

Senegal

RISK & COMPLIANCE REPORT

DATE: January 2017

| Executive Summary - Senegal | |
|--|---|
| Sanctions: | None |
| FAFT list of AML Deficient Countries | No |
| Higher Risk Areas: | Not on EU White list equivalent jurisdictions Corruption Index (Transparency International & W.G.I.) |
| Medium Risk Areas: | Compliance with FATF 40 + 9 Recommendations US Dept of State Money Laundering assessment World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score) |
| <p>Major Investment Areas:</p> <p>Agriculture - products: peanuts, millet, corn, sorghum, rice, cotton, tomatoes, green vegetables; cattle, poultry, pigs; fish</p> <p>Industries: agricultural and fish processing, phosphate mining, fertilizer production, petroleum refining; iron ore, zircon, and gold mining, construction materials, ship construction and repair</p> <p>Exports - commodities: fish, groundnuts (peanuts), petroleum products, phosphates, cotton</p> <p>Exports - partners: Mali 14.4%, Switzerland 14.1%, India 11.9%, France 4.7%, Guinea 4.2% (2012)</p> <p>Imports - commodities: food and beverages, capital goods, fuels</p> <p>Imports - partners: France 16.2%, Nigeria 12.9%, India 6.3%, China 6.3%, UK 4.6% (2012)</p> | |

Investment Restrictions:

The Government of Senegal officially welcomes foreign investment, but potential investors, and indeed all businesses, face obstacles, including non-transparent regulation and high factor costs. There is no legal discrimination against businesses and business conducted or owned by foreign investors. There are no barriers in regard to 100 percent ownership of businesses by foreign investors in most sectors. However, in some key sectors such as telecommunications, water, mining, and security-related services, foreign investors may have majority control, but may not acquire 100 percent ownership.

Foreign nationals are permitted to buy and hold land.

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Section 1 - Background

The French colonies of Senegal and the French Sudan were merged in 1959 and granted their independence as the Mali Federation in 1960. The union broke up after only a few months. Senegal joined with The Gambia to form the nominal confederation of Senegambia in 1982. The envisaged integration of the two countries was never carried out, and the union was dissolved in 1989. The Movement of Democratic Forces in the Casamance (MFDC) has led a low-level separatist insurgency in southern Senegal since the 1980s, and several peace deals have failed to resolve the conflict. Nevertheless, Senegal remains one of the most stable democracies in Africa and has a long history of participating in international peacekeeping and regional mediation. Senegal was ruled by a Socialist Party for 40 years until Abdoulaye WADE was elected president in 2000. He was reelected in 2007 and during his two terms amended Senegal's constitution over a dozen times to increase executive power and to weaken the opposition. His decision to run for a third presidential term sparked a large public backlash that led to his defeat in a March 2012 runoff election with Macky SALL.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Senegal is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Senegal was undertaken by the Financial Action Task Force (FATF) in 2009. According to that Evaluation, Senegal was deemed Compliant for 6 and Largely Compliant for 13 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 4 of the 6 Core Recommendations.

Fifth follow-up report of Senegal

The fifth follow-up report of Senegal showed that the country had implemented commendable measures, including the establishment of the National Commission for the Recovery of Illicit Assets and the creation of a National Anti-Corruption Agency mandated to prevent corruption and related offences. In addition, it has set up other good governance structures to deal with economic and financial crimes in general. Other efforts made by Senegal include training relevant personnel of the FIU; analyses and dissemination of financial intelligence to law enforcement agencies; strengthening cooperation with other counterpart FIUs through the signing of MoUs; supervision of financial institutions and DNFBPs; and designation of a competent authority responsible for administrative freezing and monitoring compliance with freezing orders.

Senegal was encouraged to take urgent steps towards addressing deficiencies in adopting mechanisms for applying a risk-based approach, the obligation to carry out ongoing monitoring of customer relationships and transactions, a requirement for enhanced CDD measures for high-risk customers, a requirement to report attempted transactions, and procedures consistent with the requirements of UNSCRs 1267 and 1373. The Plenary maintained Senegal on Expedited Regular Follow-up and directed it to submit its sixth follow-up report to the Plenary in May 2014.

GIABA Annual Report 2013

Prevalence of Predicate Crimes

Senegal shares borders with Guinea, Guinea Bissau and Mali, countries that have been affected by transnational organized crime and terrorist activities. Moreover, Senegal is a regional financial centre, whose economy is largely cash-based. The Country Report of Senegal lists drug trafficking, tax fraud, other investments and cyber-crime as the most prevalent predicate crimes in 2013.

The US State Department's INCSR 2013 extends the list to include bank and deposit fraud, document forgery, resale of stolen cars, and ponzi schemes. Corruption is also reported to be high in the country, permeating all levels of government and commerce, according to the report.

All of these activities generate illicit money, which is laundered through different channels, most commonly the real estate and the DNFBPs sectors. If the INCSR is considered, the list extends to include trade-based money laundering.

AML/CFT Situation

Senegal has increasingly demonstrated commitment to combat financial crimes, including ML/TF. Some of the outstanding measures the country implemented in 2013 to strengthen its AML/CFT regime include the establishment of the National Commission for the Recovery of Illicit Assets and the creation of the National Commission against Corruption and Fraud. Other critical steps the country has taken include the resuscitation of the Special Court against Illegal Enrichment, the establishment of the Ministry for Good Governance, the revamping of the Auditor General's Office, and the adoption of the Law on transparent management of public finance, which imposes the obligation to declare assets on public and elected officials. A draft national AML/CFT strategy is currently awaiting approval by the national authorities, pursuant to the AML/CFT Law. In addition, several court decisions were made including jail sentences, fines and confiscations on money laundering charges.

Equally crucial is the training of relevant personnel of the FIU on analyses and dissemination of STRs by the FIU, expansion of the networks of the FIU through the signing of MOUs (19), supervision of financial institutions and DNFBPs, and designation of a competent authority to order administrative freezing and monitoring compliance.

In 2013, the FIU of Senegal received 109 ML-linked STRs. Fourteen of the cases analysed were sent to the enforcement authorities for investigation and prosecution, and three convictions were secured.

While Senegal has made far-reaching progress in strengthening its AML/CFT system, the following deficiencies remain: adoption of an appropriate risk-based approach framework; implementation of CDD measures for ongoing monitoring of customer relationships and transactions; conduct of enhanced due diligence measures for high-risk customers; development of the requirement to report attempted transactions; and a mechanism for the implementation of UNSCRs 1267 and 1373 and their succession resolutions.

Conclusion

Senegal's political commitment to effective implementation of AML/CFT measures is exemplary. GIABA will continue to support the country to address the remaining deficiencies in its AML/CFT regime, and to bring it into full compliance with international standards.

Senegal's resolve to combat corruption must not wane, but should be reinvigorated in the face of the country's vulnerability to the real threats of organized crime and terrorism from its neighbours. Particular attention needs to be given to the training and retraining of law enforcement agencies and financial institutions in order to effectively counter the ML/TF threats the country faces.

US Department of State Money Laundering assessment (INCSR)

Senegal was deemed a Jurisdiction of Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

A regional financial center with a largely cash-based economy, Senegal remains vulnerable to money laundering even as the Government of Senegal has made gradual progress in strengthening its financial oversight and investigative capacity. Senegal is vulnerable to the activities of organized crime, drug trafficking, internet fraud, bank and deposit fraud, document forgery, and Ponzi schemes. There is continuing evidence of criminal activity by foreigners, including narcotics trafficking by Latin American groups, sale of counterfeit goods, wildlife trafficking, and transnational crime. Many foreign traffickers use Senegal and West African neighbors as transshipment points to export drugs to Europe and other destinations. Limited law enforcement capacity and inadequate enforcement of relevant laws contribute to Senegal's vulnerability to money laundering.

Most domestically-generated laundered funds derive from corruption, fraud, drug trafficking, and other forms of transnational crime. While Senegal has strengthened its anti-corruption regime since 2012, corruption remains pervasive at many levels of government and commerce. The large number of imported vehicles within West Africa is linked with trade-based money laundering (TBML) and stolen car networks within the region, a trend that may affect Senegal. Many stolen U.S. vehicles are routed to West Africa.

Due to constraints on consumer lending by the banking sector, Dakar's active real estate market is largely financed by cash. As a result, the construction industry is reputed to be a popular sector for laundering illicit funds. The continued building boom and high property prices suggest this sector remains vulnerable to money laundering. Ownership and transfer of property is not transparent.

