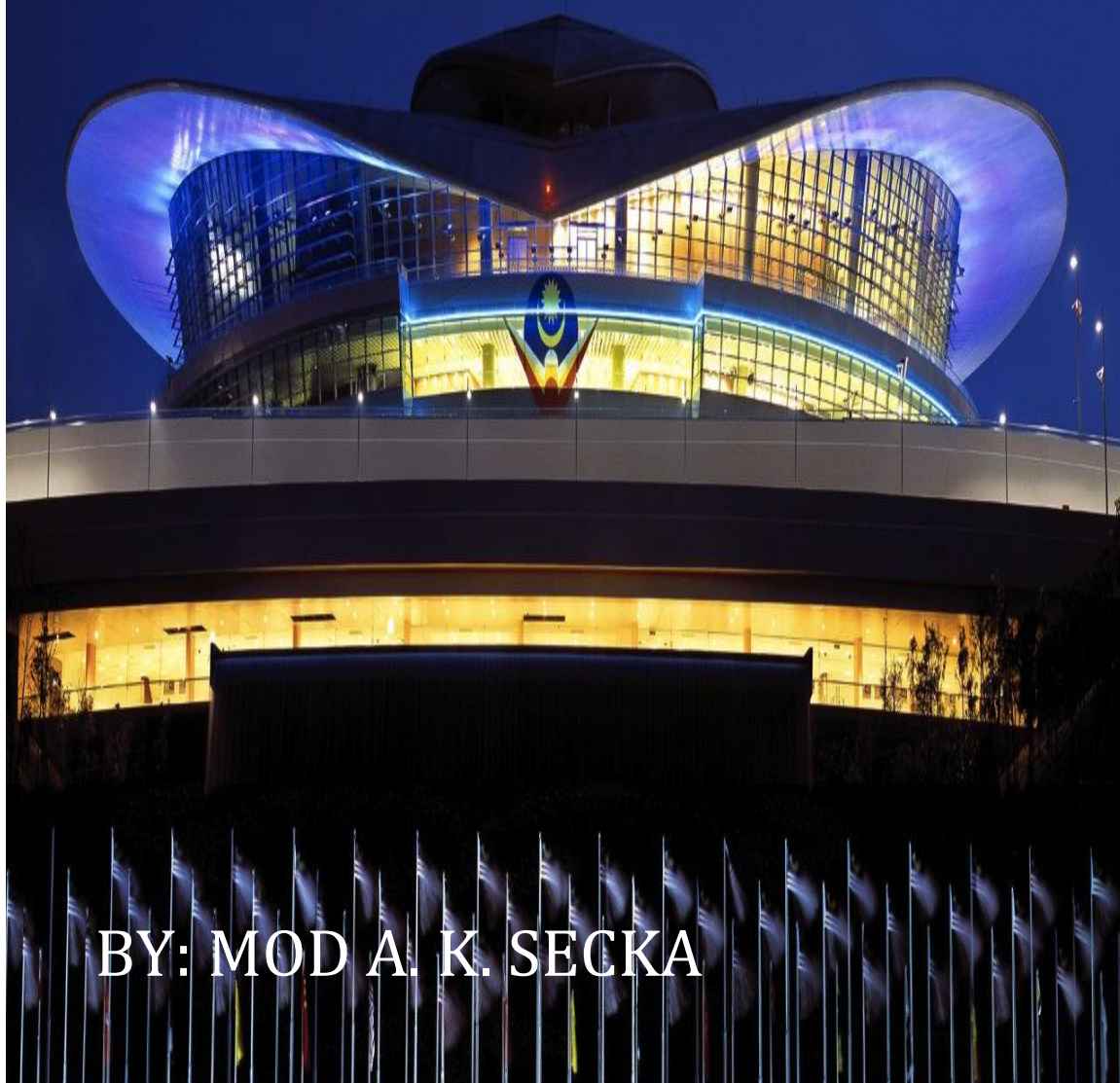


THE GAMBIA'S INVESTMENT POLICY

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CHAPTER 1: EXECUTIVE SUMMARY

The Gambia is a country that is aspiring for a spot among countries with middle income status. This is attested to by the fact that even though the country's size of the economy as measured in terms of GDP is slightly below \$1 billion but its per capita income which has recently been revised upwards to \$684 from \$450 from a rebasing of the GDP that was recently conducted. This rebasing of GDP compared 2004 and 2013 base years. The Manufacturing sector contributes 4-5 percent of GDP and the it's contribution to GDP continues to decline over time.

There has been a steady rise in FDI flows to the Gambia in the decade starting in 2000, reflecting improvement in both economic and policy factors influencing such flow but this trend was reversed as FDI started to decline since 2007 due to poor economic and political governance. FDI apart, other sources of investments flows came from borrowings from the banking sector by the private operators, remittances from Gambian's abroad and some small drips from PPPs.

The economy is emerging from gross mismanagement and severe threats and occurrences of macroeconomic instability and significantly falling Official Development Assistance and FDI, to one with huge political capital and economic opportunities that can attract both FDI and ODA as demonstrated by the donors' pledge of EUROs 1.45 billion in the 2018 Round Table on The Gambia in Brussels. This very high goodwill from the international community is also a very strong signal to investors that The Gambia is now open and ready to be an investment heaven.

Government's role had always been restricted to regulator and facilitator of economic development based on ideals of transparency, fair and level playing field for both foreign and domestic investors as well as a predictable policy environment that allows all and sundry to maximize their potentials in the national development process. The country veered away from these principles during the past 22 years of dictatorial regime and the New Government is determined to improve both economic and political governance as well as tackle investment constraints, which brightens the investment climate.

Also, The Gambia has adopted an open regime for Investment. It offers essential investment protection guarantees in the domestic laws, a transparent dispute settlement mechanism that is governed by best international practice and adherence to the principle of non-discrimination such as Most Favored Nations (MFNs) and national treatments, protection in case of expropriation etc. Foreign investors are free to invest in all sectors except for defense and unlawful activities and the country has a welcoming investment climate with transparent, albeit minor ambiguities in some laws, procedures and processes. Investments are prioritized based on the National Development Plan, which addresses sustainable development concerns. Although, the country signed IIAs with other

countries, its openness is not restricted to these agreements but to all investors.

The Country has also not ceded its sovereign right to regulate investments and this is done through the promulgation of domestic laws that are based on best international practices. The GIEPA Act of 2015 is the main legal framework that governs investments and establishes GIEPA as an Agency. Furthermore, the investors are expected to abide by Corporate Social Responsibilities as proposed in this investment policy and other international treaty based obligations for which The Gambia is a signatory. At the international level, The Gambia has entered into bilateral investment treaties (BITs) and is a signatory to other relevant agreements, double taxation and statutes governing investments.

Furthermore, The Gambia has adopted a range of modern business regulation tools such as the single window business registration (SWBR), environmental impact assessment and other laws that are in line with International best practice. It has also undertaken far-reaching policy and regulatory reforms in recent years to improve the country's competitiveness.

This Investment Policy is an update on The National Investment Policy (1999), which is outdated and has very little relevance now and is aligned to the NDP. This new Policy mainstreams sustainable development practices in investment facilitation and draws lessons from the recently conducted UNCTAD's Investment Policy Review. Mobilizing investment and ensuring that it contributes to sustainable development objectives is indeed a priority for all countries and for The Gambia in particular. The NDP seeks to foster a strong competitive private sector to alleviate poverty, create wealth, improve the quality of life of Gambians and help the country achieve the sustainable development goals. The NDP clearly recognized the role Investment can play in achieving these objectives.

However, the Policy is prepared against the background that The Gambia's private sector is small and is seriously constrained by an inadequate policy environment, high taxes and lack of infrastructure and access to finance. The Gambia like many Least Developed Countries (LDCs) is challenged with supply-side constraints such as infrastructure and production capacities and other demand side challenges such as low market access. These constraints expose The Gambia to exogenous shocks, regulatory challenges and the negative effects of climate change.

This also policy aims to improve upon the investment climate to attract more Investments into the country and to maximize the impact of such investments. It details out the potential sources of investment and their trends, reviews the legal and regulatory frameworks, takes stock of the policies, institutions, programmes and measures pursued by The Gambia to stimulate investment flows into the country and increase their benefits and impact in addressing the SGDs and the NDP priorities. It therefore, lays out a number of policy proposals on how investment flows into The Gambia, and how the benefits associated with them,

can be enhanced.

CHAPTER 2: INTRODUCTION

2.1. The Country and Political Context

The Gambia is located between latitudes 13°28N and 16°36W, occupies an area of 11,300 sq. km and is one of the smallest countries in West Africa. A small tropical country, with two distinct dry and rainy seasons, the country is surrounded by the Republic of Senegal in all sides except to the West where lies an 80 km coastline with an exclusive fishing zone of 200 nautical miles. This lack of open borders has been hampering the country's trading opportunities as there were several border closures in the recent past but could be counterbalanced by the country's membership to ECOWAS that has a market size in excess of 300 million people.

Banjul is the capital city, the Dalasi is the local currency and English is the Official language. The country has dubbed the smiling coast of West Africa for its peace derived from peaceful co-existence of religious and ethnic groups. The constitution recognises it as a secular state even though Islam accounts for 96 per cent of the population and Christianity 3.8 per cent and other traditional religions less than one per cent. The total population was estimated at 1,857,181 inhabitants with an average annual growth rate of 3.1 per cent, according to the 2013 National Census.

The Gambia gained her independence in 1965 and became a Republic in 1970. It is a multiparty democratic Government with a unicameral legislature called the National Assembly. Political power had shifted only three times since 1965 with President Jawara dominating the reigns of power from 1965 to 1994 with his rule brought to end by a bloodless military coup that saw President Jammeh with his heavy handed and dictatorial leadership for a period of 22 years. In January 2017, the third President Adama Barrow took over power, in a peaceful transition after defeating Jammeh in a stiffly contested democratic election, under the banner of the Coalition Government.

The ground breaking development that followed the December 2, 2017 Elections that led The Gambia, after a 22 years of dictatorship, to peacefully transfer power to a democratically elected Government. This historic event ushers in renewed hopes of expanded freedoms, much more conducive economic and business environments. However, the new Government is confronted with the daunting tasks of urgently addressing an economy in crisis, increased security challenges, a total collapse of national institutions and the rule of law and a demoralized and traumatized population.

The Gambian economy measured in terms of GDP of about US \$0.9 billion is relatively small and its growth is influenced by both external and internal factors subjecting it to unpredictable swings. The high population growth of about 3%

and the low growth of real GDP averaging around 3% for the past 15 years too left real per capita income almost unchanged at about US 500 and is now above US \$711 with the recently rebasing of the GDP. The Manufacturing sector contributes 4-5 percent of GDP. However, the sub sector's contribution to GDP continues to decline over time. The economy is emerging from gross mismanagement and severe threats and occurrences of macroeconomic instability and significantly falling Official Development Assistance and FDI, due to political and economic governance issues, to an improved country with huge political capital that can be cashed in for a scaled up investment inflows.

Government's role had always been restricted to regulator and facilitator of economic development based on ideals of transparency, fair and level playing field for both foreign and domestic investors as well as a provision of a predictable policy environment for all to maximize their potentials. The country veered away from these principles during the past 22 years of dictatorial regime and there is renewed determination to remove this limitation on government's role as strongly underscored in the National Development Plan. This commitment comes against the strong goodwill of the international community that pledged to support the country with Euro 1.45 billion is historic. This very high goodwill from the international community is also a very strong indicator to investments and investors.

The 1999 Investment Policy is both outdated, very narrow in focus and have little relevance to the current investment contexts of changing priority sectors from the financial sector, which attracted lots of investments and is narrower in focus on the tourism sector by targeting 4-5 Star Hotels, ecotourism and rural tourism. The context has also changed starting from the policy and macroeconomic environment as well as the planning context (ESAF to NDP), the governance and political situation, the kind of guarantees investor need is becoming more sophisticated as opposed to availability of foreign exchange and security of title that was assured in the 1999 policy. The special investment incentives are better targeted in the new GIEPA Act than before but the institutional arrangement remains almost the same from GIFZA to GIEPA with little refocusing.

In the recent past, especially during the past regime, there were evidences of interference in business operations through price fixing on the exchange rate, unpredictable and inconsistent policy statements. This made the macroeconomic environment to be very unstable and unpredictable for informed business decision-making but with The New Government's commitment to improve both economic and political governance, brightens the investment climate.

Recently, the World is persistently facing pressing socio-economic and environmental challenges coupled with a very youthful population especially in the developing world. Therefore, strategically harnessing economic growth for sustainable and inclusive development using investments as a primary driver of growth is very relevant now. Mobilizing investment and ensuring that it

contributes to sustainable development objectives is indeed a priority for The Gambia in particular.

CHAPTER 3: PERFORMANCE OF INVESTMENT FLOWS

Foreign direct investment (FDI) plays an important role in the world economy and has the potential to contribute towards accelerating the process of economic growth and sustainable development in the Gambia as it has done during the last decade starting from 2000. Foreign direct investment (FDI) can serve as an important complement to domestic investment and capacity building for the growth and development of The Gambia. The distinctive benefits of FDI is that it brings in a package of resources—capital, technology, skills, management know-how, and marketing capabilities—along with production activities, to The Gambia.

