemical substances, biodiversity as well as socio-economic activities, cultural, aesthetic, and scientific factors likely to have direct or indirect, immediate or long term effects on the development of an area, biodiversity and on human activities. This is the interpretation given in this report.

4. This report has been informed by another report on existing and potential environmental fiscal reform (EFR).That report is useful in as discussing the extent to which EFR can be used to capitalise FONERWA. Annex 1 provides the names of individuals who provided their contributions, and Annex 2 is the list of documents reviewed.

1.2 National Context of development and environmental management

5. In 2008, the people of Rwanda expressed their determination and aspiration to construct an all inclusive united and democratic country through Vision 2020. By that time, the per capita income is projected to rise from the 2000 level of $ 200 to $ 900. Six priority pillars were identified as pivotal in the achievement of this aspiration. They are: good governance and efficient state, skilled human capital, vibrant private sector, world class infrastructure and livestock, all geared towards national, regional and global markets. One of the cross-cutting issues of Vision 2020 is protection of environment and sustainable natural resource management.

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6. To give effect to the implantation of Vision 2020, the Government of Rwanda launched its second EDPRS in 2007. It has three flagships of (i) sustainable growth for jobs and exports, Vision 2020 *Umurenge* (Integrated rural development programme to eradicate extreme poverty and release the productive capacities of the poor) and (iii) good governance. EDPRS strongly observes that "economic growth has slowed, population growth continues to be rapid and the environment is under stress."

7. Recognising the above, the Government of Rwanda (GoR) has set, as one of its strategic objectives in EDPRS, to 'manage the environment and ensure optimal utilization of natural resources.' Further, the 5-year Strategic Plan for the Environment and National Resources Sector (2009-2013) re-emphasizes the central role of environment, and sets its motto as: "*Towards a Green, Clean, Healthy and Wealthy Rwanda*"

8. In addition to the above planning frameworks, the GoR has formulated other several national and sectoral frameworks in pursuit of its sustainable development agenda. Some of the key messages coming through all of them are listed below:

   (i) raise the productivity and growth of the agricultural sector
   (ii) ensure environmental sustainability in the management of environment and natural resource, including improving access to these resources by the poor
   (iii) promote the growth of both manufacturing and service sector as a strategy for backward linkage to agricultural productivity on one hand, and for off-form employment in order to reduce over-dependence on the natural resources base
   (iv) ensure good governance through open and transparent participation between state and non-state access (private and civil sector) and institutionalize mechanism to measure performance guided by indicators
   (v) widen the financial sector and the revenue base while at the same time ensuring efficiency, economy and creating enabling environment for the private sector investment and participation

9. The key policy message coming through all the planning frameworks is that Rwanda should adopt a "No Net loss" strategy for its environment. It will require concerted commitment from all the people of Rwanda to restore and maintain the environmental sustainability. Without it, poverty reduction will not be realized as fast as envisaged.

10. Already, the government considers itself likely to be off-track (red shading) in realizing certain indicators in it EDPRS. The key ones among them include:

    - GDP per capita in US Dollars
    - Average real growth rate of the agricultural sector
    - Growth of non- agricultural jobs
    - Number of people behavior poverty line
    - Access to electricity
    - Financing to agriculture

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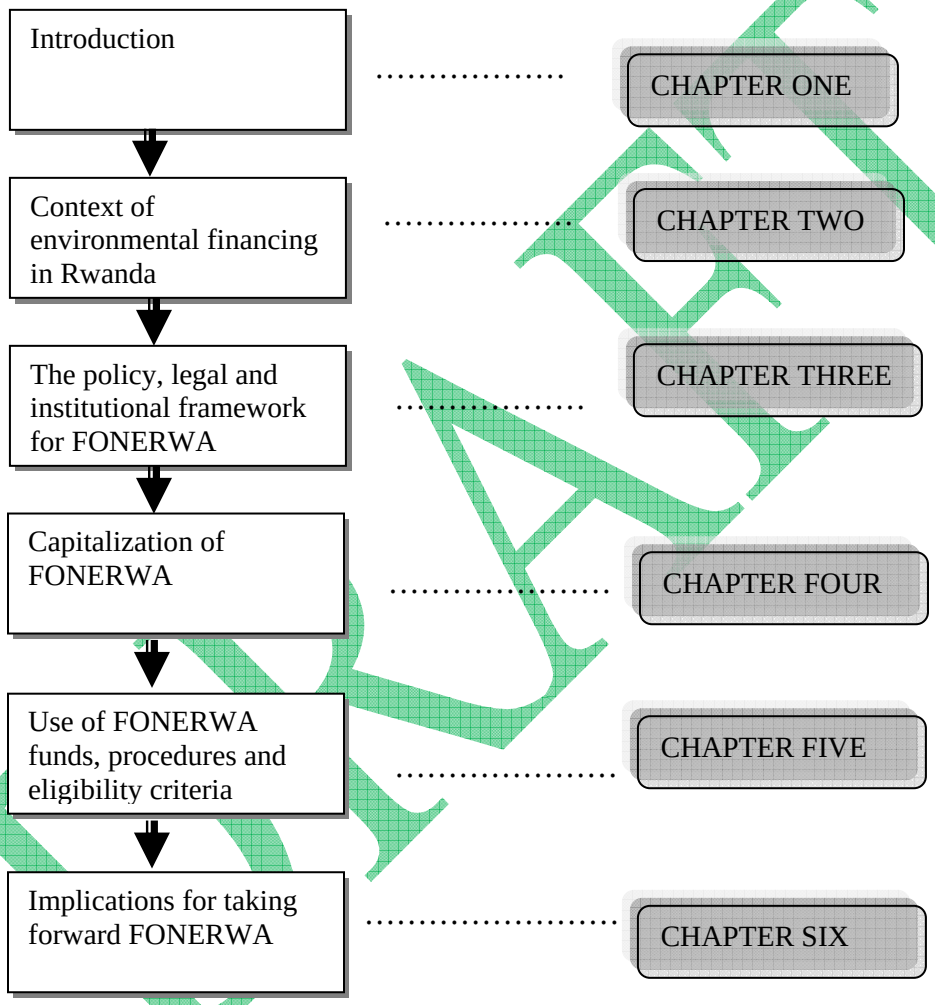
11. This report concentrates on assessing the Operationalisation of FONERWA as a potential instrument to help the GoR target and address some of the above likely shortfalls.

1.3 Structure of the Report

12. Figure 1 presents the structure of the report

Figure 1: Structure of the report



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2: THE CONTEXT OF ENVIRONMENTAL FINANCING IN RWANDA

2.1 Overview of financing needs and challenges

13. Central to the realization of targets in EDPRS is predictable and sustainable financing. In as far as budget support is concerned RWF 968 billion is required for the EDPRS period 2009-2012 with estimated donor commitments of RWF 772 billion. The government will remain with a deficit of RWF 196 billion equivalent to USD 369 million.

14. Secondly, in so far as project support is concerned, there is a need for RWF 746 billion in the EDPRS period. Considering the resource envelope from project donors and the current projection of projects, RWF 590 billion can realistically be mobilized. This would leave a requirement of RWF, 156 billion (US $ 291).

15. Together, the total additional financing requirement is RWF 352 billion equivalent to USD $ 661 million, or an average of USD $ 132 million per year over and above assumed commitments.

16. Owing to the spread of environment across several sectors, its financing is equally spread. The PEI is supporting a Public Expenditure Review to ascertain the past trends. Nonetheless, it can be authoritatively stated that it is competing with other sectors. Some of the financing challenges may be specific but others are general. As the government gradually shifts to allocating its resources through the General Budget Support (GBS) away from stand-alone projects, that competition will become stiffer.

17. Globally, there are 3"F" failures that are likely to have negative consequences for the level of Overseas Development Assistance (ODA), Foreign Direct Investment (FDI) and remittances of Rwandese living abroad. They are increasing **food** prices, rising **fuel** prices and the **financial** crunch. These factors have compelled several African countries to start laying new strategies to confront the situation. Rwanda too, cannot ignore this reality. One option at its disposal is to broaden internal revenue through EFR and to reassess areas in which it had given tax exemptions.

18. Under the circumstances, the government is challenged to take a multi-pronged strategy to filling the gap to its financing needs. That strategy will include the following:

    - mobilization of additional revenue to boost its budget
    - make efficient and cost-efficient use of the modest resources already available
    - create savings in the way government does business
    - create enabling environment to marshal resources from public-private partnerships and private sector arrangements and
    - tap resources from emerging innovative financing mechanisms like payments for ecosystem services

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19. The government of Rwanda can use the framework of FONERWA to realize some the above strategies. In formulating this report, lessons have also been drawn from a separate but closely linked report on the existing and potential EFR/EIs in Rwanda.

2.2 Existing methods of raising environmental finance

- **Revenue from EFRs**

20. Government raises revenue directly by way of environmental taxes, fees, charges and fines. Unfortunately, because some of these are collected as extra-budgetary funds by central government ministries, agencies and districts, their true patterns and trends are not known. It is for this reason that the government and its development partners in the Country Financial Accountability Assessment made three important recommendations. They are:

Short-term measures

- Conduct an inventory of all extra-budgetary resources
- Establish accounting provisions and standards for the reporting of expenditures and
- own revenues of semi-autonomous agencies

Medium-term measures

- Establish system for capturing, monitoring and reporting of the transactions of semi autonomous agencies.

- **Promoting the Private Sector**

21. Two of the key strategies the government is pursuing in mobilizing development finance is creating a peaceful, secure, stable economy that can be attractive to Foreign Direct Investment (FDI), and the promotion of private sector investment. Presently, the FDI levels stand at US 82 million as of 2008.

- **Promotion of trade**

22. Agenda 21 strongly advocated for promotion of trade as an additional method of financing sustainable development, on top of increasing ODA. This was re-emphasized again at the Monterrey Consensus in 2002. In a recent study made on behalf of the Economic Commission for Africa, one of the main challenges facing African countries in their efforts to increase and ensure the predictability of government revenue is the instability and uncertainty arising from the volatility of prices of commodities exported by African countries1. This instability causes an important uncertainty for the public budget and affects the ability of governments to finance development.

23. To respond to this challenge, African countries need to strengthen efforts to diversify their economies to reduce dependence on commodities. Rwanda greatly suffers from this challenge because it still has a narrow base of exports.

[1] Hakim Ben Hammonda and Patrick N.Osakwe [2006] Financing Development in Africa: Trends, Issues and Challenges

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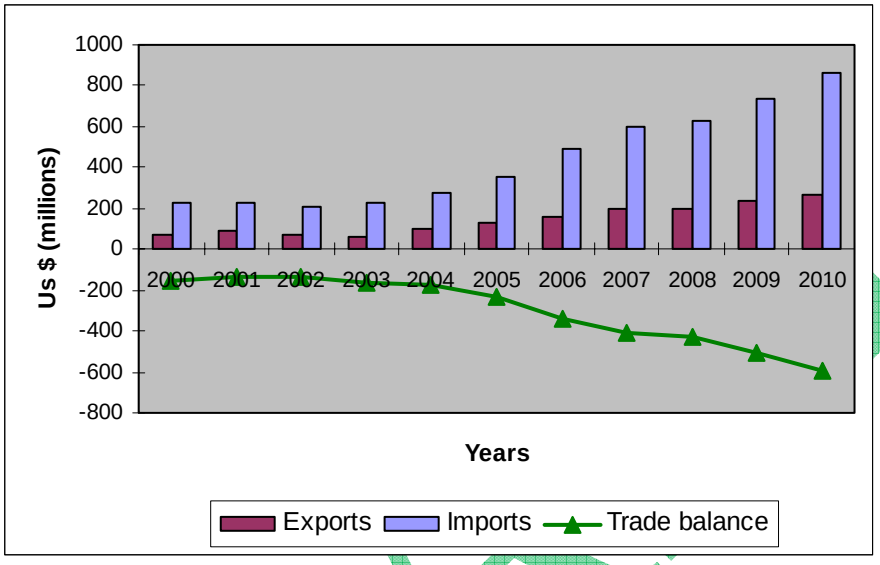
24. The evidence available is that because of this challenge, the value of its imports by far exceeds that of the exports. In turn, the country's has in the past registered a growing deficit trade balance and it is projected to worsen in the foreseeable future. In other words, the government is not yet making any savings from trade (see Figure 2).

Figure 2: Past and projected trade balance for Rwanda



It is the natural based products and services generating the highest export revenue

25. Even though the GoR is yet to generate surpluses from trade, suffice it to mention that its exports are predominantly natural resource based (Figure 3) By implication, it would perhaps be the same products or resources to contribute additional capacity for revenue generation without unduly reducing their competitiveness. This is because one of the challenges Rwanda is facing is a very narrow export base that lacks diversification. It is gratifying to mention that the government is pursuing value addition, because without it, the country would be potentially vulnerable to economic shocks like price fluctuations of unprocessed materials.

