Senegal Investment Climate Reform Action Plan
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<tr>
<td>AfCFTA</td>
<td>African Continental Free Trade Area agreement</td>
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<tr>
<td>APIX</td>
<td>Agence de Promotion de l’Investissement et des Grands Travaux</td>
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<tr>
<td>ARMP</td>
<td>Autorité de Régulation des Marchés Publics du Sénégal</td>
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<tr>
<td>BCE</td>
<td>Bureau d’appui à la Création d’Entreprise</td>
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<td>BTI</td>
<td>Bertelsmann Transformation Index</td>
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<tr>
<td>CET</td>
<td>Common External Tariff</td>
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<tr>
<td>CFAF</td>
<td>Franc CFA</td>
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<tr>
<td>COVID-19</td>
<td>Novel Coronavirus 2019</td>
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<td>CPI</td>
<td>Conseil Présidentiel pour les Investissements</td>
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<td>CwA</td>
<td>Compact with Africa</td>
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<td>DB</td>
<td>Doing Business</td>
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<td>DCMP</td>
<td>Direction centrale Des Marchés publics</td>
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<td>DISEM</td>
<td>Division des Semences</td>
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<td>DPO</td>
<td>Development Policy Operation</td>
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<td>DRM</td>
<td>Domestic Revenue Mobilization</td>
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<td>ECOWAS</td>
<td>Economic Community of West African States</td>
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<td>ECOWIP</td>
<td>ECOWAS Investment Policy</td>
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<td>EIU</td>
<td>Economist Intelligence Unit</td>
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<td>ETLS</td>
<td>ECOWAS Trade Liberalization System</td>
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<td>EU</td>
<td>European Union</td>
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<td>FDI</td>
<td>Foreign Direct Investment</td>
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<td>GCI</td>
<td>Global Competitiveness Index</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
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<td>GIRG</td>
<td>Global Indicators of Regulatory Governance</td>
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<td>GOS</td>
<td>Government of Senegal</td>
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<td>IC</td>
<td>Investment Climate</td>
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<td>ICT</td>
<td>Information, Communication and Technology</td>
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<td>IFC</td>
<td>International Finance Corporation</td>
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<td>Investment Grievance Mechanism</td>
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<td>IIA</td>
<td>International Investment Agreement</td>
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<td>IPA</td>
<td>Investment Promotion Agency</td>
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<td>ISDS</td>
<td>Investor-State Dispute Settlement</td>
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<td>ITC</td>
<td>International Trade Centre</td>
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<td>LCR</td>
<td>Local Content Requirement</td>
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<td>Least Developed Countries</td>
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<td>LNG</td>
<td>Liquefied Natural Gas</td>
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<td>LPI</td>
<td>Logistics Performance Index</td>
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<td>MAER</td>
<td>Ministère de l’Agriculture et de l’Équipement Rural</td>
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<td>MSMEs</td>
<td>Micro, small and medium sized enterprises</td>
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<td>MTRS</td>
<td>Medium-Term Revenue Strategy</td>
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<td>Acronym</td>
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<tr>
<td>NCC</td>
<td>National Competition Commission</td>
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<td>ODA</td>
<td>Official development assistance</td>
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<td>OECD</td>
<td>Organization for Economic Co-operation and Development</td>
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<td>OFNAC</td>
<td>National Anti-Corruption and Fraud Office</td>
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<td>OHADA</td>
<td>Organisation pour l'Harmonisation en Afrique du Droit des Affaires</td>
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<td>OSS</td>
<td>One-Stop Shop</td>
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<td>PEs</td>
<td>procuring entities</td>
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<td>PMR</td>
<td>Product Market Regulations</td>
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<td>PPP</td>
<td>Public-Private Partnerships</td>
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<td>PREAC</td>
<td>Programme de Réformes de l'Environnement des Affaires et de la Compétitivité</td>
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<td>PSD</td>
<td>Private Sector Development</td>
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<td>PSE</td>
<td>Plan Senegal Emergent</td>
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<td>QI</td>
<td>Quality Infrastructure</td>
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<td>RGE</td>
<td>Recensement Général des Entreprises</td>
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<td>SCL</td>
<td>Senegalese Competition Law</td>
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<td>SEZ</td>
<td>Special Economic Zones</td>
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<td>SME</td>
<td>Small and Medium Enterprise</td>
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<td>SOE</td>
<td>State-Owned Enterprise</td>
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<tr>
<td>SYGMAP</td>
<td>Système de Gestion des Marches Publics</td>
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<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
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<td>UNIDO</td>
<td>United Nations Industrial Development Organization</td>
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<td>USD</td>
<td>United States Dollars</td>
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<td>WACOMP</td>
<td>West Africa Competitiveness Program</td>
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<td>WAEMU</td>
<td>West African Economic and Monetary Union</td>
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<td>WBG</td>
<td>World Bank Group</td>
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This Investment Climate Reform Action Plan is part of a 10-country report series focusing on Angola, Cabo Verde, Dominican Republic, Gabon, Ghana, Kenya, Madagascar, Papua New Guinea, Senegal, and Zambia. It constitutes the identification and prioritization phase of the Investment-Enabling Environment in ACP (IEE-ACP) Program’s Country Engagement Window. IEE-ACP is part of a broader program implemented in partnership with UNIDO and ITC, entitled Support to Business Friendly and Inclusive National and Regional Policies, and Strengthening Productive Capabilities and Value Chains. The program is funded by the 11th European Development Fund’s Intra-ACP PSD envelope, and the team is grateful to the European Commission (EC) and to the Organization of African, Caribbean, and Pacific States (OACPS) for this support.

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While Senegal has achieved impressive GDP growth in the past few years, downward economic prospects driven by COVID-19 require a better connection between macro- and micro-economic policies to foster recovery. After a period of significant economic growth since 2010, 1 Senegal's immediate growth prospects have been significantly affected by the COVID-19 Global Pandemic, moving from pre-COVID GDP growth forecasts of 6.8% and 7.0% for 2020 and 2021, respectively, 2 to 1.3% and 4.0%, respectively. 3 In this context, COVID-19 has contributed to exacerbating existing challenges related to informality in labor markets, 4 uncertainties around the impact of the recently discovered offshore oil and gas reserves, and limited dynamism in private sector development, triggered to a large extent by a restrictive regulatory framework and structural constraints that undermine the efficiency of investment and sustained growth. In this sense, addressing Senegal's challenges at the macroeconomic level elicits a deeper understanding of the microeconomic constraints affecting key sectors. 5 To this end, the World Bank recently prepared a wide range of diagnostics reports for Senegal which included Private Sector Development issues which consistently emphasize the need to reduce the discretionary application of regulations, to support regulatory enforcement in key sectors (real estate, housing, and construction) that are impacted by high informality, to strengthen the competition policy framework, and to reinforce pro-market reforms in key sectors such as agriculture, telecommunications, and energy.

In this context, three topics deserve further attention as a platform to reinforce the investment climate, strengthen private sector development, and shape more dynamic markets in Senegal.

- **Competition Policy.** Weak competition policy enforcement in Senegal feeds into a perception of significant business risks and lack of a level playing field. Senegal has a relatively small formal economy prone to concentration and thus more conducive to anticompetitive practices. COVID-19 has aggravated the risks related to increased concentration of market power and potential collusion among competitors. However, as a member of the West African Economic and Monetary Union (WAEMU), Senegal has a dual system of regional and national competition laws with the WAEMU Commission retaining exclusive jurisdiction over competition policy enforcement across member states and national competition authorities merely fulfilling an ancillary role. Lack of means to implement this mandate at the regional level has created an enforcement gap in competition law across the region, and Senegal is no exception.

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**Investment Policy and Promotion.** Although Foreign Direct Investment (FDI) inflows averaged 2.7% of GDP between 2014-2018, Senegal's FDI stock as a percentage of GDP remains relatively low at roughly 26% of GDP as of 2019. This is an indication of significant headroom to attract further foreign investment. In addition, the COVID-19 outbreak is likely to affect the degree to which FDI may contribute to Senegal's economy. While Senegal performs well on overall measures of regulatory risk with respect to investment, the country still has significant room for improvement in terms of its investment policy and promotion framework and investment-related regulations. Continued improvement to the enabling environment for FDI is therefore critical for Senegal to retain existing investments and to continue attracting new ones.

**Business Regulation.** Despite recent reform efforts, the Senegalese business regulatory environment remains challenging for firms, particularly Small Medium Enterprises (SMEs) which make up 99 percent of the country's private sector. Indeed, Senegal achieves low absolute scores on the World Bank's Doing Business indicators, ranking 123rd globally (out of 190) in terms of the overall ease of doing business. Senegal's business regulatory restrictiveness is characterized by complex regulatory procedures and barriers throughout the lifecycle of a business. Building upon this assessment, this Reform Action Plan identifies several initiatives to address existing concerns. These initiatives are based on previous diagnostics of the World Bank Group (both the IBRD and the IFC) and are aligned with the priorities of the government of Senegal as outlined in the *Programme de Réformes de l’Environnement des Affaires et de la Compétitivité (PREAC3).*

As a driver for increased innovation and market efficiency, an effective competition policy will require modernizing and strengthening Senegal's competition regulatory and institutional framework. Effective implementation of competition policy enforcement rests on elements that include a primary legal and policy framework, an adequate institutional structure and availability of technical and financial resources, and specific implementing rules, guidelines, capacities and skills to effectively exercise the powers to prevent, investigate and prosecute anti-competitive practices and assess mergers. Key actions to this end include: (i) Modernization and reinforcement of the setup of the national competition authority and (ii) Development of implementing regulation and enforcement capabilities of the competition authority.

Government actions can rebuild investor confidence, and investment promotion agencies (IPAs) can boost their countries' investment competitiveness by better aligning their FDI attraction and retention efforts with market signals and by changing investor preferences. Senegal can leverage FDI for robust economic recovery from COVID-19 by avoiding protectionist policies, seizing new opportunities from changing FDI and supply chain trends, and fostering global cooperation. To achieve such opportunities Senegal should improve its investment environment by (i) strengthening Senegal's Investment Promotion Agency's response to the COVID-19 crisis; (ii) 

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6 The PREAC3 is the umbrella framework outlining high-priority investment climate reforms in the country. For the period 2019-2023, it aims at achieving structural reforms to enhance the competition policy, improve access to land, foster private sector investment, promote digitalization of G2B service delivery, promote commercial justice, and strengthen the energy, oil, and gas sectors regulation. PREAC3 targets (i) the country to be in the top 80 Doing Business (DB) ranking, (ii) doubling the volume of domestic and foreign direct investments, (iii) increase the share of manufacturing production and private investment in agriculture, and (iv) increase employment opportunities.
enhancing its FDI institutional framework by developing an FDI Attraction and Retention Strategy cascading from the PSE; (iii) improving Senegal’s investment policy environment by adopting a new Investment Code and ensuring its alignment with good global practices; as well as (iv) strengthening linkages between foreign and domestic players in the oil and gas sector, which is expected to be an important source of revenue in the medium-term.

**A strong business environment is a key enabler for achieving productivity growth, attaining high levels of private investment, competitiveness, and economic diversification that Senegal aspires to.** Although constraints to firms’ entry and operation continue to exist, Senegal has improved on various fronts to support its businesses. In parallel, Senegal has pushed the envelope on the entrepreneurship agenda and has recently adopted a new law in January 2020 on the creation and promotion of start-ups, highlighting the need for a business environment conducive to entrepreneurship and digital innovation. Looking forward, the Senegalese business regulatory environment could focus on several areas, some of which can be addressed under the ACP, notably: (i) simplifying the overall licensing regime to facilitate competition in the private sector in key sectors, notably education and agribusiness, (ii) supporting the adoption of the startup implementing regulations, (iii) improving the quality infrastructure and standards and (iv) improving construction permitting.

This Investment Climate Reform Action Plan summarizes the economic context of Senegal as well as the main constraints private sector faces in the country, and provides a number of recommendations on which the World Bank (WB) and the Government of Senegal (GOS) can collaborate on to eliminate poverty and promote shared prosperity.

- **Section 1 leverages an Investment Climate Scan** drawing on economic data from global resources summarizes the situation of Senegal with reference to the macroeconomic and political factors that are impeding its development. The analysis includes benchmarking different IC characteristics against selected structural, aspirational, and regional comparators. Annex 1 expands on the Scan’s methodology.
- **Section 2 summarized relevant WBG diagnostics** by presenting a stocktaking of available diagnostics and efforts to improve the country’s investment climate.
- **Section 3 distils the constraints Senegal faces in improving its investment climate**, with a special focus on the additional challenges faced by the country during the COVID-19 crisis.
- **Section 4 outlines WB recommendations through the Reform Action Plan** and charts a path toward future partnership with the GOS in achieving these objectives.
1. Context

1.1 Macroeconomic Overview

Until recently, historically low and volatile economic growth positioned Senegal among the slowest-growing economies in Sub-Saharan Africa. The country's economic performance was associated with high vulnerability to exogenous factors, low productivity growth, limited structural transformation, and high underemployment.

Although Senegal has achieved impressive GDP growth in the past five years, significant headroom exists for further economic improvement. Overall economic growth accelerated in 2010 (Figure 1), and between 2015 and 2018 GDP growth averaged 6.7% (2019 GDP growth is estimated to have been 5.3%). Per capita GDP growth in Senegal has exceeded 3 percent every year since 2014, above WAEMU peers. Nevertheless, GDP per capita—which stood at USD 1,522 in 2018—remains well below aspirational peers such as Morocco (USD 3,222). Recent growth has been primarily driven by:

- Fast growth of the services industry (driven primarily by financial and telecommunications services), mainly due to support programs and robust external demand resulting in strong export performance;
- Productivity increase within sectors and a shift from agriculture to informal trade and commerce, partly due to urbanization but also some limited shifts to sectors with higher and growing productivity, such as high value-added services;
- A series of reforms to improve the country's competitiveness on multiple fronts, from the legal framework for business to infrastructure and energy (Senegal was acknowledged as one of the top ten reformers worldwide in the 2015 and 2016 Doing Business reports); and
- Some structural reforms, including the strengthening of agencies, opening to private investors and restructuring of certain sectors, and the partial digitalization of customs clearance.

Looking forward, the global COVID-19 pandemic will drive down growth but forecasts for Senegal remain positive at 1.3% and 4.0% GDP growth for 2020 and 2021 respectively, however less optimistic than the January 2020 figures estimating a 7% GDP growth in 2021.

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11 Ibid.
Figure 1: In recent years, Senegal has achieved strong GDP per capita growth, although it remains relatively low.\textsuperscript{14}

Faster economic growth, however, has not translated to higher formal job creation.\textsuperscript{15} Since 2011, employment levels have improved, but the jobs created have been of poor quality and mostly concentrated in commerce—a sector characterized by high informality and low (and decreasing) productivity—partially due to the inadequacy of the skills of the labor force.\textsuperscript{16} As a result, in 2015, inactivity (58.5%) and underemployment (29.5% in rural areas and 10.3% in urban areas) remained high, and formal employment only amounted to 7.8% of the active population.\textsuperscript{17} Senegal's economic growth has not been sufficiently pro-poor, and extreme poverty remains high, however it is declining slowly (from 37% of the population in 2014 to 33% in 2019). In the medium to long term, inclusive growth will have to rely on productivity increases generated through human capital and innovation as well as on equity-enhancing social policies.

Other macroeconomic indicators have been showing positive trends, although public debt has been rising steadily. The fiscal deficit has been on a declining trend, down from 4.8% of GDP in 2015, to 3.7% in 2017. However, Senegal's recent growth partly reflects higher government spending. The country needs to be vigilant in managing public spending, as it faces rising debt. Senegal's fiscal deficit is estimated to have risen to 3.9% of GDP in 2019,\textsuperscript{18} above the 3% the GOS was targeting for the year to comply with the WAEMU convergence criteria. The fiscal deficit was originally forecasted to reach 2.9% in 2020 as GOS implemented measures to increase fiscal revenues and reduce expenditures in the context of its fiscal program. However, the COVID-19 pandemic response measures have impacted these efforts, and the fiscal deficit is now projected to be 6% of GDP in 2020.\textsuperscript{19} Along these lines, public debt has continued on an upward trend, reaching 61.5% of GDP in 2018, up from 36.8% in 2013 (Figure 2). Much of this divergent dynamic has been driven by off-budget treasury operations, often

\textsuperscript{14} For the purposes of this report, “Structural” peers are defined as the simple average of Benin, Cameroon, Cote d’Ivoire, and Rwanda. “Aspirational” comparators are defined as the simple average of Angola, Ethiopia, Morocco, Nigeria, South Africa, and Vietnam. “Regional” comparators are defined as the simple average of WAEMU countries (excluding Senegal).
\textsuperscript{15} World Bank. 2018. \textit{Senegal Economic Update, April 2018: Recent Growth Drivers in Senegal, and the Role of Agriculture in Developing a Resilient and Inclusive Economy}. April 2018
\textsuperscript{17} World Bank Group. 2020. \textit{Senegal - Country Private Sector Diagnostic}, April 2020
\textsuperscript{18} EIU, 2020
\textsuperscript{19} IMF July 2020 First Review of the Policy Coordination Instrument for Senegal.
linked to the financial deficits of state-owned enterprises (SOEs), which forced the GOS to issue more public debt than was warranted by the fiscal deficit.\textsuperscript{20}

\textbf{Figure 2: Senegal's government indebtedness has risen rapidly in recent years}

![Graph showing Senegal's government indebtedness]

While the recent discovery of significant offshore oil and gas reserves represents a further important development for Senegal's economy, its ultimate impact remains uncertain. The Sangomar oil project, and the Grand Tortue Ahmeyim liquefied natural gas (LNG) venture on the maritime border between Mauritania and Senegal, were expected to start producing in 2022. The maximum daily production was initially estimated at around 100,000 bpd, comparable to Ghana, but much lower than major African producers such as Nigeria and Angola. The Sangomar field is expected to generate Government revenues up to 3.8% of GDP annually, depending on global oil prices and the cost of extraction.\textsuperscript{21} This could lead to a reduction of the electricity cost by as much as 30%.\textsuperscript{22} Senegal's relatively solid governance indicators and vibrant political system are clear assets for sound natural resources management but provide no guarantee of avoiding the natural resource curse, especially given the country's past track record of vulnerability to external shocks. In addition, these estimates will have to be reviewed in the context of the COVID-19 pandemic and the oil price war, which have triggered a major decline in oil prices since the beginning of 2020 and will likely impact investment plans in this sector in Senegal.