3.1 Determinants of Foreign Direct Investments

The location-specific factors motivating firms with the necessary ownership-specific and internalization advantages to engage in direct investment abroad have been classified into natural-resource-seeking, market-seeking, efficiency-seeking, and created-asset-seeking ones. Whether firms with such advantages and motivations choose one location or another for their FDI depends on the attractiveness of potential host countries in terms of the location-specific advantages (political and economic stability, business environment, cost of production, labour force etc) sought by investors.

The Gambia, with its relatively low GDP per capita and as-yet low degree of development of their human assets, is relatively disadvantaged in attracting FDI. However, the resource-seeking investors, primarily in mining of Zircon etc, quarrying, petroleum exploration and land for agriculture has huge potentials of success in the country. Efficiency-seeking investors can be attracted by the cheap and unskilled labour force as the greatest pull factor for The Gambia.

There has been a steady rise in FDI flows to the Gambia in the decade starting in 2000, reflecting improvement in both economic and policy factors influencing such flows. However, the trend was reversed as FDI started to decline since 2007 due to poor economic and political governance. FDI apart, other sources of investments flows came from borrowings from the banking sector by the private operators, remittances from Gambian's abroad and some small drips from PPPs. In order to better understand investments into the Gambia, the various sources of investment funds and their respective policy and institutional frameworks are discussed.

3.2 FOREIGN DIRECT INVESTMENTS

FDI flows into The Gambia was at its highest peak in 2006 and started to decline since 2007 and reached its lowest ebb in 2016 when no FDI or very small amounts of FDI was recorded. According to the World Bank. The Gambia

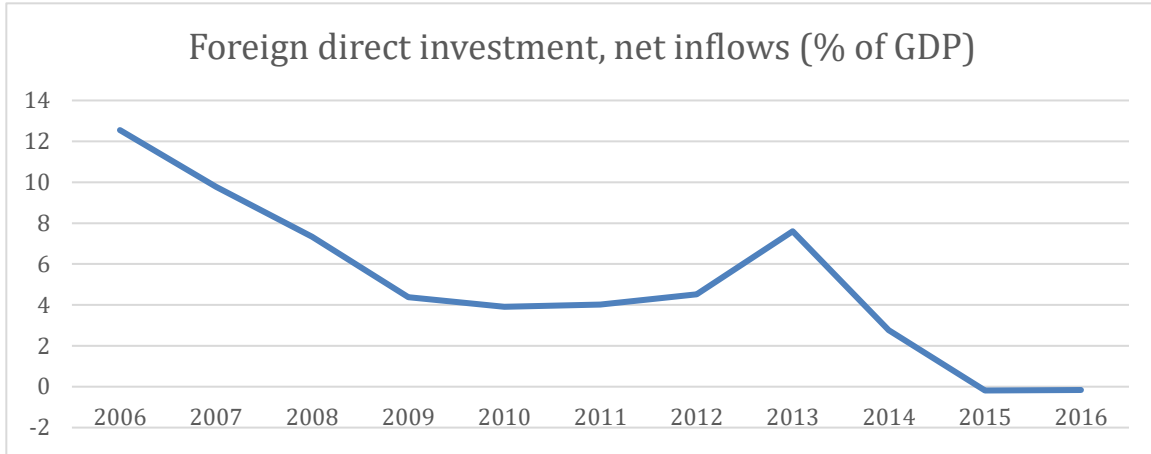
Investment Promotion and Free Zone Agency (GIPFZA) has mobilized over U.S. \$200 million, which were invested into the country in the decade 2000 to 2010. Investments during this period were mainly in the energy sector, telecommunications, increased number of commercial banks and hotels and related infrastructural developments among others. It is an established fact that while political and economic governance were relatively better, albeit the human rights issues that were abound, in the quoted decade, The Gambia virtually lost every gain in the years succeeding it which was accentuated by the election impasse. This explains the extreme swing shown in the FDI in figure 1 below, as FDI continued to fall from above 12% of GDP in 2006 to infinitesimally small or 0% of GDP in 2015 and 2016.

FDI has been declining since 2007 but played a vital role in the development of The Gambia as it represents about 30% of GDP in terms of stock according to the recently UNCTAD Investment Policy Review. It has contributed immensely in funding investments in the development of the services sector and until 2010 the bulk of FDI went to real estate and construction, the second largest beneficiary was the tourism sector with FDI inflows from Nigeria, The Middle East and North Africa. The financial sector has also seen a significant boost as the banking sector grew from 6.4% of GDP to 10 % of GDP in 2013 and the number of banks stood at about 12 commercial banks due to notable increases of Nigerian Banks.

In 2010, real estate, construction, tourism and finance accounted for about 80% of FDI inflows into the country and since then the other sectors were telecommunications and power generation. In 2013 the contribution of telecommunication sub-sector to GDP increased to 12.7% from 7.7% in 2004, representing the increase in mobile telephony and Internet access. The contribution of FDI to manufacturing and agriculture was very low at 4% and 3% of GDP respectively.

Overall the FDI contribution is weak and its areas of intervention should be prioritized in these sectors where it is lowest. From the UNCTAD review, The Gambia attracted about U.S \$52 million between 2007-2017 out of the total FDI into the ECOWAS zone of U. S. \$13.3 billion which was better than only Guinea Bissau at U.S \$20 million and has a lot of catching up to do to pursue lead performers like Mali, Guinea Conakry and Senegal of U.S. \$393, \$363 and \$342 respectively.

Figure 11: FDI as a % of GDP

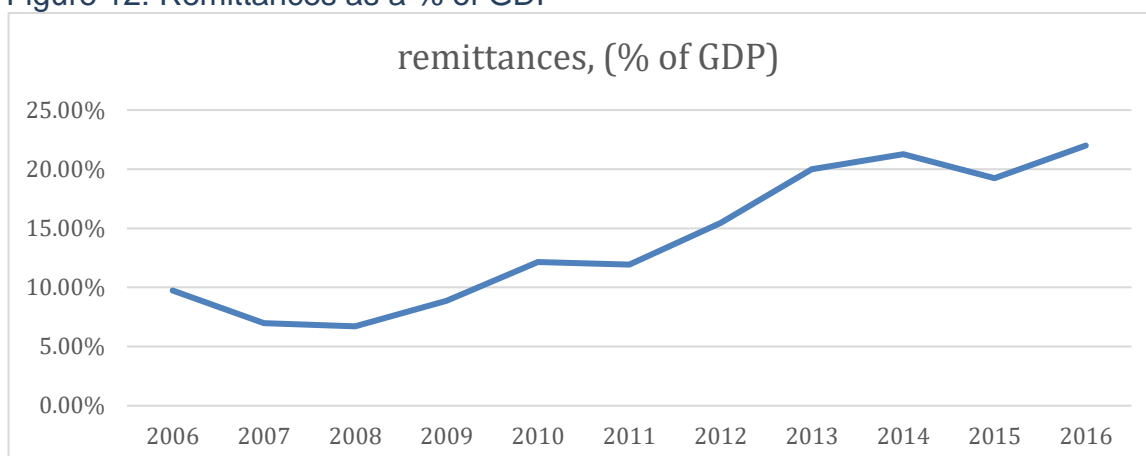


Source: World Bank

3.3 REMITTANCES

The Diaspora Gambians who reside and work in foreign countries send in remittances and these resources are used for a range of purposes from support to family members, purchase or construction of assets such as real estate, to support to community and national initiatives to name a few. Gambian migrants were relatively high before the Coup D etat of 1994 the situation increased substantially in response to the 22 years of dictatorship and for different reasons ranging from fear of political persecution, to economic to other reasons. In Fact, what became extremely worrying was the mass departure of the seasoned public servants and intellectual asset of this country. Though a disturbing factor in development, Gambian Diaspora continued to demonstrate their love for family and country by sending in their hard earned monies in support of national development. These development finance inflows, which also positively influenced investments are so meaningful and grew in volumes from below 10% of GDP from 2006 up to 2009 and thereafter rapidly rose to 22% of GDP in 2016, according to the Treasury Department Data quoted in the 2018 Development Finance Assessment conducted for The Gambia. This is a very high potential source for investments if it is managed properly.

Figure 12: Remittances as a % of GDP



SOURCE: U.S Treasury Department Data

3.4 INFLOWS FROM PPPS

Public Private Partnerships (PPPs) have proven to be a reliable source of development finance to resolve the infrastructure deficit of many countries, which The Gambia can profit from but has not been very successful in attracting. PPPs are very useful in financing capital-intensive projects and infrastructure projects that are quasi-public goods with high economic rates of return. However, there are some dotted evidences of PPPs such as the NAWEC and GEG for the provision of electricity, The Gambia Government and SCANCO for the scanning of containers at the Seaport and GAMTEL/GAMCEL and Spectrum International in the telecommunication sub-sector. The experience from these PPPs indicates that if PPPs were poorly structured it can be both costly and ineffective and this should be a lesson learnt for all future PPPs. However, from 2006 to 2016 only one PPP between Gamtel/Gamcel and Spectrum International was reported. According to the World Bank data the deal was worth U. S. \$35 millions. The other two PPPs cited above happened before 2006.

Currently, there is only one short-term PPP that is signed for the energy sector and that is the KARPOWERSHIP, which is for 2 years with NAWEC, for the provision of electricity using smaller generators that are stationed on board a ship. In fact, this PPP is now operational and seem to be meeting its objective of temporarily stabilizing electricity supply to allow the Government to adequately prepare a strategy to resolve the energy challenges on a more sustainable nature. This deal is a short-term and has the potential of being extended for the long run. Currently there are no signed PPP deals yet even though negotiations are on-going in the development of the Gambia Sea Port, a Toll Bridge for the Trans-Gambian Bridge and Roads.

The lack of Sovereign Guarantees to attract PPPs, in sharp contrast with what happens in countries like Senegal, could discourage the attraction of PPP deals into The Gambia. Sovereign Guarantees cannot be issued under the current IMF

Programme for The Gambia and should be revisited to allow for some flexibility.

3.5 INFLOWS FROM DOMESTIC BORROWING

Domestic borrowing comes from both Government and the private sector. Since the investment policy being updated is concentrating on attracting private investment into The Gambia, only credit from the commercial banks to the private sector is considered.

However, fiscal dominance has been a major policy challenge for the Gambia and is largely due to the then Government's un-quenching appetite to spend. This made expenditure to grow faster than revenues culminating into a chronic fiscal deficit that was as high in some years as above 8 per cent of GDP and warranting high Government borrowing from The Central Bank which crowded out the private sector.

Crowding out apart, the commercial banks invested heavily on Treasury Bills as the safest investment that provides high yields at low risk of default. Therefore, private sector borrowing was doubly affected by the existence of the Treasury window and the crowding out impact to the extent that domestic private sector borrowing, particularly for financing real sector investments, was one of the lowest in the ECOWAS Zone with its highest rate as a per cent of GDP being 2.4% during the period 2006 to 2016. The financial sector is limited to only commercial banks and there is no Investment or Development Bank.

CHAPTER 4: POLICY FRAMEWORK

Gambia's policy direction is anchored on its "Vision 2020 The Gambia Incorporated" and translated into series of 5 or 4 years plans with the last plan being the currently implemented National Development Plan (NDP) spanning from 2018 to 2021. The NDP, as a successor to the Programme for Acceleration of Growth and Employment (PAGE), reflects the aspirations of New Gambia. The Government's vision for the "new Gambia" is "a country that upholds the highest standard of governance, accountability and transparency; where social cohesion and harmony prevails among communities; citizens enjoy a standard of living and access to basic services to enable them to live decent and dignified lives; youth, women, children realize their full potential, and a nurturing and caring environment exists for the vulnerable; there is an enabling environment for our private sector to thrive; and our natural heritage is nurtured and preserved for future generations".

This Investment Policy is being developed and will anchor on the recently developed NDP, which has as its goal of having a private sector led growth through modernized manufacturing, industrialization, improved trade and services.

BASIC PRINCIPLES OF INVESTMENT

The quality of investment policy directly influences the decisions of all investors, be it small or large, domestic or foreign. Transparency, protection from expropriation and non-discrimination are investment policy principles that underpin efforts to create a sound investment environment for all with transparent information on how government implements and changes policies, rules and regulations dealing with investment are critical determinants in any investment decision. Transparency and predictability are especially important for small and medium sized enterprises that tend to face challenges to enter the formal economy and this policy establishes a clear and coherent policy framework for investment.

Government has no restriction to investments which is open for all sectors except in Defense and unlawful activities. It provides protection, gives guarantees and fiscal incentives to investors in a non-discriminatory way and formulates its policies and processes in a predictable manner with clear cut rules, albeit some required amendments in some laws. GIEPA is created and other complementary measures taken to minimize red tape as well as provide data and information for investors in an interactive way. The Government also regulates investments to ensure that maximum benefits are derived from it and is consistent to long term sustainability objectives of the country. Some of these principles of investments are discussed in details.

