



OPERATIONALISATION OF NATIONAL FUND FOR ENVIRONMENT (FONERWA) IN RWANDA

FINAL REPORT

**RWANDA ENVIRONMENT MANAGEMENT AUTHORITY
(REMA)**

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List of acronyms

CDF	:	Common Development Fund
EIAs	:	Environmental Impact Assessments
FONERWA	:	National Fund for Environment in Rwanda
GEF	:	Global Environment Facility
NAPA	:	National Adaptation Plan of Action
NEF	:	National Environment Fund
NFOSiGW	:	National Fund for Environmental Protection and Water Management
NGOs	:	Non Governmental Organizations
POPs	:	Persistent Organic Pollutants
REMA	:	Rwanda Environment Management Authority
SEDP	:	Sustainable Energy Development Project
UNFCCC	:	United Nations Framework Convention on Climate Change
VAT	:	Value Added Tax

Executive Summary

This concept note has been prepared in support of the efforts by the Government of Rwanda to establish the National Fund for Environment abbreviated as FONERWA in French. The formation of the fund was provided for under Organic Law No 04/2005 determining the modalities of protection, conservation and promotion of environment in Rwanda. The concept note therefore takes into account the key provisions that are found in the above Organic Law and the new developments and opportunities in the country. The latter include the existence of other similar funds, the desire by the government to streamline extra-budgetary funds and that of the development partners to harmonise their aid and tie it to few sectors under the concept of “division of labour”.

With regard to the scope for FONERWA, it has been found more appealing to merge it with other similar funds some of which are in operation and some of which are yet to be formed. It obviously reduces the risk of overlap and it further supports collaboration between different areas of natural resource management and related aspects.

The existing fund is the National Fund for Forestry, established in 1998. The National Fund for Water is proposed Law No 62/2008 putting in place the use, conservation, protection and management of water resources regulations but it is not yet formed. Of recent, there is expectation by the government to benefit from the climate change adaptation fund. These various funds overlap in the type of activities they want to support. Some fall under the same sector, e.g FONERWA, National Forestry Fund and the National Water Fund. The government could change the name FONERWA to reflect wider picture and to emphasize sustainability e.g Rwanda Fund for Environmental Sustainability. If it maintains the same name, it could only emphasize that it covers more than environment, including forestry, water, climate change to mention a few among others.

The ultimate purpose of the fund is to spearhead resource mobilization from diverse sources so that it grows to meet the growing needs of the country. In order to achieve this, it has been proposed that its financial structure should allow for diversity of potential funding modalities, particularly the sinking funds, revolving funds and endowment funds. A key point to be emphasized is that the Fund is not a mere bank account but an institutional framework that carries out relevant activities to raise funds, to process proposals in a transparent manner from diverse applicants and to timely account for the funds received in order to build positive image to attract more.

However, to be seen to be equitable in supporting the four programme areas of environment, forestry, water and climate change, a provision could be incorporated on the minimum proportion to each area from the funds provided by the government. Equally, flexibility should be given to allow the Fund to receive earmarked funds from donors, international NGOs and the private sector.

The concept note has emphasized the need for the Bill establishing FONERWA being clear about **eligibility criteria** of potential beneficiaries. They have been placed under four groupings, namely, the legality of the applicant, the activity that can be supported, the activity that FONERWA will not support and the details of proposed activities.

The credibility, ability to attract external funding, survival and growth of FONERWA will greatly depend on demonstrating the highest level of performance, transparency and accountability. For this reason the concept note has included the evaluation criteria for applicants' proposals, the reporting requirements by the beneficiaries to FONERWA as well as the reporting requirements of FONERWA to parliament and those who provide it with funds. It has also emphasized broad representation to the management oversight organ, including government officials, representatives from the private sector and Non-Governmental Organization. Ex-officio members could also be allowed to improve the transparency of the Fund.

Institutionally, the government has to be particular on how big it starts. In turn, the decision is dependent on the level of capitalisation FONERWA gets at its establishment. Worldwide, Funds that were heavily capitalised with more than US\$ 4million on average established autonomous institutions. Rwanda is committed to beginning humbly within its means. There would thus be rational that FONERWA could start as a Unit under MINELA or REMA or even MINECOFIN with the understanding that government could allow for its transformation to autonomy depending on the size of funds it mobilizes over time. Accordingly, it would be strongly recommended that the growth of FONERWA is directed by a well thought out strategic plan. Evidence of similar funds in the world and Africa in particular has shown that they grow financially. But in meantime, its operations, accounting and reporting would have to conform to the law establishing it. The protection for FONERWA from the agency under which it is placed is its own sources of funding and management oversight.

There is value and urgency for the establishment of FONERWA. There is revenue whose collection was made contingent to the law establishing it, that is, fees for Environmental Impact Assessment. Soliciting and managing funds to give incentives to government services, associations and individuals is an important aspect of FONERWA. Environmental projects take long to show impacts and are thus not attractive to banks. The Fund would give such activities affirmative action not only for their financial and economic reasons but also for their environmental and social benefits.

The other values it would bring are leveraging other sources of funding, breaking barriers through innovative and catalytic funding so that other players can replicate or upscale the interventions, operational effectiveness and flexibility and above all restoring Rwanda's development path to sustainability. For example, FONERWA could partner with micro-finance institution or bank to support a cooperative patronized by the poor to disseminate low cost energy technologies like efficient cooking stoves, solar equipment and liquid petroleum gas. Once, the model is successful, then the micro-finance institutions and banks could be motivated to develop special loan products for environmentally friendly energy. In turn that would ensure financial sustainability among the initiatives started by FONERWA

The establishment of FONERWA would set in motion other activities. They include staff recruitment, systems design, developing operational policies, guidelines, procedures and documentation formats. Other important activities will be formulation of strategic, communication and resource mobilisation strategies. Finally, the law will give FONERWA legitimacy to seek for technical assistance

In the unlikely event that the Funds are kept separate, there will be need to redefine the activities they support to avoid duplication, competition for scarce and confusing the public. For example, afforestation and reforestation activities fall under both the National Forestry Fund and FONERWA.

