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investment policy review

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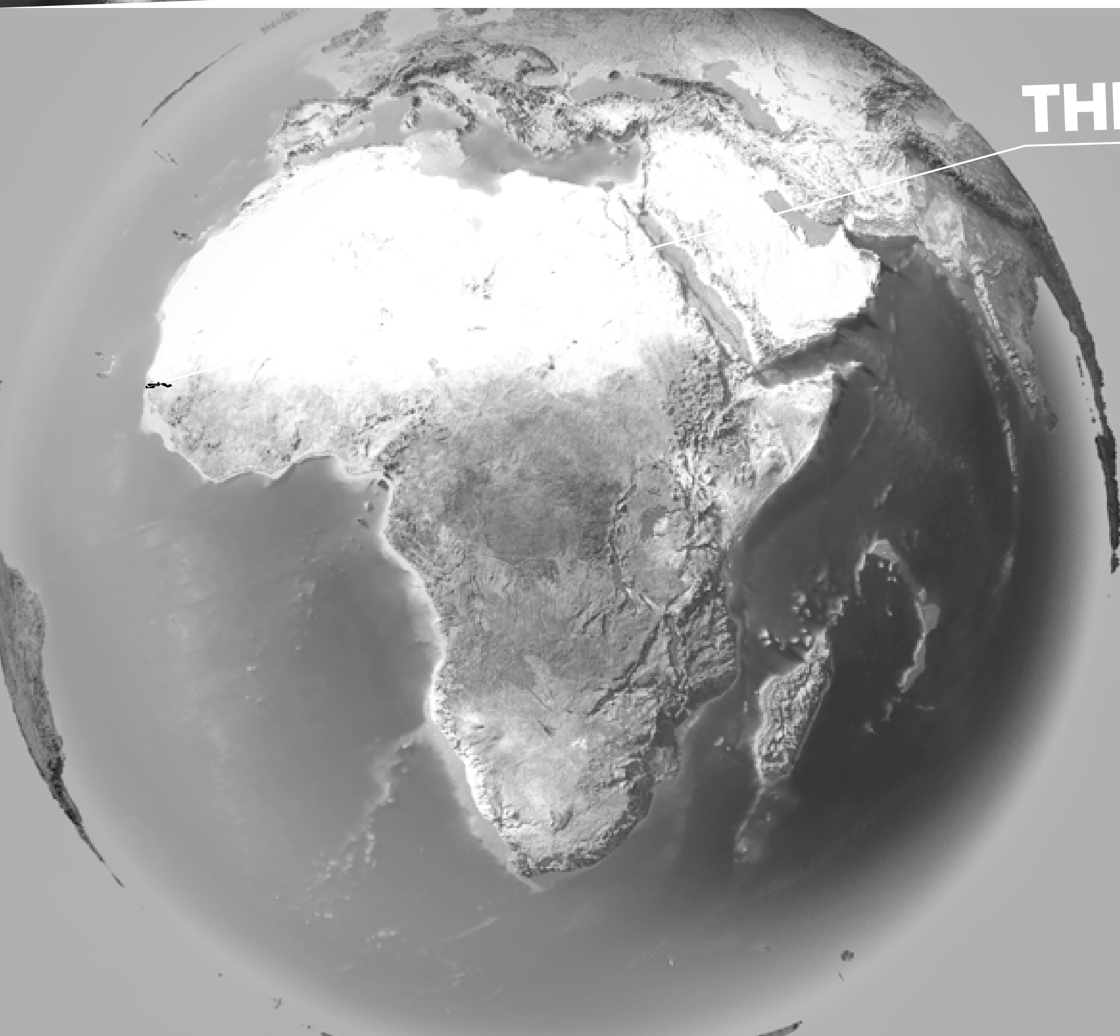

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Preface

UNCTAD Investment Policy Reviews (IPRs) are intended to help countries improve their investment policies with the objective of meeting the Sustainable Development Goals and to familiarize Governments and the international private sector with an individual country's investment environment. The reviews are considered by the UNCTAD Commission on Investment, Enterprise and Development. The recommendations of the IPR are then implemented with the technical assistance of UNCTAD. The support to beneficiary countries is delivered through a series of activities that can span several years.

The Investment Policy Review of The Gambia was initiated at the request of the Government. Beyond analysing the legal and regulatory framework for investment in chapter I, the IPR's strategic analysis in chapter II was decided by the Government, which requested a focus on the key determinants of FDI in three sectors of the Gambian economy: agroprocessing, light manufacturing and information and communications technology. The IPR is based on a fact-finding mission undertaken in March 2016 and information current at that date, as well as additional information made available to UNCTAD until 28 February 2017. The mission received the full cooperation of the relevant ministries, departments and agencies, in particular the Ministry of Trade, Industry, Regional Integration and Employment (MOTIE) and the Gambian Investment and Export Promotion Agency (GIEPA). The mission also benefited from the views of the private sector, both foreign and domestic, as well as bilateral donors and development agencies. The United Nations Development Programme in The Gambia provided substantive contributions as well as financial and logistical support to the IPR process. A preliminary version of this report was discussed with stakeholders at a workshop on 15 December 2016 and followed up with a national validation workshop on 11 April 2017 in Banjul. The final report reflects comments from stakeholders, including ministries and agencies of the Government of The Gambia.

The analysis is based on the UNCTAD Investment Policy Framework for Sustainable Development (IPFSD) and its core principles (UNCTAD, 2015). It follows, to a large extent, the national investment policy guidelines of the IPFSD, which deal with concrete measures to formulate investment policies and regulations and ensure their effectiveness, especially in terms of grounding investment policy in development strategy. The IPR also draws from and is in line with the UNCTAD Global Action Menu for Investment Facilitation, the Road Map for IIA (international investment agreement) Reform and the Entrepreneurship Policy Framework developed by UNCTAD.

Geneva, October 2017

ACKNOWLEDGEMENTS

This report was prepared by the Investment Policy Reviews Section under the supervision of Chantal Dupasquier, Chief of the Section, Division on Investment and Enterprise (DIAE). Overall guidance was provided by Joerg Weber, Head of the Investment Policies Branch, and James Zhan, Director, DIAE. The report was drafted by Stephania Bonilla-Féret, Maha El Masri and Carlos Griffin. Massimo Meloni provided substantive inputs throughout and helped finalize the chapters.

At various stages of preparation, the report benefited from comments, discussions and inputs from Richard Bolwjin, Joseph Clements, Hamed El Kady, Ariel Ivanier, Joachim Karl, Kritika Khanijo, Fiorina Mugione, Irene Musselli, Opeyemi Obe, Philippe Rudaz, Elisabeth Tuerk and Paul Wessendorp. FDI data were provided by the Trends and Data Section, DIAE. Overall statistical assistance was provided by Jovan Licina. The report was funded by the Government of Sweden.

Note

Under its overall mandate on trade and development, the United Nations Conference on Trade and Development (UNCTAD) serves as the focal point within the United Nations Secretariat for all matters related to foreign direct investment. Its work is carried out through intergovernmental deliberations, research and analysis, technical assistance activities, seminars, workshops and conferences.

The following symbols have been used in the tables:

- **Two dots (..)** indicate that data are not available or not separately reported. Rows in tables have been omitted in those cases where no data are available for any of the elements in the row.
- **A hyphen (-)** indicates that the item is equal to zero or its value is negligible.
- **A blank in a table** indicates that the item is not applicable.
- **A slash (/) between dates** representing years – for example 2009/10 indicates a financial year.
- **Use of an en dash (–) between dates** representing years – for example 2008–2010 signifies the full period involved, including the beginning and end years.
- **Reference to "dollars" ($)** means United States dollars, unless otherwise indicated.
- **Annual rates of growth or change**, unless otherwise stated, refer to annual compound rates.
- **Details and percentages** in tables do not necessarily add to totals because of rounding.

Contents

Tables

Figures

Boxes

Abbreviations

ACA	African Cashew Alliance
ACE	Africa Coast to Europe
ACI	African Cashew Initiative
ADB	African Development Bank
ADR	alternative dispute resolution
AGOA	African Growth and Opportunity Act
ANR	Agriculture and Natural Resource Policy
ASYCUDA	automated system for customs data
BIT	bilateral investment treaty
DIAE	Division on Investment and Enterprise
ECOSOC	United Nations Economic and Social Council
ECOWAS	Economic Community of West African States
EIA	environmental impact assessment
EIF	Enhanced Integrated Framework
EPA	Economic Partnership Agreement
EPZ	export processing zone
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FDI	foreign direct investment
FET	fair and equitable treatment
GDP	gross domestic product
GIEPA	Gambia Investment and Export Promotion Agency
GMD	Gambian dalasi
GNAIP	Gambian National Agriculture Investment Plan
GRA	Gambia Revenue Authority
ICSID	International Centre for the Settlement of Investment Disputes
ICT	information and communication technology
IIA	international investment agreement
IFAD	International Fund for Agricultural Development
ILO	International Labour Organization
IMF	International Monetary Fund
IPFSD	Investment Policy Framework for Sustainable Development
IPR	Investment Policy Review
IRENA	International Renewable Energy Agency
ISDS	investor–State dispute settlement
ISP	internet service provider
ITC	International Trade Centre
ITU	International Telecommunication Union
ITUC	International Trade Union Commission
LDC	least developed country
MFN	most-favoured nation
MNE	multinational enterprise
MSME	micro, small- and medium-sized enterprises
MOTIE	Ministry of Trade, Industry, Regional Integration and Employment
NEA	National Environmental Agency
NEMC	National Environmental Management Council
NES	National Export Strategy
NICI	National Information and Communication Infrastructure Policy
NT	national treatment
OECD	Organization for Economic Cooperation and Development
PAGE	Programme for Accelerated Growth and Employment
PPD	public–private dialogue
PPP	public–private partnership
PURA	Public Utilities Regulatory Authority
SIC	special investment certificate
SMEs	small- and medium-sized enterprises
SOE	State-owned enterprise
SSHFC	Social Security and Housing Finance Corporation
SWBR	single window business registry
UNCTAD	United Nations Conference on Trade and Development
VAT	value added tax
WTO	World Trade Organization

KEY MESSAGES

- Known as the "Smiling Coast of Africa," The Gambia is a small country located in West Africa. Although it remains an agrarian society, recent economic growth has been mainly driven by the services sector, including tourism, financial services and telecommunication. The country also has a long trading history and is a party to several trade agreements, which have the potential to make it an attractive production platform for the region and beyond.
- The Gambia's development plan aims to foster a strong and competitive private sector that can alleviate poverty, improve the quality of life of Gambians and help the country achieve the Sustainable Development Goals. It clearly recognizes the role that investment, including foreign direct investment (FDI), can play in achieving these objectives.
- The Government has adopted an open regime for investment, in which most laws and regulations apply equally to Gambian and foreign companies. The essential investment protection guarantees are offered in the laws regarding access to land, foreign labour, and foreign exchange or with respect to the repatriation of funds and capital. The Gambia has also adopted a range of modern business regulation tools and, in several operational areas such as environmental impact assessments, the laws and regulations are in line with international best practice.
- However, The Gambia shares with other least developed countries a number of supply-side constraints, such as the infrastructure gap in the transport and energy industries. These constraints also include vulnerability to exogenous shocks, remaining regulatory challenges and institutional bottlenecks. All together, they have negatively affected the development of the private sector and the country's performance in attracting FDI.
- In addition, the policy approach to private sector development has been characterized by frequent interventions in the form of ad hoc measures that often bear unintended consequences. Although taken in good faith, decisions affecting business operations are generally adopted without adequate consultation and are not guided by a comprehensive approach to competitiveness. This leaves investors with the perception that the business climate is unpredictable and not transparent.
- The IPR therefore advocates a shift in the policy approach to private sector development: it calls for the Government to adopt a facilitative role that focuses on creating an enabling business environment for all. A core element of this approach is the development of effective public–private dialogue mechanisms. The IPR also calls for progressively replacing company-specific support with a level playing field that is conducive to business creation and expansion.
- The proposed approach also requires clarifying investment entry restrictions and reducing the scope for discretionary interpretation and application of the laws in such key areas as labour, competition and corruption. It also entails reducing the possibilities for Government interference in business operations, such as intervention rights on leased land, the quasi-permanent presence of public officers within manufacturing companies and pervasive fiscal controls.
- Long-term policy commitment to address key horizontal challenges affecting the economy will be essential. Targeted and proactive measures to attract FDI will also be crucial to realize investment opportunities in key sectors. To this end, the IPR recommends optimizing the use of resources dedicated to investment promotion by targeting specific FDI projects in the priority sectors as identified by the Government, including fisheries, groundnuts and cashew manufacturing as well as information and communication technology (ICT).

CONTEXT

Located in the westernmost tip of Africa, The Gambia is a small, open economy with a long trading history. It is the smallest country on the continent, surrounded by Senegal and with a 60 km Atlantic coastline that has led to it being known as the "Smiling Coast of Africa". A history of liberal trade policies and the opportunities offered by the port of Banjul and by river transportation have allowed the country to act as a re-export hub in the West African region. The re-exports are mainly composed of basic consumer goods with no or very limited value addition. Still, re-export trade represents over 80 per cent of the country's total exports and is one of the main sources of foreign exchange. Amid conflict and instability in some countries in the subregion, The Gambia has maintained peace and political stability.

Gross domestic product is powered by services. The contribution of services to gross domestic product (GDP) stands at over 60 per cent. Beyond wholesale and retail trade, including primarily re-exports of imported manufactured goods to neighbouring countries, the services sector also includes tourism, the fastest-growing sector in the economy, which alone accounts for 11 per cent of GDP and a fifth of all formal jobs (the second highest non-farm labour employer after the Government).[1] Other noticeable subsectors are financial services, which have been liberalized since the mid-1980s, and telecommunications, since 2009.

However, the large majority of Gambians still depend on agriculture for their livelihoods. Notwithstanding the surge in services, The Gambia remains largely an agricultural society. As highlighted in the most recent development plan of the sector, agriculture accounts for close to 30 per cent of GDP and is the country's major employer, with over 75 per cent of the population engaged in subsistence and cash crop farming (Republic of The Gambia, 2011a). The sector also delivers 50 per cent of national food requirements and 70 per cent of export earnings generated domestically. The main cash crop, groundnuts, represents 60 per cent of domestically produced exports. Other than groundnuts, commercial farming has been largely limited to horticulture, sesame and cotton.

The industrial sector has lagged and remains relatively weak. Its contribution to GDP, which stands at 11 per cent, has stagnated in the past decades. Manufacturing contributes to about 6 per cent of industrial output, dominated by a few agroprocessing activities, including groundnut processing, fruit processing and, until recently, industrial seafood.[2] In addition, some light manufacturing products, such as candy and snack foods, cosmetics, soap and bricks, are produced by a few companies.

Market access and proximity to West Africa could make The Gambia an attractive production platform for the region and beyond. The potential for attracting export-oriented foreign direct investment (FDI) in the country is significant, given the numerous free trade agreements to which the country is a party, notably the Economic Community of West African States (ECOWAS) market of 350 million people. As a least developed country (LDC), it also benefits from preferential duty-free access to the European Union (EU) under the "Everything but Arms" scheme, and, as a member of ECOWAS, it is a party to the Economic Partnership Agreement (EPA) with the EU.[3]

However, infrastructure and regulatory bottlenecks have prevented the economy from realizing its potential. The infrastructure gap, particularly in the transport and energy sector, remains a key challenge in terms of quality and access and has severely hampered productivity and competitiveness. Power outages are common; the country has one of the highest electricity tariffs in the West African region, and 65 per cent of the population has no access to electricity (IRENA, 2013). In addition, several regulatory obstacles to competitiveness persist, including a lack of predictability in the business environment and an overly complex taxation system. In this context, the private sector remains underdeveloped, with only a few large companies and a multitude of microbusinesses. A recent economic survey showed that over 89 per cent of enterprises are sole proprietorships and over 70 per cent do not have any paid employees (Gambia Bureau of Statistics, 2014); furthermore, a majority of enterprises operate in the informal sector.

In addition, recurrent border closures have a significant negative impact on trade and investment. Land border closures between The Gambia and Senegal have occurred more than a dozen times in the past 16 years, initiated unpredictably by one of the two countries. Most recently, a 14-week closure, without prior notification or predetermined end date, which also breached trade agreement obligations, came to an end on 24 May 2016. During this period, there was thus no land access to Mali, the destination for about 30 per cent of The Gambia's exports in 2013 and 2014. This recent closure also affected trade with Guinea, Guinea-Bissau and Senegal, which, during the same period, together accounted for 49 per cent of Gambian exports.[4]

The economy remains vulnerable to exogenous shocks… These shocks can include sharp swings in the terms of trade, natural disasters or volatile financial flows. The agriculture sector is particularly exposed. The most recent shock affecting The Gambia was the delayed summer rain in 2014, which led to a 15 per cent decline in the harvest, with serious consequences for the economy and for food security. The re-export sector is facing increasing competition and has become less attractive as a result of the recent implementation of the common external tariff by ECOWAS. Finally, the tourism sector has been adversely impacted by the ebola outbreak in the region. Although the virus did not reach The Gambia, it indirectly affected tourism receipts, which declined by more than 60 per cent for the 2014/15 season (ADB, 2015).

…and these shocks have had significant impacts on economic growth and poverty. Real per capita GDP growth over 2004–2014 averaged less than 0.5 per cent per year, among the lowest in sub-Saharan Africa (IMF, 2015). Following a 4.7 per cent rise in 2013, economic growth contracted to 0.8 per cent in 2014. With a GDP per capita of $441 in 2014, The Gambia remains among the poorest countries in the world and ranked 175th of 188 countries in 2014 on the Human Development Index.

An important skills gap compounds the economic and social challenges. Over 700,000 people aged 15 and above are currently in the labour force, of which 48 per cent are illiterate. A mismatch between the supply of and the demand for skills in the market has led to a high overall unemployment rate of 29.8 per cent, reaching 44 per cent in the 15–24 age group (Gambia Bureau of Statistics et al., 2013). Furthermore, The Gambia has one of the highest rates of emigration of skilled workers in the world (World Bank, 2016a). Although this has certainly contributed to a "brain-drain", remittances from the Gambian diaspora, mostly distributed across Europe, are an important source of finance for the economy, representing over 20 per cent of GDP in recent years (World Bank, 2016b).

Recent policy decisions underpin a new development strategy oriented towards a more diversified economy, including a strong industrial base. The Government is conscious of the challenges that the country faces in terms of its supply constraints and vulnerability to external shocks. The current policy agenda, guided by Vision 2020, is a blueprint for accelerated growth and sustainable development with the ultimate objective of graduating the country from LDC status. The Government's goals are ambitious and encompass a wide array of objectives and sectoral priorities. The intention is to develop a strong and competitive private sector that will move the economy towards higher value added activities in key sectors and to "transform The Gambia into a financial centre, a tourist paradise, a trading, export-oriented, agricultural and manufacturing nation."

The Government acknowledges the role that investment, including foreign investment, can play in achieving the country's objectives and in promoting sustainable development. Increased investment and private sector development feature prominently as objectives in Vision 2020 and in the medium-term plans established for its operationalization – the Programme for Accelerated Growth and Employment (PAGE) I and II. The Private Sector Development Strategy 2015–2019 aims to make The Gambia, "the investment haven of choice in the ECOWAS region" and recognizes that "a growing private sector allows new investments that increase the flow of goods and services, creates employment and increases incomes, which in turn is important for improving the quality of life…" (Republic of The Gambia, 2015). In 2016, the Government emphasized the importance of mainstreaming the United Nations Sustainable Development Goals into the country's national strategies, exploring innovative private sector financing and increasing the attractiveness of the investment environment. Aside from its financing role, policies also recognize FDI's potential to contribute to economic diversification by fostering employment, and the transfer of knowledge, skills and technology.

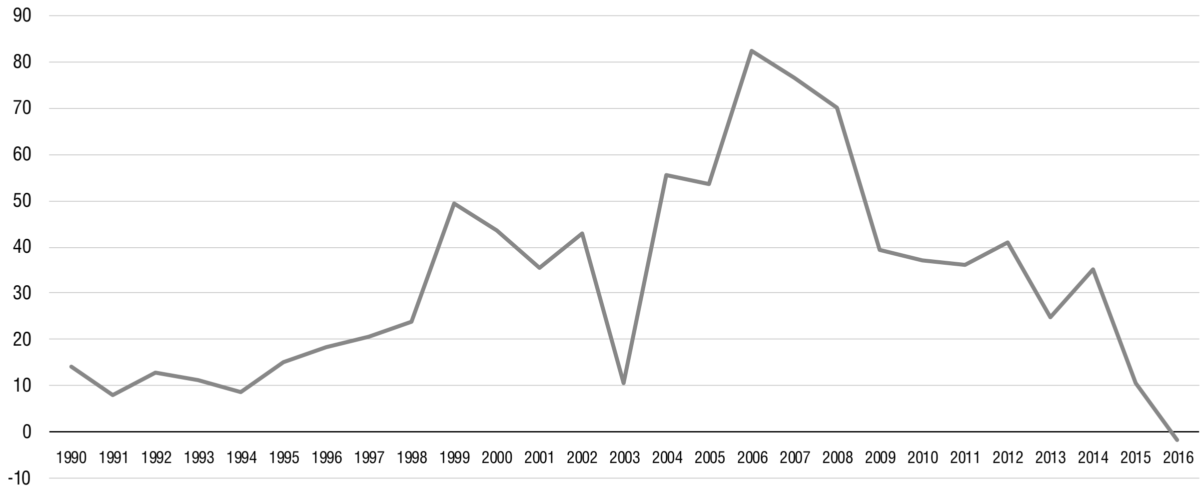
FDI has been on a downward trend since 2007. With a relatively undiversified economy and a very small domestic market, The Gambia is vulnerable to exogenous shocks, which have affected investment. Following the period of increasing inflows in the second half of the 1990s, FDI has been declining since the outbreak of the global financial and economic crisis. Marked by one-off operations, other reasons explaining this performance include the ebola outbreak and the recent political and policy instability. Policy efforts to liberalize the economy and attract investment have thus yet to positively affect FDI inflows (figure 1).

Nevertheless, FDI has played a key role in the Gambian economy. Representing more than 30 per cent of GDP in terms of stock, FDI has contributed to the development of the services sector. Until 2010, the bulk of FDI was concentrated in real estate and construction. The second largest recipient sector was tourism, with several FDI projects from the Middle East, North Africa and Nigeria. Finance has also expanded significantly over the past decade. As a source of share of GDP, the banking sector has risen from 6.4 per cent in 2004 to 10 per cent in 2013, due notably to increased participation by foreign banks, in particular from Nigeria. In 2010, these four sectors – real estate, construction, tourism and finance – represented over 80 per cent of FDI stock. Since then, other FDI recipient sectors have included telecommunication and power generation. In 2013, telecommunication represented 12.7 per cent of GDP, up from 7.7 per cent in 2004, reflecting the expansion of mobile telephony and internet access. Only a small percentage of FDI is concentrated in the manufacturing and agriculture sectors, with 4 and 3 per cent respectively in 2011 (Central Bank of The Gambia, 2011; Central Bank of The Gambia et al., 2008; United States Department of State, 2015).

Overall, investment performance remains weak and below the regional average. The Gambia lags behind key comparator countries in terms of FDI attractiveness. FDI inflows per capita have declined steeply in comparison with inflows in countries in the region and the average for both African LDCs and ECOWAS. The FDI stock per capita also remains well below the average for African LDCs and for ECOWAS (table 1). This picture is corroborated by the low number of foreign investors who were operational in 2013, as reported by the Gambia Investment and Export Promotion Agency (GIEPA) (24 companies).

Figure 1. FDI inflows into The Gambia, declining since 2007

(Million dollars)



Source: UNCTAD FDI/TNC database 2017.

Against this background, the goal of the Investment Policy Review of The Gambia is to assist the Government in its efforts to improve the investment environment and achieve its development objectives. The IPR provides concrete policy recommendations to improve the investment climate in The Gambia, increase FDI inflows and enhance their impact and contribution to diversification and sustainable development. In addition to addressing the legal, regulatory and institutional framework for investment, the IPR assesses investment promotion efforts and proposes ways to strengthen them, in particular for priority sectors. The IPR is in line with the IPFSD, which consists of a set of core principles for policymaking and guidelines on national and international investment policies (UNCTAD, 2015).

Greater FDI attraction will require a concerted effort to improve the country's investment climate. When a country has significant natural resources, especially mineral deposits, investors may be willing to overlook some of the factors that negatively affect the investment environment. The Gambia's economic structure, with a small national market and limited resources, means that the country needs a more competitive investment climate in order to attract and retain FDI.

Improving clarity and predictability is paramount, and strengthened institutions are required to formulate provisions and regulations related to investment…The legal and regulatory framework is generally open to FDI, and the Government has made efforts to attract investment. Foreigners can invest in all economic sectors, and, with few exceptions, the laws and regulations pertaining to investment apply equally to local and foreign investors. However, several factors generate uncertainty and deter investment. These include unclear provisions in some of the laws related to investment, such as those on competition, labour and corruption, and, in some instances, missing regulations for implementing the laws effectively. This is compounded by insufficient financial and human resources in the institutions mandated to implement these laws.