The Gambia has adopted an open regime for Investment, in which the essential

investment protection guarantees are offered in the laws with regards to access to land, foreign labor, foreign exchange (repatriation of funds and capital) and investment fund. In addition, the country is also a signatory to a number of international organizations (e.g. Multilateral Investment Guarantee Agency-MIGA) that offer investment guarantee and protection for investors. Furthermore, The Gambia has adopted a range of modern business regulation tools such as the single window business registration, environmental impact assessment and other laws that are in line with International best practice. It has also undertaken far-reaching policy and regulatory reforms in recent years to improve the country's competitiveness.

The Gambia continues to embrace an open regime for Investment. Foreign investors are free to invest in all sectors except for defense and unlawful activities and have a welcoming investment climate with transparent, albeit minor ambiguities in some laws, procedures and processes. Investments are prioritized based on the National Development Plan, which addresses sustainable development concerns. Although, the country signed IIAs with other countries, the openness is not restricted to these agreements but to all investors.

The Country has not ceded its sovereign right to regulate investments and this is done through the promulgation of domestic laws that are based on best international practices. Investors have to operate under these laws such as the Constitution as it relates to the legality of the business one intends to undertake; the GIEPA ACT which details out how to invest in The Gambia, how an investor can be helped and the incentives an investor is entitled to etc; regulatory obligations defined by the PURA Act on water, electricity and telecommunication services and the Competition Commission on having a level business playing field among others; the Environmental Act to safeguard a clean and healthy environment; the obligation of the investor to pay taxes as stipulated in the Income and Sales Tax Act and Customs and Excise Act, to comply with the Food and Safety Act among other national laws. Furthermore, the investors are expected to abide by Corporate Social Responsibilities as proposed in this investment policy.

There is also investment protection guarantees that are offered in its liberalized law for the promotion of private sector led growth. This include a transparent dispute settlement mechanism that is governed by best international practice, protection in the Constitution of live and property of investor and the guarantee for the rule of law under the new government, freedom to transfer capital and funds, easy access to the courts and the principle of non-discrimination such as Most Favored Nations (MFNs) and national treatments, protection in case of expropriation etc. Furthermore, The Gambia has adopted a range of modern business regulation tools such as the single window business registration, environmental impact assessment and other laws that depict International best practice.

GIEPA is the investment agency responsible for investment promotions and it dispatches this function in an interactive way by collecting investment data and disseminating it in addition to various forms of consultations with investors using designed promotional materials.

VISION OF INVESTMENT POLICY

To make The Gambia a well-renowned and competitive investment destination, with a dynamic trading and industrial development, that creates employment and promotes inclusive growth for the benefit of all the Residents of The Gambia.

MISSION OF THE INVESTMENT POLICY

To direct investments to the productive sectors of this country in a manner that raises production and exports as well as expanding trade for the increased welfare of all residents of The Gambia.

The Gambia Government commits to providing the basic guarantees to investors as follows:

1. Sound macroeconomic environment and predictable policies that are underpinned by strong institutional support;
2. Peaceful political environment that allows investments to grow;
3. No risk of expropriation of property or enterprise except after due process;
4. A rule based legal system predicated upon improved judicial system that protects the security of both life and property;
5. Complementary infrastructure (roads, river, airport, bridges, modern telecommunication backbone & affordable and available electricity); and
6. Supportive and efficient delivery of public service with strong educational and health facilities that provide a healthy, productive and skilled labor force for enterprise development.

For this reason, The Gambia's National Investment Policy objectives are defined as:

1. Promote industrialization and value addition of critical products like cashew, groundnuts and fisheries by directing investments in these areas;
3. Expand the export potentials of this country through diversification of production and extending market access for these products;

2. Encourage the development of SMEs, job creation and transfer of knowledge to enhance productive capacities;
3. Increase FDI and target investments to be more impactful and beneficial to Gambians based on the NDP and the SDGs priorities;
4. Develop complementary infrastructure requirements (electricity, roads, bridges, sea and airport to support business growth); and
5. Rebrand the battered image of The Gambia with specific investment promotion activities and targeting certain value chain types of investments.

To achieve these goals and the investment objectives, the key related interventions are presented below:

Strengthen labour administration through review and implementation of the Labour Act and the Trade Union Act and regulations. The National Employment Policy and Action Plan (NEP&NEAP2010-2014) identified investment in labour intensive technologies as a viable option to creating employment in the Gambia. The NEAP established the Gambia Priority Employment programme to promote employment creation for youth in the labour Intensive sectors but more measures are needed to support labour intensive activities for employment creation.

Government in partnership with the private sector and trade unions will pursue strategies to revise the 2007 National Labour Act and an updated Employment Policy with special focus on reducing rates of unemployment and under-employment; promoting a well-educated, trained, skilled, versatile, self-reliant and enterprising labour force; pursuing poverty reduction policies through labour intensive programs consistent with improvement of the labour environment.

Diversify local production by introducing high value products such as findi, moringa, sesame, honey, cashew and horticulture for both export and the domestic market. The Gambia's traditional export products are groundnut, fish, and fisheries products. Private sector investment in diversifying export products is critical to enhancing export market access. The challenges in trade development and promotion as well as product diversification require government's intervention to address it through collaboration with development stakeholders including private sector participation. The target for trade facilitation, promotion and investment is to increase the total export as a percentage of GDP to 17 %by 2021.

Based on the country's trade realities, multi-sector strategies will be adopted to ensure that producers of goods and services are linked to market outlets in an effective manner and at least cost of doing business. To ensure that trade infrastructures benefits other sectors of the economy it should be complemented

with the building of export and production capacities, the improvement of the business environment improved, intensify commercial agriculture to list a few.

Improve road infrastructure network including feeder roads linking production areas and markets and drastically reduce the number of checkpoints; Revitalize the river transportation system by encouraging private sector investment in support of re-export and the movement of goods into the hinterland and ultimately into neighbouring countries; Encourage the reform of the Banjul Sea Port preferably through PPPs– to ensure its competitiveness. The authorities recognize this and have included in the NES the provision to “strengthen the position of the Port of Banjul as a gateway to the region by improving the port-handling services and expanding the port’s infrastructure”.

Improve Air Transportation to aid horticultural export and in support of the free zones initiative which has light manufacturing facilities, as well as cargo storage and handling facilities at the Banjul International Airport. The free-zone will be promoted to investors in addition to investments promotion for refrigerated transportation trucks; enhance the facilities and harmonize border inspection posts and SPS procedures at the customs entry points, including air and seaports.

Government has developed an 8.8 hectares industrial park out of a total land area of 168 hectares situated at Banjul International Airport, to accelerate development and the country’s export performance. The park is designed to provide entrepreneurs and external outreach and economies of scale, so that their competition power and productivity is augmented, while decreasing costs and improving quality of products. Gambia Investment and Export Promotion Agency (GIEPA) in partnership with the private sector will implement strategies to enhance the utilization and development of the park.

Capacity building for producers engaged in the export of products in quality and standards. Government will exploit preferential trade treaties, increase compliance with SPS agreements, and expand trade opportunities for agricultural produce. The country is currently not taking full advantage of the preferential treatment guaranteed by international agreements. The plan will also raise awareness about SPS requirements and improve linkages to testing facilities such as the NARI laboratory, testing for aflatoxin in groundnuts, or the Fisheries laboratory used for microbiology testing of fish.

The coordination of smallholder farmers for commercialization should be strengthened. This means access will be improved for farmers to take advantage of local high-end markets. There is also the need upgrade storage and marketing infrastructure in line with good food safety management practices.

The business environment is confronted with numerous challenges including the clearance of goods in more efficient and timely manner. Government will upgrade

to ASYCUDA world and expand its coverage to all the major customs posts. Government will strengthen economic relations with neighbours to improve compliance with the ECOWAS principles. The Government will also put in place the necessary policy and legal framework for common border procedures and documentation and build the technical capacity of the Trade Facilitation Committee, customs officials and clearing agents with the needed resources to carry out trade facilitation activities effectively.

Government will invest in the necessary ICT infrastructure to streamline customs & trade documentation procedures with the objective of achieving in the medium to long term a single window custom clearance system. The single window will provide a one-stop shop for Customs cargo clearing; cargo forwarding; trans-shipment; transit trade and haulage and better organization of trucking & haulage services for the Re-export Trade. Government will also develop projects/programmes for implementation of Gambia's Trade Facilitation Agreement especially Category C commitments.

Government will build the capacity of its Permanent Mission in Geneva on Trade and Investment negotiations. It is envisaged that subsequently, the country will effectively and actively participate in bilateral, regional, and multilateral trade and investment negotiations. Government is committed to the full implementation of the regional integration programmes both under ECOWAS and the African Union.

CHAPTER 5: LEGAL AND REGULATORY FRAMEWORK

The Country has also not ceded its sovereign right to regulate investments and this is done through the promulgation of domestic laws that are based on best international practices. Investors have to operate under these laws such as the 1997 Constitution as it relates to the legality of the business one intends to undertake; the GIEPA ACT (2015) which details out how to invest in The Gambia, how an investor can be helped and the incentives an investor is entitled to; regulatory obligations defined by the PURA Act on water, electricity and telecommunication services and the Competition Act (2007) on having a level business playing field among others; the Environmental Act to safeguard a clean and healthy environment; the obligation of the investor to pay taxes as stipulated in the Income and Sales Tax Act (2006) and Customs and Excise Act (2010), to comply with the Food and Safety Act (2011), Consumer Protection Act (2014) among other national laws. Furthermore, the investors are expected to abide by Corporate Social Responsibilities as proposed in this investment policy and other international treaty based obligations for which The Gambia is a signatory.

At the international level, The Gambia has entered into bilateral investment treaties (BITs) that generally provide for national treatment, most-favored-nation treatment and fair and equitable treatment of investors, nationalization only under specific conditions, and unrestricted transfers of capital and earnings. The number of such treaties has risen steadily to 16 now. The country has also made provisions – typically through BITs and is a signatory to the International Centre for Settlement of Investment Disputes (ICSID), the United Nations Commission on International Trade Law. Furthermore, The Gambia is a member of ECOWAS, ILO, UNCTAD, and IFC and has signed the Economic Partnership Agreements with the European Union as well as a party to the General Agreement on Trade and Services (GATS), which is relevant for FDI in services etc.

5.1 GIEPA ACT

The Gambia Investment and Export Promotion Agency Act 2015 is the main law governing investment in The Gambia. The Act and its Regulations provide guidance on investing in The Gambia and clearly indicate the priority sectors for the country, guarantees to investors, investment incentives eligibility criteria, procedures, the institutional framework and answers to questions that investors usually consider in making an investment decision. A review of the Act by the UNCTAD IPR details out the strengths and weaknesses of the GIEPA ACT and proposes some amendments as discussed below.

The GIEPA ACT of 2015 replaces the GIEPA ACT of 2010 but its regulations are yet to be adopted and as such the 2012 regulations is still applicable and its interpretation is done as it shoots the investors. Therefore, this gap in regulation should be addressed as soon as possible. The Act contains a precise definition of FDI, covering both brownfield and Greenfield investment. At the institutional level,

GIEPA is the agency responsible for promoting investment and for facilitating investors' access to incentives, land and foreign personnel. The agency reports to the MOTIE which is in charge of investment policy and decides whether to grant incentives on the basis of the recommendation of the Incentives Awards Committee.

There is uncertainty in introducing discretionary limitations on private ownership as the Act defines investments in strategic industry of mining, petroleum exploration and refinery where Government may reserve the right to own some or majority shares in these investments. However, the Act fails to specify the terms of Government participation in such investments nor the procedures and compensation mechanism. The Minister of MOTIE also has legal powers to develop a list of sectors that are closed to foreign investors, even though such list is yet to exist.

The legal and regulatory framework for investment is open to FDI. There are no barriers to entry into any industries, except for defense, and most laws and regulations dealing with investments apply equally to both Gambian and foreign companies. The GIEPA ACT provides guarantees to access to foreign exchange, to land and foreign labor, and to the free transfer of funds and capital. The Gambia has also adopted a complete range of business regulation tools in some areas such as environmental protection, competition, quality controls etc in line with best international practice. The Gambia has implemented measures to improve the doing business indicators and the investment climate in general such as the establishment of a Single Window for Business and has fairly good import and export procedures comparable to countries in the region.

The laws and institutional set up that govern business require some fine-tuning. There is lack of clarity in the labor, competition and corruption laws as well as the absence of their respective regulations including that of the GIEPA Act to operationalize these laws. The institutional set up for business is also weak and lacks adequate and quality capacity which calls for improvement in order to better reposition the country for more investments. The tax regime is not very user friendly due to its complexity and burdensome nature and the government is still grappling with the multiplicity of taxes at the central as well as local governments. These issues are being reviewed to create a level playing field for all business enterprises and in the process avoid discretionary interpretations and minimize the risk of corruption.

The Act treats foreign and domestic investors equally and has no restrictions on entry of FDI except if it is unlawful, immoral or detrimental to national security, public health and natural environment. There are only few departures of national treatment of foreign investors in the law and these are: the investment threshold, in access to land, particularly the leasing period and type of land by foreign investors, and in public procurement where foreign investors are subject to a tendering threshold. 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.

