OFFICE OF THE AUDITOR GENERAL
OF STATE FINANCES, RWANDA

PERFORMANCE AUDIT REPORT ON STRATEGIC MANAGEMENT OF PRIVATIZATION ACTIVITIES

MAY 2016

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ACRONYMS AND ABBREVIATIONS

MINECOFIN	Ministry of Finances and Economic Planning
MINICOM	Ministry of Trade and Industry
MINIJUST	Ministry of Justice
OVIBAR	Office de Valorisation de la Banane au Rwanda
SORWAL	Societé Rwandaise d'Allumettes

1. EXECUTIVE SUMMARY

Since 1996, the Government of Rwanda has put in place privatization with the objectives of reducing government burden and facilitate the development of the private sector. At the start, the Privatization Secretariat under MINECOFIN was established. Later on in 2008, it was shifted to Rwanda Development Board with specific mission of carrying out privatization activities, monitor privatized entities and advise Government on privatization matters.

Privatization activities was entrusted to RDB. RDB mission is to fast tracking economic development in Rwanda by enabling private sector growth[1]. This involves working with and addressing the needs of companies of all sizes (large, SMEs) and both local and foreign investors with aim of developing private sector.

I conducted this Performance Audit with objective of assessing whether privatization activities were conducted efficiently to realize benefits and sustain management of companies privatized.

The audit covered the period from 1997 to 2015. Main data was collected from the review of documents provided by Rwanda Development Board. A sampled of 9 companies were visited to assess the current physical conditions of companies privatized. An interview was carried out with the Strategic Investments Department with aim of clarification on how the privatization activities are carried out.

Below I highlight the key findings noted and recommendations:

- **Lack of RDB involvement in initiation of privatization and failure to privatize companies:** The responsibility of RDB is to carry out privatization programs, monitor them and advise Government accordingly. Before privatization, RDB is the responsible institution to assess whether the company needs to be restructured, liquidated, or dissolved and right time to privatize it. However, I noted the following:

  Failure to initiate pre-privatization activities: I noted that RDB was not involved in initiation and identification of companies (Karongi Tea Plantation, Muganza-Kivu Tea Plantation, Rutsiro tea Plantation, Gisovu Tea Company, Mata Tea Company, and Gisakura Tea Company) to be privatized before MINECOFIN requests to the Cabinet authorization for sale. RDB is only involved in tendering process to find the investor.

  Failure to privatize companies: The Cabinet decision of 23th August 1996, approved a list of public companies to be privatized that included Rubilizi National Hatchery,

[3] http://www.rdb.rw

[3]www.rdb.rw

Gishwati Diary, Zaza Paper Mill WISUMO Sawmill, Kabuye Rice Mill and RWANTEXCO. However, at the time of my audit (after 20 years), I noted that the former privatization Secretariat and RDB did not collaborate with the line Ministries of the concerned companies in order to take a rational decision of either restructuring or liquidating the companies for value for money. These companies were not privatized and fell into a state of dilapidation. In addition to that I noted that RDB does not have alternative plan for the companies failed to get investors interested to buy them.

- **Failure to conduct legal and financial audit of companies planned for privatization:** According to the Ministerial Order No 007/03/10/MIN of 07/08/2003 determining procedures for the privatization of public services and enterprises and for the selling of government shares in semi- public companies), Article 6 and 7 state that financial and legal audit should be carried out at the request of Privatization Secretariat (RDB) before privatization. These articles include details covering various aspects that would conclude on the best option of either privatization, or restructuring, or liquidation or withdrawing the government investment in due time.

  However, I noted that 20 companies were privatized without legal and financial audit. **See details in appendix 3** This may cause privatization burden on side of Government especially when litigations arise.

- **Company privatized without investor's business plan:** Business plan facilitates to select the best equipped investor in terms of technical and financial capabilities to run the business. Besides, the business plan facilitates negotiations during the process and helps RDB to monitor business operations after sale.

  However, I noted that RDB sold Kirehe Rice Mill to the investor entitled ENAS at Frw 322,110,000 without business plan. The investor submitted the investment plan after 7 months of operations.

  The submission of business plan after starting operations indicates that the technical and financial capacities of the investor were not assessed prior to the privatization of Kirehe Rice Mill. It also indicates that RDB did not monitor the performance of the investor in the first 7 months of operations to ascertain whether Kirehe rice mill is running effectively.

- **Lack of documentation to justify the deviation from required privatization procedures:** One of the aims of privatization is to transfer public entities to the most efficient investor who will be able to run them in sustainable manner. However, I noted

that 6 companies worth **Frw 3,121,516,099** were transferred to the investors without competition or any other documentation to justify the deviation from the required privatization procedures (manual). **For details, refer to chapter five, finding 5.4.** There is a risk of selecting investors who are not competent in terms of financial capacity and technical competence. The sustainability of these companies after sale is at risk. In addition to that, Government might not have received high return to its investment.

- **Companies privatized without valuation to set reference value:** To maximize return on the initial investment done in the companies to be privatized, valuation of the property, plant and equipment is vital to set reference value for negotiation. However, I noted that the 6 companies of Kabuye Sugar Company, OVIBAR, Lake Kivu Fish Factory, Kinigi Guest House, Kamatsira Sawmill and CIMERWA) were transferred to private investors at total price equal to Frw **3,453,375,200** without reference value. Privatization without reference value, Government may lose revenue in the sense of selling at low price than the market value.
- **Companies privatized below reference value:** According to the procedures manual guiding privatization, the selling price should be above or equal to the reference value. According to best practice the reference value is the starting point for negotiation to buy or sale. In most cases, the selling price is not less than the reference value. However, I noted cases where public companies were privatized when the amount offered by the investor was much less than 65% from the reference value. During my audit, RDB did not provide any documentation to explain why the selling price was much less than the reference value. **For details see the table below:**

SN	Name of the Company	Reference value (Frw)	Selling price (Frw)	Difference (Frw)	%
		(A)	(B)	(C)	(D)=(B)*100/(A)
1	Nkora Coffee Factory	167,668,236	108,862,000	(58,806,236)	65%
2	Gite Ituze (Cyangugu)	33,633,722	22,422,515	(11,211,207)	67%
3	Mukamira Maize	52,097,778	20,000,000	(32,097,778)	38%

- **Failure to recover privatization proceeds from some companies:** I noted that RDB failed to recover proceeds from some companies privatized for a period ranging from 6 to 10 years. This was noted in the privatization of three (3) companies at Frw 335,018,757. **For details refer to finding 5.7.** There is a risk that these privatization proceeds may not be recovered.

- **No clarification of government boundaries after privatization:** Government control after privatization is not clearly stated in the contracts. The investor receives title deeds from day one after full payment of the total price and the contracts also say the investor is allowed to transfer the ownership (sale) of business after some years and it also says that Government can repossess the business if the investor fails to implement business plan. There is a risk of taking excessive debts using title deeds and Government is likely to suffer heavy cost during repossession.

- **No obligations of the side of investor in case of breach of contract:** In the analysis of the contracts signed between Government and investors, I noted a clause which states that in case of repossession of privatized entities, the Government shall refund to the purchaser any monies paid even in case the investors fail to implement business plan. Apart from 2% to be deducted to the amount reimbursed by government, there is no other obligation investors owe to the government for failing to meet the contract agreement. Government faced challenges to repossess companies of Kibuye Guest House and lake Ihema Fishery due to contracts which did not safeguard Government in case of disputes. The repossession of two companies was very expensive.

- **Loss of money during repossession of a company previously privatized:** Cases were identified where Government repossessed privatized companies due to various reasons, but ended up paying to the investors significantly higher amounts compared to the proceeds Government had obtained at the time of privatization. In two (2) cases of Kibuye Guest House and Lake Ihema Fishery, Government paid Frw 449,236,908 in excess of the funds initially received from the investors. **For details refer to finding 5.9**

  It should be noted that no clear plan was in place for utilization of the repossessed properties/companies by Government. As a consequence, some of the properties/companies repossessed have remain non-operational or idle since the time of repossession. Lake Ihema Fishery assets repossessed were in the state of dilapidation. One month after, RDB authorized to destroy boats and fishing nets worth to Frw 131,200,000. At the time of physical verification of Kibuye Guest House, none of the repossessed asset found.