Touba, located in the central region of Senegal, is a largely autonomous region with a special legal status under the jurisdiction of the Mouride religious brotherhood. Touba reportedly receives between \$550 and \$800 million per year in funds repatriated by networks of Senegalese traders abroad and is vulnerable to TBML because the government has limited

authority in this region. Other areas of concern include the transportation of cash, gold, and other items of value through Senegal's airport and across its porous borders. The widespread use of cash; money transfer services; informal channels, such as hawaladars; and new payment methods also contributes to money laundering vulnerabilities. Mobile wallets cater to the needs of the unbanked Senegalese, but they are not always subject to enforcement of AML/CFT controls due primarily to resource constraints. The same applies to money transfer organizations such as Wari, Joni-Joni and Western Union.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:

"All serious crimes" approach or "list" approach to predicate crimes: List approach

Are legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:

Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: NO

KYC covered entities: Banks; money exchanges; money transfer agents; notaries; lawyers; securities and insurance brokers; auditors; real estate agents; dealers of high-value goods, such as art objects, precious stones, and metals; transporters of funds; casinos and gaming establishments, including state lotteries; travel agencies; nongovernmental organizations (NGOs); and the Public Treasury

REPORTING REQUIREMENTS:

Number of STRs received and time frame: Not available

Number of CTRs Received and time frame: Not applicable

STR covered entities: Banks; money exchanges; postal services; lawyers; securities and insurance brokers; auditors; real estate agents; dealers of high-value goods, such as art objects, precious stones, and metals; transporters of funds; casinos and gaming establishments, including state lotteries; travel agencies; and NGOs

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: Not available

Convictions: Not available

RECORDS EXCHANGE MECHANISM:

With U.S.: MLAT: NO Other mechanism: YES

With other governments/jurisdictions: YES

Senegal is a member of the Inter Governmental Action Group against Money Laundering in West Africa (GIABA), a FATF-style regional body.

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

The Government of Senegal has made incremental progress in strengthening its capacity for prevention and investigation of financial crimes. Senegalese authorities are drafting legislation extending enhanced due diligence to domestic politically exposed persons (PEPs).

Senegal also is continuing to work toward computerizing land registration to increase the transparency of the real estate sector.

Senegal played a leadership role in working to launch the Partnership on Illicit Finance (PIF) in 2015. The goal of the PIF is to work with other like-minded African countries to share experiences and develop national action plans on fighting illicit financing, particularly that related to corruption. In addition to Senegal and the U.S., the PIF has six other members.

With only six percent of its population using bank accounts, Senegal has a largely cash-based economy where financial transactions are difficult to monitor. The Central Bank of West Africa (BCEAO) has recently passed a rule requiring all banks in the region to use a credit bureau to verify both recipients of loans as well as the loan officers administering the loans. These measures are intended to encourage greater participation in formal banking and reduce reliance on cash.

CENTIF, the financial intelligence unit (FIU), conducted studies in 2014 to evaluate vulnerabilities to money laundering in casinos and the extractive industries sector and planned additional studies of the real estate sector, e-payments, and mobile banking. CENTIF is improving outreach and better monitoring the non-bank financial sector, including money service businesses.

Senegalese law enforcement authorities have received training on investigating financial crimes. CENTIF, law enforcement, and Ministry of Justice authorities continue to work and train together to coordinate roles and responsibilities with regard to case investigation and assembly and to develop a deeper interagency understanding of money laundering and terrorist financing.

Enforcement of money laundering cases took a step forward in March 2015 with the conviction for "illegal enrichment" of Karim Wade, the former government minister and son of former president Abdoulaye Wade. Following an investigation beginning in 2012, Senegal's special anti-corruption court, CREI, ruled that Wade and his seven co-defendants were guilty and sentenced Wade to six years in prison with a fine of CFA 138 billion (approximately \$225 million). Three of his co-defendants received sentences of five years each and large fines. Two co-defendants, who are currently fugitives, were given 10-year sentences. The court acquitted two other co-defendants.

Senegal's National Office against Fraud and Corruption (OFNAC) also supports money laundering enforcement efforts. In 2012, a sweeping anti-corruption law led to the creation of OFNAC, which is an independent government agency with its own budget. OFNAC has been tasked with promoting transparency in government, by compiling and reviewing asset declarations of government officials who are responsible for public funds over a certain amount; raising public awareness; and encouraging citizens to report suspected acts of corruption using an anonymous hotline. More importantly, OFNAC has an investigative arm, allowing it to follow up on case referrals.

One enforcement case involving suspected terrorist financing occurred in November 2015 when authorities arrested at least seven individuals suspected of providing support, including financial support, to Boko Haram in Niger.

The Government of Senegal should continue to work to bring its AML/CFT regime into full compliance with international standards. Senegal should continue to battle corruption and increase the frequency, transparency, and effectiveness of financial reviews and audits of financial institutions. The government should release the number of financial intelligence reports filed and the numbers of AML/CFT prosecutions and convictions so as to better gauge the effectiveness of its countermeasures. Senegal should establish better uniform control of the cross-border flow of currency and other bearer negotiable instruments for both residents and nonresidents.

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, Senegal does not conform with regard to the following government legislation: -

Record Large Transactions - By law or regulation, banks are required to maintain records of large transactions in currency or other monetary instruments.

EU White list of Equivalent Jurisdictions

Senegal is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

Failed States Index

[To view Failed States Index Ctrl + Click here](#)

Offshore Financial Centre

Senegal is not considered to be an Offshore Financial Centre

US State Dept Narcotics Report 2016

Senegal's location and transportation infrastructure make it an appealing transit point for drug traffickers moving illegal drugs into Europe and across West Africa. Cocaine is trafficked into Senegal by land and sea from neighboring countries like Guinea-Bissau and Mali, then on to Europe by sea and air. Cannabis is cultivated in the southern Casamance region for local use and further consumption across West Africa, and methamphetamine is transported into Senegal from Nigeria.

In 2015, there were multiple seizures by Senegalese law enforcement authorities of the *Catha Edulis* (khat) plant in Dakar. Subsequent investigation determined that hundreds of kilograms of seized khat were destined for consumer markets in the United States. Khat contains cathinone, a Schedule I substance under the U.S. Controlled Substances Act.

Senegal's 1997 Drug Law was amended in 2006 with tougher penalties for drug trafficking. Senegal's national counternarcotics plan, drafted in 1998, aims to control the cultivation, production, and trafficking of drugs, as well as to inform the population of the dangers of drug use, and rehabilitate drug addicts. Senegal lacks the resources to reliably identify and seize narcotics, to investigate and dismantle larger networks outside its borders, or to identify the funding and money laundering schemes used by drug trafficking organizations.

Senegal collaborates with partners from the Economic Community of West African States to combat narcotics trafficking. Senegal has several bilateral agreements for this and has signed mutual legal assistance agreements with the United Kingdom and France to facilitate the exchange of enforcement information on narcotics trafficking and other transnational crimes. In 2011, the United States and Senegal signed a bilateral agreement to strengthen Senegal's capacity to counter maritime drug trafficking through joint U.S.-Senegalese operations. Senegal does not have an extradition or mutual legal assistance treaty with the United States, though mutual legal assistance is provided on a reciprocal basis through letters of request. Senegal also is a party to multilateral conventions that contain provisions regarding extradition and mutual legal assistance.

The Senegalese government continues to note the importance of strengthening the fight against illicit drug trafficking across the Malian-Senegal border. This effort was helped by the passing of the Malian Border Delimitation and Demarcation Law in February 2015, as part of the African Union's program encouraging states to delineate borders by 2017.

The United States supports the activities of the Community Anti-Drug Coalitions of America in Senegal, which conducted training in collaboration with local non-governmental organizations to develop strategies to prevent drug use and reduce crime and violence.

While the Government of Senegal has the political will to fight drug trafficking, limited infrastructure and funding impede its efforts. Despite Senegal's national action plan and cooperation with neighboring countries, traffickers continue to have superior resources, limiting the government's ability to track and prevent the movement of illegal drugs.

US State Dept Trafficking in Persons Report 2014 (introduction):

Senegal is classified a Tier 2 country - a country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Senegal is a source, transit, and destination country for children and women who are subjected to forced labor and sex trafficking. Children, most of whom are talibes—students attending daaras (Koranic schools) run by teachers known as marabouts—are forced to beg throughout Senegal. In Dakar alone, approximately 30,200 talibes beg in the streets. Senegalese boys and girls are also subjected to domestic servitude, forced labor in gold mines, and exploitation in the sex trade. Internal trafficking is more prevalent than transnational trafficking, although boys from The Gambia, Mali, Guinea-Bissau, and Guinea have been identified in forced begging and forced labor in artisanal gold mines and agriculture in Senegal. Senegalese women and girls are transported to neighboring countries, Europe, and the Middle East for domestic servitude. NGO observers believe most women and girls exploited in prostitution remain in Senegal. Senegalese women and girls were increasingly exploited in prostitution in the southeast gold-mining region of Kedougou, in addition to women and girls from Nigeria, Cote d'Ivoire, and Mali. Women and girls from other West African countries, particularly Liberia, Ghana, Guinea, Guinea-Bissau, Sierra Leone, and Nigeria, are subjected to domestic servitude and commercial sexual exploitation in Senegal, including for sex tourism. Cambodian fishermen have been identified as trafficking victims aboard fishing vessels in Senegal's territorial waters.