There are minimum guarantees accorded by the Act to investors and these include: the Government's role to protect investments and the property of investors based on existing national laws and other international obligations, protection against expropriation, right to profit distribution and transfer of funds, guarantees for investors to purchase, lease, or acquire interest in private and state owned land and sell such land at will without restrictions; non-interference of Government in Business operations of investors if they operated within the Public Utilities Regulatory (PURA) Act of 2005 and the Competition Act of 2007; investors can freely import or export lawful items and can benefit from help in entry and exit of investments; freely open bank accounts and in the event of compulsory acquisition, benefit from full compensation based on agreed (Government and investor) fair values to be determined by an independent evaluator. In the past the Government did not adhere to these guarantees as it intervened in business operations of investors on several instances, but now the environment is completely different with the coming of the new Government of President Adama Barrow.

Investors have to fulfill basic obligations such as to grant trade union representation, social security and welfare programmes to employees and also to comply with environmental, health and safety standards; pay taxes; and obey the laws and regulations of the country, including for importing products. However, the Act is silent on companies and investments dispatching Social Corporate Responsibilities (CSR) in line with international best practice and should be considered for amendment.

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, 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).

Initially, 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.

5.2 Environment

The Gambia developed the Gambia Environmental Action Plan (GEAP phase I in 1992 and GEAP phase II from 2009-2018) to address issues relating to environmental degradation and

depletion of natural resources, which caused poverty and poor health and have retarded the country's development. The National Environment Management Act (NEMA) of 1994 forms the legal basis for environment matters and authorizes environment impact assessments (EIAs) to be carried out to conserve and protect the environment in a sustainable way for the benefit of present and future generation.

The projects that require EIA include hydrocarbon handling, mining, urban development, transportation, tourism, manufacturing and large-scale agricultural projects. NEMA also requires strategic environmental assessments of policies, plans and programmes. The Gambia has introduced a good environmental protection regime but lacks adequate capacity and resources to implement it. The Policy making body for implementing the regime comprises the National Environmental Management Council (NEMC). The environmental approval process is fairly efficient and usually takes an average of about three months once the impact study is submitted and if approvals are not granted the reasons for rejecting are communicated to applicant within 14 days following the decision. Appeal can be made to the NEMC and the approval can be revoked for a limited list of reasons. An investor might be subjected to an environmental monitoring and evaluation programme, depending on the type of project.

5.3 LABOR ISSUES

The 2007 Labor Act improved the regulation of employment and the protection of workers' rights such as: 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, annual leave, sick leave and public holidays. The employer contributes 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 except in case of insolvency, when all contracts are transferrable to the new owner. The Gambia has also ratified the 8 core ILO Labor Conventions, but it has not ratified any of the 4 priority governance conventions or any of the 177 technical conventions. Moreover, 70 per cent of urban employment is informal and hence leaves a majority of employees are unprotected by law.

There is a scarcity of skilled and trained professionals, which is compounded by a high-unemployed labor force, which is skewed against the youth and women. The Government is addressing this with an Education Levy, of which 75 per cent goes to the National Accreditation and Quality Assurance Authority to improve technical and vocational education and training. Wages in The Gambia are substantially lower than in many West African countries across all labor categories. At present the minimum daily wage rate starts at \$1.37 for unskilled workers but on average hovers between \$2 to \$4. This large pool of relatively cheap labor has a positive impact on production cost and on the final price of the product.

However, there is discrimination between nationals and foreign workers from ECOWAS Member Countries and other countries. Hiring of foreign workers is

expensive as they pay expatriate tax intended to encourage the employment of local skills but this contradicts the desire to fill the missing skills. Foreign employees obtain a joint residency and work permit and GIEPA facilitates the process for foreign investors and their families, shareholders and even workers, in the case of SIC holders. The regime is more liberal than similar regimes across the continent, though more costly.

5.4 TRADE

The Gambia could be a regional trading hub if it overcomes competitiveness challenges. 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 and are relatively simple and efficient in comparison with other developing countries (WTO, 2010). It's current use of ASYCUDA++, the UNCTAD customs management system, increased the efficiency of clearance of goods and fostered transparency in procedures for importers and exporters (the trading across borders indicator of Doing Business 2017 ranked The Gambia 112th of 190 countries, which is higher than sub-Saharan average).

Supply-side constraints hamper export capabilities. Cashews and groundnuts, the main exported commodities are usually infected with aflatoxin and parasites, thereby inhibiting its exportation or local consumption. The Food Safety and Quality Authority are helping producers improve quality, although with difficulties of lack of labs and human resource constraints. Testing is currently done in Senegal or in EU and a laboratory is under construction, with the assistance of the Government of India. The Gambia Standards Bureau established in 2011 is disseminating information and building capacity related to standard. Other constraints to export competitiveness are high costs and un-reliable electricity; poor infrastructure at the seaport of Banjul and difficulties of attracting cargo companies at the airport.

Temporal bans on the importation of onions and potatoes to protect local producers and border closures from Senegal have been constraining features of trading in The Gambia. Furthermore, the country's former suspension from AGOA has not helped although now The Gambia has been readmitted. However, the New Government has regularize both bilateral and protection issues as well as increases the utilization of the ECOWAS Trade Liberalization Scheme.

The EPZ regime partially addresses key operational constraints, as the EPZ regime can cover geographically determined zones or individual enterprises and GIEPA or private developers can operate or own the EPZs. The EPZ failed to attract investors due to constraints of infrastructure deficit as well as lack of funds at GIEPA to conduct promotional activities.

The National Export Strategy (NES) 2013–2017 was developed to address some of these key constraints and has wide range of industries, including groundnuts, cashews, fisheries, horticulture, tourism, manufacturing and re-exports. It proposes ways to address crosscutting bottlenecks in transportation and trade facilitation, telecommunication, financial services, human resources, and research and development. The principal objective of the NES is to develop value chains using 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. Implementation of the NES is very slow.

5.5 COMPETITION

The Gambia's small, highly concentrated market necessitates a strong competition regime to ensure a level playing field. 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. The regime is implemented by the Competition and Consumer Protection Commission, which has limited sanctioning powers. The Commission has the power to seek criminal punishment and financial penalties. The Commission faces resource and coordination issues. The adoption of the Consumer Protection Act (2014) added consumer protection to the agency's mandate. There are coordination issues with PURA, the sectoral regulator for water, energy and telecommunication.

5.6 GOVERNANCE AND ACCESS TO JUSTICE

In the past regime there were interventions of governmental entities in business operations and the lack of predictability in the implementation of the laws, raises the risks of rent-seeking behavior. 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 heightens the risk of corruption as reflected in international rankings such as Transparency International's 2015 corruption perception index in which The Gambia ranked 123rd of 168 countries and the global governance indicator, with a score of 21 out of 100 on the control of corruption in 2015 (UNCTAD 2017 IPR).

The Gambia has adhered to the main international agreements against corruption but has a weak domestic regime and is a party to the United Nations Convention Against Corruption, to the African Union Convention on Preventing and Combating Corruption and Related Offences and has 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 labor, tax evasion, theft of intellectual property and piracy. The whistle-blower

protection in the Act is also insufficient and the Anti-Corruption is yet to be constituted.

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 according to the UNCTAD 2017 IPR). Alternative dispute resolution mechanisms are allowed for civil cases and is governed by the ADR Act (2005).

Issues related to the independence of the judiciary were of concern for the private sector and the country has a poor reputation of foreign judges who were not independent during the past regime. The New Government and Chief Justice are working tirelessly to change this perception and Gambianize the Judiciary as much as possible.

5.7 TAXATION

The Ministry of Finance is responsible for the Gambia's tax policy and The Gambia Revenue Authority, which was established in 2006, is responsible for the management and administration of taxes. Income and Sales Tax Act of 2006 and the Customs and Excise Act (2010), the VAT Act of 2012 and the Food Act (2005) are the governing laws for imports into The Gambia.

Tax Policy reforms occupied center-stage in the Public Financial Reform Agenda of the Gambia. In 2013, the Value Added Tax (VAT) was introduced as part of efforts to broaden the tax base and a single VAT rate of 15 percent was adopted. The corporate income tax was lowered from 35 percent to 30 percent in 2015 and 26 per cent in 2017. Other tax friendly mechanisms such as self assessments and self filing by the GRA has improved compliance and raised the revenue to GDP ratio from 16 per cent to 18.75 percent according to the IMF in 2014. However, tax administration is still cumbersome as the number of taxes, costs of paying taxes and human resources needed to comply with the taxes is still excessively high or not available. In addition, predictability is low and advanced tax rulings are not allowed and to counterbalance such complexity, generous incentives are granted, but the heavy reporting requirements required makes it counter productive and hence has no impact on 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 and taxes are payable quarterly or annually depending on their nature. 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. 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. Representatives from the GRA have often established a permanent presence within manufacturing companies or visit them every two or three days to verify payment of the excise duty. This human interaction can, in practice, increase the risk of corruption, reduce revenues and contribute to the poor usage of GRA staff.

Companies operating in The Gambia are suppose to pay the following taxes: For companies with turnover above D500000 or \$12,000 to pay 26% of profit or 1.5% of turnover for audited accounts and 2.5% of un-audited accounts which ever is greater. For companies with turnover less than D500, 000 they pay 3% of the total monthly turnover. There is a capital gains tax on the realization of domestic or foreign capital exceeding D18, 000 or \$432 to pay 10% of the consideration or 25% of the gain- whichever is greater. A Withholding tax is chargeable on payment of Interest to resident companies of 15% exempting Gambian financial institutions, 10% for payments on contracts to resident companies, 15 % on the gross amount for the payment of dividends, gross interest and royalties, management, consultancy, technical services and public entertainment fees to non-resident companies and a 10% for payments of fees to non-resident contractors and subcontractors.

Other taxes such as 5% excise duty on locally manufactured goods, D15/pack of 20 sticks of Cigarettes or D300/kilo of other Tobaccos, D75/L of beer or D100/L of wine or D150/L of spirits and D5 for soft drinks, a National Education Levy of D50, 000 or \$1200 for companies with turnover less than D5 million or \$120,000 and for those above this turnover it is D30, 000 or \$750. A payroll tax or expatriate Quota Tax of D10, 000 (\$240) for employees from ECOWAS and D40, 000 (\$960). Fringe benefit tax of 35% of the fringe benefits granted to employees and a social security to contribute National Provident Fund of 10% by the employer and 5% of the employee.

5.8 LAND OWNERSHIP AND GOVERNANCE

The State Land Act of 1991 provides a legal basis to improve and rationalize the land tenure system by the replacement of the customary tenure with a long term (99 year) leasehold system in designated (specified) areas of the country. To curb the delay associated with leasing and title deeds, Government will establish a Land Commission and build the capacity of land management institutions to simplify the process of leasing and land allocation to make investment much easier and cheaper. Moreover, to encourage FDI and rein in the complicated land tenure system, government would establish industrial parks, zones and clusters across all regions that would attract investment through easy access to

land.

The Gambia is making frantic efforts to transform its agriculture and land reforms and governance should therefore be at the heart of this agenda. As the investment climate brightens, there will be huge demand on land for investments as is already the case with small scale farming activities and hence the need to formulate clear cut land policies and governance structures to prevent illegal land encroachment that can result to serious conflicts between communities and government and between individuals and families.

The experience in Africa is that most investments that utilize land occurred with no transparency and little if any consultations with the local communities concerned and while they benefit the investor and local elites, these investments create very little employment and contribute less to rural development and that in many countries where large portions of land are leased to foreign investors, rural poverty remains pervasive (UNECA, 2016).

In particular, the report highlights the problem of Bilateral Investment Treaties (BITS) and the risk of several disputes that result to high costs for host countries which emanates from over protecting foreign investors in land, cultural, social and environmental rights at the expense of the host economy or its people. Again, paraphrasing from UNECA report of 2016, a review of land contracts in Africa reveal that large amounts of land are allocated to investors with long term rights, and in some instances priority rights for water, in exchange for very little public revenues or vague promises of jobs.

This experience should be brought to bear in The Gambia and make use of the Land Policy Initiative of the African Union which developed the 2014 “Guiding Principles of Large Scale Land Based Investments” to better manage its land resources and in so doing protect both the interest of investors and the communities and its people to avert land-based conflicts.

In pursuance of these objectives, The Gambia should develop land policies that will safeguard the human and land rights of local communities and protect the environment with recognition of women’s need to access land guaranteed. The policy should also take into account cost-benefit analysis of the land use and the mutual accountability between the government and the investor as well as align land investments and land governance to NDP. In this way Government will be able to manage land governance in a transparent and sustainable manner and to negotiate better investment deals including BITs with full knowledge of the rights attached to the land, and the need to reserve policy space and government’s ability to allocate, reallocate and manage land to attain sustainable development.