- **Lack of sustainability of 14 privatized companies:** One of the main goals of privatization is to ensure more accountability, restructuring and rehabilitation and sustainability of public companies. However, in my documentary review, I noted 14

companies failed to continue operations and they are closed. These companies faced challenges[2] of mismanagement due embezzlement of funds by their leaders, inability to invest as agreed in contract with the Government of Rwanda, excessive debts, partial of implementation of business plan and low production capacity. The investors of these companies are waiting Government to repossess and compensate them. RDB did not intervene timely throughout regular monitoring missions to preserve implementation of business plans that would avoid occurrence of such difficulties. Closure of privatized companies is an indicator of failure to achieve intended objective of privatization of government companies to make them more efficient.

- **Discrepancies on information of privatization proceeds and receivables:** RDB is responsible to carry out privatization programs, monitor them and advise the Government accordingly. However, in comparison of RDB records and consolidated financial statements from MINECOFIN, I noted Frw 1,018,422,433 not recognized by RDB. The status of some companies show that they paid the amount of the total contract. There is a risk of transfer of the title deeds before full payment. This indicates that RDB does not have sufficient information of privatization activities which may limit to monitor and take rational decisions timely.
- **Inadequate coordination among privatization stakeholders:** I noted that lack of coordination in the sale of public companies where RDB as the mandated institution to conduct privatization activities was not involved in the sale Bugarama Rice Mill and Kabuye Rice Mill. The agreement to sale the two companies was negotiated by MINAGRI. MINAGRI handed over the assets and operations to the investor before the approval of Cabinet. Later, Kabuye Rice Mill was closed by Rwanda Standard Board (RSB) decision subsequently to non-compliance with standards. Lack of collaboration between government institutions in privatization process may lead to Government not achieving privatization objective. RDB did not provide explanation or document to ensure that any payment was made from the sale.
- **Inadequate monitoring of post privatization operations:** I noted that monitoring exercises conducted by RDB staff did not consider the details in investment plans and contracts, risk assessment which define priority in monitoring privatized companies covered on the basis of high risk, medium and low risk. Privatization team at RDB did not have plans or any other guidance of what and when and where to monitor. RDB does not

"http://www.rdb.rw/about-rdb" http://www.rdb.rw/about-rdb

also maintain ongoing consolidated information of all privatization operations. In addition to that RDB does not have quarterly reports from investors as specified in contract agreements The number and names of entities covered in the audited period are not known. Consequently, RDB does not know physical conditions of privatized companies.

OVERAL CONCLUSION

The Performance Audit of strategic management of privatization activities revealed that Government is not realising intended benefits from the privatisation process from some of the companies privatised. The privatisation process has resulted in Government giving away some companies before receipt of commensurate payments from the investors and in some instances, 14 investors have failed to adhere to the investment plans presented at time of privatisation or failed to operate the companies as agreed in privatisation agreements. Government has in some cases resorted to repossession of the privatised companies but ended up paying a higher price for repossession than proceeds obtained at privatisation stage.

Specific cases of concern in management of privatization activities include: The role of RDB was mainly to conduct the tender process to find the investor and it failed to initiate pre-privatization activities, failure to conduct legal and financial audit of companies planned for privatization, privatizing public companies without competition to attract proper and fit investors, contract not safeguarding government against business risks in case the investor fail to implement business plans, failure to repossess privatized companies timely and inadequate monitoring of the implementation of business plans of privatized companies.

OVERALL RECOMMENDATION

For RDB to be able to achieve the benefits intended from privatization, it should:

- Develop strategic management plan that will set direction priorities of privatization activities**.** Its implementation should be monitored and evaluated regularly to avoid deviation from RDB objectives of carrying out privatization programs, monitor them and advise the Government accordingly.
- Work with the line Ministries that have companies to be privatized to determine the right time to sale before MINECOFIN requests the Cabinet for authorization to sale.
- Comply with requirement and ensure competition in the privatization process in order to select the best equipped investors.

- Develop a periodical monitoring plan and design program of monitoring based on risk assessment, period and the relevance of privatized companies. RDB should ensure that the public business privatized are implementing their business plans as agreed and take mitigating decisions earlier as agreed in the contract to avoid intervening too late when situation has attained irreversible proportion.

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Auditor General

Kigali
……2016

2. INTRODUCTION

2.1. Terms of reference

In accordance with Articles 165 and 166 of the Constitution of the Republic of Rwanda as amended to date and Law No. 79/2013 of 11/9/2013 determining the mission, organization and functioning of the Office of the Auditor General of State finances (OAG), I carried out a Performance audit of the Privatization Activities for the period 1997 to December 2015.

2.2. Background

Since 1995, the Government of Rwanda has put in place a series of economic mechanisms aimed at reviving the national economy[3] so as to address the deteriorating situation of public enterprises. One of the mechanisms was the Privatization program established by law N°02 of 11/03/96 on privatization and public investment and completed by institutional framework established by the Presidential Decree N°08/14 of 03/05/96.

Government of Rwanda initiated the privatization program with following goals:

- Reduce the financial and administrative burden for the government;
- Ensure improved and more efficient management, financial accounting and budgetary discipline of government businesses enterprises;
- Separation of ownership and management functions;
- Ensure more accountability, restructuring and rehabilitation of public companies;
- Stimulate Rwandans to participate in private ownership and enhance entrepreneurship among Rwandans.

At the beginning there was a privatization unit in MINECOFIN since August 1996. Then that unit was transformed into Privatization Secretariat. First privatization operations were done in 1998. In 2008, Privatization Secretariat was merged into RDB by law N° 53/2008 of 02/09/2008 establishing Rwanda Development Board (RDB). Currently, the privatization program is managed under the Strategic Investment department of RDB. One of main responsibilities of the entity is to carry out privatization program, monitor them and advise Government accordingly.

[3] http://www.rdb.rw

[3]www.rdb.rw

2.3. Necessity of the Audit

This study was motivated from public outcry that indicates cases that are in contradiction with the objectives of privatization. For example, the following newspapers below talked about public companies that were privatized and now have been repossessed by the Government and sometimes with additional expenses incurred.

- According to Kigali today online newspaper, dated 22nd January 2014 article on repossession of Mukamira maize mill which was privatized to the Ruhengeri Diocese and ADR association in 2004, which failed to implement the business plan and continued the operations.
- According to igihe.com online newspaper dated on 8th June 2013, article on the repossession of Kibuye Guest house, that was repossessed after failure of the investor Munyampirwa Pascal and led the government to pay the amount of Frw 174,986,859 of damages to investor for fair compensation equivalent for his property at the time of repossessing Kibuye Guest house.

3. AUDIT DESIGN

The audit was conducted in accordance with the International Organization of Supreme Audit Institutions, Auditing Standards and guidelines in the Office of the Auditor General's Performance Audit manual. The standards require that the audit is planned in a manner which ensures that an audit of high quality is carried out in an economic, efficient and effective way and in a timely manner.

3.1. Audit scope

Audit object: This audit covered privatization activities carried out by RDB/Secretariat of Privatization.

Geographic coverage: The privatization activities are initiated, conducted and monitored by RDB. However, privatized entities are located in different districts.

Period covered: This audit assignment will cover the period from 1997 to December 2015.

3.2. Audit objective

The overall objective of the audit was to assess whether privatization activities were conducted to sustain management of privatized companies.

3.3 Audit questions

In order to conclude on the audit objective, we formulated the following key audit questions:

1. Did RDB /Privatization Secretariat conduct all pre-sale activities on all privatized companies?
2. Did RDB conduct all privatization activities (transferring public companies to private business) in effective way?
3. To what extent did RDB monitor the implementation of privatization contract?