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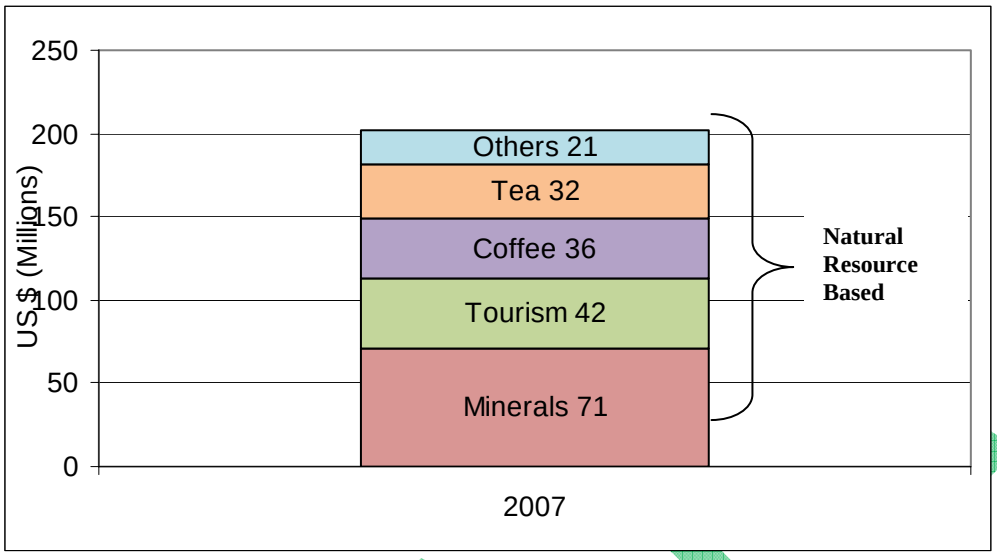
Figure 3: Proportion of natural resource based products in exports, 2007



Revenue forfeited by the government

26. However, government has also been extending tax exemptions on some investments, products and services under various laws. In so doing, it has accepted to forfeit revenue in the short-run, but with the hope that in the long run, the investments would generate other benefits like employment creation in addition to revenue. Government has not yet made a study on the likely magnitude, in financial terms, of those exemptions. Nonetheless, it can be stated that giving incentives for sustainable development is a noble strategy and it one of these actually recommended by the Organic Law No. 4/2005

27. Law No. 26/2005 relating to investment and export promotion has provisions worthy noting. First, according to this law, the term "incentive" means fiscal and non-fiscal inducements given to an investor to support and encourage investment in any sector of the Rwandan economy. However, the definition of a 'local investor' under the same law would leave out majority of Rwandans. A local investor must have invested $100.000.

2.3 National ownership and commitment vital for environment financing

28. The rationale to mobilize internal resources for the environment, to engage the private sector and to take national ownership in environmental management was strongly echoed by His Excellency the President of Rwanda, Mr. P. Kagame at the 3rd African Ministerial Conference on Financing for Development. The theme of the Conference was: "*Climate change-Financing opportunities and challenges to Achieve the MDGs in Africa*". Some of the extracts from his speech are reproduced below.

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"When we consider domestic resources allocated for managing the environment, for instance, we find limited financing based on the mistaken perspective that this does not constitute a priority development objective.

This is why, very often, national agencies in charge of the environment primarily rely on donors for funding as well as professional solidarity.
Clearly it is time for Africa to lead in mobilizing technological and financial resources, and join global efforts to save our environment.

And finally in this regard, I should re-state here that there is a marked over-dependence on external support in terms of technical and financial requirements at each point in the value chain of environmental policy development – from conception to program implementation.
I trust therefore that this Conference will address this fundamental flaw in our approach to the environment with a purpose to renew our determination in taking greater ownership of these key development assets.

Presently, the African private sector remains largely on the sidelines – as opposed to being part of the solution to environmental problems.

Third, we should ensure that our continent engages more robustly in global dialogue on the environment, and undertakes binding commitments, including resource mobilization not only externally as has been the tendency, but from within as well.

In this respect, we should also explore innovative financing schemes for protecting our environment more aggressively, including global carbon markets in which Africa remains a marginal participant".

2.4 Implications for the funding of FONERWA

29. Even before looking at the policy, legal and institutional framework of FORENWA, suffice it to mention that financing the environment needs to take a broader view. This is because the predictability of funding portfolios have changed in the past, and could likely change in the future. For the GoR, the choice to take is that of keeping its options for broadening the financing for the environment open. The above strategy was also alluded to by the World Bank when it reviewed the experience of Environment Funds that became commonly established in the early 1990s. The conclusion reached in that assessment was that ***Environmental funds are more than financial mechanisms***.

30. When EFs were first created in the first half of the 1990s, they were primarily seen as innovative financial mechanisms that could absorb relatively large amounts of money from debt swaps or donors and distribute them efficiently to cover the recurrent costs of national parks or as small grants to NGOs and communities. Their design emphasized financial and legal systems and procedures, such as asset management, contracting and accounting and fundraising. The GEF evaluation found that financially, most funds have done well. Asset managers achieved investments results above their benchmarks, and revenues from these investments were being channeled efficiently in small amounts.

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31. However, this was not enough to guarantee their success. Experience has shown EFs to be complex institutions that must carry out a variety of functions at the same time. The funds that have made the biggest mark on conservation and sustainable development in their countries did so because they became more than just financial mechanisms. They often had to play roles in building institutional capacity and private public community groups becoming involved in environmental activities for the first time, and contributing to the articulation of environmental priorities and strategies.

2.5 Recent developments in respect of special and earmarked funds

32. As already mentioned in paragraph 17 the GoR together with its development partners recommended a study on the inventory of all extra-budgetary resources. There were justifications that led to the above position.

33. It was observed that there are a number of extra-budgetary funds operated by central government. Examples include the Road Fund, National AIDS Commission and public hospitals. These funds have their own bank accounts and usually have sources of finance additional to the budgetary transfers, often donor funds. They make their own payments, and their accounts are generally not integrated into the government's accounts.

34. The degree of government activities funded through inadequately reported extra budgetary sources amounts to approximately 4.5 percent of total Government expenditure. However, significant treasury resources remain outside of the control of the Treasury Unit as explained in Chapter 7 (Treasury Management).

35. Central government expenditures from domestic resources are largely accounted for, including those from non-tax revenues. The establishment of the Rwanda Revenue Authority helped in improving the collection and transfer of non tax revenues to the Treasury. However, some funds (e.g. the National Forestry Fund, Road Maintenance Fund, and Common Development Fund) directly receive earmarked resources. However, these funds do not report back to MINECOFIN on their spending of these resources nor on their own revenues. No expenditure reports are received in-year from these entities, and the only reporting available is their annual accounts which are sent to the Office of the Auditor General (OAG) for audit. These annual accounts are not consistently collected and consolidated by MINECOFIN, but they are sent to the responsible line ministry. In preparing the fiscal reports, consideration is taken, however, of bank balance information in cases where this is available at the BNR.

36. Even as the study results are yet to be fully debated, a number of measures have already been taken which should influence the way the government plans to operationalise FONERWA. They are:

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- **Transformation of Common Development Fund**

37. The government has decided to harmonize different funding mechanisms to local governments so as to achieve effectiveness, efficiency and harmonization. Accordingly, it has established the "Rwanda Local Government Support Fund". It will combine all initiatives that support local governments. They are: CDF, Vision 2020 Umurenge and Ubudehe. Further, within the framework of Vision 2020, each Umurenge is envisaged to establish a credit and savings society.

- **Mandating RRA to collect revenue and funds for other organizations**

38. Rwanda Revenue Authority is to take over the collection of revenues, and funds of several organizations including those of Rwanda Social Security Fund, KCC to mention but a few. It will then make transfers to them.

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3: ASSESSMENT OF THE POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK FOR FONERWA

3.1 Legal aspects

39. The Organic Law No. 04/2005 provided that in order to give effect to the implementation of the above law, two institutions would be established. They are Rwanda Environment Management Authority (REMA) and National Fund for Environment (FONERWA). The latter would be responsible for soliciting and managing financial resources.

40. Further, the Organic Law provided that the organization functioning and the responsibilities of these two institutions would be determined by specific law. REMA was established under law no 16/2006. One feature mentioned in the Organic Law is that REMA would be a public establishment with legal personality and shall enjoy financial and administrative autonomy. There was no similar provision in respect of FONERWA.

41. It was gratifying to find that steps have already been taken to formulate a Bill for the establishment of FONERWA. It is attached as Annex 4. The Bill states that 'FONERWA is a Fund that operates and functions under the supervision of REMA, and that the Fund has no legal personality, administrative and financial autonomy.' Rwanda has a precedent in establishing funds under such arrangement, the notable example being the National Forest Fund which was formed under the forestry law of 1988 and the Road Maintenance Fund.

42. There are certain implications for FONERWA if it is established as proposed. First, it would be REMA to give FONERWA the 'legal' home. Because FONERWA would not be a legal entity, it would find it difficult to solicit funds in its own name. Someone else, that is, REMA has to do that on its behalf. In turn, it has to be REMA to get the staff and the systems for FONERWA.

43. Secondly, if the GoR takes this route as stipulated in the Bill, it should know that virtually it would bear the greatest burden of capitalizing FONERWA. Many Environmental Funds which were attractive for donor capitalization in their infancy satisfied on important criterion, that is, the legal autonomy. This criterion gives the donors the confidence that a transparent system void of domination by government officials only will oversee the offering of grants to beneficiaries.

44. The proposal under the Bill would only give FONERWA the legitimacy to be recognized by the government and to receive its subventions annually from the consolidated fund.

45. Another challenge that is bound to be created is that REMA could overshadow the visibility of FONERWA, a factor that could also reduces the latter's chances to attract external funding in its own name. Yet, the Bill placed a lot of functions under FONERWA which would require substantial and predictable funding. They are:

    (i) provide support for environmental conservation and other activities aimed at promoting environmental management which are carried out by individuals, environmental associations or state organs;

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(ii) support training, research and communication aimed at environmental conservation;
(iii) award prizes to individuals, associations or model institutions involved in environmental conservation;
(iv) provide grants for activities aimed at conserving and protecting the environment
(v) support any activity aimed at protecting the environment that may be recommended by REMA.
(vi) support to repair and rehabilitate areas that have been environmentally degraded or damaged when the culprit is unknown or has no means to rehabilitate the degraded area.

46. As a starting point, it would be logical that the GoR commits itself to the possible minimal subvention it can make annually for one to go fully to other steps. If the funding is likely to be low, then the choice is to pursue FONERWA as proposed in the Bill. The advantage of this option is that FONERWA would incrementally grow in staffing, systems, funding to mention but a few.

47. If on the other hand the funding is substantial and possibly can be matched by a willing donor, then the option of giving FONERWA legal and financial patrimony can be pursued. At the moment, the government has not yet approached any donor for that possibility. Based on the experience of other countries, taking this option involves a long process. Consultations have to be made to reach consensus on pertinent issues like the legal content, the staffing size and quality, the composition of the oversight organ, the terms and conditions of service, the formulation of organizational policies, and the categories of projects that can be funded. BMCT in Uganda took more than three years.

48. There is also middle position that can be discussed, that is, starting small as proposed under the Bill so that when the funding of FONERWA improves or grows over time , then it can transform into a bigger one with its own legal, administrative and financial patrimony. This option also has the advantage of enabling the Government to start collecting the administrative fees for the Environmental Impact Assessment. The Organic Law No 4/2005 conditioned them on law establishing FONERWA.

3.2 Institutional Aspects of FONERWA

49. In terms of overseeing and approving funds from FONERWA, the Bill proposed a management Committee comprised of:

(i) Secretary General in MINETERE, who is the president;
(ii) The representative of the Ministry of Finance and Economic Planning;
(iii) The representative of the ministry having commerce in its attributions;
(iv) The representative of the Ministry of Agriculture and Animal Resources;
(v) The Director General of REMA, who is the secretary.

50. It is observed from the above that the committee is made of government's representatives. There are no representatives from the private sector, academia, let alone the civil society. As mentioned above, this denies the Fund of independence and transparency.

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51. The Bill is silent about the day-to-day management and administration. Under the circumstances, one is inclined to believe that it would be some of the REMA staff to shoulder that responsibility.

52. In its current design, FONERWA would lack the attributes important for the establishment, management, and sustainable financing. These attributes are that;

    (i) A basic fabric legal entity with financial autonomy to fully receive, raise and dully account for funds and/or be held accountable for funds given to it.
    (ii) Realistic prospects for attracting a level of capital for the Fund to support a significant programme while keeping operating costs reasonably low.
    (iii) the oversight of the Fund that is broad-based with diverse stakeholders from the government, NGOs, private sector, the academia, donor agencies, communities, etc
    (iv) A governance structure with appropriate checks and balances, provisions to address conflicts of interest and succession procedures
    (v) Financial and administrative discipline, coupled with some flexibility and transparency.

53. However, as discussed earlier the government can relax on the type of the above climate for attracting donor funding in order to start small within its own capacity. The risk though is that it relax and the Fund never grows as has been the case of National Forest Fund.

54. One of the aspects that is not fully clarified in the Bill is the disbursement mechanisms. The Organic Law No. 4/2005 only mentions that FONERWA will give support. EFs world-wide have adopted either of the three disbursement mechanisms. First, Government funds can operate primarily as **sinking funds**, which disburse all of their principal and investment income over a fixed period of time. Second, they can be revolving funds, which receive new income on regular basis (e.g., from earmarked taxes) to replenish the capital. Thirdly, grant funding is provided for not-for profit projects. As reviewed later under Chapter 4, the tone for FONERWA combines the last two.

3.3 Lessons from the existing Funds in Rwanda

55. Nationally, there are very many specific funds under the Rwanda Central Bank. They are;

    - Agriculture Guarantee Facility
    - Rural Investment Facility and
    - Preferential Refinancing Facility for medium and long term loans for agriculture exports and agro-business activities
    - National Forest Fund
    - Road Maintenance Fund
    - Common Development Fund

56. To note is that these funds were formed for specific purposes. Some have legislation establishing them e.g CDF, National Forest Fund, and Road Maintenance Fund.