Some of the constraints concerning access to land border on lack of security of land title as the land tenure system is complex and involves three types with the

majority being customary, followed by state land and freehold land. The state possess wide range of intervention rights on leased land titles and the use of the rights of the lessee is limited and customary lands can be individualized and the procedure for doing it is not very clear and foreigners are subject to extra conditions. Title security is affected by out-dated land surveying and partial registration and the insufficient financial and human resources is a major cause of delays in implementing land reforms and procedures.

5.9 Standards and Sanitary and Phyto-Sanitary Regulations

The role of The Gambia's Standards Bureau (GBS) is to develop voluntary standards and cannot perform the technical functions of food safety, animal and plant health agencies. In line with international best practice, the GSB is not a regulatory institution, but is set up and mandated to provide part of the enabling environment through the publication of standards and their dissemination, the provision of conformity assessment and metrology services. That then allows other bodies to base their technical regulations on any of these standards and also avail themselves of credible testing services. The food safety policy of The Gambia, which formed the basis for the Food Safety and Quality Act, 2011, allowed for the establishment of a new Food Safety Authority with a unitary responsibility for food safety and quality. The Food Safety and Quality Authority (FSQA) is directly responsible for assessment of risk, risk communication, risk management, and the implementation of official controls in relation to food.

5.10 BUSINESS REGISTRATION

The Business Registration Act of 2005 indicates the necessary steps to register a business but in practice the process to be followed in registering a business is not that described in the Act and involves several institutions, including providing a tax deposit with the Gambia Revenue Authority, paid together with a registration fee and stamp duty. Government should develop and adopt measures to ease the process of registering businesses as has been done with the Single Business Registration Window as well as enable effective follow ups to track the development of registered businesses.

5.11 TREATY OBLIGATIONS

At the international level, The Gambia have entered into bilateral investment treaties (BITs) that generally provide for national treatment, most-favored-nation treatment and fair and equitable treatment of investors, nationalization only under specific conditions, and unrestricted transfers of capital and earnings. The number of such treaties has risen steadily to 16 now. The country has also made provisions – typically through BITs and is a signatory to the International Centre for Settlement of Investment Disputes (ICSID), the United Nations Commission on International Trade Law.

BILATERAL INVESTMENT TREATIES (BITs)

16 Bilateral International Treaties (BITs) have been signed by The Gambia with Guinea, Mauritania, the Netherlands, Turkey, Ukraine, United Kingdom, Switzerland, Morocco, Spain, Republic of Taiwan on China etc and these are generally the old- generation treaties with traditional features of International Investment Treaties (IIAs). All these signed 16 BITs provide for fair and equitable treatment, and nearly all provide for national treatment (NT) and most- favored nation (MFN) at the post-establishment phase.

All the BITs, with exception of the BITs from Turkey and Republic of Taiwan on China, guarantee the foreign investors the right to freely transfer investment-related funds into and out of the host country. 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 (bankruptcy; issuing, trading or dealing in securities; criminal or penal offences). All of the BITs include an ISDS clause and The Gambia has had one treaty-based case in ICSID with a company called Alimenta. Settlement of disputes is allowed under the United Nations Commission on International Trade Law rules, ICSID or the Additional Facility Rules.

Furthermore, at the international level, The Gambia is member to Economic Community of West Africa (ECOWAS) with FDI provisions, the Partnership Agreement between the members of the African, Caribbean, and Pacific (ACP) States and the European Union (EU) under the Cotonou Agreement (which provides, among others, for financial cooperation and private sector development measures), The Gambia has also entered into double taxation treaties, mainly with respect to taxes on income and capital and is beneficiary to such measures as the Africa Growth and Opportunity Act (AGOA) of the United States and the European Union's Everything-but-Arms arrangement.

The country is also a signatory to 'first-generation' treaties having substantive investment protection provisions with the Organization of the Islamic Conference (OIC) in 1981. Others include the General Agreement on Trade in Services (GATS) for FDI in services, and the agreements on Trade-related Investment Measures (TRIMs) and Trade-related Aspects of Intellectual Property Rights (TRIPS) and the World Bank's Multilateral Investment Guarantee Agency (MIGA) and the International Labor Organization (ILO) and hence benefits from the principles committed to respecting, promoting and realizing the principles and rights that are the subject of the ILO Declaration and Convention on Fundamental Principles and Rights at Work.

In order to boost FDI flows to, and its benefits for, the Gambia can leverage support from schemes and programmes implemented by international and regional organizations (UNCTAD), (UNIDO), (MIGA), the World Bank, and the International Finance Corporation (IFC) and the ILO.

CAPTER 6: INVESTMENT OPPORTUNITIES IN THE GAMBIA

6.1 PRIORITY SECTORS AS PER GIEPA ACT

The GIEPA ACT provides a set of tax incentives for both domestic and international investors who invest in priority areas such as agriculture, fisheries, forestry, manufacturing, energy, mineral exploration (petroleum exploration and mining of precious stones), tourism (Ecotourism and the development of 4 and 5 star hotels), financial services (investment banks, housing and consumer financing, micro-credit lending) and in other services (health and medical facilities, veterinary facilities, river and air transport and cargo services, ICT except GSM and infrastructure development that complement investments). These sectors and their areas of interest for investors are discussed in brief below.

6.1 .1 THE MANUFACTURING SECTOR

The Manufacturing sector contributes 4-5 per cent of GDP. However, the sub sector's contribution to GDP continues to decline over time. The strategy for the manufacturing subsector is to build on the small domestic base to encourage companies to supply Gambian and regional markets, and subsequently develop products which can be exported to the EU and other markets taking advantage of the preferential schemes offered. Private sector opportunities for manufacturing exist in many areas including farm inputs (fertilizer, etc.) and implements, food and drink processing, packaging, plastics for consumer market and construction industry, basic electronic assembling, light pharmaceutical manufacturing, cosmetics production, and stainless-steel fabrication. A well-developed manufacturing sub-sector is expected to increase its contribution to GDP from a baseline of 5 per cent in 2016 to 7 per cent by 2021.

To assist the manufacturing sector to take advantage of these potential opportunities, government has developed a national entrepreneurship policy and strategy. This strategy aims to improve the general conditions for enterprise creation and enterprise growth by addressing the legal, social and regulatory barriers and capacity building. The Gambia's Industrial development will be based on Promoting export-oriented sectors that are competitive on the international market; Labor-intensive industries to exploit the comparative advantage of The Gambia's labor and to maximize employment creation among others.

6.1.2 MEDIUM AND SMALL MICRO-ENTERPRISES (MSMEs)

The Gambian economy is characterised by a dominance of MSMEs engaged across a range of priority sectors at the formal and informal level. MSMEs

employ over 60% of the urban labour force and contribute 20% to the country's GDP. They play multiple roles in the economy, absorbing labour, building skills through apprenticeships and introducing new services and products to the market. Indeed, the majority of enterprises in The Gambia are in the MSME category. MSMEs are of strategic importance to the functioning of The Gambian economy. The Gambia National Policy for MSMEs (2014-2018) identifies 'clusters' in a number of policy objectives to enhance access to finance by providing guarantees and delivering through mentoring, incubators, clusters and other forms of business development support. The Policy encourages linkages between large companies and MSMEs and the facilitation of MSME clusters in designated industrial estates, in order to achieve economies of scale and establish networks of similar groups to benefit from training in market intelligence, access to export markets, logistics, funding and technological innovation.

Linked to this, The Gambia has been promoting the MSME sector, both as a way to promote growth in the manufacturing sector and to create employment, mainly through the EMPRETEC programme with the aim of: establishing a functioning entrepreneurship development center, creating entrepreneurship knowledge and skills across the country, agri-business training and training of business development advisors and enhancing the productivity and job creation capacity of MSMEs and the development of improved business environment and enhancement of policy dialogue on MSMEs development among stakeholders . The export potential of SMEs would be greatly enhanced, especially in the three sectors with greatest potential of agribusiness, tourism and information technology and data processing services, through the development of clusters that can build networks of production, distribution and/or technology and skills sharing amongst firms.

To tap FDI potential in, there is a need to develop a cluster approach to establish networks of production in key areas. This includes the Development of a broader agribusiness and food processing industry; ^[11]_[SEP]the Promotion of the tourism industry with high value products (4-5 Star Hotels, complementary tourist services), and develop ecotourism niches based on the changing trends in the world tourism market and ^[11]_[SEP]attraction of FDI into information technology and build a network of suppliers and supporting institutions.

The Gambia should build successful cluster and requires strong domestic business sector to act as partner, supplier and/or customer. To develop a cluster approach, The Gambia needs to create a hospitable environment for start-ups and SMEs, which could become partners with foreign investors as suppliers of goods and services. Outsourcing could translate into stable, long-term, multi-year contracts with TNCs, thereby building linkages and catalyzing domestic entrepreneurship. Foreign investors could also take a proactive role in promoting linkages with domestic enterprises, and thus nurture SME development. Existing SME development programmes, including Empretec Gambia, should be at the

center of promoting these linkages.

The country can consider implementing three schemes namely: 1) Small aggregation initiative (SAI) for SME development to expand and address their financing needs, to upgrade managerial skills, and to cope with the limited production capacity and other constraints. The SAI should focus on developing complementary production schemes and forming joint ventures geared to expansion and modernization; 2) Incubators for SME development to support Start-ups with tailor-made assistance for every aspect of business development and management. SMEs can also be housed in specialized centers, incubating the business while providing production and retail facilities.; 3) Microenterprises programmes to provide a strong base of micro-enterprises which could benefit from legal support in securing business licenses, credit facilitation, and specific training programmes to develop supply capabilities and improve quality standards. New programmes could include: Introducing contracts farming to intensify small-scale agriculture, and encouraging linkages between producers and buyers etc. ^[1]_{SEP}

Identifying Target Clusters

A strategic issue that needs agreement is, which sectors of the economy should be targeted as the focus of a cluster-based approach to MSME development. These sectors are: agriculture, hunting (wildlife) and forestry, fishing, mining and quarrying, manufacturing, electricity, gas and water supply, construction, wholesale and retail, repairs of motor vehicles, motor cycles, housing, hotels and restaurants, transport, communication, banking and insurance, real estate, renting and business activity, education, health, social and other community work, social and personal services, energy, ICT, animal husbandry, handicraft, horticulture, selected value chains such as rice and vegetables, processing in mango, vegetables, beverages, rice, cashew, groundnuts and sesame. This list is extracted from various strategies (vision 2020, MSME Market survey etc.

6.1.3. AGRICULTURE

The Gambia has major environmental resources and opportunities for enhancement of the production and productivity of the agricultural sector but there are also environmental problems and processes, which are threatening the long-term productive potentials of the sector. Both the area under cultivation and production levels of grains have been declining from 369,954ha in 2012 to 336,440ha in 2013 to 315,142 in 2014 and from 345,297mt in 2012 to 321,740mt in 2013 to 257,287mt in 2014. Food self-sufficiency remains a challenge and the import bill particularly on food is very high. The sector is also beset with many structural, organizational, financial, and climatic constraints to add to the constraints of poor farm management practices of the traditional food and cash crop as in the Agricultural and Natural Resources Policy 2011-2015. This sector is one of the possible transformative sectors of the economy if it attracted the

right investments and its potentials are still grossly under-utilized.

6.1.4. FISHERIES

The Gambia has a continental shelf area of about 4000 square km and an Exclusive Economic Zone (EEZ) of 10500 square km; The Gambia River is resourced with a variety of fisheries products. Over 500 marine fish products comprising of Demersals and Pelagics (surface dwelling) have been recorded in The Gambia. The fisheries sector is classified into two namely industrial and artisanal fisheries. While the former involves higher cost fishing systems and high cost production systems, the latter involves low-capital intensive fishing practices. The sector's production potentials have been grossly untapped due to the absence of large industrial activities due to lowly registered industrial vessels and the low productivity and lack of initiatives at the artisanal level. Production at industrial and artisanal levels in 1997 was 38,231 metric tonnes and this has increased to 49,911 metric in 2010, representing a very modest increment for this long period. Consequently, the sector's contribution to agricultural GDP has been constantly declining to 2 percent from 2004 to 2010. Industrial vessels were landing their catch in Senegal but this should be reversed by fully using the completed fishing Jetty.

6.1.5. ENERGY

Power supply in The Gambia and the sector in general is covered in enormous vulnerability. Out of a total demand of 70 MW in Greater Banjul Area as the mostly densely populated region of The Gambia only 45MW of generation capacity is available. The impact from this for industrial development, investment attraction, business growth and sustainability are immeasurable. In addition, the national electricity and water utility (NAWEC) as a single entity service provider for water and electricity is indebted to 9 billion Dalasi (approximately US\$200 million compounding its financial viability that requires sanitation. However, The Gambia as a member of the West Africa Power Pool and leveraging its bilateral relationship with neighboring Senegal enjoys the advantage to import low-cost power via a regional and border interconnections. The sector continues to be plagued with other inherent challenges as Transmission and Distribution.

The generation, transmission and distribution of electrical energy has posed a serious challenge in The Gambia in that supply is insufficient and expensive and reported technical and non-technical losses of about 23% during transmission and distribution.