3.4. Sources of information and methods of data collection

The following methods were used to collect data:

● **Interviews:** Primary data was collected through interview carried out with the head of strategic investment department.

● **Documentary review:** Secondary data was mainly collected through review of various documents. Key documents reviewed are listed in **Appendix 1.**

Field visit: A visit of privatized companies was organized to enable us establishing the existence and status, and identifying other weaknesses that can enable us recommend better in improvement of privatization process. The sample has taken and considered five following element:

- Repossessed companies
- Privatized companies still operational
- Privatized companies that failed and closed down
- Companies planned to be privatized approved for sale for long time.

The list of sampled entities visited is found in the table below:

Company	Sector	Location
Kabuye Rice Mill	Agribusiness	Kigali
RWANTEXCO	Industry	
Rubilizi Hatchery	Agribusiness	
Mukamira Maize mill	Agribusiness	Nyabihu District
Gishwati Diary	Agribusiness	
Kibuye Guest House	Hospitality	Karongi District
Lake Kivu Fishery	Agribusiness	
Gite Ituze (Lodge)	Hospitality	Rusizi District
SONAFRUIT	Agribusiness	
Kigembe Fishery	Agribusiness	Gisagara District
SORWAL	Manufacturing	Huye Districts

4. PROCESS DESCRIPTION

4.1 Introduction

Since 1997, Privatization activities were carried out by the Privatization Secretariat under the MINECOFIN parent ministry. In 2008, these activities were carried out by the Rwanda Development Board (RDB).

Vision

RDB was entrusted with conducting privatization programme and designed its vision as *to transform Rwanda into a dynamic global hub for business, investment, and innovation*[4].

Mission

The mission of RDB is *to fast tracking economic development in Rwanda by enabling private sector growth*[5]. The scope of work includes all aspects related to the development of the private sector. This involves working with and addressing the needs of companies of all sizes (large, SMEs) and both local and foreign investors.

4.2. Key stakeholders and their responsibilities

The key players in the privatization program are: MINECOFIN, MINIJUST, Sector Ministries, and Investor/Buyers. Roles played by each key player are summarized in table below:

No	Entity	Role in privatization
1	MINECOFIN	Lead in the implementation of privatization programme, put in place procedure manual and represent the Government in co-signing contract with investors[6]
2	RDB	Carry out privatization program, monitor them and advise Government[7]
3	MINIJUST	Quality assurance of the Privatization contracts drawn by RDB to ensure there are no loopholes that can create future conflict[8]
4	Sector Ministries	Recommend and Provide technical support and advice on the companies to be privatized[9].
5	Investors/ buyers	Smooth and efficient management of the privatized entities[10]

[4] http://www.rdb.rw/about-rdb
[5] http://www.rdb.rw/about-rdb
[6] contracts between RDB and private investors, Procedure Manual 2003
[7] Article 3 of the Organic Law establishing RDB
[8] Article 44 of procedure manual 2003
[9] Article 9 of the Presidential Decree of 1996
[10] contract signed with MINECOFIN

4.3. Description of the privatization process

4.3.1. Organizational structure of Privatization Unit

Privatizations unit is working within the Strategic Investment Department under supervision of the Head of Department and the Chief Executive Officer of Rwanda Development Board (RDB). This organization is a result the organic law N°06/2013 of 16/06/2013 repealing organic law No 53/2008 of 02/09/2008[11] that merged several institutions including the former Privatization Secretariat.

4.3.2. Identification of companies to be privatized

The initial list of companies to be privatized was provided from the Cabinet Decision of 23rd August 1996. Recently, line ministries like MINAGRI[12] can write to RDB proposing public companies to be privatized.

4.3.3. Steering Committee structure

The steering committee is responsible for conducting all privatization activities for company to be privatized. It is composed with representatives of RDB, members from various institutions. The committee is also called privatization technical committee. It is led by the chairperson.

4.3.4. Execution of the privatization activities

Since 1997, privatization applied the public auctioning method. This was defined under article 3 of the law of 1996[13]. This procedure was conducted as such up to the year 2003 when the Ministerial Order was established[14] and set out the privatization process through a number of the following set of procedures:

- **Financial and legal audits**

[11] N°06/2013 of 16/06/2013 repealing organic law No 53/2008 of 02/09/2008 establishing Rwanda Development Board (RDB) and determining its responsibilities, organization and functioning as modified and complemented to date

[12] MINAGRI Letter Nº2312/11.30 of 29 December 2011

[13] Privatization law 1996

[14] Privatization Procedure Manual

Juridical and financial audit are carried out to determine if the legal status of the company allows for its privatization and whether its financial situation can raise the interest of potential investors. If necessary, the company undergoes a restructuring. The Privatization Secretariat/RDB used this procedure in summarized way by calling audit firms in tender to valuate assets or shares of company to privatize. The result of this valuation was for the privatization agency to get a reference cost/price under which the agency could determine any offer from investor.

- **Preparation of tender**

The preparation of the invitation to tender consists of collecting the necessary information on the company, in the aim of drawing up its profile, preparing the terms of reference for the bidders, the procedures and the qualifications requested for the tender. In case of strategic and large enterprises which required substantial capital investment and world-class industry-specific know-how, the process required pre-qualification according to precise criteria, to select eligible bidders.

- **Invitation to tender**

The Company to be sold was subject to intense publicity campaign in the media. The campaign had to draw up the profile of the company, to allow potential buyers to carry out their evaluation before submitting their bids. The tender documents consisted of the following two main elements:

- **Technical offer**

The description of the technical capacities showed the bidder's competence to manage the company in question. This was completed by the business plan, which gave details on the anticipated evolution of the enterprise and allowed to verify if the buyer met the Government's objectives.

- **Financial offer**

The bidder had to specify the price he/she offers. Except for specific cases, approved by the Privatization Secretariat, the offered price had to be paid entirely at the execution of the sales contract. The bidders also had to pay a submission fee worth 10% of the offered price.

- **Opening and evaluation of tenders**

The technical offers were the first to be opened, immediately after the closing session of the submission period, as specified in the terms of reference. The Privatization Secretariat/RDB examined these offers to make sure that the terms of reference were respected. If this was not the case, the offer was rejected. The evaluation committee has to verify if the business plan was satisfactory. Secondly, the financial offers were opened. The Privatization Secretariat/RDB had to open the offers of bidders whose technical offer met all the requirements for submission and whose business plan was acceptable. This took place immediately after the technical offers have been opened.

- **Final award of the successful bidder[15]**

The award is only final after it has been approved by Cabinet.

4.3.5. Contract Agreement signatories

Contract agreements are signed by the successful investors designated by the Cabinet resolution and the Minister of Finances**.**

4.3.6. Payment of the bid price

Articles 41 and 46 of the procedure manual define how the bid price have to be paid. Payment of full amount arises within a period of time not exceeding 30 days as of the notification date. Exception cases of payment in installment may be determined by the Privatization Secretariat.

4.3.7. Post-Privatization Monitoring

The law establishing the RDB emphasizes its responsibility to monitor privatized companies and to advise the government accordingly. This responsibility lies specifically in the contract provisions regarding the continuity of business[16], the payment of whole contract price and the implementation of the business plan.

[15] Article 38 of procedure manual 2003
[16] Article 4 of the Privatization Law of 1996

5. FINDINGS

5.1 Lack of RDB involvement in initiation of privatization and failure to privatize companies

Observation

Article 15 of Ministerial order n$^{o.}$ 007/03/10/MIN of 07/08/2009 determining procedures for the privatization of public services, states that the privatization strategy for public services or enterprises to be privatized or for companies for which the state must withdraw its shares is worked out by national commission for privatization or technical committee and cabinet for approval through the minister holding economic planning (MINECOFIN) in his attributions. The responsibility of RDB is to carry out privatization programs, monitor them and advise Government accordingly. Before privatization, RDB is responsible for assessing whether the company needs to be restructured, liquidated, or dissolved and right time to privatize it.

