

**REPUBLIC OF RWANDA**



**MINISTRY OF TRADE AND INDUSTRY**

**RWANDA PROTECTED AREAS CONCESSIONS  
MANAGEMENT POLICY**

**Kigali, March 2013**

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## ACRONYMS AND ABBREVIATIONS

ANP	:	Akagera National Park
DMA	:	Destination Management Area
EIA	:	Environment Impact Assessment
EICV	:	Integrated Household Living Conditions Survey (Enquête Intégrale sur les Conditions de Vie des Ménages)
GoR	:	Government of Rwanda
MINAFFET	:	Ministry of Foreign Affairs
MINECOFIN	:	Ministry of Finance and Economic Planning
MINICOM	:	Ministry of Trade and Industry
MINIRENA	:	Ministry of Natural Resources
MININFRA	:	Ministry of Infrastructures
MOH	:	Ministry in charge of Health
PA	:	Protected Area
PPP	:	Public Private Partnership
RDB	:	Rwanda Development Board
REMA	:	Rwanda Environment Management Authority
RNRA	:	Rwanda Natural Resources Authority

## **1. ISSUE**

Within the framework of developing tourism as a key contributor to economic growth and development, the Government of Rwanda must find mechanisms through which it ensures the effective management of protected areas.

The sustainable utilisation of these protected areas can contribute to reduced poverty, community development and conservation of these ecological areas to meet the needs of future generations. By increasing tourist services in the protected areas, these can be leveraged to increase tourism receipts, employment and investment in and around the protected areas.

With the Government's commitment to developing a private sector-led economy, the Rwanda Protected Areas Concessions Management Policy (hereafter the "Concession Policy") seeks to lay the foundations for increased competence and expertise of the private sector through concessions to increase the productivity of tourism in protected areas, as well as providing revenues to the Government. It is expected that this will significantly increase the level of effective management of protected areas.

The Concession Policy provides guidelines and procedures for more effective development and management of visitor facilities and services by the private sector within protected areas, as recommended in the National Tourism Policy.

## **2. CONTEXT**

The tourism sector has registered significant progress in generating foreign currency, increasing employment opportunities and attracting investment in tourist infrastructure, facilities and services. Due to these associated benefits, the Government of Rwanda has identified it as a priority sector to attain Rwanda's development goals as set out in Vision 2020. As well as being a means for economic development, the Government firmly believes that tourism can play a major role in the conservation and preservation of protected areas in the country.

However, tourism resources and assets have encountered serious challenges in development and management because of a lack of expertise and skills, raising potential concerns for environmental management. Tourism development in fragile environments like protected areas

(National Parks and other protected areas) is more destructive if there are no control measures put in place; it can cause severe adverse environmental, financial and socio-cultural impacts.

The Rwanda Development Board (RDB) and its predecessors have been responsible for management in protected areas, from road maintenance to wildlife monitoring to the provision of hospitality services. This approach has evolved and changed over the last few years, leading to the need for new commercial visitor use policies.

Protected areas are all located within Destination Management Areas (DMAs) and it is difficult to involve the private sector in the development of these areas without a clear policy framework. To date there is visible interest in the development of DMAs from private investors and thus a clear policy and guidelines on private sector operations is in high demand. Both the Tourism Policy and Tourism Master Plan have identified the need for a Concessions Policy to guide private sector operations in protected areas.

The role of protected areas in Rwanda remains the same: to promote the conservation of natural resources and wildlife habitat and the sustainable use of biological resources. The protected areas also will provide significant potential for economic and recreational development. Private sector institutions will play an increasing role in supplying the capital required to tap this potential.

The concessions generate revenues to the Government as concessions fees from concessionaires who develop and operate the tourism-based activities and services in the protected areas.

The policy creates a clear division of labour between government agencies and private sector operators. RDB considers its core function to be in conservation and tourism promotion - the management of biodiversity in protected areas and providing only the foundation for tourism and recreation. Commercial and tourist operations will benefit significantly from the entrance of private sector investment and/or Public-Private Partnerships (PPPs) to stimulate the sector.

This policy sets a framework for private sector engagement in the development of protected areas and DMAs through concessions and other business and non-business permits, ranging from 5 to 20 years, depending on the activities and scale of investment. A concession authorizes a privately owned tourism business or community to operate a business in a protected area. A concession is a legal and binding agreement between the State and a

concessionaire for rights to undertake commercial activities as negotiated with the responsible Government agency.

In addition to the Tourism Policy, Tourism Master Plan and General Management Plan for the National Parks that have identified the need for a Concessions Policy to guide private sector operations in protected areas, other national related policies such as the Rwanda Biodiversity policy, the Draft Rwanda Wildlife policy, the Draft Rwanda Biodiversity law as well as other laws have been consulted and taken into consideration in the development of this concession policy.

### **3. VISION AND OBJECTIVES**

#### **3.1. Vision**

The policy seeks to increase investment, achieve well-managed protected areas, and provide essential visitor facilities and services to increase visitation and employment creation.