The Government of Senegal does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated increased law enforcement efforts, reporting three investigations, two prosecutions, and one conviction; the government reported no law enforcement efforts in the previous reporting period. The government also maintained modest protection efforts by identifying and providing services to child victims of trafficking, providing increased funding to the National Taskforce against Trafficking Especially of Women and Children, and conducting two awareness campaigns for media and the general public. Despite these efforts, the government did not identify or provide services to any adult victims, did not take law enforcement efforts against unscrupulous marabouts engaged in forced begging, and did not adequately regulate the informal sectors of the economy, such as mining or agriculture, to ensure the prevention of forced labor.

US State Dept Terrorism Report 2015

Overview: The Government of Senegal continued to take a firm stance against terrorism as international and regional terrorist activity led to growing concern that Senegal itself could become a target for terrorist attacks. The government worked closely with U. S. military and law enforcement officials to strengthen its counterterrorism capabilities. The risk of violent extremism and terrorist activity in Senegal arises from transnational threats due to the Senegalese military presence in several theaters of operation, including the UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA).

Legislation, Law Enforcement, and Border Security: Senegal has no comprehensive counterterrorism legislation. In 2007, however, the government amended the criminal code to establish criminal offenses for terrorist acts as defined in the Organization of African Unity Convention on the Prevention and Combating of Terrorism. The result of this amendment, Article 279 of the criminal code, allows the state to prosecute an individual or group that “intentionally undertakes an act to disturb public order, or the normal functioning of national and international institutions, through intimidation or terror.” The maximum penalty is life in prison.

Senegal’s gendarmerie, national police, customs, and national intelligence organizations lack capacity to detect, deter, and prevent acts of terrorism in their own territory. Senegal is working to improve its law enforcement capacity by participating in multilateral efforts, such as the Global Counterterrorism Forum’s (GCTF’s) Border Security Initiative and programs of the AU and the Economic Community of West African States (ECOWAS). Senegal also participated in U.S. government counterterrorism capacity-building programs, such as the Department of State’s Antiterrorism Assistance Program, and received significant funding and training from the French government.

Senegalese officials have identified a lack of border resources and regional cooperation as major security vulnerabilities. Areas in the southern and eastern portion of the country have far fewer resources to detect and deter extremists from traveling through this area. Additionally, there is a lack of interagency cooperation and coordination across several of the government entities that deal with terrorism.

Significant law enforcement actions against terrorists in 2015 included the arrest of several religious leaders who were accused of having links with terrorist organizations such as Boko Haram and al-Qa’ida. In October, police made several arrests in order to expose a network of violent extremists who were associated with suspected Boko Haram leader Makhtar Diokhané.

Countering the Financing of Terrorism: Senegal is a member of the Inter-Governmental Action Group against Money Laundering in West Africa, a Financial Action Task Force-style regional body. Senegal’s financial intelligence unit, the National Financial Intelligence Processing Unit, is a member of the Egmont Group. At the regional level, Senegal implements the anti-money laundering/counterterrorism financing (AML/CFT) framework used by member states of the West African Economic and Monetary Union (WAEMU). Among WAEMU countries, Senegal was the first to domesticate the regional AML/CFT legal framework.

Senegal did not enact any new laws or regulations on countering terrorism finance in 2015, nor did they prosecute anyone under their 2009 AML/CFT regulations.

Countering Violent Extremism: Strong cultural and religious traditions have made Senegalese society resistant to violent extremist ideologies. Islam in Senegal is organized around several influential brotherhoods which are generally tolerant and do not preach extremist ideology. These brotherhoods are also fairly resistant to external influences. The government has reached out to the brotherhoods to offer support in resisting violent extremism.

International and Regional Cooperation: Senegal is a member of the UN, AU, ECOWAS, OIC, and the Trans-Sahara Counterterrorism Partnership. The government also participates in the

GCTF's Sahel Regional Capacity Building Working Group and hosted the 2015 African Land Forces Summit in collaboration with the U.S. Africa Command. Senegal hosted a second annual International Forum on Peace and Security in November. In May, President Macky Sall was elected as the Chairman of the ECOWAS committee and has put regional security cooperation at the top of his agenda.

International Sanctions

None applicable

| Index | Rating (100-Good / 0-Bad) |
|--|---------------------------|
| Transparency International Corruption Index | 45 |
| World Governance Indicator – Control of Corruption | 59 |

US State Department

Since taking office in 2012, President Macky Sall has emphasized his commitment to fighting corruption, increasing transparency and promoting good governance. He reactivated the Court of Repossession of Illegally Acquired Assets to investigate corruption by former government officials. Sall also created new institutions such as the National Anti-Corruption (OFNAC) and the Commission of Restitution and Recovery of Illegally Acquired Assets. OFNAC is composed of twelve members appointed by decree with a mission to fight corruption, embezzlement of public funds and fraud. The government of Senegal has also taken steps to increase budget transparency in line with regional standards and it approved a new asset declaration law for public officials in 2014. Senegal ranked 77th out of 177 countries, in Transparency International's 2013 Corruption Perception Index (CPI), representing a substantial increase over Senegal's 99th place ranking in 2011.

Notwithstanding Senegal's positive reputation for corruption relative to regional peers, investors continue to report corruption as a frequent problem in Senegal, particularly at lower levels of the bureaucracy where officials with modest salaries may demand "tips" for advancing permits and other official paperwork. It is important for U.S. companies to assess corruption risks and develop an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. firms operating in Senegal can underscore to interlocutors in Senegal that they are subject to the Foreign Corrupt Practices Act (FCPA) in the U.S. and may consider seeking legal counsel to ensure compliance with anti-corruption laws in the U.S. and Senegal.

Senegal is a signatory of the United Nations Convention Against Corruption but it is not a signatory of the OECD Convention to Combat Bribery. Senegal's financial intelligence unit, Cellule Nationale de Traitement des Informations Financières (CENTIF) is responsible for investigating money laundering and terrorist financing. CENTIF has broad authority to investigate suspicious financial transactions, including those of government officials.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize all acts of corruption, including bribery of foreign public officials, and requiring them to uphold their obligations under relevant international conventions. A U.S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract may bring this to the attention of appropriate U.S. agencies.

Corruption and Government Transparency - Report by Global Security

Political Climate

Senegal has one of the most democratic systems of governance in Western African and is one of the few countries in Africa never to have experienced a coup. The country enjoys relative stability, though there is some unrest in the southern Casamance region.

In March 2012, President Abdoulaye Wade lost a runoff election, after ruling Senegal for more than a decade. Upon leaving office a month later, the press discovered that Wade during his time as president, had been associated with massive embezzlement and misuse of public funds along with several of his associates, as reported by the US Department of State 2012. For instance, Karim Wade, the son of former President Wade, was charged with corruption in April 2013. Karim Wade held the post of Minister of Infrastructure International Cooperation, Energy and Air Transportation and was responsible for a budget equivalent to one-third of state expenditure. Senegal prosecutors ordered him to be detained without bail, as reported in an April 2013 article by Reuters. The article notes that Wade was charged with illegally amassing USD 1.4 billion in assets via a network of shadowy holding companies. The case highlights current President Sall's fight against corruption; nevertheless, Karim Wade's lawyers claim that the prosecution is politically charged. In June 2012, President Sall shut down 59 state institutions and began audits of government projects, thus improving investors' outlook for West Africa and promoting greater transparency and accountability, as reported by Freedom House 2013. Moreover, he has pledged to set up a court to prosecute economic crimes and misuse of public funds. The US Department of State 2012 also reports that a prosecutor reopened financial asset investigations which were suspended in 2011. Investigations into alleged corruption and misappropriation of government funds by Wade Administration officials was also spurred, bringing about several achievements as numerous former officials were arrested, including former head of Senegal's telecommunications regulator, former director general of the Senegalese Council of Shipper and former director of the Senegalese National Lottery. Investigations were still open by the end of 2012.