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57. The limitations with regard to autonomy, transparency and accountability of these funds have already been summarized in section 2.5. Their resources are outside Treasury Control, they do not report to MINECOFIN, they have poor accounting systems and they are not consolidated to give a national picture. The main lesson is that for FONERWA to command the image for long-term financing to the environment, it must avoid all these from the start. As already mentioned the government is already studying how to rationalize and harmonise the non-budgetary funds so that they do not create distortions in the economy .It cannot be asserted at this point whether the decision that will be reached would have bearing to funds like FONERWA which are not yet operational.

3.4 Options for Environmental Financing under the Organic Law No.4/2005

58. There are two options of financing environment under the above law. The first is through FONERWA. This report concentrates on that option. The second option referred to in the same law is through direct offering of fiscal incentives to industries and individuals under Article 73. Some of the fiscal incentives have been covered under a separate report on the current and potential EFR.

59. To note however, there are other mechanisms government is using to fund the environment. They include central government allocations, donor projects, and use of extra-budgetary resources and locally generally revenue by districts. The lessons from these have also been covered under a parallel study on public expenditure review. Suffice it to mention here that they too can be used to fund FONERWA.

60. However, given that the environment has multiple funding channels, FONERWA will have to raise to the enormous challenge of establishing and sustaining its own *niche* or distinctiveness. Failure to achieve the *niche* would not give it the clout and visibility to be favoured to manage different contributions.

3.5 Lessons from elsewhere

61. The term Environment Fund (EF) is traced in the post 1990 period, especially after the United Nations Conference for Environment and Development (UNCED). There are more of such funds in Latin America than in Africa. Three types **of Environmental Funds have generally been formed** based primarily on their objectives and their governance. Comprehensive National Environmental Funds (NEFs), pollution abatement funds and forest funds are typically **government funds** created by national law, controlled by government and financed primarily through public sources of revenue (domestic budget and ear-marked taxes).

62. On the other hand, **Conservation trust funds** are generally registered as private legal entities although they are established under a variety of different legal regimes, and have majority non-governmental boards or strong participation of civil society.

63. They raise funds from different sources (donations, debt-for-nature swaps, user fees, government budget allocations) and focus primarily on financing conservation and sustainable development activities through grants.

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64. Finally, **Private sector funds** are private financing institutions that provide equity and credit financing to private sector companies making environmental investments.

65. The legal structure of EFs depends on the system of the country in which it is located. In Commonwealth countries, EFs operate under the common law systems and are referred to as "trusts". Those established in countries with civil law systems tend to be formed as foundations. Many funds have obtained status as non-profit corporations under national tax laws to attract contributions from individual or private foundations. Some EFs, especially in countries where the legal basis for trust funds is weak or nonexistent, are *sui generis* organizations established by an act of the national legislature

66. With regard to the **g**overnment environmental funds, they have typically been established through national legislation. Although most funds function as part of the government, the degree of autonomy of the fund has varied depending on its legal status. In a few cases they have been established with a quasi-independent legal status (e.g., the South African National Forest Recreation and Access Trust).

67. Governance and management structures vary widely among government funds. In its simplest form, a government-controlled fund may only exist as a separate account in the budget of a government agency or ministry (which can be the environment ministry, but may also be the finance ministry). Government funds have also been established as a separate office within a government ministry or agency. There may be a board of advisors that reviews the administration and spending plan of the fund.

68. In some cases, authority for the fund has been split between more than one government ministry (usually the line ministry or environment ministry and the finance ministry). In this case, although the line ministry is responsible for administration of the fund, the finance ministry typically approves the fund's budget.

3.6 Conclusion

69. Based on the Organic Law No 4/2005, the Draft Bill for FONERWA, the lessons from Rwanda on similar funds and finally on the government owned and capitalized funds around the world, one is made to strongly conclude that government wanted to form FONERWA as a quasi-government fund.

70. Whereas this position is the one which is pursed in this paper, other alternatives a re discussed so that in event the GoR wants to transform from this type of fund, then it is able to weigh the advantages and disadvantages.

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4: CAPITALIZATION OF FONERWA AND ITS IMPLICATIONS

4.1 Capitalisation of FONERWA versus REMA

71. The Organic Law No.4/2005 provided that FONERWA would be responsible for soliciting and managing financial resources. It did not stipulate how FONERWA would be capitalized. It is the FONERWA Bill which lists its sources of funding. They are;

    (i) Grants and special aid;
    (ii) Donations and bequest;
    (iii) The national budget;
    (iv) Interest of credits granted by the Fund
    (v) Fines emanating from penalties determined by the Organic Law No.4/2005 of 08/04/2005;
    (vi) 0.1% of a project total cost whose Environmental Impact Assessment has been carried out minus the operating cost

72. On the other hand, the law no 16/2006 provides that the patrimony of REMA shall come from:

    (i) The national budget
    (ii) Activities and services performed by REMA
    (iii) Funds provided by donors
    (iv) Subventions, donations, bequest and aid

73. In order to keep the accountability apart, MINECOFIN would have to allocate a separate code for FONERWA in its chart of accounts.

74. There are some strong observations that are glaring in the ways the two institutions are to be capitalized. First, they are much similar that is FONERWA's capitalization is not much distinct from that of REMA.

75. Secondly, some of the activities and services under which REMA would generate its own funding are transferred to FONERWA. They are revenues from the penalty fines stipulated under the Organic Law No.4/2005, and fees from EIA. REMA has delegated the EIA processing to the Rwanda Development Board. The implication is that even FONERWA would directly lose this revenue source.

76. Thirdly, it cannot be fully confirmed that either FONERWA would collect the fines or that RDB would also collect the EIA fees. These revenues could also become the preserve of the Rwanda Revenue Authority to collect. Even when it collects, it cannot be confirmed now that government would treat them earmarked for the two institutions.

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4.2 Discussion on potential funding sources

- **Environmental fiscal reform**

77. Revenue is being raised from earmarked levies, fees, charges, fines, royalties etc. They either end up in the Central Consolidated Fund or into the non-budgetary funds of organizations. A study to establish how much this source generates is still on-going. Even if it is completed, evidence to date is that there are many earmarked funds competing for this revenue. e,g Road Maintenance Fund, the National Forest Fund, the Water Fund, to mention a few.

78. In Rwanda, the highest patronized fund is the Road Maintenance Fund. It overshadows other funds because of its high capacity to receive a lot of money from the fuel levy. It receipts now stand above $7 million. Because it earmarked revenue, all of it goes for road maintenance. The purpose for its use is not under the definition of environment in Organic Law No 4/2005. In many African counties the size of these funds has been a motivation to form Road Maintenance Authorities.

79. There other countries where the levy from the (polluting) vehicles is used for investing in cleaner energy including establishing sinks (forests) for that pollution. Until it was abolished, the fuel tax in Costa Rica capitalized National Forest Financing Fund.

80. In sum, it can be stated that on the basis of sources of funding for FONERWA listed already above, one cannot put a figure against each now. This is complicated by institutional reforms taking place which may cause transfer of some of some revenue from FONERWA to other institutions.

- **Fines under Law No. 4/2005**

81. Annex 5 provides the list of fines that could potentially capitalize FONERWA, assuming REMA accepts to forego this revenue as its own. Presently, there is no record to go by on how much has actually been generated from environmentally related fines.

82. The structure of reporting from RRA shows that government raises a lot of revenue from the traffic related fines. In fact traffic fines give the highest non-tax revenue. But one has to bear in mind that the nature of traffic offences is well understood by the police enforcing traffic rules and regulations. This is not to ignore the high frequency of driving, which in turn increases chance for offence and related fines.

83. Enforcing fines under the Organic Law No.4/2005 would require a strong enforcement mechanism. In the absence of standards, some of the fines cannot be legally claimed e.g using unnecessary noise, polluting water. The offences that would attract heavy fines would not be frequent (e.g import of waste without authorisation). In any case, due to the prohibitive nature of the fine, many people would avoid the offence. Like in many countries, the sporadic nature of the environmental offences makes their related fines an unpredictable source for capitalizing EFs.

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- **Administrative fees from EIA**

84. As already mentioned, FONERWA now stands out to lose on this source because of REMA's delegation of the responsibility for EIA processing to RDB. The levy for EIA processing in the FONERWA Bill was tied to the "operating cost of the project excluding the working capital."

85. By the time the approval of EIA was transferred to the Board in 2009, REMA had approved 100 EIAs. Unfortunately, it had not charged any fee. The reason given is that REMA did not have legal basis to charge, and that instead, it would be the National Fund for Environment. Indeed, the verification of the Organic law No 04/2005 asserts this position thus:

> *"The promoter pays a levy reduced from the operating cost of his/her project excluding the working capital. This tax is determined by law establishing the National Fund for the Environment"* (Article 69).

86. However, even if FONERWA was to charge the levy, problems are likely to emerge in the verification of the operating cost of the project. Previous experiences of the approved EIAs suggest that even for the same type of activity, these costs varied. Besides, once the project promoters come to know this weakness, they will manipulate the operating costs to read low. In turn, this may affect the levy that can actually be paid. An alternative scenario would be to have a structure of fees by types and scale of activities. This would mitigate against avoidance by understanding operating costs. Ghana, Kenya and Uganda use this approach. By 2005, NEMA of Uganda had only raised $150,000 since it started running in 1995[2].

- **Grants and special aid**

87. Globally, Environmental Funds were great beneficiaries of grants and special aid. The Bwindi and Mgahinga Conservation Trust was capitalized by a grant of $4million from the Global Environmental Facility in 1992.There was a lot of enthusiasm around that time following the Rio Conference. That explained the formation of several funds in the name of environment around the world. The enthusiasm seemed to have taken a low ebb in late 1990s and 2000.As discussed later, it may soon re-emerge on the basis of growing interest in payments for ecosystem services and funding for climate change.

- **General Budget Support**

88. Within the framework of the Paris Declaration on Aid Effectiveness, Rwanda's use of its resources through the General Budget Support will increase. Currently, the proportion of funding through General Budget Support is increasing. Annual budgets are agreed upon through the Medium-Term Expenditure Framework (MTEF). This generally gives a good picture of how the money will be available, and this is important for programming the activities of FONERWA.

[2] NEMA[2002] Operationalisation of the National Environment Fund

89. At the moment, it cannot be stated with accuracy how much the government would be willing to allocate to FONERWA to start with. It can only be stated that most likely it would be much less than that of REMA to avoid the situation whereby the activities of FONERWA would divert many REMA staff from their other work.

90. Another limitation of budget support as a potential funding mechanism for FONERWA is that it would not exceed the defined limit in a year. As it happens in many countries, it is probable that less than what is budgeted is actually disbursed.

- **Donors**

91. Donors have been listed as one of the potential funders for FONERWA in the Bill. Many of them are already supporting other funds, some of which support the environment. This is true of CDF. However, the donors have their preference for some districts and if a complete analysis is not made across districts, it may not be easy to tell the extent to which districts equally benefit. A parallel study on Public Expenditure Review may throw light on that. But going by the example of one district below, some aspects of environmental management may be lacking funding. Out of six entries, only half have budget provisions in the example below (Table 1).

Table 1: Rwamagana District's MTEF 2009-2010

Programme	Sub-programme	Source of funding,Rwf million		
		District	Central	Donor
10.Intensification and sustainable development	01.sustainable management of natural resources and soil conservation	0	0	60
14.Environmental conservation and protection	01-sustainable management of ecosystems for income generation	0	0	0
	02-Pollution management	1	0	0
15.Forestry resources	01-Management of forestry resources	0	30	0
	02-Efficient use of forestry resources to provide energy, generate income and support livelihoods	0	0	0
19.Energy	02.Diversification of energy sources and supply security	0	0	0

- **Interest of credits offered by the Fund**

92. The above is one of the proposed funding sources for FONERWA. It implies that for some of the support it will give will be in form of loans or revolving funds. When the Fund is not highly capitalized, the costs of follow up and recovery may overstretch the staff. To off-set that cost would require that FONERWA's capitalization is reasonably high.

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4.3 FONERWA versus other FUNDS in Rwanda

93. It has been mentioned that existing and potential funds are competing for earmarked revenues. There are several issues to be addressed. They are introduced below;
    - **A cost to the Government**

94. The above problem was cited by the Development Partners in 20053. Country Financial and Accountability Report, 2004. It was observed that there had been a proliferation of bank accounts in the country. The 2002 Report on the Public Sector Bank Accounts19 lists 1,468 bank accounts opened in the name of various government institutions. The existence of such a disproportionately large number of accounts for a small administration impedes the efficient management of treasury resources by Government. As a result, the Treasury's ability to routinely monitor balances on accounts outside its control and effectively to manage the government's overall cash position has been impaired. This can be evidenced by the GoR's maintenance an overdraft throughout much of 2004 on which it incurred substantial amounts in interest. This situation may have been avoided with a reduced dispersion of treasury resources in other government accounts with positive balances.

    - **Spreading resources too thinly**

95. The above problem arises because Funds that would benefit environment and natural resources are not heavily capitalized.

    - **Conflicts among the Funds**

96. Presently, the National Forest Fund has been supporting reforestation and afforestation in districts where it earns revenue. The Organic Law No4/2005 obligates FONERWA once it is formed to support similar activities. This is not to mention that CDF also does the same. This causes conflict of purpose and is not health for the country.