- However, in review of Cabinet paper for new privatization plan in 2014 submitted by Ministry of Finance and Economic Planning, I noted that RDB was not involved in initiation and identification of companies (Karongi Tea Plantation, Muganza-Kivu Tea Plantation, Rutsiro Tea Plantation, Gisovu Tea Company, Mata Tea Company, and Gisakura Tea Company) to be privatized before MINECOFIN requested Cabinet's authorization for sale.
- In addition, the Cabinet decision of 23rd August 1996, approved a list of public companies to be privatized that included Rubilizi National Hatchery, Gishwati Dairy, Zaza Paper Mill, WISUMO Sawmill, Kabuye Rice Mill and RWANTEXCO. However, at the time of my audit (after 20 years), I noted that the former privatization Secretariat and RDB did not collaborate with the line Ministries of the concerned companies in order to take a rational decision of either restructuring or liquidating the companies for value for money. These companies were not privatized and fell into a state of dilapidation. **For details; see photos blow:**

The remained of Gishwati Dairy: a plot and some trees. Photo taken on 29th March 2016

*The remained demolished plant of Gishwati Dairy Photo taken on 29th March 2016*Rubirizi National

Rubilizi National Hatchery is currently under Rwanda Agricultural Board and continues to be a burden on government budget while working with difficulties. **For details, see photo below:**

Last tentative taken to privatize Rubilizi Hatchery failed. Another privatization process is being conducted by RDB. The notification letter was sent to the successful investor on 2nd February 2016. Photo taken on 28th March 2016

Kabuye Rice Mill not utilized due to failure of Investor to conclude on contract since 2012. Photo taken on 28th April 2016

RWANTEXCO. While the price amount was paid by the investor, the contract was not signed, photo taken on 28th April 2016

WISSUMO SAWMILL, Gishwati Dairy and Zaza Paper Mill are at risk of total collapse while RWANTEXCO and Kabuye Rice Mill are losing value on daily basis. Lack of involvement of RDB before requesting Cabinet's approval for sale may lead to delayed sale of companies to suitable investors.

In addition, I noted that RDB does have an alternative plan for the companies in case they fail to get investors interested to buy them.

Recommendation

RDB should take different measures including total liquidation to avoid complete loss of these public assets. RDB should work with the line ministry that has an institution to be privatized to determine the right time to privatize before MINECOFIN requests the Cabinet for authorization to sale.

Management comment

The proposed new privatization law will be clearer on the responsibilities of each institution in privatization process.

Most of these assets are non-attractive assets where investors have desisted to take them. For Kabuye rice mills, the asset was remitted to MINAGRI. MINECOFIN asked to re-privatize the rice mill and we are soon calling for competitive tender.

- *For Rubirizi Hatchery, we met challenges in its privatization as we failed to get an investor for three privatization rounds due to its unattractiveness. However, RDB continued to look for a private investor and this fourth round of privatization is at an advanced stage as the investor has been selected and negotiations are ongoing.*
- *Zaza Paper mill faced similar issues as Rubilizi Hatchery and was privatized twice without getting an investor due to its unattractiveness. RDB continues to look for a potential investor once again on Zaza paper mill or advise that the company be removed from the list of companies to privatize.*
- *Gishwati dairy was destroyed completely during the 1994 genocide against Tutsi and was therefore unattractive. More so, following the development of Mukamira dairy plant which is being privatized at the moment, RDB is considering advising the government to remove this from the privatization list because two dairy plants in the same location might bring issues of the plants facing inadequate supply of milk.*
- *For RWANTEXCO, the investor got an issue of assets located in marshland where REMA regulations do not allow companies to use the land.*

5.2 Failure to conduct legal and financial audit of companies planned for privatization

Observation

According to the Ministerial Order No 007/03/10/MIN of 07/08/2003 determining procedures for the privatization of public services and enterprises and for the selling of government shares in semi- public companies), Article 6 and 7 state that financial and legal audit should be carried out at the request of Privatization Secretariat (RDB) before privatization. These articles include details covering various aspects that would affect the contract price and provide clear information on the business issues an investor would have to deal with.

However, I noted that 20 companies were privatized without legal and financial audit which conclude on the best option of either privatization, or restructuring, or liquidation or withdrawing the government investment in due time. See details in **appendix 3**

This may cause privatization burden on side of Government especially when litigations arise.

Recommendation

RDB should consider /recommend legal and financial audit before privatization to prevent or reduce any potential litigation and loss that could result from the privatization process.

Management comment

- *Legal and financial audit are done to all privatized companies. Some of companies changed legal statutes before privatization from public assets legal statute to private asset statute (ex. IMPRISCO, ORINFOR-IMVAHO etc.);*
- *For other companies, public notices were published through media informing public that*

a company is under process of privatization to bring their disputes, litigations or cases for settlement;

- *For other companies, financial audit and legal audits were combined in one report.*

Auditor's comment

Only valuation report availed, this is a component of what was supposed to be covered by legal and financial audit.

5.3 Privatization without investor's business plan

Observation

Business plan facilitates selection of the best equipped investor in terms of technical and financial capabilities to run the business. It also facilitates the negotiation process and helps RDB to monitor business operations after sale.

However, I noted that RDB sold Kirehe Rice Mill to the investor entitled ENAS at **Frw 322,110,000** without a business plan. The investor submitted the investment plan after 7 months of operations.

The submission of business plan after starting operations indicates that the technical and financial capacities of the investor were not assessed prior to the privatization of Kirehe Rice Mill. It also indicates that RDB did not monitor the performance of the investor in the first 7 months of operations to ascertain whether Kirehe rice mill is running effectively.

Recommendation

RDB should consider business plan in selection of suitable investor.

Management comment

Observation noted and recommendation taken.

5.4 Lack of documentation to justify the deviation from required privatization procedures

Observation

One of the aims of privatization is to transfer public entities to the most efficient investor who will be able to run them in a sustainable manner. The privatization law n° 2 of 11 March 1996, article 2 states that a public business company has to be privatized through a transparent and competitive process to ensure that RDB obtains the suitable investor.

Privatization Procedure Manual, article[17] stipulates also that in case of withdrawal or default of the successful bidder, the bid bond paid is not refunded but rather entirely retained by the Government.

However, contrary to the above requirement, I noted that 6 companies listed in the table below worth **Frw 3,121,516,099** were transferred to the investors without competition or any other documentation to justify the deviation from the required privatization procedures. **See the table below:**

No	Year of privatization	Company	Investor	Amount (Frw)
1	**2006**	CIMERWA	Rwanda Investment Group	2,777,000,000
2	**2005**	Gite Ituze Cyangugu	Cyangugu Catholic Diocese	22,422,515
3	**2006**	Gikonko rice	UCORIBU	157,000,000
4	**2006**	Nshili Kivu tea factory	Group Bugeste (Leasing)	75,093,584
5	**2009**	Bugarama rice mill	Rwamagana rice society/ICM Rwanda	57,000,000
6	**2009**	Kabuye rice mill	Rwamagana rice society/ICM Rwanda	33,000,000
Total amount				**3,121,516,099**

In addition, I noted that Gikonko Rice Mill, Bugarama Rice Mill and MAGERWA were privatized without involvement of technical committee. There is a risk of selecting investors who are not competent in terms of financial capacity and technical competence due to privatization without competition and non-involvement of Technical Committee. The sustainability of these companies after sale is at risk hence Government might not receive high return to its investment. Government risks not obtaining 10% of the bid bond on contract price in case the investor fails, as was the case of the investor of Kabuye Rice Mill who failed to run it and the company closed and Government did not get bid bond.

Recommendation

RDB management should comply with requirement and ensure competition in the privatization process.

Management comment

81 out of 87 privatized the privatization were done through public calls for competitive bidding. Going forward, we shall improve to make sure public calls for competitive bidding is respected.

[17] Privatization Procedure Manual, article 42

5.5 Privatization without companies' valuation to set reference value

Observation

A company's valuation involves determination of price to pay or receive to trigger a sale of business. To maximize return on the initial investment done in the companies to be privatized, valuation of the property, plant and equipment is vital to set reference value for negotiation.