#### **3.2. Policy Objectives**

- Raise investment in protected areas by the private sector or Public-Private Partnerships (PPPs);
- Streamline proper management and conservation of protected areas through concessions;
- Provide quality visitor/tourist infrastructure, facilities & services within the protected areas;
- Generate revenues to the government that can be channelled for management and conservation of these protected areas;
- Promote sustainable tourism that generates employment and reduces poverty.

## 4. ANALYSIS

### 4.1. Background

Tourism development has often been concentrated in and around protected areas. Many governments looked to tourism as a source of development, poverty alleviation and employment, and have done so without anticipating the associated risks. It has resulted into environmental degradation and pollution of protected areas that can, when left unchecked, lead to environmental disasters and even contribute to climate change.

Often the public sector is responsible for the provision of tourists' infrastructure, facilities and services as well as conservation and management of these protected areas. The conservation and management of these protected areas can come at significant costs that Governments in developing economies may lack the funds and capacity for. The ability to run productive and successful businesses within the protected areas is limited.

Faced with such challenges, some Governments have opted for tourism concessions whereby the development and management of tourism infrastructures, facilities and services in these protected areas are leased to the private sector for efficient and effective management and revenue generation from tourism activities within protected areas.

Rwanda is one of the countries whose tourism activities are concentrated in protected areas, particularly National Parks. It is facing challenges in developing and managing tourist facilities and services within protected areas, often due to a lack of expertise to develop and effectively manage recreation facilities whilst complying with conservation guidelines and regulations. Operational costs of managing and conserving these protected areas and facilities can be high if we are to meet expectations and the changing demands of today's tourists/visitors.

Concessions are offered to private firms or individuals (hereafter the "concessionaire") with experiential expertise to manage tourist facilities in protected areas. This means that the concessionaire has to have the financial capacity and ability to develop and manage the tourists and recreation facilities in the protected areas without waiting for accumulative investment returns.

## **4.2. Cost Benefit Analysis**

Introducing concessions for the provision of certain facilities, goods and services within protected areas can inject private investment into the tourism sector and bring a series of associated benefits and innovations. Well-regulated concessions can ensure the efficient management of tourism facilities and conservation of protected areas, and increase the choice and quality of facilities, services, goods and infrastructure within these areas. Awarding concessions can also provide revenues for government through concession fees as well as taxation, whilst reducing expenditure on management of facilities and services that are now privately run. Finally, the introduction of private operators in protected areas can generate employment for the local and national population and lead to community development in and around the protected areas.

The success of concessions in delivering these benefits will depend on a number of factors that must be addressed in both the Concessions Policy and accompanying guidelines. The vision, objectives and policy choices of the Policy are articulated so as to maximise the benefits and mitigate associated costs and the current subsection analyses the key issues pertaining to such benefits and costs.

### **a) Increased investment from the private sector and PPPs**

Investment in the Rwandan tourism sector (predominantly in the construction of hotels) over the last five years has totalled more than \$500 million, and tourism receipts reached US\$252 million in 2011. Tourism is one of the fastest growing sectors in Rwanda and has shown significant potential for future growth. Opening up the construction, development and management of tourism facilities in protected areas as well as the provision of services and goods to the private sector by the awarding of concessions will bring much additional investment. Strong demand has already been shown by the private sector for such concessions.

Furthermore, it is expected that the private sector itself will identify new facilities and services to be developed under concession agreements, bringing an entrepreneurial input to investment in protected areas.

Whilst investment can bring major economic benefits to the tourism sector, investors must be assumed to be concerned primarily with the private returns to investment, and not the social returns. Therefore concessions must be awarded in such a way that any negative externalities are prevented, so that the protection and conservation of natural tourism resources as well as the environment is ensured. The guidelines that accompany the Concession Policy and individual contract agreements with concessionaires must take stock of these issues. Additionally, socially beneficial projects may be underinvested in by the private sector if the private returns are not especially profitable. In such cases, Public-Private Partnerships (PPPs) can create joint investments that ensure both private and social returns to investment are realised.

#### **b) Efficient management and conservation of protected areas**

By allowing the private sector to operate in protected areas in the provision of visitor facilities and services, the government agency can focus efforts and resources on the management and conservation of the protected areas. The concessions allow activities within protected areas to take place in a manner that ensures the protected area remains conserved through managing impacts on the resources, as well as providing guided visits and tours that increase awareness of environmental protection and conservation for local and international tourists. Monitoring of activities is undertaken by the responsible government agency to ensure compliance with the concession agreement.

The park may also benefit from certain management activities undertaken by the concessionaire, such as taking responsibility for certain maintenance and operational responsibilities as part of their agreement requirements, maintaining tracks or signs, or gathering and sharing information about the park resources.