4.4 Discussion on potential merger of funds

97. On the strength of the above argument, the GoR could consider rationalization of the funds with a view of perhaps forming **Rwanda Fund for Environmental Sustainability** .Within the above Fund, the government could establish windows to reflect the submerged funds like the FONERWA, National Forest Fund, the Water Fund etc. In addition to overcoming the problems mentioned above, there are other advantages the government would derive .A few are discussed below.

    - **Giving the fund bigger capital and ability to develop a long term perspective**

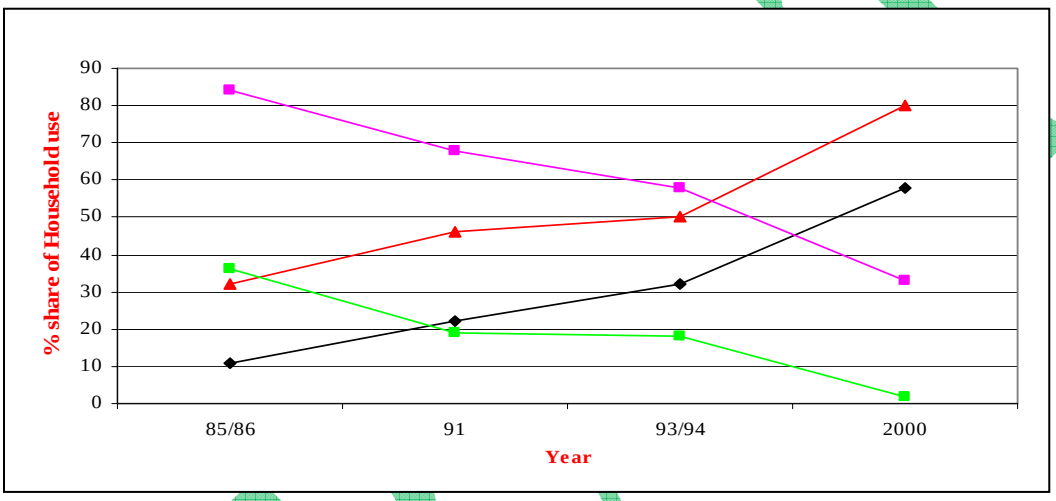
98. Benefits from environmental investments like radical terracing, soil and water conservation, energy substitution and watershed restoration take many years to be realized. To maintain consistency and commitment, a longer funding perspective is necessary so that the FUND can plan how best to move interventions in a synergistic and complementary manner.

[3] World Bank and EU [2005] Country Financial Accountability Assessment

99. For example, as the FUND gives incentives for tree planting, reforestation, promotion of bio-gas and LPG, it could at the same time run a parallel incentive for households to adopt energy saving stoves. That is to say, the FUND would have a **"supply"** and **"demand"** side to its programming.

100. It becomes difficult to achieve that when it is poorly capitalized or its resources are spread thinly. In Figure 4 below, Botswana was able to register a reduction of charcoal use both in rural and urban areas as it promoted the use of LPG. One needs to observe the time it took. One needs resources and follow up extension and public awareness to start observing impact. All these require predictable funding.

Figure 4: The relationship between LPG and charcoal use in Botswana, 1985-2000



- **Consolidating political support for one Fund**

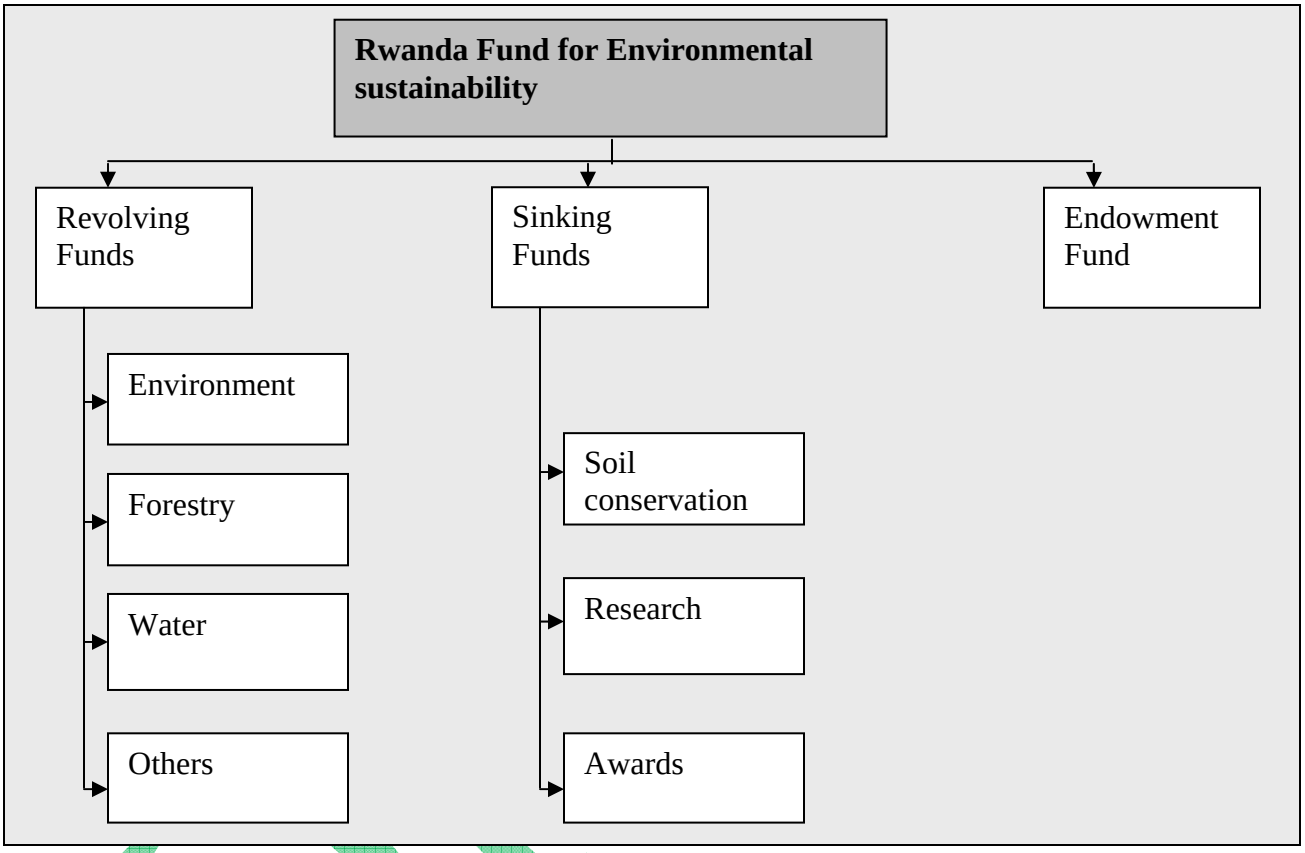
101. One of the motivations countries had for establishing EFs was to convey the highest level of commitment for environmental management. It is more convincing to an outsider like a donor when a country depicts rationalization, harmonization and cost-effectiveness in the management of its scarce resources, including those in one **Fund for Environmental Sustainability** For a country like Rwanda which should have a **NO NET LOSS** of its environment, that should be an option to explore.

- **Broadening the possibilities for recapitalisation**

102. As already mentioned, one of the proposed way of using the FONERWA funds is to give loans or **revolving** credit whose interest earned can capitalize it. On ground, there are many donors supporting environmental projects on a **sinking fund** basis, that is, money is provided to be run down over time until it is finished. This second form does not expect to earn interest because money is given on grant basis. There is yet a third possibility that is, having some of the funds as **endowment fund**. This fund is usually big and can be invested in high yielding financial instruments and the interest income it earns is the revenue that is disbursed to the public and communities.

103. The Bwindi and Mgahinga Conservation Trust in Uganda has taken takes this form only. Out of its capitalization which has grown to the level of $8 million, it receives as interest about $250,000 to $400,000 annually. It is then disbursed according to a pre-determined formula of 60:20:20 for community projects, ecological research and monitoring and operations.

Figure 5: Outlook of the Proposed Rwanda Fund for Environmental Sustainability



104. The implication of the above model (Figure 5) of a big umbrella fund is that it would require legal, administrative and financial patrimony. Based on the experience of other countries, taking this option involves a long process. Consultations have to be made to reach consensus on pertinent issues like the legal content, the staffing size and quality, the composition of the oversight organ, the terms and conditions of service for staff, the formulation of organizational policies, and the categories of projects that can be funded. Nonetheless, it is worth discussing.

4.3 Lessons of capitalizing Environmental Funds from around the world

- **Capitalization from levies quite unrelated to the environment.**

105. The lesson from Trinidad and Tobago below (Box 1) is very encouraging. The government introduced the levy on firms doing business rather than those necessarily polluting or extracting natural resources. It set the rate so low and eventually reduced it further as the number of firms increased. That meant that over time the burden for each firm to contribute fell. Secondly, because the levy was set low it could neither be resisted nor affect the competitiveness of the firms. This method of capitalizing EF conveys the highest level of commitment by a government to internally raise the funds.

Box 1: Trinidad and Tobago's Green Fund Levy

Trinidad and Tobago established a Green Fund Levy through the Miscellaneous Taxes Act of 2000. The Green Fund Agency (GFA) manages funds generated through a levy of 1% on gross sales of companies doing business in Trinidad and Tobago. It was reduced to 0.075% in 2002. The idea behind the fund was to involve the private sector in financing environmental activities. Through August 2001, the levy had collected T&T$ 43 million (US$7 million). Although the GFA's board includes non-governmental and private sector representatives, control of the fund has now been effectively shifted to the Government with the Treasury and the Ministry of Environment charged with financial management and grants disbursal.

Smith, David (2001). "The Case of the Green Fund Levy in the Republic of Trinidad and Tobago." *In Mobilizing Funding for Biodiversity Conservation: A User-Friendly Training Guide.*

- **Capitalisation from earmarked revenue over time**

106. Many funds have been capitalized by earmarked revenue particularly from environmental related fines and administrative fees e.g for EIA. Like the FONERWA Bill proposes, they are not given legal independence but operate under a National Environmental Agency. Often, the funds they raise partly or fully finance the operations of the Environmental Agency.

107. A case from Ghana is given below. By 2002, the contribution of the National Fund for Environment accounted for 38%. In 2005, it had grown to 161%.This arrangement means that the public cannot benefit from the support of the NF. There could be a risk that they actually don't benefit at all. Another likely risk is that the government could retract its commitment to allocate more funds to the Environmental Agency once it finds that the EF under it is raising a lot of revenue.

Table 2: Income sources of the Environment Protection Agency, Ghana

Billion cedis	2002	2003	2004	2005
Consolidated fund	4.66	6.20	6.07	6.47
National Environment Fund (NEF)	1.78	5.03	8.73	10.38
Total	6.44	11.23	14.80	16.85
NEF as % of consolidated fund	38	81	144	161

- **Initial capitalization provided by government and donors.**

108. The above approach was very common soon after Rio in 1992. Donors wanted to show their commitment to the environment. Most of them looked for flagship endangered species (e,g gorilla for the Bwindi Trust) or other protected areas with high biodiversity. The Mexican Nature Conservation Fund (FMCN) is an example. Its mission is to conserve the biodiversity of Mexico and ensure the sustainable use of natural resources through the promotion of strategic actions and medium- to long-term financial support. FMCN was initially capitalized with US$19.5 million from USAID and $US10 million contributed by the Mexican government. Investment earnings from this endowment support a competitive grants program of approximately US$2 million annually. In 1997, FMCN received a US$16.5 million GEF grant through the World Bank to establish a Natural Protected Areas Fund (FANP).

- **Debt-for-nature swaps**

109. Debt-for-nature swaps were pioneered in the late 1980s and appeared to offer a major opportunity to generate long-term financing.

- **Loans**

110. Using loans to capitalize NFs is rare but Brazil tried it successfully. in 1992, the World Bank supported Brazil's National Environmental Fund (NFMA) with a US$22 million loan. In essence, the Brazilian government has agreed to pay back this loan and the interest on the loan using tax revenues. In 1998, based on the results of the first phase and continued strong interest of the Brazilian government, the bank approved a new US$24 million loan for the fund's second phase.

4.4 Factors that promote sustainable capitalization of an Environment Fund

111. Even though some funds were privileged to attract heavy funding right from the start, it did not mean that they successfully maintained that. There are other factors that manner as well. The key ones are described below:

- **Giving the Fund a long-term perspective**

112. The public should see the Fund as trustworthy, transparent and independent beyond one legislative term. It is this criterion that makes it attractive for non-state actors and donors to support it.

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- **Having a viable broad base for raising funds**

113. When EFs have a narrow revenue base, they can become vulnerable to risks associated with those sources. For example, the Endowment Environment Funds recently suffered losses because of the financial crunch.

- **Stability**

114. Unless an Environmental Fund is judged as stable, it will not attract resources. Giving it a legal basis, independent overseers and transparent systems for its operation are some of the ways to create its stability.

- **Unique identity of purpose**

115. Environment Fund should ideally have such an identity and a niche in the broad picture of environmental financing that does not replicate o substitute for other methods of environmental financing. When this does not come out strongly, it may compete with those alternative methods.

- **Political support**

116. The highly capitalized EFs in the world had to obtain political support, sometimes with government contribution before donors came on board.

4.5 Likely future outlook for Environmental Funds

117. The post Rio Environment Funds were driven to conserve biodiversity, thus explaining many of them in high rich biodiversity areas particularly in the South. On the other hand, the driving force in Eastern Europe was to contain a big problem of pollution. There are signs that the future outlook will be driven around two new areas of interest. They are: (i) Payments for ecosystem services and (ii) Climate Change. To some counties, the amounts will be high and could motivate them into establishing Endowment Funds so that they generate benefits to perpetuity.