However, I noted that 6 companies were transferred to private investors at total price equal to **Frw 3,453,375,200** without reference value. **See the table below:**

Appendix 4: Companies sold without valuation

S/N	Company	Year of privatization	Proceeds Frw
1	The Kabuye Sugar works	1997	448,175,200
2	OVIBAR	1998	200,000,000
3	Lake Kivu Fish Factory CYANGUGU	2000	20,000,000
4	The Kinigi Guest House	2000	10,200,000
5	Kamatsira Sawmill	2003	5,000,000
6	CIMERWA	2006	2,770,000,000
Total			**3,453,375,200**

Privatization without reference value, may result in Government losing revenue due to selling at low price than the market value.

(i) Equipment worth Frw 2,261,478,160 not accounted for in privatization of Kabuye Sugar Company

Observation

On 13th March 1997, a tender committee report recommended Independent Sugar Corporation (INSCO) as a successful bidder for a higher offer of **US$ 1,500,000** (equivalent of **Frw 448,175,200**) with a note explaining that the tender committee was not able to provide relevant proposal due to the absence of reference price to be determined by the Ad Hoc Committee.

On 10th June 1997, The Minister for Finance and Economic Planning wrote a letter referenced 790/FIN.10.05/C to the Prime Minister informing him of the existence of new equipment at Kabuye Sugar Factory site with an estimated value of **Frw 2,261,478,160.**

On 13th September 1997, Kabuye Sugar Factory was sold to INSCO known in Rwanda as Kabuye Sugar Works Limited (KSW) at a price of **US$ 1,500,000 (Frw 448,175,200).** This transaction was covered by a Memorandum of Agreement that specifically stipulated that the

assets shall comprise the totality of the assets of Kabuye Sugar Factory including installed as well as uninstalled machinery and equipment.

However, it noted that the value amounting to **Frw 2,261,478,160** of the new equipment (installed and not installed) was not considered in the selling transaction. There is risk that asset might have been misappropriated. The issue was reported by Auditor General in the financial audit report for the period of 2003 and 2004 respectively and after 12 years there is no indication that it was followed up.

Recommendation

Before privatization, RDB should conduct valuation before the sale of any business to maximize the initial investment made. In addition, RDB in conjunction with other competent authorities should follow up and identify how the Government interests were protected in that transaction of privatization of Kabuye Sugar Company.

Management comment

It is true that there were some reports showing that there might be new equipment's with a value amounting to 2,261,478,160 Rwf some of which were in Kabuye ground during the genocide against Tutsi of 1994 or possibly were ordered. This equipment was note taken into consideration in the selling transaction as the factory was sold to 1,500,000 USD (+/- 450,000,000 Rwf). The existence of the equipment was uncertain as nobody has evidenced their existence with required details on them. This case of new equipment has been discussed along ago and conclusion was that they might have been stolen in 1994 or were never delivered. The Government was not able to ascertain whether the equipment were ordered, paid and delivered.

Auditor's comment

I did not obtain the evidence of the conclusion mentioned by RDB.

5.6 Companies privatized below reference value

Observation

According to the procedures manual guiding privatization, the selling price should be above or equal to the reference value. According to best practice the reference value is the starting point for negotiation to buy or sell. In most cases, the selling price is above the reference value. However, I noted cases where public companies were privatized when the amount offered by the investor was very below from the reference value. During my audit, RDB did not provide any documentation to explain why the selling price were below far from the reference value. **For details see the table below:**

SN	Name of the Company	Reference value (Frw)	Selling price (Frw)	Difference (Frw)	%
		(A)	(B)	(C)	(D)=(B)*100/(A)
1	Mukamira Maize	52,097,778	20,000,000	(32,097,778)	38%
2	Nkora Coffee Factory	167,668,236	108,862,000	(58,806,236)	65%
3	Gite Ituze (Cyangugu)	33,633,722	22,422,515	(11,211,207)	67%

For Mukamira Maize Mill, I noted the following:

On 12th July 2010, Mukamira Maize Mill secured a loan from the Ministry of Trade and Industry (MINICOM) amounting to **Frw 497,092,650**. RDB as the mandated institution to advise Government in matters of privatization did not inform MINICOM the kind of agreement it had with the investor. Later, MINECOFIN terminated the contract[18] informing the investor that Mukamira Maize Mill is repossessed and handover was conducted on 29/08/2013. On 5th July 2013, the management of the company wrote a letter to MINECOFIN explaining its disagreement on the repossession decision.

In field visit conducted at Mukamira Maize Mill on 30th March 2016 (3 years after repossession) I noted that the factory is not operating. According to discussion with RDB staff, the Government is still negotiating with investor on how much money to compensate the investor due to the repossession explained above. Government is likely to reimburse the investor including the money from MINICOM.

Recommendation

RDB should ensure the reference value is determined and respected in the privatization of public companies.

Management comment

While privatizing state owned companies, the Government of Rwanda did not put first, as a priority objective, the optimization of revenues from sales of enterprises, because such an approach could contradict more important economic objectives or compromise the feasibility to attain the projected results in terms of efficiency of the concerned entities.

[18] MINECOFIN Letter No 4128/12/10/MIN

5.7 Failure to recover privatization proceeds from some companies

Observation

In review of privatization proceeds recoverability status, I noted long outstanding privatization proceeds that remained unrecovered up to the time of audit on 31st March 2016. This is contrary to article 41 and 46 of Ministerial order nº 007/03/10/Min of 07/08/2003 determining the procedures for the privatization which states that:

- A successful bidder must pay the full amount of the offered price within a period not exceeding 30 days as of notification date. Article 46 provides an exception where payment by instalments is allowed under the following conditions:
    - The first instalment to be paid upon signing of the contract cannot be less than 50%
    - The last instalment must be paid before the end of the 12th month as of the notification of the contract
    - Any payment by instalments must be covered by guarantee of a bank or financial institution in the first category covering the entirety of the payment still due. See details in the table below:

S/N	Year of privatization	Companies	Shares	Activity Field	Buyer	Pending amount (Frw)	Delay (years)
1	2006	Gikonko Rice Factory	100%	Agribusiness	UCORIBU	57,000,000	10
2	2008	IMPRISCO	100%	industry	Angelique International	221,018,757	8
3	2010	Bugarama rice mill	60%	Agribusiness	Rwamagana Rice Society	57,000,000	6
Total						**335,018,757**	

There is a risk that these privatization proceeds may not be recovered and thus loss of public revenue, especially when guarantee was not provided on the above outstanding proceeds.

Recommendation

The RDB Management should follow up owners and ensure that full payment of all amounts due. RDB should also consider legal procedures to ensure prompt recovery.

Management comment

- *For Gikonko and Bugarama rice mills, the issue was escalated to decision makers in economic cluster meeting and the later instructed to appoint an audit team to assess the*

case and provide a detailed report. The audit report was completed and we are waiting for the economic cluster meeting to discuss on findings and provide guidance on the issues which will involve several public institutions and ministries.

- *IMPRISCO: a settlement agreement was signed between 2 parties to pay the outstanding debt. Angelique International suggested that MINECOFIN pays the remaining outstanding debt of Frw 221,018,757 on the money that GoR owed to Angelique International Limited relating to another agreement on Nyabarongo Micro Hydropower project.*

5.8 Business risks not transferred to investors due to contract preparation

Observation

Privatization contract is a legally binding document between Government and private investor. It is one of the tools that is used to assess whether the investor is fulfilling what was agreed. As the privatization implementer, RDB has the power to set provisions in the contract to transfer business risks to investors to safeguard Government against risks that can arise from poor management of investors. However, in analysis of contracts signed between Government and private investors, I noted the following:

- **No clarification of government boundary after privatization**

Government control after privatization is not clearly stated in the contracts. The investor receives title deeds from day one after full payment of the total price and the contracts also say the investor is allowed to transfer the ownership (sale) of business after some years and it also says that Government can repossess the business if the investor fails to implement business plan. In addition, the agreement in the contracts do not specify the time frame for monitoring of privatized company.

