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LAND PROJECT, RWANDA

**Review of the Draft Law Relating to the Land Surveying
Profession in Rwanda and Revised Draft Law
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REVIEW OF THE DRAFT LAW RELATING TO THE LAND SURVEYING PROFESSION IN RWANDA AND REVISED DRAFT LAW

July 2014

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EXECUTIVE SUMMARY

This report reviews the draft Law Governing Land Surveying Profession in Rwanda (Draft Law) and provides a revised Draft Law. The report and revised Draft Law are prepared by the USAID-Rwanda LAND Project at the request of the Rwanda Natural Resources Authority (RNRA). In conducting the review and drafting the proposed revisions, the authors considered: Rwanda's legal framework for land and administrative procedure; comparable law of other African and non-African countries; and the structure of surveyors' associations in various countries and at the international level.

The Draft Law was prepared pursuant to Article 65 of the 2013 Land Law, which provides for separate laws to govern the profession of surveying and demarcation and modalities of the surveying and demarcation practice. The Draft Law establishes an Institute that serves both as: 1) a professional association responsible for supporting the country's surveyors; and 2) a regulatory body that grants and denies the required professional certification of land surveyors and enforces surveying standards.

Because the Director of Land Surveys will serve in a leadership position in the Institute, the authors note that the Institute will be an autonomous, quasi-governmental organization. Because the Institute will be subject to obligations of constitutional and administrative law, prior to finalizing the draft law, the government body responsible for overseeing the land surveying functions should be consulted to ensure that the Draft Law includes an appropriate foundation for government oversight of the Institute.

The report builds on the Draft Law with suggestions designed to:

- Clarify the legal status of the Institute;
- Clarify the relationship between the Institute and the Regulatory Council;
- Suggest that the Institute have a single governance body;
- Delineate the functions of the Institute as both a professional association and regulatory body;
- Clarify the difference between certification and registration of land surveyors;
- Distinguish between provisions appropriately in a substantive law versus those better suited for regulations or internal rules;
- Strengthen provisions regarding the right to seek review of decisions by the Institute; and
- Limit some of the government's engagement in the Institute in order to create a foundation for a more autonomous organization.

Attention to creating a solid foundation for the Institute of Land Surveyors and planning for its evolution will be time well spent. A properly functioning Institute can support and encourage high standards of professionalism among Rwanda's land surveyors. Professionalism promotes predictability in land information and helps build public confidence in land rights and the processes of land administration. Rwanda's Institute of Land Surveyors can play a significant role in increasing tenure security and promoting

the development of quasi-governmental organizations that serve the interests of the government, private enterprise, and the country's citizens.

1.0 INTRODUCTION

The five-year Rwanda LAND Project seeks to strengthen the resilience of Rwandan citizens, communities, and institutions and their ability to adapt to land-related economic, environmental, and social change. The project has two main components:

1. Increased capacity of local Rwandan institutions to generate high-quality evidence-based research on land related issues and Government of Rwanda (GOR) laws and policies; and
2. Increased understanding of land laws, policies, regulations, and legal judgments on land-related issues by GOR officials, local civil society organizations, research institutes, and citizens.

During the second year of operations, the Project's GOR counterpart prioritized reviewing key pieces of land legislation. During a meeting between the project and the Rwanda Natural Resources Authority (RNRA), the parties agreed to divide the activity into two tasks: 1) reviewing land-related draft laws and regulations to address their legal soundness and implications; and 2) drafting new regulations provided for in the 2013 Land Law. The first task includes review of the following drafts:

1. Law on expropriation;
2. Law organizing land surveying and demarcation profession and modalities of its practice; and
3. Ministerial order determining modalities and procedures for land registration and cancellation of land registration.

This report is the second in the series, reviews the draft law governing the land surveying and demarcation profession.¹ In conducting the work, the authors reviewed:

- Draft Law Governing Land Surveying Profession in Rwanda (Draft Law), and the Explanatory Note for the Draft Law Governing Land Surveying Profession in Rwanda (Explanatory Note);
- Rwandan legal framework for land and administrative procedure;
- Comparable law of other African countries, including Kenya, Uganda, Ghana, and Tanzania;
- Comparable law of other non-African countries, including Australia; and
- Information regarding the authority, governance, and operations of surveyors' associations in various countries and at the international level.

The authors also met with stakeholders and obtained feedback on proposed revisions in Kigali in June 2014.

¹ In accordance with the Draft Law, this report and the proposed revised draft law use references to "surveying" and the "surveying profession" to refer to surveying and demarcation.

The report is organized to provide a brief overview of principles of legislative drafting and review applied in Section 2. Section 3 gives an overview of the Draft Law, and Section 4 discusses the Draft Law by chapter and article. Section 5 summarizes and concludes. A revised Draft Law, which adopts the proposed changes, is attached as Appendix 1.

2.0. OBJECTIVES AND PRINCIPLES GOVERNING REVIEW

The overall goal of this review is to analyze the extent to which the proposed legislation, as drafted, effectively and efficiently accomplishes its legislative purpose. To that end, the review considers the:

- Substantive content of the legislation in relation to its objectives;
- Conformity of the legislation with Rwanda’s legal framework and other informing sources and institutions;
- Possible primary and secondary effects of the legislation;
- Alternatives and options for additions to the legislation; and
- Clarity of the terminology, language, and syntax used.

In conducting the review, the authors considered examples of law and experience from other East and West African countries (Kenya, Uganda, Tanzania, and Ghana) and, to the extent useful, law and experience from non-African jurisdictions, especially Australia.

The analysis and suggestions regarding terminology, language, and syntax relate to the English version of the Draft Law. The authors recognize that in many cases, ambiguity and issues with syntax in the English version may not exist in the Kinyarwanda and French versions. Likewise, the recommendations for revisions to the English version may have more limited application to the other versions.

3.0 OVERVIEW OF DRAFT LAW

The Draft Law is prepared pursuant to Article 65 of the 2013 Land Law, which provides for separate laws to govern the profession of surveying and demarcation and modalities of the surveying practice. The Draft Law outlines a governance structure for the profession in the form of a new Institute of Land Surveyors (Institute) and Council of Regulation (Regulatory Council). The Institute serves as a professional association responsible for supporting the country’s surveyors. The Regulatory Council, a body that includes the GOR Director of Land Survey and selected public and private surveyors, serves a regulatory function. The Regulatory Council grants and denies the required professional certification of land surveyors. The Regulatory Council also enforces surveying standards through exercise of its power over certification and authority to sanction surveyors, including revocation of certification. The intended relationship between the two bodies is somewhat ambiguous in the Draft Law.

In many countries, including Tanzania and Kenya, control over the surveying profession is divided between two distinct bodies: a governmental or quasi-governmental regulatory body (often a licensing board); and a private (often nonprofit), professional association.² However, it is also possible to have a single entity serve both functions—a structure that allows for some efficiencies. For example, Uganda’s Land Surveyors Registration Bill, 2013, creates a Land Surveyors Registration Board that has substantial governmental powers in addition to establishing a professional code of ethics, which

² See Institution of Surveyors of Kenya. <http://www.isk.or.ke/> and the Institution of Surveyors of Tanzania. <http://www.surveyors.or.tz/>.

would often be a responsibility of a professional association.³ Based on the content of the Draft Law and the authors' understanding of the intent of the drafters, this review adopts the vision of a single entity: an Institute that includes a regulatory body, the Regulatory Council,⁴ and a professional association.

If a single body, the Institute, is envisioned, it will most likely be classified as a quasi-governmental entity because it has elements of both private and public entities.⁵ The Institute is a mandatory professional membership organization that includes individuals who are not government employees, and it has a regulatory function that impacts the fundamental right of individuals to engage in their choice of profession (Constitution, Art. 37). As such, the operations of the Institute require government oversight, which is provided, in part, through the assignment of the Director of Land Survey to the Institute's Regulatory Council.⁶ Prior to finalizing the Draft Law, a discussion about the appropriate oversight structure should be conducted with the Ministry to develop an oversight plan that is feasible for the Ministry and consistent with constitutional requirements and oversight structures applicable to other quasi-governmental bodies in Rwanda.

As a quasi-governmental organization, the Institute should operate within standards of substantive and procedural due process. Any applicable requirements of Rwanda's administrative procedure law will dictate the manner in which the Institute and its Regulatory Council engage in rulemaking, participate in development of regulations, and create procedures for evaluating land surveyor eligibility for certification and sanctioning surveyors. The Institute will have greater control over the content of the technical regulations that establish standards of practice for the profession because they do not impact constitutional rights.

The Draft Law is organized into seven chapters:

- I. General Provisions
- II. Establishment of the Institute of Land Surveyors
- III. The Council of Regulation
- IV. Registering Land Surveyors
- V. To Take Disciplinary Action
- VI. Land Surveying Profession
- VII. Final and Transitional Provisions

As these chapters indicate, the Draft Law does a good job of including the necessary categories of content. The authors suggest a minor restructuring to move the chapters on land surveyors and land surveying to follow the descriptions of the authority of the Institute and its Regulatory Council. This change places provisions addressing

³ Uganda also has a professional association, however, the Institute of Surveyors of Uganda. The proposed Board is designed to operate in cooperation with that Institute. Government of Uganda (Minister of Land, Housing and Urban Development). 2013. The Land Surveyors Registration Bill, 2013.