Although the future trajectory of transmission within Senegal remains unknown, the potential spread of COVID-19 in Senegal poses further risks to the country's economy on top of its immediate human cost. Already, the pandemic-driven global downturn has impacted Senegal's immediate growth prospects. As a result, the World Bank's GDP growth forecasts for Senegal have been revised downwards to 1.3% and 4.0% for 2020 and 2021, respectively,\textsuperscript{23} from the pre-COVID GDP growth forecasts of 6.8% and 7.0%, respectively.\textsuperscript{24} Looking forward, continued growth in Senegal's economy is contingent on the government's ability to effectively contain the spread of the pandemic. There are significant downside risks associated with government-imposed lockdowns and declining

consumer confidence in the event of the pandemic’s continued spread in Senegal. From a risk factor perspective, Senegal’s densely populated urban areas may amplify risks relative to other Sub-Saharan countries, although its young population and relatively strong governance may be mitigating factors.\footnote{Africa Center for Strategic Studies. 2020. Mapping Risk Factors for the Spread of COVID-19 in Africa. May 2020}

**Overall, given its enhanced economic competitiveness, Senegal’s medium-term prospects appear positive.** However, growth is still fragile and will not be sustained unless Senegal deepens reforms to address long-standing structural constraints, addresses emerging fiscal issues (including those related to natural resources), and further boosts its competitiveness, particularly in labor-intensive and productive sectors such as agribusiness, tourism, and finance. So far, the country has benefitted from a conducive external environment, however, the COVID-19 crisis will likely reverse the trend, underscoring the importance of such reforms.

### 1.2 Governance

**Senegal performs well on overall measures of institutional quality relative to peer countries.** Senegal ranks above WAEMU peer countries, structural comparators such as Rwanda, and even aspirational comparators such as Morocco on measures of the rule of law and corruption (Figure 3). Efforts such as the 2013 establishment of the National Anti-Corruption and Fraud Office (OFNAC) have helped Senegal achieve steady improvement on this measure.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{Senegal_performs_well_on_measures_of_governance_and_institutional_quality.png}
\caption{Senegal performs well on measures of governance and institutional quality\textsuperscript{26}}
\end{figure}

However, opportunities remain to improve the effectiveness of government policymaking and implementation in Senegal\textsuperscript{26} The country performs poorly relative to peers on the Global Indicators of Regulatory Governance (GIRG), which measure how the government interacts with the public in shaping regulations that affect the business community (Figure 4). Some of this is attributable to government capacity: The International Country Risk Guide rates the quality of Senegal’s bureaucracy below that of structural and regional peers, albeit above other WAEMU countries.

\footnote{Rule of Law indicator captures perceptions of the extent to which agents have confidence in and abide by the laws. Distribution is -2.5 to 2.5, with -2.5 being the worst performance and 2.5 being the best. The Corruption Perception Index scores countries on how corrupt their public sectors are seen to be. Scores range from 0 (highly corrupt) to 100 (very clean).}
There are also opportunities to improve Senegal's regulatory framework concerning women's participation in the economy. Senegal ranks behind structural, aspirational, and WAEMU peers on the World Bank's Women, Business, and the Law Index of law and regulations that restrict women's economic opportunities (Figure 5). Several factors underlie this ranking, including restrictions on the industries in which women can work and the lack of laws prohibiting gender discrimination in employment.

1.3 State of the Private Sector

Senegal has a relatively diversified economy based on services. Services account for over 50 percent of GDP in Senegal, more than in most peer countries, driven by financial services, telecommunications, and transportation (Figure 6). Relatedly, industry (including construction and extractives) and agriculture account for relatively lower proportions of GDP, although offshore recent discoveries of hydrocarbons may increase the contribution of the former in the coming years.
Despite Senegal’s progress in achieving a relatively diversified economy and favorable conditions for entrepreneurship, an opportunity exists to increase dynamism in the private sector. The Senegalese environment is relatively favorable to entrepreneurship and is characterized by a young (62% of the population is under 25 years old) and growing urban population (+3.6% per annum) as well as a large and active diaspora that provides skills, networks in developed markets, and financial support. These favorable conditions are amplified by three important factors. First is a widespread use of technologies – at 35.6 percent, Senegal’s smartphone adoption rate is among the highest in West Africa (with the regional average standing at 28%). Second is a high entrepreneurial activity rate – 39% of the Senegalese population aged 18 to 64 is either setting up or heading a new company. The third factor is a recently accelerated speed of the innovation ecosystem development, as it now comprises more than 15 incubators, accelerators, and co-working spaces that serve the needs of a community of over 2,500 start-ups and entrepreneurs. In 2015, Senegal counted 63 start-ups per million inhabitants, ranking 13th of 107 classified countries versus 43 in France and 7 in India. Over the past two years, this number in Senegal has been steadily increasing, largely thanks to business climate improvements. However, compared with structural and aspirational peer countries

such as Rwanda and Morocco, there are relatively few new registered businesses in Senegal, although Senegal is roughly in line with WAEMU peers on this front (Figure 7). Senegal’s relatively weak performance on this front reflects macroeconomic conditions and regulatory obstacles as well as high levels of informality in the country.

**Figure 7: Senegal lags peer countries with respect to new business registrations**

Addressing Senegal’s challenges at the macroeconomic level elicits a deeper understanding of the microeconomic constraints affecting key sectors. In the past few years, macro-fiscal policies have supported growth, and Senegal benefits from other factors, such as its coastal location and its 1,500 km of optic fiber network. However, structural constraints undermine the efficiency of investment and sustained growth, especially in light of COVID-19. Despite recent positive trends, growth in agriculture has been volatile, and productivity gains scarce. Furthermore, the country does not take full advantage of existing infrastructure. This is the case of the information and communications technology (ICT) infrastructure, including the optic fiber network. A key challenge for Senegal is to undertake structural reforms to reduce its vulnerability to exogenous shocks, foster economic diversification, and translate sustained economic growth into job creation and a reduction in extreme poverty. In a recent growth diagnostic, the Millennium Challenge Corporation (MCC) identified microeconomic risks, such as unpredictable and inefficient regulatory environment, among other constraints to growth. In its 2017 article IV review, the IMF warned that “for growth to be sustained, further reforms are needed to improve the business environment and create economic space for private domestic and foreign investment.”

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31 The Growth Diagnostics approach was developed at Harvard University by Ricardo Haussmann, Dani Rodrik, and Andrès Velasco and aims at identifying the binding constraint to private investment and entrepreneurship in an economy. The methodology allows countries to prioritize development activities among many competing needs.


33 IMF. 2017. Article IV Review, Executive Summary
The World Bank recently prepared a wide range of diagnostics reports for Senegal which included Private Sector Development (PSD) issues. This analytical work provides findings and recommendations to be operationalized in the next years. Table 1 summarizes those that are relevant for the Investment Climate space. A consistent message conveyed through this analytical work in 2016, 2018, and 2020, is the need to reduce the discretionary application of regulations, to support regulatory enforcement in key sectors (real estate, housing, and construction) that are impacted by high informality, to strengthen the competition policy framework, and to reinforce pro-market reforms in key sectors such as agriculture, telecommunications, and energy.
Table 1: Summary of investment climate findings, constraints, and recommendations by existing diagnostics in Senegal

<table>
<thead>
<tr>
<th>Source</th>
<th>Finding/Constraints</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall regulatory framework</td>
<td>Regulations in Senegal are typically cumbersome and implemented sometimes by administrations with little resources, either on the human side or in terms of equipment. The leading perceived obstacles by firms are practices of competitors in the informal sector, access to finance, electricity, and access to land (Enterprise Surveys). With the exception of access to land, which has only recently moved to the top of the list, these issues have been mentioned as key concerns for years. This underscores the difficulty faced by the GoS in defining and implementing the required structural policies to overcome these problems. Furthermore, for many items—e.g. access to land, practices of competitors in the informal sector, access to finance, corruption, and telecommunications—the perception of firms was more negative in 2014 than in 2007.</td>
<td>Ensure adequate budgeting of the National IC Plan (PREAC) and Continue the efforts at improving in the areas covered by Doing Business.</td>
</tr>
<tr>
<td>Investment Climate Assessment (2016)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Systematic Country Diagnostic (2018)</td>
<td>The design and effective implementation of progressive structural reforms and equitable service delivery have systematically come up against an interlocking web of vested interests. The dynamics have arguably worked to undermine the design and implementation of structural reforms and equitable service delivery, also leading to the fragmentation of the public policy space into a myriad of partially overlapping institutions, many of which are just squabbling for some level of rent extraction.</td>
<td>For an improved policy design and consistent implementation, Senegal needs to courageously embark on specific governance reforms to enhance both transparency and effective citizens’ political engagement</td>
</tr>
<tr>
<td>Systematic Country Diagnostic (2018)</td>
<td>Some deeply rooted inhibitory social norms and practices, although evolving, continue to directly affect behaviors and choices of some groups of the population, notably women and the youth, or indirectly shape social expectations about them, creating a</td>
<td>In the short and medium-term, community-targeted actions can be implemented to accompany and facilitate cultural shifts, including through local elites. In particular, the systematic involvement of local leaders is key when restrictive norms persist because of the existence of unbalanced power relationships,</td>
</tr>
</tbody>
</table>
restrictive environment for their full inclusion in the
growth process. Where certain individuals benefit from norms at the
disadvantage of others and are therefore reticent to
promote or accept changes in the status quo.

<table>
<thead>
<tr>
<th>Lack of a level playing field for the private sector</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Investment Climate Assessment (2016)</strong></td>
</tr>
</tbody>
</table>
| Competition from the informal sector is the leading
obstacle to the private sector (Enterprise Surveys). This
is partially due to the two-level regulatory framework.
Senegal is a member of the WAEMU, which has
adopted a centralized approach to the region’s
competition policy. WAEMU has the exclusive
competence to legislate on anti-competitive practices
and the Commission has decision-making power in
dealing with anti-competitive practices. Thus, at the
level of individual member states, competencies are
limited to restrictive practices and unfair competition.
This dichotomy produces a lack of coordination and a
limited interest at the national level to deal with such
issues, which adds up to the fact that the WAEMU
commission lacks resources to implement its mandate. Need for a stronger competition policy framework,
including: (i) Ensure that the National Competition
Commission is fully operational, is appropriately staffed
and receive adequate budget; (ii) Ensure better
coordination with the WAEMU commission; (iii) Identify
and address a few high-profile cases that can be used
to establish the credentials of the NCC.

| **Systematic Country Diagnostic (2018)**         |
| Distortive state interventions and limited competition
are especially damaging in agriculture and food
production, both critical for the livelihoods of the poor,
and in the information and communication
technologies (ICT) sector, instrumental for the thriving
development of labor-intensive small and medium
enterprises, as well as for leveraging the new drivers of
the digital economy. In ICT, despite a high digital
potential, access to Internet broadband services
remains limited, unequal and costly, stifled by weak
competition and innovation, restrictive regulations, and
a limited capacity for digital service delivery by the
Government. In agriculture, the development of which
is underscored by weak productivity, a wide range of
issues, such as administrative price policies, inefficient
public subsidies, restrictive land regulations and weak
agricultural credit markets, contribute to key policy
distortions. Another important factor, limiting the
Structural reform areas to address these constraints
could include the following: (i) revising state
interventions in agriculture and livestock coupled with
enhancing the composition and transparency of public
expenditure in those sectors, including subsidies; (ii)
strengthening capacity, autonomy and governance of
relevant regulatory authorities (particularly in the ICT
sector); (iii) addressing paralyzed national competition
enforcement framework; (iv) reviewing protectionist
measures given to critical staple food industries; (v)
ensuring fair and uniform enforcement of tax
regulations, including through greater
dematerialization of tax transactions. |
<table>
<thead>
<tr>
<th>Senegal Investment Climate Reform Action Plan</th>
</tr>
</thead>
</table>

Scope for productive private investment and job creation is an uneven and inconsistent application of tax regulations, particularly to big pseudo-formal enterprises of the de facto hidden or informal economy leveraging their size and social capital to bypass fiscal obligations.

Country Private Sector Diagnostic (2020)

Some sectors - groundnuts, edible oil, sugar, and information and communications technology - face high levels of protection that grant de facto monopolistic positions to select firms.

The design of the institutional setting for competition policy is imperfect. Competition policy involves two levels: regional and national. Senegal is a member of the WAEMU, which has adopted a centralized approach to competition policy. It has exclusive competence to legislate on anticompetitive practices and the Commission has decision-making power in dealing with these. Competences of member states are thus limited to restrictive practices and unfair competition, with the West African Economic and Monetary Union Commission ruling on all matters related to anticompetitive practices and the National Competition Commission, whose mandate is restricted to the investigation phase, assisting it.

Implementation and coordination are weak. Institutions responsible for the implementation of antitrust laws are still relatively ineffective. Despite some earlier reforms, much remains to be done to ensure effective implementation of competition laws and promote a competitive culture. First, there is still a lack of efficient cooperation between the National Commission on Competition, sector regulators, and the West African Economic and Monetary Union. Second, at both the national and regional levels, institutions in charge have limitations. In Senegal, more than 20 years after its creation, the National Commission on

WAEMU should clarify relations between the central and national level by (i) supporting the development of legislation that delegates powers to national competition authorities to investigate and arbitrate anticompetitive practices that occur on the national territory and do not have cross-border effect; and (ii) pressing for rules regulating cooperation between the WAEMU Commission and national competition authorities.

Institutions overseeing competition policy must be reinforced. The WAEMU must make certain adequate resources available to the WAEMU to improve competition enforcement. At the national level, Senegal must ensure that the National Competition Commission is fully operational, appropriately staffed and adequately supported financially.
Competition is still not fully operational and needs to improve its capacity, and its relationship with the regional commission is yet to be fully clarified. At the regional level, the West African Economic and Monetary Union commission lacks resources to implement its mandate.

Senegal: Better Markets for All through Competition Policy (2018)

SOE presence in otherwise contested markets (e.g. fertilizer production, groundnut processing) and network sectors, coupled with restrictive Government regulations appear to inhibit private sector entry to markets. Furthermore, the Government intervenes in the economy through regulation of prices to end consumers. Government participation and the lack of pro-competition regulation of the network industries (such as electricity, gas and telecommunications) may inhibit the efficient functioning of these industries. Furthermore, complex regulatory procedures affect the cost of doing business and firms' ability to invest. While trade and investment have been liberalized, Senegal could benefit from a better framework that facilitates trade.

To tackle economy-wide and sector specific competition policy issues, the following tables provide a series of actionable and prioritized pro-competition solutions based on their feasibility in the short and medium-term that are aiming to (i) promote a level playing field in selected sectors (groundnuts and telecommunications sectors); and (ii) enhance the effectiveness of current competition policy and law.