…as well as to address investors' concerns about government interference in business operations. The risk of government interference, through unclear regulatory provisions or unpredictable policy changes, is one of the main concerns expressed by the private sector during UNCTAD's interviews for this IPR. Policy changes often stem from a well-intentioned objective: for example, a ban on plastic bags was recently introduced for environmental reasons, but its economic implications were not fully considered, and sufficient time and support was not given to the private sector to adapt to the new conditions.[5] Likewise, a change in the fishing licence regime in mid-2015, whose objective was to promote the increased use of the port of Banjul by requiring a higher percentage of a ship's catch to be offloaded there, led most industrial fishing vessels to cease operations or shift them to Senegal. (see chapter II). The rationale behind other recent policy changes is less clear, including the cancelation of licences to foreign oil companies in 2009 and 2014, which went to the International Centre for Settlement of Investment Disputes (ICSID) for arbitration (one was reinstated in 2015; see chapter I).[6]

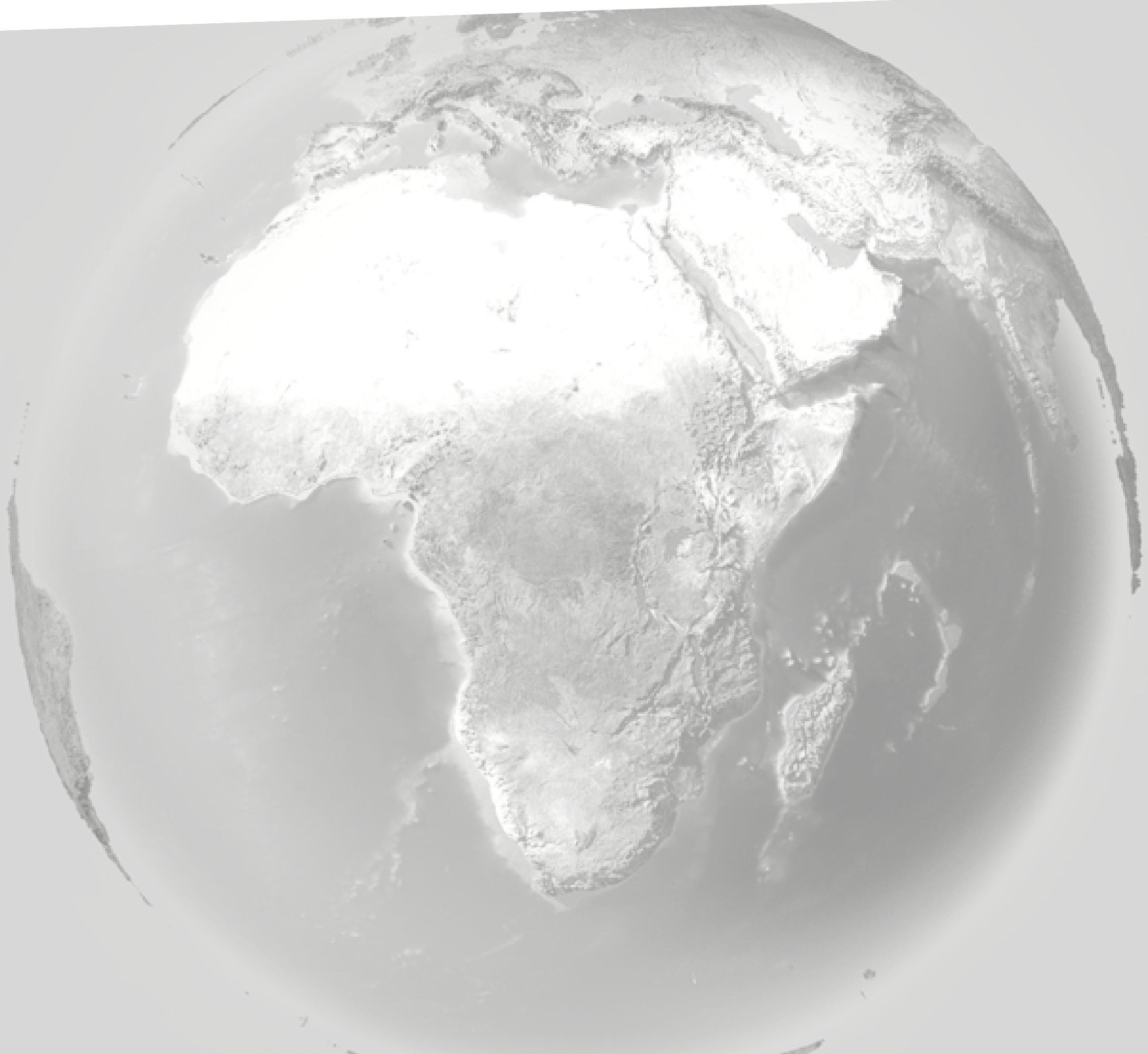
In the short term, efforts should focus on promoting and attracting investment in a limited number of sectors, such as agroprocessing, light manufacturing, and information and communication technology. These are part of the 9 priority sectors, spanning 30 subsector activities stated in the GIEPA Act (2015) and which guide the agency's work across its various functions. In contrast to this long list, the GIEPA's small size and limited resources would better favour a targeted investment approach based on a high level of specialization and the development of a few clusters. In this regard and at the request of the Government, key determinants of FDI attraction and potential for FDI in agroprocessing, light manufacturing, and information and communication technology (ICT) are analysed in chapter II of this review, with the aim of focusing efforts on the most promising and competitive subsectors. In addition, the GIEPA's investment promotion functions are reviewed and prioritized as part of a proposed phased approach focused on optimizing its resources and impact for sustainable development.

Table 1. The Gambia's comparative attraction for foreign investment											
Country	Average inflows of foreign direct investment								Stock of foreign direct investment		
	Absolute figures		Relative figures						Absolute figures	Relative figures	
	Million dollars		Per capita (dollars)		Per $1 000 gross domestic product		As percentage of gross fixed capital formation		Total millions dollars	Per capita (dollars)	Percentage of gross domestic product
	2007–2011	2012–2016	2007–2011	2012–2016	2007–2011	2012–2016	2007–2011	2012–2016	2016		
The Gambia	**52**	**22**	**32**	**11**	**57**	**24**	**30**	**11**	**318**	**155**	**33**
Burkina Faso	146	343	10	19	17	29	9	18	1 984	106	17
Djibouti	123	167	150	190	119	104	42	29	1 789	1 989	94
Guinea	368	194	34	16	82	31	66	19	2 275	176	35
Guinea-Bissau	20	19	12	10	23	18	37	21	149	79	13
Mali	393	250	27	15	38	19	18	11	3 037	167	22
Mauritania	240	758	68	191	59	146	17	28	6 750	1 620	143
Senegal	324	358	26	24	25	25	10	10	3 696	237	25
African LDCs	27 541	36 189	53	60	67	61	33	28	258 430	408	43
ECOWAS	13 286	12 262	45	36	30	19	17	12	163 111	455	29

Source: UNCTAD FDI/TNC database 2017.

CHAPTER 1

Investment regulatory framework



The legal and regulatory framework for investment is open to FDI. There are no industries in which entry is specifically forbidden, except for defence, and most of the laws and regulations apply equally to Gambian and foreign companies. Key guarantees are offered in the law in regard to access to foreign exchange, to land and foreign labour, and to repatriation of funds and capital. The Gambia has also adopted a complete range of business regulation tools; in some areas, such as environmental protection, the laws are in line with best international practice. Efforts are also being made to improve the investment climate and to facilitate trade and investment. The establishment of a single window for business establishment is a case in point. The Gambia also compares favourably in the region in terms of procedures for import and export and contract enforcement.

However, laws governing business often contain unclear provisions, and institutional capacities are insufficient. In key areas such as labour, competition and corruption, the provisions of the laws are not sufficiently clear and implementing regulations are frequently missing. In addition, the tax regime is overly complex and burdensome, and generates limited revenues for the Government. There are also frequent possibilities for the Government to intervene in business operations. These take the form of mandatory participation in strategic industries, intervention rights on leased land, quasi-permanent presence of public officers within manufacturing companies and pervasive fiscal controls. In a context where human and financial resources in public administration are very limited, this increases the risk of corruption and leads to difficulties in maintaining a level playing field for all companies.

In addition, sudden policy changes negatively affect the business climate. Several decisions affecting business operations have been made without adequate consultation. Although taken in good faith, they have long-term effects on investors, who often have the perception that the business climate is unpredictable and not transparent. For instance, moratoria were imposed in 2015 and 2016 on the importation of certain products. Another example is the decision taken in March 2015 to prohibit, with only one month's notice, the use of plastic bags for environmental protection reasons, a prohibition that also affected manufacturers. A third example is the use of directives for the exchange rate: since 2012, five exchange rate directives temporarily imposing overvalued fixed exchange rates have been issued by press release. The last one, in May 2015, overvalued the dalasi by more than 20 per cent (IMF, 2015) and was rescinded in January 2016.[7] As described in the next chapter, these policy interventions have led to the closure of businesses and put several sectors at risk.

This chapter aims to support the efforts of the Government of The Gambia to enhance the investment climate, by providing action-oriented recommendations. It is based on an analysis of the legal and regulatory framework of selected investment policy areas and provides recommendations, summarized in annex 1, on the basis of the national development plans and of the IPFSD (UNCTAD, 2015).

A. Specific issues relating to foreign direct investment

1. Domestic investment legislation

The Gambia has adopted an open FDI regime. The GIEPA Act (2015) repealed the provisions of the GIEPA Act (2010). However, pending the adoption of new regulations to the Act, the implementing regulations of 2012 remain applicable whenever they are more advantageous to investors, according to the Ministry of Trade, Industry, Regional Integration and Employment (MOTIE). The GIEPA Act (2015) applies equally to domestic and foreign investors, with the exception of the eligibility criteria for incentives. The GIEPA Act (2015) and the other applicable legal texts[8] do not contain restrictions on the entry of FDI, except for common provisions on investments that contravene the laws of The Gambia, are prejudicial to national security, or are detrimental to the natural environment, public health or morality.

But the possibility of introducing discretionary limitations on private ownership generates legal uncertainty. The Government may reserve the right to own some or a majority of shares in an investment in a strategic industry, defined by the GIEPA Act (2015) to include mining, petroleum exploration and refinery activities. Government equity participation in such industries is common in many other countries, and it would not be problematic if it were clearly regulated. However, the Act does not specify the terms of participation of the Government in such investment projects nor the procedures and compensation mechanisms. Furthermore, additional foreign ownership restrictions can be imposed by ministerial decree. Indeed, the MOTIE can formulate a list of sectors that are fully or partially closed to foreign investors. To date, no such list exists. However, the draft of the regulations of the GIEPA Act (2015) is more restrictive than the 2012 text on this issue. Whereas the 2012 text submitted additional restrictions on foreign investment based only on public interest and non-discrimination criteria, and indicated that the rights of existing foreign investors should be guaranteed, in accordance with international minimum standards, the 2015 draft is silent on such conditions.

The GIEPA Act adopted in 2015 covers a broad range of issues and assigns promotional and regulatory functions to the GIEPA. The Act covers the entry and establishment of investment, as well as its treatment and protection. It also includes provisions on dispute settlement and incentives. The Act contains a precise definition of FDI, covering both brownfield and greenfield investment.[9] At the institutional level, the GIEPA is the agency responsible for promoting investment and for facilitating investors' access to incentives, land and foreign personnel. Although it does not screen investment, it is responsible for analysing and processing incentives applications and monitoring investors' compliance with eligibility conditions. The GIEPA also licenses investors with individual export processing zone (EPZ) status. In addition, when there is no zone developer and operator, it is responsible for managing the EPZs and granting licences to investors who want to establish in a zone. The agency, which is described in greater detail in chapter II, reports to the MOTIE. The Ministry is in charge of investment policy and decides whether to grant incentives on the basis of the recommendation of the Board of the GIEPA.

National treatment of foreign investors is not explicit in the law, but only a few departures from the standard apply. The GIEPA Act (2015) does not mention explicitly national treatment (NT) or non-discrimination, but only a few differences in the treatment of foreign investors were identified, and they do not pose particular issues. The first refers to the investment threshold, which amounts to $100,000 for domestic investors and $250,000 for foreigners to access incentives through a special investment certificate (SIC). The second concerns access to land. In the case of State land, foreigners can only access certain residential plots for a maximum of 21 years. They also cannot lease or assign undeveloped non-residential State land. They can, however, lease customary land, subject to approval by the local authorities, for specific durations (see section B.2). Finally, with regards to permitting and licensing, foreign companies follow the same procedure as domestic ones, except in public procurement, where they are subject to a minimum tendering threshold of GMD 10 million ($240,000),[10] when the goods, works or services are not available at competitive prices and conditions from at least three local suppliers; or when a supplier was not identified through a national tender.

In line with good international practice, the Act contains a list of investors' obligations. These include granting trade union representation, social security and welfare programmes to employees. It also requires investors to comply with environmental, health and safety standards; payment of taxes; and laws and regulations of the country, including for importing products.

The GIEPA Act (2015) also provides a range of investor protection guarantees. In addition to the general commitment by the Government to protect investment, which is contained in the main text of the law, specific protection guarantees are contained in Schedule I of the Act. They include provisions on protection against expropriation, which is prohibited except for a public purpose as defined by article 22 of the Constitution (1997) and by the law. The expropriation decision needs to be made on a non-discriminatory basis, in accordance with the legal procedures and provided the payment of compensation determined by an independent party on the date prior to the announcement of the expropriation and agreed upon by the investor and the Government. There is no mention of the promptness of the compensation. The Act also offers investors guarantees of unlimited lawful imports and exports, and promises them facilitation services in accessing land as well as in obtaining entry permits, including for their employees and immediate family (see sections B.2 and B.5).

Transfer of funds is free, conditional on the fulfilment of legal requirements and the availability of foreign currency. According to the terms of the GIEPA Act adopted in 2015, investors and their foreign employees may transfer funds abroad, except in the following cases: bankruptcy or insolvency proceedings for the protection of shareholders' and creditors' rights, if a criminal charge is pending against the investor or the investment, and to ensure compliance with an order or judgement in legal proceedings. The Gambia has liberalized foreign exchange and investors can open bank accounts in any currency (Banking Act, 2009). It has also adhered to article VIII of the IMF. However, large balance of payments and fiscal imbalances exist, which affect the ability of the country to supply foreign exchange for the transfer of funds of investors (IMF, 2015).

The GIEPA Act (2015) provides for the use of conciliation and mediation, before international arbitration. This applies both in cases of disputes among private investors and those between an investor and the State. The Act removed the explicit reference to ICSID,[11] but it nevertheless still applies given the mention of "the provisions of any international treaty to which The Gambia is party" in the Act. Recourse to the Alternative Dispute Resolution (ADR) Act (2005) and to the dispute settlement mechanisms of the bilateral investment treaties (BIT) concluded between The Gambia and source countries are also mentioned. The Gambia is not a State party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958), although the Solicitor General of the Ministry of Justice has indicated the country will ratify it. In the meantime, the provisions related to the enforcement of foreign rulings in the ADR Act (2005) apply and there is no known precedent of The Gambia accepting a foreign ruling (United States Department of State, 2015).

In practice, government intervention in business operations remains a key concern for investors. The policy uncertainty resulting from government interference in business conduct is considered among the key obstacles to existing and prospective investors to the country. The Gambia has had four contract-based cases in front of the ICSID, three related to cancelations of licences and one linked to an expropriation. In addition, regular policy changes affect the business climate, such as the directives on foreign exchange. Instances of forceful evictions have also been declared at very short notice.[12] Finally, the Government is allowed, under the Act, to "interfere" in the management of an investment in four cases: the pricing of services under the Public Utilities Regulatory Authority Act (2001), the pricing of petroleum products, the regulation of anti-competitive practices under the Competition Act (2007), and health and safety reasons.

2. International investment agreements

The Gambia has signed 15 BITs with traditional IIA features, 6 of which are in force.[13] The BITs under review are largely old-generation treaties. They have a broad, asset-based definition of investment, which covers "any kind of asset". Only the BIT with Turkey clarifies that an investment must be connected with business activities and acquired for the purpose of establishing lasting economic relations. The same BIT also explicitly excludes from the definition the acquisition of shares or voting rights in a company – if they amount to less than 10 per cent. Five of the BITs (with Guinea, Mauritania, the Netherlands, Ukraine and the United Kingdom) include a definition of investor, protecting investors incorporated in a contracting party. The BITs with the Netherlands and Switzerland allow for legal entities not constituted under the laws of these countries to be covered as investors on the basis of their control by nationals of a contracting party. Five of the BITs require that investors be established under the laws of the host State and that their headquarters be located in the territory of that contracting party (Morocco, Spain, Switzerland, Taiwan Province of China and Turkey). Four of them (Spain, Switzerland, Taiwan Province of China and Turkey) also condition the definition of investor on the exercise of substantial business activities in the territory of that contracting party. The BIT with Spain excludes dual nationals from the scope of the treaty.[14]

All of the BITs provide for fair and equitable treatment, and nearly all provide for national treatment and most-favoured nation at the post-establishment phase. National treatment (NT) and most-favoured nation (MFN) clauses can be introduced either as stand-alone clauses (e.g. the BIT with Qatar), or in combination with a fair and equitable treatment (FET) clause (e.g. the BITs with Guinea, Morocco and Switzerland). The BITs with Guinea and Ukraine do not include a NT obligation. The BITs with the Netherlands, Spain, Taiwan Province of China and Turkey include a clarification that the NT and MFN obligations require comparison of investors or investments that are "in like circumstances".[15] Only the BIT with Turkey circumscribes the scope of the MFN clause, noting that it does not apply to investor–State dispute settlement (ISDS). FET is generally unqualified, except in the BITs with Turkey and Taiwan Province of China, where FET is qualified by reference to the minimum standard of treatment of aliens under customary international law.

The BITs also include a clause on direct and indirect expropriation. However, they do not clarify the meaning of indirect expropriation (e.g. defining it in general terms that non-discriminatory, good faith regulations relating to public health and safety, or the protection of the environment do not constitute indirect expropriation). An exception is the BIT with Turkey, under which non-discriminatory legal measures, designed and applied to protect legitimate public welfare objectives such as health, safety and the environment, would not constitute indirect expropriation.

All of the BITs under review grant foreign investors the right to freely transfer investment-related funds into and out of the host country. Only the BITs with Taiwan Province of China and Turkey include exceptions to this clause. The BIT with Turkey introduces an exception for balance of payments difficulties, and the BIT with Taiwan Province of China contains an exception related to the application of domestic laws (e.g. laws relating to: bankruptcy; issuing, trading or dealing in securities; criminal or penal offences).

All of the BITs include an ISDS clause. The Gambia has had one treaty-based case in ICSID.[16] Settlement of disputes is allowed under the United Nations Commission on International Trade Law rules, ICSID or the Additional Facility Rules. The BIT with Taiwan Province of China includes a three-year limitation period for bringing claims, and the BIT with Turkey excludes disputes over property and real estate rights from ISDS.

Only the BITs with Taiwan Province of China and Turkey include general and essential security exceptions allowing the contracting parties to adopt, maintain, or enforce any non-discriminatory measures designed for the protection of human, animal or plant life or health, or the environment and for the protection of their national security.

The Gambia has signed a number of regional treaties with investment provisions. As a member of ECOWAS, the country has signed the Trade and Investment Framework agreement with the United States (2014), which establishes an institutional framework for monitoring trade investment relations, and the ECOWAS Energy Protocol (2003), which includes substantive investment protection provisions. In addition, The Gambia signed the Partnership Agreement between the Members of the African, Caribbean and Pacific (ACP) Group of States and the EU (Cotonou Agreement) (2000),[17] which includes provisions aimed at supporting economic reforms and policies at the national and regional levels, with a view to creating a favourable investment environment. The Gambia is also a party to the investment protection agreement of the Organization of the Islamic Conference (1981), which includes substantive investment protection provisions that are typical for so-called "first-generation" treaties.[18]

3. Recommendations

There are currently no restrictions on the entry and establishment of foreigners, and efforts have been made to align the GIEPA Act (2015) with good practice in terms of core standards of treatment and protection. However, in light of recent government interventions in the economy, the possibility for the MOTIE to restrict the list of sectors open to FDI and the absence of criteria relating to potential government participation in strategic industries are sources of concern for existing and potential investors. Building on the reforms that have already been undertaken and in order to improve the openness, transparency and predictability of the investment legal and regulatory framework, the Government of The Gambia could consider the following recommendations:

- A.1.1. Adopting the revised regulations of the GIEPA Act (2015), which provide additional clarity and predictability. In particular, if any restrictions to the entry of FDI are being considered, these should be clearly spelled out in a "negative list" to maintain the transparency of the investment-specific regime. The restrictions should be justified by legitimate national policy objectives, not influenced by special interests and should conform to the international commitments of The Gambia. The list should be reviewed periodically to ensure that the restrictions or thresholds remain the most appropriate and cost-effective methods to achieve the country's development objectives. A future revision of the Act should also reconsider the reference to the pricing of services, the regulation of anti-competitive practices and the pricing of petroleum products, as these issues should be dealt with by the pertinent sectoral legislation and authority.
- A.1.2. Clarifying the conditions and procedures for the State's participation in an investment in a strategic industry. Government intervention in business activities should be limited, especially with respect to setting prices. Indeed, the Government should avoid direct and indirect interventions in business management and respect the freedom of operations of private companies, subject to compliance with domestic laws.
- A.1.3. Ensuring that expropriation is warranted for legitimate public purposes, undertaken in a non-discriminatory manner and in conformity with the principle of due process of law, and providing compensation in cases where the Government intervenes in a strategic industry investment after its establishment. To avoid arbitrariness, these decisions should be open to recourse and reviews.

The country's current IIAs are largely "first-generation", typically containing similar, broadly worded definitions and substantive provisions, and few safeguards. Consequently, there is a strong case for the country to modernize its existing treaty network to bring it in line with today's sustainable development agenda.[19] In so doing, The Gambia can be guided by the 10 policy options for phase 2 of IIA reform, as set out in chapter III of the *World Investment Report 2017*. Priority actions for The Gambia include the following:

- A.2.1. Conducting a national IIA review and developing an action plan resulting in a new model IIA that contains "modern" treaty clauses as set out in UNCTAD's Road Map for IIA Reform and that can be used for future negotiations (including renegotiations and amendments of existing treaties).
- A.2.2. Engaging in regional IIA reform activities, notably at the ECOWAS level. This would require a collective IIA review and IIA action plans, which can result in a common ECOWAS IIA model or a new ECOWAS investment agreement with the potential of replacing the 12 intra-ECOWAS BITs.[20]
- A.2.3. Clarifying, on a priority basis, certain key provisions, such as FET, indirect expropriation, transfer of funds and ISDS, and developing an action plan for modernizing the existing stock of treaties.
- A.2.4. Strengthening the investment facilitation and promotion dimension of its IIAs. In doing so, The Gambia may wish to consider the Global Action Menu for Investment Facilitation.[21]

UNCTAD stands ready to assist The Gambia with the necessary backstopping of its efforts to reform its IIA regime and to provide technical assistance and capacity-building on key issues in IIAs and sustainable-development-oriented treaty reform.

B. Business operations

Despite reform efforts, the companies operating in The Gambia continue to face severe challenges. In recent years, many reforms have addressed specific issues related to the investment climate. For instance, a Single-Window Business Registry (SWBR) was established, the corporate income tax rate was lowered, an EPZ regime was created and environmental legislation was modernized. Notwithstanding these improvements, setting up a company remains difficult and costly for many operators, fiscal incentives require compliance with excessive bureaucratic processes and fiscal controls are burdensome. EPZs have had only limited success, mainly because of infrastructure constraints. Furthermore, the lack of legal clarity in key areas such as competition and governance, compounded by insufficient human and financial resources within the public administration, has resulted in poor implementation.

1. Business establishment

Significant efforts to streamline business establishment procedures have been made. The Single Window Business Registration Act (2013) regulations established a SWBR, which was launched in February 2014. The stamp duty and the practice of the corporate income tax deposit (see section B.3) were eliminated, and incorporation fees were reduced.[22] Representatives of the different authorities at the SWBR, including the Gambia Revenue Authority (GRA), the Social Security and Housing Finance Corporation (SSHFC), and the municipalities have delegation of power. Consequently, companies can obtain their tax identification number, business registration certificate, synchronized registration number and operational licence, and register their employees directly at the SWBR. The synchronized registration number is a prerequisite to obtaining a permit or licence and to conducting transactions with public sector agencies.

However, obstacles still hamper the efficiency of business registration. The cost and time required to start a business are still high and are reflected in the country's international ranking (table 1.1). These are partly explained by the need to register a company seal, which can take up to 18 days and cost about $200. Although the seal has been made optional by the adoption of the Companies Act (2013), it is effectively still widely required, as public servants responsible for its implementation lack understanding of the new provisions. Also, there are only two locations with a SWBR, in Banjul and in Kanifing Municipality, both subject to frequent network breakdowns and suffering from staff shortages, particularly with respect to the SSHFC (World Bank, 2015). Finally, online information is scarce,[23] and online registration is not available.

Table 1.1. Starting a business: The Gambia and comparator countries

	Rank	**Procedures** (number)	**Time** (days)	**Cost** (percentage of income per capital)	**Paid-in minimum capital** (percentage of income per capital)
Côte d'Ivoire	50	4	7	18.9	3.3
Senegal	90	4	6	62.7	4.7
The Gambia	**168**	**7**	**25**	**125.2**	**0**
Equatorial Guinea	187	17	134	102.7	27.8
Sub-Saharan Africa	..	7.8	27.3	54	33.1

Source: World Bank (2016a).

2. Land ownership and titles

The lack of security of land titles has been identified as one of the main constraints for all businesses. The regime is complex, with three types of land tenure. The majority of the land is customary land, followed by State land and freehold land. In addition to lengthy registration procedures and a lack of planning, several issues related to expropriations were reported by investors during the fact-finding mission -- information that was not confirmed by other sources. The authorities are committed to improving the situation and to undertaking reforms. This includes the recommendations of the report assessing the implementation of the Land Governance Assessment Framework

(Amie Bensouda and Co, L.P., 2013). At the time of completion of this review, however, progress in the implementation of the Framework remains limited.

Foreign investors have access to land, and the GIEPA plays a limited facilitation role. Under the terms of the GIEPA Act (2015), foreign investors can purchase or lease private property or State-owned land, dispose of it and or transfer their interests. In practice, since the independence of the country in 1965, property ownership (freehold) has required approval by the National Assembly and the President. Consequently, leasehold is the main title form used. The GIEPA Act (2015) mandated the GIEPA to create, for State land, a database of serviced land, sites and buildings available for investment. In practice, this database has yet to be established and SIC holders can, for the time being, benefit from having a letter of recommendation from the agency in facilitating the procedures with the Ministry of Lands and Regional Government. During the fact-finding mission, the Minister said that in the case of customary land investors are responsible for identifying the land and negotiating directly with the local authorities.[24]

Leasehold on State land can take different forms and durations, and restrictions apply to foreigners willing to access residential land or use undeveloped non-residential lands. Under the State Lands Act (1991), land in the Banjul, Kombo Saint-Mary, Kombo North, Central and South regions is State land. State land also includes forests, wildlife parks, reserves, land 500 metres north and south of the Gambia River, and land held by public institutions. State land can be leased for 99 years, except for agricultural and industrial lands, for which the duration of the lease is determined by the Minister of Lands and Regional Government and the sectoral ministers on the basis of the size of the investment. The State Lands Act (1991) stipulates that foreigners can have access to residential land only for up to 21 years, in areas no larger than 2,500 square metres located more than 1.5 km outside the high water mark, as designated by the Minister of Lands and Regional Government. In addition, undeveloped non-residential lands cannot legally be leased or assigned to foreigners, and, if they are leased, the lease can be terminated without compensation.

The process for accessing titles to State land is lengthy. Applications are processed by the Department of Lands and Surveys of the Ministry of Lands and Regional Government. The Department needs a confirmation from the Planning Authority that the expected use of the land is in conformity with the approved plan (for land use), before making a recommendation to the Minister of Lands and Regional Government. The Department also needs to ensure that the lease will not conflict with prior interests. A survey and demarcation of the land are required, and they must be approved by the Ministry before the lease is registered. Renewal is possible, provided that the land use does not change. The Doing Business 2017 indicator on registering property ranks The Gambia 124th of 190 countries, with five procedures taking an average of 66 days at a cost of 7.6 per cent of the property value (World Bank, 2016c). However, this information applies only to Banjul. Indeed, the Ministry of Lands and Regional Government indicated during the fact-finding mission that registration can require between a week and one year. Plans are in place to reduce the average time to three months.

The State retains a wide range of intervention rights on land titles once a lease has been granted, and the use rights of the lessee are limited. The lease title does not give rights to the water of any spring, river, lake or stream on the land other than for domestic purposes. Similarly, the use of the foreshore and the banks of any navigable waterway are excluded from the lease. The State also retains the right to enter the plot to search for minerals and remove mineral oil, and, in the case of agricultural leases, the right to remove any stone, soil or other substances required for the construction or repair of any road, Government dwelling or other public works. In these cases, compensation is paid for the damage to the land and to assets existing on the land due to negligence or otherwise. In addition, the lease cannot be subdivided, conveyed, assigned or alienated – for instance to be used as collateral – until ministerial approval is granted. The mortgage deed must be registered with the Deputy Solicitor General and the Registrar General at the Chambers of the Attorney General. Agricultural, industrial, residential and commercial leases are assigned, subject to tight timelines within which the activities need to be undertaken.