To ensure the conservation and protection of areas in which concessions are awarded, the policy and legislative framework must clearly define the environmental, financial and social as well as corporate responsibilities under which the concessionaires operate. As such, the concession guidelines and individual agreements must reflect this. Furthermore, a strong monitoring unit that measures compliance with agreements must be established.

### **c) Development and provision of quality visitor facilities and services**

Concessions should be designed and awarded so as to increase the choice and overall quality of visitor facilities and services in protected areas whilst ensuring the efficient management and conservation of these areas. Currently Rwanda has positioned itself as a high-end tourist destination, and concessions should reflect the national Tourism Policy and Tourism Master Plan's vision and objectives for the sector.

Introducing the private sector can bring much needed finance, expertise and innovation to the tourism sector that the public sector alone cannot provide due to budgetary and capacity constraints. The competitive pressures from rival tourist destinations and facilities will drive private investors to develop quality products, improve customer service and have efficient management.

In some situations, the awarding of a concession may in effect allow a monopoly on a particular service or product where there is a lack of similar providers locally or internationally. In such cases the profit-maximising investor may decide to raise prices in excess of the socially optimal level. The policy and guidelines must therefore ensure that firms do not charge excessive rates on the services and facilities they provide, whilst allowing investors sufficient flexibility to react to market pressures.

### **d) Increased government revenues**

In addition to the increased capital investment in the tourism sector that concession agreements could bring to Rwanda, there are fiscal benefits that result from awarding concessions both in terms of revenue and reduced expenditure. Concessions are awarded at a fee that is paid directly to the government. These fees must be determined case-by-case based upon the demand for the concession, the profitability of the investment and the social externalities involved.

In addition to the direct revenues that concession fees provide the government, increased private sector activity brings increased revenues from taxation, such as corporation, value-added and income tax.

Finally, the management of facilities and services that are currently provided by government will be outsourced to the private sector under the concession agreement. This will reduce public sector costs and allow the private sector to manage the facilities potentially more efficiently. However, the revenue streams from publicly providing such services and facilities will also stop, and it is therefore important that the concession fees compensate for the loss of such revenues.

#### **e) Community development and employment generation**

The national household survey conducted in 2010/11 (EICV-3) estimated the number of employees in the tourism sector at 23,000, with many more sectors indirectly benefiting from tourism, for example restaurants, transportation services and retail trade.

Concessions will create employment directly through the hiring of employees by the concessionaire. They will also indirectly increase employment through the supply chain of the concessionaire and the increased volume of visitors that generate further business.

In addition to employment being generated, it is expected that there will be an increased demand for skilled employees as well as investment in the training of employees. However, it is important to note that the impact on employment in local communities may be limited if the residents possess little experiential expertise and skills related to the sector, and investors may not be willing to invest in training if skilled labour at a competitive wage are available from elsewhere. It is important that nationally the base of skills exists, and that local communities are facilitated to benefit from concessionaire investments.

Local communities may well be best placed in some circumstances to develop facilities and services under a concession, where their land, local knowledge and/or products give them a competitive advantage over others. In this case, local communities must be supported to develop proposals for concessions.

### **4.3. Mitigating Measures**

In addition to the recommendations provided in Section 4.2, through the Concessions Policy and concessions guidelines the proposed concessionaire must: (a) develop detailed business plans that clearly elaborate the type of business that they are ready to invest in; (b) have a capacity building plan to train human resources so that they meet the expectation of changing demands and behaviour of today's educated and exposed tourists; and (c) have a marketing plan in order to create awareness of our protected areas and other tourism destinations to potential and emerging markets.

## **5. POLICY CHOICES**

### **5.1. Management of Protected Areas**

The protected areas shall continue to be managed in accordance with the fundamental purpose of conserving their scenery, wildlife, and natural and historic objects. The development of concessions operations in national protected areas shall be limited to those accommodations, facilities, and services that fall within the following conditions:

- Are necessary and appropriate for public use and enjoyment of the protected area in which they are located;
- Visitation will not unduly impair these resources and values;
- Are developed in specific locations that are consistent to the highest practicable degree with the preservation and conservation of the resources and values of such protected areas;
- Do not violate public security of the Republic of Rwanda;
- Are in line with broader development goals of the Republic of Rwanda; and
- Help to promote the culture of Rwanda.

Concessioners fill a vital role in helping government carry out its mission. Private companies are drawn to working with the government in order to offer services to park visitors that are not provided directly by the government. Concessioners specialize in these operations and are thus

able to provide quality services at reasonable prices. By welcoming the private sector as a partner in protected area operations, the government broadens the economic base of the country, region and communities surrounding the protected areas.

### **5.1.1. Concessions Guidelines**

Concessions Guidelines will be formulated as a companion document to this Policy, and may be revised as determined necessary by the Government agency. The Guidelines ensure that the Concessions Programme will be managed in ways that provide visitors with access to high-quality visitor services in order to fully appreciate the natural and cultural treasures of Rwanda, without compromising the ecological integrity of the protected areas.