<table>
<thead>
<tr>
<th>Sector-Specific Considerations</th>
<th>Constraints in the agriculture sector include access to arable land, access to finance, poor linkages (including processing infrastructure) between smallholder farmers and commercial off-takers and weak quality of backbone services to exports.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country Private Sector Diagnostic (2020)</td>
<td>Sanitary and phytosanitary inspections and certification procedures need to be improved to guarantee access for Senegalese horticultural exporters to higher-value markets.</td>
</tr>
<tr>
<td>High informality in the real estate, housing and construction sector (due to heavy regulations but weak regulatory enforcement) creates uneven competition conditions</td>
<td>To reduce discretion and improve certainty, the government of Senegal should streamline permitting and inspection processes to accelerate the administrative process.</td>
</tr>
</tbody>
</table>
In Senegal, the World Bank supports critical structural reforms in the country both through lending and investment financing operations as well as through Advisory Services and Analytical work. For instance, a recent Supplemental Development Policy Operation (DPO) for an amount of USD 100 million has been geared to support GOS’ COVID related efforts to (i) improve financial performance, reliability and facilitating equitable access in the energy sector; (ii) enhance the legal and regulatory framework of the ICT sector to promote competition, investment and equitable access, and (iii) reinforce policy, institutional, and financial foundations of the emerging digital economy. In addition, Advisory Services and Analytical work to strengthen the Senegalese Investment Climate include, among others: (i) support to the formulation and implementation of a Medium-Term Revenue Strategy (MTRS) to guide policy and administrative reforms of tax and customs aimed at increasing Domestic Revenue Mobilization (DRM), improving the business environment, and fostering equity and shared prosperity; (ii) a public expenditure review to support GOS efforts to improve the efficiency of public spending, including identifying reform options to improve the allocative and technical efficiency of public spending within the sectors of analysis. A new Program for Results is supporting Senegal’s Jobs Economic Transformation and Recovery through support to value chains’ competitiveness, technology adoption, access to finance and public-private partnetships. This programs aims at upgrading SMEs productivity, exports and job creation.

Moreover, the International Finance Corporation (IFC) deploys Advisory Services both to the private sector in Senegal as well as to the GOS. The Agribusiness Competitiveness Advisory project aims at fostering foreign and domestic investment in the agribusiness sector, with a focus on the mango sector. The project engages at all critical levels of the value chain, aiming at strengthening the export market for fresh and processed mangoes, strengthening linkages between local producers and off-takers, and strengthening investor outreach capacity. The Economic Community of West African States (ECOWAS) Investment Policy project closed in December 2019 and aimed at (i) removing/reducing Member States (including Senegal) Investment Entry and Investment Climate barriers to promote regional expansion of cross-border investments, and (ii) increasing FDI and national investment levels by improving national incentives schemes. In Senegal, the project supported two Special Economic Zones (SEZ) laws adopted in January 2017, and the Law establishing the Commercial Court adopted in June 2017. In addition, the project worked with ECOWAS in implementing the regional Investment Policy and Investment Code, both approved in 2018.

As can be seen, the country benefits from extensive diagnostics, which recommendations need to be operationalized, as well as several complementary projects. The remainder of this report will focus on GOS priorities in the IC space, as well as knowledge gaps identified during the second half of FY20. The exercise will lead to select and prioritize measures to support the implementation of diagnostics and identify/engage with reform champions. Implementation support will be carried out by a follow-on project.
3. Filling the Gap: Additional IC Constraints Identified in Senegal

3.1 A High Priority for the Government

As discussed in the previous section, the WBG has been working closely with GOS on Private Sector Development matters. This engagement was built throughout the years to support the country's high-level priorities and strategies, as well as more granular legislations. The most relevant PSD-centered policy directions in Senegal are briefly summarized in this section.

Senegal's development strategy, as articulated in the Plan Senegal Emergent (PSE)\(^34\), aims for the country to reach the emerging market economy status and become a hub for the West Africa region by 2035. The Plan was launched by President Macky Sall in 2014 and during its first phase spanning between 2014 and 2018, it targeted annual growth rates averaging 7.1%, as well as the reduction of the fiscal deficit to 3.9% by 2018. While these targets were not met, the plan was instrumental to push the country's reform agenda, which achieved substantive results as described in the Section. 1 However, as noted, Senegal needs to continue deepening reforms to address long-standing structural constraints. President Sall was re-elected in February 2019, ensuring the continuity of the PSE implementation, which is now in its second phase (2019-2023).

The 2019-2023 phase of the PSE (PAP2/PSE: Plan d’Action Prioritaire 2 du PSE) - targeting a 9% annual average growth – is articulated around three pillars, one of which focuses on structural transformation and economic growth. The PAP2/PSE, therefore, recognizes the importance of continuing to improve Senegal's competitiveness and attractiveness to foster private sector initiatives needed for growth and job creation. The PAP2 expects these efforts to leverage the momentum built by the reforms implemented since 2014 and targets additional reforms in the areas of the business environment, taxation, energy, and public administration aimed at attracting investment and unlocking growth potential. The PAP2 puts the focus on the following sectors: tourism, digital economy, energy, agriculture and agro-industry, and extractive industries.

The second Sall government has therefore demonstrated a strong interest in promoting the private sector as an engine for growth. This is also testified by the significant resources GOS forecasted for these reforms. Indeed, the Second Phase of the PSE is budgeted at CFA 14 trillion (approximately USD 23 billion), to be supported by the State's budget and development partners, 60% of which is expected to focus on the Structural Transformation and Economic Growth Pillar. In addition, to support the implementation of this Pillar of the PSE, GOS is currently implementing the third phase of the Business Environment and Competitiveness Reform Program (PREAC3: Programme de Réformes de l’Environnement des Affaires et de la Compétitivité), spanning the same 2019-2023 period.

The PREAC3 is the umbrella framework outlining high-priority investment climate reforms in the country. For the period 2019-2023, it aims at achieving structural reforms to enhance the competition policy, improve access to land, foster private sector investment, promote digitalization of

G2B service delivery, promote commercial justice, and strengthen the energy, oil, and gas sectors regulation. PREAC3 targets (i) the country to be in the top 80 Doing Business (DB) ranking, (ii) doubling the volume of domestic and foreign direct investments, (iii) increase the share of manufacturing production and private investment in agriculture, and (iv) increase employment opportunities.

3.2 Other Relevant Donor Initiatives

Senegal participates in the G20 Compact with Africa (CwA) initiative, aiming at promoting private investment, by increasing the attractiveness of private investment through substantial improvements of the macro, business, and financing frameworks. The September 2018 CwA Policy Matrix for Senegal35 outlines several policy areas identified by GOS, which are being supported by development partners and international organizations, including the World Bank. Many areas under the Business Environment heading are highly complementary with the proposed measures outlined in the next sections of this report.

The European Union is supporting the regional West Africa Competitiveness Program (WACOMP). The Program, implemented by the International Trade Center (ITC), aims to support selected value chains at regional national level (including Senegal), as well as to promote structural transformation and better access to regional and international markets. It also supports the establishment of the ECOWAS Business Council.

UNIDO is supporting APIX in the area of investment facilitation through enhanced outreach and aftercare. Specifically, UNIDO is seeking to support APIX in: (i) improving the Agency’s information system and communication tools, (ii) revitalizing investment monitoring processes and data collection through surveys to foreign companies, (iii) strengthening the Agency’s capacity related to investment promotion activities, and (vi) identifying bankable projects aiming to increase the investment portfolio in the country.

In addition, other development partners are preparing lending operations in the competitiveness area. Building on a study conducted in late 2020, JICA is looking to support APIX and other relevant GOS counterparts in the context of a potential Development Policy Lending. The African Development Bank (ADB) is closely following the review of the Senegal’s investment code as per the PREAC3. This specific reform is indeed considered as a prior action for an ADB’s Development Policy Lending.

The next sections will focus on additional research focusing on knowledge gaps identified while reviewing and summarizing the existing PSD analytical and diagnostic work in Senegal. This analysis will lead to Section 4, summarizing an IC Reform Action Plan aiming at operationalizing the existing recommendations, as well as recommendations that percolated from the additional analysis. As discussed in Section 2, the Competition Policy section benefits from extensive existing analytical work in the country, and therefore the scope of this section is focused and narrows down on the main

35https://www.compactwithafrica.org/content/dam/Compact%20with%20Africa/policy_matrix/CwA%20Senegal%20policy%20matrix%20-%20sep%202018.pdf
constraints the country should focus on to ensure a leveled playing field for private firms. The Investment and Business Regulatory Environment sections are primarily based on desk research and initial discussion with GOS counterparts. Given the COVID-19 crisis and consequent travel restrictions, additional scoping and validation will be required before starting with implementation support.

3.3 Levelling the playing field for private sector development

**Overall status of competition policy**

*Senegal's development of the fundamentals of market-based competition has considerable room for improvement.* As measured by the Bertelsmann Transformation Index (BTI), a score of 5 in the levels of development of the fundamentals of market-based competition\(^{(36)}\) (Figure 8) is a reflection of the perception of factors including a weak institutional framework, uneven rules for market participants, state intervention in strategic sectors, and a significant informal economy. Even with basic legal safeguards for private companies in place, businesses in Senegal still perceive a concentration of market power and privatization initiatives, which are often inconsistent with market principles (Figure 9). The GOS has had limited success with programs meant to encourage formal private enterprise\(^{(37)}\) and, according to the Economist Intelligence Unit (EIU), the introduction of price controls is still common despite it being an intervention that usually has highly distortive effects. Evidence shows that even if the country slightly outperforms most comparator countries, Senegal's development of market-based competition fundamentals is still far from achieving a consistent promotion of competition with enforceable rules and a level-playing field for all market participants.

\(^{(36)}\) According to BTI's criteria and questions, essential elements of market-based competition comprise low importance of administrative pricing, currency convertibility, no significant entry and exit barriers in product and factor markets, freedom to launch and withdraw investments, and no discrimination based on ownership (state/private, foreign/local) and size. Also, the size of the informal sector in and indicator of inappropriate institutional framework. See *BTI 2016 Codebook* for Country Assessments.

Senegalese businesses perceive a weak enforcement of the competition policy framework to tackle conduct by dominant players, prevent anticompetitive mergers, and more generally to ensure fair competition in the market. Senegal has a relatively small formal economy prone to concentration and thus conducive to anticompetitive practices. The Global Competitiveness Index (GCI) shows that Senegalese corporate activity is perceived to be dominated by a relatively small number of business groups with a level of market dominance that may reflect considerable competitive concerns (Figure 10). The perception of Senegal’s competition policy framework effectiveness is on par with comparator countries but remains at a midpoint between complete ineffectiveness and extreme effectiveness as measured by the BTI (Figure 11 Figure 14). The country has an above-average score in the perceived extent to which antitrust or competition laws are enforced (Figure 12) but this must not obscure the fact that the score is barely above the point where enforcement is rare (i.e.: score of 4 in the BTI) and is still below the score where enforcement is considered inconsistent (i.e.: score of 7 in the BTI). Businesses also perceive a considerable presence of unfair competitive practices in the market (Figure 13).
Weak competition policy enforcement in Senegal feeds into a perception of significant business risks and a lack of a level playing field. According to the EIU, there is a perception of high competition-related risks in Senegal in the form of vested interests and cronyism, discrimination against foreign companies, and the introduction of distortive fiscal measures (e.g. subsidies and tax breaks) (Figure 14, Figure 15 and Figure 16). Senegal is almost on par in these criteria with comparator countries. Particularly worrisome is the high perception of potential distortions created by vested interests and cronyism which may hinder economic diversification and domestic competition. The Perception of these risks could increase in the future since government intervention to deal with the COVID-19 crisis could shield certain firms or distort competition in the mid-to-long term.
Extensive analytical work regarding competition policy in Senegal has identified that the country lags in terms of the extent to which market rules facilitate entry and contestability, and effective domestic competition. Eliminating regulatory barriers and aligning regulations with competition principles could contribute to the improvement of the Senegalese business environment and promote efficient and competitive markets. However, according to the indicators of the restrictiveness of Product Market Regulations (PMR)\(^\text{38}\) collected in 2017, Senegal lags comparator countries in terms of the extent to which market rules facilitate entry into and contestability of domestic markets. Senegal has an overall PMR score of 2.60 (scale 0-6 worst), which reflects state

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\(^{38}\) The PMR is a set of indicators that measure the degree to which policies promote or inhibit competition in areas of the product market where competition is viable. The indicators are focused on enacted policies and not subjective assessment of outcomes by market participants like the GCI or the BTI. PMR indicators are not designed to capture informal practices by agencies or effective enforcement since they are only concerned with compliance with certain formal criteria. Areas addressed by the PMR methodology include specific restrictions of the regulatory framework both economy-wide and in key sectors, permitting for business start-ups; treatment of foreign parties; and others, such as governance of SOEs or antitrust exclusions and exemptions. The PMR indicators were calculated in 2018 jointly with the OECD (based on 2017 data). Thus, the values do not reflect recent reforms notably in network industries, that could potentially improve Senegal's results. For instance, in the energy sector, recent reforms to remove barriers to investment and competition include (1) the “Adoption of the gas law (code gazier)”; (2) the “Adoption of a Gas-to-Power strategy”; as well as (3) the “Adoption of an updated Least Cost Development Plan for Power generation”.
control of the economy (37%, particularly government involvement in network sectors and governance of SOEs), barriers to entry and rivalry (35%, particularly the overall complexity of regulation and the barriers in network sectors), and barriers to trade and investment (28%, particularly tariff barriers and barriers to trade facilitation) (Figure 17). For example, at least 15 products\(^{39}\) in the Senegalese market are subject to price regulation for end consumers which places Senegal in the bottom half of comparator countries with a 2.71 PMR score (Figure 18). Prices are fixed by a committee of ministries, producers, private sector associations, and consumer bodies who apply non-transparent selection criteria and methodology to regulate prices.\(^{40}\) The COVID-19 crisis may further encourage price controls in additional goods and services.

\(\text{Figure 17: Product Market Regulation in Senegal and Comparator Countries}\)

Source: OECD-WBG PMR (2017)

\(\text{BTE stands for “Barriers to Entry and Rivalry” and BTI stands for “Barriers to Trade and Investment”; The top 5 performers are: the Netherlands, the United Kingdom, the United States, Austria and Denmark.}\)

\(\text{Figure 18: Price Controls in Senegal and Comparator Countries}\)

Source: OECD-WBG PMR (2017)

\(\text{Note: The top 5 performers are Lithuania, Austria, Sweden, France and the United States}\)

\(^{39}\) Prices are controlled at least in the following product categories: rice, sugar, wheat flour, bread, soybean oil fertilizer, seeds, agricultural equipment, water, electricity, gas, petrol fuel oil transport of cargo and pharmaceuticals. See: World Bank Group. 2018. Senegal: Better Markets for All through Competition Policy. July 2018.

The GOS also participates in the market directly through SOEs.\footnote{Pop, Georgiana; Corthay, Laurent Olivier. 2018. \textit{Senegal - Better Markets for All through Competition Policy}, World Bank Group. July 2018.} Senegal's 2.88 score in the PMR indicator on state control ranks the country in the bottom half of comparator countries (Figure 19). This indicator includes aspects such as the scope of SOE involvement in the economy, direct Government control of enterprises, and price controls. Ideally, SOEs should be subject to the same market discipline as private players and not isolated from market discipline through political interference in their management. In Senegal, most SOEs are regulated by private corporate law, but they are also subject to special regulation. Strategic business choices are often cleared by the corresponding sector ministry and the Ministry of Finance who also manages equity holdings in publicly traded companies.

**Figure 19: State Control Indicator in Senegal and Comparator Countries**

![State Control Indicator in Senegal and Comparator Countries](chart.png)

\textit{Source: OECD-WBG PMR (2017)}

\textit{Note: The top 5 performers are: the Netherlands, the United States, the United Kingdom, Estonia and Austria.}

State control and direct participation in commercial activities through SOEs can limit the development of competitive markets. SOEs participate in sectors that also feature the presence of private firms which means that equal treatment of all participants, be they public or private, domestic or foreign, needs to be ensured. Competitive neutrality requires that all firms face the same set of rules, and any type of relationship with the government should not confer an undue competitive advantage or distort the level playing field. Senegal has at least one SOE in 13 sectors, on par with the Organization for Economic Co-operation and Development (OECD) average of 13.7. SOEs are present in infrastructure sectors and financial services which is not unusual across countries, but they also participate in cotton ginning, groundnut processing or fertilizer manufacturing which are activities historically carried out by the private sector in an efficient manner (Table 2). The GOS maintains a dominant role in network industries where liberalization has been key for better outcomes in other countries. In several network industries, the State is the majority shareholder in the firm with the largest share. For example, in the electricity sector, SENELEC has a 50% share in the generation segment and holds a monopoly on the transmission and distribution segments. According to PMR data, vertical integration across segments is present which hinders entry by competitors into
potentially competitive segments (e.g. generation or commercialization of electricity). Additionally, no regulation grants open access to the electricity transmission or distribution power grids which heightens foreclosure concerns. Distortive state aid is likely to increase during the COVID-19 crisis and its aftermath.