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5: USE OF FONERWA FUNDS, PROCEDURES AND ELIGIBILITY CRITERIA

5.1 A Broader view of environmental financing beyond FONERWA

118. A separate report on existing and potential EFR has revealed that the GoR is already taking a broader approach to the financing of the environment. One needs to first review the bigger picture and then curve out a *niche* for FONERWA. The existing complementary ways of financing the environment are:

- **general budget support** using a combination of ODA an internally generated funds, including those raised using EFR.
- **non-budgetary** revenues collected and utilized by ministries, agencies and districts, some of it are earmarked funds e.g National Forestry Fund
- **donor funded projects** whose funding does not go through the general budget support, but may, go through CDF or outside CDF.
- **government tax exemptions**, so that people have the motivation and incentives to use their own resources
- provision of **property rights** (e.g concessions, land leases, user rights etc), and thereby giving the public incentives to invest their own resources
- addressing **perverse incentives** and **distortions**, through say, privatization, management contracts , public- private partnerships and institutional realignment
- **innovative financing** mechanisms like payments for ecosystem services, carbon funds, Clean Development Mechanisms, Global Environment Facility, to mention but a few.
- **foreign direct investment** which is taking advantage of incentives government has put in place, including the minimization of bureaucracy.

119. With the above in perspective, it is now imperative to assess the activities that the Organic Law No.4/2005 placed under FONERWA, and locate them under current financing mechanisms.

Table 3: Current funding mechanisms of proposed FONERWA activities

Proposed activities for FONERWA under Organic Law No.4/2005	Current financing mechanisms
1. Controlling soil erosion and drought	General budget support and ear-marked funds and CDF
2. Afforestation and reafforestation	As above
3. Using renewable energy	Donor projects
4. Using cook-stoves	Donor projects
5. Investing in campaigns or carrying out activities intended to fight against causes of pollution	None
6. Support installations to comply with natural standards	None
7. Industries that import equipment used to eliminate or reduce gases like Carbondioxide and chlorofluorocarbons	Reduction on customs tax
8. Industries which manufacture equipment that reduces pollution in the environment	Reduction on customs tax
9. Activities by moral persons and individuals that undertake activities that promote environment	Reduction on taxable profits

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Table 3: Current funding mechanisms of proposed FONERWA activities cont'd

Additional activities proposed under FONERWA Bill	Potential financing mechanisms
10. Support training, research and communication aimed at environmental conservation	None
11. Activities that repair or rehabilitate areas that have been environmentally damaged or degraded when the culprit is unknown or has no means to repair or rehabilitate them	None

120. There are some observations to note. According to the table above, some of the incentives can be given under FONERWA, while others can be given under other laws relating to Customs, VAT, incomes and investment .Secondly, both Organic Law and FONERWA Bill make reference to a cross-section of potential beneficiaries. They include public services, associations, industries and individuals.

121. Based on the above observations, pursuing the operationalisation of FONERWA as proposed in the Bill would leave out the bigger picture of how the environmental financing is and can be mobilized. Secondly, there can be likelihood that some government agencies can abrogate their responsibility to mainstream and budget for environment. Thirdly, and based on experience of EFs cited in Chapter one, surviving EFs have gone beyond grant making to encompass also outreach programmes, advocacy, extension, and building the capacities of the institutions they support, especially those patronized by the poor and marginalized.

122. With the above in perspective, the GoR needs to first adopt the principle that at no cost should the environmental financing be restricted to the concept of FONERWA only. Then, as it pursues the operationalisation of FONERWA, it must ensure that there is a coordinated approach and shared responsibility nationally to pull lessons together from different modes of financing the environment. This approach would give the government the bigger picture. With it, it would be able to promote and further support the mode that helps it to deliver better. That could also influence it to shift it resources accordingly, say through FONERWA from unconditional government transfers if there is evidence to support that. In all this, it would be the Ministry responsible for finance to coordinate the multitude environmental financing mechanisms .It would have to work in partnership with REMA and other institutions to monitor and evaluate the impacts of different environmental financing mechanisms for **environmental sustainability.**

123. Accordingly, the following inter-related activities would constitute a package for a **coordinated** approach:

- periodically carry out public expenditure review for the environment with a view of advocating for sufficient resources, minimizing leakages, and ensuring economy and cost-effectiveness in the use of resources.
- advise government on potential and emerging funding opportunities for environment and how to take advantage of them.
- carry out or commission research, investigations, studies and other relevant activities in the financing of environment and disseminate the findings to the relevant sectors or organs.

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- periodically evaluate the extent to which EFR are delivering for the purposes for which they are introduced
- periodically evaluate the impacts of other financing mechanisms on environmental sustainability, poverty reduction and fiscal discipline
- sponsor catalytic and innovative pro-poor interventions that would stand good chance for up-scaling and leveraging additional resources from the government, sectors, donors, communities and the private sector.
- support or finance activities that promote an environmentally and voluntary compliant culture e.g offering non-financial presidential awards for both state and non-state institutions on annual basis; sponsoring exhibitions of environmentally friendly products and practices; sponsoring essays, drama competitions on topical issues related to the celebrations of Environment Day; inviting guest speakers to address policy makers, industrialists, mayors, youth etc.

5.2 A narrower focus on FONERWA

124. In the narrower aspect of FONERWA, the GoR needs to give it a *niche* bearing the above in mind. The two possible selling points for FONERWA are that it should support:

    (i) poverty-reduction using the assets and services from ecosystems sustainably as core for wealth creation, green jobs, agro-processing, industrialization and trade
    (ii) resilience of local communities to adapt to vulnerability particularly arising from climate change

125. The above can be understood better if we specify the strategies for the achievement of the above selling points:

(i) raise environmental income from ecosystem and natural resource-based enterprises.

126. Here, the concept of environmental income is defined as income actually earned from the use of ecosystem products and services in a sustainable manner. It includes income from forestry, fisheries, wildlife use, minerals, energy, wetlands, land and transforming the "bads" into "goods". It also includes savings made by averting environmental related diseases and risks e.g climate change.

127. Related to the above, FONERWA should be interested to find out how much the poor actually benefit from environmental income. Because they are the custodians of the resources, they may exploit rather than **sustainably** use the resources if they continue to lose out on the net gains from their transactions. In Blantyre, Malawi, a value-charcoal on study found that middlemen were reaping as high as 50% of the income from charcoal trade, compared to only 15 % that charcoal producers actually got.

(ii) give and regulate access to natural resources by the poor through their patronised local institutions

128. Unless the above is supported, the opportunities by the poor to broaden their livelihoods become reduced.

(iii) add value to the natural resource based and environmental enterprises so that they grow and o diversify

129. Without investing in the above, it will imply that more natural resources will be needed and used with growth in population. That would not be sustainable. Technologies which add value must be sought and promoted so that fewer materials are used to produce the same output.

(iv) add value and complement other institutions initiatives

130. This strategy recognizes that FONERWA will not be a big funder at least, in short run. However, as it takes on this strategy, it should avoid a situation of creating disincentive for those institutions to abrogate their responsibility for mainstreaming and budgeting for environment.

(iv) integrate the environmental enterprises into the market mechanisms to ensure their financial sustainability

131. EDPRS and VISION 2020, set high expectation for income growth. In that context, products that penetrate the markets will generate income to those selling them. The same strategy must be given for the nature-based products, including removing barriers for market entry.

(v) ***support community based natural resource management (CBNRM) where this may be the best form to manage the resource, build resilience, ensure equity in benefit sharing and reduce natural resource conflicts***.

5.3 Vision, Mission and Purpose of FONERWA

132. On the basis of the preceding explanation, the Vision, mission and purpose of FONERWA could be stated as follows.

Vision: A Prosperous Rwanda with no net loss of its natural resources and environmental quality

Mission: FONERWA will promote poverty reduction from sustainable utilization of ecosystem products and services while protecting society from vulnerability

Purpose: To raise financial resources and provide other incentives that help communities increase their environmental incomes and the productivity of the natural capital on a sustainable basis.

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5.3 Setting limits and eligibility criteria for FONERWA support

- **Introduction**

133. The funding level of FONERWA will have a bearing on the type and size of projects that can be supported. Those listed in Table 3 provide broad guidelines. Once the initial size of capitalization is known, there will be need to go a step further and make strategic choices. Those choices relate to the following

- **Re-active Versus pro-active projects**

134. The Organic Law No. 4/2005 suggests that some of the FONERWA Funds could be used to clean up, particularly where the culprit is not known. This is a **reactive** approach. Equally, it suggests **pro-active** projects, say, moulding environmentally friendly machinery. Management of FONERWA has to decide how it has to balance the available resources between these two portfolios.

- **Balance among themes.**

135. Themes for funding have to be agreed upon in advance, e.g tree planting, soil and water conservation, pollution management, energy, etc, etc. Thereafter, resource allocation proportions can also be determined for them. This would avoid a situation where one theme dominates others while the other themes are not being attended to.

- **Size of the budget by project**

136. Owing to the fact that resources can be a limiting factor implies that FONERWA would need to consider the maximum and the minimum limits of its support. Those limits can be adjusted with time depending on the available resources. For purposes of saving time in receiving and processing proposals, the size of the budget should form part of the funding guidelines.

- **Owner contribution Versus FONERWA**

137. In order to test the degree of ownership and commitment, many EFs require that the project proposers make a minimum contribution to the total cost of the project. Among the poor, that contribution need not be cash. It could be in-kind provided it can be monetized and shown in their proposal. Their contribution in percent, say, 10% should also form part of the funding guidelines.

- **Evidence of other leverage resources**

138. Situation could arise whereby a proponent of a project has partly secured funding from some source and would want additional funding from FONERWA. This would be good to encourage as long as the proposal satisfies other eligibility criteria. To be very sure, FONERWA would have to seek evidence and confirmation of the other funding.

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- **Joint Versus individual projects**

139. Increasingly, many EFs and donors in Africa are encouraging joint proposals among their applicants. There are three main reasons behind this approach. It helps overcome the lack of capacities, and instead it promotes pooling of capacities together. Secondly, it overcomes the problem of low or slow absorption rates. Finally, it reduces the costs of supervising many, sometimes small projects spread out among very many Organisations. Joint proposals also help to tap synergies among institutions according to their comparative advantage. They should be given priority over individual projects if the pre-funding assessment indicates that they meet the rest of the eligibility criteria.

- **Capital Versus recurrent expenditure**

140. Related to the above, there is a question on how to balance funding for capital versus recurrent expenditure. Often, the costs differ by the choice of equipment, new construction etc to be made. In some cases, the costs can be substantial. It is for this reason that some EFs list capital items that they would not support e.g land acquisition, purchase of vehicles and equipment. On the other hand, some EFs do not accept overhead costs that exceed a certain percentage.

- **Commercial Versus non- commercial projects**

141. Regardless of the applicant (government, association, individual) we speak of commercial projects when they are able to generate profit. On the other hand, the non-commercial ones could be those not necessarily profitable but socially viable. Investing in watershed restoration by a community may not generate profit in the short-run or to them only. Benefits could come much later, and spread to those down-stream.

142. It is sometimes difficult to determine hard rules on whether to go in for commercial or social projects. For example, whereas the promotion of renewable energy and energy saving stoves appear commercially profitable, to others they may not be. This is particularly the case when one can not realize enough sales because of technical, commercial, social and financial barriers. One may have to socially support them to remove those barriers before they reach a take-off stage as viable enterprises.

- **Grants versus loans from FONERWA**

143. According to the Organic Law No.4/2005 and FONERWA Bill, the mode of delivering support is grants. According to the Bill, one of the sources of funding for FONERWA is interest earned. It can earn interest if it offers some of its support as loans.

144. Overall, given the likely low capitalization of FONERWA, it would be expensive to cost-efficiently management loan or evolving credit component. Otherwise Environment Funds which are heavily capitalized, have remained financially sustainable because of providing loans. The State Environment Fund of Czech Republic has earned an average income of EURO 100 million annually since 1998 mainly on account of providing some soft loans at an interest rate of 35% per annum.

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145. The same approach is used by Environmental Investment Fund in Lithuania, though for it, its income has averaged only EURO 3million annually.

146. One can look at the loan or revolving credit not so much from the expected interest on it but rather, as a way of reaching out to more beneficiaries even though the time value of the loan would decline. For example, FONERWA could partner with a Micro-finance institution on the understanding that the latter lends women through their cooperatives at 5% to pay for cooking stoves costing Rwf 5000. The repayment period could be six to twelve months. This example could help MFIs overcome the fear to lend to the poor for environment products, and likewise the poor would overcome the phobia of banks. It is government's plan to establish a SACCO in each Umudugudugu. That should be explored as channels for using funds from FONERWA.

- **New Versus on-going projects**

147. A choice also has to be made on the above. For on-going projects, a question would be whether additional funding must necessarily be given by FONERWA. Taking on on-going projects would compel FONERWA to establish why funding was insufficient and that could increase costs of administration. On the other hand, supporting new projects helps FONERWA to set the pace in which it wants to build its image by defining the eligibility criteria. Unfortunately, some of the on-going projects can meet the criteria unless there is express statement that they are not eligible.