Customary land can be individualized, but the procedure is not clear and foreigners are subject to additional conditions. Individualization of customary land is based on obtaining a certificate of occupancy and a lease.

The authority is vested with the *seyfo* (district authorities) and the *alkalos* (local authorities at the village and town level), who can grant leases, provided the lease is endorsed by the Provincial Commissioner and approved by the Minister of Lands and Regional Government. No reference to the certificate of occupancy could be found in the Land (Regions) Act (1991), although this procedure was confirmed by the Department of Lands and Surveys during the fact-finding mission. The Department also indicated that the certificate, confirmed by the *alkalo*, can be registered at the local registry, which then allows for a lease to be applied. The certificate is not accepted by banks as collateral. For foreign lessors, the approval of the governor of the region is also required. The agreement must be entered into the Region Land Register. When its duration exceeds three years, the agreement must be in writing. The maximum lease term is 50 years, but a clause can be added providing for a further term of 50 years.

Title security is negatively affected by outdated land surveying and partial registration. The Master Plan is outdated and covers a small part of the country. It goes back to 1985–2000 for an area of 50 to 60 km^2 near Banjul. The revision of other plans, such as the Growth Centre Plan, which expired in 2000, was stopped because of a lack of resources. More than 90 per cent of freehold lands are registered as well as "most" of the urban lands, but registration is limited for customary land. In addition, neither the registry nor the cadastre is automated, and the local authorities still operate with paper registries (Bensouda, 2013). The Ministry of Lands and Regional Government thus advises investors to consult the Department of Physical Planning and Housing to ensure that there is no conflict before engaging in any financial transaction involving customary land.

Coordination issues and lack of human resources also have an impact on land procedures. The Lands Commission, intended in the Lands Commission Act (1997) to advise on land administration policy and ensure compliance and transparency in land allocation, was never established. Overlapping responsibilities between central and local authorities and the absence of strategies and integrated approaches to land problems result in severe coordination issues. In addition, the human resource capacities of the Ministry of Lands and Regional Government are deemed insufficient to effectively deliver surveying, mapping and planning (Bensouda, 2013).

3. Taxation

Despite past and ongoing reforms, the tax regime remains overly complex. A VAT regime was introduced in 2013 and the corporate income tax was lowered from 35 per cent to 30 per cent in 2015. In recent years, the GRA has also worked towards creating an environment conducive to business. For instance, it improved the processes related to filing and paying taxes.[25] The revenue to GDP ratio increased from 16 per cent in 2012 to 18.75 per cent in 2014 (IMF, 2015). However, the number of taxes as well as the time, cost and human resources needed to comply with administrative requirements and payments are still excessively high. In addition, predictability is low and advanced tax rulings are not allowed. To counterbalance such complexity, generous incentives are granted, notably to large investors or companies based in EPZs, but these are subject to heavy reporting requirements and have not produced meaningful results to date in terms of investment attraction, employment creation and increased production.

The large number of taxes makes tax filing and payment procedures cumbersome, both for businesses and for the GRA. The administrative requirements for resident and non-resident companies are the same. The fiscal year is the calendar year, except when an agreement is concluded for a "special year", and taxes are payable quarterly or annually depending on their nature (table 1.2). The country ranks 171st of 190 countries on the paying taxes indicator of Doing Business (World Bank, 2016c). On average, firms make 49 tax payments per year, and spend 326 hours per year filing, preparing and paying taxes (table 1.3). This includes both central and local government taxes.

Fiscal procedures lack predictability and controls are pervasive. Businesses can choose to have audited or unaudited accounts. The GRA can issue an unlimited number of amended assessments within six years after the tax year. Furthermore, according to private sector representatives interviewed during the fact-finding mission, the amount to be paid in local taxes is not based on clear, objective and predetermined criteria and is often the outcome of a negotiation. It was also reported that representatives from the GRA have often established a permanent presence

Table 1.2. Overview of corporate taxes in The Gambia at the central level

Tax	Category	Rate	Description
Corporate income tax	Companies with more than GMD 500,000 ($12,000) turnover	30% (Budget Act, 2016) or 1.5% of turnover for audited accounts and 2.5% of turnover for unaudited accounts – whichever is the highest	Paid quarterly by resident and non-resident companies, but only on their Gambian-source income as defined by the Budget Act (2012)
Turnover tax	Companies with less than GMD 500,000 ($12,000) turnover	3% of the total monthly turnover (Budget Act, 2012)	Paid quarterly
Capital gains tax	Realization of a domestic or foreign capital exceeding GMD 18,000 ($432) by a resident company	10% of the consideration or 25% of the gain – whichever is the highest	Not applicable to assets depreciable for income tax purposes and to non-resident companies
Withholding tax	Payment of interest to resident companies	15% (exemption for Gambian financial institutions)	Payment of dividends to resident companies taxed as part of the corporate income tax
	Payment on contract to resident companies	10%	Final tax
	Payment of dividends, gross interest and royalties, management, consultancy, technical services and public entertainment fees to non-resident companies	15% on the gross amount	
	Payment of fees to non-resident contractors and subcontractors	10%	10% provisional, not final tax
Excise duty	Locally manufactured products	5%	Paid by unit
	Imported cigarettes, tobacco, alcohol and soft drinks	Cigarettes: GMD15/pack of 20 sticks; other tobacco: GMD300/kg; beer: GMD75/L; wine-GMD100/L; spirits-GMD150/L, soft drinks-GMD5/L	
National Education and Technical Training Levy	Companies with at least five employees	GMD 50,000 ($1,200) on turnover below GMD 5 million ($120,000) and GMD 30,000 ($720) on turnover above GMD 5 million ($120,000)	Payable by resident and non-resident companies, on their Gambian-source income, as defined by the Budget Act (2012)
Payroll tax: Expatriate Quota Tax	Per West African employee	GMD 10,000 ($240)	Imposed on the employment of foreigners Paid annually Not deductible
	Per non-West African employee	GMD 40,000 ($960)	
Social security contribution to the National Provident Fund administered by the SSHFC		10% of the basic salary by the employer and 5% by the employee	Contributions to approved retirement fund for resident employees deductible for corporate income tax purposes up to 25% of an employee's annual employment income
Fringe benefit tax		35% of the market value of the fringe benefits* granted by the company to employees	Deductible for corporate income tax

Sources: Deloitte (2015), Ministry of Finance and Economic Affairs, UNCTAD (fact-finding mission), World Bank (2015a).

* This is defined by the Income and VAT Act (2012) as housing, motor vehicle, household, loan, debt waiver, property, medical, life insurance, entertainment and residual.

within manufacturing companies or visit them every two or three days to verify payment of the excise duty, which is paid on every unit of locally manufactured products. This can, in practice, increase the risk of corruption, while reducing revenues and contributing to the dispersion of human resources at the GRA.

Several incentive schemes aim to improve the attractiveness of specific sectors, with limited success. The GIEPA Act (2015) lists the incentives, which include the SIC, an enhanced incentives package and the domestic investment certificate. In addition, exporters can benefit from fiscal incentives under the EPZ regime or if they export at least 30 per cent of their production (box 1.1). EPZ status may be granted for up to 10 years, is non-renewable, and can be suspended or revoked if the licensee fails to explain the non-fulfilment of one of the four conditions listed in the GIEPA Act (2015). Among these conditions, one provides that the licensee should carry out the activity authorized by the licence within six months of its issuance, which can be constraining, in particular for certain investment projects. According to the data provided by the GIEPA, 29 enterprises have benefited from SIC since 2012 and 4 of those have since closed their operations. Moreover, only four companies with EPZ status have been established since 2012, three of which are still in operation. As for the physical attributes of the EPZs, a small portion of the 164 ha of the 22 July Business Park, next to the Banjul International Airport, has so far been developed and the company that was operating in the zone stopped its activities.

Table 1.3. Taxation in The Gambia and comparator countries

	Rank	Payments (number per year)	Time (hours per year)	Total tax rate (percentage of profit)	Corporate income tax (percentage of taxable profit)
Burkina Faso	150	45	270	41.3	27.5
The Gambia	**171**	**49**	**326**	**51.3**	**31**
Senegal	174	58	441	45.1	30
Côte d'Ivoire	175	63	270	51.3	25
Guinea	184	57	440	68.3	35
Sub-Saharan Africa	..	37.9	297.9	46	..

Source: World Bank (2016a).

Retaining incentives is subject to heavy reporting requirements. Indeed, the information required to access the SIC must be updated quarterly by the investment enterprise. Incentives also entail a series of other reporting obligations, notably maintaining financial and accounting records and submitting them annually, and submitting annual returns relating to the operations of the investment enterprise. EPZ operators have quarterly obligations to report to the Export Committee on activities regarding performance and development of the EPZ. The draft Export Promotion Regulations (2015) require bi-annual reports by the zone's enterprises, including descriptions of their import and export activities, transfer of goods, sales to other EPZ enterprises, occupied EPZ space and expected changes in relevant EPZ matters, audited accounts for the preceding years and printouts of the salaries of the staff working for them, with an identification of their employment categories at the end of each fiscal year. In addition, they may be requested by the Export Committee or the zone operator to provide statistical data, delivery and receipt returns and any other information that may be deemed necessary to keep the tracking and inventory system updated and accurate.

Notwithstanding these requirements, controls for compliance are insufficient and no systematic cost-benefit analysis is undertaken to assess the impact and effectiveness of incentives. The Investment Incentive Awards Committee and the Investment Monitoring Committee established by the Board of the GIEPA are in principle responsible for evaluating incentive applications and making recommendations to the Minister. The GIEPA reports that on-site visits should be conducted quarterly. However, owing to limited resources, sites are not visited each quarter. This issue might become increasingly important given the range of incentives in the GIEPA Act (2015) and the number of businesses it may affect, notably after the introduction of a lower threshold for domestic investors. Furthermore, no systematic evaluation of the impact of incentives is undertaken to assess their costs and benefits.

Box 1.1. Overview of fiscal incentives for investors and exporting companies

Special investment certificate. The SIC is the main incentive scheme and is available for domestic and foreign investors if they invest a minimum of, respectively, $100,000 and $250,000 in a priority sector and/or in a priority area, and employ a minimum number of Gambians set by the regulations, or create value addition. Fiscal incentives include exemption from income tax for five years for priority sectors and eight years for priority areas; annual allowance at the rate of 15 per cent for the depreciation of buildings, including structural improvements and notwithstanding the rate provided in Schedule III of the Income and Value Added Tax (VAT) Act (2012); exemption from import duty with respect to capital goods; and an exemption from import VAT for five years.* Additional incentives include assistance from the GIEPA, notably for obtaining required licences and permits, and accessing land (see section B.2). Applications are made to the GIEPA, and the SIC is granted by the Minister of Trade and Industry, on the recommendation of the Board of the GIEPA.

Enhanced incentives package. An enhanced incentives package is available for investments of more than $5 million. In particular, investment enterprises eligible for the SIC in agriculture, fisheries, energy or technology and contributing to infrastructure development, the acquisition of new plant or machinery for production, the employment of at least 50 skilled Gambians or the provision of skills training, the reclamation of the environment, or other elements to be determined by the GIEPA, can access additional benefits, such as the extension of the SIC for five additional years. In addition, if no dividends are declared within the first five years of the SIC, the tax exemption is reported to the following five years. These incentives must be appreciated by the Minister on the basis of a report by the Board of the GIEPA, which evaluates the fulfilment of the criteria listed in the GIEPA Act (2015).

Domestic investment certificate. The domestic investment certificate can be granted to domestic investors who invest at least GMD 1 million ($24,000) in agriculture, agro-industry, fisheries and energy, and employ at least five Gambians, with three of them being skilled workers. The certificate also applies to investments of at least GMD 2 million ($48,000) in technology or research and development, which employ at least 10 skilled Gambian IT staff and have a skills development programme. Incentives include an exemption from the turnover tax for three years, a reduced corporate income tax rate (15 per cent) and an import duty waiver on capital goods. The procedure to obtain a domestic investment certificate is identical to that for a SIC. Additional exemptions from income and municipal taxes for five years are provided to wholly owned Gambian small and medium-sized enterprises (SMEs) and from income tax for five years to special target enterprises, provided they were granted a domestic investment certificate and are compliant with the SWBR in filing annual returns.

Export processing zones. Companies exporting more than 80 per cent of their production can benefit from incentives, which include an exemption of import or excise duty and VAT tax on goods produced in or imported into an EPZ. This excludes goods that enter the customs territory for local consumption, import duty on capital equipment, corporate or turnover tax and municipal tax. The EPZ regime does not require a company to be established in a physical EPZ.

Companies exporting more than 30 per cent of their production. Companies outside the EPZ can benefit from a 10 per cent corporate or turnover tax concession for five years, as well as support by the GIEPA for capacity-building, support in financial planning services and advice, export market research, advertisement and publicity campaigns in foreign markets, and product design and consultancy.

Source: GIEPA (2015) and UNCTAD interviews during fact-finding mission.

* In the case of a reinvestment or an expansion project, investors are granted an annual allowance at a rate of 15 per cent for the depreciation of buildings, including structural improvements and, notwithstanding the rate provided in Schedule III of the Income and VAT Act (2012), an exemption from the import duty on capital goods in accordance with the Customs and Excise Act (2010), and an exemption from the import VAT on inputs for the expansion project.

4. Trade

The Gambia could be a regional trading hub if it overcomes competitiveness challenges. As illustrated in the context section, the country has a long trading tradition and a reputation as a re-export base. It has been a member of the World Trade Organization (WTO) since 1996, and its ECOWAS membership gives it preferential access to a market of over 350 million consumers. The Gambia also benefits from the Everything But Arms initiative of the EU's Generalized System of Preferences, which grants it duty-free and quota-free access to the European Union. However, the country faces competitiveness challenges that impede its potential to become a regional trading hub.

Import and export procedures have improved, but transparency is an issue. Import and export procedures are relatively simple and efficient in comparison with other developing countries (WTO, 2010). In mid-2010, the transition from ASYCUDA 2.7 to ASYCUDA++, the UNCTAD customs management system, increased the efficiency of clearance of goods and fostered transparency in procedures for importers and exporters. This is confirmed by the trading across borders indicator of Doing Business 2017, which ranked The Gambia 112th of 190 countries, higher than the sub-Saharan average (World Bank, 2016c). In practice, ASYCUDA++ has yet to be adopted at all major entry points and other issues arise from its lack of integration with the automated solution used in Senegal.

Supply-side constraints hamper export capabilities. Cashews and groundnuts, which are the main commodities produced locally, are often infected with aflatoxin and parasites. This prevents their export as well as their supply to the local market. The recently created Food Safety and Quality Authority is undertaking capacity-building initiatives to help producers improve quality. However, it faces issues in coordinating with other governmental entities and lacks appropriate human and financial resources. The absence of local laboratories is also a major issue, as all the testing has to be done in Senegal or in the EU. A laboratory is under construction, with the assistance of the Government of India. The Government also created the Gambia Standards Bureau in 2011 to disseminate information and build capacity related to standards (OECD/WTO, 2011). Other problems affecting export competitiveness include high costs and reliability issues for electricity; the state of infrastructure at the port of Banjul, where only one scanner is working, and difficulties at Banjul International Airport in attracting cargo companies.

Border administration challenges and sanctions have negatively affected trade. Bans are regularly imposed on imports of specific products – for instance, in February 2016 on onions and potatoes. Closures of the border with Senegal, one of The Gambia's key export and transit markets, have occurred several times for periods of varying duration. For instance, the border was closed during the UNCTAD fact-finding mission. In addition, The Gambia was recently excluded from the AGOA of the United States, which was one of the few markets importing processed food according to the MOTIE.[26] In addition, there is a low rate of utilization of the ECOWAS Trade Liberalization Scheme, notably due to a lack of awareness of customs procedures at ECOWAS borders (EIF, 2013).

The EPZ regime partially addresses key operational constraints. As mentioned in the previous section, the EPZ regime can cover geographically determined zones or individual enterprises. Physical EPZs can be owned and operated by the GIEPA or by a private zone developer or operator. The EPZ model adopted focuses mainly on fiscal incentives and the simplification of customs procedures. However, the facilitation aspects of operating within a zone are only partially addressed. For instance, in the absence of a reliable electricity supply, companies rely heavily on oil-powered generators. However, oil is not included in the duty waiver of EPZs. In addition, while zone developers are responsible for building the infrastructure within the EPZ, the infrastructure to connect the zone to the main export ports remains weak, thus affecting the cost and time of transportation. Finally, limited human and financial resources prevent the GIEPA from conducting large-scale EPZ promotion campaigns, which is one of its responsibilities (see chapter II).

The National Export Strategy 2013–2017 was developed to address some of these key constraints. The National Export Strategy (NES) covers a wide range of industries, including groundnuts, cashews, fisheries, horticulture, tourism, manufacturing and re-exports. It also proposes plans to address cross-cutting bottlenecks in transportation and trade facilitation, telecommunication, financial services, human resources, and research and development. It sets objectives to develop value chains with the assistance of the private sector. In this regard, the absence of business linkages programmes aimed at developing the capacities of local SMEs, such as local cashew and groundnut producers, to participate in the production and export channels of larger enterprises represents a noticeable gap. The NES is being implemented at a very slow pace owing to lack of funding and is for now being rolled out in key sectors. It has been mainstreamed into PAGE I and II and also into the Diagnostic Trade Integration Study, updated in 2013.

5. Labour

The Labour Act improved the regulation of employment and the protection of workers' rights. According to the Act of 2007, contracts can be temporary, permanent or concluded for a specific task, and need to be in writing for periods of six months or more. The Act grants maternity leave (although the formal wish to return to employment has to be explicitly formulated within six weeks of giving birth); annual leave (with duration depending on the number of years spent in the company), sick leave and public holidays. The investor also has to contribute to social insurance and welfare programmes for workers in accordance with the social security laws. The retirement age is 60 but can be extended by contract. The transfer of a contract without the consent of the employee is forbidden. In case of insolvency, all contracts are transferred to the new owner. The Gambia has also ratified the 8 core ILO Labour Conventions, but it has not ratified any of the 4 priority governance conventions or any of the 177 technical conventions. In addition, 70 per cent of urban employment is informal, which means that a large majority of employees are not protected (ITUC, 2010).

Termination provisions lack clarity and can lead to unpredictable outcomes for both employee and the employer. The Act lists reasons for which an employee cannot be dismissed, including, among others, pregnancy or membership in a trade union, but the reasons for termination often lack clarity. Following the Act, an employee can be terminated if "there is a valid reason connected with the capacity or conduct of the employee, or based on the operational requirements of the enterprise" (article 83.1). An employee can terminate the contract or employment without notice period if "the employer's conduct has made it unreasonable to expect the employee to continue the working relationship" (article 86). These criteria are very vague and lead to unpredictable outcomes whose accordance with the law has to be decided judicially, case by case.

The rights to organize and to strike are recognized, but restricted. The GIEPA Act (2015) creates an obligation for the employer to grant trade union representation if the majority of employees indicate such a desire. Registration of employers' organizations and trade unions at the Register General is mandatory within 30 days of their foundation and is subject to a minimum membership requirement of 50 employees. The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) in 2015 recommended reducing the requirement to 25 members (ILO, 2016). Registration also requires the submission of a list of names and details on the funds, effects and expenditures. The failure to do so can be sanctioned by a fine and/or imprisonment, which can in practice have a deterring effect. Industrial action is subject to a notice of 14 days, must not be political and cannot affect the continuation of a service that would endanger the life, personal safety or health of all or part of the population. No information is given concerning the procedure to be followed to adhere to these criteria, which led the ILO CEACR to ask for more precise information (ILO, 2016).

Tripartite organizations are provided for, notably to set the minimum wage, but do not meet regularly. The general minimum wage is set at $3 per day, according to the trade unions interviewed during the fact-finding mission. Sectoral Joint Industrial Councils comprise an equal number of representatives of trade and employers' organizations, in addition to two independent members. They decide on the minimum terms and conditions of employment of any employee or category of employees within an industry, including minimum wage, overtime and annual leave. In addition, a Labour Advisory Board, comprising eight members, with an equal number of employees and employers, public officers and additional persons appointed by the MOTIE, plays an advisory role. It reviews the classification of grades and wage levels established for trade-tested employees, i.e. individuals who have acquired knowledge, skills and competence in a particular occupation but do not possess a formal qualification.

The Labour Act of 2007 provides for labour inspections, but the Department of Labour lacks human resources and the inspection criteria are not always clear. Labour inspectors are allowed to enter the company at any hour, provided they have a warrant or the consent of the employer. They can also interrogate, require the production of documents and take samples of the products used, and may be accompanied by a police officer. The names of the sources of the complaints are confidential, and the labour inspectors must preserve the secrecy of any manufacturing and commercial secret or working process. Obstruction is sanctioned. In practice, however, the Department of Labour reported during the fact-finding mission that it only has two labour inspectors and inspections are not conducted frequently enough. In addition, representatives of the private sector also reported that some of the labour safety requirements are not always defined by the texts, which may in practice lead to arbitrary measures detrimental to both the employees and the employers.

A scarcity of skills affects the labour market. The Gambia suffers from high unemployment and underemployment, compounded by a shortage of skilled workers and trained professionals. The private sector representatives interviewed during the fact-finding mission stressed the need to organize in-house training for their newly recruited employees. Most interviewees nonetheless recognized the efforts made by the Government, notably with the establishment of the National Education and Technical Training Levy (see section B.3). Collected by the GRA, part of this revenue (75 per cent) goes to the National Accreditation and Quality Assurance Authority,[27] which is responsible for technical and vocational education and training, to be disbursed in part to companies, in accordance with the needs identified. This has had some positive results, notably in construction and semi-skilled jobs.

The regime for hiring foreign workers is liberal but expensive and not targeted at attracting missing skills. Foreigners can represent up to 20 per cent of the total number of employees of a company, with no distinction between management personnel and workers. The recruitment of foreigners is subject to annually renewed applications and payment of an expatriate quota tax, which varies for West African and non-West African employees (table 1.1). Applications are submitted to the Expatriation Quota Allocation Board, under the MOTIE.[28] Foreign employees obtain a joint residency and work permit. The GIEPA facilitates the process for foreign investors and their families, as well as for shareholders and even workers, in the case of SIC holders. The regime is more liberal than similar regimes across the continent, though more costly, and does not rely on a labour market test aimed at assessing skills requirements. In addition, it is not targeted at attracting and diffusing missing skills, and in some sectors or certain categories of skills, it could open the door to foreign hire based on wage competitiveness, rather than talent or skills. Indeed, several stakeholders reported during the fact-finding mission that tensions frequently arise within companies between foreign and local employees.

6. Environment

Environmental degradation and depletion of natural resources have continuously contributed to poverty and poor health and have retarded development in The Gambia. To control and mitigate these problems in a coordinated manner, the Government formulated the Gambia Environmental Action Plan (GEAP Phase I in 1992 and GEAP Phase II from 2009–2018). The legal basis for environmental impact assessments (EIAs) falls under three rules: Part V of the National Environment Management Act 1994, which provides for the procedures and requirements to undertake assessments as well as auditing and monitoring of existing projects; the EIA Guidelines (1999); and the EIA Regulations (2014). The projects that require EIA include hydrocarbon handling, mining, urban development, transportation, tourism, manufacturing and large-scale agricultural projects. The EIAs aim to help conserve and protect the environment for the benefit of present and future generations in a manner that is consistent with the overall goal of sustainable development. The National Environment Management Act also requires strategic environmental assessments of policies, plans and programmes.

The Gambia has introduced a good environmental protection regime but lacks adequate resources to implement it. The institutional framework to implement the regime comprises the National Environmental Management Council (NEMC), chaired by the President of the Republic of The Gambia, and the National Environment Agency (NEA). The

NEMC was created as the main policymaking body for environmental and natural resources in The Gambia and the NEA as the secretariat. Although the Council should meet quarterly, this is not the case in practice given that its chair is the President. The NEA is responsible for the implementation of the EIA programme and acts through its programme officers. The Agency has at least two representatives per region, but it reported during the fact-finding mission that human resources are insufficient, especially in its monitoring and evaluation functions. In addition, environment is defined very largely in the EIA Regulations (2014),[29] which raises implementation difficulties, given the scope of the expertise required.

An EIA is prepared by a private consultant after a screening by the NEA and following the terms of reference set by the scoping report. The preliminary screening determines the type of EIA that is required, which depends on the likelihood of a project's impact on the environment. Projects are classified in three categories:

- Class A projects need a full EIA;
- Class B projects need a preliminary EIA;
- Class C projects do not need an EIA.

In line with good international practice, the criteria according to which projects are classified are clearly spelled out. They are contained in Schedule B of the EIA regulations (2014). Examples of the screening form and the required information to be provided can also be found in Schedule A of the regulations. Following the screening, the NEA prepares a scoping report on the basis of the EIA Guidelines and Principles (1999), and sets the terms of reference of the assessment. An impact study is then prepared by a private consultant. A summary, called the environmental impact statement, is then submitted to the NEA. The NEA decides whether to approve the private consultant selected, but no information is provided concerning the decision criteria. The cost of the EIA is borne by the investor.[30] Environmental approval is subject to public consultations for class A projects. These consultations can take place at two stages: (1) during the preparation of the impact study by the private consultant, the investor needs to provide sufficient proof that public consultations have taken place; and (2) during the evaluation of the impact study, the NEA can organize consultations with the general public.

The environmental permitting process is relatively efficient. The EIA should be conducted within a limited time frame. The NEA indicated during the fact-finding mission that it usually takes an average of 90 days for the environmental approval and two weeks once the impact study is submitted. There is no "silence is consent" rule. During the last two quarters of 2015, 41 EIAs were conducted, of which 35 were approved, 3 were denied and 3 are pending. The reasons for rejecting approval must be put in writing and transmitted to the developer within 14 days following the decision. Appeal can be made to the NEMC. The environmental approval can be revoked for a limited list of reasons (regulation 29). Depending on the project, an investor might have to engage in an environmental monitoring and evaluation programme.

7. Competition

The Gambia's small, highly concentrated market necessitates a strong competition regime to ensure a level playing field. Key sectors are closed to private firms (e.g. energy and water companies operate as statutory monopolies), and quasi-monopolies exist in other industries. For example, in agroprocessing, the Gambia Groundnut Corporation was the exclusive buyer of groundnuts from local producers until 2014, when an Indian company entered the market to pre-finance some cooperatives. This had implications for prices. Effectively, the lack of competition maintains producers in a state of economic dependency and prevents them from expanding their activities.