<table>
<thead>
<tr>
<th>SOE</th>
<th>Government share</th>
<th>Sector/Market</th>
<th>Market Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>SENELEC</td>
<td>100%</td>
<td>Electricity</td>
<td>Monopoly on transmission and distribution; around 50% in the generation market</td>
</tr>
<tr>
<td>PETROSEN</td>
<td>99%</td>
<td>Gas</td>
<td>Less than 10%</td>
</tr>
<tr>
<td>SONATEL</td>
<td>17% state-owned; 52% owned by Orange</td>
<td>Telecom</td>
<td>97% of fixed-line network and services</td>
</tr>
<tr>
<td>La Poste Senegal</td>
<td>100%</td>
<td>Postal services</td>
<td>~70%</td>
</tr>
<tr>
<td>SONACOS</td>
<td>99.78%</td>
<td>Agriculture/ Groundnuts</td>
<td>~75%</td>
</tr>
<tr>
<td>Industries Chimiques du Sénégal (ICS)</td>
<td>15%</td>
<td>Mining/Fertilizer</td>
<td>-</td>
</tr>
<tr>
<td>Société d'Etudes et de Réalisation des Phosphates de Matam (SERPM)</td>
<td>-</td>
<td>Mining/Fertilizer</td>
<td>-</td>
</tr>
<tr>
<td>SODEFITEX</td>
<td>46%</td>
<td>Agriculture/Cotton/ Textiles</td>
<td>Monopoly on cotton ginning</td>
</tr>
<tr>
<td>Petit Train de Banlieu and Dakar Bamako Ferroviaire</td>
<td>100%</td>
<td>Rail transport</td>
<td>&gt;90% for freight and passenger transport</td>
</tr>
<tr>
<td>SONES</td>
<td>100%</td>
<td>Water</td>
<td></td>
</tr>
<tr>
<td>Société Africaine de Raffinage</td>
<td>Majority-owned by PETROSEN</td>
<td>Petroleum refining</td>
<td>Not known</td>
</tr>
<tr>
<td>Dem Dikk</td>
<td>76.7%</td>
<td>Urban Transport</td>
<td>Not known</td>
</tr>
<tr>
<td>POSTEFINANCES</td>
<td>87% owned by La Poste Senegal</td>
<td>Financial Services</td>
<td>Not known</td>
</tr>
<tr>
<td>Caisse de Retraite (IPRES)</td>
<td>Under Government guardianship</td>
<td>Insurance</td>
<td>Not known</td>
</tr>
</tbody>
</table>


Ineffective competition policy can become a cross-cutting bottleneck in sectoral regulation and hinder efforts for the promotion of competition at that level. Fostering competition also requires assessing policies and regulations that are anticompetitive to open markets and drive innovation, productivity, and growth. Senegal places towards the bottom half of comparator countries with a PMR score of 2.73 indicating restrictive procedures to entry and rivalry. Complex regulatory procedures are largely contributing to the existing barriers to entry and rivalry in Senegal. Regulatory barriers in the services sectors, administrative burdens for sole proprietor firms and administrative burdens for corporations, all of which may ultimately raise business costs and help insulate incumbents from competition (e.g. continued protection of SENELEC’s monopoly in transmission and distribution).
Protection from new entrants renders incumbents less innovative and inefficient, which ultimately harms consumers.\textsuperscript{42}

**A telecommunications sector with poor market outcomes is a prime example of the negative effects of an absent competition policy in key sector market outcomes.** According to PMR indicators, telecommunications regulation in Senegal is more restrictive than in other African countries.\textsuperscript{43} The absence of a pro-competition regulatory environment has perpetuated a concentrated market structure that inhibits private sector participation, as well as poor quality, accessibility and affordability indicators\textsuperscript{44}. State-owned operator SONATEL,\textsuperscript{45} has the largest fiber-optic network in the country. The company is the sole fixed internet provider and until December 2018 the only 4G license holder. Responsibility for the enforcement of competition law in the sector is shared between the competition authority and the sectoral regulator. However, there have been no instances of law enforcement in the sector, and there are no collaboration mechanisms to coordinate joint actions. The introduction of competition principles is particularly important in radio spectrum assignment and use. In Senegal, this area has shown major shortcomings: spectrum licensing is not carried out by an agency with independence safeguards resulting in uneven and non-transparent directly negotiated license grants, eligibility for the 4G spectrum auction was restricted to current incumbents, and staggered spectrum assignments that have resulted in first-mover advantages.\textsuperscript{46} Shortcomings of sectoral regulation have not been bridged through *ex-post* competition law enforcement or advocacy efforts.

**Finally, restrictions in the groundnut sector value chain illustrate the need to advocate for pro-competition market reforms to enable alignment with global trends in the industry.** Groundnuts are crucial in Senegal’s agricultural sector with the exports of whole nuts on a steady rise. However, protections and subsidies for the declining groundnut oil domestic industry and for farmers have caused adverse effects and distortions in the market. The GOS intervenes at all stages of the groundnut value chain (the input market, the market for buying raw groundnut and the market for vegetable oils). Indirect interventions in the market include export taxes on groundnuts or import tariffs on vegetable oils. Direct interventions include government ownership of market players, and participation in the value chain organization through the Comité National Interprofessionnel de l’Arachide. Distortions as a result of Government interventions hinder competition and obstruct the signals and incentives that would otherwise characterize open and efficient markets. Tackling these


\textsuperscript{43} Senegal is the bottom half of comparators countries, with a score of 1.85 on restriction in the telecommunications sector derived from entry restrictions, partial State ownership of Sonatel and a highly concentrated market structure. See: Pop, Georgiana; Corthay, Laurent Olivier. 2018. *Senegal - Better Markets for All through Competition Policy*. World Bank Group. July 2018.

\textsuperscript{44} World Bank Group. 2019. *Digital Economy for Africa: Country Diagnostic of Senegal*.

\textsuperscript{45} Sonatel (*Société Nationale des Télécommunications du Senegal*) was privatized in 1997. Orange/France Telecom acquired a 42.33 percent stake later increased to 52.2 percent. The State keeps a 27% participation in the company. Afterwards, rather than stimulating the entry, there had been a systematic strive to consolidate SONATEL’s dominance over all key market segments (fixed telephony, mobile telephony, data transmission and capacity services). Eventually licenses where granted to two other operators both with much smaller in the scale of their operations and coverage. See: World Bank Group. 2019. *Digital Economy for Africa: Country Diagnostic of Senegal*.

issues is key for the value chain development, adequate product quality and standards, irrigation systems, and contract farming as well as risk-mitigating measures and protections for farmers.

The legal and institutional framework for competition policy in Senegal

Addressing issues around lack of market competition requires an assessment of the existing competition framework and the institutional setup to give a solid foundation for a more effective enforcement of competition policy. Several competition issues might also arise from other regulatory barriers to competition present in economy-wide and sector-specific policies. This will also require a competition authority with a strong advocacy mandate and the institutional capabilities to implement it effectively. Effective competition policy can prosecute and deter anticompetitive practices and Government interventions that increase costs for businesses, prevent entry of new players, or create an environment harmful to consumers. Therefore, competition law enforcement is key to facilitate private sector development particularly in the context of an economic crisis likely to occur as a result of the COVID-19 pandemic. Moreover, tackling regulatory restrictions in key sectors and services could have a positive impact on growth and consumer welfare in Senegal. If Senegalese markets are opened through the elimination of regulatory restrictions of network industries inputs (electricity, gas and water), postal services and telecommunication, and transport and other business services, growth in value-added in industries intensive in these services and inputs could mean an additional 0.2 up to 0.5 percent growth of annual GDP, all else being equal.47

In this context, the GOS has already included in the PREAC3 the strengthening of competition among the pivotal reforms for an in-depth improvement of the country's business environment and competitiveness. The promotion of a competition and regulatory reform outlined in the PREAC3 aims at promoting quality private investment with high economic and social impact by eliminating constraints for the development of business and investment, and the improvement of productivity. Specific activities for the 2019-2021 period include modernizing and strengthening the National Competition Commission (NCC: Commission Nationale de la Concurrence). This typically involves guaranteeing independence to shield the agency from undue public and private interference, endowing it with adequate financial and technical means, revising the scope and adequacy of competition law, drafting implementing regulations, fostering formal and informal collaboration mechanisms with other agencies,48 and building institutional capacities to handle cases, carry out market studies and engage in other activities within the agency's mandate. The reform program will likely gain more traction in the aftermath of the COVID-19 crisis.

Coordinated enforcement of competition law by the WAEMU Commission and Senegalese authorities has been to a large extent inoperative49 and caused an enforcement gap of

48 Sectoral regulators like the Telecommunications and Postal Regulatory Authority (ARTP), the Public Procurement Regulatory Authority (ARMP), and the Power Sector Regulatory Commission (CRSE) have a mandate that includes taking all measures necessary to ensure healthy and fair competition in their sector and to boost private sector participation, and enforce a prohibition of anticompetitive practices.
competition policy in Senegal. As a member of the WAEMU, Senegal has a dual system of regional and national competition laws. An opinion by WAEMU’s Court of Justice\(^5\) held that the WAEMU Commission has exclusive jurisdiction over competition policy enforcement across member states and their markets\(^6\) with national competition authorities fulfilling an ancillary role.\(^7\) However, the WAEMU Commission faces bureaucratic constraints and lacks enough resources for effective enforcement of antitrust and merger review provisions. Additionally, most member states downsized and stripped national competition authorities of their resources as a result of the curtailment of their activities which, among others, impaired or fostered reluctance towards the indispensable cooperation needed with the WAEMU Commission for a dual system to be successful. These factors have created an enforcement gap in competition law across the region, and Senegal is no exception. The competition policy enforcement gap affecting Senegal can be dealt with through strong domestic enforcement by the NCC. The Senegalese Competition Law\(^8\) (SCL) has not been amended to recognize exclusive regional jurisdiction to the WAEMU Commission and the NCC has long argued against the centralized approach proposed by the Court. Thus, despite the WAEMU Court’s opinion, most WAEMU countries, including Senegal, still have national competition laws that grant enforcement powers to national competition authorities. This fact, alongside the evident lack of enforcement by the WAEMU Commission, opens up an opportunity to deal with a de facto absent supra national system through strong domestic enforcement by the NCC under the SCL which effectively remains in force in Senegal, particularly for practices that occur within the national territory and do not have cross-border effects.

The reactivation of domestic competition policy enforcement activities in Senegal will require a revision of the institutional setup to guarantee a fully operational and independent competition authority. The NCC’s poor track record in competition law enforcement has remained unchanged before and after WAEMU’s competition law entered into force. Prior to 2003, the NCC had concluded one cartel case in the insurance sector and one abuse of dominance case in the air travel sector. Both cases resulted in cease and desist orders, but no sanctions were imposed on the parties involved. Undue legal burdens for the imposition of sanctions, insufficient financial and technical resources, staffing and financing rules that undermine NCC independence, part-time Board members that meet sporadically, and the lack of permanent headquarters are likely among some of the factors that have contributed to this undesirable state of affairs. Resuming enforcement activities will require an overhaul of the NCC’s institutional arrangements to strengthen its powers and capacities to investigate and sanction anticompetitive conducts and engage in advocacy and cooperation efforts with other Senegalese agencies.

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\(^5\) WAEMU Court of Justice Opinion 003/2000/CJ/UEMOA dated June 27, 2000 regarding a request for opinion from the WAEMU Commission in relation to the interpretation of articles 88, 89 and 90 on the competition rules of the union (File 01-2000).

\(^6\) In contrast, under the Economic Community of West African States (ECOWAS) competition rules, member states may adopt and enforce their own national rules provided they are not inconsistent with ECOWAS competition rules and that all inconsistencies are eliminated.

\(^7\) For example, under WAEMU competition law, the NCC may conduct investigations at the WAEMU Commission’s request and in accordance with the scope and purpose set-out in the respective request.

\(^8\) Law No. 94-63 of August 22, 1994 on prices, competition and economic disputes.
Aligning the competition law as well as its implementing regulations and guidelines with international best practices is also key for effective competition policy. The SCL applies across all sectors and to all public and private economic agents and includes provisions on anti-competitive agreements and abuse of dominance. However, major shortcomings in the applicable legal framework include: absence of a substantive test or framework for the assessment of exemptions on efficiency grounds; prohibition of certain unilateral practices independently from their effect on the market and without requiring market dominance to be established; lack of a merger review regime to prevent concentrations with likely anticompetitive effects; and, a largely inadequate level of sanctions to produce sufficient deterrent effects that do not consider the turnover of the infringer. In a worst-case scenario, these shortcomings may enable arbitrary decisions, undermine legal certainty, and act as a barrier to competition by unduly prohibiting companies from engaging in rational business behavior that may bring down prices and promote innovation.

Finally, a comprehensive approach to advocacy initiatives based on a clear legal framework is also needed and can be a particularly effective means to open markets to competition. SCL includes advocacy within NCC’s mandate. As a result, the competition authority has to be consulted on all draft regulations which: (i) impose restrictions on market or professional access and (ii) impose standard price or sales conditions. However, the NCC opinion is not binding and no further details are given regarding the consequences attached to a dismissal of the opinion (e.g. need to justify departure from SCL recommendations). In this context, it becomes even more important to develop and embed in the institutional setup or implementing regulations cooperation mechanisms between the competition authority and other agencies to address competition issues. This not only strengthens the ability to detect anticompetitive behavior but boosts NCC’s potential role as an advocate for competition, carrying out market studies, assessing barriers to competition, and identifying alternative designs for Government interventions to minimize competition distortions.

**Competition policy and the COVID-19 crisis**

Measures to deal with the COVID-19 crisis have impacted market conditions and increased the risk of anticompetitive behavior. On the one hand, suppliers may coordinate to pass through price increases to final consumers, to determine supply volumes, to engage in bid-rigging in expedited procurement processes, among other coordinates practices. On the other hand, market power of some firms might increase (e.g. e-commerce platforms) due to the change in consumption patterns or the exit of competitors. At the same time, governments are taking extraordinary measures to deal with the crisis. Single-source procurement, diverse forms of state aid, expedite or more lenient merger review and antitrust exemptions may, to some extent and in very specific circumstances, be justified to deal with the pandemic and maintaining economic stability. However, if not designed properly, emergency government measures could have mid-to-long term negative effects on competitive and contestable markets. In a worst-case scenario, measures could enable behaviors or market structures that would permanently hinder the degree of competition even after the measures are lifted (e.g. price controls might facilitate collusion or financial support could distort the level playing field particularly in the case of dominant SOEs).
In this context, the role of the competition authority is critical not just during the crisis but especially in its aftermath. Increased efforts to detect coordinated practices for goods and services with disrupted supply chains or facing higher demand will be key to deter anticompetitive conduct during the crisis and detect any infringement in its aftermath. The reinforcement of dominance must be supervised closely to prevent practices that may be an abuse of market power. Merger review should carefully consider the financial distress of target firms on a case-by-case basis. Thorough review and meticulously crafted remedies may be needed for concentrations aimed at preserving economic stability (e.g. banking sector) or sustainability (e.g. tourism activities), or to address supply chain vulnerability which could create market structures that unnecessarily and irreversibly reduce competition and contestability. Finally, advocacy also plays an important role in preventing anticompetitive government interventions in the markets. Temporary flexibility in antitrust enforcement should not be mistaken for tolerance of anti-competitive behavior.

The lack of enforcement of competition policy makes the Senegalese economy particularly vulnerable to the COVID-19 crisis mid-to-long term anticompetitive consequences. The COVID-19 crisis represents a challenging scenario even for the more consolidated competition policy regimes. Senegal is still on its way to an economy of market-based competition. Effective competition policy requires institutional and regulatory foundations that are still to a large extent absent in the country. A crisis context increases the business risks associated with these shortcomings while encouraging the Government to intervene in markets in a more intense and intrusive way. In a situation where private sector investment might be further discouraged, efforts to strengthen the Senegalese competition policy become even more important.

3.4 Enhancing the environment for foreign investments

Overall FDI Status
Senegal’s performance in terms of attracting FDI is aligned with peer countries, but significant scope remains to further increase investment inflows. Over the 2014-2018 period, FDI inflows have averaged 2.7% of GDP, roughly in line with structural, aspirational, and regional peers, while trending upwards (Figure 20, left panel). In 2019, FDI to Senegal increased by 16% to $1 billion, positioning the country in the top 10 host Least Developed Countries (LDCs) that year.\(^{54}\) Over this period, FDI stock as a percentage of GDP has also risen steadily. However, Senegal’s FDI stock as a percentage of GDP remains relatively low at roughly 26% of GDP as of 2019, indicating significant headroom to attract further foreign investment (Figure 20, right panel). FDI in Senegal is still the lowest source of external financing after remittances and ODA (Figure 21), however, the country’s trend until 2019 indicates that FDI has been picking up and could potentially surpass ODA levels. This aligns Senegal with many developing countries where FDI has become the largest source of external finance, surpassing ODA.

The benefits of FDI extend beyond attracting external financing: attracting and retaining FDI helps to link a country’s economy to global value chains and encourages economic upgrading. FDI can significantly transform economies through innovation, enhancing productivity, and creating better-paying and more stable jobs in host countries, in sectors attracting FDI as well as in the supportive industries. While countries recognize the benefits of FDI, it is also understood that these benefits do not flow without a conducive policy, legal and institutional environment.  