According to the US Department of State 2012 and the Bertelsmann Foundation 2012, in spite of numerous pronouncements against corruption, a significant gap persists between rhetoric and implementation. Some observers argue that the situation has worsened under Wade's presidency. The government has failed to take action against corrupt officials and petty corruption is widespread. As an example, 56% of surveyed households in Transparency International's Global Corruption Barometer 2010-2011 reported to have paid a bribe between 2009 and 2010 in order to receive services from different providers of public utilities, such as the police. Moreover, 61% perceived the government's fight against corruption as 'ineffective', while 88% perceived the level of corruption in Senegal to have increased within the past three years. Corruption occurs at higher levels of bureaucracy as well, especially in connection with the awarding of government contracts. Higher government officials and politicians have been indicted for corruption under current President Sall. The government has cracked down on corruption and introduced initiatives, such as the establishment of the Ministry for the Promotion of Good Governance to oversee the different ministries' implementation of good governance and transparency. Furthermore, Sall created the National Anti-Corruption Agency (OFNAC), replacing the Commission Nationale de Lutte Contre la non Transparence, la Corruption et la Concussion, which was considered inept in the fight against corruption in Senegal. According to a March 2013 article by The Atlantic,

the new government's efforts have spurred confidence and decreased the occurrence of high-level corruption.

Business and Corruption

The Senegalese government encourages private sector growth and foreign companies are treated on the same footing as local ones. Companies can refer to the government website (in French) for business related information and application forms. According to the World Economic Forum Global Competitiveness Report 2012-2013, access to financing, tax regulations and corruption are among the greatest constraints to foreign companies operating in Senegal. The business executives surveyed from the same report state that the diversion of public funds to companies, individuals or groups due to corruption is quite common and that the lack of ethical behaviour of companies in their interactions with public officials, politicians, and other companies represent a competitive disadvantage for businesses in Senegal.

Many Senegalese companies are dependent on the state for business opportunities and bidding on public contracts is therefore widespread. However, the awarding process has been characterised by lack of transparency as the majority of contracts are awarded without competitive bidding. Decree No. 97-632 of 1997 allowed public contracts with a maximum value of XOF 100 million (consultancies and equipment) and XOF 150 million (construction work) to be awarded without tender. According to media reports, corrupt practices have occurred when assigning higher-value contracts within this system. In January 2008, a new procurement code came into force, aimed at enhancing transparency in public procurement and to regulate the possibility of awarding contracts on a non-competitive basis to bids where it is likely that only one bidder will be qualified. Nonetheless, in September 2010, some changes were made to the new procurement code to exclude procurements by the presidency and ministries in charge of national security from Autorité de Régulation des Marchés Publics (ARMP, in French, an independent regulatory authority which oversees public procurement), were criticised by donors and the private sector, as reported by the US Department of State 2011. The current Sall Government is directing efforts towards restoring a reputation of transparency in the procurement sector as well as enforcing procurement regulations, as reported by the US Department of State 2013. For more information on public procurement, see 'Public Procurement and Contracting' in the Corruption Levels section and 'Public Anti-Corruption Initiatives' in the Initiatives section.

Corruption is a major problem for businesses operating in Senegal. According to Transparency International's Bribery Survey 2012, 60% of the surveyed companies find that corruption and bribery related offences are not prosecuted in Senegal and only 46% of companies perceive that the national anti-corruption legislation is effective in fighting corruption. On a more positive note, 90% of the surveyed companies believe that fighting corruption is an ethical duty of businesses and only 28% of companies operating in Senegal have lost a contract or a business because their competitors have resorted to bribery. According to the Bertelsmann Foundation 2012, corruption is a major obstacle particularly for small companies. Foreign investors considering investing in Senegal are advised to develop, implement, and strengthen integrity systems and to carry out extensive due diligence prior to committing funds and when already doing business in the country.

Regulatory Environment

Senegal has a well-developed commercial and investment laws, and there is no legal discrimination against foreign investors. According to the US Department of State 2013, the country presents favourable conditions for investment, such as fast business registration, a relatively robust telecommunications infrastructure, and a stable regional currency pegged to the EUR. Starting a business in Senegal only takes an average of 3 procedures and 5 days at a cost of 64.4% of income per capita, which is much less than the regional average, according to the World Bank & IFC Doing Business 2013.

Nevertheless, inefficient regulation and bureaucracy continue to pose as impediments to both foreign and domestic companies, as noted in the US Department of State 2013. Ineffective public institutions contribute to the existence of a large informal sector, which forms the backbone of the Senegalese economy, especially in relation to employment. The Agence Nationale Chargée de la Promotion des Investissements et des Grands Travaux (APIX) works as a one-stop shop, providing relevant information and support to foreign investors. The APIX can also help investors with all administrative procedures for certification in accordance with the Investment Code and has published a guide on how to start a business (in French) in Senegal. The Support Network for Small and Medium Enterprises (RAPEME, in French), which is active in the regions of Thies, Diourbel and Saint Louis, offers counselling to SMEs operating in Senegal and provides several investment guides on their website.

According to the US Department of State 2013, property rights are guaranteed by law, but enforcement is uneven outside urban areas. Senegal also has a proper legal framework to protect intellectual property rights and it is a member of the World Intellectual Property Organisation (WIPO) and the African Organisation of Intellectual Property (OAPI). Nevertheless, the Heritage Foundation 2012 reports that the enforcement of intellectual property rights is still weak, despite a sufficient legal and regulatory framework in the country. Senegal is a member of the Organisation pour l'Harmonisation en Afrique du Droit des Affaires (OHADA, in French), whose purpose is to bring Senegalese business laws into line with other African member countries, creating a secure regulatory and judicial environment in member states. The OHADA promotes arbitration as a means of settling commercial disputes and hosts the Common Court of Justice and Arbitration (CCJA). The US Department of State 2013 deems the dispute settlement system in Senegal as slow and cumbersome. Few judges and lawyers have enough knowledge and experience with commercial laws. Companies usually settle disputes outside the courts due to official and unofficial costs, as well as the low effectiveness of the judiciary. Senegal adheres to binding foreign arbitration of investment disputes, as the country has ratified the New York Convention 1958 and is a member of the International Centre for the Settlement of Investment Disputes (ICSID). An arbitration centre (in French) administrated by the Dakar Chamber of Commerce (in French) has been established, but it is not widely used. Access the Lexadin World Law Guide for a collection of legislation in Senegal.

Section 3 - Economy

Senegal's economy is driven by agriculture and that sector is the primary source of employment for the rural areas. The country's key export industries are phosphate mining, fertilizer production, and commercial fishing. The country is also working on iron ore and oil exploration projects. Senegal relies heavily on donor assistance and foreign direct investment. President Macky SALL, who was elected in March 2012 under a reformist policy agenda, inherited an economy with a weak infrastructure, challenging business environment, and a culture of overspending that still plagued the country in 2013. The IMF completed a non-dispersing, Policy Support Initiative program in December 2010 and approved a new three-year policy support instrument to assist with economic reforms. The economy continues to suffer from unreliable power supplies and rising costs of living, which has led to public protests and high unemployment and has prompted migrants to flee Senegal in search of better job opportunities in Europe.

Agriculture - products:

peanuts, millet, corn, sorghum, rice, cotton, tomatoes, green vegetables; cattle, poultry, pigs; fish

Industries:

agricultural and fish processing, phosphate mining, fertilizer production, petroleum refining; iron ore, zircon, and gold mining, construction materials, ship construction and repair

Exports - commodities:

fish, groundnuts (peanuts), petroleum products, phosphates, cotton

Exports - partners:

Mali 14.4%, Switzerland 14.1%, India 11.9%, France 4.7%, Guinea 4.2% (2012)

Imports - commodities:

food and beverages, capital goods, fuels

Imports - partners:

France 16.2%, Nigeria 12.9%, India 6.3%, China 6.3%, UK 4.6% (2012)

Banking

Senegal's banking system is governed by the Central Bank of West African States (BCEAO), a central bank common to the eight members of the West African Economic and Monetary Union (WAEMU or UEMOA). Along with BCEAO, the "Commission Bancaire" is a supranational supervisory entity created in April 1990 to control financial institutions. The eight-member

countries use the CFA franc issued by the BCEAO and pegged to the euro at a rate of 100 CFA francs to 152 euro (or 1 euro equals 656 CFA francs). Parity and fixed convertibility are guaranteed by the French Treasury. BCEAO has an operating account at the French Treasury where it is required to hold at least 65 percent of its foreign exchange reserves. These institutional arrangements between the French treasury and the central bank, combined with a prudent conduct of monetary policy by BCEAO, have yielded several benefits to WAEMU. For one, it has produced low inflation. Currency convertibility has also attracted foreign investment and increased trade.