The Competition Act of 2007 regulates the traditional range of anti-competitive practices, but the implementing regulations are missing. The Competition Act (2007), the Public Utilities Regulatory Authority (PURA) Act (2001) and the sectoral legislation form the legal framework for competition in The Gambia. In addition, the Customs and Excise Act (2010) provides for antidumping and countervailing measures. The Competition Act applies to all enterprises operating in the country. Nevertheless, several exceptions apply, including for statutory monopolies, for practices expressly required or authorized by an enactment or by an agreement relating to the export of goods or the supply of services outside The Gambia, for EPZ activities and for enterprises with an annual turnover not exceeding GMD 250,000 ($6,000). Restrictive agreements subject to prohibition are the collusive agreements and bid-rigging agreements. Mergers and restrictive agreements subject to investigation can be horizontal or vertical (and cover monopoly, abuse of dominant position and dumping), and are defined by thresholds. However, the regulations for the Competition Act (2007) have not been adopted yet.

The regime is implemented by the Competition and Consumer Protection Commission, which has limited sanctioning powers. The Commission can appoint and remove its staff independently. It is composed of a secretariat and five commissioners who are appointed by the executive. In line with good international practice, the Commission has the power to carry out market studies and it has independent investigative powers, including powers to conduct dawn raids at premises. It can initiate an investigation ex officio or on the basis of a complaint. Since its establishment in 2009, the Commission has investigated six cases, notably related to money transfer and insurance. The Commission has the power to seek criminal punishment and financial penalties. The parties that UNCTAD interviewed during the fact-finding mission said this was explained by the fact that the market size is small and that imposing financial fines on companies might lead to business closures. However, this risks depriving sanctions of their deterrent effect.

The Commission faces resource and coordination issues. The implementation of the Commission's Strategic Plan for 2012–2014 suffered from a lack of financial resources, which are provided by the National Assembly, and limited human capacity. Out of a staff of 27, just 9 are professionals. The strains on Commission resources have increased with the adoption of the Consumer Protection Act (2014), which added consumer protection to the agency's mandate. Finally, although the Commission has signed memoranda of understanding with the Public Procurement Authority and the Central Bank of The Gambia, there are coordination issues with the PURA, the sectoral regulator for water, energy and telecommunication.

8. Governance and access to justice

The interventions of governmental entities in business operations and the lack of predictability in the implementation of the laws exacerbate the risks of rent-seeking behaviour. Lack of clarity in some key legislation, onerous reporting requirements imposed on investors and EPZ companies, the quasi-permanent presence of GRA representatives within companies to assess their taxes, and erratic controls create a context in which interactions with civil servants are frequent and can lead to opportunities for corruption. This is reflected in international rankings, including in Transparency International's corruption perception index of 2015 in which The Gambia ranked 123rd of 168 countries (Transparency International, 2015). It is also reflected in the global governance indicator, in which the country scored 21 of 100 on the control of corruption in 2015 (World Bank, 2016d).

The Gambia has adhered to the main international agreements against corruption, but the domestic regime is weak. The Gambia is party to the United Nations Convention Against Corruption and to the African Union Convention on Preventing and Combating Corruption and Related Offences. It also adopted the Anti-Corruption Commission Act in 2012. However, the Act covers a wide array of offences, including narcotic drug trafficking, human trafficking and child labour, tax evasion, theft of intellectual property and piracy. The whistle-blower protection in the Act is also insufficient. In particular, reports of offences are nominative, and false statements and returns are punished if committed knowingly, but the criteria for qualifying the intent are not defined.

The mandate of the Anti-Corruption Commission is dispersed, and its statutory independence could be strengthened. Quite unusually, but in line with the broad coverage of the Act, the institution in charge of its implementation – the Anti-Corruption Commission – is also responsible for coordinating the enforcement of the Economic Crimes (Specified Offences) Act, the Hoarding (Prohibition) Act, the Drug Control Act, the Trafficking in

Persons Act and any other law or regulation relating to corruption, economic and financial crimes, including the Criminal Code. The Act assigns investigative and prosecutorial powers to the Commission, which is in principle independent. However, the Office of the President has the power to remove any member of the Commission for inability to discharge their functions, among other reasons. In practice, no Commission has yet been established. The Solicitor General indicated during the fact-finding mission that this was due to the difficulty of identifying appropriate commissioners.

Dispute settlement among private parties is relatively efficient. There are no specialized commercial courts, and disputes are examined by district tribunals, which are present in all the districts of the country, and by the High Court. The time and cost for enforcing contracts are lower in The Gambia than the average for sub-Saharan countries, at 407 days to solve a commercial dispute at 37.9 per cent of the cost of the claim, compared with the sub-Saharan average of 655.2 days at a cost of 44.3 per cent (World Bank, 2016c). In addition, the average time for resolving land disputes before district tribunals is only 30 days (Bensouda, 2013). In the High Court, however, it can extend from eight months to four years.[31]

Alternative dispute resolution mechanisms are allowed for civil cases. The ADR Act (2005) introduced access to ADR mechanisms. As a result, the ADR Secretariat was established in 2005 and has three offices (in Banjul, Farafenni and Basse); it can deal with land and commercial disputes. In addition, informal and community systems of ADR exist for land matters. However, as of 2015, only about 100 cases had been resolved through ADR, according to information provided by the Solicitor General during the fact-finding mission, notably because of a lack of awareness of the mechanism. To address these problems, the United Nations Development Programme Office in The Gambia has recently conducted sensitization campaigns on ADR and legal aid. These used television and radio media as well as community sensitization efforts in Greater Banjul, the North Bank Region and the Upper River Region. The project also involves the development of a database and website for ADR activities, and an ADR code of conduct and ethics for ADR practitioners.[32]

Issues related to the independence of the judiciary are of concern for the private sector. According to the information provided by the Solicitor General during the fact-finding mission, becoming a magistrate in The Gambia requires the submission of an application to the Judicial Service Commission, after obtaining a law degree. The President appoints judges in the superior courts upon the recommendation of the Commission. In practice, private sector representatives interviewed during the fact-finding mission stated that judges are often recruited abroad because of lack of independence and fear of repercussions, particularly when public entities are involved in the proceedings. Since 2013, three chief justices have been relieved of their functions.[33]

Obtaining access to laws, regulations and judgements is also difficult. These official issuances are not publicly available, except at the time of their adoption and publication in the Official Gazette. A contract was concluded with LexisNexis in 2009 for the publication of all the country's legislation; however, access is not free of charge. During the fact-finding mission, the laws and regulations were sometimes not accessible at the entities that are in charge of implementing them, which adds legal uncertainty to the implementation process.

9. Recommendations

Business establishment

The time and cost required for business establishment are high. In addition, there are only two physical single windows in the country and online access is not provided. The Government could thus consider the following actions:

- B.1.1. Mapping the business establishment procedures and further streamlining them, for instance by eliminating the company seal process;
- B.1.2. Publishing the complete list of procedures and making them binding, to improve transparency and predictability;

- B.1.3. Introducing online business establishment, based on a single application form and the electronic payment of the relevant fees. This would help extend the reach of the single window to regions that lack access to the SWBR. It would also help address human resources constraints and limit the risks of corruption.

The UNCTAD Business Facilitation Programme,[34] which has provided assistance in the adoption of e-government solutions to several countries, could prove useful to assist The Gambia in addressing these issues.

Land

The complexity of the land regime, the lack of clarity in the procedures for the individualization of customary land, and the lengthy registration process all have an impact on title security. In addition, the requirement for ministerial consent to use leasehold title as collateral can hinder access to finance in a context where finance constitutes a key obstacle to private sector development. Finally, the Government frequently intervenes in land use and several expropriations were reported. To address these issues, the Government could consider the following actions:

- B.2.1. Establishing the Lands Commission provided for in the Lands Commission Act (1997) to bring together all land-related stakeholders to discuss bottlenecks and identify solutions;
- B.2.2. Considering the establishment of a Land Investment Committee to streamline the land appraisal procedures between the Ministry of Lands and the GIEPA;
- B.2.3. Clarifying the criteria and procedures under which customary land can be individualized or transformed into State land, and spelling out the timelines, conditions and compensation mechanisms;
- B.2.4. Increasing the efforts towards establishing secure, effective and timely land registration procedures, including by introducing a fully electronic registry and cadastre;
- B.2.5. Facilitating the use of lease titles as collateral and their transferability by removing the mandatory ministerial consent;
- B.2.6. Improving the guarantee of stability of land titles by refraining from interfering in the use rights of lessees.

Taxation

Notwithstanding recent reforms, the tax regime remains burdensome for companies. This is due to the high number of taxes, the excessive number of payments, the low predictability in predetermining the amount of taxes that will have to be paid and the existence of unusual taxes such as excise duty on all locally manufactured products. Several incentives schemes are provided, but burdensome reporting requirements reduce their impact, and the schemes have so far failed to produce the expected results. Further simplification is needed to rationalize taxes, streamline procedures and encourage compliance. To improve the situation, the Government could consider the following recommendations:

- B.3.1. Continue reviewing and simplifying the taxation regime, considering not only the key rates but also the impact of the municipal taxes, and the administrative and compliance costs for the tax authorities and for businesses.
- B.3.2. Reduce the scope of application of the excise duty from all manufactured products to a limited list of specific products (such as tobacco, alcohol or luxury goods). Beyond improving the competitiveness of local manufacturing, this measure would also free up a significant amount of human resources for the GRA and reduce the perception of Government interference associated with the permanent establishment of tax officers within companies.
- B.3.3. Increase the transparency and predictability of the tax regime by allowing binding advance tax rulings and building the capacity of the GRA staff.

- B.3.4. Simplify the tax collection mechanisms by lowering the number of payments, for instance for VAT, and progressively introducing electronic filing and payment of taxes. This, in turn, would lower the risks of corruption and have a positive impact on transparency.
- B.3.5. Reduce the reporting requirements on businesses benefiting from incentives, and introduce systematic cost-benefit analysis of incentive schemes to ensure their effectiveness for moving towards achieving the Sustainable Development Goals.

Trade

The export potential of The Gambia is hampered by a series of supply-side constraints and policy issues. Furthermore, the EPZs have not achieved the expected results as they rely almost exclusively on fiscal incentives rather than on trade facilitation. Developing trade and increasing The Gambia's participation in global value chains will require the adoption of policies oriented towards the development of trade-related infrastructure and adding value to local production. The Government of The Gambia could consider the following actions:

- B.4.1. Continuing to increase the transparency of customs procedures. The implementation of the latest iteration of the customs management system – ASYCUDAWorld – should support these efforts. Being web-based, ASYCUDAWorld enables the customs administration and traders to handle most of their transactions online, from customs declarations to transit documents.
- B.4.2. Stepping up efforts to train and build the export capacity of local producers by taking stock of the country's current capabilities and embedding exporters' needs in the NES. In addition, proactive support for the establishment of business linkages between local SMEs and larger exporters, including foreign companies, should be introduced by the GIEPA and the MOTIE.
- B.4.3. Addressing key infrastructure gaps surrounding EPZs and their links to ports of export, including access to reliable electricity and transport infrastructure, and rationalizing business reporting requirements.
- B.4.4. Intensifying efforts to secure access to markets, including re-entering the AGOA and lowering the incidence of policy changes on trade, including by conducting systematic regulatory impact assessments (see section B.9.5).

Labour

Although the Labour Act (2007) modernized the regulation of employment relations, the provisions on termination are not clear, and the rights to organize and to strike are restrictive in some aspects. In addition, although the regime for the entry of foreign workers is liberal, the current threshold mechanism does not establish a clear link between their recruitment and the scarcity of local skills, which creates tensions between foreign and local workers. In light of these issues, the Government could consider the following actions:

- B.5.1. Clarifying the criteria for termination, both by the employer and by the employee, in line with good international practice;
- B.5.2. Adopting clear compliance guidelines for technical, safety and other labour standards in order to facilitate the implementation of the relevant regulations, enhance predictability and increase the efficiency of labour inspections;
- B.5.3. Implementing fully the recommendations of the ILO CEACR and clarifying the situations in which industrial action could be detrimental to essential services;
- B.5.4. Introducing a key personnel scheme whereby investors can freely hire a given number of foreigners in managerial and technical positions, while restricting the recruitment of foreign workers to profiles for which there is a shortage of skills in the local labour market. The list of scarce skills would be annually reviewed at a

tripartite level involving the Government, the business sector and the employees' associations. The expatriate quota tax would consequently be removed for employees on the "scarce skills list" and maintained or increased for others;

- B.5.5. Granting automatic work and residency permits in situations where local employees cannot fulfil the job requirements and considering extending these permits to at least three years, including for families.

Environment

The EIA regime in The Gambia is modern and in line with good practice. However, the current lack of human resources might limit its effectiveness. To improve the situation, the Government could consider the following actions:

- B.6.1. Introducing a certification mechanism for consultants who would be responsible for preparing environmental impact assessments;
- B.6.2. Boosting human and financial resources at the NEA, which is in charge of monitoring and evaluation functions, including by ensuring that environmental permitting fees are set on a cost-recovery basis.

Competition

The Competition Commission faces human and financial resource constraints, as well as difficulties in coordinating with the sectoral regulator. The addition of consumer protection to its mandate in 2014 further eroded its ability to perform its assigned duties. To improve the competition regime, the Government should consider the following actions:

- B.7.1. Build human capacity and increase the financial resources of the Competition Commission. Regarding financial resources, options include increasing the capacity of the competition authority to be financed by its own means. Some countries opt for participation in the company registration fees of large companies, and others have introduced notification fees.
- B.7.2. Clarify the mechanisms for coordination between the Competition Commission and the PURA, and implement the signed Memorandum of Understanding.

UNCTAD provides assistance on competition policies and institution-building to several countries and could support the efforts of the Government of The Gambia in this area.

Governance and access to justice

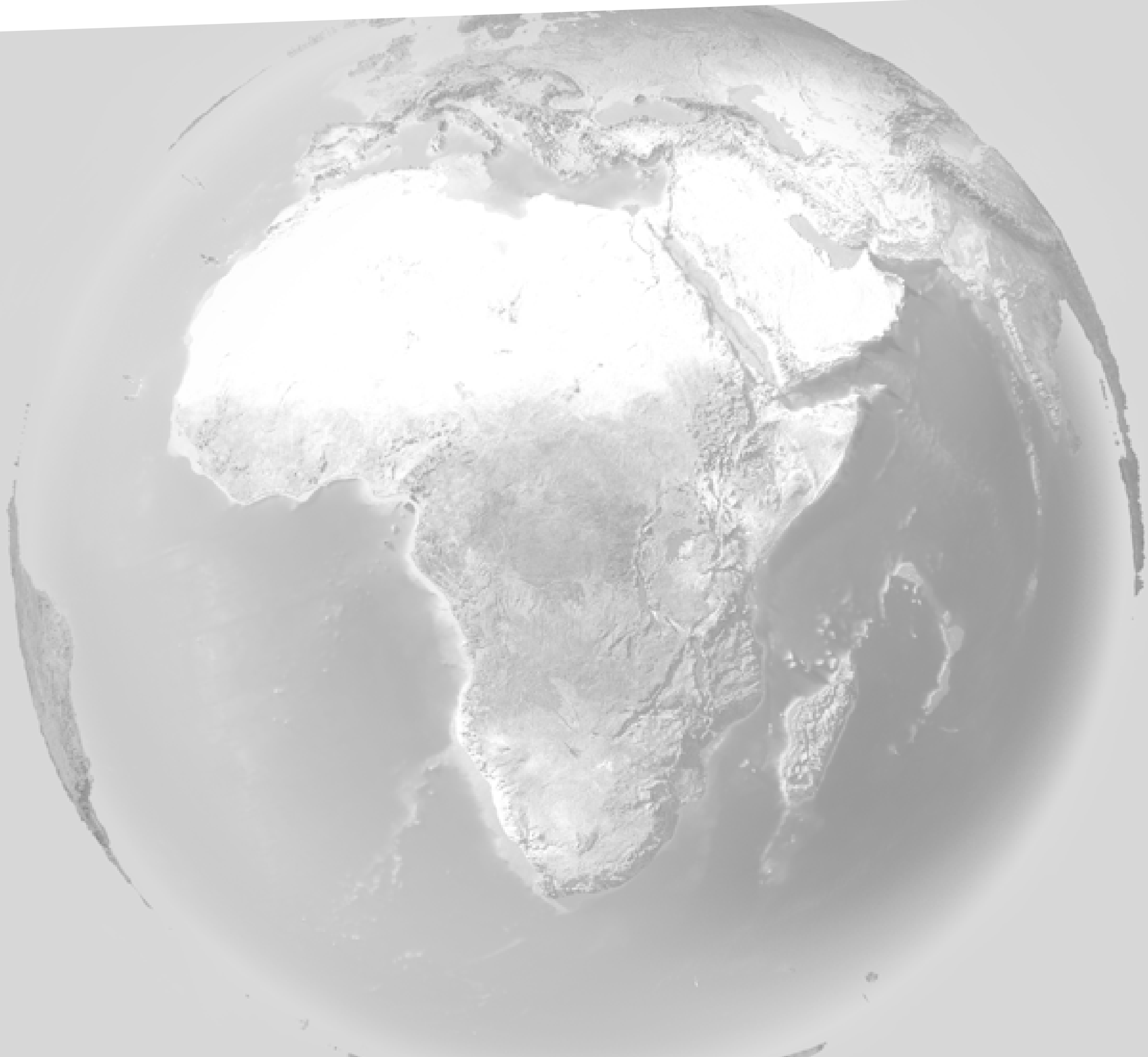
The Gambia has engaged in important efforts to improve economic governance and fight corruption. Nonetheless, sudden policy changes continue to affect key business operations and reduce the transparency and predictability of the business climate. In addition, judicial independence is often questioned and public access to laws, regulations and judgements is limited, which affects the transparency of the investment regime. Finally, the scope of the Anti-corruption Act and the mandate of the Anti-corruption Commission are overly broad and the agency is not yet operational. This situation undermines perceptions of the business environment, which is viewed as corrupt. Beyond adopting the reforms recommended above, including increasing the use of e-government tools and facilitating access to laws and regulations, the Government could consider these actions:

- B.8.1. Re-focusing the Act on a standard range of anti-corruption provisions, strengthening whistle-blower protection and improving tools to denounce corruption-related offences; for instance, by creating a dedicated, website for receiving anonymous complaints;
- B.8.2. Narrowing the responsibilities of the Commission to traditional corruption offences and making it operational by providing capacity-building to its staff in order to enable it to perform its role efficiently;

- B.8.3. Strengthening the independence and impartiality of the judiciary, even when public entities are involved in the proceedings, and building the capacities of magistrates and judges who deal with commercial disputes;
- B.8.4. Allowing free public access to laws, regulations and judgements; for example, on the Ministry of Justice's website;
- B.8.5. Introducing systematic regulatory impact assessment before the adoption of laws, regulations and directives to improve the transparency and predictability of the business climate.

CHAPTER 2

Promoting investment in priority sectors



FDI can contribute to The Gambia's development objectives. As highlighted in the context section of this review, The Gambia's main economic development policies – the Programme for Accelerated Growth and Employment, the National Vision 2020 and the Private Sector Development Strategy – clearly recognize the importance of private investment, and FDI in particular, for their successful implementation. Although the objectives set out in these documents are ambitious, the public resources for their implementation remain very limited. For instance, the cost of implementing the PAGE 2012–2015 was estimated at $651.54 million, of which the Government committed 35 per cent (Republic of The Gambia, 2011b). In addition to public investment, loans and grants, there is a need for increased foreign and domestic private investment to fill the gap. Beyond a purely financing role, FDI can also help achieve the country's development objectives through positive spill-overs, including technology, knowledge and skills transfer to the local economy. That said, although Government policies aim to foster FDI, no detailed analysis exists of the role FDI is expected to play in private sector development in general or in the development of specific sectors.

The potential of FDI has been underrealized. Foreign investment is present in several sectors (see context section) but has contributed relatively little to The Gambia's economic and social transformation. Despite being a source of foreign exchange and creating some jobs, FDI has played a limited role in reducing poverty and in improving the quality of life of Gambian citizens. Moreover, fully reaping the benefits of FDI requires a strong and vibrant local private sector, but so far the private sector has remained underdeveloped and weak.

The Government has an essential role in promoting strong national leadership for FDI and strengthening private sector development. Government support to the local private sector has often taken the form of short-term, protective measures, targeted at specific projects or enterprises. For example, some domestic suppliers of agricultural inputs may have benefited, for a given period, from a ban or higher tariffs on competing imports. Furthermore, the sector is also negatively affected by costly and time-consuming enterprise registration procedures as well as a cumbersome tax system (chapter I, section B.3). A long-term vision that recognizes the private sector and investment projects as engines of growth and sustainable development is therefore required. Such a new approach would transform the role of the Government: it would support local enterprises in developing their capacities in order to produce higher-quality goods and improve their overall competitiveness.

A better understanding of the private sector can lead to more effective policies for development. It is important for the Government to understand the challenges faced by enterprises in their day-to-day operations in order to adopt the right measures to improve the business environment. This is relevant for horizontal constraints, which affect the development of the private sector as a whole, such as the cost and reliability of electricity or the limited capacity of public institutions to support SMEs.[35] It is also useful for vertical constraints, which impact a particular sector. For instance, as mentioned in chapter I, the absence of business linkage programmes between local SMEs, such as local cashew producers, that enable them to participate in the production and export channels of larger enterprises, remains an important constraint on the development of their capacities and consequently on the sector's value chain. To gather this information, the Government needs to put in place institutionalized mechanisms for businesses to voice their concerns and to engage in a policy dialogue with a wide range of stakeholders, including foreign and local investors, to design appropriate responses.

At the request of the Government, this chapter analyses the potential role of FDI in developing three priority sectors – agroprocessing, light manufacturing and ICT. These three sectors, as with the rest of the economy's sectors, faced significant challenges following the economic and financial crisis and the ebola outbreak. Nevertheless, all three sectors have the potential to expand and to contribute more meaningfully to the Gambian economy. For instance, in 2013, of 54 companies with at least a $100,000 investment that had registered with the GIEPA for incentives, 20 were in the manufacturing sector, including agroprocessing and light manufacturing (United States Department of State, 2014). Of these 20 companies, almost half were wholly financed with FDI and more than a quarter were joint ventures. The ICT sector also has great potential: it can foster the development of a much broader range of economic activities through social, economic and political connectivity. It can also facilitate access to essential public services, including health and education, and help promote good governance. Indeed, strategies to strengthen this sector can lead to specific ICT-enabled services (e.g., distance learning, access to health care in rural communities), and promote ICT-enabled sectors, such as business process outsourcing and offshore finance.

Policy measures are needed to strengthen the FDI attractiveness of the priority sectors and identify opportunities for FDI attraction. This chapter therefore focuses on sector-specific measures to attract and benefit more from FDI (see annex 1). In agroprocessing and light manufacturing, concrete investment opportunities exist in fish, cashew and groundnut processing and related services along the value chain, as well as in glass manufacturing. The chapter proposes measures to support these investment opportunities, target investors and increase the benefits from FDI in terms of skills and technology upgrading in the local economy, as well as job creation and value addition. In ICT, the Government has already undertaken concerted policy efforts to develop the sector. The analysis therefore centres on how to maintain and strengthen this momentum and ensure that the sector's developmental potential is realized.

This chapter also proposes a phased approach for strengthening GIEPA. The Gambia's investment promotion system is analysed and recommendations are made to strengthen the GIEPA's impact in terms of FDI attraction (see annex 1). In line with international best practice, the GIEPA's new mandate includes many of the functions of a fully-fledged investment promotion agency. However, given the GIEPA's current limited resources, there is a risk that these will be spread too thinly, leaving investment promotion weak or insufficient. Accordingly, the chapter proposes a phased and selective approach with the aim of optimizing the use of the GIEPA's resources and impact. In this regard, for each of the GIEPA's key investment promotion functions, its measures and actions are prioritized and focused on agroprocessing, light manufacturing and ICT.

A. Priority sectors for FDI promotion

1. Agroprocessing and light manufacturing

The agroprocessing and light manufacturing sectors share common characteristics and challenges in terms of their investment performance and development. The two sectors are among the priorities identified by the Government, and their activities have complementarities. In effect, the agroprocessing value chain moves towards light manufacturing as more value is added and the final product evolves in sophistication.[36] In countries where agroprocessing and light manufacturing activities are at an advanced stage of development, separate strategies, notably in terms of investment attraction, may be warranted to further expand them. In The Gambia, however, both sectors are at early stages of development and face similar challenges, as corroborated by statistics and also by UNCTAD interviews with stakeholders, including private sector representatives. Despite these challenges, opportunities for growth exist in both sectors, and FDI can play a role in seizing them, if supported by appropriate policies and promotion measures.

The development of these sectors has been limited by a series of supply-side constraints. The success of the manufacturing sector depends on, among other things, the ability to secure raw materials. The success of primary production, in turn, depends on the availability and affordability of modern inputs and technical services that are not readily available in The Gambia. Low productivity in the production of agricultural inputs in the country and difficulty in abiding by regional and global quality and phytosanitary requirements result from a combination of structural and institutional constraints. These constraints are common to many developing countries, including LDCs. They include weak rural infrastructure, which translates into inadequate delivery mechanisms for the provision of good-quality inputs, such as seed, fertilizer and other agricultural goods and services needed by producers and rural enterprises; underdeveloped water management systems; unreliable and expensive access to energy; and poor storage capabilities. The Gambia is also affected by weak processing and marketing capabilities, the low institutional capacity of producer organizations and agricultural services, and limited research systems as well as insufficient capacity and efficiency of extension services (Republic of The Gambia, 2011; World Bank, 2014). In addition, due to its low-lying topography, high dependence on subsistence rain-fed agriculture and inadequate drainage and storm management system, The Gambia is considered among the countries most vulnerable to climate change. Indeed, it has seen an increase in the length and frequency of extreme weather events, such as droughts and dust storms, in the past decades (Malanding et al., 2011).

Import protection measures and ad hoc policy initiatives have also limited growth potential in these sectors. Although an industrial policy is envisaged, to date there is no specific policy addressing the manufacturing sector in The Gambia. In its absence, the Government's approach has been characterized by short-term and protective trade measures. Often adopted unpredictably, they have taken the form of higher import tariffs or bans on competing imported products as a way to nurture Gambian-based enterprises. This has led to higher prices for basic food commodities or shortages, for instance when domestic egg producers were unable to satisfy domestic demand following a ban on imported eggs. Removing competitive pressure on suppliers of agricultural inputs can also deprive local manufacturing companies of higher quality, volume and variety and consistent supplies of essential inputs. In The Gambia, bans are typically announced on the day they start without specifying a fixed end date, although in the case of seasonal crops, that end date typically corresponds to the end of the harvest.

Recent policy measures adversely affected the priority sectors. One notable example is in the industrial fishing sector. In 2015, changes were introduced in the licensing regime with the objective of increasing the proportion of the catch offloaded by foreign vessels in The Gambia. This measure stemmed from a positive intention by the Government to spread the sector's benefits to the local economy and provide more fish to local factories and the Gambian people. However, this measure led most industrial fishing vessels to shift operations to Senegal.[37] In retrospect, the intended result might have been better promoted by the use of facilitation measures, such as improved efficiency at the port of Banjul and ancillary services. Similarly, the recent ban on plastic bags did not fully consider the economic implications of the policy and insufficient time was given to the private sector to adapt, with devastating consequences for numerous manufacturing companies. Introduced in July of 2015 for environmental reasons, the policy was criticized as being overly broad because it included industrial packaging. It has been blamed for causing the closure of several companies that depended on plastic packaging to deliver their product to market. Finally, as discussed in chapter I (see section B.4), recurrent border closures between The Gambia and Senegal also negatively affected all three priority sectors.