The COVID-19 outbreak is likely to affect the degree to which FDI may contribute to Senegal’s economy. Global FDI flows are forecast to decrease by up to 40% in 2020, with FDI projected to decrease by a further 5 to 10 percent in 2021 and to initiate a recovery in 2022. The COVID-19 pandemic severely impacted FDI inflows into Senegal. The number of greenfield FDI projects declined by 69 percent in 2020 compared to 2019, while greenfield investment dropped 77 percent in USD terms. Both declines were more severe than in most peer countries (Figure 22). In addition, FDI in Senegal overwhelmingly comes from France (Figure 23). The severe nature of the pandemic in France

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may also put future FDI inflows at risk as French companies potentially pull back investment in response to the crisis. However, in recent years, there have been important investments from other countries, including China, Turkey and the United Arab Emirates, diversifying the FDI source and potentially mitigating this risk.

Figure 22: Senegal’s greenfield FDI declined more than peer countries’ FDI in 2020

Figure 23: FDI in Senegal overwhelmingly comes from France

Improving the enabling environment for FDI will be critical to retaining existing investments and attracting new ones. Government actions can rebuild investor confidence, and investment promotion agencies (IPAs) can boost their countries' investment competitiveness by better aligning their FDI attraction and retention efforts with market signals and changing investor preferences. Governments can leverage FDI for robust economic recovery from COVID-19 by avoiding protectionist policies, seizing new opportunities from changing FDI and supply chain trends, and fostering global
Against the backdrop of global uncertainty, the GOS needs to improve the risk-reward tradeoffs for FDI by removing risks and decreasing transaction costs. Senegal performs well on overall measures of regulatory risk with respect to investment, indicating that Senegal’s stable institutional framework may prevent sudden adverse policy shocks (Figure 24, left panel). At the same time, Senegal still has significant room for improvement in terms of the content of existing regulations, as Senegal performs roughly in line with peer countries—and poorly in absolute terms—with respect to the day-to-day impact of FDI regulations on their businesses (Figure 24, right panel). These persistent obstacles may partially explain why Senegal’s FDI performance has not been commensurate with the overall quality of its institutions.

![Figure 24: Investors perceive Senegal’s regulatory environment as stable but nevertheless a hindrance on FDI](image)

Beyond lifting restrictive regulations, policy efforts to improve supply chains would also benefit foreign investors and facilitate positive spillovers from FDI to the local economy via vertical linkages. Senegal performs roughly in line with peer countries (i.e. poorly in absolute terms) in terms of supplier quality and value chain breadth (Figure 25). Bolstering in-country supply chains is particularly important in light of how the economy will undergo compositional shifts following the discovery of oil and gas reserves, also in light of the ongoing oil crisis resulting from the COVID-19 pandemic. The next section will provide a reading of Senegal’s (i) FDI institutional framework, (ii) investment policy, and (iii) linkages opportunities, as well as the suggested measures to retain and potentially bolster investments as part of the country’s post-COVID economic recovery path.

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Figure 25: Senegal’s performance along measures of supply chain development is roughly in line with peers and weak in absolute terms

The Institutional Framework for FDI in Senegal

Overall, Senegal relies on a solid FDI institutional framework. Up until 2018, the administration included an Investment Promotion Ministry; its functions are now the prerogative of a Directorate at the Ministry of Economy. Senegal’s IPA, APIX, plays the following functions: (i) investment promotion, including focusing on strategic investments through PPP mechanisms, and (ii) facilitation of entry procedures and access to investment incentives through its One-Stop Shop (OSS), the Administrative Procedures Facilitation Center (BCE: Bureau d’appui à la Création d’Entreprise). The BCE aims at helping domestic and foreign businesses perform all registration procedures with government, local authorities and public institutions. In addition to other bureaucratic and documentary requirements, registering a business requires certification of several documents by a public notary registered in Senegal. APIX has thirty days to approve an investment under the Investment Code. Last but not least, APIX includes an Investment Climate division tasked with coordinating reforms to improve the business environment for the domestic and private sector in the country. This coordination function is meant to play an advocacy role rather than a regulatory one, aligned with IPAs’ good global practices. However, good practices also suggest (i) that OSSs should be independent of IPAs, as the regulatory role of the former differs from the promotional one of the latter, which can be diluted by the presence of regulatory functions in the IPA; and (ii) that IPAs should not manage incentive programs on behalf of governments. Both of these situations, reflecting multiple mandates for the IPA, can create conflicts of interests and should be avoided, as the IPA can find itself playing the role of persuader, supporter, and rewarder of incentives for the investor, while also having to assess and monitor compliance with incentives conditions.

While APIX performs its mandate well as OSS for foreign investors, over the past years it has increasingly been focusing on fostering PPP initiatives rather than promoting FDI in targeted sectors. This is mainly attributable to (i) the enforcement of the 2014 PPP law aiming at facilitating expedited approval of projects that include a minimum share of domestic investment; (ii) the lack of

a clear FDI Attraction Strategy, with a strong sectoral focus; as well as (iii) limited human resources allocated to perform aftercare and promotional tasks. As discussed, there is a negative correlation between the number of mandates of an IPA and FDI inflows, and the focus on strategic PPPs might have diverted attention away from promotion and aftercare efforts. In addition, sectors currently targeted by APIX are the ones identified by the PSE more broadly, and therefore do not apply an FDI-specific lens. Senegal would greatly benefit from a strong FDI Attraction and Retention Strategy cascading from the PSE, targeting specific sectors and sub-sectors based both on their benefit for Senegal's development trajectory as well as on their attractiveness to FDI (especially in light of the new post-COVID-19 global economic reality, which is expected to continue disrupting global value chains and shifting FDI trends), and including clear priorities and sequencing. The Strategy could also focus on attracting investors to the SEZs, as Senegal has been aiming to increase their occupancy rate since their establishment through the two January 2017 SEZ laws supported by the IFC ECOWAS project mentioned in Section 2. APIX is directly under the Office of the President can therefore ensure the needed high-level support to effectively implement the strategy, in coordination with other agencies and bodies.

In addition, APIX is increasingly examining ways to effectively respond to the COVID-19 crisis, by focusing on short-term efforts in retaining existing investors through strengthened aftercare activities. Indeed, APIX is looking at prioritizing the retention of strategic and anchor investors and seeks assistance to strengthen these efforts to enhance transparency and communication with investors, bolstering direct assistance to help solve issues individual investors might be facing, and continuing advocacy efforts between the private sector and government to systematically solve pressing issues encountered by investors. The World Bank is well positioned to provide support in strengthening APIX's aftercare functions in the short term. Such support should focus on supporting APIX in its efforts around (i) strengthening access to information to investors around the outbreak, (ii) supporting investors on key issues linked to their existing operations and remove crisis-related blockages, and (iii) gathering information on issues and bottlenecks faced by investors, and continuing playing the advocacy role and push for the needed reforms.

Senegal's Investment Policy

FDI face legal or de-jure and de facto entry restrictions; this section provides a brief analysis of Senegal's legal restrictions to (i) determine if existing entry barriers as well as investment protection provisions, can explain or affect the country's FDI performance, and (ii) suggest possible areas for improvement.

Senegal's 2004 Investment Code was amended in 2012, to ensure consistency with the new Tax Code, also approved in 2012. Indeed, the 2012 amendment restricts the scope around incentives and transfers some of these provisions to the Tax Code. Other relevant investment policies

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60 The 2014 PPP law was reformed in 2021 to enhance the governance and support implementation of the PPP framework through the establishment of a new PPP fund and PPP Unit. This might represent a good opportunity for APIX to re-focus on foreign investment attraction and aftercare.


63 http://www.jo.gouv.sn/spip.php?article9554
include the Mining Code and the new Petroleum Code adopted in February 2019. The Investment Code provides basic guarantees for (1) equal treatment of foreign investors and (2) access to foreign exchange and repatriation of capital and earnings, subject to procedural requirements of financial regulators. The Code also includes protection against expropriation or nationalization of private property with exceptions for public utility reasons that would involve “reasonable compensation”. Finally, foreign investors have access to public procurement, as regulated by an autonomous body, as discussed below.

**Senegal’s Investment Code foresees guarantees for equal treatment of foreign investors including the right to acquire and dispose of property.** The Code, therefore, does not impose any general limits on foreign control of investments and there are no barriers to full ownership by foreign investors in most sectors. The Code is applicable to companies operating in listed sectors (i.e. ‘positive investment list’). Therefore, several strategic sectors are excluded by the code such as water, electricity distribution, and port services where the government and SOEs maintain responsibility for most physical infrastructure but allow private companies to provide services. Sectors not included in the positive list are therefore governed by separate legislation; however, some sectors included in the positive list are also governed by separate legislation, such as in the case of the hydrocarbon sector. Such system can lead to ambiguity, as investments could potentially be considered ineligible under the Code by reviewing officials. The negative investment list is a more transparent and efficient system. Under this scenario, the Investment Code outlines the principle of free access for foreign investment to all sectors, except those for which the government wishes to maintain prohibitions or restrictions. These sectors would be indicated in the negative list, annexed to the Investment Code through a decree or law. This would allow modifying the list when the government wishes to liberalize certain sectors, without having to modify the full Investment Code, assuming that amending a decree or law would entail a streamlined process. Many countries have adopted this system because of its simplicity and transparency, and the World Bank encourages Senegal to move in this direction.

**The GOS screens some of the proposed investments, primarily to verify compatibility with the country’s overall development goals and compliance with environmental regulations.** If the government is involved in project financing, the Ministry of Finance will also review financing arrangements to ensure compatibility with budget and debt policies. As mentioned above, one of APIX’s role is to facilitate government review of investment proposals and the project approval process.

**The Tax Code specifies tax and customs duties temporary exemptions for investment projects according to their volume, company size and location, with investments outside of Dakar eligible for longer tax exemptions.** Tax deductions from the taxable profits are granted to enterprises receiving an agréement (hereafter approval in English) from APIX under the Investment Code. In order to apply for such approval companies must operate in specific sectors and for investments above CFAF 100 million (approximately US $165,000) or in activities that lead to an increase of 25% or more in productive capacity. The deduction rates are set as follows for a period between 5 and 8 years: (i) 40% of the investment’s value for the creation of a new business; (ii) 30% of

the investment’s value for the extension of an existing business, (iii) 50% of the taxable profits for new enterprises established in Dakar, and (iv) 70% for new enterprises established in other regions. Eligible sectors for investment incentives include agriculture and agro-processing, fishing, livestock and related industries, manufacturing, mining and oil, tourism, banking, and others. All qualifying investments also benefit from two years of exoneration from duties on imports of goods not produced locally for small and medium-sized firms, and three years for all others. The process-related institutional disconnect between APIX (granting the approval) and the tax administration is a source of potential concerns.

**Taxation, however, is recognized as a top 5 business environment obstacle by the 2014 Enterprise Surveys.** Challenges reported by foreign investors also include tax adjustments, defeating the purpose of having a solid incentive scheme. As discussed in Section 1, the country is under pressure to increase resource mobilization, and suffers from lack of inter-agency coordination, also exacerbated by corruption and the recent split of the Ministry of Economy and Finance. Reconciling a strong fiscal revenue while attracting investors through incentives is an imperative for Senegal, and the World Bank is providing support to the country’s Domestic Revenue Mobilization Strategy separately, as mentioned in Section 2.

**The Investment Code does not foresee a mechanism or process to resolve or coordinate the resolution of investor grievances before they can turn into full-fledged disputes.** Senegal is open to Alternative Dispute Resolution mechanisms such as arbitration and mediation. For instance, and in addition to the OHADA legal framework, Senegal possesses an investment arbitration center which is administered by the Dakar Chamber of Commerce. However, arbitration and mediation deal with fully formed disputes. Therefore, there might be space to introduce a mechanism that detects the issues or grievances and resolves them proactively, before they turn into a dispute that must be resolved through court, arbitration or mediation.

**According to UNCTAD, Senegal has signed 29 bilateral investment treaties (BITs), of which 18 are currently in force, and the country participates in several regional integration efforts that include investment-related provisions.** Senegal is an ECOWAS Member, and while the 1979 ECOWAS Trade Liberalization System (ETLS) has yet to be fully implemented, Senegal has adopted and implemented the ECOWAS Common External Tariff (CET) System and generally imposes tariffs in a transparent and rules-based way. In March 2018, Senegal signed the African Continental Free Trade Area agreement (AfCFTA), a step toward a continent-wide liberalized market for goods and services. AfCFTA includes protocols on investment to support its overarching objectives of encouraging intra-regional investments and drive efficiency- and market-seeking FDI into the continent.

**In 2018, with support provided by the separate Bank Group engagement discussed in Section 2, ECOWAS adopted a common Investment Code and a common Investment Policy (ECOWIP) binding on all 15 countries, including Senegal.** ECOWIP aims to increase investments at both the national and regional levels, expand the common market economic space, increase economies of scale, and enhance regional and international competitiveness. The ECOWIP seeks to achieve this

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objective by establishing a region-wide harmonized legal, regulatory, and institutional framework for investment. Senegal would therefore benefit from integrating ECOWIP guidelines into its legal and regulatory framework, as a means to strengthen intra-regional investment.

The PREAC3 identifies the assessment and revision of the investment code as a targeted reform for the country, and the WB stands ready to support such an effort, in close coordination with other development partners. Assistance could be provided in reviewing the proposed new Code and ensuring its alignment with good global practices. First, the review would focus on investment entry and market access provisions, including for example providing benefits of moving to a Negative List. The review would then focus on investment protection provisions, which are paramount to ensure investor’s confidence. A comparative analysis of Senegal’s International Investment Agreements (IIAs) and the proposed Investment Code could also help align it with the IIA’s higher standards. In addition, IIA’s usually include Investor-State Dispute Settlement (ISDS) provisions, which means that the State of Senegal can be taken to international arbitration by an eligible foreign investor from an IIA signatory country for an alleged violation or breach of the guarantees enshrined in the applicable IIA. This risk underscores the usefulness of introducing an Investment Grievance Mechanism (IGM), currently not existing in Senegal to detect grievances at an early stage and resolve them before they can escalate into a dispute that may go to arbitration. This could help to reduce the risk of ISDS but also to facilitate investment retention as investors value this type of service, especially in the current uncertain context. A review of the proposed Investment Code would also ensure the consistency and alignment between the domestic code and the regional initiatives (ECOWAS and WAEMU), aimed at expanding the regional market economic space. Finally, such review could also serve to highlight the need for specific implementing regulations and provide advice on those.

FDI Linkages in the Oil and Gas Sector

As discussed in Section 1, one of the most important recent developments in Senegal is the discovery in 2014 of significant offshore oil and gas reserves. The Sangomar project, led by the Australian upstream provider Woodside, and the Grand Tortue Ahmeyim LNG venture on the maritime border between Mauritania and Senegal led by BP in partnership with Kosmos Energy, were expected to start producing in 2022. In addition, the GOS launched in January 2020 a six-month licensing round covering a wide range of open offshore and onshore blocks seeking to increase investments in the extractive sector in the country. However, the COVID-19 crisis is creating uncertainty for this sector. BP and Kosmos already announced the postponement of the first phase of the LNG project by one year, blaming operational disruptions caused by the pandemic. The delay will negatively affect economic growth – forecasted down to 4% from 7% in 2022 by the January and June Global Economic Prospect respectively – and export revenue.

While the existing diagnostics discussed in Section 2 focus on the positive impact these investment opportunities will translate in terms of government revenues, they have not expanded on the extractive investments' impact on the local economy. In 2019, the GOS

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66 In the case of Senegal the World Bank would review and compare the guarantees in the national investment code and in 4 of the regional or international instruments on investment that apply to Senegal including the ECOWAS investment code, the AfCFTA, and 2 of the highest standards BIT’s among the 18 that are currently in force.
introduced a new comprehensive Petroleum Code,\textsuperscript{67} aiming at enhancing Senegal's appeal to international oil and gas companies while reinforcing the preservation of national interests and local content. The Code foresees the State's participation in extractive projects through the state-owned company Petrosen's 10% stake in joint ventures receiving oil/gas licenses, a common practice observed in other countries. Importantly, the Code also covers Local Content Requirement (LCR) provisions, including giving priority to employment and supplier opportunities to Senegalese nationals/companies, as well as incentivizing technology transfers to local companies. This broad framework was further refined by a separate law\textsuperscript{68} on the hydrocarbon sector's LCR, also adopted in early 2019. The law establishes a national committee charged with drafting an LCR strategy, as well as coordinating and reviewing annual plans to be submitted by lead investors. It will be important to integrate the local content debate in Senegal's long-term development strategy, based on a realistic understanding of existing capabilities available in the local economy and focused on increasing domestic competitiveness and value-add, aiming at maximizing the impact of LCR policies. Extractive projects follow a very specific, but foreseeable, project cycle. This needs to be considered when assessing opportunities and planning interventions.