The banking system is characterized by the over-liquidity of banks and their hesitancy to lend for medium and long-term loans. There are seventeen registered banks in Senegal. Recently, Senegal's banking sector has attracted a procession of foreign entrants keen to tap the informal economy and use Dakar as an anchor for regional expansion. They include the largest Nigerian Bank United Bank of Africa - UBA, Attijari Bank and BMCE from Morocco. The largest commercial banks are still predominantly French, although their dominant position is somewhat threatened by new arrivals – Ecobank, UBA, and the merger of Attijari, CBAO and Banque Senegalo-Tunisienne. Moroccan banks are also very active. Ecobank has an impressive network spread throughout West and part of Central Africa. Other financial institutions, such as insurance companies, a venture capital firm and a leasing company are also present here. The International Finance Corporation (IFC), the private sector lending arm of the World Bank, has an office in Dakar.

Stock Exchange

Founded in 1998, the Bourse Régionale des Valeurs Mobilières SA ("West African Regional Stock Exchange") or BRVM, is a regional stock exchange headquartered in Abidjan, Côte d'Ivoire, serving the following west African countries: Benin, Burkina Faso, Guinea Bissau, Côte d'Ivoire, Mali, Niger, Senegal and Togo. To date only one Senegalese company, Sonatel, is currently traded on the BRVM. There is no system to encourage and facilitate portfolio investment.

Executive Summary

Senegal offers a stable political environment, relatively robust infrastructure, strong institutions and a favorable geographic position with growing opportunities for foreign investment. The Government of Senegal welcomes foreign investment and has prioritized efforts to improve its business climate. Senegal has maintained a stable macroeconomic environment, with its regional currency, the CFA franc, pegged to the Euro and easy repatriation of capital and income. Investors cite high factor costs, bureaucratic hurdles, limited access to financing and a rigid labor market among the obstacles to investment. The government is making efforts address some of these challenges, streamline bureaucratic procedures and improve Senegal's competitiveness.

Senegal is pursuing an ambitious development plan, "Plan Senegal Emergent" (PSE), that calls for a series of economic reforms and increasing private investment in key strategic sectors with the goal of increasing real GDP growth to an average of 7.1% from 2014 to 2018. The government is implementing reforms to the energy sector, higher education and the land tenure system, in order to develop infrastructure, lower factor costs and improve Senegal's competitiveness. Senegal also has ambitions to build on its position as a regional business hub with relatively good transportation links to become a regional center for logistics, services and industry. The Senegalese government is focusing on infrastructure development with several projects under development to improve port facilities, transportation infrastructure and special economic zones. Senegal has joined the New Alliance for Food Security and committed to policy reforms intended to facilitate greater private investment in agricultural and agro-industry. As the government undertakes a range of investment-friendly reforms, capacity constraints and bureaucratic bottlenecks may continue to impede the implementation of this agenda.

Senegal's low ranking (178th out of 189 countries) in the 2014 World Bank Doing Business Report highlighted the substantial bureaucratic challenges that foreign investors can face when pursuing projects in Senegal. The report recognizes Senegal's progress in streamlining the business registration process, but cites slow procedures and high costs involved in registering property, securing building permits, paying taxes and getting electricity. President Macky Sall has initiated a government-wide program to further streamline government procedures and lower costs in order to improve Senegal's Doing Business ranking.

While Senegal has a well-developed legal framework for protecting property rights, settlement of commercial disputes is cumbersome and slow. The government of Senegal has prioritized efforts to fight corruption, increase transparency and improve governance, and Senegal compares favorably with most African countries in corruption indicators, but companies report that some corruption may persist, particularly at lower levels.

France is the largest source of foreign direct investment but the government of Senegal is keen to diversify its sources of investment. The U.S. and Senegal signed a Bilateral Investment Treaty in 1983 that includes provisions on non-discrimination, free transfer of funds, international law standards for expropriation and the use of binding third-party arbitration for resolution of investment disputes. Investors may consult the website of Senegal's Investment

Promotion Agency at www.investinsenegal.com for information on opportunities, incentives and procedures for foreign investment, including a copy of the Investment Code.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude Toward FDI

The Government of Senegal welcomes foreign investment and generally maintains a level playing field for foreign investors to participate in most sectors. There are no barriers to 100 percent ownership of businesses by foreign investors in most sectors with some exceptions for sectors such as water, electricity distribution, and port services where the government and state-owned companies maintain responsibility for most physical infrastructure and some services.

Laws/Regulations of FDI

Senegal's 2004 Investment Code provides basic guarantees for equal treatment of foreign investors and repatriation of profit and capital. It also specifies tax and customs exemptions according to the investment volume, company size and location, with investments outside of Dakar eligible for longer tax exemptions. A law to enhance transparency in public procurement and public tenders entered into force in 2008, establishing a Public Procurement Regulatory body (ARMP) that publishes annually reviews government public procurement contracts. The Government of Senegal enacted a Public Private Partnership Law in 2014 that amended the 2004 Build Operate and Transfer Law to facilitate expedited approval of public-private partnerships for projects that include a minimum share of domestic investment.

Industrial Strategy

Senegal has developed a strategic plan, "Plan Senegal Emergent" (PSE), that includes a priority investment plan for 2014-2018, focusing on priority sectors including agriculture, mining, energy, tourism and infrastructure. The PSE includes 27 priority projects and 17 economic reforms intended to reinforce the enabling environment for private sector investment. The government has indicated it will further focus initial efforts on a handful of priority projects and reforms. The government has established a delivery unit in the President's office to coordinate and monitor implementation of investment projects by line Ministries. Investors may consult the website of Senegal's Investment Promotion Agency at www.investinsenegal.com for more details on investment priorities.

Limits on Foreign Control

Senegal allows foreign investors equal access to ownership of property and does not impose any general limits on foreign control of investments. Senegal's Investment Code includes guarantees for equal treatment of foreign investors including the right to acquire and dispose of property. There is no provision in Senegalese law permitting domestic businesses to adopt articles of incorporation or association that limit or control foreign investment. There is no pattern of discrimination against foreign firms making investments in Senegal.

Privatization Program

Since the 1980s, Senegal has reduced the involvement of state-owned enterprises in most sectors as the country has steadily shifted towards promotion of private sector investment to drive national development objectives. The government has privatized companies involved in the energy, airline, water, finance, real estate and telecommunications sectors. In the energy sector, the state-owned electricity company, SENELEC, operates transmission and distribution networks while the government has encouraged private companies to take an increasing share of electricity generation. The government has maintained involvement in ports and infrastructure projects but granted a private concession for a container port and used a public-private partnership to complete a toll road connecting the Dakar peninsula with interior roads.

Screening of FDI

The Government of Senegal does some screening of proposed investments, primarily to verify compatibility with the country's overall development goals and compliance with environmental regulations. Senegal's Investment Promotion Agency (APIX) offers a "one stop" service for foreign investors to complete the business registration process. APIX also facilitates government review of investment proposals. The business registration process, involving multiple approvals from APIX, Ministry of Economy and Finance, Senegalese Customs, and other agencies, has been reduced from several weeks to one day. Depending on the proposed business activity, other approvals from specific Ministries, such as Agriculture and Interior, can require additional time.

Investment Trends

France is the largest source of foreign investment in Senegal, though its share of investment has gradually declined as companies from India, Morocco, Togo and the U.S. have undertaken investment projects in Senegal. U.S. firms have invested in power generation, pharmaceutical, natural gas, oil exploration and information technology sectors. Foreign investors have secured contracts to develop mineral resources, provide garbage services, and manage part of Dakar's container port.