The electricity tariffs are high and the rates seem to penalize the users who should be encouraged to use energy. For example, the tariff rate for industrial users as of July 2015 is D10.40 per kWh whereas the tariff rate for domestic users (and the agricultural sector) is lower, at D9.10 per kWh. This makes what is produced by Gambian industry even more expensive and so uncompetitive.

The World Bank has helped in the development of the energy sector Road Map and from this Road Map study estimated the total investments needed for the electricity sub-sector to be US \$ 574 million from 2017 to 2025 and it is expected that the private sector will contribute US \$224 million and the Public Sector will fill the remaining US \$350 million of which US \$185 million is already committed with a left of financing gap of U.S. \$165 million. The implementation of the Roadmap is being adhered to and now stabilizing supply of electricity has been fairly achieved. Already some form of PPP with Senelec (power company in Senegal) and Karpowership from Turkey has temporarily stabilized electricity supply.

6.2 RESPONSIBLE INVESTMENTS

The Government with the support of the development partners has invested significantly in the development and improvement of the transport infrastructure in a bid to develop an efficient road network that will support production in the economy as well as make The Gambia as a transit hub for West Africa. The Government is committed in continuing to develop the transport sector, particularly with feeder roads linking to production sites, bridges and (Bamba-Tenda t and Barra too open up other ECOWAS corridors of roads to facilitate a huge inflow of goods and persons on a 24-hour basis and resolve the perennial problem of ferry crossings that hinder free movement of goods and persons.

More infrastructural development is envisaged in the NDP with its total of 42 Flagship project. A financing Strategy to cover the total cost of fully implementing the NDP has been prepared by the Government. The NDP is costed and the total funding requirements is estimated at U.S \$2.4 billion with the main cost drivers being energy and infrastructure (57 per cent), agriculture (11.2 per cent) and human capital (8.34 per cent). Combined, the three strategic priorities account for 76.5 per cent of the total NDP budget. With respect to the highest cost driver, which is infrastructure and energy, most of the financing will be acquired through PPP and other innovative financing models.

The growth movers of the economy have been agriculture and tourism and as such The Gambia's industrialization drive was anchored on: Agro-processing of oilseeds (groundnuts, cashew, sesame) and horticulture (fruit and vegetables); fish and fish products including prawns and oysters; and tourism, including the diversification of tourism from beach holiday tourism to eco-tourism, cultural, inland and community-based tourism and conference tourism and strengthen the linkages between tourism and other sectors of the economy and increase Gambian participation so as to maximize returns to the domestic economy. There exist policies in each of these sectors but implementation has been lagging behind which should be reversed under the new dispensation.

Based on the desire to have maximum impact from implementing the NDP, the UNCTAD Investment policy Review prioritizes these areas as follows: fish

processing, groundnut and cashew processing, glass manufacturing and other related services along the value chain as well as leveraging the use of Information and Communication Technology for socioeconomic development. In so doing The Gambia will make huge gains in employment creation, poverty reduction and sustainable development. Vocational skills training and relevant Research and Development should be included in this targeting of investments.

Since the ICT industry has been one of the fastest growing industries, expanding its activities will be more meaningful in attaining sustainable development. Therefore learning from Rwanda, The Gambia should fully liberalize and develop ICT Infrastructure, promote the use of ICT through Government Services, spread the use of ICT to businesses and foster skills development for ICT.

There are untapped sectors that have the potential to make huge impact during the NDP implementation period this includes inland river transportation. A good transport network can be built to link the urban areas and Basse as well as some Senegalese towns and this can be complemented by a network of feeder roads to allow the whole country to feed into a multimodal transport system that uses the river as the main artery. In this system riverboats would be able to navigate the length of the country and will carry to and from the rural areas cargo goods, agricultural inputs and collect agricultural produce.

The Gambia could be a deep-water port on the West Africa Coast, which would be a very unusual phenomenon. The Port can only accept ships with 2500 ETU and deepening the channel (using a capital dredger) to accept larger ships can be of great benefit. Other reforms important in the ports are expenading and strengthening the container storage yard and expanding the pier length expanded as per the Port Master Plan will make the Banjul port to market itself as first port of call and expand its transshipment business. Implementing the Port Master Plan will address these constraints.

Chapter 7: THE INVESTMENT CLIMATE

7.1 THE INCENTIVE REGIME

The Gambia attracts investments using various investment incentives and targeting different sets of investors as provided in the GIEPA ACT. The GIEPA ACT provides a set of tax incentives for both domestic and international investors who invest in 9 priority areas such as agriculture, fisheries, forestry, manufacturing, energy, mineral exploration (petroleum exploration and mining of precious stones), tourism (Ecotourism and the development of 4 and 5 star hotels), financial services (investment banks, housing and consumer financing, micro-credit lending) and in other services (health and medical facilities, veterinary facilities, river and air transport and cargo services, ICT except GSM and infrastructure development that complement investments). It also specifies the regional priorities for attracting new investments in West Coast, Lower River, North Bank, Central River and Upper River Regions.

The investment incentives are further disaggregated into New Investors, Existing Investors who plan to expand their operations, operate under the Export Promotion Zone and micro and small enterprises operators and each of these investors enjoy a different set of investment incentives. Mining and petroleum exploration and refinery activities are considered strategic industries. GIEPA also issue two sets of investment certificates: the Special Investment Certificate (SIC) for New Investors and the Domestic Investment Certificate (DIC).

Special Investment Certificate (SIC)

SIC holders are new investors who certify the conditions leading to the issuance of the SIC as per The GIEPA Act of 2015 and they enjoy the following incentives:

- a) A tax holiday in respect of income tax including corporate or turnover tax;
- b) An annual allowance at the rate of 15 % for depreciation of buildings including structural improvements;
- c) Exemption from import duty for capital goods in accordance with Customs and Excise Act, 2012; and
- d) Exemption from import value tax.

Domestic Investment Certificates (DIC)

Investment incentives are awarded to newly established domestic investors in agriculture and agro-industry, fisheries and energy priority sectors with an investment amount of at least D1 million and in technology, research and development for at least D2 million are entitled to:

- a) Exemption from turnover tax for 3 years;

- b) Reduced corporate income tax to 15%; and
- c) Import duty waiver on capital goods in accordance with the Customs and Excise Act, 2012

Investment Incentives in this category are up to 5 years.

Incentives for Micro, Small and Medium Size Enterprises (SMEs)

1. Start ups in SMEs that are wholly owned by Gambians and are under the priority areas shall be exempt from all income tax and Municipal taxes for a period of five years.
2. Special Target Enterprises as defined by regulations shall be exempt from all income tax for a period of three years for start-up.

To be able to access these incentives, the domestic investor must obtain a domestic investment certificate from GIEPA and comply with the single window Business Registry to file annual returns.

The Act also defines a special category of investors who invest U. S \$5 million into the agriculture, fisheries, energy or technology sector to benefit from enhanced incentives for up to 10 years. Investors in the energy sector who have not declared dividend for 5 years, will attract 0% tax on dividend for 10 years and all proceeds from the sale of carbon credit emissions credit shall be exempt from all taxes.

Export Promotion Zone Incentives

The creation of an Export Processing Zone (EPZ) and populating it with economic operators that boost exports is one of the many mandates of GIEPA and forms an integral part of investment promotion. The Ministry of Trade under the guidance of GIEPA shall declare an Export Processing Zone and the Commissioner General of the Gambia Revenue Authority shall designate an EPZ for custom formalities.

The EPZ will provide a conducive business environment for export-oriented activities and shall attract investment incentives for its participants, simplify the import export procedures and facilitate the acquisition of land, permits and licenses.

Incentives for the EPZ are:

- a) Import or excise duty and value added tax on goods produced in the zone
- b) Import duty on capital goods
- c) Corporate or turnover tax; and
- d) Municipal tax

The EPZ investor can operate in the zone for ten years.

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.

There are difficulties in implementing fiscal incentives. The Tax Collectors (GRA) has lamented the difficulty of tracking tax incentives to investors due to lack of data and are of the view that the Threshold of US \$250,000 for foreign Investors to benefit from tax incentives is low and should be revised upwards to US \$500,000 or \$1 million and GIEPA on their part think differently. Many Government ministries and agents are also involved in the issuance of tax incentives and this need to be centralized to minimize leakages.

In order to address the complex nature and the burdensome nature of the tax system in The Gambia, The GRA in consultation with the IMF have conducted a Tax Administration Diagnostic and Assessment Tool (TADAT) to improve upon the business procedures and processes. The GRA has stepped up the use of ICT software and packages to facilitate tax payment and tax compliance in general.

7.2 PROFIT REMITTANCE AND CAPITAL REPATRIATION

As stated above, The Gambia is one of the First African countries to fully liberalize its capital account. Profit and capital can be freely moved in and out without restrictions. This has been one of the strong policy measures that have served The Gambia very well in addition to a market-determined exchange rate. The exchange rate in the Gambia has been fairly stable over the past decades.

7.3 THE INVESTMENT PROCESS

Business operations

The business environment in The Gambia continues to be plagued with many constraints. Despite the multiple efforts made including the modernization of the environmental legislation, the establishment of a Single-Window Business Registry, lowering of the corporate income tax rate to 28 per cent and the creation of an EPZ regime, other challenges remain. It is still difficult and costly to set up a business and the administration of the investment incentives particularly the fiscal incentives is marred with bureaucratic red-tapeism. The EPZ failed to attract investors due partly to lack of complementary infrastructure linking production to port site for exports among others. Finally there are no legal clarity in key areas such as competition and governance and both the financial and human resources in the public administration are insufficient.

Business establishment

The Gambia made several reforms to have a business friendly environment. In February 2014 the Single Window Business Registration was established with delegated powers of its members coming from the GRA, SSHFC, Ministry of Justice and the municipalities, the deposit for corporate income tax and stamp duty were eliminated and the incorporation fees were reduced. Consequently, companies can obtain their tax identification number, business registration certificate, synchronized registration number and operational license, register their employees directly at the SWBR and use this synchronized registration number to obtain a permit or license and to conduct transactions with public sector agencies.

Efficiency in business registration is still costly and long as it involves registering a company seal, which can take up to 18 days and cost about \$200. Banjul and Kanifing are the only two locations for SWBR and have periodic network connection and other problems that undermines its efficiency and the requirement to make the seal optional as per the 2013 Companies Act is still not being adhered to. Online registration is not available and online information is scarce.

7.4 INSTITUTIONAL SET UP FOR INVESTMENTS AND IT'S INFLOWS

Institutional Set Up of Investments

The GIEPA Act of 2015 is the main legal framework that establishes GIEPA as an Agency with the principal responsibility of promoting a conducive business environment to spur investments and export-led growth in The Gambia as well as support the sustainable development of local enterprises with particular emphasis to SMEs.

GIEPA tries to attract investments into the country using various strategies including collecting and sharing of investment data and producing investment promotional materials, networking with other IPAs and stakeholders and trade and investment missions abroad. GIEPA also will promote innovative initiatives like the GEITAF between GIEPA and TAF Holding Company (a locally based international property developer) to develop an industrial park at the Airport. The Government should also re-orient the diplomatic machinery of the country towards a more focused trade and investment promotional diplomacy.

The efficient and effective operations of the Agency is seriously being affected by multiple duplicity of efforts such as the creation of the Investment Unit at the Office of the President, the potential and actual overlaps between the roles and responsibilities of both GIEPA and the PPP Directorate at the Ministry of Finance and the current efforts to Draft a PPP Law. Lack of resources is not helping the situation as well since beyond footing the bill for salaries, rent and other operational expenses, there is little funds to actually engage in promotional activities. One step stop for all Investor needs should be further developed at GIEPA.

Moreover, the lack of a National Local Content Policy that identifies the various

indicators that investments can be assessed based on for instance the employment created, value additions made, the transfer of technology, the procurement of goods and services is also constraining the country from maximizing the impact of these investments. For now it is only the Petroleum sector that is developing a sector specific local content and the other sectors should follow suit. Finally, the lack of data to track the performance of investment incentives has been lamented by GIEPA and GRA and calls for the two institutions to work together to resolve this problem. These uncertainties would require some clarification by amending the 2015 Act.

Institutional Set Up of Investment flows

The main sources of private sector investments into The Gambia have been discussed in the previous chapter and have been identified to have come from FDI, Remittances, some PPPs and domestic borrowing. Although these source of investment inflows have contributed in no small way to the development of this country, but these inflows could have triggered a transformation in the country's investment and development landscapes if the myriad of constraints highlighted with each source of inflow were tackled. The extent to which such potential inflows are or can be exploited depends on the institutional and policy framework governing investments, the overall climate for business or economic activities and the effectiveness with which such investment is promoted.

The Gambia Investment and Export Promotion Agency (GIEPA) through its 2015 Act is responsible for promoting more Foreign Direct Investments inflows into the country. There is inadequate dialogue between the Private Sector and Government and this should be addressed as a matter of urgency to foster structured consultations with key private sector operators aimed at identifying and removing critical obstacles to competitiveness.