The intent of the Guidelines is therefore to ensure that concessions operations are conducted in ways that are consistent, to the highest practical degree, with the preservation and conservation of resources and values of Rwanda's national protected areas, as well as to ensure a consistent level of visitor services in the protected areas. Rwanda's national protected areas strive to reach a variety of visitors from throughout the country, region and world, with a goal of connecting visitors and citizens alike to the extraordinary natural, cultural, historic and scenic resources in these protected areas.

The Guidelines will provide details on the development of concessions agreements, the selection of concessioners, and will assist interested applicants to put together quality concessions applications that can be considered and approved by the Government agency.

### **5.1.2. Concessions Planning**

Concessions planning will identify the appropriate role of commercial operators in helping protected areas to provide opportunities for visitor use and enjoyment; will be integrated into other planning processes; and, will comply with all Governmental policies regarding planning and environmental analysis.

### 5.1.3. Concessions Contracting

**Concessions agreements** will be valid for periods between 5 and 20 years, depending upon the amount of investment required, and may involve a land and/or facility assignment within protected area boundaries. In the event of a concessions agreement requiring extensive development, the agreement may be for a longer term based on a financial analysis that justifies a longer term.

The agreement may be renewed upon the approval of both parties of a new agreement, the terms of which are to be agreed upon. The renewal term will also depend on how successfully the concessioner complied with the concessions policy and agreement during the first term of the agreement and on whether the renewal will meet broader developmental goals of Rwanda.

**Concessions authorisations** are not considered the same as concessions agreements, but may be issued pursuant to the Concessions Policy. These Authorisations are appropriate for small and micro-enterprises.

A Concessions Authorisation authorizes services that:

- a) Are determined to be an appropriate use of the protected area
- b) Will have minimal impact on protected area resources and values; and
- c) Are consistent with the purpose for which the unit was established, as well as all applicable management plans and protected area policies and regulations.

Concessions authorisations may be issued for small-scale business operations that do not warrant a full concession. For example, a local cooperative or community group may wish to sell fruit near a trailhead on weekends without installing any physical structure. Since this sort of activity would contribute to the government's goal of benefitting local communities and will not have any major environmental impacts, the government may grant short-term authorisations that specify some basic requirements, such as location restrictions and a small fee.

Concessions authorisations provide for payment of a reasonable fee to recover management and administrative costs associated with issuing and monitoring the authorisation. Under no circumstances will a concessions authorisation provide for or allow construction of any

permanent structure or fixture within the protected area. The maximum term for any concessions authorisation is two years in length. Holding or seeking to obtain a concession authorisation does not preclude a person, corporation, or other entity from submitting proposals for concessions agreements.

Authorisations for small businesses to operate in the protected areas for short periods will be granted by the responsible agency. Terms and conditions of operations will be set out in the authorisation.

#### **5.1.4. Awarding of Concessions**

Concessions will be awarded either through a competitive bidding process, direct awarding (especially for communities in or around protected areas), or through consideration of unsolicited applications, as will be detailed in the Concessions Guidelines.

Multiple concessions may be granted at the same approximate location or resource within a specific national protected area to provide similar or related services. In that case, the agency responsible shall establish a comparable concessions fee structure for all such same or similar agreements, except that the terms and conditions of any existing concessions agreement shall not be subject to modification or open to renegotiation because of an award of a new agreement at the same approximate location or resource.

A temporary concessions agreement or an extension of an existing concessions agreement may be granted in order to avoid interruption of services to the public, provided that prior to making such an award, the government agency shall take all reasonable and appropriate steps to consider alternatives to avoid such interruption.

No concessions agreement may be transferred, assigned, sold, or otherwise conveyed or pledged by a concessioner without prior written notification to, and approval by, the government agency. Any such transfer or assignment without the government agency's approval shall be considered null and void.

### **5.1.5. Special Protected Area Uses and Events**

Although not necessarily involving the general protected area visitor, various types of special protected area uses and events may occur for specific segments of the public. As visitation to the protected areas increase, fees may be generated from permitting these special activities, or uses, in a protected area. A special protected area use is defined as:

- An activity that takes place in a protected area, and that provides a benefit to an individual, group, or organisation rather than the public at large;
- Requires written authorisation and some degree of management control in order to protect protected area resources and the public interest;
- Is not prohibited by law or regulation;
- Is not initiated, sponsored, or conducted by the protected area;
- Is not managed under a concessions agreement or authorisation, and
- May include recreation activities.

The government agency will develop appropriate cost recovery management strategies, including performance bond and liability insurance requirements, for these activities. Special protected area uses will be best managed at the protected area level, rather than under the Concessions Programme.

Often, the sale of food and/or merchandise that is compatible with the operation of special events will be permitted, provided it does not conflict with an existing concessions agreement and complies with applicable public health codes.