TABLE 1: The following chart summarizes Senegal's ranking on several indices.

| Measure | Year | Rank or value | Website Address |
|--|-------------|----------------------|--|
| TI Corruption Perceptions index | 2013 | (77 of 177) | cpi.transparency.org/cpi2013/results/ |
| Heritage Foundation's Economic Freedom index | 2013 | (125 of 177) | www.heritage.org/index/ranking |
| World Bank's "Ease of Doing Business" Report | 2013 | (178 of 189) | doingbusiness.org/rankings |

| | | | |
|---------------------------|------|--------------|--|
| Global Innovation Index | 2013 | (96 of 142) | www.globalinnovationindex.org |
| World Bank GNI per capita | 2012 | \$1,030 | data.worldbank.org |

TABLE 1B - Millennium Challenge Corporation Indicators for Senegal

| MCC Indicator | Fiscal Year | Index/Ranking |
|---|--------------------|----------------------|
| Government Effectiveness | 2014 | .47 (89%) |
| Rule of Law | 2014 | .57 (91%) |
| Control of Corruption | 2014 | .59 (95%) |
| Fiscal Policy | 2014 | - 5.7 (13%) |
| Trade Policy | 2014 | 73.2 (71%) |
| Regulatory Quality | 2014 | .65 (98%) |
| Business Start Up | 2014 | .90 (57%) |
| Land Rights Access | 2014 | .56 (36%) |
| Natural Resource Protection | 2014 | 99.5 (89%) |
| Inflation | 2014 | 1.4 (96%) |
| Health Expenditures | 2014 | 3.45 (79%) |
| Primary Education Expenditures | 2014 | 2.23 (65%) |
| Girls Primary Education Completion Rate | 2014 | 64.6 (44%) |
| Political Rights | 2014 | 32 (93%) |
| Civil Liberties | 2014 | 43 (93%) |
| Freedom of Information | 2014 | 50 (65%) |
| Access to Credit | 2014 | 23 (50%) |

Note: Percent rankings for MCC measures indicate a percentile within peer income group. The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a 2012 per capita gross national income (GNI) or \$4,085 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: <http://www.mcc.gov/pages/selection/scorecards> . Details on each of the MCC's indicators and a guide to reading the scorecards, are available here: <http://www.mcc.gov/documents/reports/reference-2013001142401-fy14-guide-to-the-indicators.pdf>

2. Conversion and Transfer Policies

Foreign Exchange

As part of the eight-country West African Economic and Monetary Union (WAEMU), Senegal uses the CFA franc that is pegged to the Euro at 655.957 CFA per Euro. Senegal's Investment Code includes guarantees for access to foreign exchange and repatriation of capital and earnings, though transactions are subject to procedural requirements of financial regulators. Commercial transfers are routinely carried out by local financial institutions without delays. The government limits the amount of foreign exchange that individual travelers may take outside Senegal. Departing travelers may take a maximum of 6 million CFA (approximately USD 12,000) in foreign currency/travelers checks upon presentation of a valid airline ticket.

Remittance Policies

There are no restrictions on the transfer or repatriation of capital and income earned, or on investments financed with convertible foreign currency. Remittances to Senegal from citizens living overseas are routine and provide a significant source of income for many local Senegalese. In 2013, the estimated value of remittances, formal and informal, was estimated by Senegalese authorities at USD 1.7 billion or 10 percent of GDP. Senegal is a member of the [Inter-Governmental Action Group against Money Laundering in West Africa](#) (GIABA) and, through GIABA, it is an associate member of the Financial Action Task Force (FATF).

3. Expropriation and Compensation

Senegal's Investment Code includes protection against expropriation or nationalization of private property with exceptions for "reasons of public utility" that would involve "just compensation" in advance. In general, Senegal has no history of expropriation or creeping expropriation against private companies. The government may sometimes use eminent domain justifications to procure land for public infrastructure projects with compensation provided to land owners. Senegal's Bilateral Investment Treaty with the U.S. also specifies that international legal standards are applicable to any cases of expropriation of investment and the payment of compensation.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

While Senegal has well-developed commercial and investment laws, and a legal framework for regulating business disputes, settlement of disputes within the existing framework is

cumbersome and slow. Senegal's legal system, based on a French model, is one of the most functional systems in francophone Africa, but it still provides a challenging environment for resolution of commercial disputes. Court cases tend to be expensive with ample opportunity for the parties involved to prolong the proceedings. Even when courts issue judgments, companies may encounter challenges in implementing court decisions and enforcing their contractual rights. Investors may consider including provisions for binding arbitration in their contracts in order to avoid prolonged entanglements in Senegalese courts. To alleviate the growing backlog and delays in resolution of commercial disputes, the government of Senegal has taken steps to establish commercial courts, as part of its investment climate reforms. Senegal is signatory to the Organization for the Harmonization of Corporate Law in Africa Treaty (OHADA) that provides for common corporate law and arbitration procedures in the 16 member states in western and central Africa.

Bankruptcy

Senegal has commercial and bankruptcy laws that address liquidation of business liabilities. Foreign creditors receive equal treatment under Senegalese bankruptcy law in making claims against liquidated assets. Monetary judgments are normally in local currency. As a member of the Organization and Harmonization of Business Law (OHADA), Senegal permits three different types of bankruptcy liquidation to allow a negotiated settlement, company restructuring, or complete liquidation of assets.

Investment Disputes

International firms have pursued a variety of investment disputes during the last decade, including at least two U.S. firms involved in tax and customs disputes. One U.S. energy firm was involved in a tax dispute and ultimately prevailed in arbitration. Another company has an ongoing case over whether imported industrial inputs would be subject to customs duties. Other foreign companies in the mining and telecommunications sectors have pursued commercial disputes over mining and telecom licensing. These disputes have often been resolved through arbitration or an amicable settlement.

International Arbitration

Senegal has growing experience in using international arbitration for resolution of investment disputes with foreign companies, including some cases involving tax disputes with U.S. firms. The government has also prevailed in some arbitration cases, including a 2013 arbitration decision in a high-profile case with Arcel-Mittellor over an integrated mining/railway/port project, lending greater confidence within the government to the arbitration process.

ICSID Convention and New York Convention

Senegal is a member of the International Center for the Settlement of Investment Disputes (ICSID) and a signatory of the Convention on the Recognition and Enforcement of Arbitral Awards (the New York Convention).

5. Performance Requirements and Investment Incentives

Senegal's Investment Code provides for investment incentives, including temporary exemption from customs duties and income taxes for investment projects. Eligibility for

investment incentives depends upon a firm's size and type of activity, the amount of the potential investment, and the location of the project. To qualify for significant investment incentives, firms must invest above CFA 100 million (approximately USD 200,000) or in activities that lead to an increase of 25 percent or more in productive capacity. Investors may also deduct up to 40 percent of retained investment over five years. However, for companies engaged strictly in "trading activities," defined as "activities of resale in their existing state products bought from outside the enterprises," investment incentives might not be available.

Eligible sectors for investment incentives include agriculture and agro-processing, fishing, animal-rearing and related industries, manufacturing, tourism, mineral exploration and mining, banking, and others. All qualifying investments benefit from the "Common Regime," which includes 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. Also included is exoneration from direct and indirect taxes for the same period.

Exoneration from the Minimum Personal Income Tax and from the Business License Tax is granted to investors who use local resources for at least 65 percent of their total inputs within a fiscal year. Enterprises that locate in less industrialized areas of Senegal benefit from exemption of the lump-sum payroll tax of three percent, with the exoneration running from five to 12 years, depending on the location of the investment. The investment code provides for exemption from income tax, duties and other taxes, phased out progressively over the last three years of the exoneration period. Most incentives are automatically granted to investment projects meeting the above criteria. The new tax code was published December 31, 2012 (law # 2012-31 of December 2012 published in journal # 6706 of 31/12/2012).

An existing firm requesting an extension of such incentives must be at least 20 percent self-financed. Large firms -- those with at least 200 million CFA (400,000 USD) in equity capital -- are required to create at least 50 full-time positions for Senegalese nationals, to contribute the hard currency equivalent of at least 100 million CFA (200,000 USD), and keep regular accounts that conform to Senegalese (European accounting system) standards. In addition, firms must provide APIX with details on company products, production, employment and consumption of raw materials.

The Government does not, by statute, impose specific conditions or performance requirements on investment activities. However, the Government does negotiate with potential investors on a case-by-case basis.

Acquiring work permits for expatriate staff is typically straightforward. Citizens from WAEMU member countries are permitted to work freely in Senegal. In May of 2004, the Economic Community of West African States (ECOWAS) and WAEMU signed an agreement that, amongst other things, allows employment mobility between member countries.

6. Right to Private Ownership and Establishment

Senegal generally provides foreign investors the same rights to property ownership and business establishment that are available to local investors. Private entities are permitted to establish and own businesses and to engage in most forms of remunerative activity. Foreign nationals are permitted to buy and hold land with no requirement for local majority ownership. Land holdings for investors are frequently offered on the basis of long-term leases

(i.e., 99 years). Several of the state-owned firms privatized in recent years were sold in part or in whole to foreign entities.

7. Protection of Property Rights

Real Property

The Senegalese Civil Code provides a framework, based on French law, for enforcing private property rights. The code provides for equality of treatment and non-discrimination against foreign-owned businesses. Senegal maintains a property title and a land registration system, but application is uneven outside of Senegal's urban areas. Confirming ownership rights on real estate can be difficult, but once established, ownership is protected by law.

The Government has undertaken several reforms to make it easier for investors to acquire and register property. It has streamlined procedures and reduce associated costs for property registration. In early 2014, the government approved a new land tenure model that is intended to facilitate land acquisition by resolving conflicts between traditional and government land ownership. When this reform is fully implemented, the government and donors expect that it will facilitate land acquisition and investment in the agricultural sector.