- **No obligations of the investor in case of breach of contract**

I also noted that in the contracts signed between Government and investors, there is a clause which states that in case of repossession of privatized entities, the Government shall refund to the purchaser any monies paid even in case the investor fails to implement business plan. Apart from 2% to be deducted from the amount reimbursed by government, there is no other obligation they owe to the government for failing to meet the contract agreement. **See examples below** where Government faced challenges to repossess companies due to contracts which did not safeguard Government in case of disputes.

SN	Name of the company	Investor	Contract amount (Frw)	Compensation Value after repossession (Frw)	Difference (Frw)	%
			(A)	(B)	(C)=(B)-(A)	(D)=(B) *100)/(A)
1	Kibuye Guest House	Munyampirwa Pascal	75,000,000	174,986,859	99,986,859	233%
2	Lake Ihema Fishery	SOPEM	62,000,000	411,250,049	349,250,049	663%

Failure to prepare and set provisions that safeguard Government made repossession very expensive and Government will continue to incur losses in reimbursement for repossession of failed businesses.

Recommendation

RDB should thoroughly review contracts and avoid clauses which may put government on a disadvantage or favor investors who deviate from their business plans and end up exploiting such clauses deviously.

Management comment

There is an open-ended monitoring period. We are revising the privatization law and the monitoring framework that balance the risks from repossession in case the latter is necessary.

5.9 Loss of money during repossession of a company previously privatized

(i) Kibuye Guest House

Observation

On 20 September 1999, the selected investor with a business plan worth **Frw 138,108,172** signed a contract amounting to Frw 75,000,000 to acquire Kibuye Guest House. Later on, the investor failed to implement the business plan and the Government of Rwanda cancelled the privatization contract and repossessed Kibuye Guest House. The investor did not agree with the repossession decision and the case was filed in court[19]. The Government of Rwanda lost the case and was decreed to pay the investor **Frw 174,986,859** as fair compensation equivalent for the property at the time of repossessing Kibuye Guest house.

[19] The Supreme Court Decision R.ad. A 0010/07/CS of 6 June 2008

In the physical verification conducted on 30th March 2016 (12 years later after repossession) at the area, I noted that all assets were deteriorated to the extent that there is no indication that the plot used to accommodate a guest house. **For details see the photo below**:

The current status of former-Kibuye Guest House was located, Photo taken on 30th March 2016

(ii) Repossession of Lake Ihema Fishery

Observation

In 2004, Lake Ihema Fishery was privatized to SOPEM at the contract price of **Frw 62,000,000**. The investor committed to implement a business plan in 3 years. In 2013, SOPEM was repossessed.

However, the repossession of Lake Ihema Fishery on 25 June 2013 indicated that the investor (SOPEM) compensated the business assets at **Frw 411,250,049** on the basis of the list proposed by the investor including daily expenditure like food for staff, office materials, etc.) amounting to **Frw 202,809,039** while the law requires computation of assets only. In addition to that, despite the value given to the assets repossessed, I noted that one month later on 29 July 2013, RDB authorized to destroy some of the compensated assets include fishing nets

with a value of **Frw 68,000,000**, boats worth **Frw 41,200,000** and cold room worth **Frw 5,000,000**.

See the photos below of one of the asset remained

*Compensated asset worth Frw 15,000,000**, Picture taken** on 21st September 2015 in Akagera National Park*

*Compensated asset worth Frw 15,000,000**, Picture taken** on 21st September 2015 in Akagera National Park*

This is an indication that no clear plan was in place for utilization of the repossessed properties/companies by Government.

Recommendation

RDB should timely monitor and evaluate the appropriate and effective post privatization process for avoiding and preventing losses, and advise government accordingly. Repossession should be conducted timely.

Management comment

We are revising the privatization law and the monitoring framework that balance the risk from repossession in case the latter is necessary.

Concerning the expropriation of SOPEM, please note that 3 valuation reports were taken into consideration:

SOPEM's investors' valuation of 411,250, 049.

RDB/RIEPA valuation report done by an expert authorized valuer: Rwf 462,801,233 and

Another SOPEM's valuation report done by Deloitte and Touche with RWF 903,643,458 amount.

The RDB negotiating team opted for the valuation report with lessor amount as it was beneficial to the government, more reflecting value for money and at the same time accepted by the investor.

Auditor's comment

For the case of Lack Ihema Fishery, the issue is what RDB has planned to use the repossessed assets.

5.10 Failure to close monitor Akagera Hotel investment

Observation

In 2003, the Government of Rwanda leased Akagera Hotel to the company Akagera Game Lodge S.A. The Akagera Hotel whose title deed was valid for a period of forty-nine years (49) commencing on 10th June 2003 to end 9th May 2052 paying a monthly rent equivalent to 2.5% of net profits and from the hotel payable at the end of every financial year of the company. The Government objectives were:

- To ensure that, that the hotel is fully renovated and refurbished;
- To ensure that the hotel and tourism business continue to be modernized and made competitive with similar business, concomitant with market demands.

From the lease agreement, the payment of rent shall not commence before the expiry of 7 years and 6 months after the completion of the renovations of the hotel.

However, management of this contract indicates weakness concerns regarding the following:

1. No indication that RDB made a follow up of Akagera Game Lodge operations to ensure the company was not making profits and no rent was received by Government in this privatization contract 5.5 years ago;
2. No follow up was carried out by RDB to ensure effective management of Akagera Hotel was making profit and pay rent as agreed in contract;
3. There is permanent risk of Government side losing any expected revenue as long as contract terms allow only revenue in case of investor makes profit.

Recommendation

RDB should intervene in monitoring activities of Akagera Game Lodge and taking corrective measures timely.

Management comment

Rent fee would be due 8 years and half as per the MoU. In 2012 after the lapse of this period the Government started looking for turnaround solutions to deal with issues that the hotel was facing. A decision was made to sell the remaining private investor's stake to RSSB in 2013. Therefore, there was no rent due.

Auditor's comment

I was not provided with relevant documentation stipulating changes in shareholding of Akagera Hotel and stating that no rent payment obligations of the lessee. There is a risk of transferring Akagera Hotel to RSSB freely. RSSB invests citizens' pension contributions not public money. RSSB owe rent to Government as any other private investor unless it was given freely by competent authority.

5.11 Lack of sustainability of 14 privatized companies

Observation

The responsibility of RDB is to carry out privatization programs, monitor them and advise Government accordingly.

However, in my documentary review, I noted 14 companies that failed to continue operations and were closed. For details of failed companies **see appendix 2.** These companies faced the following challenges[20]:

- Mismanagement due to unqualified leaders,
- Embezzlement of funds by top leaders,
- Inability to invest as agreed in contract with the Government of Rwanda,

- Excessive debts,
- Partial of implementation of business plan,
- Problem of access to raw materials; and
- Low production capacity

RDB did not intervene timely through regular monitoring missions to preserve implementation of business plans that would avoid occurrence of such difficulties. In addition, there was no indication that proposed turnaround solutions provided from the assessment report on non-performing report issued in 2013 on privatized companies are being implemented. The investors of these companies are waiting to get compensation from government. Closure of privatized companies is an indicator of failure to achieve intended objective of privatization of government companies to make them more efficient.

Recommendation

RDB should ensure that the public business privatized are implementing their business plans as agreed and take decisions earlier as agreed in the contract to avoid intervening late when situation is worse.

Management comment

RDB monitors privatized companies as shown by monitoring reports and performance of more than 83% of privatized companies. Privatized companies also face operating issues the same way other companies in private sector face operating difficulties without necessarily being linked to their status of privatized versus private. We will keep providing assistance to privatized companies as needed and to the extent provided by the law.