1. Background

1. This concept note provides and discusses a checklist of important aspects that should inform the drafting of the Bill for establishing the National Fund for Environment in Rwanda, abbreviated as FONERWA in French. It may be recollected that in 2005, the government of Rwanda reaffirmed its commitment to sustainable development by enacting Organic Law No.04/2005 determining the modalities of protection, conservation and promotion of environment in Rwanda. To give effect to its implementation, it further committed itself to establishing two institutions under specific laws. There are:
 - (i) the Rwanda Environment Management Authority (REMA) with overall mandate for supervising, following up and ensuring that issues relating to environment receive attention in all national development plans, and
 - (ii) the National Fund for the Environment with mandate for soliciting and managing funds
2. REMA was duly established in 2006. FONERWA is not yet established. A Bill for its establishment was made in 2008. The law is needed to give legitimacy to FONERWA to receive public funds and to be held accountable for their use.
3. However, there have been new developments and opportunities since that time which have warranted a reassessment of its scope and institutional arrangement among others. For example, there are some existing funds with similar objectives like the National Forestry Fund established in 1998 and the National Water Fund proposed under Law No 62/2008 putting in place the use, conservation, protection and management of water resources regulations. From a programming point of view, environment is now taken as a sector and as a cross-cutting issue, thus calling for the highest level of coordination.
4. Secondly, there are other Funds under preliminary discussion such as Climate Change Adaptation Fund being set up at international level to benefit developing countries in their mitigation efforts, Carbon Funds and Payment for Ecosystem Services. To capture their impact at national level, a coordinated approach would be warranted. The Climate Change Adaptation Fund could attract substantial resources similar to those under the Global Environment Facility (GEF) did. To date GEF has disbursed more than US\$ 18.5 million to Rwanda. See Annex 1. As of January 2010, US\$ 33 million was being held in trust for the Adaptation Fund. On 8th April 2010, the Adaptation Fund released an invitation to submit project and programme proposals for funding. (<http://www.adaptation-fund.org/node/328>.) More contributions are flowing in. At the end of April 2010, Spain offered US\$ 60 million for short-term climate change mitigation measures. The main message is that a lot of funds are going to be available under climate change.
5. Thirdly, the government is interested in harmonizing all extra-budgetary funds in the country and improving their accountability. Likewise, the development partners have committed themselves to the alignment and harmonization of their aid. They are now in the early stages of adopting the concept of “**Division of Labour**” whereby each of them will concentrate the resources in few sectors to generate impact as opposed to spreading resources thinly on the ground.

6. Fourthly, there is a new commitment to sustainability by “greening” the performance of the economy by taking low carbon growth paths in search of competitiveness. That will call for enhanced efforts to raise internal and external funds and most importantly for innovation and creativity in environmental management and financing.
7. This concept note thus provides and discusses a checklist of important aspects that should inform the comprehensive drafting of the Bill for establishing FONERWA taking into account the above developments and opportunities. Reference has also been made to the best practice of establishing such funds. Suffice it to mention that this concept note is discussing the following aspects:
 - (i) the characteristics given to FONERWA by Organic Law No 04/2005
 - (ii) the scope and functions of FONERWA
 - (iii) The activities that FONERWA should support.
 - (iv) Capitalisation and financial sustainability of FONERWA
 - (v) Eligibility criteria to access FONERWA funding
 - (vi) Key transparency and accountability aspects for FONERWA
 - (vii) The institutional home of FONERWA and the management organs
 - (viii) the rationale and value-addition of establishing FONERWA
 - (ix) the laws that would need to be harmonized with establishment of FONERWA

2. Key characteristics given to FONERWA by Organic Law No.04/2005

8. Even though FONERWA is not yet established, the Organic Law No 04/2005 gave it important characteristics which should be borne in mind when drafting its Bill. They are discussed below:

(i) National Character

9. FONERWA or National Fund for Environment has a **national** identity. The main implication is that its institutional arrangement and oversight organs in the Bill should reflect that. In other words, the Bill should reflect that FONERWA will be supervised and advised by multi-sectoral institutions and stakeholders, including those from the private sector and Civil Society Organisations. To give confidence to its donors, the Bill can be drafted to allow them be ex-officio members without voting rights so that they satisfy themselves with the transparent practices of the Fund.
10. To note is that even the National Forestry Fund and the National Water Fund are of national character. Establishing **multiple funds** with closely related interventions diminishes their national character and value. This aspect is discussed further in subsequent paragraphs.

(ii) Diverse Beneficiaries

11. FONERWA is expected to give incentives and support to a **diverse** clientele, including public services, private sector, associations and individuals¹. There are two main implications. The first

¹ Article 72 of Organic Law No.04/2005

one is that FONERWA must be given enough capitalization to satisfy the needs of such a diverse clientele. At the same time it must be **proactive** in mobilizing resources on a sustained basis.

12. The second implication is that once FONERWA is formed, it should formulate policy guidelines and a clear strategy defining what it can possibly and successfully support given the available resources. Thus, the Bill can be drafted to reflect the instruments that its oversight organ must approve to contain its operations within the resource envelope. Such would include the budget, the strategic and annual work plans and investment plan.

(iii) Basis for charging levies

13. The law establishing FONERWA is supposed to define the charges for providing environmental services like reviewing EIAs (and possibly other fees)². To date, more than 100 EIA reports have been approved and many more are in pipeline. Unfortunately, the developers have not been charged. Any delay to draft and pass the FONERWA law is denying Rwanda internally generated funds.