⁴ While the authors did not find any country adopting this structure to govern its surveying profession, the structure is common for the regulation of lawyers in the United States: many state bar associations combine the functions of professional associations and regulatory agencies and are generally closely tied to and overseen by the state's judiciary.

⁵ Quasi-governmental organizations are entities that are supported by the government but managed privately. Examples of quasi-governmental entities in Rwanda with regulatory authority are the Media High Council and the Capital Markets Authority.

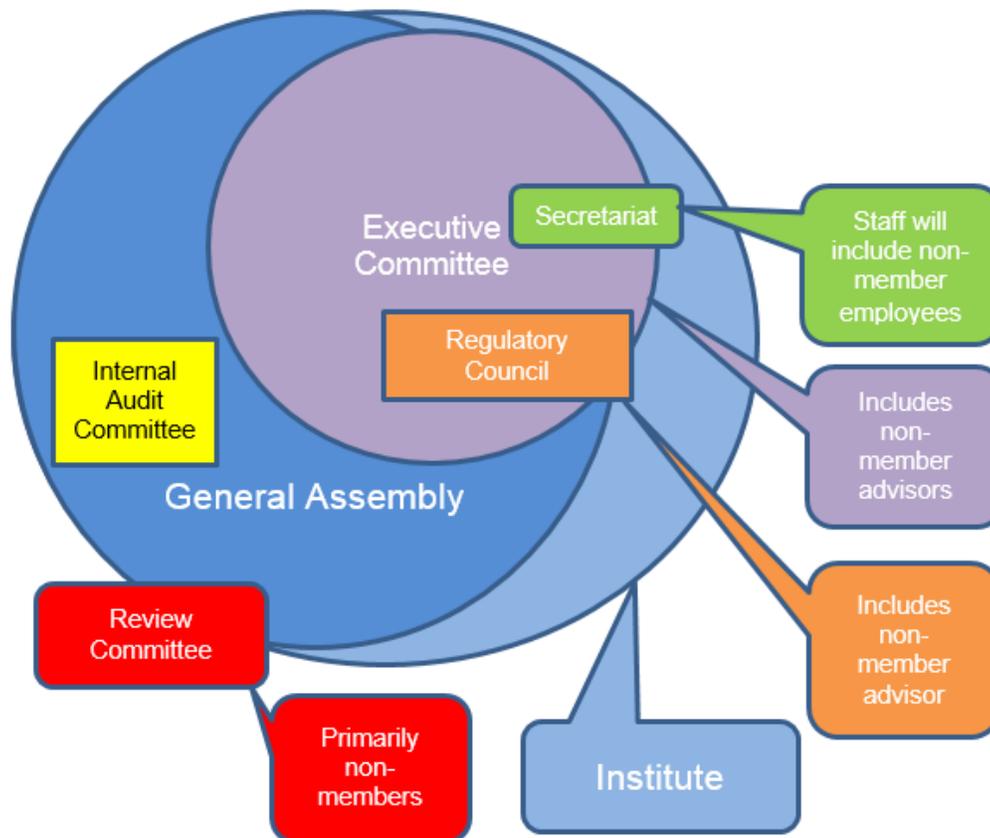
⁶ The Draft Law also provides that government appointees shall fill other Institute positions, although the discussion below suggests that there may be some value in opening all other positions to voting by the Institute's membership.

substantive rights and responsibilities before procedural provisions. The authors offer some additional provisions and revised language designed to:

- Clarify the legal status of the Institute;
- Clarify the relationship between the Institute and the Regulatory Council such that the Regulatory Council is a body within the Institute (see Diagram 1);
- Suggest that the Institute have a single governance body, an Executive Committee, which includes the Regulatory Council and Executive Secretariat;
- Delineate the functions of the Institute as both a professional association and regulatory body;
- Clarify the difference between certification of land surveyors and registration of certified land surveyors;
- Emphasize the difference between content that is best positioned in the Draft Law and content more appropriately included in regulations or internal Institute or Regulatory Council procedures;
- Make the right to seek review of decisions by the Institute a separate chapter;
- Limit some of the government's engagement in the Institute, such as the power to appoint multiple members of the Regulatory Council, in order to create a foundation for a more autonomous organization; and
- Consistent with the standards set by the Rwanda Governance Board and as recommended by stakeholders, include an internal audit committee within the Institute and separate the external review function from the Institute.

Diagram 1 below illustrates the proposed structure.

Diagram 1: Proposed Institute of Land Surveyors



4.0 REVIEW OF DRAFT LAW

4.1 DRAFT LAW: INTRODUCTORY SECTION/PREAMBLE

The introductory section of the Draft Law references the Constitution and identifies provisions relating to nondiscrimination and authority for the enactment of the Draft Law. The Draft Law also references the 2013 Land Law, with particular note to Article 65, which provides the authority for the law governing the surveying profession.

In addition to these references, the Draft Law should include reference to:

- Constitutional provisions regarding the right to free choice of employment (Article 37) and limitations on government interference with that right (Article 43); the rights of foreigners (Article 42); and the powers of appointment within the Executive branch (articles 113 and 118).
- Legal authority for the establishment of a quasi-governmental organization and applicable administrative procedure standards, including Law No. 21 of 14/06/12 Relating to the Civil, Commercial, Labor and Administrative Procedure.

The introductory section also identifies the 2005 Environmental Law, Article 5 and 9. Neither of the referenced articles appears to relate to the purpose or content of the Draft Law and should be checked for application. If there is no connection, the reference to the Environmental Law should be removed.

4.2 DRAFT LAW, CHAPTER I: GENERAL PROVISIONS

Purpose statement. The Draft Law does not include a statement of its purpose. Especially in this case--where the law will be establishing a unique entity with several distinct purposes and some quasi-governmental regulatory powers--a purpose statement can help guide readers as to the legislative intent. The Draft Law also anticipates promulgation of regulations governing both the technical requirements of the profession and the Institute's operations, and a purpose statement will help ensure that the regulations are consistent with the intent of the authorizing law.

An example of a statement of purpose based on the content of the Draft Law is:

The objective of this Law is to establish an autonomous, self-funded national entity with responsibility to:

- *Ensure that Rwanda's land surveying profession establishes, maintains, and promotes professional standards in the practice of the profession;*
- *Build and maintain public confidence in Rwanda's surveying profession; and*
- *Promote the national and international development of the surveying field and surveying practices to meet challenges of poverty alleviation, economic growth, and environmental sustainability.*

This sample purpose statement identifies the broad goals of the creation of the Land Surveyors Institute and, in the third statement, references principles of Rwanda's legal framework governing land and natural resources and the African Union's Framework and Guidelines on Land Policy in Africa.

Article 1: Scope of the law

Article 2: Land Surveying

Both Article 1 and Article 2 describe the scope of the Draft Law, with Article 2 focused on the application of the Draft Law to surveys of the three types of boundaries. These two articles can be combined under the heading, "Scope of the law." An example of how the content can be combined is set out below:

Article 1: Scope of the law

This law establishes a body to govern the profession of land surveying in Rwanda.

This Law and regulations drafted under this Law apply to the practice of surveying “fixed boundaries” and “general boundaries” and to all persons and entities engaged in the practice of surveying “fixed boundaries” and “general boundaries.” This Law and regulations drafted under this Law do not apply to the practice of surveying “open boundaries” or to persons and entities engaged in surveying “open boundaries.”

Article 3: Definitions

The Definitions in Article 3 do a good job of identifying many of the terms used in the Draft Law that have special meaning, such as “fixed boundaries” and “general boundaries.” The proposed revisions to this article retain all of those terms.

At various points in the Draft Law, there are references to the authority of a “Board of Directors,” “Board,” “General Assembly,” and the “Council.” The language in the Draft Law referencing these terms suggests that they had their origins in legal frameworks of other countries governing government agencies and multiple entities. In this case, as noted above, the overall intent of the Draft Law appears to be to create a single, quasi-governmental organization. Accordingly, the authors suggest revisions designed to clarify that intent, beginning with the defined terms in this article.

In addition, the suggestions below combine the Regulatory Council and Board of Directors into a single governing body within the Institute, and eliminate the Board of Directors. Separate governing bodies within the Institute are potentially problematic because of the overlap of members with leadership positions within the Institute and the power vested in the Regulatory Council. Combining these functions within one executive body that includes the Regulatory Council and Institute management (Executive Secretariat) will help avoid the problem of parallel governing structures in an organization, and the inevitable confusion over roles and authority that often accompanies structures where there are two governing bodies in a relatively small organization. For purposes of this review, the authors use the term, “Executive Committee” to designate the governance and management body within the Institute.

The revisions suggested below: 1) add some terms; and 2) adjust the format so that it is the same as used in the draft law on expropriation; and 3) and alphabetize the entries.

For the purpose of this Law, the following terms shall be defined as follows:

Council: *is the Institute’s Regulatory Council, which is within the Institute’s Executive Committee.*

Executive Committee: *is the governance and management organ of the Institute and includes the Regulatory Council and the Executive Secretariat.*

Fixed boundaries: are precise positions of the boundaries.

General Assembly: is the group of all members of the Institute who are in good standing. The General Assembly does not include non-member employees of, or advisors to, the Institute.

General boundaries: are positions that follow natural features and which can be revised.

Institute: is the Institute of Land Surveyors.

Land surveying: is any practice involving: the determination of location of land parcel boundaries; preparation of maps showing the shape and area of land parcels and their subdivisions; preparation of maps showing the layout of roads, streets and rights-of-way to give access to land plots; and the preparation of land maps.