### **5.1.6. Commercial Filming**

Permits may be issued to individuals and companies who wish to conduct commercial filming in a national protected area. The permits will authorize use of the protected area, and specify

locations, times, dates, and requirements related to natural resource use. A commercial fee structure will be developed.

## **5.2. Concessions Revenue Management**

Each agreement shall provide for payment to the government of a concessions fee. This fee will be a percentage of the concessioner's gross receipts. The amount of the percentage will be based upon a reasonable opportunity for net profit in relation to capital invested and the terms of the agreement.

The amount of concessions fee paid to the government for the term of the concessions agreement shall be specified in the concessions agreement, but may only be reviewed and modified to reflect extraordinary, unanticipated changes from the conditions anticipated as of the effective date of the agreement as agreed upon by the government agency and the concessioner.

## **5.3. Concessions Operations**

It is the objective of government that protected area visitors are provided with high-quality facilities and services, commensurate with the type and level of service to be offered. The concessions agreement will specify a range of facilities, accommodations, and service types that are to be provided.

Concessions operations will be regularly evaluated to ensure that protected area visitors are provided with high-quality services and facilities that are safe and sanitary and meet protected area environmental, health, safety, and operational standards.

The evaluations will cover the concessioner's operations and agreement compliance. The evaluation results will provide a basis for considering operational improvements, and for the responsible agency to determine whether to continue or terminate a concessions agreement.

Concessionaires will be expected through their employees, facilities and services, to instill in their guests an appreciation of the protected area, its purpose and significance, its proper and sustainable management, and the stewardship of its resources. When the provision of interpretive services is required by the agreement, such as guide services, concessionaires will provide formal interpretive training, approved by the government agency, for their employees, or will participate in formal interpretive training that is offered by the government agency or cosponsored by the concessionaire.

Concessions agreements will require the concessionaire to provide all visitor services in a manner that is consistent with and supportive of the interpretive themes, goals, and objectives articulated in each protected area's management plans.

### **5.3.1. Merchandise, Souvenirs and Gifts**

The concessionaire shall submit to the government agency full details of the types of merchandise, souvenirs and gifts it will offer for sale. Concessionaires will not be permitted to sell any merchandise in violation of laws, regulations, or Rwandan policies. The government agency may prohibit the sale of some items for retail sale because the merchandise is locally sensitive or inappropriate for sale. The determination on the sensitivity or inappropriateness of the item in question shall be made at the sole discretion of the government agency.

Each concessions operation should ensure that gifts and souvenirs sold or provided reflects the significance of the protected area and promotes the conservation of the protected area's wildlife, plant life, archaeological resources, local culture, historical significance, and other protected area resources and values. Priority should be given to gift and souvenir sale items that foster awareness, understanding, and appreciation of the protected area and its resources and that interprets those resources. All gift and souvenirs, in particular handcrafts, should be labelled and displayed in such a way that the purchaser is not confused as to the price or origin of the item.

The sale of original objects, artefacts, or specimens of a historic, archaeological, paleontological, or biological nature is prohibited. Replicated historic, archaeological, paleontological, or

biological objects, artefacts, or specimens may be sold if they are obvious replicas and clearly labelled.

Any geological merchandise approved for sale or exhibit by concessionaires must be accompanied by appropriate educational material and a written disclaimer clearly stating that such items were not obtained from inside protected area boundaries.

### **5.3.2. Archaeological, Cultural and Natural Resource Management Requirements**

Concessioners are required to comply with applicable provisions of all laws, regulations, and policies that apply to archaeological, cultural and natural resource protection. The use, maintenance, repair, rehabilitation, restoration, or other modification of concessions facilities that are listed in or eligible for "historic property" in the appropriate national registry of sites are subject to the applicable provisions of all laws, executive decrees, regulations, and policies pertaining to cultural properties. The government agency will assist concessionaires in understanding and complying with regulations for the protection of historic properties. Historic structures and their contents and museum objects that are in the control of concessioners will be treated in accordance with the appropriate standards contained in government agency guidance documents.

### **5.3.3. Environmental Compliance Requirements**

In the operation of visitor services, concessionaires will be required by agreement to meet environmental compliance objectives by complying with all applicable laws pertaining to the protection of human health and the environment; and incorporating best management practices in all operations, construction, maintenance, acquisition, provision of visitor services, and other activities under the agreement.

#### **5.3.4. Rates**

Each concessions agreement shall permit the concessionaire to charge appropriate rates and charges for facilities, goods, and services provided to the public. Rates should be reasonable to attract a diversity of visitors. The reasonableness of a concessionaire's rates and charges to the public will, unless otherwise provided in the agreement, be judged primarily on the basis of comparison with current rates and charges for facilities and services of comparable character under similar conditions. All concession rates shall be communicated to the government agency before implementation.

#### **5.3.5. Food Service Sanitation Inspections**

Concessionaires who prepare food on or off protected area lands or serve food on protected area lands will be subject to inspection for compliance with all applicable government health and sanitation requirements.