(iv) Sufficiency and predictability of funding

14. The law placed a lot of activities under FONERWA³. They are given in Box 1. The implication is that for FONERWA to implement its mandate, it must be given flexibility to attract sufficient and predictable funding from quite diverse sources.

Box 1: Activities placed under FONERWA by Organic Law No.4/2005

- (i) Soliciting and managing funds
- (ii) Controlling soil erosion and drought
- (iii) Afforestation and reforestation
- (iv) Using renewable energy
- (v) Using cook-stoves
- (vi) Investing in campaigns or carrying out activities intended to fight against causes of pollution
- (vii) Support installations to comply with natural standards
- (viii) Industries that import equipment used to eliminate or reduce gases like Carbon dioxide and chlorofluorocarbons
- (ix) Industries which manufacture equipment that reduces pollution in the environment
- (x) Activities by moral persons and individuals that undertake activities that promote environment
- (xi) Support training, research and communication aimed at environmental conservation
- (xii) 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

(v) FONERWA will complement incentives under other laws

15. Whereas the Organic Law No.04/2005 listed the activities in Box 1 that should be supported by FONERWA, it also stated that some of them could be supported with incentives from other laws

² Article 69 of Organic Law No. 04/2005

³ Articles 71 and 72 of Organic Law No 04/2005

for customs, corporate and personal income⁴. To avoid duplication of support, FONERWA Bill should have a section listing categories of activities that will not be eligible for its support like those mentioned under Article 73 of Organic Law.

(vi) Responsibility for soliciting and managing funds

16. The core business of FONERWA is soliciting and managing funds. To deliver on the above important mandate, FONERWA must be given enabling framework. Box 2 provides those critical ingredients. They are based on the review of such funds by Global Environmental Facility (GEF). To the extent possible the lessons from the global experience have been included in the concept note. The main implication is that FONERWA is not a mere bank account but an institutional arrangement that fully discharges the responsibility for **soliciting and managing funds**

Box 2: Factors Important for Successful Operation of an Environment Fund

- (i) Clear and measurable goals and objectives, and a results-oriented management culture that learns from experience and is open to changes in approach based on feedback.
- (ii) A governance structure with appropriate checks and balances, conflict of interest provisions, and succession procedures.
- (iii) Members of governing bodies who are prepared to commit their time, engage in fund policy-making and leadership, and build support with varied constituencies.
- (iv) Linkages between the fund and any national environmental strategy or action plan.
- (v) An ability to attract dedicated, competent staff, especially a strong executive director. Basic technical and other capabilities that permit the fund to become a respected and independent actor in the community. Access to, and effective use of, training, mentoring and technical assistance resources to build capacity.
- (vi) Harmonious and productive board-staff relationships.
- (vii) Constructive relationships with relevant government agencies, intermediary organizations that provide services to clients, and other organizations in the environment community. The fund should avoid becoming an executing agency itself.
- (viii) Financial and administrative discipline, combined with program flexibility and transparency, and procedures that support this and are consistently applied.
- (ix) Mechanisms for continuing to involve a wide range of stakeholders in the fund's programs and direction, tempered with enough strategic direction and leadership to avoid program fragmentation.
- (x) Asset management competitively selected, a diversified portfolio of investments, financial expertise to provide regular reporting, and oversight by fund boards comparing actual performance to benchmarks.

Source: Ricardo Bayon, Carolyn Deere, Ruth Norris and Scott E. Smith[1999]Environmental Funds: Lessons Learned And Future Prospects

⁴ Article 73 of Organic Law No 04/2005

(vii) FONERWA subsumes the role of National Forestry Fund and the National Water Fund

17. FONERWA **directly** subsumes the role of National Forestry Fund because the Organic Law provided that it should give incentives for **reforestation and afforestation**. The Law determining the organization, functioning and responsibilities of NAFA had given NAFA a responsibility for “efficient management and utilization of resources from the natural forestry fund”⁵. It would be spreading resources thinly to have two funds supporting the same activity. The National Forestry Fund was established in 1998 and has been operational. Of recent it has been returning 25% of revenue earned to districts where that revenue is earned.
18. Further, and as it can be seen from Box 1, Organic Law No 04/2005 also mandates FONERWA to support activities for **controlling soil erosion and drought**. In other words, it advocates for an integrated approach to water resources management. The implication is that it would not be a contradiction for the National Fund for Environment to also control funds related to water. Poland has one such a fund. It is the National Fund for Environmental Protection and Water Management (NFOSiGW) which was established in 1989.
19. The National Water Fund was proposed under Law No.62/2008 putting in place the use, conservation, protection and management of water resources regulations. The law stated that a specific law shall establish a national water fund outlining its responsibilities, organization and functioning⁶. The specific law has not yet been made. From the above review, the first important item on the checklist to resolve is the **scope for FONERWA**.
20. There are two alternatives which have been evaluated for their merits and demerits, namely to help the government of Rwanda define the scope for FONERWA.

Alternative a: Merge all the above funds under one umbrella fund and provide for windows for environment, forestry, water and climate change

21. This model has the advantages of reducing competition for external funds from the same donors. It equally reduces the administrative and transaction costs of managing separate funds under several institutions, some even under the same ministry. Importantly, it would build and maintain a **national, holistic and integrated** approach to environmental financing in the country. In turn, it would reduce confusion from the potential beneficiaries and the general public about the role and distinctiveness of each fund. It would appeal to donors too who continuously are **harmonizing** their aid and are adopting the concept of “**division of labour**” to prioritise their resources in few sectors. It would elevate the bigger fund above individual institutions and thus maintain the national identity.