Other institutional gaps exist with Remittances, domestic borrowing and PPPs. There institutional and policy arrangements to harness and make good use of this big source of Diaspora investment financing and the New Government will develop a Diaspora development strategy and fully operationalizing the Diaspora Office at the Ministry of Foreign Affairs to fill this void. The financial sector should also develop a Diaspora Bond to provide an alternative source of funding private sector investments. Public Private Partnerships, under the auspices of the PPP Directorate of the Ministry of Finance and Economic Affairs, have great potentials to attract investments into the country. The 2015 PPP policy exists and its Act is being developed but there are key capacity gaps on for instance negotiating complex PPP deals with the said Directorate. However, Government should streamline the multiplicity of investment functions at different levels to avoid duplication of efforts, lengthy bureaucracy and waste of resources. Domestic borrowing of the private sector from the banks is monitored by the Central Bank of The Gambia and influenced by the level of Government borrowing.

7.5 SWOT ANALYSIS OF INVESTMENTS CLIMATE

A brief SWOT analysis indicated below is made for the Gambia investment climate to tease out key issues that distinguishes the country from other investment destinations.

<p>STRENGTHS</p> <ul style="list-style-type: none"> - strategic location (nearness to Europe, one of closest African countries to U.S & only one with last point of entry status to U.S) - wider market access (350 M people in ECOWAS, EBA with EU, AGOA with U.S) - Beacon of Peace in Africa - Relatively low Personal Income Tax of 25%, corporate tax of 26% declining rental tax - Has telecommunication linkage with 19 African countries & 3 European countries thru Africa Coast to Europe (ACE) 	<p>OPPORTUNITIES</p> <ul style="list-style-type: none"> - New Government and increased support from the international community - Massive investment opportunities thru PPPs in infrastructure, agriculture, tourism fisheries etc.
<p>WEAKNESS</p> <ul style="list-style-type: none"> - gaps in investment related legislation - infrastructure deficit eg feeder roads - low levels of skilled labour - low industrialization level (Manufacturing only 4-5% of GDP) 	<p>THREATS</p> <ul style="list-style-type: none"> - border closures with Senegal - multiplicity of offices responsible for investment matters - potential land and environmental disputes

7.6 CHALLENGES TO INVESTMENTS IN THE GAMBIA

The challenges to investment can be classified into three broad categories of demand side constraints, supply side constraints and policy and institutional constraints.

The Gambia among other Least Developed Countries (LDCs) is straddled with supply-side constraints such as infrastructure (hard & soft) gap in the transport, energy and ICT sub-sector. In addition to the low level of skills, the country relies

on foreign skills from countries like Senegal, Ghana and other neighbouring countries. Furthermore, the level of skills are low, production capacities are generally under-developed and the competitiveness environment requiring meaningful improvements. These constraints expose The Gambia to exogenous shocks, regulatory challenges and the negative effects of climate change.

Demand-side challenges are also abound. The country has a small sized economy with very low income and consequently low purchasing power which defines the smallness of the market. Market access to key destinations like Europe, the U.S. etc, even with the preferential trading status under initiatives like AGOA, EBA and Ecowas, constraints also hamper the inflow of investments into the country and can discourage market seeking investors.

However, The Gambia's private sector is small and is seriously constrained by an inadequate policy and institutional setup, high taxes and lack of infrastructure and access to finance. As the country seeks to transition from a predominantly agriculture based economy to that of a modern one linked to global markets and value chains with the private sector as the engine of growth and transformation, significant policy reform will need to be made. The multiplicity of agents, units or directorates that are responsible for investments has not helped the situation as duplication of both human and financial resources are recurrent occurrences and should be streamlined to promote efficiency of investment promotions and to derive maximum benefits of these investments. This institutional bottleneck should be addressed soonest.

7.7. INVESTMENT STRATEGIES

The Gambia should therefore adopt the following investment strategies to increase investments into the country and make these investments more targeted in order to obtain the maximum benefits as defined by the DNP and SDG priorities. This calls for a reduced and refocusing of the priority sectors, better targeting of investments and investment incentives, enhancing the low level of skills through FDI-induced capacity building, attracting more meaningful Diaspora investments and the repositioning of GIEPA to conduct more targeted promotional activities to attract intended investments and improve the battered image of the Gambia. The strategy is arranged in three broad categories of supply side constraints, demand-side constraints and policy and institutional reforms to attract and better target investments into The Gambia.

Supply Side Strategies

Policies that will address the supply side constraint include: improving the business climate with reforms strategically targeted at enhancing the doing business indicators; develop the infrastructure base and production capacities of the country by encouraging more private sector participation in the form of PPPs and FDI; promoting skills development through a more relax immigration policy

and an incentive package to encourage Gambian Diaspora and a waiver of the expatriate quota tax to attract the needed skills.

The policy orientation for supporting vocational education has not yet achieved its intended target and FDI should be used to positively influence the skills gap as suggested in the investment strategy below. This could be done using two mechanisms. Firstly, Government should encourage foreign educational institutions to set up local locations to improve the quality of higher education in the University of The Gambia and the vocational institutions. Adopting international standards in the tertiary education sector will greatly enhance the quality of the labour force. Secondly Government can work with TNCs to manage and fund specialized as done by the banking sector through the Bankers association. TNCs can use industry specific knowledge to improve climate and research infrastructure to benefit both the local skills base and their foreign affiliates.

Due to the skills gap, Investment policy pronouncements and implementation should support labour-intensive investments fore more impact in employment creation and inclusive growth while taking a longer term view of developing the skilled base of the country for skilled-intensive investments in the near future. Moreover, immigration policies can be relaxed to attract and fill the void in critical skills as well as remove the expatriate quota to encourage more skilled labour into the country.

In addition to offering opportunities for manufacturing that are related to FDI in extractive activities, The Gambia can offer opportunities for market-seeking FDI in other manufacturing industries, such industries as the food and beverages, services such as electricity, gas and water, transport, storage and communications, and financial services. The country can also obtain efficiency-seeking FDI in low-cost labor-intensive investments, to take advantage of the high unemployment rate, to promote traditional exports of horticulture, groundnuts and cashew, fisheries products and to diversify these narrow export base and other natural resources such as oil and new areas.

The Gambia has always served as a trading hub for her immediate neigh-boring countries but this competitive advantage is significantly being eroded in the recent past. Moreover, the country has potential to attract export-oriented FDI in resource-based (petroleum and other mineral explorations) and labor-intensive industries for the global market. To harness these opportunities it will be imperative to do the following:

b. Revisit price related factors that enhance the country's competitiveness such as landing costs of airlines, relatively high cost of business registration, exchange rate stability, high expatriate tax to attract missing skills, high cost of borrowing, burdensome tax administration, and costly and unavailability of electricity etc.,

c. Improve non-price factors such as efficient sea and airports operations, increased service delivery for the tourism sector in particular, scaling up river transportation, improve economic and political governance and other key determinants of doing business indicators as well as redress supply side constraints.

To attract export-oriented FDI, The Gambia needs to enhance its competitiveness and to position itself as a West African hub for import, export, storage, assembly, distribution, manufacturing, and trans-shipment of goods, services and passengers.

Demand-Side Strategies

Even though market access is enhanced by the available preferential treatment with ECOWAS, EBA with the European Union and the U.S with AGOA, actual access to these markets is still very low. Opening up the market opportunities through more concerted diplomatic efforts, deepening policy reforms to address issues of quality and safety of exports as reflected in the Trade Policy Review of 2018 and measures such as clustering smaller exporters and enable them to access financing, export in bulk and linking them with buyers from these markets will boost market access. Efforts should be made to open up new markets with focused bilateral trade treaties and these treaties should target countries with high outward flows of FDI. Rebuilding confidence and expanding trading relationships with all the neighbouring countries will expand the country's market access significantly.

Other Policy and Institutional Strategies

The priority sectors set out in the Act is considered by some as a wish list and as such does not justify the cost in terms of fiscal incentives as well as the potential impact of the investment it seeks to promote. Generally, investment incentives are focused to areas that are priority to Government and or does not have the potential to attract investors due to the sector's lack of profitability to entice investors to invest. Therefore the Act should be revised to limit the priority sectors to processing of cashew, ground nuts and fish, ICT sector, agriculture, energy and Infrastructure. Even on infrastructure, incentives should be given to projects that are not attractive enough private investments in terms of profitability.

Studies have shown that investment incentives is not an attractive pull factor to influence FDI. The Redundancy Ratio defined as the number of firms who would have invested without incentives is high (85% for Vietnam, 81% for Thailand and 70% for Mozambique). But Africa uses more incentives than Latin America, Asia and the Pacific which uses more investment targeting and other reforms. Abolishing the incentive system will be a stand alone policy choice in the region is is therefore not an option for now but more efforts should be placed at

investment targeting now and in future. The Incentive system in The Gambia is comparable with what entails in the region.

The incentive system could be further reformed to buttress this targeting by implementing the ECOWAS Tariff Code of 5% on imported capital and intermediate goods and abolish, except for selected equipment for agriculture, mining and construction purposes that are usually bulky and expensive, the total exemption of duties on these imports, apply the Rwanda incentive of allowing deductibles of 2-7 per cent for companies employing local staff and attract zero per cent tax for re-invested earnings which attracted FDI in Estonia.

The incentives for SME promotion are inadequate and Government should consider providing more in the form of fiscal support with the creation of a Special SME Development Fund, Central Bank to enhance its credit policy to facilitate access to funding, to enhance SME capacities in financial and managerial skills, subsidize SMEs involved in Technology innovation and renovation, give market expansion support through linkages with large firms for the purchase of their products and accord them priority in local tender of products and services, continue provide social services as EMPRETEC is doing and protect the lawful interest of SMEs.

Create a super priority list of sectors to include processing in groundnuts, cashew and fisheries products as well as ICT as identified in the UNCTAD IPR. Furthermore, given the importance of skills and the persistent gaps that exist, vocational training and relevant Research and Development should be included in this list of super priorities.

Tax policy and administration has been diagnosed by the International Monetary Fund to be inadequate using the Tax Administration Assessment Tool (TADAT). The tax system is plaque with complex and multiplicity of rates and taxes and its administration burdensome. Therefore the country should implement the recommended reforms by the TADAT to improve the business environment.

As the country craves to move to commercial agriculture, investors in this sector will require quite a huge pieces of land which if it is not properly managed, the issuance of such land will generate lot of conflicts between the investors, the people and communities that claim ownership of this land. Similarly, investments in renewable energy such as solar, investments in other sectors such as tourism are likely to demand large expanse of land. All these pressures from increased demand for land calls for a development of a Land Policy and the establishment of the Land Commission to better manage land allocation and the potential conflicts it can spark.

The Country recognized the importance of promoting and facilitating FDI by providing foreign investors and potential investors with information and assistance and has therefore established GIEPA to serve as one-stop shops for

investors by Investment promotion has been found to have a positive impact on FDI flows to developing countries and to work better in places with higher information asymmetries and bureaucratic red tape. However, in practice GIEPA work has been hampered by the multiplicity of investment roles played by different offices in Government. It is therefore imperative for Government to better reposition GIEPA to fully implement the one step shop concept for all investment issues in order to be able to attract more investments and derive maximum benefit from new investments.

That suggests that investment promotion can play an important role in attracting FDI to The Gambia, where lack of information can be a major constraint for foreign investors, although there are costs involved in such promotion that make a cost-benefit analysis of promotional activities desirable. The country needs to participate in the development of on-line investment guides (I-guides) as part of a joint project by UNCTAD and the International Chamber of Commerce.

Furthermore, GIEPA should focus its investment promotion efforts towards rebuilding the battered image of the country and attracting FDI from developing countries, towards channeling investments in super priority areas as processing in groundnuts, cashew and fisheries products, ICT, as well as in vocational education and research and Development and, in attracting companies operating in the value chain segment in Africa to come to The Gambia. To be able to fully discharge its function, the under-funding constraint of the agency should be addressed with urgency.

There is the necessity to develop a set of criteria informed by local content requirements and based on the NDB and the SDGs to ensure that all new investments satisfy these minimum criteria. This means that GIEPA will have an added responsibility of ensuring that new investment projects are properly streamlined based on these criteria to create the desired impact for sustainable development.

8. WAY FORWARD AND CONCLUSION

8.1 WAY FORWARD

In order to attract more investments into The Gambia and to make the country benefit fully from these investments, reforms in the suggested areas in this way forward are inevitable.

Repositioning The Gambia to attract FDI beyond natural resources and in areas such as industries, from agribusiness to information technology should be prioritized. Preferential trade agreements create market niches that may attract export-oriented FDI; in the longer term, local and regional markets could further catalyze FDI in manufacturing. Realizing this potential will require unlocking key supply constraints.

8.2 LEGISLATIVE AND OTHER CHANGES

Legislative and other reforms discussed below will go a long way in addressing the various investment and business constraints of The Gambia. This involves a review of the GIEPA Act and adopting its Regulations, updating the Labor Act, introducing CSR and other non-legal reforms.