#### **5.3.6. Risk Management**

Concessions agreements require each concessionaire to develop a risk management programme that is in accordance with and appropriate in scope to the size and nature of the operation.

Concessionaires are responsible for managing all of their operations to minimize risk and control loss due to accident, illness, or injury. To ensure compliance, the government agency requires periodic administrative reviews. Conducted annually, this evaluation is based on a programme review more than operational inspections and considers performance from throughout the year.

#### **5.3.7. Insurance**

The concessions agreement shall contain a requirement for the concessionaire to obtain insurance. Insurance provides financial compensation in the event of a loss, which is crucial to

minimising financial liability to both the Government and concessionaires. It also protects the visitor by ensuring that legitimate claims for compensation can be produced to rectify any unfortunate circumstances. Insurance must be verified during the Agreement Compliance review on an annual basis to make sure that coverage levels and insurance company minimum standards are met.

## **5.4. Investment in Concessions Facilities**

### **5.4.1. Design**

Concessions facilities will be of a size and at a location that the government agency determines to be necessary and appropriate for their intended purposes. Proposed concessions facilities must conform to government agency's standards for architectural design. Concessions development or improvement proposals must undergo review for compliance with national development and construction standards.

### **5.4.2. Improvements**

All real property improvements constructed or installed by the concessionaire will immediately become the property of the Government and be considered concessions improvements assigned to the concessionaire. The concessionaire will be compensated for the construction and modifications done to the property as provided for in the concessions agreement.

### **5.4.3. Maintenance**

Concessions agreements will require concessionaires to be responsible for all maintenance and repair of facilities assigned for their use, in accordance with standards acceptable to the Government agency. Exceptions will be made only in extraordinary circumstances, as

determined by the Government agency. All concessions agreements must include provision for maintenance responsibilities in the operations plan.

#### **5.4.4. Utilities and Services**

Utilities include, but are not limited to, electricity, fuel, natural gas, water, disposal of wastewater and solid waste, and communication systems. In most cases, the concessionaire will provide utilities. If mutually agreed to by the Government agency and the concessionaire, the concessionaire will, with the written approval of the Government agency and under any requirements prescribed by the Government agency, (1) secure necessary utilities at its own expense from sources outside the area; or (2) install the utilities within the area, subject to conditions of the agreement.

### **5.5. Commercial Business Permits and Benefit Sharing**

Proposals for other uses such as rights-of-way, erection of transmission towers, and benefit sharing from bio-prospecting and research, may be submitted to the government agency by public entities, business operators or individuals requesting them.

#### **5.5.1. Rights-of-Way for Utilities, Roads and Telecommunications Sites**

Rights of ways cover infrastructure for utilities, and use of existing roads in national protected areas. A permit will be required for protected area use allowing a utility to pass over, under, or through protected area property. It may be issued only pursuant to specific statutory authority, and generally **only if there is no practicable alternative to such use of protected area lands**. New roads may not be permitted without a right-of-way permit.

Due to the potentially high costs and values associated with rights-of-way, special attention will be paid to charges and a fair market value for use of the land.

Rights-of-way permits are considered temporary documents and do not convey an interest in the land. The permit is subject to termination for cause or at the discretion of government.

### **5.5.2. Benefit Sharing (Bio-prospecting & Research Utilising Protected Area Resources)**

This special use covers interests from both individuals and larger businesses in harvesting protected area genetic materials for research and product development, including pharmaceutical products. Harvesting of valuable materials such as medicinal plants, thatching grass or plant and animals species for research and bio-prospecting may occur by permit in Rwanda's national protected areas. Specific benefits would be negotiated individually for each agreement. In each case, the government agency will negotiate benefits-sharing agreements that provide protected areas with benefits when protected area-based research yields something of commercial value.

Monetary benefits could also occur under some or all benefits-sharing agreements, such as

- a) Upfront funding for research projects that support the protected area's research activities, and/or
- b) Performance-based payments paid as a percentage of any agreement-related income received by a researcher's institution (e.g., from licensing intermediate research results or from selling products or technology developed from the knowledge gained from the research).

Non-monetary benefits could accrue under some or all benefits-sharing agreements including scientific training for protected area staff, new research equipment, access to sophisticated labs or lab analyses, and increased scientific knowledge about protected area resources. The particular knowledge and capabilities of the benefits-sharing partner would determine the specific non-monetary benefits generated and managed by each benefits sharing agreement.

Benefits-sharing agreements will not authorize collecting specimens or conducting research in the protected area (these activities require an independent research permit that enforces strict

resource protection standards). Protected area benefits-sharing agreements would be made only with researchers who already hold protected area research permits.