⁵ Article 3

⁶ Article 72

22. If government adopts this model in principle, it could expressly state the proportionality of funding that should always be available for each of the programme areas of environment, forestry, water and climate change from publicly available resources. This would ensure that each programme area has a minimum budget covering its activities.
23. There is an example to go by in the region. The Trust Deed establishing the Bwindi and Mgahinga Conservation Trust in Uganda expressly provides that the revenue from its endowment fund would be distributed among community projects, research and administration expense in the ratios of **60:20:20** respectively. The proportionality has been maintained since 1992. The communities have been helped to implement conservation and income generating activities as well as social services. It has inculcated a positive attitude for conservation and reduced conflicts around the two protected areas.
24. Furthermore, a **minimum proportionality** to each programme area will serve to maintain the confidence and trust for funding among institutions that oversee the implementation of activities in these programme areas. It is hoped that could reduce the resistance to such one national fund. The government can of course decide to change the name e.g Rwanda Fund for Environmental Sustainability which would make the drive for **sustainability** visible in its identity.
25. In addition, the Bill could provide flexibility for the merged fund or FONERWA to receive **earmarked** resources to specific programme areas e.g afforestation funds to heavily degraded watersheds or climate change funds for adaptation activities. Administratively such earmarked funds would be **ring-fenced** strictly for those particular activities. As a small and young economy, Rwanda cannot afford to spread itself thinly in separate funds. The main environmental problem of land degradation and soil loss is not where it would levy environmental charges. On the contrary, it is the area that needs a lot of support from concerted rather than spread efforts.
26. If the above institutional choice is upheld, then the drafting of FONERWA Bill would make reference to those previous articles in the other laws that would be automatically abrogated by the coming into force of the law establishing FONERWA. Such a practice in drafting Bills is well understood and practiced in Rwanda.

Alternative b: Maintaining the Funds separate.

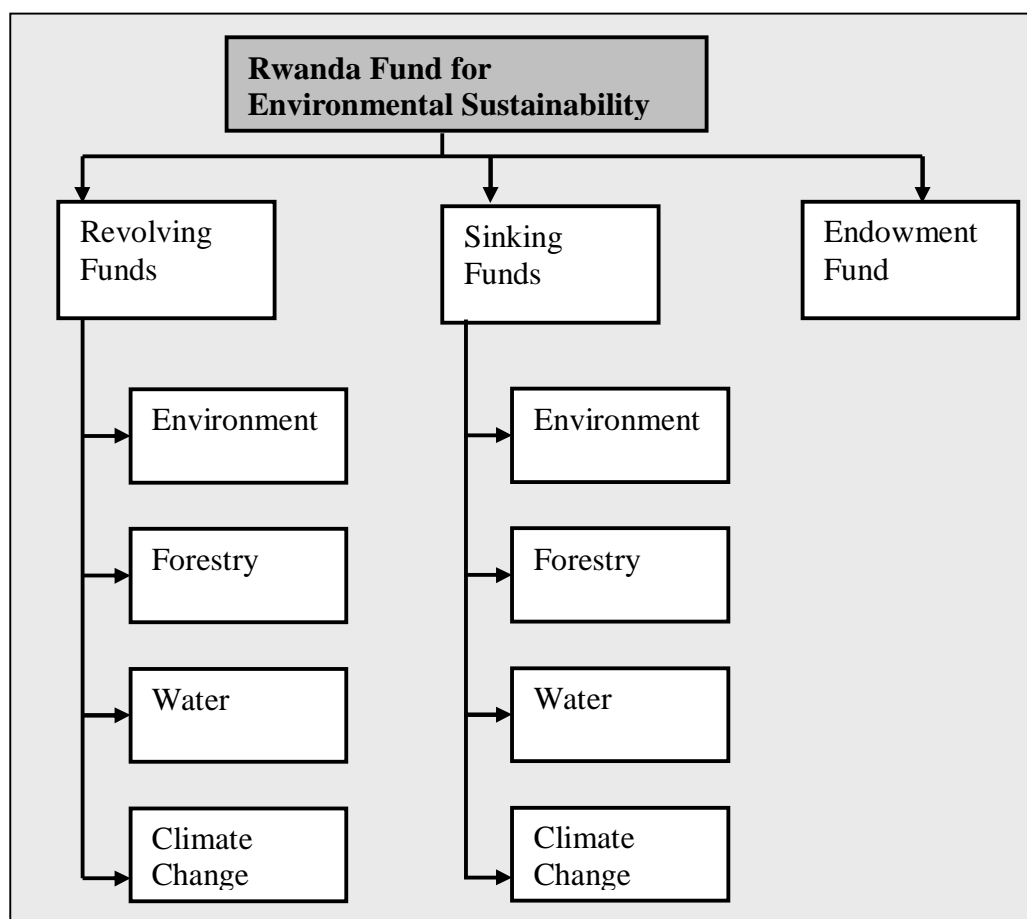
27. The argument to leave the Funds separate would be that they would be more **visible** than when they are all merged. However, in light of the desire by the government to harmonise all extra-budgetary funds, the benefits of merger described in **Alternative a** above would far outweigh those of keeping these funds separate.
28. However, if separation of funds is chosen, it would be desirable that government either transfers afforestation and reforestation activities from FONERWA's portfolio to National Forestry Fund or it makes a clear distinction between what FONERWA can support differently from National Forestry Fund as far as afforestation and reforestation activities are concerned. Equally, FONERWA would need to transfer activities for combating drought the National Water Fund or Climate Change Adaptation Fund once formed. This choice of separate funds would leave the public and the would be donors confused and it would not be in national interest.