While maximizing the impact of hydrocarbon foreign investments on the domestic economy is a high priority for GOS, this is a new sector in the country and therefore an area where the country could benefit from WB assistance. Given the novelty of the sector, thorough upfront analysis to inform where and to what extent local content opportunities exist or can be developed is critical. Today, Senegal has little experience with large extractive projects and with the opportunities for suppliers or workers that such projects generate. WB support could begin with a demand-supply gap analysis to identify (i) those potential linkages opportunities for the local economy directly engaging in the extractive sector and their feasibility, and (ii) indirect linkages opportunities building cross-sector linkages from extractives to other sectors based on the demand created from local and international workers in the extractive industries (e.g. food retail). Such analysis would be beneficial to optimally implement the new policy framework in place, and potentially provide inputs for legislative adjustments and/or the LCR Strategy. In addition, the analysis could also serve as inputs to a potential pilot Supplier Development Program aiming to improve individual firms' capacity to access direct and indirect business opportunities from large extractive projects. It is particularly important to set the right foundations for the development of this new sector and establish a sound governing framework for future extractive projects. Given the ongoing COVID-19 challenges, such assistance has not been discussed with GOS counterparts yet. As extractive projects follow very typical project cycles, GOS should continue with preparing the ground even as investment projects are being delayed, including for example setting up training programs so that local employment can be maximized once investors are ready to start extracting. The program will start discussing this engagement with GOS, as well as with lead investors to have a better understanding of their requirements.

\textsuperscript{68} \url{https://itie.sn?offshore_dl=3320}
3.5 Improving Business Regulation for Domestic Firms

Overall status of the business regulatory environment

A strong business environment is a key enabler for achieving productivity growth, attaining high levels of private investment, competitiveness, and economic diversification that Senegal aspires to. Key pre-conditions for a stable, conducive business environment include (1) creating a level playing field among all firms; (2) reducing regulatory barriers to establish and operate a business; and (3) maximizing opportunities for growth and promotion of entrepreneurship. The business regulatory environment comprises the policies, laws, regulations, institutions and procedures that affect the business lifecycle – from market entry to day-to-day operations to growth to exit.

There are a variety of aspects that, taken together, can make or break firms, especially Micro, Small and Medium Enterprises (MSMEs) which constitute near 99% of the companies in Senegal and contribute to 30% of private sector turnover (Figure 26). Despite its dominance, the Senegalese SMEs population is characterized by low productivity levels compared to their African peers.

Figure 26: Distribution of firms by size

![Pie chart showing distribution of firms by size]

Source: ANSD/RGE 2016

Business regulatory reforms over time

The structural strengthening of the Senegalese economic competitiveness has been driven by different waves of reforms, especially ones under the OHADA system of which Senegal is a member. Despite the reform impetus, implementation and follow through of regional reforms on the ground can be challenging. Despite being one of the countries with the most business environment regulatory reforms in the past few years, procedures remain complex and regulations leave room for interpretation, negotiation, or even bribery, which creates several obstacles for private sector growth.

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Small Enterprises: > 100m – 500m FCFA turnover (170k-860k USD); Medium Enterprise: > 500m – 2mia FCFA turnover (860k-3.4m USD); Large Enterprise: > 2mia FCFA turnover (3.4m USD)
Between 2015 and 2020, Senegal implemented 23 positive reforms in several crucial areas, including but not limited to tax regulations, registering property, starting a business and contract enforcement. While these reforms have improved the overall business landscape in Senegal, several elements of the business regulatory environment require further reforms and scrutiny to reduce cumbersome red tape and unnecessary bureaucracy. For instance, out of the 23 reforms implemented in the past six years, only one focused on improving licensing, one on resolving insolvency, one on protecting minority investors, and only two on improving construction permitting. Senegal is influenced substantially by OHADA which often determines reforms the government will implement in the business environment. Despite the high rates of reform that the GOS has implemented in the past few years, the government still has room for improvement in its regulatory framework to reduce barriers to entry and operation to facilitate private sector investment and growth. The most significant barriers include complex regulatory procedures and high transaction costs, administrative burdens on SMEs, and regulatory protection of incumbents, as identified by the PMR indicator findings.

Along with other peer countries, Senegal achieves comparatively low scores on the World Bank’s DB indicators, ranking 123rd globally (out of 190) (Figure 27). Senegal’s performance is particularly poor concerning dealing with construction permits (131/190), paying taxes (166/190), and trading across borders (142/190). These issues persist despite recent DB reforms to tackle topics such as getting credit and making it easier to pay taxes. Similarly, the World Economic Forum’s Global Competitiveness Report ranks Senegal in the bottom quintile as the 114’s (out of 140) most competitive nation in the world, falling behind some of its peers like Mauritius (52/140), South Africa (60/140) and Kenya (95/140). The country lags on ICT adoption, infrastructure and institutional performance, among others. Data from the Women, Business and the Law (WBL) index also reveals areas for improvement (overall score of 63.8) on promoting women’s access to economic opportunities, especially when it comes to equal pay and jobs for women.

Figure 27: Senegal achieves lackluster performance along Doing Business indicators

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A daunting business environment has far reaching implications, not only on formal firms’ operation and growth but also on the size of the informal sector in the economy. In Senegal, 97% of firms are informal, dominating all sectors except services to firms, transport and telecom, construction, and food industries (Recensement Général des Entreprises, RGE, 2016). The informal sector, limited by the business environment in which it operates, occupies a considerable share of the economy and is very heterogeneous, comprising micro unproductive enterprises, small competitive firms as well as big “underground” economic units. The formal sector is limited (around 8,100 businesses) and has been unable to absorb a growing labor force, pushing workers to seek employment in weakly productive subsistence activities, often in the informal sector. Indeed, the ratio of new formal work contracts for the entering working population reached a maximum of only 22.6 percent in 2014. Unsurprisingly, the World Bank 2014 Enterprise Surveys reported that three out of four firms in Senegal have to compete against unregistered or informal firms (Figure 28). Large firms, in fact, are just as likely to face competition from informal firms as small firms: 77 percent of large firms compete against informal firms compared to 80 percent of small firms. Nevertheless, despite widespread competition with informal firms, more firms are registered when they begin operations in Senegal (88 percent of firms) than in other lower-middle-income countries (69 percent).

Large and small enterprises alike are challenged by unfair practices of a growing informal sector (especially through imports). Senegalese firms consistently report competition with the
informal sector as the biggest obstacle to their business growth and expansion (Figure 29). The issue of informality can be rooted in several issues, but there is substantial literature arguing for delicensing various key sectors and simplifying barriers to entry as one remedy to decrease transaction costs for small firms attempting to join the market and to encourage participation in the formal market.

**Figure 29: Biggest obstacles to business growth in Senegal**

<table>
<thead>
<tr>
<th>Obstacle</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Informality</td>
<td>57.5%</td>
</tr>
<tr>
<td>Access to finance</td>
<td>55.4%</td>
</tr>
<tr>
<td>Electricity</td>
<td>49.1%</td>
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<tr>
<td>Access to land</td>
<td>43.9%</td>
</tr>
<tr>
<td>Tax rates</td>
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</tr>
<tr>
<td>Tax administration</td>
<td>26.5%</td>
</tr>
<tr>
<td>Corruption</td>
<td>22.0%</td>
</tr>
<tr>
<td>Transport</td>
<td>20.0%</td>
</tr>
<tr>
<td>Telecommunications</td>
<td>13.5%</td>
</tr>
<tr>
<td>Customs and trade regulations</td>
<td>10.8%</td>
</tr>
<tr>
<td>Crime</td>
<td>10.5%</td>
</tr>
<tr>
<td>Inadequately educated workforce</td>
<td>9.4%</td>
</tr>
<tr>
<td>Political instability</td>
<td>9.2%</td>
</tr>
<tr>
<td>Courts</td>
<td>9.0%</td>
</tr>
<tr>
<td>Business licensing and permits</td>
<td>8.3%</td>
</tr>
<tr>
<td>Labor regulations</td>
<td>5.0%</td>
</tr>
</tbody>
</table>


**Roots of Regulatory Weakness**

Senegal’s regulatory restrictiveness, marked by complex regulatory procedures and barriers throughout the business lifecycle, has created a distorted economy, with spillovers into several key national sectors. Distorting policies and uneven regulatory enforcement and institutional capacity continue to obstruct the development of a level playing field in the private sector and challenge the emergence of a healthy business environment characterized by transparency and innovation. Regulations are generally established to address market failures, but there are circumstances where policy interventions (or the lack of) may have unintended consequences. Furthermore, an inconsistent application of regulations allows some of the larger and more influential firms to bypass certain regulations and obligations using their financial and political might. An uneven regulatory enforcement underscores Senegal’s high levels of informality which have a significant impact on the private sector in the country, as evidenced above.

**Barriers to Entry: from registration to licensing**

Despite substantive progress to improve the business registration process, Senegal still shows several constraints to firms’ market entry. Understanding and navigating Senegal’s regulatory requirements can be difficult given that information on regulations is not readily available, thus increasing barriers to entry and creating informational asymmetry. Data suggests that requirements for existing businesses and legislation and regulations are not systematically available online\(^71\). To further complicate matters, changes or amendments to existing literature, whether positive or

negative, are not published online for easy access, making strategic planning for the private sector more difficult. Companies without legal sophistication, notably SMEs are likely to face challenges when trying to interpret existing legislation. As mentioned above, Senegal's poor performance on the Global Indicators of Regulatory Governance (GIRG) points to a tough regulatory environment. Furthermore, the International Country Risk Guide rates the quality of Senegal's bureaucratic system below that of Senegal's structural and regional peers, albeit above WAEMU countries.

**The poor quality of business regulation is further magnified by high barriers to entry in key sectors that are essential for doing business, further increasing costs for firms, particularly SMEs.** Regulatory market entry requirements do not adopt a risk-based approach that seeks to adapt the government's degree of regulatory control to the actual hazards and level of severity posed by industry sectors, economic activities or business establishments. Simplifying business licensing is about limiting licenses to those that are justifiable and adopting risk-based approaches to ex-ante controls (e.g. licensing, permitting and inspections). Risk matrices are fundamental instruments used to classify establishments depending on their risk level – and adapt the licensing requirement on this basis. This helps identify whether the licensing requirements are proportionate to the risk being addressed. For instance, if the problem relates to a low-risk/low-impact activity such as retail, it may be appropriate to require a notification of commencement of operations instead of a prior approval.

**A quick scan of regulations that govern licensing of professional services provides additional insight on inefficiencies in the regulatory system governing licensing.** High barriers to entry and rivalry in key services that are essential for doing business may further increase costs for all market players. Entry restrictions are prevalent in Senegal across the four professions. To provide any one of these professional services – accounting, architectural, legal, and engineering - membership in a professional organization is obligatory, and the procedure for becoming a member is highly problematic. In accounting and architectural services, licensing is a requirement and entry is regulated by public authorities; in the case of accounting services, binding minimum fees may affect the service providers’ incentives to compete based on quality and to innovate. Restrictive regulations also apply in the education sector where the number of licenses and permits required to engage in commercial activities in the sector is cumbersome.

**Agriculture is another sector where licensing hinders firms from entering and operating.** Agriculture is an essential driver of the Senegalese economy, accounting for 19% of the country's GDP, tied for first place with wholesale and retail trade. Yet, it continues to suffer from various regulatory distortions. Senegal's licensing structure for seed producers, while warranted to achieve public health and safety, may restrict entry to market. Seed operators are licensed by the Seed Division (DISEM: Division des Semences) of the Ministry of Agriculture (MAER: Ministère de l'Agriculture et de l'Équipement Rural) based on the quality of the producer's land, the adequacy of his equipment and his financial capacity. Given the nature of the agricultural industry, it is important to ensure that licensing requirements are proportional to their objectives of safeguarding against food insecurity and

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environmental concerns. At the same time, services for certification of seed are carried out exclusively by DISEM, who ultimately single-handedly determine who enters the market.

**Startups and the entrepreneurship ecosystem**

**Start-ups continue to struggle with non-transparent licensing and permitting requirements.** Senegal fares rather poorly on several measures of entrepreneurship according to the Global Entrepreneurship Index (Figure 30, left panel), including lack of entrepreneurial finance and internal market dynamics. Although currently ranking at 103 out of 137th on the Global entrepreneurship index 2018, it is surpassing regional peers like Cote D’Ivoire (105th) and Kenya (109th). Besides the difficulty of navigating licensing requirements, the country lags behind in areas such as the lack of equity culture, the rarity of bank borrowing for investment or working capital needs among small-sized and medium-sized enterprises or start-ups, and the limited number of incubators in the country further hamper the growth of firms (Figure 30, right panel). By easing the way for entrepreneurs and promoting innovation, Senegal could aspire to become West Africa’s leading Startup Nation.

**Figure 30: Entrepreneurial Framework Conditions in Senegal**

![Graph showing entrepreneurial framework conditions in Senegal](image)

*Source: Global Entrepreneurship Index 2018.*

To create a business environment conducive to entrepreneurship and digital innovation, a new law on the creation and promotion of start-ups in Senegal was adopted in January 2020. This regulatory milestone was aligned with the President of the Republic’s vision to strengthen Senegal position as a leading “Startup Nation” on the Continent and was the product of a *policy hackathon*, an innovative policy co-creation imitative which mobilized hundreds of actors in Senegal’s emerging digital entrepreneurship ecosystem.

However, the implementing regulation has not yet been adopted, in part given the novelty of the topic (Tunisia is the only other African country with a startup law), and weak legal and regulatory capacity on the government’s side. COVID-19 crisis also slowed down the work. As such,

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the adoption of the startup regulation has become a short-term priority for the Government in order for the reform to achieve its intended impact. The regulation will clarify, among other things, the institutional arrangements organizing the startup ecosystem, in particular the labeling process. It will also establish an early stage funding mechanism, called “startup fund”, to address the existing financing gap. In addition, it will clarify issues related to public procurement for startups, and help establish facilitating mechanisms for startup registration, among others.

Constraints to Business Operations

Whether it is difficulty accessing resources such as electricity and construction permitting, access to finance or doing business with the government, firms face several constraints affecting their daily operation.

Construction Permitting

In Senegal, and as evidenced in Section 1, heavy regulations but weak regulatory enforcement are contributing to the high informality in the real estate, housing and construction sector, and creating uneven competition conditions. Streamlining construction permitting and reforming construction-related legislation was highlighted as a priority area under the PREAC 3 framework.

In urban areas, labor income among the poor has been boosted by growth in labor-intensive sectors, such as commerce and construction that employ a considerable share of the urban poor. This comes as no surprise as reforms that make regulation of construction more efficient and transparent can help reduce corruption and informality, while encouraging construction companies to go through formal channels and ensuring compliance with important standards, such as those impacting safety or mitigating climate change. Good regulations, combined with sound enforcement mechanisms, ensure safety standards that protect the public while making the permitting process efficient, transparent and affordable for both building authorities and the private professionals who use it. A recent study shows that long delays to obtain permits could lead to higher transaction costs and fewer transactions. The payoff of construction permitting reforms can be significant and yield benefits for both public and private sector. Examining the impact of construction permit reforms on new income generation, one study in the United States shows that a modest acceleration of the permitting process could increase construction spending by 5.7% and generate 16% more in property tax revenue over 5 years. It also shows that for every 10 jobs directly related to a construction project, another 8 jobs are created locally. These impacts yield not only additional income for the community but also additional investments and tax revenues for the government.

Construction in Senegal is primarily governed by two pieces of legislation: (i) Code de la Construction and (ii) Code de l'Urbanisme. The construction sector in Senegal requires the establishment of a binding legislative and regulatory system to ensure better quality of execution,

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lasting reliability, and enhanced security, thereby avoiding all harmful damage and accidents that may result from a construction permitting requirements that are not aligned with recognized good practices. The GOS has attempted to strengthen the efficiency and effectiveness of the technical services involved in enhancing security and inter-ministry cooperation. The Town Planning Code, for example, requires documents issued by the Mayor and the President of the rural council within the framework of their territorial jurisdiction. The lack of a streamlined process and the need for various documents based on local jurisdictions can explain Senegal's 140th DB ranking on the Dealing with Construction Permits. First, the cost of a construction permit in Senegal is about 9.8 percent of total warehouse value, which is higher than both the Sub-Saharan average of 8.8 percent and high-income OECD average of 1.5 percent. In addition to the cost, it takes 177 days to obtain a construction permit in Senegal, and this is considerably higher than the Sub-Saharan average of 145 days and OECD average of 152 days. Reducing discretion as well as a reduction in the time and cost of the licenses required for construction would create a business regulatory environment that is not cumbersome and instead enhances the private sector in Senegal. Construction permitting in Senegal is directly impacted by the country's lacking land administration and property rights, for which Senegal scores 10 out of 30 in the DB index. There is no electronic database available for past and newly issued land records kept at the property registry - records are kept on paper. Information recorded by the property registration agency and the cadastral or mapping agency is not consolidated in a single database but rather in separate databases. Furthermore, there is no independent mechanism for filing complaints about any problem that occurs at the agency in charge of property registration. These characteristics of the Senegalese land administration leave room for discretionary behavior and hinder the entire process of construction permitting, which requires close interaction with land registration agencies.

Access to reliable electricity remains costly

An economy's electricity supply is one of the main cost factors for firms, especially in industries heavily dependent on electricity, such as manufacturing. Connecting to the electrical grid has been a leading perceived obstacle by firms for several years along with access to land and access to finance. This underscores the difficulty faced by the GOS in defining and implementing the required structural policies to overcome it. In a country in which SME's comprise a huge portion of the private sector, a secure and reliable access to electricity has far growing implications. More specifically, when only 67 percent of the national population has access to electricity, this negatively impacts MSMEs ability to function, grow, and expand.