Minister: is the Minister having land in his or her attributions.

Malpractice: is the breach by a member of a profession of a standard of competence, care, or conduct.

Open boundaries: [to be added]

Register: is the list of certified surveyors that the Institute of Land Surveyors creates and maintains.

Registered surveyor: is a certified surveyor who is listed on the register maintained by the Institute of Land Surveyors. A registered surveyor may be either a: 1) government or public surveyor; or 2) private land surveyor.

4.3 DRAFT LAW, CHAPTER II: ESTABLISHMENT STRUCTURE OF THE INSTITUTE OF LAND SURVEYORS

The articles in Chapter II cover the creation of the Institute of Land Surveyors, its purpose, and its governance structure. The suggestions to the chapter set out below are designed to clarify the content of the chapter and the structure and governance of the Institute. The following suggestions are made in the text below:

- In Article 4, there should be a statement as to the legal status of the Institute, *i.e.*, a quasi-governmental organization.
- Surveyors should be required to be members “in good standing” of the Institute; that addition may help encourage surveyors to pay any membership fees and resolve any disputes that might affect their membership status.

- In Article 7, the proposed responsibilities of the Institute include: the development of standards and procedures; technical assistance to the appropriate governmental body with drafting regulations; creation of a system of self-regulation (e.g., reporting procedure, investigation procedure, decision-making, assessment of sanctions); and other responsibilities designed to accomplish the goals of the Law.
- The review retains the term, “General Assembly,” but defines it as all members of the Institute who are in good standing. In the Draft Law, the General Assembly does not have any functions other than to appoint the Executive Secretariat, which is best done by the Executive Committee. However, the General Assembly is best suited to make initial nominations of candidates for some positions, and once the Institute is operational, can also approve a variety of actions of the Executive Committee, including proposed budgets and annual reports.
- The review removed the references to the Board of Directors and the Board because they appeared to be adopted from other laws that relate to different governmental and nongovernmental structures.

These suggestions are set forth in the redlined version of the chapter below:

CHAPTER II: ESTABLISHMENT, FUNCTIONS, AND GOVERNANCE STRUCTURE OF THE INSTITUTE OF LAND SURVEYORS

Article 4: Establishment of the Institute

An Institute of Land Surveyors, referred to as the “Institute” in this Law, is hereby established in Rwanda.

The Institute shall commence its activities within ninety (90) days from the publication of this Law in the Official Gazette of the Republic of Rwanda.

The Minister in charge of lands shall convene and chair the first meeting to launch the Institute. .

The Institute shall be an autonomous, self-funded quasi-governmental organization.

The Institute shall have the authority to operate as:

- A professional association of land surveyors; and*
- A regulatory body that has the power to set and enforce standards of practice for the profession of land surveying in Rwanda.*

Article 5: Required membership

Except as provided in Article [__] (Scope of law), any person engaged in the practice of land surveying in Rwanda must be a member of the Institute in good

standing.

Article 6: Head office of the Institute

The head office of the Institute shall be located in Kigali, the Capital City of the Republic of Rwanda, unless the Institute's Executive Committee and Minister with responsibility for land jointly decide that relocation is necessary for the accomplishment of the Institute's purposes..

Article 7: Authority and responsibilities of the Institute

The Institute shall strive to achieve the purposes of this Law through execution of the following responsibilities:

- 1. To develop professional standards, procedures, and guidelines governing the land surveying profession in Rwanda;*
- 2. To assist in the development of regulations governing the surveying profession and practice of surveying;*
- 3. To create and maintain a comprehensive system for regulation of the profession that promotes professionalism and accountability of the profession to the public;* *4. To provide a professional forum for the analysis of surveying issues and the exchange of information, experience, and best practices relating to surveying to support the professional development of individual members and the enhancement of the profession; and*
- 5. To promote the surveying profession nationally and internationally.*

Article 8: Organs of the Institute

The Institute of Land Surveyors shall include the following organs:

- 1. General Assembly;*
- 2. Executive Committee;*
- 3. Regulatory Council;*
- 4. Executive Secretariat; and*
- 5. Internal audit committee.*

The General Assembly is a group of all members of the Institute who are in good standing.

The Executive Committee directs the Institute's activities to achieve its purposes and objectives and oversees the Executive Secretariat.

The Regulatory Council executes the Institute's regulatory functions and is a

division of the Executive Committee.

The Executive Secretariat is responsible for the day-to-day management of the Institute's operations.

The Internal Audit Committee conducts annual audits of the Institute's operations.

4.4 DRAFT LAW, CHAPTER III: THE COUNCIL OF REGULATION

Chapter III sets out the composition and functions of the Executive Committee and the Regulatory Council. As noted in the overview of the Draft Law (Section 3 of this report), some of the content in this chapter appears to be based on an organizational structure under which the Regulatory Council is a separate governmental body. Many of the revisions suggested are adjustments designed to: 1) create an Executive Committee with overall authority to manage the Institute's activities; and 2) embed the Regulatory Council within the Executive Committee of the Institute so there is a single governance body within the Institute.

The revisions additionally suggest that the Executive Committee include both regular members and advisory members. Within this structure, the Executive Secretariat and a lawyer—neither of whom is necessarily a surveyor or a member of the General Assembly--will be able to attend meetings. Executive Committee procedures can include rules such as the rights of advisory members (e.g., no vote).⁷

The composition of the Regulatory Council mirrors to some degree the composition of the Executive Committee. This overlap is a consequence of the assumption that in the initial years of the Institute, there may be a limited number of people qualified for and able to take leadership positions. As the institute grows, the two groups can be further separated. Until then, the Executive Committee and Regulatory Council cannot have oversight authority over each other. An oversight plan should be adopted by the Ministry governing land and land surveys in conjunction with the decision whether to create a governmental agency or quasi-governmental organization.

The highlighted sections of the chapter are candidates for regulations or internal Institute rules because they are procedural matters relating to the internal functioning of the Executive Committee and Council.⁸

⁷ Diagram 1 depicts this organizational structure, showing the composition of the Executive Committee and its sub-groups to include individuals who are not necessarily surveyors and thus not members of the General Assembly.

⁸ In some cases, the report suggests including procedural provisions within the law, as opposed to separate regulations. The distinction made is between those procedural provisions that potentially impact constitutional or otherwise fundamental rights (such as rights to procedural due process) and those that are less likely to do so. The former category of procedures are best referenced, at least in general terms,

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CHAPTER III: THE COMPOSITION AND FUNCTIONS OF THE INSTITUTE'S EXECUTIVE COMMITTEE AND REGULATORY COUNCIL

Article 10: Establishment of the Executive Committee and Regulatory Council

During the initial meeting of the Institute, the Institute's Executive Committee and Regulatory Council shall be created in accordance with this chapter and any regulations and rules.

Article 11: Composition of the Executive Committee

The Executive Committee shall consist of nine (9) regular members and two (2) advisory members. The regular members are:

- 1) The Director of Land Surveying within the public institution having land management in its attributions; and*
- 2) Eight (8) certified⁹ surveyors in good standing, four (4) of whom are in private practice and four (4) of whom are in government practice.*

The General Assembly of the Institute shall elect all eight (8) of the certified surveyors for the Executive Committee seats.¹⁰ The registered surveyors elected shall serve for five (5)-year terms. Executive Committee members must be people of integrity, with a working experience of not less than three (3) years in surveying or another land-related field. They must be current members of the Institute in good standing and their current profession must be related to land surveying. Retired land surveyors who are members of the Institute are also eligible for Executive Committee seats.

Advisory members of the Executive Committee shall be:

- 1. The Executive Secretariat of the Institute; and*
- 2. An advocate practicing in the field of real estate nominated by the Rwanda Bar Association and acceptable to the members of the Council.*

The Executive Committee's regular members shall nominate a Chair by majority vote.

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in the law itself to ensure that those rights are recognized and appropriate procedural processes created and implemented.

⁹ This provision references the requirement of certification as opposed to registration because it is likely that the Institute will be creating its Executive Committee and subordinate bodies prior to the time when the register is created. Once the register is created and certified surveyors registered, the requirement can be amended to reference "registered surveyors."

¹⁰ Rules regarding quorums, voting, and election requirements should be set forth in regulations.

Article []: Composition of the Regulatory Council

The Regulatory Council shall consist of seven (7) regular members and one advisory member. The regular members are:

- 1) The Director of Land Surveying within the public institution having land management in its attributions; and*
- 2) Six (6) Executive Committee members, three (3) of whom are in private practice and three (3) of whom are in government practice.*

The General Assembly shall elect the six (6) Executive Committee member surveyors for the Regulatory Council seats.

The advisory member of the Regulatory Council is the advocate serving as the advisory member of the Executive Committee.

The Regulatory Council shall nominate a Chair by majority vote.

[As noted in the comments on this chapter, the content highlighted may be considered for placement in regulations of internal procedural rules.]

Article 12: Term for Executive Committee members and Chair

Executive Committee members serve five (5)-year terms, unless earlier terminated. Executive Committee members can be re-nominated for successive terms, but for no more than a total of two successive terms. Initial terms shall be set so that the members' terms are staggered in order that no more than half the members are new in any given year.