## **6. STAKEHOLDER VIEWS**

The management and sustainable use of Protected Areas Concessions Management Policy is of great interest to many stakeholders. RDB, which is the institution mandated with National Parks Management, initiated a widely participatory process and has consulted and collaborated with key stakeholders in formulating this Policy. The participatory and consultative approach, involved a number of measures aimed at achieving the following objectives:

- Defining a national Protected Areas Concessions Management Policy;
- Collecting and analyzing information necessary for making accurate and informed decisions about Protected Areas Concessions Management;
- Building consensus among stakeholders and thus establishing public confidence in the formulation process to enhance opportunities for implementation; and
- Establishing synergies and areas of complementarity with other relevant sectorial policies to ensure consideration of cross-cutting issues.

The coordination of the formulation process was done by RDB, while the technical aspects of the policy development were facilitated by an experienced international consultant. The consultation process included a number of activities, among others:

- Meetings with stakeholders in protected areas management;
- Consultations with relevant institutions and their senior managers including: MINIRENA, MINICOM, MININFRA, REMA; Rwanda Natural Resources Authority (RNRA) and PSF among others;

- Consultations with individuals with expert knowledge or insights in specific policy components; and
- Literature review and use of internet-based resources.

All stakeholders supported the proposal and urgent need to formulate a National Protected Areas Concessions Management Policy. The consultant compiled, collated, analysed and synthesized the information from all the sources and formed the body of this policy document. The Policy therefore takes into account the interests of the diverse stakeholders, in order to avoid conflict and ensure consistency with long-term protected areas conservation goals. The policy framework establishes mechanisms for regulating and coordinating the various players, interests and activities, in ways that would satisfy tourist's needs and ensure greater future for the national protected areas.

One of the stakeholder's meetings was held on December 19, 2011 at Telecom House with a good selection of stakeholders in the sector including development partners, the public and private sectors, as well as the private sector federation (PSF). The meeting was broadly positive towards the policy, with a number of specific comments made. After this meeting, the draft was shared as well with some potential experts and investors; they also gave comments that were also considered in this document.

The views of the stakeholders were integrated into the final document. The following were agreed on the questions that were asked during the general workshop:

- Who owns the structures and infrastructure built by the concessionaire on concession land? What legal rights do they have over these facilities; especially if/when the contract is terminated?

It has been agreed that the structures and infrastructure developed under the concession is owned by the concessionaire during the contract terms period, and then after they become Government properties, they have argued that the ownership should be perceived in the

investors' point of view – the most important is the return on the investment rather than the ownership.

- The policy should recognise the benefits of economic development within the protected area and should seek to balance the protection and enhancement of protected areas through economic development within the concession areas. This view was taken into account during the development of this policy.
- The accompanying “Concessions Guidelines” document will be an important component, by defining the specific rules that concessionaires must adhere to and as such, is fundamental; the guidelines cannot be revised “as determined by the government agency”. It creates tremendous risk for any investor. We need a reliable and stable concession policy that we can take to the bank.

It has been agreed during the workshop that **the concession contract** can be used to raise funds and therefore it can be taken to the bank. The participants have recommended that concessions guidelines can be revised in consultation with stakeholders when necessary by the government agency.

- 20 years is too short, for investment in lodging facilities such as those planned for Akagera, the minimum concession period should be 30-40 years, and it should be extendable by default unless certain agreed upon hurdles are not met.

The participants have agreed that the years should be based on the concession business plan as it must indicate the payback period of the project and it can be negotiable in case the 20 years is short compared to the payback period and the investment portfolio.

- The proposed policy must include a statement that recognizes that most qualified applicant will be selected, based on the goals and objectives of the concession policy (tourism development, funding for local communities, funding for conservation). This view was taken into account during the development of this policy.
- We cannot have the government agency deciding what is properly priced and what is not. They need to allow the business to run freely to determine its own value.

The business will be run freely and we only requested that the concessionaire share the rates with the government agency. As partners in the development of the destination; we feel that pricing can be discussed only in the event that this is affecting negatively the destination. This should not be viewed as government pricing control.

- The policy must give the concessionaire the ability to operate its business freely and in the best interest of the investors without being overwhelmed with oversight from the government agency. There is no need for submitting operational performance rating reports to the government agency.

There is no consensus on this, our view is that it must be submitted to the government agency to follow the viability of the business and not be surprised later that the business is not making profit. It is not unusual to share audited financial reports to partners and moreover this will be needed during the payment of the concession fee which is based on the actual revenues.

- There will be a comprehensive contract in place. The government agency can conduct inspections at will. If the concessionaire is out of compliance with the contract, there should be notification with a timeframe to cure the default. If the default is not cured within the established timeframe, it is grounds for cancellation of the contract.

The above comments are valid and it follows the business operations best practices. The inspections will be conducted where necessary but does not justify any submission of report as mentioned above.

- One item that complicates the policy somewhat is the unusual arrangement with African Protected areas Network. At Akagera, the park is managed by a non-government entity that has its own system of concessions contracting, including their own concessions contract. Does the government agency want to delegate any of these responsibilities to Africa Park Network (APN)? If APN develops and funds a concessions operation, as they are anticipating doing, will they have to go through the contracting process, or will the third option (direct award) be used?