3. Financial structure of FONERWA

29. A second aspect on the checklist to consider is the **financial structure** of FONERWA. There are four modes the Environmental Funds have adopted worldwide. They mainly reflect how those who contribute funds want those funds to be invested and/or utilised. They are briefly described below:
- (i) **sinking funds** : these disburse all of their principal and investment income over a **fixed period of time** for specific activity e.g funds received from a donor, foundation etc to organize annual environmental award every international environment day.
 - (ii) **revolving fund**: here, the intention is to build the financial sustainability of the Fund by providing that the beneficiaries will pay back full or part of the support given to them e.g providing low cost loan to a cooperative to make cooking stoves for sale to its members. Equally, revolving funds receive initial capitalization (from government or donor) and thereafter they receive user resources on regular basis e.g. proceeds from environmental levies, fines, taxes e.t.c
 - (iii) **endowment fund** : there could be an opportunity for FONERWA to receive a one time big contribution which it would invest it in long term financial instruments like bonds and stocks to generate revenue to perpetuity. The interest earned is the income that FONERWA would provide to its beneficiaries as either sinking funds or revolving funds. There are several such types of funds in Africa. Suffice to mention a few, all of which were capitalized using some GEF funds. They are Bwindi and Mgahinga Conservation Trust (US\$ 4.3m), Eastern Arc Mountains Conservation Fund, Tanzania (US\$ 6.7m) and Mulanje Mountain Conservation Trust, Malawi (US\$5.5). Others are International Trust Fund for Biodiversity Conservation, Benin(US\$ 6m), Fund for Financing of Protected Areas, Cote d'Ivoire (US\$4m) and Table Mountain Fund, South Africa (US \$5m)⁷.
 - (iv) **a combination of all the above**: the Fund for Natural Areas Protected by the State (PROFONANPE) in Peru adopted all the three modes of the financial structure.
30. However, as the magnitude of funding becomes diverse and big, it demands a strong administrative structure and accounting and financial systems to report on each mode of funding. Although the rate at which Trust Funds were formed after Rio has slackened, there is high anticipation that the funds in the name of climate change may rejuvenate them. Ideally then, the Bill establishing FONERWA should allow it flexibility to take advantage of these funding modalities over time. Figure 1 provides the merged funds and potential financial structure of Rwanda Fund for Environmental Sustainability or FONERWA as the case may be.

⁷ C .Crespin [...]The role of the Global Environment Facility in Funding Conservation Trust Funds and Perspectives for the Future.

Figure 1: Rwanda Fund for Environmental Sustainability and its financing structure.



4. Understanding difference between FONERWA and other types of funds

31. There are other existing funds whose differences from the proposed FONERWA should be clear. To sum up, they would remain distinct from FONERWA as described below.

(i) Special development funds:

32. Such funds include Agriculture Guarantee Facility, Rural Investment Facility and Preferential Refinancing Facility for medium and long term loans for agriculture exports and agro-business activities. A feature of these funds is that they are solicited for by the government from its development partners under agreement to finance a **specific type of activity and for a given period**. They are given as lines of credit with special favourable terms compared to the credit that would be given by commercial banks. Previously, these funds were deposited in different banks. Owing to their developmental feature, government has directed that they all be managed by the Rwanda Development Bank. Because environmental problems continue to be part and parcel of any developmental process, FONERWA cannot be formed as a time-bound financing mechanism as the above funds. It would need life in perpetuity for it to continue soliciting and managing funds.

(ii) Autonomous specialized funds

33. In the above category are included the Social Security Fund, Road Maintenance Fund and Common Development Fund. They are established under Acts of Parliament giving them financial autonomy. The government plans to combine CDF with Vision 2020 *Umurenge* and *Ubudehe* under Rwanda **Local Government Support Fund**. This fund is principally to promote **equitable development** through decentralization structures. The government has been committing a minimum percentage of internally generated funds to CDF. Hence, they are expected to survive solely from their income. The income of CDF is assured because the government committed itself to remitting 5 % of internally generated revenue to CDF.

(iii) Basket Funds

34. There are also basket funds in Rwanda pooled together by the government of Rwanda and its development partners under Memorandum of Understanding. They therefore do not require laws to operationalise them because the development partners already have cooperation frameworks with the Government of Rwanda. Such funds have been attractive in financing sector wide plans and policy reforms. Examples include a Capacity building fund for districts and basket fund for the integrated financial management system.

5. Capitalisation of FONERWA

35. A third aspect on the checklist to consider is capitalization of FONERWA and ensuring its financial sustainability. To begin with the financial structure of FONERWA described in chapter 3 provides the broad framework for capitalization. However, some specific explanation are provided below by source of funding:

(i) Subvention from general Budget support

36. This source is very critical because it demonstrates government commitment to environment sustainability. The amount would be defined in the annual state budget. It would be reviewed from time to time depending on the needs on one hand and capacity of the economy to generate revenue. There are three ways that the government could communicate its commitment in the Bill, namely:
- providing that it will contribute a **certain percentage** from its internally generated funds as it is done for CDF
 - providing that **all or percentage of environmental revenue** is earmarked at the end of each year to capitalise FONERWA. In this case government would need to define the scope of environmental revenue that should go to FONERWA as distinct from the revenue that would go to the Central Consolidated Treasury Account or Districts. However, earmarking revenue to the Fund now would not raise a lot of revenue because of the narrow base from which to levy the revenue. At the same time districts would resist surrendering their own revenue collected from natural resources e.g sale of charcoal, cutting of timber and the alike. It is for these reasons that a plausible approach would be for the government to start up the capitalization. Once FONERWA is established, then government could direct that

some of the existing revenues or potential ones e.g payment for ecosystem services, pollution charges, and environmental fines should add to the capitalization of FONERWA. Of course, such a decision has to be sanctioned by law. It is this method that explains the rapid growth of the capital base of environmental funds from Eastern Europe.