In this context, both agroprocessing and light manufacturing have experienced sharp declines in recent years. The number of commercial farmers of The Gambia's main crops has been reduced over the last two decades from about 30 large firms to 3, which currently serve the export and/or domestic markets. In 2012 and 2013, approximately 16 types of products were manufactured or assembled in The Gambia.[38] Since then, more than a dozen companies have gone out of business and the building material, candy and snack food industries have seen their productive capacities halved.

Despite these challenges, several agroprocessing and light manufacturing enterprises show interest in serving the domestic and/or export markets. Over 20 companies are currently doing business in the country (annex 2). Eleven types of goods continue to be locally manufactured. Mint candies, tissue paper and cosmetics are produced by a single company, and soap is produced by at least three companies. Many of the individual investors and local SMEs are interested in supplying the local market, and several larger companies have also found investment opportunities within it. A case in point is the Gambian Milling Corporation, which is a subsidiary of Seaboard Overseas Group, a company based in the United States. The parent company's strategy has been to expand broadly into relatively small markets with large underserved demand, a strategy that has taken it to more than two dozen locations around the world, including 16 in sub-Saharan Africa. A number of other companies export to the West African region as well as to the United States and European markets.

Successful investors typically have local knowledge and ties to The Gambia. Most established investors are Gambians, regionally based investors or foreign investors with previous experience doing business in The Gambia. Foreign investors have also engaged in joint ventures with domestic entrepreneurs (annex 2). In the case of a Chinese investment, for example, the investor had been employed in timber procurement and export in The Gambia before deciding to invest in light manufacturing. Most of the investments classified as Lebanese are in fact made by individuals of Lebanese origin whose families have been settled in The Gambia or other parts of West Africa for decades. Such individuals and SMEs with tacit knowledge of and ties to The Gambia represent a valuable pool of existing as well as potential investors, and their role is crucial to the development of the priority sectors.

Addressing horizontal challenges will require a strong, long-term policy commitment from the Government and the implementing agencies… Many of the supply-side constraints that affect the Gambian agriculture sector are recognized in the Agriculture and Natural Resource Policy 2009–2015 (ANR) and the Gambian National Agricultural Investment Plan 2011–2015 (GNAIP).[39] The National Export Strategy (NES) also aims to address some of the cross-cutting bottlenecks that affect trade (see chapter I, section B.4) and is the only Government strategy to directly touch upon manufacturing. Achieving full implementation of these policies will be essential for putting the agriculture sector on a more commercial footing, by boosting the volume, quality, affordability and supply consistency of the primary output, which serves as the raw material for agroprocessing and light manufacturing.

…and private sector involvement. Chapter I called for a more transparent and predictable regulatory environment for all investors as well as a new governmental approach to private sector development. Consultations with the private sector and more systematic regulatory impact assessment will be key to the success of the implementation process as well as the development of the upcoming new GNAIP. A participatory process would help to better assess any potential adverse or unintended consequences of policy measures before they are implemented. Increasing the competitiveness of the agriculture and agroprocessing sectors by addressing regulatory and infrastructure bottlenecks would also enable the authorities to reduce reliance on the type of firm-specific protective trade measures that they have used in the past.

In the short and medium terms, concrete investment opportunities in various manufacturing subsectors can be seized. Strengthening the Gambian agriculture sector through the implementation of the ANR and the GNAIP is a long-term commitment that will open up opportunities along the value chains for both agroprocessing and light manufacturing. Meanwhile, several opportunities for investment can be exploited. The rest of this section will provide recommendations on the type of policy measures that can optimize the impact of FDI in the following subsectors: fish processing, cashew and groundnut processing, and related services along the value chain. Glass manufacturing is also considered, although it may take longer to realize.

a. Fish processing

Industrial fishing is declining… Twenty fishing companies were registered in The Gambia in 2012. In 2014, industrial fisheries supplied as little as 10 per cent of total national fish consumption and an estimated 20 per cent of locally processed fish (UNCTAD, 2014). Indeed, the majority of fishing vessels at the time, 90 per cent of which were foreign-owned, landed their catches abroad, principally in Senegal, for processing and value addition. This deprives The Gambia of foreign exchange and employment generation opportunities. It also reduces the availability of fish for local consumption and industrial processing. Weak links with the local economy are in part what motivated the change in the industrial licensing regime in 2015, which increased the percentage of catch that fishing vessels are required to offload locally. However, the absence of a dedicated modern fisheries port, coupled with other supply-side constraints such as lack of storage facilities, high energy costs and less competitive ancillary services than neighbouring Senegal, led most of the industrial fishing vessels to relocate following the licensing regime change.

…but artisanal fisheries thrive… Artisanal fisheries supply the largest amount of raw material for local fish processing, which is largely characterized by low value addition and is directed at the local and regional markets.

The artisanal fisheries subsector consists of fishermen and women operating in small units or on an individual basis, employing little equipment and technology. Despite the small scale of its operations, in 2014 the artisanal sector provided 90 per cent of national fish consumption and was the main source of raw material for the industrial sector. Bonga and sardines are the main species landed by artisanal fishers. These are consumed locally or exported to countries in the region. Their processing involves traditional smoking and drying.

…and supply a number of fish factories, with significant FDI involvement, that engage in higher value added processing and export to the EU, North America and Asia. A number of industrial fish processing companies engage in higher value added activities, including washing, sorting, packaging and freezing fresh fish, mainly to serve export markets, using fish from the artisanal sector. One of the first larger foreign companies to do this was Atlantic Seafood, which exports 12 types of seafood products to markets, including in Europe and South Africa. The newest fish processing company in The Gambia, Chinese-owned Golden Lead, started operations in 2016. It purchases sardines from artisanal fisheries and processes them for oil and meal for export to Asia. This type of sourcing is less costly for investors than industrial fishing, which requires substantial investments in the purchase, operation and maintenance of industrial fishing vessels.

FDI can further contribute to the development of local industrial fish processing, which has significant potential for generating employment, alleviating poverty and contributing to environmental sustainability. Whereas artisanal fishing provides direct and indirect unemployment to between 25,000 and 30,000 people, in 2012 just over 200 people were employed by the four industrial factories then in operation (UNCTAD, 2014). Targeting more foreign investors who can invest in local industrial fish processing can contribute to the expansion of the sector and stimulate an increase in wages and employment, in particular for women, with important impacts in terms of poverty alleviation. This is because the fish processing industry tends to be “female intensive” (UNCTAD, 2014). In addition, foreign processing companies that source from small-scale fisheries can contribute to upgrading the capacity of those fisheries through the transfer of skills, know-how and training to meet phytosanitary requirements for export as well as through the adoption of modern and environmentally friendly fishing practices (box 2.1). This would contribute to a more sustainable management of The Gambia’s stock of fish resources and is in line with the President’s commitment to promote and advance the Sustainable Development Goals, in particular with respect to goal 14, which aims to “conserve and sustainably use the oceans, seas and marine resources.”

Policies that support the upgrading of fishing landing sites would encourage more local offloading of fish and local fish processing. In order to interest investors in the subsector and incentivize greater use of local facilities to ensure a greater contribution to development, the provision of local services for the industrial fishing sector needs to be strengthened. In this regard, the Government should continue its efforts to equip local fish landing sites, including artisanal landing sites, with the necessary infrastructure facilities as well as infrastructure and means for fish distribution and marketing throughout the country. This should be accompanied by activities to build capacities and enhance technical skills for fishing and fish processing. As described in box 2.1, foreign investors can play a role in upgrading skills and infrastructure, but so far, initiatives to promote the transfer of skills and technology through the promotion of business linkages have been limited and receive no structured government support. In addition, to avoid depletion of fish stocks and prevent unfair competition, measures to combat illegal industrial fishing should be strengthened. UNCTAD interviews with stakeholders confirmed that local artisanal fishermen and women have been confronted with illegal trawlers fishing within the restricted seven-mile zone and destroying their nets.

In addition, policy measures to strengthen the institutional set-up for small-scale fisheries can contribute to greater private investment and FDI in fish processing. Enterprise agglomeration may determine “collective efficiency”, which in turn enhances the productivity and overall performance of clustered firms. There is significant potential for cooperative and cluster development in the small-scale fisheries sector (UNCTAD, 2014). It is important to consolidate and expand the network of fisheries associations and community-based organizations. Promising initiatives include the Sustainable Fisheries Livelihood Programme Post-Harvest Fisheries Project (FAO and IFAD, 2012). This project has clustered fish post-harvest operators into legalized village-based groups, local government groups and a national fisheries post-harvest operations platform. Such an initiative can foster the competitiveness of small-scale fisheries through learning and skills upgrading. It can also help to address common constraints, such as access to credit, in a collective manner. Because efficient local sourcing is a key determinant for prospective fish processors in the sector, such measures can increase The Gambia's attractiveness to FDI.

Box 2.1. Atlantic Seafood Company: contributing to the economy through local sourcing

The Atlantic Seafood Company is a Dutch-owned company that began its fish processing operations in The Gambia in 2004. It has seven factories, employing 50 permanent staff and an additional 100–150 people in the peak season, 80 per cent of whom are women. It purchases fish directly from more than 300 small artisanal fishing boats, operated by an average of 3–4 fishermen and women.

The company has invested in the improvement and professionalization of local fisheries. For example, it recently purchased four ice machines so that the majority of the fishing boats can go out fishing for longer hours with ice on board. In addition, the company is adopting several sustainable fishing practices. The Marine Stewardship Council has green-listed the tropical sole caught in The Gambia with the use of artisanal, bottom-gill-net fishery and is being assessed by the organization to become one of the first small-scale fisheries certified by the Council.

Source: Atlantic Seafood Company.

b. Groundnut and cashew processing

Groundnuts and cashews are important cash crops in The Gambia and contribute significantly to foreign exchange earnings. Although the country is a small player worldwide in terms of production and exports of groundnuts and cashews, these two cash crops are of paramount importance to the Gambian economy. For example, the production of groundnuts occupies 45 per cent of the agricultural land and employs about 70 per cent of the workforce, and groundnuts account for about 66 per cent of all exports of agricultural products (ITC, 2015). In 2015 The Gambia produced and exported 8,000 tons of cashews. In that year, more than 20 companies imported and re-exported 17,000 tons from the Casamance region of Senegal (7,000 tons produced in that region and 10,000 tons transiting from Guinea-Bissau).

The country's relative success in adding value to its groundnut-based exports could be further enhanced. The Gambia outperforms most groundnut-producing countries by exporting more groundnut oil (in value terms) than shelled groundnuts; however, there remains substantial room for growth. The State-owned Gambia Groundnut Corporation, which has two factories, and the Indian-owned private company, Reliance Oil Mill, export a higher proportion than the global average of their groundnut-related products as oil (table 2.1). However, less than 1 per cent of groundnut oil is refined locally, which gives The Gambia room to further develop this segment of the sector.

A level playing field in groundnut milling would be beneficial and could open up possibilities to better serve the domestic market. On numerous occasions, the Government has imposed sporadic bans on private parties purchasing groundnuts at the farm-gate (i.e. purchases by anyone other than the Gambia Groundnut Corporation). As explained in the preceding chapter (see section B.7), a weak competition regime has implications for prices and maintains the local producers in a state of economic dependency, effectively preventing them from expanding their activities and accessing export markets.[40] Enhancing the process of transforming groundnuts into refined oil would make the product more competitive in the domestic and West African markets, and it could be used as a substitute for imported palm oil as cooking oil.[41]

Regulatory improvements should be complemented by supporting policy initiatives. The policy package to encourage more private domestic milling should include professional targeting campaigns aimed at attracting foreign investment in the establishment of groundnut mills and supporting their access to raw groundnuts (see section B, on investment promotion issues). In addition, a public campaign to extol the health benefits of groundnut oil (which is free of trans fats and cholesterol and low in saturated fats) could help develop the domestic market.

Table 2.1. Composition of groundnut-related exports: The Gambia and the world, 2006–2015 (Percentage of value)

Form of groundnut	World	The Gambia
In shell	11.5	3.2
Shelled	72.9	40.5
Oil	13.6	48.8
of which, refined oil	26	0.8
Oil-cake	1.9	7.5
Total annual value (average)	**$303 million**	**$7.7 million**

Source: UNCTAD calculations based on ICT TradeMap data.

Investment potential also exists in creating greater value addition in the cashew subsector. The Gambia is a relatively new player in the cashew industry, and its production is well below that of other countries in West Africa. Its plantations are also relatively young (the acreage is largely less than 10 years old and only some of it is more than 20 years old). This means that most of the trees have reached or are about to reach their full production capacity. In this regard, a recent study of the sector across West African countries firmly identifies the growth potential for The Gambia, as well as other countries in the region, in an environment where global demand for cashews is expected to grow significantly over the coming decade. In The Gambia, cashew production is expected to almost triple by 2025 (Rabany, Rullier and Ricau, 2015). To date, however, virtually none of its cashew exports are processed. Opportunities exist, therefore, to attract further private investment, including FDI for agroprocessing.

Converting investment potential into concrete projects will require innovative approaches. Promoting local processing of raw cashew nuts could have tremendous development implications. It is estimated that a 25 per cent increase in raw cashew nut processing in Africa would generate over $100 million in household income, thereby improving the livelihoods of many rural families.[42] That said, the experience of other African countries shows that developing local cashew processing capacities is not an easy task. On the basis of statistics for 2014/15, Côte d'Ivoire is the largest producer of cashews in Africa. Yet, of the 700,000 tons it produces, most is exported without much value addition. In 2015 for instance, only 35,000 tons were processed in the country, which represents roughly 5 per cent of production, and the annual local processing capacity remains low at 75,000 tons (about 10 per cent of production). Other significant cashew-producing countries in West Africa, such as Benin, Ghana, Guinea-Bissau and Nigeria, also have significant production of cashews and very low rates of local processing. Attracting FDI into cashew processing will therefore require a determined and innovative policy effort.

The Gambia can learn from its own experience with groundnut processing as well as from the experience of others. The approach followed by Côte d'Ivoire and the United Republic of Tanzania (box 2.2) provides some pointers for devising a strategy for developing local cashew processing. Both cases involved significant Government commitment and investment for the rehabilitation or construction of processing facilities. To make the initiatives technically and commercially feasible, the Government also promoted the participation of academia and foreign investors through a PPP. In the case of The Gambia, the feasibility of establishing a successful local cashew-processing capacity will also depend on trade policy measures, reliable provision of electricity at competitive cost and the capacity of local producers to deliver the required output, which also depends on their capacity to access finance. In this regard, the Government should conduct a mapping of domestic production capabilities, including establishing a database of local cashew suppliers, who will be the target of Government assistance. The database could also help foster mutually beneficial linkages between local cashew producers and prospective foreign investors able to process cashews locally. In this regard, a number of tools and measures to promote linkages are discussed in section B of this chapter.

Box 2.2. Developing cashew processing through FDI in Africa

A number of African countries, including Burkina Faso, Benin, Côte d'Ivoire, Ghana and Mozambique, have embarked on the African Cashew Initiative (ACI) with the aim of boosting partnerships in funding and implementation of projects to develop the cashew industry on the continent. These countries have acknowledged that industrializing the cashew industry will notably rely on the capacity to attract foreign investors. Recognizing that attracting investment in agricultural and agroprocessing activities remains a challenge and that so far these activities have attracted limited foreign private investment, the ACI projects aim to better exploit opportunities in the sector through enhanced partnerships and regional cooperation.

In the same spirit, the African Cashew Alliance (ACA) was established in 2006 as an association of African and international businesses with an interest in promoting a globally competitive cashew industry on the continent. Today, nearly 130 companies work under the ACA banner and represent all aspects of the cashew value chain, including producers, processors, traders and international buyers. ACA national committees currently exist in Benin, Burkina Faso, Côte d'Ivoire, The Gambia, Ghana, Guinea-Bissau, Kenya, Nigeria, Mozambique, Senegal and the United Republic of Tanzania.

Among the countries that have made significant policy efforts to develop cashew processing is Côte d'Ivoire, where, since 2013, the Government has put in place an ambitious reform agenda to increase production, in terms of both quantity and quality, with the objective of increasing the revenues of the producers. Part of the reform deals with enhancing governance in the sector, including through improved monitoring of financial flows. Another significant part of the reform aimed at fostering the industrialization of the cashew sector to reach a local transformation share of 35 per cent by the end of 2016. In line with this objective, the Government launched several experiments across the country, including one in Yamoussoukro to transform 5,000 tons of cashews. The project was undertaken in cooperation with Viet Mold Machine, a Vietnamese company, as well as the Félix-Houphouët-Boigny National Institute and the University of Hô Chi Minh City.

The United Republic of Tanzania has also adopted an ambitious approach to cashew development. In order to reduce the loss associated with exporting in-shell cashew nuts instead of processing them (estimated at $551 million over 2009–2013), the Government attempted to dissuade export of the unprocessed commodity by imposing a high export tax. Given the limited success of this measure, the Government then launched a major project to revive four cashew-processing plants and build three new ones under a public–private partnership (PPP) arrangement. These plants are expected to increase the country's processing capacity to 30 per cent from the current 10 per cent. Consultants from the University of Dar-es-Salaam Business School were involved in drafting the factories' business plans, and the Government is now proactively targeting foreign investors who will make use of these new facilities.

Sources: Heinrich (2012), Marcopolis (2015), africancashewalliance.com, africancashewinitiative.org

c. Manufacturing in food and beverages

Attracting FDI in the food and beverage sector would contribute to reducing its import dependency. In The Gambia, the number and size of food and beverage companies make it the largest manufacturing subsector. This remains the case despite the impact of the plastic bag ban on the food sector. However, The Gambia's high dependence on imported foods and beverages has increased in recent years, exacerbating foreign exchange shortages and food insecurity. In 2014, some 39 per cent of The Gambia's $300 million import bill came from food and beverages (excluding re-exports), a share that had increased steadily since 2011, when it was 29 per cent (ITC, 2016). Attracting FDI in domestic manufacturing could substantially reduce The Gambia's dependence on imports, thus easing the country's persistent shortage of foreign exchange and contributing to food security.

One key opportunity may lie in fostering the region's only glass container manufacturer. Although a much smaller market individually, The Gambia and its four largest consistent export markets (Senegal, Mali, Guinea, and Guinea-Bissau, in order of their share) together represent a market of 45 million people with no apparent local manufacturing capacity for glass containers. Imports of glass containers to these five countries averaged more than $11 million per year between 2010 and 2014, with 69 per cent of that going to Senegal, 14 per cent to Guinea, and 12 per cent to Mali (ITC, 2016). The Gambia has access to all the ingredients required to manufacture glass. Large deposits of silica sand suitable for glass manufacturing have been identified in the Greater Banjul Area (Gambia Expansion Corporation, 2016). Caustic soda, also a key ingredient in glass production is widely used by The Gambia's four soap manufacturers and is readily available at a competitive price, according to UNCTAD interviews with stakeholders. Finally, neighbouring Senegal produces calcium carbonate, the final ingredient in glass production.

Attracting FDI to manufacture glass containers will require regulatory changes for the issuing of operational licences, targeting sand deposits for mining and opening up to foreign investors… The Gambia's silica sand deposits have never been actively mined, though the Government has expressed an interest in identifying investors willing to do so. The Gambia's mining legislation, the Minerals Act of The Gambia of 1963, is outdated, and a new mineral and mining law proposed in 2001 was never approved. The only significant attempt at mining exploration in the country took place in 2004, when Carnegie International Ltd. of Australia and its joint venture partner Astrom Limited of China launched prospecting and mining trials to evaluate the mineral sands in the coastal region of The Gambia (International Business Publications, 2009). Carnegie's application to convert its prospecting licence to a mining lease become the subject of an arbitration case before the ICSID in 2009, and led to a multimillion-dollar award in favour of the company in July 2015. In this context, a modern mining code recognizing that investors have the right to convert exploration into exploitation licences, subject to specific commitments that can be assessed and monitored, is a prerequisite for further exploration and investment by major mining companies.

…and a partnership approach should be encouraged. A glass container manufacturing plant is a significant endeavour that will require the active involvement of The Government together with the donor community and private investors in a partnership approach, which could take the form of cooperatives or PPPs. The Government's PPP unit and the GIEPA should engage stakeholders to consider the project's feasibility (see section B, on investment promotion). In order to target investors in glass manufacturing, infrastructure will need to be improved; in particular, access to reliable electricity. This is because glass production is energy-intensive; it needs to maintain temperatures close to 1,600 degrees Celsius, and power interruptions can render production batches unusable. Cheaper and more reliable electricity could be secured with a dedicated power generation facility for an industrial cluster, such as the one originally envisioned for the July 22 Business Park, with the ability to sell surplus electricity to the national grid. This could represent an attractive investment opportunity to independent power producers, with valuable cross-cutting impacts on the feasibility of industries that are sensitive to energy prices, including glass container manufacturing.

d. Related services along the value chains

Opportunities for investment exist in services along the larger agribusiness value chain. Adopting a broader perspective that includes the larger agribusiness ecosystem that both agroprocessing and light manufacturing need in order to thrive opens up the possibility for opportunities for private investment in different segments of the value chain. They include the distribution, assembly and/or manufacture of inputs, such as fertilizers, seeds, and equipment and machinery for farming, post-harvest handling, processing and packaging. It would include services, such as agricultural lending, land preparation, equipment leasing, transportation, post-harvest drying and storage, quality testing and certification, and collateral management warehouses. And it would include downstream or tangential industries that provide additional sustaining demand for these goods and their by-products.

Policies to attract FDI should recognize that foreign investors can enter with a small footprint and expand over time. The manufacturing sector in The Gambia is still in its infancy, and strategies to develop it should therefore realistically consider the different entry points that investors may have at different stages and gradually expand. Within any sector, an investment project may take the form of a variety of "business activities" from sales and marketing to research and development. In this regard, assembly plants and even qualified trading companies should be considered as investors of potentially increasing value. Investors in commercial enterprises or assembly plants may reinvest to become manufacturers, and manufacturers may move into activities with higher value added.

The former case is of particular relevance to The Gambia, as the private sector is dominated by importing traders. Some of these are foreign manufacturers with their own distribution centres in The Gambia; some are intermediaries for foreign manufacturers. In both cases, the manufacturer might consider shifting production to The Gambia as a way to cut costs, eliminate the trading office's margin, and/or be closer to their customers.

Several foreign companies are already working in sub-Saharan Africa across different value chain segments and could be considered as potential investors in The Gambia. Table 2.2 shows the value chain segments where FDI is needed in the Gambian agribusiness value chain, along with leading sources of such FDI and other locations in sub-Saharan Africa where investors are active. The group of companies presented collectively control large majorities of the global markets in their fields. However, these are not the only potential investors, and smaller regional companies may be better poised to move quickly into The Gambia, given their proximity and knowledge of the country. World-

Table 2.2. Agribusiness value chain segments that could benefit from FDI and likely sources

Value chain segments where FDI is needed	Leading companies	Source country	Sub-Saharan African countries with an existing affiliate
Seeds, fertilizers, and pesticides – sales, distribution, manufacturing, and research and development	BASF	Germany	South Africa
	Bayer Crop Science	Germany	Côte d'Ivoire, South Africa, Sudan
	Dow Agrosciences	United States	South Africa
	Dupont (Pioneer)	United States	Angola, Ethiopia, Kenya, Malawi, South Africa, United Republic of Tanzania, Zambia, Zimbabwe
	KWS (seeds)	Germany	Angola, Kenya, South Africa, Sudan
	Monsanto	United States	Burkina Faso, Kenya, Malawi, South Africa, Zimbabwe
	Syngenta	Switzerland	Côte d'Ivoire, Ethiopia, Kenya, Mozambique, Nigeria, South Africa, Sudan, United Republic of Tanzania, Zambia, Zimbabwe
Farm machinery and equipment – sales, distribution, manufacturing, operation, maintenance and repair	AGCO	United States	None
	CLAAS	Germany	None
	CNH	Netherlands	South Africa
	John Deere	United States	South Africa
	Kubota	Japan	Kenya, Madagascar, Mozambique, South Africa, United Republic of Tanzania, Uganda
	SAME Deutz-Fahr	Italy	None
Animal feed – Manufacturing and research and development	Brasil Foods	Brazil	None
	Cargill	United States	Côte d'Ivoire, Ghana, Kenya, Mozambique, Nigeria, South Africa, Zambia, Zimbabwe
	Charoen Pokphand	Thailand	Kenya, United Republic of Tanzania, South Africa
	New Hope Group	China	South Africa
	Tyson Foods	United States	None
Vertically integrated trading, including warehousing, transportation and risk management (and in some cases agricultural consulting and manufacturing of biofuels and animal feed)	Archer Daniels Midlan	United States	South Africa
	Bunge	United States	Kenya, South Africa
	Cargill	United States	Côte d'Ivoire, Ghana, Kenya, Mozambique, Nigeria, South Africa, Zambia, Zimbabwe
	Louis Dreyfus Commodities	Netherlands	Angola, Burkina Faso, Cameroon, Côte d'Ivoire, Ghana, Kenya, Madagascar, Mali, Nigeria, Senegal, South Africa, United Republic of Tanzania, Zambia

Sources: Shand (2012); Noealt Corporates Services (2013); Best and Jennison (2012); Murphy, Burch and Clapp (2012); and company websites.

leading companies wanting to retain that leadership are likely to consider increased expansion into Africa, as the continent acquires greater relevance in global food strategies. Section B provides recommendations on investment promotion techniques and measures to attract such investors.

e. Recommendations

Addressing horizontal constraints

A series of structural and institutional constraints currently affect the productivity of the agriculture sector and its ability to abide by regional and global quality and phytosanitary requirements. It is essential to address them in order for agroprocessing and light manufacturing to thrive. In addition, the Government should revisit its approach to private sector development, including in the sectors under consideration, and aim at facilitating private sector investment, including FDI, in the economy by addressing bottlenecks to competitiveness in a systematic manner. This would reduce reliance on ad hoc policy interventions targeted at shielding individual companies from competitive pressures. In this regard, the Government should consider the following actions:

- A.1.1. Establishing a public–private dialogue (PPD) mechanism to foster structured consultations with the private sector aimed at identifying and removing key obstacles to local competitiveness. The National Committee on Business Climate in Morocco and the Liberia Better Business Forum provide good examples of structured dialogue between business and government to identify, prioritize and resolve major constraints to private sector development. Some key features to ensure success include these three:
    - Official endorsement and direct involvement of the Head of State;
    - A balanced public and private representation both on the governing board and in targeted sectoral working groups;
    - Continuous competitiveness benchmarking and clear monitoring and reporting mechanisms for the implementation of agreed reforms.
- A.1.2. Developing a comprehensive development policy for the agroprocessing and light manufacturing sectors. The policy, based on the inputs and outcome of the PPD with the sectoral working groups, would include a clear role for private investment and FDI. The resulting policy initiatives would be the object of regulatory impact assessment (see recommendation B.8.5 in chapter I), and ad hoc protectionist interventions would be phased out. The areas to be tackled by the policy include these five:
    - Developing human capacities;
    - Ensuring the competitiveness and effectiveness of tax policy;
    - Securing access to reliable energy, including by promoting the use of renewable energy;
    - Improving access to finance, including preferential rates for start-ups;
    - Encouraging standardization in labeling and packaging across the sector, and promoting compliance with intellectual property rights.
- A.1.3. Completing the development of the new GNAIP to cover the period 2016–2020, monitoring the implementation of the ANR and the NES, and ensuring consistency with the new policy for agroprocessing and light manufacturing.