The Government generally pays compensation when it takes private property through eminent domain actions. Senegal's housing finance market is underdeveloped and few long-term mortgage financing vehicles exist. There is no secondary market for mortgages or other bundled revenue streams. The judiciary is inconsistent when adjudicating property disputes.

Intellectual Property Rights

Senegal maintains a legal framework for protection of intellectual property (IP), but has limited institutional capacity to implement this framework and enforce IP protections. Senegal has been a member of the World Intellectual Property Organization (WIPO) since its inception. Senegal is also a member of the African Organization of Intellectual Property (OAPI), a grouping of 15 francophone African countries with a common system for obtaining and maintaining protection for patents, trademarks and industrial designs. Local statutes recognize reciprocal protection for authors or artists who are nationals of countries adhering to the 1991 Paris Convention on Intellectual Property Rights. In particular:

Patents

Patents are protected for 20 years. An annual charge is levied during this period. Trade secrets and computer chip design are respected.

Trademarks

Registered trademarks are protected for a period of 20 years. Trademarks may be renewed indefinitely by subsequent registrations.

Copyrights

Senegal is a signatory to the Bern Copyright Convention. The Senegalese Copyright Office, part of the Ministry of Culture, attempts to enforce copyright obligations. The bootlegging of music cassettes and CDs is common and of concern to the local music industry. The

Copyright Office undertook actions in 2001, 2002, 2003 and 2006 to combat media piracy, including seizure of counterfeit cassettes and CD/DVDs and in 2008 established a special police unit to better enforce the country's anti-piracy and counterfeit laws.

However, despite an adequate legal and regulatory framework, enforcement of intellectual property rights is weak. In general, the government has limited capacity to combat IPR violations or to seize counterfeit goods. Customs screening for counterfeit goods coming from China, Nigeria, Dubai and other centers of illegal production is weak and confiscated goods occasionally re-appear in the market. Nonetheless, the government has made efforts to raise awareness on the impact of counterfeit products on the Senegalese marketplace, and officers have participated in trainings offered by manufacturers to identify counterfeit products.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

Contact at Mission

- Alexander Gazis
- Economic-Commercial Chief
- (221) 33 879 4276
- GazisAC@state.gov

Country/Economy Resources

The American Chamber of Commerce (www.amchamsen.org) can provide additional information on services available in Senegal. A list of attorneys in Senegal can also be found on the Embassy website:

dakar.usembassy.gov/service/living-in-senegal-and-guinea-bissau/attorneys-and-notaries-in-senegal.html

8. Transparency of the Regulatory System

Senegal has made progress towards developing independent regulatory institutions, including regulators for the energy, telecommunication and financial sectors and increasing transparency of its regulatory system. The government of Macky Sall has made good governance and transparency in the management of public affairs a high priority. While Senegal lacks established procedures for a public comment process for proposed laws and regulations, the Government frequently holds public hearings and workshops to discuss proposed initiatives.

The Commission for Regulation of the Electricity Sector (CRSE) was established in 1998 as an independent agency that regulates the electricity sector. The government is preparing to expand the CRSE's role to include regulation of hydrocarbon fuels. The CRSE holds public consultations every three years as part of its technical process for reviewing electricity tariffs. The Agency for Regulation of Telecommunications and Posts (ARTP) is responsible for

licensing and regulation of telecommunications in Senegal and the Central Bank for West African States (BCEAO) is responsible for regulation of financial institutions.

In October 2013, Senegal was approved as a candidate country for the Extractive Industries Transparency Initiative (EITI). The government of Senegal has begun a consultative process of implementing EITI requirements with the goal of preparing Senegal's first EITI report by 2015.

Senegal is a member of the U.N. Conference on Trade and Development's international network of transparent investment procedures: <http://senegal.eregulations.org/> (French language only). Foreign and national investors can find detailed information on administrative procedures applicable to investment and income generating operations including the number of steps, name and contact details of the entities and persons in charge of procedures, required documents and conditions, costs, processing time, and legal bases justifying the procedures.

9. Efficient Capital Markets and Portfolio Investment

While Senegal's banking system is generally sound, domestic investment is constrained by an under-developed financial sector. Senegal's twenty commercial banks, primarily from France, Nigeria, Morocco and Togo, generally maintain conservative lending guidelines, high interest rates and collateral requirements that limit access to finance. Few firms are eligible for long-term loans, and small and medium sized enterprises have little access to credit. Citibank (United States) operates in Senegal as an investment bank. U.S. firms also have access to the U.S. Overseas Private Investment Corporation (OPIC) and Export-Import Bank (EXIMBANK) facilities.

In 2011, Senegal issued a 500 million Eurobond that increased Senegal's visibility on international financial markets. Another Eurobond is expected in 2014. The government regularly issues bonds in local currency on the regional market and the regional central bank (BCEAO) supports the development of a regional bond market.

The West African Regional Stock Exchange (BRVM), headquartered in Abidjan, Cote d'Ivoire with local offices in each of the WAEMU member countries offers additional opportunities to attract foreign capital and access diversified sources of financing. However, through 2013, only one Senegalese company, Sonatel, has traded on the BRVM.

Legal, regulatory and accounting systems closely follow French models and WAEMU countries present their financial statements in accordance with the SYSCOA system, which is based on Generally Accepted Accounting Principles in France.

10. Competition from State-Owned Enterprises

Senegal has progressively reduced government involvement in state-owned companies during the last three decades, so that only a handful of state-owned enterprises remain involved in the energy, agriculture and industrial sectors. The state-owned electricity company, SENELEC, retains control over power transmission and distribution, but relies primarily on independent power producers to generate most of Senegal's power supply. The government has also retained control of the state-owned oil company Petrosen which is involved in hydrocarbon exploration in partnership with foreign oil companies and operates a small refinery dependent on government subsidies. The government of Senegal has limited

and declining involvement in agricultural, including a state-owned company involved in rice production.

The government created the Strategic Investment Fund (FONSIS) as a sovereign wealth fund that will leverage state-owned assets to co-finance public-private partnerships in development projects. By early 2014, FONSIS began hiring staff and identifying investment projects for further development of structured proposals, including projects in the agriculture and agribusiness sectors.

11. Corporate Social Responsibility

In Senegal's business community, there is nascent awareness of Corporate Social Responsibility (CSR) activities with multinational firms and some local business conglomerates leading the way. There is limited pressure from consumers or shareholders for companies to engage in CSR activities. While many international firms are aware of OECD guidelines and international best practices in CSR, most local firms have limited familiarity with international standards.

12. Political Violence

Senegal has long been regarded as an anchor of stability in the West Africa region that is vulnerable to political unrest. It is the only mainland West African country that has never had a coup d'etat since gaining independence in 1960. Senegal experienced sporadic incidents of political violence during the lead up to national elections in March 2012 due to strong opposition to former President Wade's decision to seek reelection for a third term. However, the 2012 election reinforced Senegal's reputation as the strongest democracy in West Africa. Public protests occasionally spawn isolated incidents of violence when unions, opposition parties, merchants or students demand better salaries, working conditions or other benefits. Sporadic incidents of violence as result of petty banditry continue in the Casamance region, which has suffered from a two-decade-old conflict ignited by a local rebel movement seeking independence for the region, but the level of violence has declined in recent years as the government and rebel groups have engaged in negotiations to resolve the conflict.

13. Corruption

Since taking office in 2012, President Macky Sall has emphasized his commitment to fighting corruption, increasing transparency and promoting good governance. He reactivated the Court of Repossession of Illegally Acquired Assets to investigate corruption by former government officials. Sall also created new institutions such as the National Anti-Corruption (OFNAC) and the Commission of Restitution and Recovery of Illegally Acquired Assets. OFNAC is composed of twelve members appointed by decree with a mission to fight corruption, embezzlement of public funds and fraud. The government of Senegal has also taken steps to increase budget transparency in line with regional standards and it approved a new asset declaration law for public officials in 2014. Senegal ranked 77th out of 177 countries, in Transparency International's 2013 Corruption Perception Index (CPI), representing a substantial increase over Senegal's 99th place ranking in 2011.

Notwithstanding Senegal's positive reputation for corruption relative to regional peers, investors continue to report corruption as a frequent problem in Senegal, particularly at lower levels of the bureaucracy where officials with modest salaries may demand "tips" for

advancing permits and other official paperwork. It is important for U.S. companies to assess corruption risks and develop an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. firms operating in Senegal can underscore to interlocutors in Senegal that they are subject to the Foreign Corrupt Practices Act (FCPA) in the U.S. and may consider seeking legal counsel to ensure compliance with anti-corruption laws in the U.S. and Senegal.