- providing that it will provide government subvention but without stipulating percentages or sources of its funds. Such a provision would not be useful in predicting the support from government

37. For now, the revenue from all natural resources and the environment is not streamlined into a one known bank account. Some of it is collected by central level agencies while the rest is collected by districts. Committing to a percentage at least in the short run would be ideal because as the capacity of the economy to generate revenue grows, so would its capacity to capitalize FONERWA.

(ii) Fines

38. The organic law No 4/2005 lists several fines that may be imposed. They may not be predictable, but they can nonetheless also contribute to the funds revenue. They have been given in Annex 2. After committing itself to some subvention to FONERWA, government would have to decide whether in addition FONERWA should also take revenues from fines. The understanding here is that it would be Rwanda Revenue Authority to collect and account for revenue from fines on behalf of FONERWA. For example, RRA has signed a memorandum of understanding with Rwanda Social Security Fund to collect its revenue.

(iii) EIA fees

39. This is supposed to be 0.1% of a project total cost whose environmental impact assessment has been carried out minus the operating cost. It is already stipulated in Organic Law No 04/2005

(iv) Other sources

40. The Bill for FONERWA could also allow it to receive special aid, donations, grants, bequest from a variety of organizations and interest income from its investments. As already stated, the Bill could have provision to the effect that FONERWA may accept earmarked funds which it will ring-fence for the purpose for which such funds are raised.

6. Eligibility criteria for FONERWA support

41. A fourth aspect on the checklist is the **eligibility criteria** for qualifying for FONERWA'S support. Stating that in the Bill removes any ambiguity and provides clear guidance to the potential applicants. There are four key aspects the Bill should pronounce itself with regard to eligibility criteria, namely:

- the legality of the applicant
- the activity that can be supported
- the activity that FONERWA will not support
- the details of proposed activities

(i) the legality of the applicant

42. The Bill could provide proof of evidence of the legality of the applicant, including for example certificate of registration in case of firms and national identity cards in case of individuals.

(ii) the activity that can be supported

43. Box 1 provides the activities placed on FONERWA by the Organic Law No04/2005. As a principle, they should be repeated for clarity in the Bill. If government merges the funds, it should broaden on the activities to include those for water and climate change. The following from NAPA⁸ are suggested:

- activities to promote rain water harvesting for productive use
- activities that support the introduction of technologies or species that are resistant to climatic conditions
- activities that promote the creation of jobs in off-farm environmentally friendly income generating enterprises.

44. They are five main reasons why the FONERWA Bill should list the activities it will support. They are :

- It is to comply with the Organic Law No 04/2005
- They define the boundary for FONERWA support thereby saving it from spreading itself into too many activities
- The potential applicants for FONERWA support are informed and guided by the list when they are preparing their proposals
- They become the basis for the for formulation of operational, communication and resource mobilization strategies of FONERWA
- It improves the transparency of FONERWA

45. Further, the Bill could provide that periodically, say after 5 years⁹, the scope of activities will be reviewed and where necessary, changes may be made and communicated to the public in a government gazette.

(iii) Activities that FONERWA would not support

46. The following provide such circumstances that would warrant refusal for support and/or its termination.

- if the applicant is already a beneficiary of other environmental incentives provided under other laws for investment, VAT, customs, consumption, personal and corporate income. This would avoid concentrating FONERWA support among those already benefiting from other government incentives.

⁸ Ministry of Lands, Environment, Forestry, Water and Mines[]National Adaptation Programme of Climate Change Action

⁹ The period of the review could coincide with that of the Strategic Plan

- where the activity to be carried out is likely to lead to more environmental damage.
- where the activity violates the national laws.

(iv) Details about the activities

47. In addition, the Bill could require the minimum aspects that should be reflected by the applicants for FONERWA funding. In particular, the following would be important:

- the outputs and outcomes of the activity and the expected benefit to the environment;
- the expected duration of the activity;
- the human, physical and financial resources required;
- the related contribution of the applicant to the activity by the use of its own monetary and other resources;
- targets and performance indicators of the activity;
- costing of the activity;
- details of the budget and related timelines for the activity;
- future projections and cost benefit analysis of the activity; and
- details of projects for which funding is already received or in respect of which an application has been made by the applicant together with the source of the funding

7. Evaluation criteria for funding by FONERWA

48. A fifth aspect on the check list is the **generic evaluation criteria**. The Bill should reflect that among others, the Management Board shall evaluate the applications and offer its opinion in writing taking into account the following broad criteria:

- the funding already received by the applicant in respect of the same or similar activity and the meeting of the objectives of that funding;
- the relevance of the activity to the promotion of Government's policies and programmes, particularly the policies and laws for environment, forestry, integrated water resources management and combating drought.
- The likely contribution of the project to human welfare and socio-economic benefits
- the outcomes and outputs of the activity;
- the operational costs as identified in the application;
- the clarity of the administrative arrangements and related cost;
- the extent of consultation with interested parties to identify and resolve conflicting objectives or duplication of effort or
- areas of collaboration and synergy, including funding and
- the degree of innovation and creativity in providing solutions to environmental problem.
- the comparative advantage of FONERWA's funding vis-a-viz that of other sources
- compliance with legal and government requirements