Seizing FDI opportunities in selected subsectors

The activities identified as opportunities in this chapter, i.e. fish processing, groundnut and cashew processing, glass manufacturing and other related services along the value chain, can make significant contributions to poverty alleviation and sustainable development. Beyond tackling horizontal constraints to economic development, the

Government may consider policy measures that support the concretization of investment opportunities in the targeted sectors. These include the following:

- A.1.4. Engaging donors, the private sector and academia in a PPP approach aimed at securing the technical skills and the seed investment required to achieve four goals:
  - Upgrade the fishing landing sites and ensure that they are equipped with the necessary infrastructure facilities and ancillary services;
  - Develop a local cashew processing facility;
  - Establish a local glass container manufacturing plant;
  - Rehabilitate the Gamwind project and proactively promote Gamwind's expansion.

Together with the PPP Unit and the Ministry of Finance and Economic Affairs, the GIEPA would engage stakeholders to ensure the commercial feasibility of the three projects (fish landing sites, a local cashew processing facility and a local glass manufacturing plant), including securing reliable access to competitively priced electricity, raw materials of sufficient volumes and quality, and adequate commercialization infrastructure. Given the cost implications of conducting prefeasibility studies, the GIEPA can consider beginning with one of the three projects as a priority. It should also consider the following actions:

- A.1.5. Further opening up the market for private milling of groundnuts, including private participation in the purchase, processing and export of groundnuts and its derivative products;
- A.1.6. Adopting a policy for the Gambia Groundnut Corporation of making quality groundnuts available for sale to domestic oil producers;
- A.1.7. Devising and conducting a public awareness campaign on the health and benefits of cooking with domestically manufactured groundnut oil instead of imported palm oil;
- A.1.8. Carrying out a mapping of cashew production capabilities and establish a database of local cashew suppliers to identify supply-side constraints and better target Government assistance;
- A.1.9. Modernizing the mining legislation in order to maximize the chances of attracting FDI in the exploration and exploitation of sand mineral deposits, and promoting the establishment of a local glass manufacturing facility.

Targeting foreign investors as partners in sectoral development

Once the main regulatory issues affecting sectoral development have been addressed and the relevant feasibility studies have been carried out, the Government and the GIEPA should embark on a professional investor-targeting campaign aimed at attracting foreign investors in greater value addition in the sectors where potential has been identified. In particular, the GIEPA should consider the following actions:

- A.1.10. Targeting foreign investors in the local industrial fishing sector;
- A.1.11. Targeting investors in the local processing of cashews as well as in higher value added oil production of groundnuts;
- A.1.12. Targeting the attraction of another renewable independent power producer to establish a dedicated generation plant at July 22 Business Park in order to offer light manufacturers internationally competitive electricity rates without significant interruptions;
- A.1.13. Identifying segments along the agroprocessing and light manufacturing value chains where FDI is needed, as well as companies already investing in these activities in the region, and target investors, including those leading global investors that already have a presence in the region.

Section B of this chapter provides more details on how the GIEPA can equip itself for these tasks.

Supporting skills and technology upgrading in the targeted sectors through business linkages

The extent to which FDI benefits a host country depends on a number of factors, including, chiefly, the capacity of the local economic sector to integrate the production network of the foreign investor through business linkages, and to absorb skills and technology spill-overs. The Gambia should adopt structured initiatives to foster business linkages across the key sectors discussed above. In particular, it should undertake these actions:

- A.1.14. Strengthening and helping consolidate and expand existing small-scale fisheries organizations through initiatives that build their productive capacity and enable them to better organize themselves into productive clusters. Lessons may be drawn from the experience of the IFAD-FAO's Sustainable Fisheries Livelihood Programme Post-Harvest Fisheries Project;
- A.1.15. Encouraging linkages between small local fisheries and large national and/or foreign fish processing enterprises to promote, transfer and enforce skills requirements, product quality and environmentally sustainable fishing practices;
- A.1.16. Developing a cashew business linkages programme linking foreign enterprises with local cashew producers. Lessons may be drawn from examples in other African countries where successful business linkages programmes in agroprocessing have been promoted by government (see section B).

Section B of this chapter provides more details on how to structure the linkages programmes.

2. The information and communication technology sector

The ICT industry is among the strongest private industries in The Gambia, and it is on a trajectory of continued growth.[43] FDI flows into the Gambian ICT industry increased by more than 60 per cent between 2004 and 2013 (see context at the beginning of this report). Local private investment has also flourished, as evidenced by the expansion of Gambian ICT–related companies. This includes QuantumNet, the country's first internet service provider, which started as a small enterprise offering computer training services and has since become the largest technology institute in the country. Its sister company, QCell, offers 3G mobile operations and employs hundreds of Gambians. The investors' confidence in the sector is corroborated by their willingness to make long-term investments. A good case in point is their participation in a 16-operator international consortium that invested $700 million to bring the high-speed "Africa Coast to Europe" (ACE) submarine cable from France to 23 African countries. Indeed, it is projected to require 25 years to yield a return on this investment.[44]

Ongoing market liberalization has attracted several mobile network operators and internet service providers. In 2009, the Information and Communications Act was adopted, and ICT-related responsibilities were assigned to the Public Utilities Regulatory Authority. A revision of the Act is pending. Market liberalization, a central objective of the 2009 Act, has led to the establishment of several mobile network companies and internet service providers (ISPs) in a sector that is increasingly dynamic and competitive. In addition to the companies shown in annex 3, a fifth mobile operator is set to begin activities soon and two additional ISPs have been licensed. However, the Government retains a monopoly over fixed-line telephony through the State-owned company, Gamtel. The company owns the national fibre backbone and controls the connection to the ACE submarine cable system, allowing private telecommunication companies to lease access to the international gateway for data services. In 2013, the Government began liberalizing gateway services by granting international data transmission licences to private operators.[45]

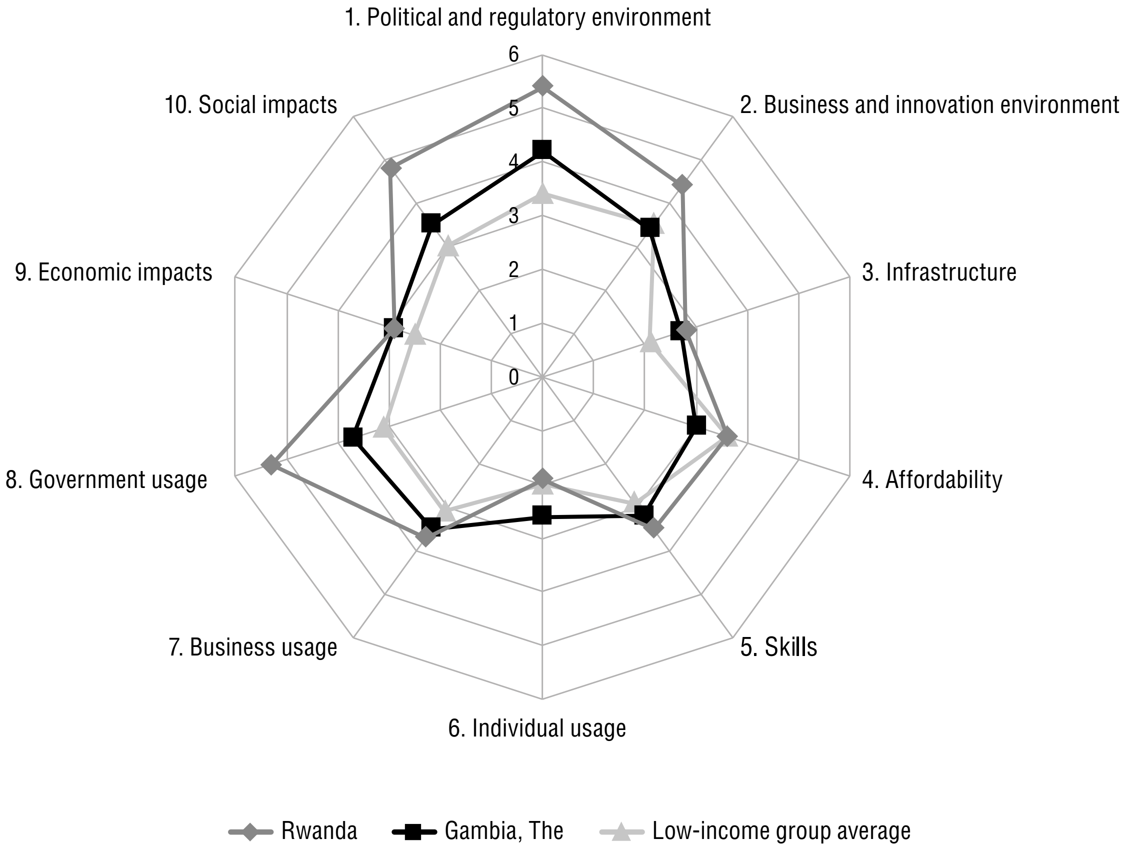
Investors acknowledge that the sector is still less advanced than in other countries in the region, but they believe that The Gambia is on course to become a regional hub. The Gambia has one of the highest mobile subscription rates in Africa, and access to the internet has increased steadily in the past decade. Nevertheless, access to broadband remains low. Mobile cellular subscription was 130 per cent in 2015 compared with 76 per cent for African countries and 68 per cent for LDCs. Internet usage, which is mostly via dial-up access at public internet cafés, stood at over 17 per cent that same year, up from 9 per cent in 2010 and less than 4 per cent in 2004. Although access to broadband is a challenge across Africa, in The Gambia it lags behind the African and LDC averages (0.7 and 0.8 per cent for penetration of fixed broadband, and 29 and 19 per cent for mobile broadband respectively), at 0.18 per cent and 10 per cent (ITU, 2016). It also lags behind other countries in the region, such as Ghana (with a 0.26 per cent fixed broadband and 60 per cent mobile broadband subscription rate) and neighbouring Senegal (with a 0.71 per cent fixed broadband and almost 24 per cent mobile broadband subscription rate).

The Gambia's growing cluster of ICT companies is oriented towards service provision and exports. Most of the country's ICT companies target high-margin customers in government, non-governmental organizations (NGOs), international organizations and embassies as well as some of the large companies. As these large clients in The Gambia are relatively few, such corporate strategies lead quickly to the targeting of other high-expenditure customers in foreign markets. In fact, of the 14 companies listed in annex 3, at least 8 are exporting services to and/or have subsidiaries operating in one or more foreign countries, including Benin, the Democratic Republic of Congo, Côte d'Ivoire, Guinea-Bissau, Liberia, Senegal, Sierra Leone, Senegal and Uganda. A mobile phone assembly project is the country's only ICT equipment manufacturing company (RLG assembles Chinese-made telephones through a contract manufacturing arrangement).

At the same time, there is significant untapped local demand that represents opportunities for business. Although segments such as mobile telephony risk saturation, three of the four mobile telephone providers also have ISP divisions or affiliates, for which growth depends on increasing expenditures from existing clients. The relatively low access to broadband reflects significant untapped demand and an opportunity for investors. For instance, increased demand is expected for email, security, data backup and website hosting services, especially if the number of ICT-enabled sectors rises. Such demand could also be fueled by e-commerce and business process outsourcing activities, which will require more services and bandwidth from ISPs. Furthermore, the ACE submarine cable and the recent introduction of the 3G and 4G wireless internet connections via mobile devices have yet to have an impact on the accessibility and affordability of broadband. ICT companies are developing business plans to expand their networks locally and venture into new ICT-related sectors. Unique Solutions, for example, has recently partnered with PureWave Network from Silicon Valley to establish WiMAx base stations and support its planned network expansion. In addition, it has partnered with the Central Bank of The Gambia to develop the country's first electronic national payment system – GAMSWITCH.[46]

The Government of The Gambia has made concerted policy efforts to develop the ICT sector and has ambitious objectives. The National Information and Communication Infrastructure Policy (NICI), elaborated in 2004, is the sector's overarching policy framework. Two action plans have been developed so far as part of a series of four-year plans designed to implement the policy. The first of these plans, ICT for Development I (ICT4D, 2009–2012), covered three areas including human resources development, ICT in education and ICT in communities. The second and current plan, ICT4D II 2014–2017, aims at greater dissemination of ICT across sectors of the economy and covers ICT in agriculture, health and tourism. The central goal of these plans is "to put The Gambia on an accelerated developmental path that will transform its economy and society in the emerging technological, information and knowledge age into a knowledge-driven, high-income information society and economy." Initiatives are ongoing to formulate NICI2 for the period 2020–2025. Other, related policies have also been developed, including the 2013 Universal Access Policy and its Regulations, which recognizes the importance of accessible and affordable ICT services for development across the country and seeks to achieve a universal service penetration of 100 per cent of the total population for voice services and 50 per cent for broadband within 10 years (ITU, 2013). There are also plans to establish a national ICT agency this year.

Figure 2.1. ICT readiness in The Gambia, Rwanda and other low-income countries



Source: World Economic Forum (2016).

The achievement of these policy objectives will hinge on continuous private investment in the ICT sector. As a result of the Government's efforts, The Gambia ranks above average for countries with a similar level of development in key indicators for ICT readiness, including with respect to the political and regulatory environment for ICT (figure 2.1). To build upon progress achieved so far and maximize the impact of ICT on the country's development, it is therefore crucial for the Government to strengthen and continue to improve the regulatory environment and the ecosystem for ICT and ICT-related sectors to flourish. Although FDI has already contributed to the growth of the sector, attracting more investment will be required to maximize the positive impact that ICT can have.

The Gambia can draw from the experience of countries that have succeeded in attracting sustained FDI in ICT and have leveraged it for socioeconomic development. For example, Rwanda has been promoting ICT development since the early 2000s, with the objective of becoming a knowledge-based economy by 2020. Its long-term national ICT development strategy to bring Rwanda to the forefront of ICT in the region (box 2.3) provides valuable lessons for The Gambia. The successful experience of Rwanda and UNCTAD's interviews with stakeholders in The Gambia suggests that government action is required in four key areas to further promote the development of the ICT sector with the support of domestic and foreign investors: liberalizing and developing ICT infrastructure, promoting the use of ICT through government services, spreading the use of ICT to businesses and fostering skills development for ICT. Each of these areas is discussed in the following sections.

Box 2.3. Rwanda's approach to developing ICT through FDI

Rwanda adopted a successful approach to develop the ICT sector in the early 2000s. The actions taken by the Government can be summarized as follows:

1. Liberalizing and developing ICT infrastructure

As first steps, the Government took actions to put in place a modern legal, regulatory and institutional framework for ICT development. This involved improving the overall political and regulatory environment for private sector development and a range of sector-specific measures. Such measures focused on the liberalization of the telecommunication market, the reduction of entry barriers, and effective implementation and coordination mechanisms. In 2001, the Government adopted the Telecommunications Law 44/2001, which equipped the country with a modern and appropriate tool to develop the sector through private investment. Such investment was considered essential to foster competition, as the sector was dominated by monopolistic operators in the fixed-line, mobile and international telephony segments and by a small number of ISPs. In conjunction with liberalization, Rwanda also focused on providing world-class communications infrastructure as a backbone for current and future communications requirements. This included several projects ranging from increased nationwide coverage of telecommunication networks to a versatile and high-capacity national fibre-optic backbone network, a national data centre and centralized monitoring and operations centres.

2. Promoting the use of ICT through government services

One key aspect of Rwanda's approach was a strong emphasis on the role of the Government as a champion, promoter and customer of ICT services. Remarkably, Rwanda ranks 2nd and 4th of 139 countries with respect to ICT promotion and its importance to the Government's vision, respectively. In this context and building on the solid foundation brought about by the ICT policy process, the authorities emphasized services development across several focus areas, including e-government. Priority was placed on the exploitation of ICT to support the delivery of government services before turning to development of an ICT industry.

3. Spreading the use of ICT to businesses

When moving the focus to support the local production and development of ICT products, tools and services, the Government adopted measures to enhance the role of the private sector in development and participation in the information economy. The measures included campaigns to promote the increased use of technologies by companies, policy actions to create an enabling business environment in which ICT companies can succeed, grow and innovate as well as supportive initiatives for the development of ICT-enabled industries.

4. Fostering skills development for ICT

In order to reap the full benefits of its policy actions, the Government of Rwanda has also focused on strengthening ICT skills through greater exposure, day-to-day operations and literacy for both the public and the private sector. The approach to skills development has also centred on collaboration and dialogue with a range of stakeholders, including the national and foreign private sector, local and international IT institutes, and universities. The Government has also put in place a programme to encourage investment from the diaspora. Strategies have included targeting Rwandan-owned ICT companies abroad, such as Silicon Valley–based companies, to explore and tap business opportunities. In the absence of a local pool of IT graduates, a company was also encouraged to recruit science (and some IT) graduates to train them in-house. Employees and associates worldwide, including other Rwandans from the diaspora, were also invited to provide training.

Sources: Republic of Rwanda (2001, 2006, 2010, 2015a); UNCTAD (2006); World Economic Forum (2016).

a. Liberalizing and developing ICT infrastructure

Lack of coverage and affordability represent significant bottlenecks for the Gambian ICT sector. One area in which The Gambia falls behind other low-income countries is the affordability of ICT services (figure 2.1). The annual rate for fixed broadband internet access from Gamtel, in particular, is very expensive for the vast majority of Gambians as it is roughly equivalent to GDP per capita.[47] In this regard, the success of the current ICT4D action plan depends on improved access and affordability of ICT services to enable their dissemination and improve the efficiency of the target sectors. To this end and because the cost and outreach of ICT services depend on the degree of liberalization, competition in the sector and infrastructure development, the Government needs to take additional measures to further improve the conditions for an enabling environment.

FDI can play a key role to further improve the ICT infrastructure. Important achievements in the development of ICT infrastructure in The Gambia have already been attained, including the introduction of the ACE submarine cable. As a result, The Gambia ranks almost at par with other low-income countries – but behind Rwanda – on the infrastructure indicator in the World Economic Forum's Networked Readiness Index (figure 2.1). Further infrastructure development is necessary to expand both access to ICT services and the range of the services offered. For example, the development of a data centre and cloud computing was essential for Rwanda's data storage, management and protection. This is also a vital piece of infrastructure cited by Gambian ICT companies and is crucial for their development. The national backbone also requires upgrading to expand coverage and convert more of the backbone to higher-grade fibre-optic cable. FDI can bring in the required technology and know-how. As part of the ECOWAS Wide Area Network Project, one project was started in 2013 between Gamtel and Chinese network equipment provider, Huawei, to transform the national backbone. The Government is also seeking additional partners for PPP projects to develop the ICT infrastructure.

Further liberalization can contribute to attracting new capital and ensuring the long-term sustainability and affordability of network development. Although some ICT segments were opened in 2009, further liberalization efforts are not part of the reforms set out in the first two ICT4D action plans. As highlighted by a recent assessment of the sector, the substantial market power of Gamtel in the national fibre backbone market – which connects to the ACE submarine cable – can lead to market abuses. These could take the form of charging excessive and anti-competitive prices or refusing access to supply services, and would run counter to the objectives of the sector's policies (PriceWaterhouseCoopers, 2014). The reduction of the cost of broadband and expansion of accessibility through the development of improved ICT infrastructure, including the ACE submarine cable, critically depend on further market liberalization and enhanced competition. The Government has already moved in the right direction with the beginning of the liberalization of international gateway services in 2013 and by allowing private operators to lease services. In this regard, the PURA has an essential role to play in safeguarding a competitive regulatory environment as the sector develops.

b. Promoting the use of ICT through government services

The Government is the main customer of ICT services in The Gambia, but there is scope for increased demand. The Government already is the largest customer for local internet services and telephony, and also for tailored software and IT solutions, such as those provided by Unique Solutions and KMF Technologies. The Central Bank, Customs, the Port Authority and the Credit Reference Bureau are among their most important customers. However, opportunities for greater usage exist, including the mainstreaming of ICT services in public sectors such as education (e.g., connecting all primary school children with computers and the internet). For example, in Rwanda, the Government introduced the One Laptop per Child programme, which by 2014 had distributed 200,000 laptops to primary school students. The Gambia has a similar policy goal but faced challenges in implementing it, and the student-to-computer ratio at the primary level remains about 256:1 (Access Gambia, 2015) compared with Rwanda's 15:1 (Republic of Rwanda, 2015b). Rwanda also ranks higher (6^{th}) than The Gambia (30^{th}) on government procurement of advanced technology (World Economic Forum, 2016).

E-government solutions can improve the efficiency and transparency of public administration, while increasing government usage of ICT services. The Government as a whole should aim to digitize and streamline procedures as much as possible, particularly through open bidding of software and system design. This would promote business opportunities for the ICT sector, create budget-saving efficiencies in the medium term, and increase transparency for services supplied by the Government. Beyond the potential of ICT to contribute to GDP growth and generate employment, it can also improve the lives of Gambians by improving access to and the efficiency of public services. The UNCTAD Business Facilitation Programme has provided assistance in the adoption of e-government solutions to several countries in the region, including Burkina Faso, Côte d'Ivoire, Guinea-Bissau and Senegal, and could provide a useful reference for The Gambia in this regard (see also chapter I, section B.9).[48]

Innovative partnerships with the private sector can contribute to disseminating ICT usage. The Gambia's ICT policies clearly recognize the sector's potential to contribute to the country's economic development and poverty alleviation. The current ICT4D plan mirrors some of the actions taken by Rwanda, notably those that focus on greater dissemination of ICT in sectors such as health and education. Innovative PPPs can also contribute to boosting the impact of ICT and improving the lives of Gambians by facilitating their access to a range of public services. For example, QPower is the product of an innovative partnership between the National Water and Electricity Company and private mobile phone operator QCell. The company allows consumers to buy prepaid electricity tokens with their mobile phones. Similar partnerships should be explored across a wider range of public services.

c. Spreading the use of ICT to businesses

An enabling and innovative ICT business environment goes hand in hand with the overall facilitative approach to private sector development recommended throughout this IPR. In the Gambian ICT sector specifically, several obstacles common to overall private sector development remain and have a direct impact on the efficiency of starting and operating a business. Registration for internet and mobile phone services providers is an onerous and time-consuming process with numerous requirements to fulfil. Owners of internet cafés are required to register with the PURA for an operating licence in addition to possessing a mandatory business licence.[49] They must also renew their licences every year and pay annual renewal fees to the PURA (Freedom House, 2015). The registration requirement was initiated in April 2013, shortly after a directive was issued banning cybercafés from commercializing dating and voice over internet protocol services.

Sector policies should support greater usage of ICT by the private sector and encourage ICT entrepreneurship. Policymakers should raise awareness of the advantages of ICTs and take concrete measures to encourage their use and pay particular attention to facilitate the adoption of ICT by small-scale enterprises. Entrepreneurship, technology and innovation are mutually supportive, and The Gambia's current efforts in developing a national entrepreneurship policy are welcomed. Technology provides entrepreneurs with new tools to improve the efficiency and productivity of their business and with new platforms on which to build their ventures. For example, the company Farm Fresh, which benefited from UNCTAD's Empretec entrepreneurship development programme, is the first online shopping platform for fresh products. Inspired by other online platforms such as Alibaba.com, it offers more than 150 local products and delivers them to end users in The Gambia as well as members of the Gambian diaspora all over the world.[50] Besides providing an enabling environment for entrepreneurship, specific measures to encourage ICT entrepreneurs should include the promotion of ICT networks to raise awareness about ICT entrepreneurship opportunities and ensure that young people have access to relevant business information. Networks are important drivers of business performance, and can raise awareness, promote local role models and raise the profile of tech successes in the country and in the region. In addition, networks can also play an important role in shifting mindsets. One example to build upon is the "Girls in ICT" awareness campaign, backed by the International Telecommunication Union, which took place in Banjul in 2016. It involved workshops to provide girls with the opportunity to have practical experience, a web design competition and a job fair to foster interaction with professionals in the ICT sector.[51]

In order to support firm-level technology absorption and the growth of ICT business, the Government should consider reviewing the sector tax rates. UNCTAD interviews with private ICT companies during the fact-finding mission confirm that they view the environment as generally conducive to ICT growth. They nevertheless cite the 40 per cent tax on telecommunication as a barrier to the expansion of their customer bases. This has direct implications on the use of ICT and the level of technology absorption by companies as well as on the use of ICT for business-to-business transactions. The Government should view the ICT sector not only as a public revenue stream but as a platform for public investment in economic and social development. In this regard, it should review the sector's tax regime to ensure that it is competitive relative to the region, and propitious for achieving the objective of turning The Gambia into a regional hub for ICT.

d. Fostering skills development for ICT

Strengthening ICT skills development will be key for the sector's FDI attractiveness going forward. Countries need to sustain investment in education, as the complexity and the competition for vendors in the sector is increasing. Measures to develop ICT skills among the local population include supporting broad primary and secondary education generally. It also involves the provision of more targeted ICT training to vulnerable communities or groups with low ICT literacy, such as women and people living in rural areas. Furthermore, it is also important to build bridges between public entities, research institutions, universities and the private sector.

Upgrading the public education system is a long-term investment, but the private sector can play an active role in the short and medium terms to upgrade local ICT capacity. Policy measures should aim to encourage partnerships that foster the transfer of technology and know-how. Towards this end, the National Entrepreneurship Policy developed by UNCTAD in collaboration with the GIEPA proposes some priority actions in the area of facilitating technology exchange and innovation (UNCTAD, 2017). They include promoting partnerships between ICT companies and education institutions in order to meet the needs of the labour market, such as promoting greater exposure of university students to the private sector through apprenticeships in large domestic and foreign enterprises. The development of joint science and technology and ICT curricula and graduate-hiring agreements can also promote knowledge transfer. Foreign companies may have their own capacity-building programmes, and the Government should seek to encourage and incentivize such efforts. For example, the Ghanaian-Gambian company RLG, whose services include mobile phone assembly, software installation and mobile phone repair, pays for new hires to receive high-level courses through Cisco. InSIST Global provides an interesting example of a company in The Gambia whose leading product is the development of software for the education sector.

The Gambia should engage and target the diaspora to invest in the ICT industry and bring in talent, skills and knowledge. In Rwanda, the Government has been very active over the past decade in attracting the diaspora to return and invest at home. The Gambian diaspora is estimated at about 70,000 and, according to World Bank data, overseas remittances amount to nearly 10 per cent of GDP. This makes The Gambia one of the topmost recipients in Africa (Chant, 2015). The Gambia could therefore benefit from exploring similar initiatives to attract FDI from the diaspora.

e. Recommendations

<u>Promoting greater access and affordability of ICT services</u>

Further liberalization of the sector and increased investment in infrastructure development are essential elements for a successful and flourishing ICT sector. To this end, to the Government could consider the following actions:

- A.2.1. Reviewing Gamtel's fixed-line broadband tariffs with a view to making them more competitive, and viewing them not only as a public revenue stream but as a platform for public investment in economic and social development;

- A.2.2. Further liberalizing access to internet and gateway services to ensure the long-term quality, affordability and sustainability of future network development, and to attract new capital as well as the most current technologies and know-how;
- A.2.3. Ensuring greater penetration and higher quality of the national fibre-optic backbone, a priority of the PPP Unit of the Ministry of Finance, with strategic advice from the GIEPA on the needs of private investors in the sector.