- **Support for innovative projects**

148. Many EFs have capitalized on the notion of supporting **innovative** projects without actually defining what is innovative. History has shown that what is innovative in one country is obsolete in another country. Given that Organic Law No. 4/2005 defines the types of activities to be supported, the interpretation of innovation should be put in context. For example, popularizing energy cooking stoves through low-interest loans by MFIs would be an innovation in Rwanda now. It moves away from the culture of depending on time-bound donor projects. When they end, the sustainability becomes an issue particularly when the beneficiaries have not fully overcome barriers to using such technologies. Mainstreaming them through an existing, long term institution spreads the risks, but also provides an exit strategy to the time- bound projects.

149. There are some projects in Rwanda now trying to take the above approach. They include the bio-gas project though Bank Populaire, Rwanda, rain harvesting in Kanombe and Cooking stoves in Kanombe through Women Investment Fund.

- **Duration of funding**

150. The duration of the project could have a bearing on its budget. At the same time, enough time may be required to bring the project to maturity before it becomes a model for replication by others. Whether the life span of the project should be among the eligibility criteria has to be decided right from the start.

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- **Solicited Versus non-solicited proposals**

151. Environmental funds employ varying methods to obtain proposals from the public. Some define broad guidelines (e.g soil conservation projects) and leave it to the applicants to compete. For example, every two years, the World Bank offers grants on competitive basis to applicants who have innovative ideas for poverty reduction under its Development Market Place. The Bank only provides a broad theme under which those innovations are competed for.

152. Other EFs, are also interested in the public taking on some projects where there are environmental benefits, but where the investment is low. In this case, the Fund would be interested to **'market an idea or innovation'** in which it is convinced that it could pave way for good environmental investments in future (e.g cooking using solar energy rather than charcoal or fuel wood!) .In this case, the Fund could call for solicited proposals where the applicant would be competing to implement an idea already propagated by the Fund. Alternatively, it could also invite a specific institution to apply for funds because it has the mandate and capacity for implementing the idea e.g inviting the RADA to make a demonstration project of rice growing in upland rather than marshlands.

- **Balance by province**

153. The above factor should not be ignored, particularly if it wants to market itself politically.

5.4 Procedures for selection and approval of proposals

154. The foregoing section provided a description of factors over REMA should design the guidelines for FONERWA support. Figure 6 below provides a suggested procedural process to scrutinize whether the guidelines have been met. In that process, responsibilities are recorded against three main types of people, namely:

(i) the applicant
(ii) the staff at REMA under whose job description FONERWA falls, and
(iii) the Steering Committee for FONERWA.

155. Applications could be grouped by thematic areas, and different evaluation criteria applied. But there should be some criteria cutting across the thematic areas. They include:

(i) technical design and soundness
(ii) cost effectiveness
(iii) relevance for the poor
(iv) financial feasibility
(v) organizational legal status
(vi) implementation feasibility and
(vii) exit strategy

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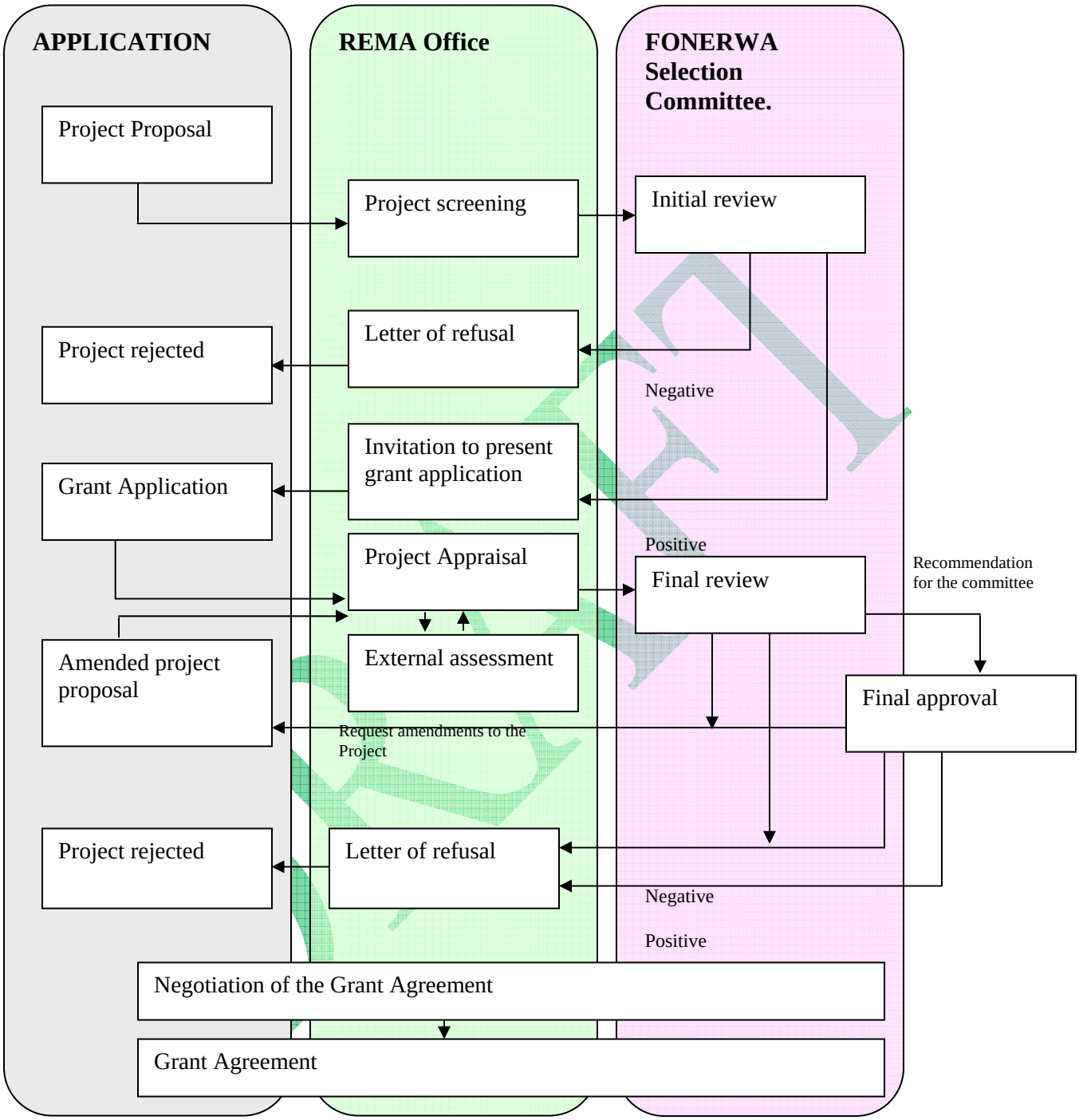
Figure 6: The proposed project appraisal and selection process



156. The committee could decide on a methodological approach for screening and prioritisation. It could use numerical system for differential weighing of main criteria, scoring and ranking. However, even when these are adopted, it is recommended that the committee members discuss the proposals and reach consensus because they could also differ in their understanding of the proposals. Ranking helps to select the best proposal particularly when the resources cannot allow to take on many even if they are good.

157. Proposals not meeting the selection criteria should be returned to the proponents. It would also be good practice, to publicise the list of successful proposals to which the public would be entitled to know the out comes of their implementation.

5.5 Drawing policy messages from the implementation of FONERWA supported projects

158. FONERWA will build credibility and transparency by drawing lessons and policy messages from the success stories of the projects it supports. In fact, that could help attract more resources to it. The lessons could also influence the Selection Committee on how to prioritise or shift additional support in future.

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6. CONCLUSION AND ROADMAP FOR OPERATIONALISATION OF FONERWA.

6.1 Conclusion

159. This report has provided a broader picture of environmental financing on one hand and that of environmental funds on the other. The aim was to equip the GoR with knowledge to make better choice. One limiting factor is that the report for the Public Expenditure Review is pending. It would have provided some understanding of how much funding flows through different funding mechanisms.

160. Nonetheless the report has highlighted some salient features. They are summed up below.

(i) Nationally, the spirit and desire to generate internal revenue for development has been expressed at the highest level, and FONERWA could be the channel to realize that dream.
(ii) The government is in the process of harmonizing different funds that have been absorbing non-tax revenue. It cannot be stated now how the findings may have bearing on the operationalisation of FONERWA.
(iii) The conceptualization of FONERWA as a quasi-government Fund can hasten its operationalisation but it could deny it funding from those wanting a more transparent fund, with financial patrimony.
(iv) The possibility that FONERWA can start small within the means of government and possibly transform in future as resources become available from other resources has been considered.
(v) Presently, the delay to form FONERWA denies government revenue that would accrue from the processing and approval of EIAs. The levying of those fees were conditioned on the Law establishing FONERWA. If government wants to delay the formation of FONERWA, then it could amend Organic Law No 4/2005 to provide for the charging and collection of EIA fees.
(vi) REMA would have to recruit staff to manage the operations of FONERWA but it is recommended that MINECOFIN should use different codes for allocating funding to FONERWA, distinct from that of REMA.
(vii) Beyond FONERWA, there are other environmental financing mechanisms which should be maintained in focus.
(viii) The level of initial capitalization of FONERWA will have a bearing on the choice of activities it can support, including the design of eligibility criteria.
(ix) the formation of FONERWA should not overshadow the existence and importance of other financing mechanisms for the environment e,g EFR incentives

6.2 Roadmap for operationalisation of FONERWA

161. As mentioned several times in the report, there are critical decisions and choices to be made about FONERWA. Once they are concluded, **a strategic and business plan for FONERWA** for the first 5 years can be made as an operationalisation tool.The rest of other issues can be handled as part of the start up activities. The decisions and choices are needed on three critical issues, namely:

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(i) whether to give FONERWA legal, administrative and financial patrimony or not right from start

(ii) initial capitalization commitment by government

(iii) whether to merge other similar funds under one umbrella Rwanda Fund for Environmental Sustainability or not

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Annex 1: Terms of Reference

Republic of Rwanda

Rwanda Environment Management Authority (REMA

TERMS OF REFERENCE

Consultancy_EOI (46709-2009-002)

Environment Fiscal Reform for Poverty and Environment Initiative Project (PEI)

UNDP

1 OBJECTIVE

To improve national funding levels for investing in environmental sustainability. This will involve exploring opportunities for raising revenues, while creating incentives that generate environmental benefits to support poverty alleviation efforts. Secondly to build capacity in sectors which have key partnership with the environment sector that will support investments in the environment sector.

2 BACKGROUND

About 57% of Rwandans, a majority of them women, live in abject poverty, surviving on less than US$1 per day and in most instances creating conditions where many children do not receive even a basic education. Additionally, many households do not have access to basic sanitation or water supplies. In recognition of the strong linkages between poverty and environment issues, one of the Millennium Development Goals, MDG 7, seeks to integrate the principles of sustainable development into country policies and programmes, and reverse the loss of environmental resources. The livelihoods and food security of the poor often depend directly on ecosystems, and the diversity of goods and services they provide. Moreover, healthy ecosystems provide a range of "invisible services" that are essential for sustainable development. To help achieve the MDGs, developing country governments need to raise revenues to invest in schools, healthcare, infrastructure and the environment. As recognized at the Financing for Development Conference in Monterrey, equitable and efficient tax systems, as well as improvements in the pattern of domestic public spending are essential to meeting the MDGs.

Environmental Fiscal Reform (EFR) can play an important role in this regard, helping countries raise revenues, while creating incentives that generate environmental benefits and support poverty reduction efforts. EFR has the potential to free-up economic resources and generate revenues that can help finance poverty reduction measures, for example infrastructure that improves access of the poor to water, sanitation and energy services. By encouraging more sustainable use of natural resources (such as forests or fisheries), reducing pollution from energy use and industrial activities, and stimulating the use of innovative "clean" technologies, EFR can also improve management of the environment. In these ways, EFR can directly and indirectly address environmental problems that threaten the livelihoods of the poor.

EFR encompasses a wide range of taxation and pricing instruments, including taxes on the exploitation of natural resources, taxes and charges on water or air pollution, and the reform of water or energy subsidies. Although it may present a challenge to design and implement, EFR to encourage sustainable natural resource use will be particularly relevant to low income countries such as Rwanda, which often rely heavily on natural resources for their development. A growing number of such countries have embarked on such reforms as part of their Poverty Reduction Strategies. Based on experience, there is no generally applicable blueprint for EFR. Rather, effective policies are sector specific and depend on the institutional and political context in which they are introduced, and are therefore best developed by countries themselves.

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Rwanda Environment Management Authority (REMA

TERMS OF REFERENCE

Consultancy_EOI (46709-2009-002)

Environment Fiscal Reform for Poverty and Environment Initiative Project (PEI)

In this spirit, the Poverty Environment Initiative (PEI) project, Rwanda is supporting the environment sector to carry out EFR and help capacity building for that will facilitate on-going efforts towards EFR efforts.

The Government, UNDP and UNEP Rwanda Poverty and Environment Initiative aims to enhance the contribution of sound environmental management to poverty reduction, sustainable economic growth and achievement of the Millennium Development Goals. Led by the Rwanda Environment Management Authority (REMA), Ministry of Natural Resources (MINIRENA), the intended outcome of the Rwanda PEI Phase II is the integration of environment into national policy and district planning, policy and budget processes to implement the Economic Development and Poverty Reduction Strategy. Phase II has five main outputs: **1)** Improved capacity within key ministries and institutions to understand and analyse links between poverty and environment and to integrate environment into policymaking, planning and budgets; **2)** Improved capacity at district level to understand and analyse links between poverty and environment and to integrate environment into development planning; **3)** Increased awareness and more effective participation of stakeholders in environmental policy and planning processes at both district and national level; **4)** Improved national funding levels for investing in environmental sustainability; Improved capacity for monitoring poverty and environment linkages at both national and district level. These Terms of Reference relates specifically to the fourth output. PEI is supporting the GoR to investigate the possibilities of Economic Instruments in promoting the sustainable management of natural resources and environmental sustainability. There is a number of different Economic Instruments which can be utilised by the Government to influence the understanding and behaviour towards the environment in Rwanda.