The DB's Getting Electricity indicator places Senegal in the 119th (out of 190) most difficult country in getting electricity. With a score of 65.2, it lags regional comparators such as Ghana (score 77.4 and rank 79) and Togo (score 72.6 and rank 99). In addition, the high cost of electricity in the country, reported as 2,421 percent of the national income per capita of Senegal, versus 61 percent in high-income OECD economies, a cost associated with a period of more than 2 months to complete the process (68 days). Finally, in terms of reliability of supply and transparency of electricity tariffs (based on a score of 0-8), Senegal, with a score of 5, performs significantly better than the Sub-Saharan average (1.6) yet continues to lag high-income OECD countries (7.4). The exorbitantly high cost of electricity, along with weak access, primarily affects SMEs that may not be able to survive the
cumbersome regulations and wait times necessary to connect to an electrical grid. The potential 30% reduction in the cost of electricity to firms resulting from the recent discovery of oil and gas offshore reserves\textsuperscript{79} can only happen should access to electricity be improved.

**Constraints to Business Expansion and Growth**

*International trade remains a challenge in a country considered a commerce hub*

Considering Senegal’s emerging role as a transport and commerce hub in West Africa, its performance on the Logistics Performance Index is a daunting reflection of the inefficiency of the country’s customs clearance processes, namely pertaining to the speed, simplicity, and predictability of its formalities. Similar to its peer countries, Senegal’s lacking logistics structure is reflected in its performance in the GCI (Figure 31). While the government has implemented various reforms in recent years to improve efficiency in its logistics framework, it continues to directly impact the growth of Senegal’s mainstay industries through a highly burdensome customs process. Senegal’s scores on the LPI and the GCI elucidate its scores on the DB Trading Across Borders indicator, providing further context as to why Senegal’s ranking is so low.

![Figure 31: Senegal's lacking performance in logistics and efficient regulations](image)

*Source: World Bank Logistics Performance Index 2018*

Over 90% of formal Senegalese enterprises are SMEs, most of which are located around Dakar and are impacted by sluggish trade logistics. The first pillar of the PSE emphasizes the need for a structural transformation of the economy with a strong capacity to export and attract investment. Nonetheless, only 2% of firms sell more than 50% as exports, mostly in ECOWAS. Export participation is sporadic and only a few firms are able to establish a lasting presence in export markets. Exporters to Europe are among the few that can qualify for the Free Exporter Status (80% of exported sales). In a recent survey, exporting firms, quoted customs procedures (37%), lack of export financing (20%), and issues with transport services (13%) when asked to identify their biggest constraint (Figure 32). Constraints varied depending on the firms’ size. Customs procedures are the most prominent

constraint for 61% of large exporting firms. On the other hand, only 7% of SMEs consider it as the biggest constraint, and this also stresses the importance of linkages to overseas markets for SMEs, who are less likely to export compared to large firms.

**Figure 32: Biggest constraints for exporting firms**

![Figure 32: Biggest constraints for exporting firms](image)

*Source: World Bank (2017).*

**Enhancing Quality Infrastructure is critical to unlocking opportunities for exporting firms**

A Quality Infrastructure (QI) system is required for the effective operation of domestic markets, and its international recognition is important to enable access to foreign markets. It comprises the organizations, policies, and relevant legal and regulatory frameworks and practices required to support and enhance the quality, safety, and environmental soundness of goods, services, and processes. A recent UNIDO study shows that poor standards will lead to fewer buyers choosing to source from a particular country and an increased likelihood that the buying relationship will be terminated in a given period. This performance is determined by both enterprise-level competencies and the broader public and private compliance infrastructure. The study considers an effective and efficient QI to be a necessity in general for low- and middle-income countries with an untapped export potential like Senegal that are wishing to access global markets and, once accessed, to retain and enhance their market shares in this sector.

In addition to logistical constraints mentioned above, the inability to access international markets is also in part due to a lagging QI system. A major constraint that Senegal faces in transforming into an export-driven economy is the low number of firms with an internationally recognized quality certification, which can significantly impact export-oriented industries, like agriculture, which is the largest employer in the country. Only 9.3% of firms in Senegal have an internationally recognized quality certification (Figure 33). SMEs are likely unable to afford obtaining

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80 QI system’s core elements are standards, metrology, and accreditation) and conformity assessment (testing, inspection, and certification.

internationally recognized certifications due to the lack of access to finance that they face and instead choose to forego this investment, reducing their likelihood of reaching overseas markets and diversifying their portfolio of products.

**Figure 33: Quality certification remains scarce in the Senegalese private sector**

Ensuring safety of food products domestically is a significant and valid concern for the GOS, but, at the same time, ensuring quality of agricultural products for export is equally important for economic growth. For Senegalese horticultural exporters to access higher value markets such as the European Union (EU), sanitary and phytosanitary inspections and certification procedures need to be improved and streamlined to facilitate overseas trade. Despite considerable efforts by the government to ensure the quality of exported agricultural products, EU authorities continue to issue critical warnings due to increased interceptions of mango shipments suffering from contamination with pests and diseases. The relevant government authority, the Direction de la Protection des Vegetaux et des Controles Techniques, or the Directorate of Plant Protection and Technical Controls in the Ministry of Agriculture, oversees sanitary and phytosanitary hazards linked to the licensing regime of agricultural exports. This institution isn’t affected only by a lack of human and financial resources, but also by inefficient use of modern technologies to manage information flow about the delivery of certifications.

Further, barriers to trade facilitation are accentuated by the lack of effort by the Government to harmonize standards, which has resulted in no mutual recognition agreements (MRAs). When present, MRAs promote trade in goods between countries and facilitate market access through the use of internationally harmonized standards and certification procedures in any of Senegal’s 16 key sectors.

*Firms’ access to public markets could be further improved*

**Senegal’s public procurement system is organized around three key government stakeholders:** the Public Procurement Regulatory Authority (ARMP: Autorité de Régulation des Marchés Publics du Sénégal) is responsible for regulating the procurement system, the Central Directorate for Public Procurement (DCMP: Direction Centrale Des Marchés publics) for overseeing procurement activities, and procuring entities – government ministries, local authorities, public agencies – for conducting
procurement. The ARMP is an independent administrative authority under the Prime Ministry that has financial and administrative autonomy and the DCMP is located within the Ministry of Economy, Finance, and Planning and conducts legal and technical reviews before the approval of all contracts. **The GOS has already made a significant effort to promote transparency in public procurement**, by adopting the 2012 Transparency Code for Public Finances, which *inter-alia* define clear rules for public procurement, as well as adopting an electronic tendering platform and improving procurement data collection, that is yet to become operational. While the GOS has demonstrated its interest in open data via the undertaking of several initiatives, there has been little focus on adopting open contracting specifically, despite the availability of some data on the public procurement portal. Adopting open contracting standard principles would bolster the government’s ability to engage citizen groups and the private sector in procurement reform and this can be done through the implementation of a full e-procurement system. Overall, Senegal's public procurement legislative framework is derived from the WAEMU, of which Senegal is a member.

**Senegal's current model of decentralized procurement combined with periodic reporting and monitoring results takes a toll on crucial resources.** The government established an interagency mechanism implemented through the Electronic Procurement Management System (SYGMAP: *Systeme de Gestion des Marches Publics*) through which each of the stakeholders/agencies report and share data, some of which is published through a public portal. While SYGMAP can help with easier reporting of data, it still requires manual data entry by Procurement Units and proactive monitoring from DCMP to ensure compliance with disclosure and reporting requirements. Currently, the system is only limited to the preparation of procurement plans and their submission to the DCMP's approval and lacks operational functionality. In order to modernize and streamline the public procurement process, data principles and open data standards should be adopted and implemented. Additionally, given the nature of the public procurement system, interagency red tape is likely to increase cost, procedures, and time needed for the entire process. Payment delays hinder participation by private firms in the public procurement process—especially SMEs that struggle with limited cash flow. It can take up to 90 days for suppliers to receive payment.82

**Promoting Women's Economic Opportunities**

**Despite recent efforts to close the gender inequality gap, opportunities for reform remain in few regulatory areas.** Women are disproportionately impacted by regulatory constraints hindering their ability to access economic opportunities and enter the workforce. Legal gender equality is particularly important as it is associated with a range of outcomes, including higher female labor force participation, more women in government, and a lower gender wage gap. Legal restrictions constrain women’s ability to make economic decisions and can have far-reaching consequences on economic growth. Women may decide not to work in economies where the law makes it more difficult for them to do so, or where they may get paid less than men for performing work of equal value. Female participation in the private sector in Senegal still lags behind other lower-middle-income countries.

**The World Bank’s WBL project collecting data on the laws and regulations that restrict women's economic opportunities gives Senegal a score of 63.8 (out of 100) in 2020 based on several**

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**indicators.** First, there is no law that prohibits discrimination in employment based on gender, meaning that women are routinely denied opportunities for employment in certain industries deemed too dangerous. There is also no law that mandates equal pay between men and women for work of equal value. For women entrepreneurs, there is no law that prohibits discrimination in access to credit based on gender, putting women entrepreneurs at a major disadvantage from the beginning. Regulations rooted in gender discrimination not only target a disenfranchised portion of Senegal's population but also have detrimental effects on overall job creation and productivity. Instead, a labor market characterized by equal opportunity and transparency will thrive and innovate and provide Senegalese citizens, regardless of gender, with equal economic opportunities.

**Figure 34: Senegal’s performance in the Women, Business and the Law 2020 index**

![Graph showing Senegal's performance in the Women, Business and the Law 2020 index](image)

*Source: Women, Business and the Law (2020).*

With a score of 63.8 on the *Women, Business and the Law* index, the country performs poorly compared to the regional average for Sub-Saharan Africa (69.9), and lags considerably behind Ghana (75), Togo (84.4) and Benin (74.4).

**Senegal - Scores for Women, Business and the Law 2020**

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Score</th>
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</thead>
<tbody>
<tr>
<td>Mobility</td>
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<tr>
<td>Workplace Pay</td>
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<tr>
<td>Pay</td>
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<td>Entrepreneurship</td>
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<td>Pension</td>
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<tr>
<td><strong>WBL 2020 Index Score</strong></td>
<td><strong>63.8</strong></td>
</tr>
</tbody>
</table>

*Source: Women, Business and the Law (2020).*

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83 The complete scorecard for Senegal's performance on the *Women, Business and the Law* can be found in Annex 1.
Section 2 summarized the main recommendations made by existing analytical work and diagnostics; Section 3 provided insights around the GOS priority areas in the investment climate space, as well as additional analysis of the constraints the country is currently facing, including in light of the fast-paced COVID-19 crisis. This section serves to summarize the main reform areas on which the WB can support the GOS with.

**Theme 1: Improving policy, regulatory and administrative environment informed by strengthened diagnostics on growth, investments, and markets**

- **Strengthening Senegal’s FDI institutional framework.** Support could focus around developing an FDI Attraction and Retention Strategy cascading from the PSE, and targeting specific sectors and sub-sectors based both on their benefit for Senegal’s development trajectory as well as on their attractiveness to FDI (especially in light of the new post-COVID-19 global economic reality), and including clear priorities and sequencing, as well as potentially include a focus on SEZs. This work would initially entail a Sector Scan to identify sectors to be targeted by the Strategy, based on two dimensions: their attractiveness to investors (or ‘feasibility’ dimension), and the expected benefit of increased investment to the country (‘desirability’ dimension). Future support could also take place in the form of support to the implementation of the FDI Attraction and Retention Strategy, by strengthening investment promotion efforts in the longer term. This activity would complement and follow up on previous ECOWAS-wide IFC advisory services engagements, which among others led to the adoption of two SEZs laws.

- **Enhancing Senegal’s investment policy environment,** by reviewing and commenting the proposed new Code (as per the reform listed in the PREAC3) and ensuring its alignment with good global practices. Such analysis would provide insights on the benefits of adopting a negative investment list and would review investment protection provisions through a comparative analysis of Senegal’s IIAs and the proposed Code. Advice to GOS would also entail examining the possibility of introducing an IGM, currently not existing in Senegal, aiming at detecting grievances at an early stage and resolve them before they escalate into a dispute that may go to arbitration. This would aim at reducing the risk of ISDS but also to facilitate investment retention further and reinforcing the strengthening of aftercare services to investors. Finally, the review would ensure the consistency and alignment between the domestic code and the regional initiatives, aiming at fully benefitting the regional market economic space. This activity would complement with technical expertise the parallel efforts by ADB and would follow up on previous ECOWAS-wide IFC advisory services engagements that led to the adoption of an ECOWAS investment policy.

- **Effective implementation of competition policy will require modernizing and strengthening Senegal’s competition through a revision of its legal, policy, operational and regulatory framework.** The need to enhance the competition policy framework of Senegal has been repeatedly highlighted in three sets of diagnostics in 2016 (IC Assessment), 2018 (SCD and Senegal: Better Markets for All through Competition Policy), and 2020 (CPSD). Effective implementation of
competition policy enforcement rests on elements that include a primary legal and policy framework, an adequate institutional structure and availability of technical and financial resources, and specific implementing rules, guidelines, capacities and skills to effectively exercise the powers to prevent, investigate and prosecute anti-competitive practices and assess mergers. Among others, the operational framework requires guaranteeing institutional independence particularly regarding the budgetary and administrative dependence from ministries. Access to sufficient financial resources and staffing (general and technical) is essential for operational capabilities to handle competition matters through strategic planning. Modernizing and strengthening Senegal's competition authority will enhance other government policies targeted at sustaining economic growth and shared prosperity.

- **Competition law enforcement requires adequate implementing of regulations, guidelines, and case handling capabilities.** Merger control requires an efficient system with a clear definition of transactions subject of review and focusing on those which are more likely to raise competition concerns, with adequate notification thresholds, clear and efficient two-phase procedures, guidelines, and a robust and technical economic analysis framework. Effective anticartel enforcement requires the rationalization of the use of exemptions, measures to reduce incentives to join and increase incentives to deviate from cartel agreements (e.g. leniency, whistleblowers, dawn raids, data processing), improvements in the fining system to increase deterrence, and prioritization of casework to prevent the most harmful practices. The prosecution of abuse of dominance cases shares some of these factors and also relies on the ability to obtain qualitative and quantitative empirical evidence and to rigorously analyze economic data. The introduction of due process guarantees and transparency in decision-making is also a prerequisite for any enforcement activity. Finally, ways for the competition authority to engage in advocacy by providing opinions and statements on policy and legal reforms, or by conducting market studies and making recommendations to other agencies must also be put in place.

- **To secure the implementation of the recently enacted Startup Act, support could be provided to the development of an implementing regulation, which is also connected to the US$ 100 million supplemental Development Policy Operation related to COVID-19.** The suggested activity will provide technical assistance to the Technical Committee headed by the Ministry of Digital Economy in charge of drafting the regulation. The regulation will clarify, among other things, the institutional arrangements organizing the startup ecosystem, in particular the labeling process. It will also establish an early stage funding mechanism, called “startup fund”, to address the existing financing gap. It will also clarify issues related to public procurement for startups, and help establish facilitating mechanisms for startup registration, etc.

- **Improving the construction permitting should be a priority as the performance in secondary sectors such as in mining, manufacturing and others has depended heavily on construction.** Support would consist of a reform of the “Code de construction and the Code de l'Urbanisme” aiming at reducing discretion and improving certainty, simplifying and digitizing the process for granting permits, reducing fees for permitting, improving the inspections’ process to

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accelerate administrative processes and decisions and reduce discretion, but also aligning the regulatory framework with recognized good practices.

- **Simplification of the licensing and permitting framework should be a priority as it can facilitate firms’ entry and competition in strategic markets and level the playing field by ensuring a stable business environment and promote economic diversification.** Simplifying licensing is also key to facilitate labor reallocation and economic transformation induced by the COVID-19 pandemic. It is also aligned with PREAC 3’s priority to improve entry to key sectors. Support would focus on GOS efforts to narrow licenses to those that are justifiable by adopting risk-based approaches and streamlining the process for the ones maintained. The proposed activity will consist of a stocktaking of all required licenses to identify unnecessary licenses that do not meet the three criteria tests of legality, necessity and business friendliness. Currently, licensing restrictions remain prevalent and hinder the entry of firms and startups in strategic sectors like education and agribusiness. Based on the evaluation of required licenses, follow-up activities in a later stage would consist of providing technical assistance to the GOS on the improvement of the licensing framework in 2-3 strategic key sectors.

**Theme 2: Improved FDI policy environment and linkages strategy addressing key market failures:**

- **Supporting the effective implementation of the new hydrocarbon LCR legal framework.** A first analytical work could inform where and to what extent local content opportunities exist or can be developed in the hydrocarbon sector. A demand-supply gap analysis can identify (i) those potential linkages opportunities for the local economy directly engaging in the extractive sector and their feasibility, and (ii) indirect linkages opportunities building cross-sector linkages from extractives to other sectors based on the demand created from local and international workers in the extractive industries (e.g. food retail). Such analysis would be beneficial to optimally implement the new policy framework in place, and potentially provide inputs for legislative adjustments and/or the LCR Strategy under development. In addition, the analysis could also serve as inputs to a potential pilot Supplier Development Program aiming to improve individual firms’ capacity to access direct and indirect business opportunities from large extractive projects.