The term of an Executive Committee member shall come to an end if:

1° he/she dies;

2° his/her term of office expires;

3° he/she resigns in writing;

4° he/she cannot perform his/her duties for medical reasons;

5° he/she is sentenced to a term of imprisonment equal to or more than six (6) months without suspension;

6 ° he/she is absent from three (3) Executive Committee meetings in a 12-month period without sound reasons;

7 ° he/she engages in misconduct or obstructs the interests of the Executive Committee;

8 ° he/she confesses and pleads guilty of the crime of genocide;

A member of the Executive Committee wishing to resign shall do so in writing to the Chair and give a thirty (30) day notice.

If a member of the Executive Committee leaves office before the end of his/her term, the membership of the Institute shall nominate a substitute for the remainder of the term.

The Chair shall serve a term of three (3) years.

Article 13: Executive Committee meetings and procedures

Members of the Executive Committee shall meet once a quarter and whenever necessary. Five (5) regular Executive Committee members are required for a quorum.

Decisions are taken by consensus of the regular members of the Executive Committee. If no consensus can be reached, majority vote will decide. Members of the Executive Committee can invite anyone with expertise to its meetings depending on the agenda. The invited person shall neither vote nor attend deliberations on other items on the agenda.

Article 14: Decisions and minutes of Executive Committee meetings

Resolutions of Executive Committee meetings shall be signed by all members in attendance at the end of each meeting. A copy of the resolutions shall be submitted to the Minister in charge of lands within five (5) working days for his/her comments. The Minister shall communicate his or her comments to the Executive Committee within fifteen (15) days of receipt.

If no comments from the Minister are given within that period, the resolutions shall be deemed approved.

Minutes of Executive Committee meetings shall be signed by the Chair together with the Rapporteur and adopted at the next meeting. A copy of the minutes shall be submitted to the Minister in charge of lands within fifteen (15) working days from the day of its approval.

Minutes of the Executive Committee meetings and copies of all resolutions and decisions shall be communicated to the membership of the Institute of Land Surveyors.

Article 15: Executive Committee members' sitting allowances

Members of the Executive Committee attending an Executive Committee meeting shall receive a sitting allowance as determined by a majority vote of the General Assembly.

Article 16: Conflict of interest

A member of the Executive Committee is prohibited from being among the

members who take decisions in case the meeting is examining issues concerning him/her, those concerning his/her parents, relatives up to the second degree or in-laws up to the second degree, or any issue in which he/she has an interest.

The concerned member shall inform the Executive Committee and shall disqualify him/herself at any time the issue is under examination.

Article 17: Functions of the Executive Committee

The Executive Committee shall have the following functions:

- a. *Oversight of the management of the Institute.*
- b. *Establish standards of practice. The Executive Committee shall: i) develop professional standards, procedures, and guidelines governing the land surveying profession; ii) set standards for certification of land surveyors; and iii) assist in the development of regulations governing the surveying profession and practice of surveying.*
- c. *Establish regulatory system. The Executive Committee shall develop a comprehensive system for regulation of the performance and behavior of surveyors that includes procedures for creating and maintaining: (i) a register of certified land surveyors; (ii) an audit process to monitor surveyor performance; (iii) an accessible reporting and dispute resolution system for complaints regarding surveyors and surveying; (iv) a disciplinary system; and (v) the functions of the Regulatory Council to enforce the regulatory system.*
- c. *Establish a system for review of Institute and Regulatory Council action. The Executive Committee shall create a system for review of Institute and Regulatory Council actions that includes a Review Committee to hear requests for review of Institute or Regulatory Council action.*
- d. *Set certification and membership fees. The Executive Committee shall set the following fees: a) application for certification; and b) Institute membership. Fees shall be set at a level that supports the Institute's operations.*
- e. *Provide input into surveying fees. The Executive Committee shall have input into the decision by [Ministry] regarding the schedule of fees for land surveys.*
- f. *Establish Institute programs. The Executive Committee shall create Institute programs designed to achieve the objectives of the Institute, including developing programs to educate the public regarding the Institute and provide Institute members with continuing education opportunities, a mentoring program, and technical resources designed to support continuous professional development.*
- g. *Monitoring, evaluation, and reporting. The Executive Committee shall*

create and implement a plan for monitoring and evaluating the Institute's operations, including the Regulatory Council, on an ongoing basis and reporting the results to the Institute's membership and the ministry with responsibility for land and land surveys. The monitoring, evaluation, and reporting shall be in addition to the responsibilities of the Internal Audit Committee.

In exercising its authority, the Executive Committee may establish task forces of Institute members and others to conduct research and analysis and advise the Executive Committee on relevant considerations, options, and best practices.

The functions of the Executive Committee and its subordinate bodies shall be designed and executed in a manner that complies with all legal requirements applicable to a quasi-governmental, self-funded regulatory organization.

Article []: Functions of the Regulatory Council

The Regulatory Council shall have the following functions:

- a. Certify land surveyors. The Regulatory Council shall: i) evaluate and render decisions on individual applications for certification of qualification to practice; and ii) issue certificates of qualification to practice for land surveyors.*
- b. Enforce standards of practice. The Regulatory Council shall implement the comprehensive system for regulation of the performance and behavior of surveyors, including the systems for reporting, auditing, and complaint resolution and disciplinary action.*

Article []: Composition and duties of the Internal Audit Committee

The Internal Audit Committee shall be composed of three to five members of the General Assembly. Members of the Internal Audit Committee shall not include any member of the Executive Committee. Members of the Internal Audit Committee shall be elected by vote of the General Assembly and shall serve three-year terms.

The Internal Audit Committee is responsible for conducting an audit of the operations of the Institute on an annual basis. The audit shall be conducted using commonly accepted business practice standards governing internal audits. The committee shall present the results of the audit to the Executive Committee and the General Assembly.

4.5 DRAFT LAW, CHAPTER IV: REGISTERING LAND SURVEYORS

Chapter IV addresses the requirements for certification as a land surveyor and the Institute's registration function. The suggestions for revisions include:

- Clarification of two functions of the Institute: certification of land surveyors; and registration of certified land surveyors.
- Offers the option of adding a catch-all provision to the requirements for certification that allows the Regulatory Council to exercise its judgment to deny an applicant certification for conduct that does not meet the standard of integrity in the profession. This possible addition should be considered carefully. On one hand, the provision gives the Regulatory Council greater discretion to exercise its judgment regarding the suitability of applicants. On the other hand, greater discretion often creates more opportunities for abuse of authority.
- Removal of internal procedural information, which should instead be placed in regulations or internal Institute rules.
- Removal of Article 20 (associations and collaborations of surveyors) as it is unrelated to the certification or registration of land surveyors.
- Transfer of the right to review to a subsequent chapter addressing the issue generally.

CHAPTER IV: CERTIFICATION AND REGISTRATION OF LAND SURVEYORS

Section One: Requirements for certification

Article 18: Requirements for certification as land surveyor for Rwandan candidates

For a Rwandan citizen to be certified as a land surveyor, he/she must meet following conditions:

- a) *Hold a bachelor's degree or higher degree in land surveying or geomatics;*
- b) *Full-time participation in an authorized land surveying internship for at least two years;*
- c) *Passed an authorized land surveying certification exam;*
- d) *Has not been imprisoned more than six (6) months;*
- e) *Has not been dismissed from a professional association of land surveyors in Rwanda or another country;*
- f) *Is not in bankruptcy; and*

[for discussion: g) Has not engaged in any other conduct under circumstances that in the judgment of the Regulatory Council falls below the standards of personal and professional integrity expected in the profession.]

Article 19: Certification of foreigners

A foreigner who seeks certification to practice land surveying in Rwanda must:

- a) Meet the requirements set out in Article 18;*
- b) Hold a land surveyor's certificate or its equivalent from another country;
and*
- c) Present a recommendation letter from the Institute of land surveyors or professional association of surveyors from another country.*

Article 2: Land surveyor certification

In accordance with this Law and any regulations or rules issued under this Law, and upon payment of any required fees, the Regulatory Council will certify every surveyor who meets the requirements of certification set forth in this Law.

Every surveyor who is certified under this Law shall be considered a "certified land surveyor" and shall have all the rights and responsibilities of that status.

The Regulatory Council shall issue land surveyor certificates to all certified land surveyors.

The Regulatory Council shall certify a land surveyor for an indefinite period, to continue so long as a land surveyor is in compliance with this Law, any regulations, and the rules and procedures of the Institute, including the payment of mandatory fees.¹¹

The Institute shall include the names of all certified land surveyors on its register of certified land surveyors in accordance with Chapter IV below.

Article 23: Cancellation of land surveyor's certification

The Regulatory Council may cancel a land surveyor's certification upon a finding of one or more of the following conditions:

- a) The land surveyor obtained the certification under false or fraudulent conditions;*
- b) The land surveyor has not paid the mandatory fees for membership in the Institute or to obtain or maintain his or her certification; or*

¹¹ In the event that the Institute elects to require surveyors to meet any on-going continuing education requirements during their careers, that requirement can be referenced here.

c) *The land surveyor has failed to meet the standards of professionalism set by the Institute, as determined by the Executive Committee or its subordinate bodies.*

Art. []: Right to review of cancellation decision

A land surveyor has the right to seek review of a decision of the Executive Committee or the Regulatory Council to deny a surveyor certification, to decertify a surveyor, or to otherwise cancel a surveyor's certification.

A surveyor can seek review on the grounds that he or she believes that: 1) the Executive Committee or Regulatory Council based its decision on erroneous or inappropriate information; 2) the information on which the Executive Committee or Regulatory Council made its decision has changed; or 3) another basis deemed by the External Review Committee of the Institute to be relevant.