The Environment Fund operates and functions under the supervision of REMA. The Fund can financially contribute to general aspects that relate to environmental conservation and other activities aimed at promoting environmental management e.g. research, provide grants for conservation and protection and support rehabilitation of degraded areas. The funding of the Environment Fund comes from a number of different sources e.g. the national budget, grants and special aid. Secondly the funding sources are income from fines emanating from penalties determined by the Organic Law n° 04/2005 of 08/04/2005.

Specific reference to Organic Law on where the opportunities are for introducing different Economic Instruments are made in the environmental Law N0 04/2005 of 08/04/2005, in Chapter 3, article 7 paragraph 3. 4. Environmental related revenue can be used by the Environment Fund and Environment Sector through the Organic Law on environment No. 04/2005 of 08/04/2005 Chapter 4 in articles 69, 71, 72 and 73 to improve the status of the environment in Rwanda and increase investments in rehabilitation and improved management systems. The FONERWA bill which is still in the draft form also stipulate some good practices for fiscal reform as stipulated in Chapter 2, article 3 on attributions and chapter 3, article 4 on Patrimony.

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Rwanda Environment Management Authority (REMA

TERMS OF REFERENCE

Consultancy_EOI (46709-2009-002)

Environment Fiscal Reform for Poverty and Environment Initiative Project (PEI)

UNDP

3	SCOPE OF WORK

3.1 The Consultant will report directly to the National Project Manager of PEI and will be supported by the PEI Project Management Unit (PMU) and UNDP during the assignment;

3.2 The work under this consultancy will be undertaken in collaboration with one national consultant to;

3.2.1 Assess needs and capacity gaps within key sectors for staff involved in FR processes in their understanding of Poverty & Environment for public employees;

3.2.2 Based on the assessed needs develop training modules to address capacity gaps in ways that will improve the understanding of environment and poverty linkages relevant to the sector;

3.2.3 Prepare tailed training sessions for above mentioned staff;

3.2.4 Assess need for assistance within key ministries to develop annual EFR work plan;

3.2.5 Assist identified sectors in developing EFR work plans and teach concept;

3.2.6 Develop training module in identification of comprehensive environmental goods and services and a clear methodology that facilitates Environmental Accounting of the goods and services;

3.2.7 Explore and list different relevant Economic Instruments firstly which could fit within existing Government legal framework. Secondly, list different opportunities for expanding the legal framework in this area. These could include suggestions to remove potential environmentally damaging, distorting and costly subsidies, environmentally damaging taxes or exemptions introduction of tax-incentives as well as disincentives;

3.2.8 Identify implications for the legal and institutional framework:

a) Monitoring and enforcement;
b) Disclosure and transparency;
c) Political capture of subsidies;
d) Government-owned enterprises;
e) Property rights of resource users;
f) Technical capability and institution building.

3.2.9 Undertake study to influence policy on best practises for effective implementation of the polluter pays principle, controlling soil erosion and drought, afforestation and reforestation, using renewable energy in a sustainable manner, using modern cooking stoves and any other means that can be used to protect forestry. Policy focus on best practices should be guided by the environmental Law N0 04/2005 of 08/04/2005 As well as areas outlined in The FONERWA bill (draft);

3.2.10 Investigate good practises in similar/relevant countries for distribution of tax revenues and fiscal decentralization and recommend those that bear relevancy to Rwanda.

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Rwanda Environment Management Authority (REMA

TERMS OF REFERENCE

Consultancy_EOI (46709-2009-002)

Environment Fiscal Reform for Poverty and Environment Initiative Project (PEI)

4	DELIVERABLES

4.1 During the Assignment, the Consultant will deliver the following:

4.1.1 The work plan for the assignment that should be submitted not later than three days following the commencement of the assignment;

4.1.2 An inception report for the assignment that should be submitted not more than five days following the commencement of the assignment;

4.2.3 A user friendly training and operational manual for public employees on EFR with identification of sector specific environmental goods and services with a particular focus Environmental Accounting within four weeks from commencement of the assignment.

4.2.4 A training report including the recommendations for next steps within six weeks from start of the assignment.

4.2.5 Study/Survey Report which details out how to influence and utilise mechanisms to facilitate operationalization of the Environment Fund – within six weeks from start of assignment.

4.2.6 An overview of opportunities within the existing legal framework for increasing the revenue for environment sector – list of Economic Instruments and potential sources of funding;

4.2.7 A summary report including major findings, proposal of future opportunities in an expanded legal framework and recommendations that should be submitted not later than the contract period.

5	QUALIFICATIONS

5.1 Candidates must demonstrate the following qualifications and experience

5.1.1 Masters Degree in a relevant field such as Environment Management, Environmental policy, Natural Resources Management, Agronomy, Development Economics, environmental engineering;

5.1.2 Minimum five (5) years work experience in related fields;

5.1.3 Good understanding of relevant legal and regulatory instruments;

5.1.4 Proven capacity to organize and facilitate workshops and meetings;

5.1.5 Fluency in Kinyarwanda, English and/or French (preferably both).

5.2 Competency and skills

5.2.1 Strong interpersonal skills with ability to work under pressure and to establish and maintain effective work relationships with people of different backgrounds;

5.2.2 Ability to take initiative and to work independently, as well as part of a team;

5.2.3 Proven capacity to organize and facilitate workshops and meetings;

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Environment Fiscal Reform for Poverty and Environment Initiative Project (PEI)

5.2.4 Excellent communication skills, reporting with ability to express ideas clearly, concisely and effectively, both orally and in writing;

5.2.5 Computer literacy in full Microsoft Office Package and web browser capability;

5.2.6 Ready to travel extensively in rural areas and districts.

6 REMUNERATION AND OTHER CONSIDERATIONS

The successful consultant will start his/her assignment as soon as possible following the completion of the selection process.

6.1 Submissions will be accepted from Individual Consultants only (National or International)

6.2 The Successful Result of this Process will be a Special Service Agreement Contract (SSA) .

6.2.1 Defining an overall period of **two (2) months worked**.

6.2.2 Payment for this consultancy will be done monthly upon certification of work completed satisfactorily .

7 SUBMISSIONS

7.1 Qualified individual consultants that meet the above requirements are invited to submit:

7.1.1 Motivation letter expressing suitability for the assignment;

7.1.2 Curriculum Vitae with the required supporting documents;

7.1.3 List of previous work, contractual responsibility and successful completion of similar services ;

7.2 The Submissions should be made in One envelope or attachments (if submitted via email) indicating; DO NOT OPEN IN ADVANCE).

7.3 Please note that Submissions by E-mail WILL BE ACCEPTED (see details in the Expression of Interest)

8 SELECTION PROCESS

8.1 Submissions will be evaluated in consideration of the evaluation criteria as stated below:

8.1.1 Evaluation Criteria (Total of 100 points):

a) Masters Degree in a relevant field such as Environment Management, Environmental policy, Natural Resources Management, Agronomy, Development Economics, environmental engineering [20 points];

b) Minimum five (5) years work experience in related fields such as Poverty Reduction Strategies, policies, Monitoring and Evaluation and strategic planning [30 points];

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Consultancy_EOI (46709-2009-002)

Environment Fiscal Reform for Poverty and Environment Initiative Project (PEI)

c) Good understanding of relevant legal and regulatory instruments [20 points];

d) Proven capacity to organize and facilitate workshops and meetings [20 points]

e) Fluency in Kinyarwanda, English or French with a working knowledge of the other; [10 points];

8.1.2 In order to qualify for further consideration the Individual Consultant must accomplish a minimum score of 70 points;

8.1.3 Candidates who qualify for further consideration may be invited for a personal interview.

8.2 The Basis of Award will be to the Individual Consultant who qualifies in both - Evaluation by Desk Review and Personal Interview.

8.2 This Opportunity is open to female and male candidates. Applications from qualified female candidates are encouraged.

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Annex 2: List of people consulted

Name	Organization	Title	Contacts
1. Alex Mulisa	REMA	Consultant, PEI	Amlisa2@gmail.com +250-788302107
2. Catherine Kyakwera	Rwanda Revenue Authority	Legal Officer	+250 788 536036
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5. DR. Rubhera Ram Mato	ARDHI University	Consultant to RDB	Mato@arn.ac.tz, +255- 754 -898592
6. Dr. Rubhera Ram Mato	MINECOFIN	Senior Environmental Expert	Mato@arn.ac.tz, +255- 754 -898592
7. Eng Jayans Hakizimana	KICUKIRO District	Director of Infrastructure	
8. Eng. Kente lilian Sandra	ALN Consultants	EAI Specialist	Aln.consultants@gmail.com +250-788-354734
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Annex 2: List of people consulted cont'd

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42. Pierre-Guillanme	REMA	Consultant, PER	Pgh29@hotmail.com
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44. Ruziga Emmanuel	KICUKIRO District	Executive District Secretary	
45. Sefomma Andre	KICUKIRO District	Director of Finance	
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48. Twagirayezu Emmanuel	MINAGRI		twagem@yahoo.fr

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Annex 4.Draft FONERWA Bill

UMUSHINGA W'ITEGEKO N°…….RYO KU WA ……../……/2007 RIGENA IMITERERE, IMIKORERE N'INSHINGANO Z'IKIGEGA CY'IGIHUGU CY'IBIDUKIKIJE(FONERWA)	**DRAFT LAW Nº …OF ……./…../2007 DETERMINING THE ORGANIZATION, FUNCTIONING AND ATTRIBUTIONS OF THE NATIONAL ENVIRONMENT FUND OF RWANDA (FONERWA)**	**PROJET DE LA LOI Nº…… DU…… …./2007 PORTANT ORGANISATION, FONCTIONNEMENT ET ATTRIBUTIONS DU FONDS NATIONAL DE L'ENVIRONNEMENT AU RWANDA (FONERWA)**
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ITEGEKO N°…….RYO KU WA ……../……/2007 RIGENA IMITERERE, IMIKORERE N'INSHINGANO Z'IKIGEGA CY'IGIHUGU CY'IBIDUKIKIJE(FONERWA) Twebwe, **KAGAME Paul,** Perezida wa Repubulika, **INTEKO ISHINGA AMATEGEKO YEMEJE , NONE NATWE DUHAMIJE, DUTANGAJE ITEGEKO RITEYE RITYA KANDI DUTEGETSE KO RYANDIKWA MU IGAZETI YA LETA YA REPUBULIKA Y'U RWANDA.** **INTEKO ISHINGA AMATEGEKO:** Umutwe w'Abadepite, mu nama yawo yo kuwa …….. Ishingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo kuwa 04 Kamena 2003 nk'uko ryavuguruwe kugeza ubu, cyane cyane mu ngingo zaryo za 49, 62, 88, 89, 90, 92, 93, 94, 95, 108, 118, 121, 183 na 201;	**LAW Nº …OF ……./…../2007 DETERMINING THE ORGANIZATION, FUNCTIONING AND ATTRIBUTIONS OF THE NATIONAL ENVIRONMENT FUND OF RWANDA (FONERWA)** We, **KAGAME Paul**, President of the Republic **THE PARLIAMENT HAS ADOPTED, AND WE SANCTION, PROMULGATE THE FOLLOWING ORGANIC LAW, AND ORDER IT BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF RWANDA.** **THE PARLIAMENT:** The chamber of deputies in its session of…… Given the Constitution of the Republic of Rwanda of June 4, 2003 as amended to date, especially in its articles 49,62,88,89,90,92,93,94,95,108,118,121,183 and 201;	**LOI Nº……DU……/…./2007 PORTANT ORGANISATION, FONCTIONNEMENT ET ATTRIBUTIONS DU FONDS NATIONAL DE L'ENVIRONNEMENT AU RWANDA (FONERWA)** Nous, **KAGAME Paul**, Président de la République ; **LE PARLEMENT A ADOPTE ET NOUS SANCTIONNONS, PROMULGUONS LA LOI ORGANIQUE DONT LA TENEUR SUIT ET ORDONNONS QU'ELLE SOIT PUBLIEE AU JOURNAL OFFICIEL DE LA REPUBLIQUE DU RWANDA.** **LE PARLEMENT :** La Chambre des Députés, en sa séance du……. ; Vu la Constitution de la République du Rwanda du 04 juin 2003, telle que révisée à ce jour, spécialement en ses articles 49,62,88,89,90,92,93,94,95,108,118,121,183 et 201;

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Ishingiye ku Itegeko Ngenga n° 04/2005 ryo kuwa 08/04/2005 rigena uburyo bwo kurengera, kubungabunga no guteza imbere ibidukikije mu Rwanda, cyane cyane mu ngingo yaryo ya 65; Ishingiye ku Itegeko n° 16/2006 ryo kuwa 03/04/2006 rigena imiterere, imikorere n'inshingano by'Ikigo cy'Igihugu cyo kubungabunga Ibidukikije, cyane cyane mu ngingo yaryo ya 24; **YEMEJE:**	Given the organic law n° 4/2005 of 08/04/2005 determining the modalities of protection, conservation and promotion of environment in Rwanda, especially in its article 65; Given the organic law n° 16/2006 of 03/04/2006 determining the organization ,functioning and responsibilities of Rwanda Environment Management Authority, especially in its articles 24; **ADOPTS**	Vu la loi organique nº 04/2005 du 08/04/2005 portant modalités de protéger, sauvegarder et promouvoir l'environnement au Rwanda, spécialement en son article 65; Vu la loi nº 16/2006 du 03/04/2006 portant organisation, fonctionnement et attributions de l'Office Rwandais de Protection de l'Environnement, spécialement en son article 24; **ADOPTE :**