- **Improve the QI and Standards environment in the country: available diagnostics reveal missed opportunities particularly in the agribusiness sector due to poor linkages between smallholder farmers and commercial off-takers.** Sourcing local products in sufficient quality and quantity is difficult and expensive. Due to the lack of existing QI and QI-related diagnostic and projects for Senegal, a rapid QI diagnostic in the country can facilitate a better understanding of its QI system from both a supply and demand perspectives. On the supply side, the QI diagnostic can be conducted to assess all QI elements (standards, metrology, accreditation, testing, inspection, product certification, system certification, legal metrology, technical regulation).
### Table 3: Investment Climate Reform Action Plan for Senegal

<table>
<thead>
<tr>
<th>Theme and Workstream</th>
<th>Identified Reform</th>
<th>Timeline</th>
<th>Counterpart</th>
<th>Link to PREAC3</th>
<th>Priority (H, M, L)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Theme 1: Improving policy, regulatory and administrative environment informed by strengthened diagnostics on growth, investments and markets</strong></td>
<td></td>
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</tr>
<tr>
<td>Removing barriers to investment and market entry (Workstream 1)</td>
<td>Strengthening of the investment policy framework (new Investment Code)</td>
<td>ST</td>
<td>APIX - in coordination with line ministries</td>
<td>Included in PREAC3</td>
<td>H</td>
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<tr>
<td></td>
<td>Establishing the Institutional framework for an Investor Grievance Mechanism</td>
<td>MT</td>
<td>APIX - in coordination with line ministries</td>
<td>Contributes to PREAC3</td>
<td>M</td>
</tr>
<tr>
<td></td>
<td>Adoption of FDI Attraction and Retention Strategy with a sectoral/SEZ focus</td>
<td>MT</td>
<td>APIX</td>
<td>Contributes to PREAC3</td>
<td>M</td>
</tr>
<tr>
<td>Promoting and implementing pro-competition policies and regulation (Workstream 2)</td>
<td>Modernization and reinforcement of the setup of the competition authority</td>
<td>MT</td>
<td>Ministry of Commerce</td>
<td>Included in PREAC3</td>
<td>H</td>
</tr>
<tr>
<td></td>
<td>Development of implementing regulation and enforcement capabilities for the effective discharge of the duties of the competition authority.</td>
<td>MT</td>
<td>Ministry of Commerce</td>
<td>Contributes to PREAC3</td>
<td>M</td>
</tr>
<tr>
<td>Enhancing Effective Implementation of Reforms (Workstream 3)</td>
<td>Simplification of licensing in 2 sectors considered priority for the government (suggested education, agribusiness)</td>
<td>LT</td>
<td>APIX – in coordination with line ministries</td>
<td>Included in PREAC3</td>
<td>M</td>
</tr>
<tr>
<td></td>
<td>Supporting the development of an implementing regulation for the Startup Act</td>
<td>ST</td>
<td>APIX – in coordination with Ministry of Digital Economy</td>
<td>Included in PREAC3</td>
<td>H</td>
</tr>
<tr>
<td></td>
<td>Simplification and modernization of the construction permitting process</td>
<td>S-MT</td>
<td>APIX – in coordination with Ministry of Urbanism and Town Planning</td>
<td>Included in PREAC3</td>
<td>H</td>
</tr>
<tr>
<td><strong>Theme 2: Improved FDI Policy Environment and linkages strategy addressing key market failures</strong></td>
<td></td>
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<tr>
<td>Fostering linkages to regional and global markets through FDI (Workstream 1)</td>
<td>Institutional framework for systematic FDI linkages and supplier development programs in the oil and gas sector</td>
<td>MT</td>
<td>TBC</td>
<td>Contributes to PREAC3</td>
<td>M</td>
</tr>
<tr>
<td>Improving standards and quality</td>
<td>Assessment of QI elements (standards, metrology, accreditation, testing, inspection, product</td>
<td>ST</td>
<td>ASN - Association Sénégalaise de Normalisation</td>
<td></td>
<td>H</td>
</tr>
<tr>
<td><strong>infrastructure (Workstream 2)</strong></td>
<td>Certification, system certification, legal metrology, technical regulation) to improve the Institutional and regulatory framework of the QI and standards system</td>
<td></td>
<td></td>
<td></td>
<td>Trainings and capacity building of the public servants in entities dealing with QI</td>
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</table>
The IC Scan is a standardized country diagnostic tool for identifying policy and regulatory barriers to business and investment. It provides an overview of the country's macroeconomic environment, assesses the state of the private sector, and identifies main policy constraints to private sector competitiveness. It covers the following thematic areas:

1. **Macro Overview** focusing on the leading indicators of the country's market size and growth, fiscal performance, employment, and governance.
2. **State of the Private Sector** covering indicators of the country's investment and trade performance, sectoral composition, and overall constraints to growth.
3. **Policy Constraints to Private Sector Competitiveness** emphasizing indicators of investment and competition policy and business regulation.

The Scan’s methodology is based on cross-country benchmarking of globally available country-level indicators. The underlying data come from a range of sources, including the WBG World Development Indicators, World Economic Forum Global Competitiveness Index, and World Bank Enterprise Surveys. For each indicator, the country of analysis is benchmarked against structural, aspirational, and regional comparator countries. For the purposes of this report:

- **Structural comparators** include Cote d’Ivoire, Ethiopia, and Rwanda.
- **Aspirational comparators** include Brazil, Colombia, Morocco, South Africa, Thailand, and Vietnam.
- **Regional comparators** are all ACP countries.
- **Individual comparators** are individual benchmarks for South Africa, Morocco, and Vietnam.
The Women, Business and the Law (WBL) index is structured around the economic decisions women make as they go through different stages of their working lives. Thirty-five questions are scored across eight indicators. The index score for an economy is calculated as the unweighted average of all eight indicator scores on a scale of 0–100, with 100 representing the best overall score.

Senegal has an overall Women, Business and the Law score of 63.8 points, performing below the global average of 75.2 points as well as the average for the Sub-Saharan Africa region of 69.9 points. Senegal outperforms some economies in the region, including Equatorial Guinea (51.9 points), Gabon (57.5 points), Guinea-Bissau (42.5 points), and Niger (59.4 points). However, Senegal is outperformed by most economies in the region, including Mauritius (91.9 points), South Africa (88.1 points) and Zimbabwe (86.9 points) (Figure 34).

**Relative strengths and areas for improvement**

Legal gender equality is associated with a range of outcomes, including higher female labor force participation, more women in parliament, and a lower gender wage gap (Hyland, Djankov, and Goldberg 2019). Equality of opportunity allows women to make the choices that are best for them, their families and their communities. However, equal opportunities in getting a job or starting a business do not exist where legal gender differences are prevalent. Legal restrictions constrain women’s ability to make economic decisions and can have far-reaching consequences. Women may decide not to work in economies where the law makes it more difficult for them to do so, or where they may get paid less than men for performing work of equal value.
Senegal has already closed the legal gender gap in one of the areas measured by *Women, Business and the Law*: Pension. However, opportunities for reform remain in seven of the regulatory areas: Mobility, Workplace, Pay, Marriage, Parenthood, Entrepreneurship, and Assets.

### Senegal - Scores for Women, Business and the Law 2020

<table>
<thead>
<tr>
<th></th>
<th>Score</th>
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<tbody>
<tr>
<td>Mobility</td>
<td>75</td>
</tr>
<tr>
<td>Workplace</td>
<td>75</td>
</tr>
<tr>
<td>Pay</td>
<td>25</td>
</tr>
<tr>
<td>Marriage</td>
<td>60</td>
</tr>
<tr>
<td>Parenthood</td>
<td>60</td>
</tr>
<tr>
<td>Entrepreneurship</td>
<td>75</td>
</tr>
<tr>
<td>Assets</td>
<td>40</td>
</tr>
<tr>
<td>Pension</td>
<td>100</td>
</tr>
<tr>
<td>WBL 2020 Index Score</td>
<td>63.8</td>
</tr>
</tbody>
</table>

Senegal can improve in seven of the regulatory areas measured. In *Mobility*, Senegal could improve by allowing women to choose where to live in the same way as men. In *Workplace*, Senegal could adopt legislation or provisions prohibiting discrimination based on sex or gender in employment. In *Pay*, Senegal could introduce legislation on equal remuneration for work of equal value and allow women to work in the same types of jobs and industries as men. In *Marriage*, Senegal could improve by allowing women to be head of household and remarry in the same way as men, In *Parenthood*, Senegal could adopt legislation introducing paid parental leave and prohibiting the dismissal of pregnant employees. In *Entrepreneurship*, Senegal could introduce legislation prohibiting discrimination based on gender in access to credit. In *Assets*, Senegal could improve by equalizing rights to inheritance for sons and daughters and for surviving female and male spouses, and by providing for the valuation of nonmonetary contributions within marriage.

Table 4 presents indicative reform recommendations for consideration. It is important to note that the recommendations refer only to provisions captured by the *Women, Business and the Law* project and do not represent recommendations based on a comprehensive review of the respective legislations.
<table>
<thead>
<tr>
<th>Strategic Objective</th>
<th>WBL indicator</th>
<th>Recommendation</th>
<th>Action</th>
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</thead>
<tbody>
<tr>
<td>Increase women’s chances to access and stay in the job market</td>
<td>Mobility</td>
<td><em>Introduce legislation allowing women to choose where to live in the same way as men.</em></td>
<td>Revise or repeal Article 153 of the Family Code to allow the wife to choose the place of residence of the family in the same way as the husband, similarly to other reciprocal rights and duties of spouses provided for in Paragraph 1 of Section VI. Only 17% of economies in the lower middle-income group still have such restriction, including Cameroon, Sudan, and West Bank and Gaza.</td>
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<tr>
<td></td>
<td>Workplace</td>
<td><em>Introduce legislation prohibiting discrimination in employment based on gender.</em></td>
<td>Introduce a provision in labor legislation to prohibit discrimination in employment based on gender. For instance, Article 9 of Law No. 66/2018 of 30/08/2018 Regulating Labour in Rwanda provides that “… An employer is prohibited from discriminating employees on the basis of ethnic origin, family or ancestry, clan, skin color or race, sex, region, economic categories, religion or faith, opinion, fortune, cultural difference, language, physical or mental disability or any other form of discrimination.” Over 80% of economies in Sub-Saharan Africa have such provisions, including Ghana, Lesotho and Kenya.</td>
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<tr>
<td></td>
<td>Parenthood</td>
<td><em>Introduce legislation providing for paid parental leave.</em></td>
<td>Introduce paid parental leave provisions in labor legislation. Paid parental leave is a legal entitlement to some form of full-time paid leave to take care of a child. The leave is either shared between mother and father or is used as an individual entitlement that each can take regardless of the other. The good practice is to grant an individual entitlement to each parent, so they both benefit from this leave. Moldova, Ukraine and Uzbekistan are examples of lower-middle-income economies that provide paid parental leave.</td>
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<tr>
<td>Improve women’s financial prospects</td>
<td>Introduce legislation prohibiting dismissal of pregnant women.</td>
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<td></td>
<td>Introduce a provision in labor legislation to protect pregnant workers from dismissal, for the full duration of pregnancy. For example, section 63(2)(e) of Ghana’s Labour Act stipulates: “[A] worker’s employment is terminated unfairly if the only reason for the termination is [...] in the case of a woman worker, due to the pregnancy of the worker or the absence of the worker from work during maternity leave...” Ghana, Lesotho and Zimbabwe are examples of lower-middle income economies in Sub-Saharan Africa that have such provisions in legislation.</td>
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<table>
<thead>
<tr>
<th>Pay</th>
<th>Introduce legislation allowing women to work in the same types of jobs and industries as men.</th>
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<tr>
<td></td>
<td>Revise or repeal the Article 142 of the Labor Code, , and General Decree No. 5254 of July 19, 1954 relating to the Work of Women and Pregnant Women, with a view to removing work restrictions applied to women. In accordance with Article 142 of the Labor Code and General Decree No. 5254 I.G.T.L.S./A.O.F of July 19, 1954, Articles 1, 3 and 8, women are prevented from occupying jobs deemed dangerous or morally inappropriate. Additionally, according to Decree No. 5254, it is prohibited to employ women “in underground work in mines and quarries (Art. 9),” “in inspecting, lubricating, cleaning or repairing machines or mechanisms in operation, or in rooms where there are machines operated by hand or by a mechanical motor, the dangerous parts of which are not covered with a suitable protective device (Art. 10),” “in transport on pedal-carrying tricycles and transport on hand-truck or convertibles (Art. 11),” “in making, handling, and sale of writings, printed materials, posters, drawings, engravings, paintings, emblems, images and other objects whose sale, offer, exhibition, display or distribution are punished by Criminal Laws as contrary to morality (Art. 15),” among others. This would allow them to make their own choice of work and thus guarantee them equal opportunities and treatment in the field of employment. Examples of countries in Sub-Saharan Africa allowing women to work in the same types of jobs and industries as men include Burkina Faso, Cameroon, Côte d’Ivoire, and Gabon.</td>
</tr>
</tbody>
</table>
| **Introduce legislation providing for equal remuneration for work of equal value.** | Revise Articles L.86 (7) and L.105 of the Labor Code in accordance with the International Labor Organization (ILO) standards, in particular Convention No. 100 on Equal Remuneration, ratified by Senegal in 1962.

According to the principles of the Convention, remuneration must include not only ordinary basic or minimum wages or salaries, but also other additional emoluments, such as those payable directly or indirectly, in cash or in kind, by the employer to the worker and resulting from the worker's employment. Additionally, the standard of the Convention provides that the right to equal remuneration should not apply only when workers have equal working conditions, professional qualifications and performance, but also when these elements are different and, on the whole, their work, including the set of tasks they perform, is of equal value.

Among Sub-Saharan African economies, Benin, Chad, Mali, and Niger, for example, provides for equal remuneration for work of equal value in the law, in accordance with the ILO Convention standards. |
| **Marriage** | Revise Article 152 of the Family Code to allow women to be head of the family in the same way as men.

Benin, The Gambia, Nigeria, and Togo, among others in Sub-Saharan Africa, allow women to be head of family in the same way as men. |
| **Introduce legislation allowing women to be head of the family in the same way as men.** | Revise or repeal Articles 112 and 113 of the Senegalese Family Code to allow women to remarry in the same way as men. According to these articles, a waiting period of up to 300 days before remarriage is applicable to women, while not applicable to men.

Examples of countries in Sub-Saharan Africa allowing women to remarry in the same way as men include The Gambia, Ghana, Malawi, Nigeria, and Rwanda. In France, the waiting period was abrogated in 2004 by a reform repealing Article 228 of the Civil Code, which previously prohibited a woman from entering into a new marriage before a period of 300 days following divorce. |
| **Entrepreneurship** | Introduce legislation prohibiting discrimination based on gender in access to credit. Such provisions can be found in various pieces of legislation, ranging from laws on non-discrimination and gender equality, to criminal codes, credit laws, and consumer protection orders. |
The Democratic Republic of the Congo, for example, has provisions on non-discrimination of women in financial services in two pieces of legislation. Firstly, Law n° 15/013 of August 1, 2015 on the modalities of application of the rights of women and parity stipulates that “the State guarantees the right of women to private initiatives”, also by ensuring non-discrimination based on gender in access to credit (Article 8). The principle of non-discrimination is also set out in Law No. 11/020 of September 15, 2011, which establishes the rules relating to microfinance activity and provides that “microfinance activity is fully available to women, notably through equity participation, opening of accounts, access to credit or any other service.” (Article 10).

<table>
<thead>
<tr>
<th>Assets</th>
<th><strong>Introduce legislation equalizing rights to inheritance for sons and daughters and for surviving female and male spouses.</strong></th>
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<tbody>
<tr>
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<td>Revise the Family Code, Section III, to equalize inheritance rights for sons and daughters and for surviving male and female spouses.</td>
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<tr>
<td></td>
<td>Examples of countries in Sub-Saharan Africa with equal inheritance rights for men and women include Burkina Faso, Chad, Mali and Nigeria.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Assets</th>
<th><strong>Introduce legislation providing for the valuation of nonmonetary contributions within marriage.</strong></th>
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<tbody>
<tr>
<td></td>
<td>Revise legislation to take into account the nonmonetary contribution of each spouse to the household and ensure a fair division of property in the case of divorce. This includes, for example, the valuation of unpaid care services provided to children, the elderly, or household work.</td>
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<td></td>
<td>Burkina Faso (Family Code, Articles 309, 319 and 320), Gabon (Civil Code, Article 305), and France (Civil Code, Articles 1387 and 1400-1405), among others, have introduced provisions to take into account non-monetary contributions.</td>
</tr>
</tbody>
</table>