An aggrieved land surveyor seeking review shall proceed in accordance with the provisions in Chapter VII and Chapter VIII: Review and Appeal of Institute Action.

Section 2: Registration of certified land surveyors

Article 21: Institute register of certified land surveyors

The Institute shall create and maintain a register that includes all certified land surveyors in Rwanda. The register must include the following information for each certified surveyor:

- a) *Name of the certified surveyor;*
- b) *Surveyor's address and contact information, such as email and mobile phone number;*
- c) *Registration number for the surveyor*
- d) *Surveyor's educational history, including educational institutions, degrees, and postgraduate courses;*
- e) *Surveyor's place of employment;*
- f) *Date of surveyor's certification;*
- g) *Date of entry of the certified surveyor into the register of surveyors;*
- h) *Any complaints filed against the surveyor with the Institute or reported to the Institute; and*
- i) *Any disciplinary action taken against the surveyor by the Regulatory Council or other authority..*

Article 25: Request for review

A land surveyor who is denied registration or whose name has been removed from the register by procedures provided in this Law may seek review of the decision and apply for restoration to the register according to the procedures set up by the Regulatory Council and Chapter VIII: Review and Appeal of Institute Action.

A surveyor can seek review on the following bases: 1) the surveyor believes an error was made; 2) the surveyor contends that the reasons why the Regulatory Council denied registration or cancelled registration no longer exist or have been remedied; or the surveyor successfully challenged the Regulatory Council's decision before the Review Committee or other recognized forum.

4.6 DRAFT LAW, CHAPTERS VI AND VII RELATING TO LAND SURVEYING

Following the chapters setting out the establishment of the Institute and the Regulatory Council and the functions of those bodies, the Law should set out the rights and responsibilities of land surveyors and any general provisions regarding land surveying. Thereafter, the Law can set out the articles regarding violations of professional standards and the right to review. In order to accomplish this structural change, the authors suggest moving Chapter VI (Land Surveying Profession) and Chapter VII (Land Surveying) to the next position and create two chapters: Rights and Responsibilities of Land Surveyors (new Chapter V) and Rights and Responsibilities of the Public (new Chapter VI). The current Chapter V, "Disciplinary Actions," will follow as a new, "Systems of Professional Accountability."

The following are some of the suggested revisions to the chapter on the Land Surveying Profession:

- Creation of a general provision stating the requirements for land surveyors in Rwanda;
- Separation of the obligations of landowners and the general public from the rights and obligations of surveyors by creation of a new chapter;
- Identification (by highlighting) of a provision that is a potential candidate for a regulation;
- Removal of some repetitive provisions;
- Reorganization of the order of provisions; and
- Rename the chapter to reflect its content in more detail.

CHAPTER []: RIGHTS AND RESPONSIBILITIES OF LAND SURVEYORS

Article 31: Responsibilities of land surveyors

All persons conducting land surveys of fixed boundaries and general boundaries in Rwanda are required to be:

- a) certified by the Regulatory Council of the Institute;
- b) registered with the Institute; and
- c) Members in good standing with the Institute.

All land surveyors operating in Rwanda are required to follow the standards of technical competence and professionalism set by the Institute in the performance of their services.

Article 33: Authorization to enter land

The Director of Land Surveying within the public institution having land management in its attributions and members of the Institute and Executive Committee may enter upon any land, at reasonable hours and with any assistants necessary, for the purpose of: conducting a land survey; affixing, inspecting, repairing or moving any survey or boundary marker; or examining or inspecting the conduct of any survey.

Article 35: Requirement of confidentiality¹²

A land surveyor shall observe the requirements of confidentiality in performing services for clients. However, a land surveyor may disclose information requested by the Regulatory Council in order to perform its responsibilities with respect to the profession.

The Regulatory Council shall notify the land owner or client of the need for the confidential information. The Regulatory Council and land surveyor shall take reasonable measures to protect the information for dissemination beyond the Regulatory Council.

Article 34: Land survey report

Land surveyors shall prepare land survey reports in the format set by the Institute.

4.7 DRAFT LAW, NEW CHAPTER: RIGHTS AND RESPONSIBILITIES OF THE PUBLIC WITH RELATION TO LAND SURVEYING

¹² This regulation will require additional explanatory content when the regulations are drafted.

CHAPTER []: RIGHTS AND RESPONSIBILITIES OF THE PUBLIC WITH RELATION TO LAND SURVEYING

Article []: *Obligation to permit entry for surveying.*

Landowners, occupants, and members of the public must permit certified land surveyors and any accompanying persons to enter onto land for the purpose of conducting a land survey or work related to a survey.

Compensation shall be paid to the owner of any trees, crops, or other land improvements damaged as a result of such entry. The Executive Committee shall establish procedures for the payment of such compensation in accordance with the principles established in the land valuation provision of the law relating to the expropriation of land, or other relevant standard.

Article 37: Obstruction to land surveying

Any person who willfully obstructs or hinders any certified surveyor, or any assistant of a certified surveyor, in the performance of his or her work under this Law shall be guilty of an offense and may be prosecuted or incur civil liability.

4.8 DRAFT LAW, NEW CHAPTER VII: SYSTEMS OF PROFESSIONAL ACCOUNTABILITY

Chapter V of the Draft Law sets out the procedure for how the Institute and Regulatory Council handle reports and incidents of alleged malpractice by a surveyor. As note in the definitions, “malpractice” covers a failure to meet standards of care, competence, and conduct.

CHAPTER []: SYSTEMS FOR PROFESSIONAL ACCOUTNABILITY FOR SURVEYORS

Article []: Establishment of systems for professional accountability

The Executive Committee shall establish systems for:

- a) Receipt of complaints from internal and external sources, including the public, regarding land surveyors and land surveys;
- b) Review and investigation of complaints;
- c) Hearings on complaints;
- d) Decision-making on complaints;
- e) Issuance of sanctions;
- f) Notification to the parties regarding decisions; and
- g) Documentation and record-keeping.

The Executive Committee shall advise all certified land surveyors of the established systems and the rights and responsibilities of certified land surveyors with relation to those systems.

The procedures for the Regulatory Council's review, decision-making, and documentation on complaints shall be set forth in regulations and internal rules and shall be consistent with requirements of the Constitution and applicable law.

Art []: Public notification of systems of professional accountability

The Institute shall communicate the systems of professional accountability, including the public's right to lodge complaint and right to review, established under this Chapter to the public in a manner that is reasonably calculated to reach anyone who comes in contact with a land surveyor in the course of the land surveyor's work.

Article []: Notice to land surveyor of complaints

The Institute's system shall include a procedure for: 1) promptly and effectively notifying a land surveyor of any complaint; 2) informing the surveyor of the process for the Regulatory Council's review and decision on the complaint; and 3) informing the surveyor of his or her right to review and the process for review.

Art []: Hearing on complaint

In the event that a complaint raises an issue that, if proved, could impact a land surveyor's reputation, certification, or registration with the Institute, the Regulatory Council shall hold a hearing on the complaint. The conduct of the hearing and ~~decision~~-making shall be governed by regulation.

Article 29: Sanctions for malpractice

The Regulatory Council shall impose sanctions on a land surveyor as the Regulatory Council determines necessary to: provide a remedy for the consequences of a surveyor's failure to meet the standards of competence, care and conduct; and deter future malpractice.

Sanctions for a finding of malpractice by the Regulatory Council against a land surveyor may include any of the following, singly or in combination:

a) Admonishment of the surveyor;

b) Imposition of a fine on the surveyor

c) Imposition of requirement for the surveyor at his or her own cost to redo or repair work performed or remedy consequences of work performed;

d) Suspension of the surveyor's certificate;

e) Revocation of the surveyor's certificate; or

f) Any other action deemed by the Regulatory Council to be calculated to achieve the objective of issuing sanctions under the circumstances.

4.9 DRAFT LAW: NEW CHAPTER VIII: REVIDEW AND APPEAL OF INSTITUTE ACTION

CHAPTER []: REVIEW AND APPEAL OF INSTITUTE ACTION

Article : External Review Committee

The Institute shall establish an External Review Committee that operates separately from the Institute and provides a forum for individuals aggrieved by actions of the Institute to seek review of the Institute's action.

The External Review Committee shall have between three and five members. One member of the External Review Committee may be a member of the General Assembly. All other members shall be members of the community who are not members of the General Assembly and are not employed by the Institute.

The General Assembly shall nominate and vote on the members of the External Review Committee. Members of the committee shall serve three-year terms.

External Review Committee procedures shall be set by regulation and internal rulemaking.

Art : Right to review

Any land surveyor, applicant for certification, certified land surveyor, or member of the public who believes he or she is aggrieved by any action of the Institute or the Regulatory Council can seek review by the Institute's External Review Committee.

Art. []: Right to appeal

If a person who has sought review by the External Review Committee is dissatisfied with the Review Committee's decision, the person can take the issue to the relevant court for judicial review and resolution. Persons seeking judicial

review of Institute action in court must have exhausted their remedies at the administrative level, including seeking review by the Institute's External Review Committee.

4.10 DRAFT LAW, CHAPTER IX: FINAL AND TRANSITIONAL PROVISIONS

The articles in this final chapter are generally well conceived and clearly written. The revisions proposed relate to the transition, suggesting that the status quo regarding the practice of land surveying continue until the Institute and Regulatory Council are functioning.

Section One: Transitional provisions

Article 38: Land surveying activities prior to the establishment of the Institute.