Senegal is a signatory of the United Nations Convention Against Corruption but it is not a signatory of the OECD Convention to Combat Bribery. Senegal's financial intelligence unit, Cellule Nationale de Traitement des Informations Financières (CENTIF) is responsible for investigating money laundering and terrorist financing. CENTIF has broad authority to investigate suspicious financial transactions, including those of government officials.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize all acts of corruption, including bribery of foreign public officials, and requiring them to uphold their obligations under relevant international conventions. A U.S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract may bring this to the attention of appropriate U.S. agencies.

14. Bilateral Investment Agreements

Senegal and the U.S. have a Bilateral Investment Treaty, which allows for international arbitration. (U.S. companies entering the Senegalese market should ensure that their contracts with third parties make a provision for binding international arbitration in case of a dispute.) The treaty also provides for Most Favored Nation treatment for investors, internationally recognized standards of compensation in the event of expropriation, free transfer of capital and profits, and procedures for dispute settlement, including international arbitration. A copy of the Bilateral Investment Treaty can be found at: <http://www.state.gov/documents/organization/43585.pdf>.

Senegal has signed similar agreements for protection of investment with France, Switzerland, Denmark, Finland, Spain, Italy, the Netherlands, South Korea, Romania, Japan, Australia, China, Iran, Morocco, and Sudan. Senegal has concluded tax treaties with France, Mali, and West African Economic and Monetary Union (WAEMU) member states. There is currently no tax treaty and no imminent prospect of one between the United States and Senegal.

15. OPIC and Other Investment Insurance Programs

OPIC offers financing and investment insurance to support U.S. investment and OPIC services are available to support projects in Senegal. OPIC is currently exploring several investment projects in Senegal. Senegal is a member of the Multilateral Investment Guarantee Agency (MIGA), an arm of the World Bank.

16. Labor

Senegal has an abundant supply of unskilled and semi-skilled labor, with a more limited supply of skilled workers in engineering and technical fields. While Senegal has one of the best higher educational systems in West Africa and produces a substantial pool of educated

workers, limited job opportunities in Senegal lead many to look outside of the country for employment.

Relations between employees and employers are governed by the labor code, industry wide collective bargaining agreements, company regulations and individual employment contracts. There are two powerful industry associations that represent management's interests: the National Council of Employers (CNP) and the National Employers' Association (CNES). The principal labor unions are the National Confederation of Senegalese Workers (CNTS), and the National Association of Senegalese Union Workers (UNSAS), a federation of independent labor unions.

Senegalese law permits all workers to form unions with limited exceptions for security force members, including police and gendarmes, customs officers, and judges. The labor code requires prior authorization from the Ministry of Interior by giving the ministry discretionary power to issue a document recognizing a trade union before it can exist legally. The law allows unions to conduct their activities without interference and provides for the right to bargain collectively. Collective bargaining agreements, however, apply only to an estimated 44 percent of union workers. Trade unions organize on an industry-wide basis, very similar to the French system of union organization, though most workers are involved in informal sector occupations where they are often self-employed and not subject to the labor code.

The inflexibility of the Labor Code, the complexity of labor issues and arbitrary court rulings in labor cases are often high on the list of complaints by investors and foreign companies. Foreign firms are often sued in the Senegalese courts by terminated employees who are frequently awarded damages and placement in their former positions. Although these decisions are sometimes overturned on appeal, the appeals process is costly and time consuming.

17. Foreign Trade Zones/Free Ports

Senegal plans to develop the Dakar Integrated Special Economic Zone (DISEZ), under direction of the Export Promotion Authority (APIX) on a designated area adjacent to the Blaise Diagne International Airport currently under construction outside of Dakar. The government plans to develop additional energy and port infrastructure in areas near the DISEZ project site. Once completed the DISEZ project expects to offer industrial development sites with expedited administrative procedures, long-term tax and customs incentives and a package of associated utilities and logistical services. An earlier initiative, the Dakar Free Industrial Zone (ZFID), provided licenses and limited support services for another designated industrial zone, but ZFID stopped issuing new licenses in 1999. Firms already located in ZFID may continue receiving benefits until 2016. Senegal has ambitions to develop additional Special Economic Zones in other cities, including Ziguinchor in the southern Casamance region. For details on DISEZ, see:

www.investinsenegal.com/IMG/pdf/dakar_integrated_special_economic_zone_anglais_.pdf

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

TABLE 2: Key Macroeconomic data, U.S. FDI in host country/economy

| | | | | | |
|---|----------------------------------|--------|---|--------|---|
| | Host Country Statistical source* | | USG or international statistical source | | USG or international Source of data |
| Economic Data | Year | Amount | Year | Amount | |
| Host Country Gross Domestic Product (GDP) (<i>Millions U.S. Dollars</i>) | 2013 | 15,791 | 2013 | 15,791 | http://www.imf.org/external/country/sen/ |
| Foreign Direct Investment | Host Country Statistical source* | | USG or international statistical source | | USG or international Source of data |
| U.S. FDI in partner country (<i>Millions U.S. Dollars, stock positions</i>) | 2012 | N/A | 2012 | 59 | www.bea.gov |

TABLE 3: Sources and Destination of FDI

| | | | | | |
|--|-------|------|----------------------------------|-----|------|
| Direct Investment from/in Counterpart Economy Data | | | | | |
| From Top Five Sources/To Top Five Destinations (US Dollars, Millions) | | | | | |
| Inward Direct Investment | | | Outward Direct Investment | | |
| Total Inward | 1,158 | 100% | Total Outward | 213 | 100% |
| France | 527 | 45% | Guinea | 118 | 55% |
| India | 71 | 6% | Mali | 40 | 19% |
| Morocco | 66 | 6% | Guinea-Bissau | 23 | 11% |
| United States | 49 | 4% | France | 15 | 7% |
| Togo | 37 | 3% | Burkina Faso | 10 | 5% |
| "0" reflects amounts rounded to +/- USD 500,000. | | | | | |

Source: IMF Coordinated Direct Investment Survey: <http://cdis.imf.org>

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

Legal system:

Civil law system based on French law; judicial review of legislative acts in Constitutional Court

International organization participation:

ACP, AfDB, AU, CD, CPLP (associate), ECOWAS, FAO, FZ, G-15, G-77, IAEA, IBRD, ICAO, ICC (national committees), ICRM, IDA, IDB, IFAD, IFC, IFRCs, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC (NGOs), MIGA, MONUSCO, NAM, OIC, OIF, OPCW, PCA, UN, UNAMID, UNCTAD, UNESCO, UNIDO, Union Latina, UNMIL, UNMISS, UNOCI, UNWTO, UPU, WADB (regional), WAEMU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

Section 6 - Tax

Exchange control

Senegal has exchange control restrictions or limitations only with non ECOWAS member states. There is free movement of money and capital between ECOWAS member states.

If the destination of the money is not to an ECOWAS state, a resident can freely carry out current payments through intermediaries (which are Central Bank of West Africa, the Post Office, the authorized intermediary and registered operators of manual exchange) after showing evidence of the nature and validity of the transaction. All other payments abroad must be made with the approval of the Finance Minister. Each authorization request must come with supporting documents. In case of transfers not exceeding CFA 300.000, no supporting documents are required

Treaty and non-treaty withholding tax rates

Senegal has concluded tax treaties with France, Mali, and West African Economic and Monetary Union (WAEMU) member states.

Methodology and Sources

Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

Section 2 - Anti – Money Laundering / Terrorist Financing

| | Lower Risk | Medium Risk | Higher Risk |
|---|-----------------------------------|---------------------------------------|-----------------------------------|
| FATF List of Countries identified with strategic AML deficiencies | Not Listed | AML Deficient but Committed | High Risk |
| Compliance with FATF 40 + 9 recommendations | >69% Compliant or Fully Compliant | 35 – 69% Compliant or Fully Compliant | <35% Compliant or Fully Compliant |
| US Dept of State Money Laundering assessment (INCSR) | Monitored | Concern | Primary Concern |
| INCSR - Weakness in Government Legislation | <2 | 2-4 | 5-20 |
| US Sec of State supporter of / Safe Haven for International Terrorism | No | Safe Haven for Terrorism | State Supporter of Terrorism |
| EU White list equivalent jurisdictions | Yes | | No |
| International Sanctions UN Sanctions / US Sanctions / EU Sanctions | None | Arab League / Other | UN , EU or US |
| Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network | >69% | 35 – 69% | <35% |
| World government Indicators (Average) | >69% | 35 – 69% | <35% |
| Failed States Index (Average) | >69% | 35 – 69% | <35% |
| Offshore Finance Centre | No | | Yes |

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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