8. Demonstrating highest level of performance, transparency and accountability

49. A sixth aspect discussed is how FONERWA should depict itself as **performing, transparent and accountable**. It is this aspect that will determine its survival, growth and capacity to continue attracting funding both internally and externally. There are four sets of provisions that could be reflected in the Bill
- (i) provisions to the effect that FONERWA will comply with national accounting, auditing and procurement laws and standards and that it will be audited by the Office of the Auditor General.
 - (ii) provisions in the Grant Agreement could be written in a manner to commit the beneficiary to the following:
 - performance measures and targets to be met as a condition for the disbursement of funds from the FONERWA
 - information the beneficiary should submit to the Secretariat and the frequency of reporting
 - a disbursement schedule
 - requirement for the repayment of money received by the beneficiary by way of restitution to FONERWA in the event that targets are not met;
 - that a licence shall be granted in favour of the Government of Rwanda for the use of any copyright, patent, trademark or other intellectual property right that may arise out of the certified activity
 - a stipulation that upon completion of a project, the beneficiary shall provide a report on the activities undertaken, the expenditure incurred and the lessons learnt
 - keeping proper accounts to which FONERWA would have access
 - (iii) provisions committing FONERWA to report to the Parliament at the close of the Financial Year, covering among others:
 - the statement on the source and use of funds
 - the audited Income Statement and Balance Sheet of FONERWA
 - the amount of funds leveraged from other sources to support the beneficiaries
 - the projected funding levels by source
 - an account of the environmental, economic and social impacts generated by the use of funds from FONERWA
 - the status of each certified activity that is funded from FONERWA in terms of performance indicators and achievement in relation to the targets set by the activity
 - the amount actually spent by beneficiary in respect of a certified activity together with the amount disbursed from the FONERWA in respect of that activity
 - (iv) provisions on penalties and sanctions for poor performance
50. To maintain its respect as performing FUND, the FONERWA Bill would need to stipulate some sanctions and penalties for those failing to comply with the terms and conditions under the grant agreement on one hand and the performance contract between the government and FONERWA management. There are three potential penalties and sanctions for the beneficiaries namely;

- Termination of funding, particularly, where the activity is deemed to cause more environmental harm than it proposed to address; where the report of the Auditor General has identified gross mismanagement of the funds; where the beneficiary is declared insane, bankrupt or dissolved under competent jurisdiction and where the beneficiary fails to comply with condition of the grant agreement
- debt recovery proceedings
- the exclusion of the beneficiary from further consideration for funding out of FONERWA in future

9. Assessment of alternative institutional arrangements for FONERWA

51. A seventh aspect is the **institutional size and home for FONERWA**. The Organic Law No.04/2005 did not define the nature of institution FONERWA should take. It only specified that for REMA, namely 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.
52. The FONERWA 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. Funds without legal, administrative and financial patrimony are not attractive to external funders.
53. There are other aspects to be reconciled with, particularly the funding level. When it is still small, the country can start small but keeping in mind the key principles that have been described above. It can then transform later as it proves that it has generated and can continue generating revenue. Eritrea which formed a similar fund in January this year proposes to take such a phased approach. In meantime, FONERWA can be placed as a special unit under MINELA or REMA or even MINECOFIN for day to day operational issues but leaving the decision making machinery in a multi-sectoral management Board. Its main functions should be to approve the budget, annual and strategic plans of FONERWA; to approve the policy guidelines and to report to the government and its funders.
54. The protection for FONERWA from the agency under which it is placed is its own sources of funding and management oversight. The staff under FONERWA could be recruited under public service rules and terms until such a date when FONERWA grows to become autonomous.
55. The main features that make boards of such funds respected and able to deliver for society are :
 - Representation of the major stakeholders including beneficiaries, individuals, associations and public institutions, and from the private sector and civil society organizations.
 - Mix of disciplines that can enhance the quality of advice and oversight e.g. environment financing and management, accounting, government policy, environmental law, gender and institutional building
 - The above interest groups should be balanced so that no single stakeholder can dictate decisions

10. Value addition of FONERWA in the sustainable development agenda for Rwanda

56. At this juncture, one can discuss the value addition of FONERWA. To note is that some of the value can be generated after FONERWA is formed provided it is seen to comply with most principles described above. There is no doubt that the value would be much higher if the separate funds are merged than when they and FONERWA are kept separate. Its value addition are in the following areas:

(i) Mobilising and managing funds in the name of environmental sustainability

57. Environmental funds in Africa and worldwide have made a great landmark in internally and externally raising funds to support conservation and to control pollution. In some instances, the revenues raised from environmental levies are outweighing even government subventions. Financial sustainability becomes assured when the financial sustainability of the sector is also growing. The following examples are illustrative.

58. In Table 1 is a list of some environmental funds. There are now several worldwide. In developing countries they mainly focus on protected areas and conservation. That explains why they were capitalized by GEF funds and debt- for- nature swaps. In Eastern Europe, they focus on pollution control and abatement. The evidence from Table 1 shows that their levels have grown over years. They have been capitalized by a wide range of sources.

Table 1: The growth of the capital base of selected environmental funds

Name of Fund	Start year and amount		Subsequent years and amount		% increase	Sources
1. Bwind and Mgahinga Conservation Trust, Uganda	1992	US\$ 4m	2008	US\$10m	150%	GEF
2. Slovenia Environment Fund	1998	€22m		€28m	27%	Loan repayments
3. Romania Environment Fund	2002	US\$ 6m	2006	US\$ 54	800%	Environmental taxes
4. Lithuania Environment Fund	1998	€1m	2002	€4m	300%	- Pollution charges - Interest on loans

59. In Africa, more environmental funds have been formed in support of the implementation of environmental policies. Rwanda is no exception. Even though they have been given differing mandates, one of their achievements is that they have raised substantial revenue from the services they provide (e.g EIA fees, inspection fees, fines etc)

60. Ghana formed a National Fund for Environment in 2002. By 2005, the environmental fees it had raised were 400% higher than that of 2002 (Table 2). The only difference with the FONERWA, is that the Ghana's fund was to contribute to the capitalization of Ghana Environment Agency. By 2005 the environment fund was 161% more than the government subvention. A second example comes from Kenya in Table 3. It shows the growth of internally generated funds

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

Table 3: The income on NEMA, Kenya 2004-2007 (millions of Kenyan shilling)