Until the Institute regulating the profession of land survey profession is established and its Executive Committee and Regulatory Council are functioning, the profession of land surveying and current activities shall continue to be carried out as they were in the period immediately prior to the enactment of this Law.

Article 39: Certification and registration of existing land surveyors

Any person, who has been practicing as a land surveyor and who qualifies to be certified as a land surveyor under Article [] or Article [] of this Law shall apply to the Institute for certification within six (6) months from the day of the establishment of the Institute.

Section Two: Final provisions

Article 40: Drafting, consideration and adoption of this Law

This Law was drafted in English, considered and adopted in Kinyarwanda.

Article 41: Repealing provision

All prior legal provisions contrary to this Law are hereby repealed.

Article 42: Commencement

This Law shall come into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

5.0 SUMMARY AND CONCLUSION

5.1 SUMMARY TABLE OF RECOMMENDED REVISIONS

The revisions suggested in this report build on the structure of the Draft Law and comparable legal instruments of other jurisdictions. The proposed structure revises the contents of the Draft Law as follows:

Section	Title	Proposed revision
Introduction	Introductory Sections	Additional references to the Constitution and applicable law; removal of unrelated references
Chapter I	General Provisions	Addition of purpose statement; clarification of scope of law, structure of Institute, and defined terms.
Chapter II	Establishment, Functions, and Governance Structure of the Institute of Land Surveyors	Clarification of structure of Institute, its functions, and its governance structure
Chapter III	Composition and Functions of the Institute's Executive Committee and Regulatory Council	Clarification of the composition and functions of the Institute's different organs.
Chapter IV	Certification and Registration of Land Surveyors	Repositioned section; clarification of requirements for certification and registration.
Chapter V	Rights and Responsibilities of Land Surveyors	Repositioned section; separation of rights and obligations of surveyors from those of the public.
Chapter VI	Rights and Responsibilities of the Public with Relation to Land Surveying	Repositioned section; separation of rights and obligations of the public
Chapter VII	Systems of Professional Accountability	Expansion of provisions regarding professional accountability; clarification of duties of Institute
Chapter VIII	Review and Appeal of Institute Action	Separation of right of review into separate chapter.
Chapter IX	Final and Transitional Provisions	Maintained as drafted with some clarifying revisions suggested.

5.2 CONCLUSION

The revisions recommended in this report focus on creating an organizational structure for the Institute that will support its role as both a regulatory body and professional association. Because the Institute will serve in both roles, and because the Institute will have the power to certify and decertify land surveyors, the procedures adopted should meet standards of due process. In the initial years of operation, the Institute may wish to recruit other professionals to serve in some positions until the time that the Institute and its Executive Committee have sufficient members and a mature enough institutional structure to support high standards of transparency and accountability and avoid conflicts of interest.

Attention to creating a solid foundation for the Institute of Land Surveyors and planning for the evolution of the Institute over time will be time well spent. A properly functioning Institute can support and encourage high standards of professionalism among Rwanda's land surveyors. That professionalism, in turn, promotes predictability in land information and helps build public confidence in land rights and the processes of land administration. Rwanda's Institute of Land Surveyors can play a significant role in increasing tenure security and promoting the development of quasi-governmental organizations that serve the interests of the government, private enterprise, and the country's citizens.

6.0 REVISED DRAFT LAW

The highlighted sections are candidates for instructions or procedures.

DRAFT LAW N°..... OF GOVERNING LAND SURVEYING PROFESSION IN RWANDA

We, **KAGAME Paul**,
President of the Republic;

THE PARLIAMENT HAS ADOPTED, AND WE SANCTION, PROMULGATE THE FOLLOWING LAW, AND ORDER IT BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF RWANDA.

THE PARLIAMENT:

The Chamber of deputies, in its session of

The Senate, in its session of

Given the Constitution of the republic of Rwanda of June 4, 2003 as amended to date, especially in its Articles 11, 29, 30, 37, 42-43, 62, 90, 92, 93, 108, 113, 118 and 201;

Given the law n° 43/2013 of 16/6/2013 governing land in Rwanda especially in its Article 65; and

Given Law No. 21 of 14/06/12 Relating to the Civil, Commercial, Labor and Administrative Procedure,

ADOPTS:

CHAPTER I: GENERAL PROVISIONS

Article 1: Purpose of law

The purpose of this Law is to establish an autonomous, self-funded national entity with responsibility to:

1. Ensure that Rwanda's land surveying profession establishes, maintains, and promotes professional standards in the practice of the profession;
2. Build and maintain public confidence in Rwanda's surveying profession; and
3. Promote the national and international development of the surveying field and surveying practices to meet challenges of poverty alleviation, economic growth, and environmental sustainability.

Article 2: Scope of the law

This law establishes a self-funded body to govern the profession of land surveying in Rwanda.

This Law and regulations drafted under this Law apply to the practice of surveying “fixed boundaries” and “general boundaries” and to all persons and entities engaged in the practice of surveying “fixed boundaries” and “general boundaries.” This Law and regulations drafted under this Law do not apply to the practice of surveying “open boundaries” or to persons and entities engaged in surveying “open boundaries.”

Article 3: Definitions

For the purpose of this Law, the following terms shall be defined as follows:

Council: is the Institute’s Regulatory Council, which is within the Institute’s Executive Committee.

Executive Committee: is the governance and management organ of the Institute and includes the Regulatory Council and the Executive Secretariat.

Fixed boundaries: are precise positions of the boundaries.

General Assembly: is the group of all members of the Institute who are in good standing. The General Assembly does not include non-member employees of, or advisors to, the Institute.

General boundaries: are positions that follow natural features and which can be revised.

Institute: is the Institute of Land Surveyors.

Land surveying: is any practice involving: the determination of location of land parcel boundaries; preparation of maps showing the shape and area of land parcels and their subdivisions; preparation of maps showing the layout of roads, streets and rights-of-way to give access to land plots; and the preparation of land maps.

Minister: is the Minister having land in his or her attributions.

Malpractice: is the breach by a member of a profession of a standard of competence, care, or conduct.

Open boundaries: [to be added by RNRA]

Register: is the list of certified surveyors that the Institute of Land Surveyors creates and maintains.

Registered surveyor: is a certified surveyor who is listed on the register maintained by the Institute of Land Surveyors. A registered surveyor may be either a: 1) government or public surveyor; or 2) private land surveyor.

CHAPTER II: ESTABLISHMENT, FUNCTIONS, AND GOVERNANCE STRUCTURE OF THE INSTITUTE OF LAND SURVEYORS

Article 4: Establishment of the Institute

An Institute of Land Surveyors, referred to as the “Institute” in this Law, is hereby established in Rwanda.

The Institute shall commence its activities within ninety (90) days from the publication of this Law in the Official Gazette of the Republic of Rwanda. The Minister in charge of lands shall convene and chair the first meeting to launch the Institute.

The Institute shall be an autonomous, self-funded, quasi-governmental organization.

The Institute shall have the authority to operate as:

1. A professional association of land surveyors; and
2. A regulatory body that has the power to set and enforce standards of practice for the profession of land surveying in Rwanda.

Article 5: Required membership

Except as provided in Article 2, any person engaged in the practice of land surveying in Rwanda must be a member of the Institute in good standing.

Article 6: Head office of the Institute

The head office of the Institute shall be located in Kigali, the Capital City of the Republic of Rwanda, unless the Institute’s Executive Committee and Minister with responsibility for land jointly decide that relocation is necessary for the accomplishment of the Institute’s purposes.

Article 7: Authority and responsibilities of the Institute

The Institute shall strive to achieve the purposes of this Law through execution of the following responsibilities:

1. To develop professional standards, procedures, and guidelines governing the land surveying profession in Rwanda;
2. To assist in the development of regulations governing the surveying profession and practice of surveying;
3. To create and maintain a comprehensive system for regulation of the profession that promotes professionalism and accountability of the profession to the public;
4. To provide a professional forum for the analysis of surveying issues and the

exchange of information, experience, and best practices relating to surveying to support the professional development of individual members and the enhancement of the profession; and

5. To promote the surveying profession nationally and internationally.

Article 8: Organs of the Institute

The Institute of Land Surveyors shall include the following organs:

1. General Assembly;
2. Executive Committee;
3. Regulatory Council;
4. Executive Secretariat; and
5. Internal Audit Committee.

The Executive Committee directs the Institute's activities to achieve its purposes and objectives and oversees the Executive Secretariat.

The Regulatory Council executes the Institute's regulatory functions and is a division of the Executive Committee.

The Executive Secretariat is responsible for the day-to-day management of the Institute's operations.

CHAPTER III: THE COMPOSITION AND FUNCTIONS OF THE INSTITUTE'S EXECUTIVE COMMITTEE AND REGULATORY COUNCIL

Article 9: Establishment of the Executive Committee and Regulatory Council

During the initial meeting of the Institute, the Institute's Executive Committee and Regulatory Council shall be created in accordance with this chapter and any regulations and rules.

Article 10: Composition of the Executive Committee

The Executive Committee shall consist of nine (9) regular members and two (2) advisory members. The regular members are:

1. The Director of Land Surveying within the public institution having land management in its attributions; and
2. Eight (8) certified¹³ surveyors in good standing, four (4) of whom are in private practice and four (4) of whom are in government practice.

¹³ This provision references the requirement of certification as opposed to registration because it is likely that the Institute will be creating its Executive Committee and subordinate bodies prior to the time when the register is created. Once the register is created and certified surveyors registered, the requirement can be amended to reference "registered surveyors."