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UMUTWE WA I: INGINGO RUSANGE **Ingingo ya mbere: Impamvu** Iri tegeko rigena imiterere, imikorere, n'inshingano z'Ikigega cy'Igihugu cy'Ibidukikije cyitwa mu magambo ahinnye y'igifaransa FONERWA (Fonds National de l'Environnement au Rwanda).	**CHAPTER ONE : GENERAL PROVISIONS** **Article one : Objective** This law determines organization, functioning and attributions of the National Environmental Fund of Rwanda which is abbreviated as "FONERWA" (Fonds National de l'Environnement au Rwanda) in the French language.	**CHAPITRE PREMIER: DISPOSITIONS GENERALES** **Article premier:Objet** la présente loi détermine l'organisation, le fonctionnement et les attributions du Fonds National de l'Environnement au Rwanda, dénommé (FONERWA en sigle français).
Ingingo ya 2: Isobanuramagambo FONERWA ni Ikigega kireberwa kandi gikorera muri REMA. Iki Kigega nta buzima gatozi gifite n'ubwisanzure mu micungire y'abakozi n'umutungo byacyo	**Article 2: Definition** FONERWA is a Fund that operates and functions under the supervision of REMA. This Fund has no legal personality, administrative and financial autonomy.	**Article 2: Définition :** FONERWA est un Fonds sous tutelle et qui fonctionne au sein du REMA. Ce Fonds n'est doté ni d'une personnalité juridique ni d'une autonomie financière et administrative
UMUTWE WA II: INSHINGANO Z'IKIGEGA **Ingingo ya 3: Inshingano** Inshingano z'ingenzi za FONERWA ni izi zikurikira: FONERWA ni urwego rukorera muri REMA	**CHAPTER TWO: ATTRIBUTIONS OF THE FUND** **Article 3: Attributions** The main attributions of FONERWA are the followings : FONERWA is an organ that functions under	**CHAPITRE II : ATTRIBUTIONS DU FONDS** **Article 3: Attributions** Les attributions principales de FONERWA sont les suivantes : FONERWA est principalement en charge de

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rushinzwe gushaka no gucunga umutungo. By'umwihariko umutungo n'imari bya FONERWA bigomba kugera ku inshingano zikurikira: 1. gutanga inkunga mu kubungabunga ibidukikije n'ibindi bikorwa biteza imbere ibidukikije bikozwe n'umuntu ku giti cye, mu mashyirahamwe y'ibidukikije cyangwa mu nzego za Leta; 2. gutera inkunga amahugurwa, ubushakashatsi n'itangazamakuru mu rwego rwo kumenyekanisha ibibazo ibidukikije bihura nabyo; 3. gutanga ibihembo ku Bantu, amashyirahamwe cyangwa ibigo birengera ibidukikije by'intangarugero; 4. gutera inkunga ibikorwa bigamije kubungabunga no kurengera ibidukikije; 5. gushyigikira igikorwa cyose cyagenwa na REMA kandi kigamije kubungabunga ibidukikije;	REMA which is in charge of research and management of patrimony. In particular, the patrimony and finances of FONERWA must accomplish the following responsibilities: 1. Provide support for environmental conservation and other activities aimed at promoting environmental management which are carried out by individuals, environmental associations or state organs; 2. Support training, research and communication aimed at environmental conservation; 3. Award prizes to individuals, associations or model institutions involved in environmental conservation; 4. Provide grants for activities aimed at conserving and protecting the environment. 5. Support any activity aimed at protecting the environment that may be recommended by REMA.	solliciter et gérer des fonds. Le patrimoine et les finances de FONERWA doivent en particulier aider à accomplir les attributions suivantes : 1. Fournir un soutien dans la conservation de l'environnement et autres activités visant le développement de l'environnement, réalisées par des particuliers, des associations environnementales ou des organes de l'Etat. 2. Appuyer la formation, la recherche et la communication dans le but de la sensibilisation environnementale du public. 3. Récompenser les particuliers, les associations ou les institutions modèles impliqués dans la conservation de l'environnement ; 4. accorder des subventions pour des activités de conservation et de protection de l'environnement. 5. Appuyer toute activité visant la sauvegarde de l'environnement qui pourrait être recommandé par REMA.

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6. Gusana no gusubiranya aho ibidukikije byangiritse nyirabayazana ntamenyekane, cyangwa adafite ubushobozi, n'igihe cyose bibaye ngombwa; Akanama gashinzwe gucunga FONERWA niko kemeza imishinga igenerwa inkunga. **UMUTWE WA III: UMUTUNGO WA FONERWA** **Ingingo ya 4: Umutungo** Umutungo wa FONERWA ukomoka aha hakurikira: (i) Inkunga n'imfashanyo zihariye; (ii) Impano n'indagano; (iii)Amafaranga akomoka ku bihano biteganywa n'itegeko ngenga n° 04/2005 ryo ku wa 08/04/2005; (iv) 0,1% y'ikiguzi cy'umushinga wakorewe isuzumangaruka ku bidukikije havanywemo igishoro; (v) Ingengo y'Imari ya Leta;	6. Support to repair and rehabilitate areas that have been environmentally degraded or damaged when the culprit is unknown or has no means to rehabilitate the degraded area. The management commission of FONERWA approves projects that need to be supported. **CHAPTER III: THE PATRIMONY OF FONERWA** **Article 4: Patrimony** The sources of money for FONERWA shall be; (i) Grants and special aid; (ii) Donation and bequest; (iii) Fines emanating from penalties determined by the organic law n° 04/2005 of 08/04/2005; (iv) 0.1% of a project total cost whose environmental impact assessment has been carried out minus the operating cost	6. Supporter la réparation et réhabilitation des zones dont l'environnement a été endommagé ou dégradé dont l'auteur n'est pas connu ou n'a pas de moyens et autant que de besoin; La commission de gestion de FONERWA approuve les projets à appuyer. **CHAPITRE III : DU PATRIMOINE DE FONERWA** **Article 4: Patrimoine** L'origine du financement du FONERWA provient des sources suivantes: (i) Des subventions et des aides spéciales ; (ii) Dons et legs ; (iii) Amendes provenant de peines prévues par la loi organique n° 04/2005 du 08/04/2005 ; (iv) 0,1% du coût total d'un projet dont l'évaluation d'impact sur l'environnement a été effectuée moins le fond de roulement ; (v) Des crédits contractés par le Fonds ;

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(vi) Inyungu zituruka ku nguzanyo Ikigega cyatanze; **UMUTWE WA IV: IMICUNGIRE Y'IKIGEGA** **Ingingo ya 5 : Abagize Akanama k'imicungire y'Ikigega** Imikoreshereze, imicungire n'imigenzurire by'Ikigega bikorwa n'Akanama gashinzwe gucunga FONERWA kagizwe n'aba bakurikira: 1. Umunyamabanga Mukuru wa MINITERE, Perezida; 2. Uhagarariye Minisiteri y'Imari n'Igena Migambi; 3. Uhagarariye Minisiteri ifite ubucuruzi mu nshingano zayo; 4. 5. Uhagarariye Minisiteri y'Ubuhinzi n'Ubworozi; 6. Umuyobozi Mukuru wa REMA, akaba ari nawe mwanditsi.	(v)the national budget; (vi) Interest of credits granted by the Fund; **CHAPTER VI: THE MANAGEMENT OF THE FUND** **Article 5: Composition of the management committee of the Fund** The use, management and monitoring of the FUND is coordinated by the management committee of FONERWA, composed by the following members: 1. Secretary General in MINETERE, who is the president; 2. The representative of the Ministry of Finance and Economic Planning; 3. The representative of the ministry having commerce in its attributions; 4. The representative of the Ministry of Agriculture and Animal Resources; 5. The Director General of REMA, who is the secretary.	(vi) Des intérêts des crédits octroyés par le Fonds. **CHAPITRE IV : DE LA GESTION DU FONDS** **Article 5: Membres de la commission de gestion du Fonds** La gestion, l'utilisation et le suivi du Fonds sont confiés au comité de gestion de FONERWA, composé des membres suivants : 1. Le Secrétaire Général au MINITERE, qui en est le Président ; 2. Le Représentant du Ministère des Finances et de la Planification Economique 3. Le Représentant du Ministère ayant le Commerce dans ses attributions 4. Le Représentant du Ministère de l'Agriculture et des ressources animales 5. Le Directeur Général de REMA qui en est le Secrétaire.

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Ingingo ya 6: Amategeko ngengamikorere Amategeko ngengamikorere ya FONERWA yemezwa n'Inama y'ubutegetsi ya REMA **Ingingo ya 7: Uburyo bw'icungamutungo** Umutungo n'imari bya FONERWA bicungwa hakurikijwe amategeko agenga Ibaruramari rya Leta. **UMWUTWE WA V: INGINGO ZISOZA** **Ingingo ya 8: Ivananwaho z' ingingo z'amabwiriza asanzweho** Ingingo z'amategeko yose abanziriza iri kandi zinyuranyije na ryo zivanyweho. **Ingingo ya 9: Gutangira gukurikizwa kw'itegeko** Iri tegeko ritangira gukurikizwa umunsi ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda. Kigali, kuwa ……/…../2007 Perezida wa Repubulika **KAGAME Paul**	**Article 6 : The statute of the Fund** FONERWA's statutes are approved by board of Directors of REMA **Article 7: Management modalities** FONERWA's patrimony and finance are managed in accordance with rules governing public accounting **CHAPTER V: FINAL PROVISIONS** **Article 8: Abrogation of previous provisions** All previous legal provisions contrary to this law are abrogated. **Article 9: Entry into force** This ministerial order comes into force on the day of its publication in the Official Gazette of the Republic of Rwanda Kigali. On ……. The president of the Republic **KAGAME Paul**	**Article 6 : Des statuts du Fonds** Les règles et procédures du FONERWA sont approuvées par le Conseil d'administration de REMA **Article 7: Modalités de gestion** Les finances de FONERWA sont gérées conformément aux dispositions légales relatives à la comptabilité publique. **CHAPITRE V : DISPOSITIONS FINALES** **Article 8: Abrogation des lois et dispositions antérieures** Toutes les dispositions antérieures contraires à la présente loi sont abrogées. **Article 9: Entrée en vigueur** Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda. Kigali, le ……. Le Président de la République **KAGAME Paul**

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Minisitiri w'Intebe **MAKUZA Bernard** Minisitiri w'Ubutaka, Ibidukikije, Amashyamba, Amazi na Mine. **BAZIVAMO Christophe** Minisitiri w'Imari n'Igenamigambi **MUSONI James** Umunyamabanga wa Leta ushinzwe Ubutaka n'Ibidukikije muri Minisiteri y'Ubutaka, Ibidukikije, Amashyamba, Amazi na Mine **HAJABAKIGA Patricia** **Bibonywe kandi bishyizweho ikirango cya Repubulika:** Minisitiri w'Ubutabera **KARUGARAMA Tharcisse**	The prime Minister **MAKUZA Bernard** The Minister of Land, Environment, Forestry ,Water and Mines **BAZIVAMO Christophe** The Minister of finance and Economic Planning. **MUSONI James** The minister of State in charge of Land and Environment in the Ministry of Land, Environment, Forestry ,Water and Mines **HAJABAKIGA Patricia** **Seen and sealed with the Seal of the Republic :** The Minister of Justice **KARUGARAMA Tharcisse**	Le Premier Ministre **MAKUZA Bernard** Le Ministre des Terres, de l'Environnement, des Forêts, de l'Eau et des Mines **BAZIVAMO Christophe** Le Ministre des Finances et de la Planification Economique **MUSONI James** La Secrétaire d'Etat chargée des Terres et de l'Environnement au Ministère des Terres, de l'Environnement, des Forêts, de l'Eau et des Mines **HAJABAKIGA Patricia** **Vu et Sellé par le sceau de la République:** Le Ministre de la Justice **KARUGARAMA Tharcisse**

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Annex 4: Fines stipulated under the Organic Law No.4/2005

Offences for which fines are imposed	Amount
Burning, cutting or killing animals in protected forest or other protected areas and national park.	300,000-2,000,000
Damaging a historical site	1,000,000-5,000,000
Obstructing the agents responsible for inspecting protected buildings	1,000,000-5,000,000
Using protected buildings without respecting technical instructions	200,000-2,000,000
Using an officially closed protected building	5,000,000-10,000,000
Undertaking illegal research or commercial activities of valuable minerals	1,000,000-2,500,000
Dumping waste in an unauthorized manner	1,000,000-5,000,000
Polluting inland water by dumping, spilling or depositing chemicals of any nature	2,000,000-5,000,000
Import waste without authorization	5,000,000-50,000,000
Dumping of waste by a treatment plant authorized to treat waste	1,000,000-10,000,000
Burying or dumping toxic waste	50,000,000-200,000,000
Dumping sewerage in public or private place	10,000-100,000
Using unnecessary noise (e.g. cars,)	10,000-100,000
Burning domestic waste/emitting nauseous gases from cars/smoke in public	10,000-50,000

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