	Recurrent Grant	Development grant	Internally generated funds	Donor funds	Total
2004	220	7	11	2	240
2005	287	9	45	17	358
2006	274	15	78	14	381
2007	267	4	106	11	398

(ii) Leveraging other sources of funding

61. Worldwide, Environmental Funds have leveraged resources from governments, bilateral and multi-lateral donors, the private sector and international NGOs. There are many reasons to explain why. Some donors and NGOs have money for **time bound** projects. Instead of setting up parallel grants making units, they find it more cost effective to partner with an already established institution offering the same service. Others do not have enough money to leave behind impacts and prefer to get partners to match their own funds. Others want to take advantage of the network of institutions and potential beneficiaries which the Environment Fund builds over time. Private sector firms also channel their contributions for corporate social responsibility through such funds.
62. However, the Environment Fund must be attractive to such diverse potential contributors of funds from the aspects as good accounting and financial systems; audit systems; transparency and accountability;) broad based representation in the oversight organ (Management Board) and above all ability to demonstrate results and impact on the ground

(iii) Breaking barriers through innovative and catalytic funding so that other players can replicate or upscale the interventions

63. A big challenge in environmental management is to reduce both the fear and risk of investing in environmental and conservation activities. This is because they tend to generate returns and impacts after long time. For this reason they are not attractive to banks and sometimes to governments which want quick tangible results. Environmental funds address the above challenges by providing incentives to firms and individuals so that they invest where they would not have done with their scarce resources. The following example in Uganda which has been visited by senior staff from NAFA testifies to the value of such funds

64. In 1999 the government of Uganda received €1.9m from European Union to motivate the private sector for long term commercial forestry under a Sawlog Grant Scheme .The scheme only meets 50% of plantation establishment costs within three years for trees that will mature after 20 years. Within five years, 5000 ha of trees were planted by private sector firms and individuals to the amazement of government and donors. More people became interested and European Union decided to provide additional €10m in 2009.It was joined by Norway which contributed US\$ 10m into the scheme. Interestingly, one of the private firms called The New Forest Company which benefited from the scheme have raised and invested more than US\$ 18 million from external banks. It plans to invest an additional US\$ 29 in the next five years¹⁰.
65. The incentive scheme demystified commercial forestry as an activity to be carried out only by government forestry agency. It is therefore gratifying that FONERWA is given the mandate to provide incentives to public services, associations and individuals under Organic Law No 04/2005 to help them overcome fear and to demonstrate the financial, economic and social desirability of environment based activities.

(iv) Operational effectiveness

66. Channeling incentives through FONERWA would ensure that certain problems in society are handled urgently without going through bureaucracy. For example FONERWA is supposed to restore degraded ecosystems where the culprit is not known. An oil spill is an example. FONERWA would need to move first to protect the population and property from potential fire

(iv) Going beyond environmental financing to support institutional building

67. Going by examples of Environmental Funds worldwide, they have done more than contribute to the raising of funds for conservation and pollution management. They have brought in an added value of building institutional capacity and private public partnerships, developing adaptive management approaches, nurturing community groups becoming involved in environmental activities for the first time, and contributing to the articulation of environmental priorities and strategies in national and regional dialogue.

11. Activities after FONERWA is established

68. The above type of activities will become very clear after the formation of FONERWA. Accordingly, they have not been discussed in this concept note. Suffice it to mention that they will include staff recruitment, systems design, developing operational policies, guidelines, procedures and formats. Other important activities will be formulation of strategic, communication and resource mobilisation strategies. Finally, the law will give FONERWA legitimacy to seek for **technical assistance**.

¹⁰ Daily Monitor of May 5th 2010 page 7
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Annex 1: GEF funded projects in Rwanda

Title of the project	Focal area	Amount US\$
1. Sustainable Energy Development Project (SEDP)	Climate Change	4,500,000
2. Reducing Vulnerability to Climate Change by Establishing Early Warning and Disaster Preparedness Systems and Support for Integrated Watershed Management in Flood Prone Areas	Climate Change	3,160,000
3. Enabling Activities to Facilitate the Preparation of a National Adaptation Plan of Action (NAPA)	Climate Change	195,000
4. National Biodiversity Strategy, and Action Plan and Country Report to the COP	Biodiversity	170,640
5. Clearing House Mechanism Enabling Activity	Biodiversity	13,950
6. Integrated Management of Critical Ecosystems	Multi-focal	4,306,000
7. Conservation of the Montane Forest Protected Area System in Rwanda	Biodiversity	5,747,000
8. Enabling activities to facilitate early action on the implementation of the Stockholm Convention on Persistent Organic Pollutants (POPs) in Rwanda	POPs	371,000
9. Enabling Activities for the Preparation of Initial National Communication Related to the UNFCCC	Climate Change	330,000
10. Elaboration of the Second National Report on the Implementation of Biodiversity by Rwanda for the Sixth Conference of Parties in 2002	Climate Change	25,000
	Biodiversity	

Source: GEF Secretariat

Annex 2: Fines imposed under Organic Law No 04/2005

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

Annex 3: List of Documents reviewed

1. Alain Lambert[2006]Sustainable financing for environmental projects in Africa: some ideas for considerations
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5. Bayon, R. & Deere, C. (1998), “Financing Biodiversity Conservation: The Potential of Environmental Funds”, Presented by IUCN at a workshop on Financial Innovations for Biodiversity, Bratislava, Slovakia, 1-3 May 1998.
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11. IISD [1994] Making Budgets Green
12. Interagency Planning Group (1995), *Environmental Funds: A New Approach to Sustainable Development*, [Report on a briefing on April 26,1995, Paris, New York: IPG]
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16. The Canadian Network[2004]Economic instruments for water demand management in an integrated water resources management framework