The General Assembly of the Institute shall elect all eight (8) of the certified surveyors for the Executive Committee seats.¹⁴ The registered surveyors elected shall serve for five (5)-year terms. Executive Committee members must be people of integrity, with a working experience of not less than three (3) years in surveying or another land-related field. They must be current members of the Institute in good standing and their current profession must be related to land surveying. Retired land surveyors who are members of the Institute are also eligible for Executive Committee seats.

Advisory members of the Executive Committee shall be:

1. The Executive Secretariat of the Institute; and
2. An advocate practicing in the field of real estate nominated by the Rwanda Bar Association and acceptable to the members of the Council.

The Executive Committee's regular members shall nominate a Chair by majority vote.

Article 11: Composition of the Regulatory Council

The Regulatory Council shall consist of seven (7) regular members and one advisory member. The regular members are:

1. The Director of Land Surveying within the public institution having land management in its attributions; and
2. Six (6) Executive Committee members, three (3) of whom are in private practice and three (3) of whom are in government practice.

The General Assembly shall elect the six (6) Executive Committee member surveyors for the Regulatory Council seats.

The advisory member of the Regulatory Council is the advocate serving as the advisory member of the Executive Committee.

Article 12: Term for Executive Committee members and Chair¹⁵

Executive Committee members serve five (5)-year terms, unless earlier terminated. Executive Committee members can be re-nominated for successive terms, but for no more than a total of two successive terms. Initial terms shall be set so that the members' terms are staggered in order that no more than half the members are new in any given year.

The term of an Executive Committee member shall come to an end if:

1. He/she dies;
2. His/her term of office expires;

¹⁴ Rules regarding quorums, voting, and election requirements should be set forth in regulations.

¹⁵ **As noted in the comments on this chapter, the content highlighted may be considered for placement in regulations of internal procedural rules.**

3. He/she resigns in writing;
4. He/she cannot perform his/her duties for medical reasons;
5. He/she is sentenced to a term of imprisonment equal to or more than six (6) months without suspension;
6. He/she is absent from three (3) Executive Committee meetings in a 12-month period without sound reasons;
7. He/she engages in misconduct or obstructs the interests of the Executive Committee; or
8. He/she confesses and pleads guilty of the crime of genocide.

A member of the Executive Committee wishing to resign shall do so in writing to the Chair and give a thirty (30) day notice.

If a member of the Executive Committee leaves office before the end of his/her term, the membership of the Institute shall nominate a substitute for the remainder of the term.

The Chair shall serve a term of three (3) years.

Article 13: Executive Committee meetings and procedures

Members of the Executive Committee shall meet once a quarter and whenever necessary. Five (5) regular Executive Committee members are required for a quorum.

Decisions are taken by consensus of the regular members of the Executive Committee. If no consensus can be reached, majority vote will decide.

Members of the Executive Committee can invite anyone with expertise to its meetings depending on the agenda. The invited person shall neither vote nor attend deliberations on other items on the agenda.

Article 14: Decisions and minutes of Executive Committee meetings

Resolutions of Executive Committee meetings shall be signed by all members in attendance at the end of each meeting. A copy of the resolutions shall be submitted to the Minister in charge of lands within five (5) working days for his/her comments. The Minister shall communicate his or her comments to the Executive Committee within fifteen (15) days of receipt.

If no comments from the Minister are given within that period, the resolutions shall be deemed approved.

Minutes of Executive Committee meetings shall be signed by the Chair together with the Rapporteur and adopted at the next meeting. A copy of the minutes shall be submitted to the Minister in charge of lands within fifteen (15) working days from the day of its approval.

Minutes of the Executive Committee meetings and copies of all resolutions and decisions shall be communicated to the membership of the Institute of Land Surveyors.

Article 15: Executive Committee members' sitting allowances

Members of the Executive Committee attending an Executive Committee meeting shall receive a sitting allowance as determined by a majority vote of the General Assembly.

Article 16: Conflict of interest

A member of the Executive Committee is prohibited from being among the members who take decisions in case the meeting is examining issues concerning him/her, those concerning his/her parents, relatives up to the second degree or in-laws up to the second degree, or any issue in which he/she has an interest.

The concerned member shall inform the Executive Committee and shall disqualify him/herself at any time the issue is under examination.

Article 17: Functions of the Executive Committee

The Executive Committee shall have the following functions:

1. Oversight of the management of the Institute.
2. Establish standards of practice. The Executive Committee shall: i) develop professional standards, procedures, and guidelines governing the land surveying profession; ii) set standards for certification of land surveyors; and iii) assist in the development of regulations governing the surveying profession and practice of surveying.
3. Establish regulatory system. The Executive Committee shall develop a comprehensive system for regulation of the performance and behavior of surveyors that includes procedures for creating and maintaining: (i) a register of certified land surveyors; (ii) an audit process to monitor surveyor performance; (iii) an accessible reporting and dispute resolution system for complaints regarding surveyors and surveying; (iv) a disciplinary system; and (v) the functions of the Regulatory Council to enforce the regulatory system.
4. Establish a system for review of Institute and Regulatory Council action. The Executive Committee shall create a system for review of Institute and Regulatory Council actions that includes a Review Committee to hear requests for review of Institute or Regulatory Council action.
Set certification and membership fees. The Executive Committee shall set the following fees: a) application for certification; and b) Institute membership. Fees shall be set at a level that supports the Institute's operations and fulfills the intent that the Institute be self-funded.
5. Provide input into surveying fees. The Executive Committee shall have input into the decision by [Ministry] regarding the schedule of fees for land surveys.
6. Establish Institute programs. The Executive Committee shall create Institute programs designed to achieve the objectives of the Institute, including developing programs to educate the public regarding the Institute and provide Institute members with continuing education opportunities, a mentoring program, and

- technical resources designed to support continuous professional development.
7. Monitoring, evaluation, and reporting. The Executive Committee shall create and implement a plan for monitoring and evaluating the Institute's operations, including the Regulatory Council, on an ongoing basis and reporting the results to the Institute's membership and the ministry with responsibility for land and land surveys. The monitoring, evaluation, and reporting shall be in addition to the responsibilities of the Internal Audit Committee.

In exercising its authority, the Executive Committee may establish task forces of Institute members and others to conduct research and analysis and advise the Executive Committee on relevant considerations, options, and best practices.

The functions of the Executive Committee and its subordinate bodies shall be designed and executed in a manner that complies with all legal requirements applicable to a quasi-governmental regulatory organization.

Article 18: Functions of the Regulatory Council

The Regulatory Council shall have the following functions:

1. Certify land surveyors. The Regulatory Council shall: a) evaluate and render decisions on individual applications for certification of qualification to practice; and b) issue certificates of qualification to practice for land surveyors.
2. Enforce standards of practice. The Regulatory Council shall implement the comprehensive system for regulation of the performance and behavior of surveyors, including the systems for reporting, auditing, and complaint resolution and disciplinary action.

Article 19: Composition and duties of the internal audit committee

The Internal Audit Committee shall be composed of three to five members of the General Assembly. Members of the Internal Audit Committee shall not include any member of the Executive Committee. Members of the Internal Audit Committee shall be elected by vote of the General Assembly and shall serve three-year terms.

The Internal Audit Committee is responsible for conducting an audit of the operations of the Institute on an annual basis. The audit shall be conducted using commonly accepted business practice standards governing internal audits. The committee shall present the results of the audit to the Executive Committee and the General Assembly.

CHAPTER IV: CERTIFICATION AND REGISTRATION OF LAND SURVEYORS

Section One: Requirements for certification

Article 20: Requirements for certification as land surveyor for Rwandan candidates

For a Rwandan citizen to be certified as a land surveyor, he/she must meet following conditions:

1. Hold a bachelor's degree or higher degree in land surveying or geomatics;
2. Full-time participation in an authorized land surveying internship for at least two years;
3. Passed an authorized land surveying certification exam;
4. Has not been imprisoned more than six (6) months;
5. Has not been dismissed from a professional association of land surveyors in Rwanda or another country;
6. Is not in bankruptcy; and
7. **[for discussion: Has not engaged in any other conduct under circumstances that in the judgment of the Regulatory Council falls below the standards of personal and professional integrity expected in the profession.]**

Article 21: Certification of foreigners

A foreigner who seeks certification to practice land surveying in Rwanda must:

1. Meet the requirements set out in Article 18;
2. Hold a land surveyor's certificate or its equivalent from another country; and
3. Present a recommendation letter from the Institute of land surveyors or professional association of surveyors from another country.

Article 22: Land surveyor certification

In accordance with this Law and any regulations or rules issued under this Law, and upon payment of any required fees, the Regulatory Council will certify every surveyor who meets the requirements of certification set forth in this Law.

Every surveyor who is certified under this Law shall be considered a "certified land surveyor" and shall have all the rights and responsibilities of that status.

The Regulatory Council shall issue land surveyor certificates to all certified land surveyors.

The Regulatory Council shall certify a land surveyor for an indefinite period, to continue so long as a land surveyor is in compliance with this Law, any regulations, and the rules and procedures of the Institute, including the payment of mandatory fees.¹⁶

The Institute shall include the names of all certified land surveyors on its register of certified land surveyors in accordance with Chapter IV below.

¹⁶ In the event that the Institute elects to require surveyors to meet any on-going continuing education requirements during their careers, that requirement can be referenced here.