Increasing government usage of ICT

Although the Government already represents a significant market for the ICT sector, there is room to promote greater government usage of ICT services to bring about budget-saving efficiencies and transparency as well as support to the ICT market. This could be done, for example, through the following policy measures:

- A.2.4. Introducing e-government solutions by promoting, as much as possible, the digitization and streamlining of procedures, particularly through open bidding of software and system design to promote business for the ICT sector;
- A.2.5. Mainstreaming ICT across the education sector, for example, by engaging with the One Laptop Per Child project and similarly structured initiatives. Exploring also, with the assistance of development partners, opportunities to implement a similar project aimed at universal ICT access for primary and secondary school students.

Increasing the use of ICT by the private sector and promoting an overall improved business environment

Greater use of ICT services by the private sector can expand the market for ICT, and also increase the productivity and efficiency of enterprises. ICT entrepreneurs, in turn, can bring innovative solutions to address local needs and demand. The Government can consider the following recommendations:

- A.2.6. Consider revising the tax rates for telecommunication;
- A.2.7. Stimulating the introduction of ICT into business through initiatives such as launching awareness and capacity-building campaigns;
- A.2.8. Supporting networks that help spread technology and innovation by promoting the use of ICT, increasing awareness of ICT entrepreneurship opportunities, and raising the profile of successful tech entrepreneurs;
- A.2.9. Promoting an enabling environment for entrepreneurship generally, by finalizing and implementing the ongoing National Entrepreneurship Policy, in collaboration with UNCTAD.

Strengthening ICT skills

A local workforce with strong ICT literacy and skills is a key determinant to attract FDI in the ICT sector and a prerequisite for The Gambia to become a regional ICT hub. To this end, to the Government could consider the following actions:

- A.2.10. Building bridges between public bodies, research institutions, universities and the private sector, including foreign and domestic ICT companies. This can include partnerships to foster the transfer of technology, skills and know-how, and to formulate supply solutions for projected demand of specific worker skills in the ICT sector, including joint curriculum design, internships and graduate-hiring agreements.

B. A prioritized and focused investment promotion approach for more FDI benefits

FDI promotion in The Gambia could have a much greater impact if it were more focused. As highlighted in the context section of this report, FDI inflows into The Gambia have been on a rising linear trend since 1990, yet they have remained relatively low compared with other African LDCs and with the ECOWAS region. Chapter I highlighted a number of institutional and regulatory issues that, if addressed, could contribute to strengthening the country's investment environment and, in turn, improve its investment attraction performance. In addition, the FDI promotion system, if enhanced, could have a much greater impact on FDI attraction. This section will highlight some specific challenges that The Gambia faces in FDI promotion and suggest recommendations to make it more proactive and efficient, including in the sectors analysed in section A of this chapter.

The new mandate and the strategy of The Gambia's investment and export promotion agency – the GIEPA – remain very broad. The agency was established in 2010, under the responsibility of the MOTIE. Its new mandate, the GIEPA Act of 2015, covers a wide range of responsibilities that reflect its mission as a development agency, including investment promotion; business development services; export development; support to micro, small and medium-sized enterprises (MSMEs); image-building; and policy advocacy. The GIEPA's recent five-year strategy sets a sound conceptual framework, with elaborated work streams and monitoring and evaluation mechanisms covering the full spectrum of its responsibilities (BPK Development Research and Consulting, 2013). The agency's broad mandate and ambitious strategy, however, conflict with its current limited resources. At the time of the fact-finding mission, just 13 professional staff members were working at the GIEPA.

In order to optimize the use of resources and impact, the GIEPA should adopt a phased and selective approach to investment promotion. Beyond its role as an export and MSME development agency, the new mandate has assigned the GIEPA the functions of a state-of-the-art investment promotion agency. These include investor targeting, a wide range of investment facilitation measures, image-building and policy advocacy, which involves working with other government institutions to remove investment barriers (GIEPA, 2015). Of the functions of a fully fledged investment promotion agency, only aftercare is missing. Given the limited financial and human resources of the agency, there is a risk that staff may be spread too thinly over the different tasks, leaving FDI promotion efforts weak or insufficient. The GIEPA should consider adopting a phased approach to prioritize, over the shorter term, relatively high-yield, low-cost activities in each of its core functions related to investment promotion. This includes focusing efforts on carefully selected sectors, such as those identified in section A of this IPR, where tangible investment opportunities can be seen. As the GIEPA's capacity evolves and if its resources are strengthened, it can progressively undertake additional tasks. The rest of this section focuses on recommendations to increase the efficiency and effectiveness of the GIEPA's investment promotion tasks. Other areas of its mandate, notably business development and support to MSMEs, are currently the focus of other UNCTAD technical assistance projects and beyond the scope of this report.[52]

1. Image-building

The role of the GIEPA is to put the country on the radar screen of potential investors. Raising awareness is the first function enumerated in the agency's mandate and the first of five specific activities envisaged in its strategy and work streams. Potential foreign investors may not know or may not have a positive image of The Gambia as an investment destination. Image-building is therefore an essential part of promoting the country's opportunities to foreign investors and tourists. It aims at correcting misperceptions and focusing on the positive aspects of the country, including the efforts undertaken to improve the investment environment. The GIEPA may consider targeted image-building initiatives, at least in the short term. Its image-building work stream could be handled as a component of its investor targeting and aim to raise awareness of the country among investors in targeted sectors and, particularly, in geographic regions where its potential investors are concentrated.

The GIEPA website should better reflect useful and investment-related information and integrate the country's national brand. A new national brand – *The Gambia: the smiling coast of Africa* – has recently been created. The aim is to align all branding efforts across government agencies with the overall objective of attracting higher levels of investment, boosting tourism and enhancing trade and commerce.[53] The website should reflect this new common marketing message and also contribute to fine-tuning the brand's content in terms of better highlighting the country's competitive advantages (such as market access and competitive labour costs). The website is good in that it is clear, well-organized and contains a lot of information about investing in The Gambia, including business registration, licensing and permits, and investment opportunities across sectors as well as testimonials of existing investors. To further strengthen the website as a valuable information source and marketing tool for potential investors, the Government should ensure that it is regularly updated and that the information reflects the targeting priorities and sectors of the GIEPA's investment promotion efforts, including those identified in section A of this chapter. Much of the GIEPA's knowledge remains to be consolidated and published in an easily disseminated format that can be regularly updated. In this regard, UNCTAD has worked with numerous countries across Africa to develop online investment guides which may serve as a useful reference.[54]

Recommendations

In the short term, the Government should consider the following actions:

- B.1.1. Integrating image-building activities into investment promotion efforts aimed at targeting investors in selected sectors and, in particular, in geographic regions where potential investors are concentrated, including where the Gambian diaspora is located and in the West African region. The activities would include, for instance, making available in selected sectoral publications and at key events relevant information about The Gambia's competitiveness.
- B.1.2. Improving the website further by updating it regularly. This includes better dissemination of the agency's rich knowledge on investment and useful marketing material already developed but not yet available online, such as the professional business guide. Following the completion of their IPR, several African countries, including Djibouti and Rwanda,[55] have published online investment guides based on UNCTAD's iGuide platform. The Gambia may consider requesting UNCTAD's technical assistance in this regard.

In the longer term, the Government should consider the following actions:

- B.1.3. Adopting, if resources allow, the image-building and awareness tasks stipulated in the GIEPA's strategy, including the development of a national marketing campaign to accompany the national brand.

2. Investment targeting

Targeting investors by promoting specific sectors is a precondition for a successful investment generation programme. Investor targeting involves a proactive approach to presenting tailored business cases to investors who have been pre-identified through detailed research and are likely to invest in The Gambia. Some sectors provide better opportunities for investment in a given country than others, and no country can be competitive in all areas. To date, the GIEPA's approach has often been reactive. To play an enhanced role in undertaking investment generation activities, the GIEPA should focus on proactive, research-based targeting initiatives at the country, sector and company levels worldwide, including identification, tracking and follow-up systems. It should aim at specific sectors and projects that meet the national development objectives of The Gambia and offer investment opportunities (box 2.4).

The GIEPA's priority sectors should only be as numerous as permitted by its capacity to proactively promote them. It is important to distinguish between the Government's national priorities (which have been revised to include 30 subsectors in the 2015 GIEPA Act) and the operational priorities that the GIEPA should have for investment promotion. The national priorities cited in the GIEPA Act represent the list of subsectors for which incentives are granted, while the GIEPA's priorities, particularly in the shorter term, should be the subsectors in which it has found the best balance of Gambian competitiveness, existing resources and likely benefits in terms of sustainable development. Indeed, overreaching in terms of sectors for investment promotion may lead to less effective investment expertise in specific sectors – as all investment promotion is sector based, a lack of in-depth sector knowledge can be a critical fault in securing FDI.

In the short term, the GIEPA could consider concentrating its investor-targeting efforts on a few, specific investment opportunities. It should focus on specific and concrete investment opportunities that could be promoted at relatively low cost, such as those in the fish, groundnut and cashew processing subsectors analysed in section A. Such opportunities require proactive targeting efforts to generate investor interest as the agroprocessing sector is still relatively underdeveloped and foreign investors may have limited information about it. In this sense, the marginal impact of targeting initiatives may be bigger than in the country's best performing sectors – ICT and tourism – that already have a proven track record of continued investor interest. Nonetheless, as discussed in section A of this chapter, the GIEPA should also target specific opportunities in ICT, such as data centre service providers, who are essential investors for the sector's overall development. In addition, it is important for the GIEPA to coordinate closely with other government institutions involved in promoting the sectors' growth and investment, such as the planned National ICT Agency and The Gambia Tourism Board.

Regional investors and investors with tacit knowledge, previous experience and ties to The Gambia are good candidates for targeting activities. As noted in section A of this chapter, the vast majority of established investors in The Gambia are regional investors, those with previous experience doing business with the country or with tacit knowledge and ties to The Gambia. The GIEPA should include these criteria in identifying and prioritizing the type of investors it seeks to target. In this regard, the Gambian diaspora community abroad can represent a valuable pool of potential investors, and lessons can be drawn from the experience of other African countries that have succeeded in attracting investment, expertise and skills form their diaspora populations. For example, Ethiopia has engaged in a number of initiatives to attract diaspora investment, including the creation of a Diaspora Coordinating Office within the Ministry of Capacity-Building, which also works closely with the Ministry of Foreign Affairs and the German Engineering Capacity-Building Programme to engage the diaspora in the leather and textile sectors. Ethiopia's investment agency actively encourages Ethiopians in the diaspora to engage in investment activities and has created a post of Diaspora Affairs Officer to serve this purpose (UNCTAD, 2011).

A proactive targeting approach should be conducted by trained staff with expert knowledge on doing business in the targeted sectors. A targeting strategy should be established that outlines how investors will be approached and what follow-up mechanisms will be used. The GIEPA's staff involved in investment targeting should be able to provide sound, free information and assistance, which has the effect of reducing investors' costs, time spent and perception of risk in the location. In order to provide that kind of information to an investor, the GIEPA should ensure that the staff has expertise regarding business operations in the priority sectors and activities. This includes knowledge of activities in The Gambia and also in competing locations, and sector-specific business information, including an understanding of the key determinants that current investors took into consideration when deciding to invest in a given sector.

Investment targeting should be the responsibility of the GIEPA's operational staff. Investment targeting initiatives should be in the hands of full-time professionals with sector-specific knowledge working in the agency. Consequently, the agency should consider revising the 2015 implementing regulations to better define the investment-targeting function and ensure that it goes beyond investment missions, as it was phrased in the 2010 GIEPA Act. To be fully effective, participation in industry events or business-themed events should entail good preparation and specific lists of targeted investors. In this regard, a coordinated "Team Gambia" approach could be envisaged, whereby key stakeholders and government officials play a key role in investor outreach and targeting, following the process described in box 2.4.

Box 2.4. Sequence of investment-targeting measures

Investor targeting can offer good results in an environment where international competition for FDI is growing. It can help to achieve strategic development goals, improve efficient use of limited resources and provide the opportunity to target companies with good corporate governance records. The investor-targeting process involves different steps, which include the following:

1) Understand your market

- Analyse and understand the trends in selected sectors, industries and activities.
- Conduct benchmarking to gauge the country's offer and comparative advantage in those sectors relative to competing locations.
- Identify specific projects and investment opportunities for each sector, and develop concrete investment proposals.

2) Select your partners

- Adopt a "Team Country" approach, led by the investment promotion agency, involving key actors across sectors in targeting investors in a coordinated manner.
- Identify key stakeholders who would be part of Team Gambia, including from the public and private sectors, and who can play a role in investor outreach and targeting (i.e. Office of the President, Ministry of Tourism, Ministry of Foreign Affairs, members of the Board of the GIEPA, established investors in The Gambia and members of the diaspora).
- Ensure good communication among all stakeholders involved and clear understanding of the country's priorities and approach to investment.

3) Develop your tools and coordinate action

- Adopt criteria to select potential investors.
- Put in place specific marketing activities, including investor-targeting campaigns, which carry the core marketing message and feature information obtained as a case for doing business in The Gambia. The key messages of these campaigns should also be featured on the GIEPA website (together with supporting data, cases, testimonials and links).
- Brief diplomatic missions and other partners on target companies and marketing strategy.
- Package profiles of investment opportunities.

4) Take action

- Contact targeted investors and companies.
- Organize and promote on-site visits.
- Present and network at industry-specific conferences and fairs.

5) Assess results

- Evaluate and monitor the results of the targeting strategy, and fine-tune it based on lessons learned.

Source: UNCTAD.

To fulfil its promotion mandate effectively, the GIEPA should be relieved of its responsibility for regulatory functions. Under the GIEPA Act of 2015, the responsibility for administering incentives and the industrial zone (the July 22 Business Park) was transferred from the staff to the Board of GIEPA, the oversight body of the agency. At the time of the fact-finding in March 2016, the implementing regulation of the new Act did not address the changing nature of the regulatory functions. So in practice, the staff of the GIEPA continue to administer incentives and the industrial zone. Releasing investment promotion staff from regulatory responsibilities is indeed in line with international best practice. Effectively, when the agency is tasked with the administration of incentives or industrial parks, they become mixed promoter-regulators not only offering information and assistance, but also demanding information and compliance. Promoters and regulators require different knowledge, skills and attitudes, and also have different reporting and accountability systems. This makes it challenging for a promoter to be an effective regulator and vice-versa.

Recommendations

In the short term, the Government should consider the following actions:

- B.2.1. Revising the implementing regulations of the 2015 GIEPA Act to specify that investor targeting and operational functions related to investment promotion are led by GIEPA staff.
- B.2.2. Adopting a "Team Gambia" approach that involves key stakeholders and public officials across different authorities that could play a role in investor outreach, including the Office of the President, sectoral ministries and the GIEPA Board of Directors as well as the private sector, including members of the Gambian diaspora.
- B.2.3. Relieving GIEPA staff of the responsibility of administering investment incentives and industrial parks.
- B.2.4. Selecting focused and impact-oriented investment-targeting measures aimed at a few sectors. Candidates for the next two to three years include specific and concrete investment opportunities in the agroprocessing sector, such as fish, groundnut and cashew processing, as well as data centres.
- B.2.5. Identifying and targeting investors that have a regional presence, previous experience doing business in the country or ties to The Gambia, including the diaspora, and draw from the experiences of other countries in this regard, including Ethiopia, Nigeria and Rwanda.
- B.2.6. Making use of different promotional channels. There are many ways to implement a targeting strategy. It can be done by in-house staff, outsourced or conducted through offices in other countries. Other methods include meeting through diplomatic missions abroad or during specific travel, mailshots or telephone calls. Investment fairs and seminars can also be organized and are most efficient when targeting a specific industry. UNCTAD can provide assistance in developing the GIEPA's targeting capacities.

In the longer term, the Government should consider the following actions:

- B.2.7. Expanding the GIEPA's investment-targeting efforts, in line with the agency's available resources, to include additional sectors and activities on the basis of research and competitiveness benchmarking.

3. Account management and investor aftercare

Currently, the GIEPA's activities are concentrated in the start-up phase, involving limited investor management and no aftercare activities. The agency interacts with investors mostly during the start-up phase of a project, mainly in helping them obtain incentives. There is limited follow-up management to ensure the conversion of the investor's interest into a concrete investment decision and operation. In addition, the GIEPA's mandate does not mention working with existing companies to ensure their success and expansion. The agency conducts periodic investor surveys, but the surveys are not used to systematically produce action plans or develop outreach strategy to address issues raised. Furthermore, it does not proactively engage investors in strategic collaboration to support the growth of individual companies or collective sectors.

Investor relationship management and aftercare can maximize the conversion of investor interest into investment decisions and can encourage reinvestment. A system for investor relationship management, including aftercare, typically involves assigning each investor a dedicated account manager who will assist in (i) the predecision stage, by providing all relevant information to the investor about the establishment process; (ii) the establishment stage, by assisting the investor with administrative procedures and processes, including how to obtain licences and permits, import equipment and materials, and access land; and (iii) the postestablishment stage, to leverage established investors, which represent a potential source of new FDI in the form of reinvestment. Aftercare services may include assistance with the renewal of permits for investors and the provision of support to company operations. For instance, the GIEPA could help with staff training or the identification of economic partners. The GIEPA also has the potential to affect the country's small pool of large firms and find the solutions they need to keep doing business in the country. In this regard, targeted and proactive problem-solving measures for companies that are established in the country are a crucial part of a relationship management system.

The GIEPA's staff should be in charge of managing dedicated investor accounts in the targeted sectors. The agency should consider assigning the responsibility for investor accounts within each of the few priority targeted subsectors to its staff. In the short run, the sector managers who would be in charge of investment targeting, following the recommendations above, could also undertake this task. This means that one sector manager would be responsible for investor accounts within one subsector, such as fish or cashew processing, for the life of the project, from the first contact with the investor to aftercare. The account manager would also be responsible for compiling and updating all relevant information related to the investor, including company profile, project status and contact history.

Recommendations

In the short term:

- B.3.1. Assign to staff dedicated investor accounts for each targeted sector. Each sector specialist will act as a key account manager and sector specialist for the life of the project, from first contact to aftercare. The types of services provided can include facilitation services (e.g. obtaining and renewing permits), support for the operations of companies (e.g. identifying training possibilities, potential economic partners, local suppliers), or more sophisticated strategic services (e.g. helping companies grow within their network of corporate subsidiaries, guidance on measures to increase local value addition). For more details, see section B.5.

In the longer term:

- B.3.2. Assign specific full-time staff to investment targeting and to investor relationship management, including aftercare services. The investment targeting team would conduct the relevant market and sector research to identify specific opportunities and target specific investors. The investment leads would then be transferred to the staff in charge of investor accounts.
- B.3.3. Adopt a more effective system for investor relationship management (e.g. customer relationship management software).

4. Policy advocacy

Policy advocacy is an essential and sophisticated function of an investment promotion agency. For it to be effective, the agency should be in regular contact with investors, public institutions and other stakeholders to collect different views on constraints on investment. Policy advocacy features clearly in the GIEPA's mandate and features as its most important task in the current strategy. The logic of this priority supposes that the GIEPA's marginal impact would be the same across all functions and, therefore, that its attention is best spent on The Gambia's biggest challenge to attracting investment: its overall investment climate. Indeed, policy advocacy is a productive way for investment promotion agencies to use the feedback from investors, in particular foreign ones, to improve the business climate through better-shaped policies. The GIEPA's voice and impetus are certainly needed in investment climate reform efforts, to push for reform on a wide range of issues, including those highlighted in chapter I of this IPR. However, given the need for prioritization of the GIEPA's functions and the sophistication, time and resource-intensive nature of policy advocacy, a fully fledged advocacy approach should be envisaged in the medium to longer term.

In the meantime, the GIEPA can act as the secretariat of a national PPD mechanism. This would involve the GIEPA calling and coordinating meetings of a PPD mechanism, as recommended in section A of this chapter, established to foster structured consultations between the public and private sectors, and aimed at identifying and removing key obstacles to competitiveness. In this way, the GIEPA can actively engage and contribute to a multistakeholder process that can improve the country's investment climate. At the same time, this is a more feasible than a fully fledged approach and allows the GIEPA's investment promotion team to focus on functions where it can have higher impact in the short run and also to build capacity.

Recommendations

In the short term, the GIEPA may consider limiting its policy advocacy efforts to the following:

- B.4.1 Make the GIEPA the secretariat of a PPD mechanism in charge of fostering structured consultations between the public and private sector (see section A);
- B.4.2 Use influential GIEPA Board members to champion investment climate reforms based on information acquired through the GIEPA's activities and consultations with stakeholders.

In the longer term:

- B.4.3 Envisage a fully fledged policy advocacy initiative, which includes the measures presented in GIEPA's strategy. Following international best practice, they can be organized as a four-step process: identifying the issues, elaborating the appropriate solutions, advocating for the corresponding policy change and monitoring and evaluating results (UNCTAD, 2008).

5. Business development and business linkages

Facilitating business linkages between local suppliers and foreign investors can bring about many positive outcomes in terms of enhanced skills, knowledge and productivity. Building partnerships between MSMEs and the local affiliates of multinational enterprises (MNEs) can play a key role in strengthening the domestic productive capabilities of developing countries and their capacity for value addition. Business linkages can improve the performance, productivity and efficiency of local suppliers through training, mentoring, information exchange, quality improvements and technology transfer. However, such linkages do not occur automatically. Investment promotion agencies are crucial for activating the benefits from FDI through active promotion of linkages and smart management of relationships (UNCTAD, 2013). The key steps for a successful business linkages programme are described in box 2.5.

The GIEPA should promote business linkages in few targeted sectors. Given the role of investment promotion agencies in promoting FDI in host countries, they are uniquely positioned to link these foreign investments with the local economy. This is particularly true for the GIEPA, whose mandate also covers business and MSME development. The GIEPA is already working closely with UNCTAD in finalizing a national entrepreneurship policy, whose action plan includes the promotion of business linkages between local suppliers and foreign investors.[56] The focus of business linkages promotion efforts should match that of the investment-targeting campaign in the short run, notably the opportunities in fish, groundnut and cashew processing and ICT. Measures that help domestic suppliers link up with existing or potential foreign investors often involve helping to bridge any information asymmetries that may exist between them. For example, the GIEPA can act as a facilitator by gathering and disseminating information on linkage opportunities. It can also promote matchmaking initiatives that focus on the specific capabilities and needs of individual buyers and suppliers, and work closely with them to reach supply agreements. In addition, successful business linkage measures also focus on supporting initiatives that strengthen the productive capacity of targeted local suppliers by assisting large firms, including foreign affiliates, in undertaking targeted training. Finally, measures can also focus on strengthening existing linkages in technology upgrading and financial assistance (UNCTAD, 2010).

Box 2.5. Key steps for effective business linkage promotion

Many successful business linkages initiatives led by investment promotion agencies schematically follow a road map that is characterized by four key good-practice steps:

1. Set up partnerships
   - Identify partner institutions (e.g. donor agencies, SME development centres, business associations).
   - Establish an institutional framework for partnership, setting out objectives and roles for each partner.
2. Map value chain opportunities
   - Map MNE value chain challenges and needs; evaluate the capacity of local firms to select target sectors.
   - Select MNEs that require a critical amount of inputs and services that could be sourced locally.
3. Tailor support measures and advocate reforms
   - Identify support measures that create incentives and commitment for both MNEs and SMEs.
   - Facilitate discussion between the private sector and policymakers to reduce the policy-related barriers.
4. Monitor and evaluate
   - Establish a monitoring and evaluation system with clear indicators to measure the effectiveness and efficiency of the programme.
   - Communicate reports to future prospective stakeholders, including foreign investors.

Source: UNCTAD (2013b).

The Gambia can draw from the recent successful example of business linkages in the agroprocessing sector in the United Republic of Tanzania (box 2.6).

Recommendations

In the short term:

- B.5.1. Launch a linkage programme in one key target sector. In close collaboration with the GIEPA's business development and MSME support team, the investment promotion team could begin a linkages experiment in one of the three priority targeted sectors – fish, groundnut or cashew processing, and ICT. Draw lessons learned from this first experience and move on to another sector. UNCTAD stands ready to assist the GIEPA through its Business Linkages Programme.

In the longer term:

- B.5.2. Expand the coverage of the Business Linkages Programme. As the GIEPA gains experience and expertise in the facilitation of business linkages, it can progressively promote them across an increasing number of sectors and may consider following the examples of countries such as Brazil, India, Malaysia and Mexico, which have successfully promoted industry-wide business linkage strategies (UNCTAD, 2010).

Box 2.6. Successful agroprocessing linkages: the case of the United Republic of Tanzania

Since 2014, in collaboration with the Tanzania Investment Centre, UNCTAD has been assisting dairy farmers who are supplying milk to Tanga Fresh Ltd., a leading dairy food company with a processing capacity of 50,000 litres of milk a day. The company sources its milk from 6,000 smallholder dairy farmers through some 45 milk collection points, distributed across the regions of Tanga and Morogoro.

With a view to improving the quality of milk supplied and the reliability of the suppliers' network in the region, UNCTAD designed and implemented a customized training package (in part through UNCTAD's entrepreneurship development programme, EMPRETEC) over an 18-month period to strengthen business linkages between farmers' cooperatives and Tanga Fresh Ltd. As evidenced by assessments carried out on different groups of beneficiaries, UNCTAD's business linkages project contributed to upgrading suppliers by

- strengthening their entrepreneurial competencies; and
- changing farmers' approach towards farming and helping them seeing it as a potentially sustainable and reliable source of income.

Over time, the dairy food company observed that farmers became more reliable in terms of delivery and more attentive to quality control protocols, and that the majority adopted a new commercial method of cattle feed cultivation, allowing them to be more resilient during the dry weather seasons. As a result, the volatility of milk production reduced significantly, with the difference in daily production between the rainy and dry seasons decreasing by more than 40 per cent. In 2015, the milk suppliers who undertook the full training package increased their milk production by 110 per cent as compared with 2014.

Source: UNCTAD.