8.2.1 GIEPA ACT

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. Building on the reforms that have already been undertaken and in order to improve the openness, transparency and predictability of the legal and regulatory framework, the Government of The Gambia could consider the following recommendations:

Adopting the revised regulations of the GIEPA Act (2015), which provide additional clarity and predictability. In particular, future reviews of the Act should put up a negative list if any restrictions to the entry of FDI are being considered and the reference to the pricing of services, the regulation of anti-competitive practices and the pricing of petroleum products, as the pertinent sectoral legislation and authority should deal with these issues. Clarifying the conditions and procedures for the State's participation in an investment in a strategic industry is also another concern. The proposed amendment should include revising the incentive package and the priority sectors.

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.

8.2.2 Labor Act

The 2007 Labor Act should be revised to address the shortcoming highlighted above and use the opportunity to bring it up to speed with modern day Labor Acts. The revision should also bring clarity to the 2007 Labor Act in terms of provisions on terminations, the right to organize a strike, promote the hiring of foreign skills by removing tax for those experts that fall under the “scarce skills list” etc.

8.2.3 Other legal Related Issues

Make the investment regime more transparent by improving Governance and access to justice through: making the judiciary more independent, ensuring that court cases are expeditiously dealt with and operationalize the Anti-Corruption Commission and improving on the weaknesses identified by the UNCTAD Investment Policy Review of 2017. The country’s current IIAs are largely “first-generation” and should be modernized to bring it in line with today’s sustainable development agenda. 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.

8.3 OTHER NON-LEGAL REFORMS

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). Engaging in regional IIA reform activities, notably at the ECOWAS level.

Strengthening the investment facilitation and promotion dimension of its IIAs is also important to The Gambia. In doing so, The Gambia may wish to consider the Global Action Menu for Investment Facilitation in reforming its IIA regime and can request for UNCTAD support and expertise.

Reduce the cost of establishing a business and increase the usage of the Single Window with online access and further streamline and publish business establishment requirements to increase transparency and predictability. Establish the Land Commission and improve upon Land Governance to avert tensions between investors and communities and other land owners and remove the requirement for Ministerial consent to Lease a piece of Land to facilitate its usage as collaterals to access funding.

The EIA regime in The Gambia is modern and in line with good practice. Government should address the human and financial resource constraint by building more capacity and providing more funding and adopting cost-recovery fees for EIAs. The same recommendation is applicable to the Gambia Competition Commission if they are to conduct their work as expected.

In addition, home countries and other development partners should consider

pursuing further initiatives specifically to promote FDI in the LDCs and enhancing its benefits for host economies. These include providing rapid-response negotiations support to assist the Gambia in negotiating complex large-scale contracts with foreign investors. Many large FDI projects, especially those relating to the exploitation of natural resources, infrastructure, privatizations, and PPPs, involve contracts between investors and host-country governments. At the same time, unfair contracts are sooner or later likely to lead to a request for renegotiations or terminations and TNCs, have therefore an interest in fair and stable contracts.

8.4 EPZS, The Business Park and SME

The EPZ in The Gambia is failing to attract investors either through private developers/operators or GIEPA. The GIETAF initiative to develop the Business Park is laudable and should be put on a fast track basis. GEITAF is modeled as follows: develop the Park and create best practice procedures for investors in this area at all levels – from project approval to production facilities. Establish world-class infrastructure (e.g. electricity, water and roads) in the zone. Provide housing for executives and workers, a hotel, a small township and recreation areas.

To promote the SME sector and increase more investment flows the following should be pursued. There is the need to undertake a “technology foresight” exercise with a view to assessing local technological competence by global standards and develop a “technology foresight” programme for The Gambia. This should lead to more effective S&T policies and actions, including upgrading of technical skills and capabilities, strengthening S&T-related institutions and promoting entrepreneurial skills.

8.5 ATTRACTING MORE FDI AND INCREASING ITS BENEFITS

The country should make efforts to encourage larger and more diversified flows of FDI, in some industries, especially infrastructure. For this kind of projects further implementation of public-private partnerships (PPPs) is recommended for The Gambia. However, in The Gambia ODA has been the principal source of funding major infrastructural development and this is an opportunity to change this narration.

Initiate negotiations with neighboring countries to regularize trading relationships. Simplify the tax administration by reducing the number of taxes and the frequency of payments and minimize the human contact between tax payee and tax collector through automation of Customs and other taxes. Minimize the multiplicity of taxes between Central Government and the Municipal councils.

Improve the trade related infrastructure and value addition to boost exports. Trade facilitation measures such as faster and automated customs clearance system and

improvement in seaports and air cargo handling efficiency should also be adopted. Building upon export capacity and increase the use of the EPZ and fast tracking the GEITAF initiative is the way forward.

There is some urgency in reviewing the institutional arrangements, roles and responsibilities and in some instances the laws to bring more clarity and avoid duplication of efforts and resources between GIEPA under the Ministry of Trade Industry and Employment (MOTIE), The PPP Directorate of the Ministry of Finance and Economic Affairs and The Investment Unit at the Office of The President.

As part of its efforts to attract FDI, The Gambia can consider appointing a foreign direct investment ombudsperson, to address foreign investors' grievances and help prevent investor-state disputes to minimize investor-state disputes.

Review and Implement NEP and NEAP for inclusiveness of youth development and employability through skills development initiatives and training programmes. Government will therefore develop and implement skill-training programmes to build the skill requirement for youth, women and persons with disabilities to enhance their employability.

The country should be more proactive in trade and investment diplomacy (Diplomatic staff re-orientation and initiate more trade and investment missions). Moreover, The Gambia's expatriate communities abroad constitute a potential reservoir of investments, which are yet to be fully tapped by the country.

As the country craves to move to commercial agriculture, investors in this sector will require quite a huge pieces of land which if it is not properly managed, the issuance of such land will generate lot of conflicts between the investors, the people and communities that claim ownership of this land. Similarly, investments in renewable energy such as solar, investments in other sectors such as tourism are likely to demand large expanse of land. All these pressures from increased demand for land calls for a development of a Land Policy and the establishment of the Land Commission to better manage land allocation and the potential conflicts it can spark.

The country should strengthen its efforts to increase the benefits from FDI to the economy and to minimize the negative effect of FDI and the operations of TNCs by launching and/or strengthening of linkage programmes, through which local firms become suppliers to foreign affiliates, located in host countries. Such linkages are one of the most important mechanisms for domestic firms to acquire the tangible and intangible assets that foreign affiliates typically possess and the Government should help their local firms to become linkage-ready.

Request a rapid-response negotiations and capacity building support when negotiating complex large-scale contracts with foreign investors such as natural

resources, PPPs and Privatization contracts. This will safeguard The Gambia from entering into unfair contracts, which are usually expensive to resolve especially when they reach arbitration. Negotiations support in the form of a revolving fund is one way out.

At the same time, The Gambia should become signatories to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) to allow it to better enforce these contracts. The Convention obliges contracting states to recognize and enforce arbitral awards but the Gambia is currently not a member, although plans to be a signatory.

The prospects for treaty-based investment disputes are likely to rise and hence The Gambia should consider the creation of an advisory center for treaty-based investment disputes, to assist in the handling of such disputes.

Support for Tax Inspectors without Borders can be assessed by The Gambia to help in a range of taxation issues such as abusive transfer pricing and international tax planning by TNCs that can erode the tax base and shift profits that result in a loss of revenue for The Gambia. It also distorts investment decisions and unintended competitive advantages for TNCs over domestic businesses.

Finally, The Gambia should take further steps towards improving the rules, regulations and procedures involved in establishing and operating affiliates of foreign companies, as well as for business in general, drawing upon experiences of other countries and resources available from home countries, development agencies and international organizations.

8.5.1. BEHAVIOR OF INVESTORS (Corporate Social Responsibility)

Another area for action and cooperation relates to the standards and practices that are expected of TNCs and this Investment Policy requires adherence to certain specific standards of corporate social responsibility on the part of TNCs operating in the Gambia.

Large companies are immensely powerful entities, to the point that they have frequently trumped the interests of sovereign nation and local communities. In many cases, harm to the environment and harm to vulnerable communities go hand-in-hand. In light of this often-dark legacy, some areas of corporate culture have begun to embrace a philosophy that balances the pursuit of profit with a commitment to ethical conduct. The same money and influence that enable large companies to inflict damage on people and the environment can be used to positively impact the lives and environmental situation of nation and local communities. Companies can invest in local communities in order to offset the negative impact their operations might have.

For this reason, this investment policy advocates for the “triple bottom line”:

social, environmental and economic or better still “people Planet, profit.” This calls for voluntary compliance to the 2010 released ISO 26000 of the International Organization for Standardization. This will be a marked improvement upon the 1999 Investment Policy and will create a more acceptable co-existence between corporate bodies and the countries and communities they operate in. The Gambia is a member of the ILO, so that the ILO Declaration of Fundamental Principles and Rights at Work applies, in principle, to them, including as regards employees in foreign affiliates.

8.6 CONCLUSION

As a country aspiring for middle-income status with a per capita income of \$684, The Gambia cannot afford but to improve its competitiveness to attract investments and to boost other areas such as trade and industrialization. A manufacturing sector that contributes only 4-5 percent of GDP cannot transform the country to the desired middle-income level and a bolder and more robust strategy to promote manufacturing is therefore inevitable. The economy is emerging from instability and the glaringly lack of support from donors in the past regime due to poor political and economic governance to one with brighter investment climate and lots of goodwill from the international community as demonstrated with a historic pledge of EUROs1.45 billion in the recently concluded Round Table.

FDI flows to the Gambia in the decade starting in 2000, reflected improvement in both economic and policy factors influencing such flows. However, the trend was reversed as FDI started to decline since 2007 due to poor economic and political governance. FDI apart, other sources of investments flows came from borrowings from the banking sector by the private operators of a maximum amount of 2.4 percent of GDP during the past decade, remittances from Gambian’s abroad of about 22 percent of GDP in 2016 and some small drips from PPPs.

This Investment Policy is an update on The 1999 Investment Policy, which is outdated, very narrow in focus and has very little relevance to the current investment contexts of this modern time. Therefore, updating the Investment Policy to better align it with and to build synergies with wider national economic development goals and policies such as such as NDP and SDGs is long overdue.

Also, The Gambia has adopted an open regime for Investment. It offers essential investment protection guarantees in the laws, there is a transparent dispute settlement mechanism that is governed by best international practice, and the exist the principle of non-discrimination such as Most Favored Nations (MFNs) and national treatments, protection in case of expropriation etc. Foreign investors are free to invest in all sectors except for defense and unlawful activities and have a welcoming investment climate with transparent, albeit minor

ambiguities in some laws, procedures and processes. Investments are prioritized based on the National Development Plan, which addresses sustainable development concerns.

In addition, the country is also a signatory to a number of international organizations (e.g. Multilateral Investment Guarantee Agency-MIGA) that offer investment guarantee and protection for investors and Bilateral Investment Treaties (BITs). The Gambia has also entered into double taxation treaties, mainly with respect to taxes on income and capital and is beneficiary to such measures as the Africa Growth and Opportunity Act (AGOA) of the United States and the European Union's Everything-but-Arms arrangement under which all LDCs receive duty-free and quota-free access to EU markets for their exports, with the exception of arms and ammunition.

In order to maximize the inflows and benefits of investments both the country and GIEPA have to be repositioned. The country should scale up investment diplomacy and implement policies to address the myriad of constraints to The Gambia's investments and for GIEPA to be refocused and funded as a One Step Shop for investments to rebuild the battered image of the country, develop an investment set of criteria for compliance to NDP and sustainable development and attract specific investments in processing of groundnuts, cashew and fisheries products, ICT and value chain companies operating in Africa. PPPs could be considered to finance the infrastructure deficit.

The EPZ in The Gambia is failing to attract investors either through private developers/operators or GIEPA. The GIETAF initiative to develop the Business Park is laudable and should be put on a fast track basis and operationalize the EPZ be made top priority.

The country should strengthen its efforts to increase the benefits from FDI to the economy and to minimize the negative effect of FDI and the operations of TNCs by launching and/or strengthening of linkage programmes, through which local firms become suppliers to foreign affiliates, located in host countries. Corporate Social Responsibility should form part of the voluntary requirements for investors to provide more benefits to Gambians.

There is some urgency in reviewing the institutional arrangements, roles and responsibilities and in some instances the laws to bring more clarity and avoid duplication of efforts and resources between GIEPA under the Ministry of Trade Industry and Employment (MOTIE), The PPP Directorate of the Ministry of Finance and Economic Affairs and The Investment Unit at the Office of The President.

As the country craves to move to commercial agriculture, investors in this sector will require quite a huge pieces of land which if it is not properly managed, the issuance of such land will generate lot of conflicts between the investors, the

people and communities that claim ownership of this land. Similarly, investments in renewable energy such as solar, investments in other sectors such as tourism are likely to demand large expanse of land. All these pressures from increased demand for land calls for a development of a Land Policy and the establishment of the Land Commission to better manage land allocation and the potential conflicts it can spark.

In order to boost FDI flows to, and its benefits for, the Gambia can leverage support from schemes and programmes implemented by international and regional organizations (UNCTAD), (UNIDO), (MIGA), the World Bank, and the International Finance Corporation (IFC) and the ILO.

References