Article 23: Cancellation of land surveyor's certification

The Regulatory Council may cancel a land surveyor's certification upon a finding of one or more of the following conditions:

1. The land surveyor obtained the certification under false or fraudulent conditions;
2. The land surveyor has not paid the mandatory fees for membership in the Institute or to obtain or maintain his or her certification; or
3. The land surveyor has failed to meet the standards of professionalism set by the Institute, as determined by the Executive Committee or its subordinate bodies.

Article 24: Right to review of cancellation decision

A land surveyor has the right to seek review of a decision of the Executive Committee or the Regulatory Council to deny a surveyor certification, to decertify a surveyor, or to otherwise cancel a surveyor's certification.

A surveyor can seek review on the grounds that he or she believes that: 1) the Executive Committee or Regulatory Council based its decision on erroneous or inappropriate information; 2) the information on which the Executive Committee or Regulatory Council made its decision has changed; or 3) another basis deemed by the Review Committee of the Institute to be relevant.

An aggrieved land surveyor seeking review shall proceed in accordance with the provisions in this Law.

Section 2: Registration of certified land surveyors

Article 25: Institute register of certified land surveyors

The Institute shall create and maintain a register that includes all certified land surveyors in Rwanda. The register must include the following information for each certified surveyor:

1. Name of the certified surveyor;
2. Surveyor's address and contact information, such as email and mobile phone number;
3. Registration number for the surveyor
4. Surveyor's educational history, including educational institutions, degrees, and postgraduate courses;
5. Surveyor's place of employment;
6. Date of surveyor's certification;
7. Date of entry of the certified surveyor into the register of surveyors;
8. Any complaints filed against the surveyor with the Institute or reported to the Institute; and
9. Any disciplinary action taken against the surveyor by the Regulatory Council or other authority.

Article 26: **Removal from register**

In the event that a land surveyor’s certification has been suspended or cancelled by the Regulatory Council or other authority, the Institute must remove the land surveyor’s name from the register of certified land surveyors within five (5) days.

In the event that a surveyor seeks review of the decision to suspend or cancel his or her certification, the Institute shall remove the surveyor’s name from the register during the pendency of the review, unless directed otherwise by the Regulatory Council, court, or other authority.

Article 27: **Request for review**

A land surveyor who is denied registration or whose name has been removed from the register by procedures provided in this Law may seek review of the decision and apply for restoration to the register according to the procedures set up by the Regulatory Council and Chapter VIII: Review and Appeal of Institute Action.

A surveyor can seek review on the following bases: 1) the surveyor believes an error was made; 2) the surveyor contends that the reasons why the Regulatory Council denied registration or cancelled registration no longer exist or have been remedied; or the surveyor successfully challenged the Regulatory Council’s decision before the Review Committee or other recognized forum.

CHAPTER V: RIGHTS AND RESPONSIBILITIES OF LAND SURVEYORS

Article 28: **Responsibilities of land surveyors**

All persons conducting land surveys of fixed boundaries and general boundaries in Rwanda are required to be:

1. Certified by the Regulatory Council of the Institute;
2. Registered with the Institute; and
3. Members in good standing with the Institute.

All land surveyors operating in Rwanda are required to follow the standards of technical competence and professionalism set by the Institute in the performance of their services.

Article 29: **Authorization to enter land**

The Director of Land Surveying within the public institution having land management in its attributions and members of the Institute and Executive Committee may enter upon any land, at reasonable hours and with any assistants necessary, for the purpose of: conducting a land survey; affixing, inspecting, repairing or moving any survey or boundary marker; or examining or inspecting the conduct of any survey.

Article 30: Requirement of confidentiality¹⁷

¹⁷ This regulation will require additional explanatory content when the regulations are drafted.

A land surveyor shall observe the requirements of confidentiality in performing services for clients. However, a land surveyor may disclose information requested by the Regulatory Council in order to perform its responsibilities with respect to the profession.

The Regulatory Council shall notify the land owner or client of the need for the confidential information. The Regulatory Council and land surveyor shall take reasonable measures to protect the information for dissemination beyond the Regulatory Council.

Article 31: Land survey report

Land surveyors shall prepare land survey reports in the format set by the Institute.

CHAPTER VI: RIGHTS AND RESPONSIBILITIES OF THE PUBLIC WITH RELATION TO LAND SURVEYING

Article 32: Obligation to permit entry for surveying.

Landowners, occupants, and members of the public must permit certified land surveyors and any accompanying persons to enter onto land for the purpose of conducting a land survey or work related to a survey.

Compensation shall be paid to the owner of any trees, crops, or other land improvements damaged as a result of such entry. The Executive Committee shall establish procedures for the payment of such compensation in accordance with the principles established in the land valuation provision of the law relating to the expropriation of land, or other relevant standard.

Article 33: Obstruction to land surveying

Any person who willfully obstructs or hinders any certified surveyor, or any assistant of a certified surveyor, in the performance of his or her work under this Law shall be guilty of an offense and may be prosecuted or incur civil liability.

CHAPTER VII: SYSTEMS FOR PROFESSIONAL ACCOUNTABILITY FOR SURVEYORS

Article 34: Establishment of systems for professional accountability

The Executive Committee shall establish systems for:

1. Receipt of complaints from internal and external sources, including the public, regarding land surveyors and land surveys;
2. Review and investigation of complaints;
3. Hearings on complaints;
4. Decision-making on complaints;

5. Issuance of sanctions;
6. Notification to the parties regarding decisions; and
7. Documentation and record-keeping.

The Executive Committee shall advise all certified land surveyors of the established systems and the rights and responsibilities of certified land surveyors with relation to those systems.

The procedures for the Regulatory Council's review, decision-making, and documentation on complaints shall be set forth in regulations and internal rules and shall be consistent with requirements of the Constitution and applicable law.

Article 35: Public notification of systems of professional accountability

The Institute shall communicate the systems of professional accountability, including the public's right to lodge complaint and right to review, established under this Chapter to the public in a manner that is reasonably calculated to reach anyone who comes in contact with a land surveyor in the course of the land surveyor's work.

Article 36: Notice to land surveyor of complaints

The Institute's system shall include a procedure for:

1. Promptly and effectively notifying a land surveyor of any complaint;
2. Informing the surveyor of the process for the Regulatory Council's review and decision on the complaint; and
3. Informing the surveyor of his or her right to review and the process for review.

Article 37: Hearing on complaint

In the event that a complaint raises an issue that, if proved, could impact a land surveyor's reputation, certification, or registration with the Institute, the Regulatory Council shall hold a hearing on the complaint. The conduct of the hearing and decision-making shall be governed by regulation.

Article 38: Sanctions for malpractice

The Regulatory Council shall impose sanctions on a land surveyor as the Regulatory Council determines necessary to: provide a remedy for the consequences of a surveyor's failure to meet the standards of competence, care and conduct; and deter future malpractice.

Sanctions for a finding of malpractice by the Regulatory Council against a land surveyor may include any of the following, singly or in combination:

1. Admonishment of the surveyor;
2. Imposition of a fine on the surveyor;

3. Imposition of requirement for the surveyor at his or her own cost to redo or repair work performed or remedy consequences of work performed;
4. Suspension of the surveyor's certificate;
5. Revocation of the surveyor's certificate; or
6. Any other action deemed by the Regulatory Council to be calculated to achieve the objective of issuing sanctions under the circumstances.

CHAPTER VIII: REVIEW AND APPEAL OF INSTITUTE ACTION

Article 39: External Review Committee

The Institute shall establish an External Review Committee that operates separately from the Institute and provides a forum for individuals aggrieved by actions of the Institute to seek review of the Institute's action.

The External Review Committee shall have been three and five members. One member of the External Review Committee may be a member of the General Assembly. All other members shall be members of the community who are not members of the General Assembly and are not employed by the Institute.

The General Assembly shall nominate and vote on the members of the External Review Committee. Members of the committee shall serve three-year terms.

External Review Committee procedures shall be set by regulation and internal rulemaking.

Article 40: Right to review

Any land surveyor, applicant for certification, certified land surveyor, or member of the public who believes he or she is aggrieved by any action of the Institute or the Regulatory Council Institute can seek review through the Institute's system for review, including requesting review by the Institute's External Review Committee.

Article 41: Right to appeal

If a person who has sought review by the External Review Committee is dissatisfied with the Review Committee's decision, the person can take the issue to the relevant court for judicial review and resolution. Persons seeking judicial review of Institute action in court must have exhausted their remedies at the administrative level, including seeking review by the Institute's External Review Committee.

Chapter IX: Final and Transitional Provisions

Section One: Transitional provisions

Article 42: Land surveying activities prior to the establishment of the Institute.

Until the Institute regulating the profession of land survey profession is established and its Executive Committee and Regulatory Council are functioning, the profession of land surveying and current activities shall continue to be carried out as they were in the period immediately prior to the enactment of this Law.

Article 43: Certification and registration of existing land surveyors

Any person, who has been practicing as a land surveyor and who qualifies to be certified as a land surveyor under Article 20 or Article 21 of this Law shall apply to the Institute for certification within six (6) months from the day of the establishment of the Institute.

Section Two: Final provisions

Article 44: Drafting, consideration and adoption of this Law

This Law was drafted in English, considered and adopted in Kinyarwanda.

Article 45: Repealing provision

All prior legal provisions contrary to this Law are hereby repealed.

Article 46: Commencement

This Law shall come into force on the date of its publication in the Official Gazette of the Republic of Rwanda.