The African Protected areas Network is in partnership with the Government of Rwanda and signed a co-management agreement to manage efficiently the Akagera National Park. In other

words, both ‘shareholders’ i.e. Rwanda Government and APN created the Akagera Management Company. The latter is the one managing the park and not APN. According to this concession agreement, APN will not allow concession but solely the government Agency. The latter will work closely with park entities like AMC which guides all infrastructures in the parks according to the Park General Management Plan. If the government agency was to delegate, it would do so to the park management and not to a shareholders in this case APN. The guidelines and contract processes and formats of this concessions management policy will be uniform in all protected areas.

## 7. IMPLEMENTATION PLAN

To ensure that this policy is systematically implemented, implementation policy shall be guided by a plan which shall be developed in a participatory process, involving both Government and non-government stakeholders. This policy shall be implemented at two levels:

- **Supervisory Level:** The supervisory role shall be performed by MINICOM, the Ministry responsible for Tourism and Conservation. MINICOM will provide the overall policy guidance and supervision, and monitor how it is being implemented in relation to other national policies. This should be done with the advice and consultation of arms of government that are responsible for overall national policy, and other relevant sectors that manage or have an impact on components of biodiversity, such as wildlife management, agriculture, tourism cultural sites, water among others.
- **Technical Level:** RDB, the designated implementing agency for Tourism development and Conservation of protected areas policies, will be responsible for technical operations and coordination with other agencies. RDB in collaboration with other Government agencies, Private Sector and Civil Society, shall develop a strategy for implementing the National Protected Areas Concessions Management policy.

Once Cabinet approves the Concessions Policy, the Rwanda Development Board (RDB) will establish a Concessions Management Unit under its Tourism and Conservation Department.

The Policy will be implemented by the use of Concessions Management Guidelines. The Guidelines will include extensive explanatory materials, procedures, forms and templates for concessions planning, contracting, operations and maintenance, and concessionaire operating standards, inspections and evaluations.

A protected area concessions implementation plan will be formulated to ensure that concessions are well identified, developed and managed in accordance with the Policy. Concession opportunities will generally be identified as follows:

- The government agency will identify, through the individual protected area General Management Plans, Tourism Development Plans, and/or Concessions Management Plans, sites and/or opportunities for specific types of concessions;
- The range of recreational opportunities and acceptable activities will be classified according to protected area management zones and the objectives for which they are being managed.
- Where there are possible conflicts between the identified concessions with other forms of land use, consultation with other stakeholders and consideration of long-term local, regional and national socio-economic costs and benefits, environmental impacts or benefits will be essential.

## **8. FINANCIAL IMPLICATIONS**

This policy will not have significant budgetary expenditure implications outside of RDB resources. Through the awarding of concessions, Government will receive concession fees as well as taxes from the concessionaires. In addition, current operational costs of publicly owned and managed facilities will be transferred to private sector operators or managed under PPPs.

## **9. LEGAL IMPLICATIONS**

No additional laws or reforms are required under the Concessions Policy. The Tourism Law provides the legal framework for this Policy in addition to existing national legislation.

## **10. IMPACT ON BUSINESS**

The Concessions Policy is designed to increase private sector investment in protected areas in a way that ensures environmental sustainability. The Policy provides private investors with a legal and secure tenure to start and operate profitable business within a protected area for a specified timeframe. This provides the investor with a secure investment environment and the opportunity to enjoy competitive returns on capital.

Concessions activities generally lend themselves to high-end tourism activities that attract a small number of high-value visitors, although government values a balanced approach to concessions development that allows for a wide range of potential operators. Through the promotion of this type of tourism, global visibility of Rwanda as a tourist destination will be improved.

## **11. IMPACT ON EQUALITY, UNITY AND RECONCILIATION**

Concession Agreements, as stated in the Policy, will include detailed capacity building plans designed by the concessionaire in whom the impact on local communities may be assessed according to issues of gender, equality, unity and reconciliation. They may be also be awarded directly to communities in or adjacent to a protected area, or to joint community / private sector partnerships. This will provide that community with the opportunity to generate income and employment, learn new skills and become involved in modern business. They help people to value their own culture while still conserving the area in which they and wildlife live.

Concession authorisations will allow micro, small and medium enterprises – predominantly led by women and youth – to flourish in protected areas by offering products and services.

Preference will generally be given to awarding concessions to communities immediately in or adjacent to a park where such opportunities have the potential to provide the greatest socio-economic impact at a local level. These communities can have the greatest impact on the park while they are also likely to be the most negatively affected by wildlife or by loss of access to land and resources.

## **12. HANDLING PLAN**

Once Cabinet has approved the Policy, it will be posted on the websites of MINICOM, RDB and MINAFFET.

MINICOM and RDB will disseminate the policy to all stakeholders by holding seminars and workshops at both national and regional levels. The policy will be made available to applicants for concessions agreements as part of the tender process.