5.12 Lack of strategic management of privatization activities

Observation

Law n° 46/2013 of 16th June 2013 establishing RDB and determining its mission, organization and functioning, article 4.7 states that one of its mission is to carry out privatization programs, monitor them and advise the Government accordingly. Privatization contract provides for breach of contract related to non-implementation of business plan by investor. The privatized companies were to be repossessed when investors failed to implement their business plans. In such case, they were provided with compensation by the Government equal to the investment made by the investor since transfer of company to

investors. The compensation was subject to deduction of 5% and 2% of contract price respectively to hand over cost during the repossession and penalty of non-implementation of business plan.

However, I noted that RDB does not have a plan which shows the privatization strategies and measures to promote privatization of public business enterprises. After 20 years since the establishment of privatization program, a number of companies sold to investors failed and closed their business. Others have been repossessed late to the extent they were no longer attractive and they are closed. **For details, see the appendix 2**

During field visit, the following photos were taken and show the current status of the companies that failed to continue their businesses:

Current status of building of former SORWAL, photo taken on 28th March 2016

Production machines at SONAFRUIT factory. Photo taken on 31st March 2016

Status of buildings of repossessed Company Mukamira Maize mill, Photo taken on 30 March 2016

The absence of plan and measures to promote privatization of public business enterprises may limit the RDB to know when, how and what to privatize and repossess. This may also lead RDB to award companies to investors who will not run and operate them in sustainable manner.

Recommendation

RDB should develop strategic management that will set direction priorities of privatization and repossession activities**.** Its implementation should be monitored and evaluated regularly to avoid deviation from RDB objectives of carrying out privatization programs, monitor them and advise the Government accordingly.

Management comment

RDB conducted a detailed assessment of those non-performing privatized companies and a report of the issues was submitted to the Prime Minister's office. A meeting of stakeholders chaired by MINICOM came up with turnaround solutions with responsible institutions for implementation. RDB is part of the stakeholders and in collaboration with MINICOM we shall follow up the implementation of those recommendations

5.13 Discrepancies on information of privatization proceeds and receivables and lack of information on some privatized companies

Observation

Law n° 46/2013 of 16th June 2013 establishing RDB and determining its mission, organization and functioning, article 4.7 states that one of its mission is to carry out privatization programs, monitor them and advise the Government accordingly.

However, in my review of implementing those responsibilities, I noted the following:

- Discrepancies between proceeds receivables from RDB and proceeds receivables as reported in MINECOFIN's financial statements as in the table below:

Company	Investor	Amount receivable per RDB current recoverability status B	Amount receivable per MINECOFIN Government consolidated financial statements A	Difference Frw A-B
The Nyagatare Dairy	INYANGE Industries	179,744,400	239,020,733	59,276,333
Pfunda Tea Factory (90%)	LAB international	25,906,862	23,178,327	(3,728,535)
Mulindi Tea Company	Rwanda tea investments	0	57,563	57,563

Company	Investor	Amount receivable per RDB current recoverability status B	Amount receivable per MINECOFIN Government consolidated financial statements A	Difference Frw A-B
Rwanda Printery Publishing Company	MDP Ltd	0	475,000,000	475,000,000
IMPRISCO	Angelique international	221,018,757	445,927,293	224,908,536
Rutsiro Tea Estates	Rwanda mountain tea	0	262,750,232	262,908,536
Kabuye Rice Mill	ICM Rwanda	0	33,000,000	33,000,000

The above privatization information kept by different stakeholders indicates that RDB does not have sufficient information in privatization activities which may limit to monitor and take rational decisions timely.

Recommendation

RDB Management should liaise with other stakeholders to ensure that all information related to privatization of public companies are kept at RDB Office and proper reconciliations are done with MINECOFIN.

Management comment

Observation noted and recommendations will be implemented.

5.14 Inadequate coordination among privatization stakeholders

Observation

After publication of tender for privatization and submission of bids, the bids are evaluated on the basis of tender specifications. The public businesses shall be sold to the bidder with the most competitive bid. The award is only final when it has been approved by Cabinet.

However, the following weaknesses have been identified in the privatization process:

- On 7th October 2009, an interim agreement was signed between the Government of Rwanda represented by Ministry of Agriculture and Animal Resources (MINAGRI) and ICM Rwanda Agribusiness S.A.R.L to transfer 60% of Government shares of Bugarama Rice Company to ICM. On 25th November 2009, MINAGRI handed over to ICM Rwanda Agribusiness S.A.R.L assets and operations of the company. These agreements were carried out before approval of the Cabinet meeting of 10th February 2010. In

addition, despite this transfer, RDB did not provide any explanation or document to ensure that any payment was made in favor of Government.

- 60% of Government shares of Kabuye rice mill were awarded to investor ICM Rwanda by Cabinet decision of 10th February 2010. On 29th March 2012, the factory was closed by Rwanda Bureau of Standard's decision addressing their non-compliance with standards. Between the two dates no contract was signed by the investor and MINECOFIN and no indication that the selling price was paid.

Lack of collaboration between government institutions in privatization process may lead to Government not achieving privatization objectives.

Recommendation

RDB management should enhance coordination of all stakeholders to avoid irregularities in privatization process until signature of the contract between Government and investor.

Management comment

This issue of the privatization of rice mills to ICM involves several stakeholders and was escalated to decision makers in economic cluster meeting and the later instructed MINECOFIN to appoint an audit team to assess the case and provide a detailed report. The audit report was completed and RDB is waiting for the economic cluster meeting to discuss on findings and provide guidance on how to finalize the issues which will involve several public institutions and ministries.

5.15 Inadequate monitoring of post privatization operations

Observation

Article 4.7 of the Organic Law establishing RDB and determining its responsibilities, organization and functioning defines one of the missions of RDB as to carry out privatization programs, monitor them and advise the Government accordingly. In addition to that, investors are required to report quarterly on the implementation of their business plans and operations in general.

However, from my review of RDB documentation, I noted the following:

- RDB does not have a monitoring plan that shows privatized companies to be monitored in a given period. This results for RDB to continuous spread efforts on companies privatized years along ago irrelevant to the country economic need;

- Monitoring exercises conducted do not take into account the risk assessment, which define priority in monitoring privatized companies covered on the basis of high risk, medium and low risk;
- In addition to that, I noted that RDB does not have quarterly reports from investors which is contrary to contract agreements signed by both parties. In the absence of reporting and utilizing quarterly reports, RDB loose opportunity to monitor on result oriented based approach

In the absence of proper monitoring and reporting, it is not possible to know about which companies have been visited, how often, what was found, and what action was taken. This limit the ability RDB to monitor the implementation of investors' business plans and conditions of privatized entities. RDB is at risk of intervening very late to take appropriate decisions on privatized companies working in difficulties.

Recommendation

RDB should develop a periodical monitoring plan and design program of monitoring based on risk assessment, period and the relevance of privatized companies. RDB should also reinforce reporting and take measures for non-compliance.

Management comment

Observation noted and recommendations will be implemented in line with the new privatization law. There was an improvement in conducting monitoring as evidenced by monitoring reports that tracked the implementation of the business plans as well as the compliance with sale agreements. In addition, a monitoring and evaluation framework and tools has been developed and provides guidance on the frequency, timing and techniques to be used in monitoring exercises.

5.16 Lack of proper information management system

Observation

The management information systems should provide accurate, informative, and timely information essential for users. I noted that RDB did not have information management system and it does not maintain ongoing consolidated information of all privatization operations. As a consequence, there is poor quality and unreliable information that is inefficient to access and use when needed.

For example, my review of current list of privatized companies, I noted the following:

- The shares sold by government are not valid for example the Government of Rwanda sold 90% of shares previously held at Kitabi Tea Factory and the unprotected excel

spreadsheet (database) availed by the RDB, shows that Kitabi tea factory was sold at 60% of government shareholding.