<table>
<tr><th colspan="4">ANNEX 1. Summary of recommendations</th></tr>
<tr><th>What to do?</th><th>Why?</th><th colspan="2">How?</th></tr>
<tr><td rowspan="10">1. Strengthen the national and international legal framework for FDI to nurture openness, transparency and predictability in line with the country's development objectives</td><td rowspan="10">Although there are no restrictions on entry and establishment of foreign investment, and efforts have been made to align treatment and protection standards to good practice, investors face some concerns: the possibility of introducing discretionary limitations on ownership, recent government interventions and a track record of investor–State disputes. Furthermore, the existing network of IIAs should be modernized and brought in line with today's sustainable development agenda.</td><td colspan="2">Measures affecting the national legal framework for FDI</td></tr>
<tr><td>I.A.1.1</td><td>Adopt the revised regulations of the GIEPA Act (2015), which provide additional clarity and predictability.</td></tr>
<tr><td>I.A.1.2</td><td>Clarify the conditions and procedures for the State to engage in a strategic industry, and limit government intervention in business activities.</td></tr>
<tr><td>I.A.1.3</td><td>Subject expropriation to legitimate public purposes, non-discrimination, due process of law and compensation.</td></tr>
<tr><td colspan="2">Measures affecting the international legal framework for FDI</td></tr>
<tr><td>I.A.2.1</td><td>Conducting a national IIA review and developing an action plan resulting in a new model IIA that contains "modern" treaty clauses as set out in UNCTAD's Road Map for IIA Reform and that can be used for future negotiations (including renegotiations and amendments of existing treaties).</td></tr>
<tr><td>I.A.2.2</td><td>Engage in regional IIA reform activities, notably at the ECOWAS level.</td></tr>
<tr><td>I.A.2.3</td><td>Clarify the scope of key IIA provisions such as FET and indirect expropriation, when revising IIAs.</td></tr>
<tr><td>I.A.2.4</td><td>Strengthen the investment facilitation and promotion dimension of IIAs.</td></tr>
<tr><td colspan="2"></td></tr>
<tr><td rowspan="17">2. Foster an environment that is conducive to business operations</td><td rowspan="17">Although the regulatory framework has undergone reforms, it remains challenging for investors to set up and operate a business. The operations involved are time-consuming and costly, the land regime is complex, complying with tax requirements is burdensome and reaching export potential is hampered by supply-side constraints and policy issues. In addition, the labour, environmental and competition regimes all need improvement. Finally, governance needs further strengthening.</td><td colspan="2">Procedures to create a business</td></tr>
<tr><td>I.B.1.1</td><td>Map and streamline business establishment procedures.</td></tr>
<tr><td>I.B.1.2</td><td>Publish the resulting list of procedures and make it binding.</td></tr>
<tr><td>I.B.1.3</td><td>Facilitate the establishment of business through a single application form and with the option to carry out the entire process online.</td></tr>
<tr><td colspan="2">Accessibility of land</td></tr>
<tr><td>I.B.2.1</td><td>Consider the establishment of the Lands Commission provided for in the Lands Commission Act (1997).</td></tr>
<tr><td>I.B.2.2</td><td>Clarify the criteria and procedures to access customary land.</td></tr>
<tr><td>I.B.2.3</td><td>Increase efforts to promote secure, effective and timely title registration.</td></tr>
<tr><td>I.B.2.4</td><td>Facilitate the use of lease titles as collateral and their transferability by removing mandatory ministerial consent.</td></tr>
<tr><td>I.B.2.5</td><td>Refrain from any interference in the use rights of lessees.</td></tr>
<tr><td colspan="2">Taxation regime</td></tr>
<tr><td>I.B.3.1</td><td>Continue the review and simplification of the taxation regime, including both the key rates and municipal taxes.</td></tr>
<tr><td>I.B.3.2</td><td>Limit the application of excise duty to a list of specific products (such as tobacco, alcohol or luxury goods).</td></tr>
<tr><td>I.B.3.3</td><td>Increase the transparency and predictability of the tax regime by allowing binding advance tax rulings and building the capacity of the GRA staff.</td></tr>
<tr><td>I.B.3.4</td><td>Reduce the number of tax payments, and introduce electronic filing and payment.</td></tr>
<tr><td>I.B.3.5</td><td>Introduce systematic cost-benefit analysis of incentives but streamline reporting requirements on business.</td></tr>
</table>

What to do?	Why?	How?	
2. Foster an environment that is conducive to business operations		**Trade issues**	
		I.B.4.1	Continue to improve the transparency of customs procedures through the effective implementation of ASYCUDAWorld.
		I.B.4.2	Step up efforts to train and build the export capacity of local producers.
		I.B.4.3	Address infrastructure gaps surrounding EPZs, including access to reliable electricity and transport infrastructure.
		I.B.4.4	Intensify efforts to secure access to markets, including re-entering the AGOA and lowering the incidence of policy changes on trade.
		Labour market	
		I.B.5.1	Clarify and streamline labour contract termination procedures, in line with accepted international practice.
		I.B.5.2	Enhance the predictability of labour inspections by adopting clear guidelines for technical, safety and other labour standards.
		I.B.5.3	Implement fully the recommendations of the ILO CEACR, and clarify situations in which industrial actions could be detrimental to essential services.
		I.B.5.4	Consider substituting the existing quota system with a "scarce skills list" approach that prioritizes sectors where skills are more urgently needed.
		I.B.5.5	Grant foreign workers automatic work and residency permits where local employees cannot fulfil the job requirements.
		Environmental issues	
		I.B.6.1	Introduce a certification mechanism for consultants who could be responsible for preparing environmental impact assessments.
		I.B.6.2	Boost human resources at the NEA.
		Competition regime	
		I.B.7.1	Build human capacity and increase the financial resources of the Competition Commission.
		I.B.7.2	Clarify coordination mechanisms between the Competition Commission and the PURA, and implement the Memorandum of Understanding signed by the two entities.
		Governance and access to justice	
		I.B.8.1	Refocus the Anti-corruption Act on a range of core anti-corruption provisions, and strengthen whistle-blower protections.
		I.B.8.2	Make the Anti-corruption Commission functional, and narrow down its responsibilities for it to be able to function in an efficient manner.
		I.B.8.3	Strengthen the independence and impartiality of the judiciary, and build capacities for magistrates and judges dealing with commercial disputes.
		I.B.8.4	Allow free public access to laws, regulations and judgements.
		I.B.8.5	Introduce systematic regulatory impact assessment.
		Horizontal constraints	
		II.A.1.1	Establish PPD to identify and remove key obstacles to local competitiveness.
		II.A.1.2	Design a comprehensive development policy for the agro-processing and light manufacturing sectors.
		II.A.1.3	Complete the development of the new GNAIP 2016–2020, and monitor the implementation of the ANR and the NES.

What to do?	Why?	How?	
3. Promote investment in priority sectors	The Government has recognized the role of investment in the national development strategy and identified priority sectors where FDI could play a greater role. The focus is on three sectors – agroprocessing, light manufacturing and ICT. Lifting both horizontal constraints and sector-specific challenges is a precondition for the three sectors to reach their potential.	**Opportunities in agroprocessing and light manufacturing**	
		II.A.1.4	Adopt a PPP approach to • upgrading the fish landing sites; • developing a local cashew processing facility; • establishing a local glass container manufacturing facility; and • promoting the expansion of Gamwind.
		II.A.1.5	Consider further opening the market for private milling of groundnuts, including its derivative products.
		II.A.1.6	Ensure that quality groundnuts from the Gambia Groundnut Corporation are available for sale to domestic oil producers.
		II.A.1.7	Devise and conduct a public awareness campaign on the health and benefits of cooking with domestically manufactured groundnut oil instead of imported palm oil.
		II.A.1.8	Carry out mapping of cashew production capabilities to identify supply-side constraints and better target Government assistance.
		II.A.1.9	Update the mining legislation to attract FDI in exploration and exploitation of sand mineral deposits.
		Foreign investors as partners in sectoral development	
		II.A.1.10	Target foreign investors in the local industrial fishing sector.
		II.A.1.11	Target investors in local processing of cashew as well as higher value added oil production of groundnuts.
		II.A.1.12	Target the attraction of another renewable independent power producer to establish a dedicated generation plant at July 22 Business Park.
		II.A.1.13	Identify segments along the agroprocessing and light manufacturing value chains where FDI is required.
		Skills and technology required for the targeted sectors	
		II.A.1.14	Strengthen small-scale fisheries organizations and promote their organization into productive clusters.
		II.A.1.15	Encourage linkages between small local fisheries and large national and/or foreign fish processing enterprises.
		II.A.1.16	Develop a cashew business linkages programme.
		Access and affordability of ICT services	
		II.A.2.1	Review Gamtel's fixed-line broadband tariffs.
		II.A.2.2	Liberalize access to internet and gateway services.
		II.A.2.3	Make a higher-quality national fibre-optic backbone a priority of the PPP unit.
		Government usage of ICT	
		II.A.2.4	Introduce e-government solutions for government procedures.
		II.A.2.5	Mainstream ICT across the education sector and engage One Laptop Per Child.
		Business usage of ICT and ICT skills	
		II.A.2.6	Revise tax rates for telecommunication.
		II.A.2.7	Encourage awareness initiatives and capacity-building.
		II.A.2.8	Support ITC entrepreneurship opportunities and networks.
		II.A.2.9	Implement the National Entrepreneurship Policy.
		II.A.2.10	Develop programmes in partnership with the private sector which increase ICT literacy among the local population.

What to do?	Why?	How?	
4. Build institutional capacities for investment promotion	The renewed mandate of the GIEPA covers a wide range of responsibilities that reflect its role as a development agency, including investment promotion, business development services, export development, image-building and policy advocacy. In order to optimize the use of resources and impact, the GIEPA should adopt a phased and selective approach to investment promotion.	**Image-building functions**	
		II.B.1.1	Short term: Adopt a selective image-building approach, aimed at the Gambian diaspora and investors in the West African region.
		II.B.1.2	Short term: Update the GIEPA website regularly, and disseminate information on investment and other marketing material.
		II.B.1.3	Long term: Adopt the image-building and awareness tasks stipulated under the GIEPA's strategy, on the basis of availability of resources.
		Investment targeting	
		II.B.2.1	Short term: Revise the implementing regulations of the 2015 GIEPA Act to specify that functions related to investment promotion are led by GIEPA staff.
		II.B.2.2	Short term: Adopt a "Team Gambia" approach to reach out to potential investors.
		II.B.2.3	Short term: Relieve the GIEPA's staff from administering investment incentives and industrial parks.
		II.B.2.4	Short term: Focus on targeting measures to attract investment aimed at a few specific sectors.
		II.B.2.5	Short term: Identify and target investors with a regional presence or with experience of doing business in The Gambia, including from the diaspora.
		II.B.2.6	Short term: Broaden the use of promotional channels to target investment.
		II.B.2.7	Long term: Expand the GIEPA's investment targeting efforts to include other sectors and activities on the basis of research and competitiveness benchmarking.
		Account management and investor aftercare	
		II.B.3.1	Short term: Assign sector specialists to each targeted sector as key account managers.
		II.B.3.2	Long term: Assign specific staff to conduct relevant market research and subsequently undertake targeting activities.
		II.B.3.3	Long term: Adopt an effective system for investor relationship management.
		Policy Advocacy	
		II.B.4.1	Short term: Make the GIEPA the secretariat of a PPD mechanism to carry out structured consultations between the public and private sectors.
		II.B.4.2	Short term: Utilize the GIEPA's influential board members to champion investment climate reforms in the country.
		II.B.4.3	Long term: Design a full-fledged policy advocacy initiative that includes the measures presented in the GIEPA's strategy.
		Business Development and business linkages	
		II.B.5.1	Short term: Initiate a linkages programme in one of the three priority sectors (fish, groundnut or cashew processing and ICT).
		II.B.5.2	Long term: Expand the coverage of the linkages programme once the GIEPA gains expertise in the facilitation of business linkages.

ANNEX 2. Prominent agroprocessing and light manufacturing companies in The Gambia			
Company (ownership)	**Leading products**	**Markets**	**Significance to the sector or the country**
		Groundnut-based	
Gambia Groundnut Corporation (SOE)	Shelled groundnuts, oil, cake	Nuts to United Kingdom. Oil to Ghana and Ivory Coast. Cake to Europe for animal feed	Largest buyer and exporter of the country's largest cash crop. The Government of The Gambia's leading source of foreign exchange.
Reliance Oil Mills (Indian)	Groundnut oil		The remaining large oil mill and only major private company to join the Government to purchase groundnuts from Gambian farmers.
Deggeh Foods (Gambian)	Peanut butter	United States	
GreenTech (Dutch–Gambian joint venture)	Fuel briquettes made of compressed groundnut shells	The Gambia	
		Animal-based	
Atlantic Seafood (Dutch)	Fish, crustaceans, and molluscs, whole/ fillets, chilled/frozen	Europe and South Africa	Purchases catch from 300–500 artisanal fishing boats. 50 permanent staff and an additional 100–150 during peak season.
Pelican Fisheries	Fish and crustaceans, whole or fillets, chilled or frozen	Europe and United States	
Golden Lead (Chinese)	Sardinilla oil and meal	Oil to China. Hopes to export to Europe. Meal to Viet Nam for aquaculture feed	Started operations in 2016. Purchases directly from artisanal fisheries.
EMPAS Poultry (Dutch–Gambian joint venture)	Processed chicken (<100,000/month)	The Gambia. Hopes to export to Senegal and Guinea-Bissau	
Kombo Farms (Gambian)	Milk and beef	The Gambia	40 employees.
Care for Natural (Gambian)	Yoghurt, frozen yoghurt, fruit jams	The Gambia	
		Grain- and fruit-based	
Gambian Milling Corp. (American–local Lebanese joint venture)	Wheat flour (300 MT/day, plans to expand to 450)	Mostly The Gambia. Some exports, mostly to Senegal	The Gambia's only flour producer. Imports all wheat. 70 employees and $21 million investment.
Dunda Farms (Gambian)	Rice milling. In planning phase	The Gambia	Investment is in planning phase
Sunshine Industries (Indian–Gambian joint venture)	Water bottler		Largest water bottler with daily production of 2,000 bottles (1.5 litre) and 3,000 bottles (0.5 litre).
Tropingo	Fruit juices		100 employees seasonally.
Junetta	Fruit juices	The Gambia, West Africa	
Kim Kombo	Fruit liqueur		
Banjul Breweries	Beer		
Gach Global (China–Gambian joint venture)	Tomato paste (100 MT/day) and juice		120 employees.
Afronut (Slovak–Gambian joint venture)	Dried mangoes, peanut chips	The Gambia	
Moukhtara Holding	Timber		

Source: Company websites and UNCTAD research and interviews during the fact-finding mission.

ANNEX 3. Prominent ICT companies in The Gambia

Company (ownership)	**Leading products**	**Markets**	**Significance to the sector or the country**
Mobile phone operators			
Africell (Lebanese)	Prepaid and postpaid mobile telephony	Gambian headquarters with subsidiaries in Democratic Republic of Congo, Sierra Leone and Uganda	Largest mobile phone company in country
Comium (Luxembourg)	Integrated mobile and telecommunication services comprising postpaid and prepaid communications, value added services, and SMS	Côte d'Ivoire, The Gambia, Liberia and Sierra Leone	
Gamcel		The Gambia	Subsidiary of Gamtel
Qcell (Gambian)	Mobile voice calls, video calls, 3G/Edge Internet access	The Gambia, serving Government, NGOs, embassies, individuals	
Fixed-line phone operator			
Gamtel (SOE)	ISDN, VPN, ISP, e-banking, with other ventures planned in electronic learning, commerce and health	The Gambia	Shareholder in the ACE submarine cable
Internet service providers			
QuantumNet (Gambian)	ISP	The Gambia, Sierra Leone	Employs 300. Country's first ISP. Sister company of Qcell
Netpage (Gambian)	ISP, local and wide area networking, local wireless connectivity, web design and website hosting, corporate training and IT security consultation	The Gambia, serving government, NGOs, embassies, individuals	First to launch 4G, now 4G LTE
Gamtel (SOE)	ISP, ISDN, virtual private network, e-banking; additional ventures planned in e-learning, e-commerce, and e-health	The Gambia	
Unique Solutions (Gambian)	ISP, technology integration, system set-up	The Gambia, Government and companies. Preparing to expand to Benin, Côte d'Ivoire, Guinea-Bissau, and Senegal	RLG sister company
Africell (Lebanese)	ISP	Gambian headquarters, with subsidiaries in Democratic Republic of Congo, Sierra Leone and Uganda	Country's largest mobile internet provider
InSISTNet	ISP	The Gambia, serving homes, companies and schools	Employs 10+
IT consulting and software development			
KMF Technologies (Gambian)	Network design, software customization, hardware sales, hardware repairs	The Gambia, serving Government, including the central bank and the port authority	
InSIST Global (Gambian)	Software development for education, health, and enterprise resource planning	The Gambia, Senegal	Employs 20
Consumer hardware			
RLG (Ghanaian-Gambian)	Mobile phone assembly, software installation, testing	The Gambia, Senegal	Trains local technicians in mobile phone repair. Unique Solutions sister company
ICT-enabled industries			
Farm Fresh (Gambian)	E-commerce: online grocery shopping and delivery	The Gambia and the diaspora	
BuySell (Gambian)	E-commerce: online bidding on (mostly used) goods for sale	The Gambia	

Source: Company websites and UNCTAD research and interviews during the fact-finding mission.

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NOTES

1 Beyond its sea and sand offering, The Gambia is also a popular destination among European bird watchers, owing to its renowned avian fauna.

2 A recent change in the fishing licence adversely affected this sector; for details, see further in the context and chapter II.

3 The Gambia also benefited from preferential access under the African Growth and Opportunity Act (AGOA) until it was suspended in 2015 (see chapter I for more details).

4 International Trade Centre (ITC) Trade Map at trademap.org, accessed 15 April 2016.

5 Adopted in July 2015, the ban has been considered overly broad for including industrial packaging and is blamed for the closing of several manufacturing companies that depended on such packaging. It also raised the lowest available price for water sold commercially by more than seven-fold, as it applied to plastic pouches with water sold by street vendors to the poorest Gambians.

6 Exploration for hydrocarbons in The Gambia dates back to the 1950s. None of the companies involved in the early exploration of the area progressed beyond initial studies apart from one that drilled a well in 1979. This remains the only well drilled offshore to date, and it was plugged and abandoned. One company has obtained a licence to prospect for hydrocarbon resources in the country. However, no further drilling has yet taken place offshore.

7 See observer.gm/govt-lifts-restriction-on-foreign-currency-exchange-rate.

8 These texts cover the Constitution (1997), Companies Act 1955), Partnerships Act and sectoral laws, including the PURA Act (2001), Information and Communication Act (2009), Electricity Act (2005) and Renewable Energy Act (2013).

9 FDI requires a foreign contribution of at least 10 per cent of the capital for the creation or acquisition of business assets, or the expansion, restructuring or rehabilitation of an existing enterprise, by way of equity or management participation, joint ventures or sharing of technology and skills. Capital has an asset-based definition. It is the nationality of the individual or of the majority shareholders and not the place of incorporation of the company that determines status as domestic or foreign investor.

10 The Gambia Public Procurement Authority has indicated that this threshold may increase to GMD 50 million ($1,200,000). The currency is converted here and throughout the report based on the average exchange rate in 2015.

11 The Gambia is a State party to the ICSID Convention (Washington, D.C., 1965).

12 observer.gm/govt-gives-tajco-72-hrs-to-leave-gambia.

13 The following analysis is based on 11 BITs for which the text was available. The list of the BITs of The Gambia is available at UNCTAD's Investment Policy Hub (IIA Navigator): investmentpolicyhub.unctad.org/IIA/CountryBits/76#iiaInnerMenu.

14 For a discussion on investor nationality and policy options to address the challenges posed by complex ownership structures, see the *World Investment Report 2016* (UNCTAD, 2016).

15 In the BIT with the Netherlands, "in like circumstances" applies only with respect to taxes, fees and charges and to fiscal deductions.

16 The Gambia has responded to one known treaty-based dispute (which was settled), relating to ownership of a local groundnut processing plant (*Alimenta S.A. vs The Gambia*). See the UNCTAD ISDS Navigator, at investmentpolicyhub.unctad.org/ISDS.

17 Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the One Part and the European Community and Its member States of the Other Part (Cotonou Agreement).

18 The Agreement on Promotion, Protection and Guarantee of Investments among Member States of the Organization of the Islamic Conference (1981).

19 For more information, see UNCTAD (2017), chapter III.

20 The Gambia has two BITs with other ECOWAS members, Guinea (2002) and Mali (2004).

21 Available at investmentpolicyhub.unctad.org/Blog/Index/51. The Global Action Menu for Investment Facilitation aims at helping countries address ground-level obstacles to investment, such as a lack of transparency on legal or administrative requirements faced by investors, a lack of efficiency in the operating environment and other factors causing high costs of doing business.

22 They are GMD 10,000 ($240) for companies with less than GMD 500,000 ($12,000) of capital, GMD 5,000 ($120) for partnerships and GMD 1,000 ($24) for sole proprietorships.

23 See ger.co.

24 Tourism Development Areas have been designated to stimulate the growth of the sector. The Gambia Tourism Board is mandated to grant access to land in these areas.

25 The reforms included opening new tax offices (in Tallinding, in Brusubi and most recently in Serekunda). In addition, the GRA is working with commercial banks to improve payment methods.

26 The United States Government in December 2014 suspended The Gambia from eligibility to participate as a trade beneficiary under the provisions of the AGOA on the grounds of human rights violations (United States Department of State, 2015).

27 The National Accreditation and Quality Assurance Authority replaced the National Training Authority.

28 The Expatriation Quota Allocation Board operates under the MOTIE and includes the Gambia Chamber of Commerce and Industry, the GRA, the Ministry of Health, the Department of Labour and the Department of Immigration.

29 It includes “the effects on health and on the socio-economic conditions of the local population, on the physical and cultural heritage, on the current use of lands and resources for traditional purposes, and any structure or site that is of historical, archaeological, paleontological or architectural significance, outside or inside The Gambia”.

30 In addition, the investor pays GMD 1,000 ($24) for the screening form and processing fees of GMD 25,000 ($600) for a class A project, GMD 10,000 ($240) for a class B project, GMD 5,000 ($120) for a class C project and GMD 1,000 ($24) for a non-profit, community-based class C project.

31 Less than 50 per cent of land disputes are resolved in less than one year.

32 gm.undp.org/content/gambia/en/home/ourwork/democraticgovernance/successstories/Sample_Success_Story_2.

33 statehouse.gov.gm/press-release/18th-july-2013-chief-justice-wowo-relieved-mabel-agyemang-appointed/;
tribune.com.pk/story/885678/gambian-president-sacks-pakistani-chief-justice;
jca.asn.au/wp-content/uploads/2013/11/CMJA-News-35.pdf;
yahoo.com/news/gambian-president-sacked-supreme-court-judges-lawyer-171449724.html?ref=gs.

34 For more details about the programme, see businessfacilitation.org.

35 The GIEPA provides support to SMEs through a team of four staff members, which is also responsible for the administration of the EMPRETEC programme, one of the largest capacity-building programmes for entrepreneurs in the country. It trained over 700 entrepreneurs in 2015. The GIEPA also has a team of five staff members responsible for export promotion.

36 Agroprocessing is a “subset of [light] manufacturing that processes raw materials and intermediate products derived from agriculture, forestry and fisheries” (FAO, 1997). At low levels of processing, this includes juicing and bottling mangoes, slaughtering poultry for meat, producing boards and pulp from timber, and filleting and freezing fish. These may be consumed as final products, used as intermediate goods to produce other goods, or serve as byproducts in other manufacturing operations. For example, shelling, salting and packaging peanuts would be referred to as agroprocessing. Even compressing peanut shells into briquettes can be referred to as agroprocessing because the agricultural product remains the primary input. The process evolves towards light manufacturing with, for example, hides of animals slaughtered for meat that might be tanned and used for shoes and furniture. Using peanuts as one ingredient among a dozen in the production of breakfast bars would also be considered as light manufacturing.

37 Whereas the previous regime required that 10 per cent of a ship’s catch be offloaded in The Gambia as a tax, the rest could be offloaded abroad, including in Senegal, which provided better logistical access to the combined Senegalese-Gambian market, which most fisheries sought to serve. However, the new regime requires that an additional 50 per cent of a haul be offloaded (for sale and/or processing) at the port of Banjul.

[38] The list includes candy and snack foods, candles, soap, garments, cosmetics, tissue paper, furniture, wheelbarrows, paints, plastic packaging, household plastics (e.g., buckets, PVC pipe), foam mattresses, compressed gas cylinders, tractors (assembly), bricks and building materials.

[39] The GNAIP was a five-year plan ending in 2015, and a successor was being developed as of March 2016.

[40] The average export price of groundnut oil (whether or not refined) was more than 80 per cent higher than palm oil in 2015 (ITC, 2016). Although part of the price discrepancy can reflect quality differences, greater private production of groundnut oil could contribute to achieving the efficiencies needed to make groundnut oil more price competitive.

[41] The Gambia imported $17 million worth of refined palm oil in 2015.

[42] See more details at thebftonline.com/business/agribusiness/18069/cashew-industry-needs-a-big-push.html#sthash.lz18BpqH.dpuf.

[43] The ICT sector is defined to include manufacturing, trading and service activities. Under Revision 4 of the International Standard Industrial Classification, the ICT sector includes the following: (i) manufacture of electronic components, computers and peripheral equipment, communication equipment, consumer electronics, and magnetic and optical media; (ii) wholesale of computers, computer peripheral equipment, software, and electronic and communication equipment and parts; (iii) services including wired, wireless, satellite and other telecommunication activities, computer programming, IT consultancy and computer facilities management, software publishing, other IT and computer service activities, data processing, hosting and related activities, web portals and repair of computers, peripheral equipment, and communication equipment.

[44] For more information on the “From Africa Coast to Europe” submarine cable,, see ace-submarinecable.com.

[45] To date, five licences have been issued to private operators and one to Gamtel/Gamcel.

[46] See Unique Solutions for more details at unique.gm.

[47] In 2015, the United Nations Economic and Social Council (ECOSOC), noting that access to internet is limited to some urban areas, urged The Gambia to redouble its efforts to expand affordable access to the internet in all areas, in particular for disadvantaged and marginalized individuals and groups (ECOSOC, 2015).

[48] For more details about the programme, see businessfacilitation.org.

[49] Public Utilities Registration Authority, Internet, Cyber-café Registration Form available at pura.gm/images/DG_Final_Docs/Internet%20Cafe%20Registration%20Form%20Final%20version%20for%20Publication_final_v2.pdf.

[50] For more information, see farmfresh.gm/en.

[51] Ministry of Information and Communication Infrastructure, “Gambia celebrates Girls in ICT Day”, available at moici.gov.gm.

[52] UNCTAD is working closely with the GIEPA to develop a National Entrepreneurship Policy and a related action plan for the GIEPA for MSME and entrepreneurship development (UNCTAD, 2017). It is also responsible for the entrepreneurship training programme in the context of the installation of the EMPRETEC.

[53] For further details, see thegambia.gm.

[54] The iGuides, designed by UNCTAD and the International Chamber of Commerce, provide investors with online up-to-date information on business costs, opportunities and conditions in developing countries. They are prepared jointly with governments, at their request. For more information see theiguides.org.

[55] For further details, see theiguides.org/public-docs/guides/djibouti or theiguides.org/public-docs/guides/rwanda.

[56] With UNCTAD’s assistance, the GIEPA is finalizing the process to develop a national entrepreneurship policy and action plan. A national workshop involving all stakeholders to discuss it took place in October 2016. Business linkages promotion is part of the action plan under the policy area “facilitating technology exchange and innovation.”

IPR

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