- According to the contract, Gikondo coffee was sold to **Frw 204,500,000**. However, the excel spreadsheet (database) shows that it was sold **Frw 190,500,000** by understating the sales price by **Frw 14,000,000** (separated contract) of two houses connected to the principal coffee factory house.
- The investor MDP international Ltd who bought Rwanda Printing and Publishing Company limited (RPPC) at **Frw 1,900,000,000** but the RDB database indicates that investor paid the half amounting to **Frw 950,000,000** and this is considered as full paid per the status list and the remaining amount of **Frw 950,000,000** was not disclosed;
- The investors who bought the companies per the status list are different with current in operations:

Company	Investor per database	Current investor
RULIBA Brick Works	Murenzi Jean	Crystal ventures limited
OPYRWA	SOPYRWA	Horizon
CIMERWA	RIG S.A	PPC ltd

In addition, I noted RDB does not have full information on sale of government shares in semi-public companies such as MTN, BCR and Bralirwa, and leasing contract between Serena hotel and Government of Rwanda.

The absence of updated information for privatized companies may limit RDB management to take rational decisions in the right time. Consequently, RDB does not have current status of privatized entities and their operations. This also limits RDB's ability to report accurately to relevant stakeholders.

Recommendation

RDB should develop a reliable information system of privatized companies. The system should include for example an updated status on how many privatized companies, how many were monitored, how many are or not implementing their business plans as agreed, etc.

Management comment

- *RDB has put in place digital information system for privatization and all records for privatization archives are ready.*
- *We understand the need of the information management system and we are in the process of designing it as we have completed the digitalization step and a concept note for the database has been completed. The next step is to design and implement a comprehensive database that addresses the identified issues.*

6. CONCLUSION

Privatization program was put in place in 1996 with the objectives of divesting public companies and enable development of the private sector.

However, the performance audit of strategic management of privatization activities revealed that Government is not realising intended benefits from the privatisation process from some of the companies privatised. The privatisation process has resulted in Government giving away some companies without receipt of any payments from the investors and in some instances, 14 investors have failed to adhere to the investment plans presented at time of privatisation or failed to operate the companies as agreed in privatisation agreements. The Government has in some cases resorted to repossession of the privatised companies but ended up paying a higher price for repossession than proceeds obtained at privatisation stage. Specific cases of concern in management of privatization activities include: The role of RDB was mainly to conduct the tender process to find the investor and it failed to initiate pre-privatization activities, failure to conduct legal and financial audit of companies planned for privatization, privatizing public companies without competition to attract best equipped investors, contract not safeguard government against business risks in case the investor fail to implement business plans, failure to repossess privatized companies timely and inadequate monitoring of the implementation of business plans of privatized companies.

7. RECOMMENDATIONS

In the view of the inefficiencies above, it is recommended that:

- The RDB should develop strategic management plan that will set direction priorities of privatization activities**.** Its implementation should be monitored and evaluated regularly to avoid deviation from RDB objectives of carrying out privatization programs, monitor them and advise the Government accordingly.
- RDB should work with the line Ministry that has an institution to be privatized to determine the right time to privatize before MINECOFIN requests the Cabinet for authorization to sale.
- RDB should consider /recommend legal and financial audit before privatization to prevent or reduce any potential litigation and loss that could derive from the privatization process.
- Before privatization, RDB should conduct valuation before the sale of any business to maximize return from the initial investment made. In addition to that, RDB in conjunction with other competent authorities should follow up and identify how the Government interests were protected in that transaction of privatization of Kabuye Sugar Company.
- RDB should take different measures including total liquidation to avoid complete loss of some of the old companies.
- RDB management should comply with requirement and ensure competition in the privatization process in order to select the best equipped investors.
- The RDB Management should follow up owners and ensure that full payment of all amounts due. RDB should also consider legal side to ensure prompt recovery.
- RDB should avoid contract clauses which may cause loopholes and give room for some investors in deviation from their business plans.
- The RDB should intervene in monitoring activities of Akagera Game Lodge and taking corrective measures timely.
    - RDB should develop a reliable information system of privatized companies. The system should include for example an updated status on how many privatized companies, how many were monitored, how many are or not implementing their business plans as agreed, etc.
    - RDB should develop a periodical monitoring plan and design program of monitoring based on risk assessment, period and the relevance of privatized companies. RDB should also reinforce reporting and take measures for non-compliance. RDB should monitor and evaluate timely companies privatized to avoid and prevent losses, and

advise government accordingly. RDB should ensure that the public business privatized are implementing their business plans as agreed and take decisions earlier as agreed in the contract to avoid intervening late when situation is worse.

APPENDICES

Appendix 1: Key Documents reviewed

SN	Documents reviewed
1	Privatization law N°02 of 11 March 1996
2	Presidential Decree of Privatization N°08/14 of 03 May 1996
3	Ministerial Order 007/03/10/MIN of 7 August 2003 on Privatization Procedures Manual
4	List of 102 companies privatized from RDB/Privatization Unit
5	RDB Annual Report 2013/2014
6	ISSAI 5210, INTOSAI Guidelines on Best Practices of Audit of Privatization
7	Law N°18/2007 of 19/04/2007 relating to expropriation in the public interest

Appendix 2: Privatized companies failed to continue operations

S/N	Company closed	Year of privatization	Last date of Operations	Current status in April 2016
1	OVIBAR	1997	2008	Close down and deteriorating
2	CNPE (Centre National de Petit Elevage) KABUYE (poultry section)	1999	2008	Close down and deteriorating
3	CNPE KABUYE (Rabbit section)	1999	2008	Close down and deteriorating
4	SORWAL (Matchboxes)	1999	2008	Close down and deteriorating
5	Kibuye Guest House	1999	2004	Only land remained
6	CNPE (Pig breeding Centre in Ruhengeri)	2001	2011	Close down and deteriorating
7	Gatare Flour Mill	2001	2009	Close down and deteriorating
8	SONAFRUITS	2001	2008	Close down and deteriorating
9	Kamatsira Sawmill	2003	2007	Close down and deteriorating
10	Mukamira Maize mill	200	2012	Close down and deteriorating
11	Masaka Coffee Factory	2002	2009	Close down and deteriorating
12	CNPE Butare	2003	2008	Close down and deteriorating
13	Rwandatel*	2007	2010	Close down and deteriorating
14	Lack Ihema Fishery	2004	2013	Close down and deteriorating

Appendix 3: Companies not audited before the sale

S/N	Company	Year of privatization
1	Lake Kivu Fish Factory (Gisenyi)	2008
2	OVIBAR	1997
3	The Nyagatare Dairy	2012
4	Lake Kivu Fish Factory CYANGUGU	2000
5	The Kinigi Guest House	2000
6	SONAFRUITS	2002
7	Kamatsira Sawmill	2003
8	Masaka Coffee Factory	2002
9	Rwandatel	2007
10	Gite Ituze	2006
11	Nshili-Kivu Tea Buildings	2006
12	The Ruhengeri Limestone Project-PPCT	2006
13	Lake Kivu Fishery-Kibuye	2006
14	Gisakura Tea Factory	2010
15	Mata Tea Factory	2010
16	PETRORWANDA	2002
17	Kirehe Rice Mill	2013
18	Shagasha Tea Factory	2012
19	Mulindi Tea Factory	2012
20	Gatare Flour Mill	2001

Appendix 4: Lake Ihema Fishery repossessed including daily expenditure

SN	Items of value compensated	Total amount paid (Frw)	Daily Expenditure Frw
1	Cost of purchasing the Fishery	62,000,000	-
2	Additional Cost of purchasing the fishery	6,200,000	-
3	Business Study fees	16,230,000	16,230,000
4	Rehabilitation of the building	35,000,000	
5	Protection of Lake	93,800,000	93,800,000
6	Fight against Water Hyacinth (Amarebe)	38,220,000	38,220,000
7	Motor Car	15,000,000	-
8	boats	41,200,000	-
9	Electricity Power	3,528,000	3,528,000
10	Office materials[21]	19,107,700	12,000,000
11	Trap equipment(fishing nets)	68,000,000	-
12	Foods for staff	19,440,000	19,440,000
13	Refrigerator	5,000,000	-
14	Other expenses	19,591,039	19,591,039
15	Cash inflow	(31,066,960)	
	Total	**411,250,049**	**202,809,039**

[21] Office materials: Frw 7,107,700 and Office Rent: Frw 12,000,000