

**Republic of Senegal**

**Additional Financing for the MUNICIPAL AND AGGLOMERATIONS  
SUPPORT PROGRAM (PACASEN) (P181537)**

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***Loan-Program for Results (PPR)***

**ENVIRONMENTAL AND SOCIAL SYSTEMS ASSESSMENT**

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**Draft report**

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## List of Abbreviations and Acronyms

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ADIE	: State Agency for Information Systems ( <i>Agence de l'Informatique de l'État</i> )
ADL	: Local Development Agency ( <i>Agence de Développement local</i> )
ADM	: Municipal Development Agency ( <i>Agence de Développement municipal</i> )
AFD	: French Development Agency ( <i>Agence Française de Développement</i> )
AGEROUTE	: Agency for Road Works and Management ( <i>Agence des Travaux et de Gestion des Routes</i> )
AGETIP	: Agency for the Execution of Public Works ( <i>Agence d'Exécution des Travaux d'Intérêt Public</i> )
AMO	: Assistance in Project Management ( <i>Assistance à Maîtrise d'Ouvrage</i> )
AMS	: Association of Senegalese Mayors ( <i>Association des Maires du Sénégal</i> )
ANAT	: National Agency for Spatial Planning ( <i>Agence Nationale pour l'Aménagement du Territoire</i> )
ARD	: Regional Development Agency ( <i>Agence Régionale de Développement</i> )
BCI	: Consolidated Investment Budget ( <i>Budget Consolidé d'Investissement</i> )
CADL	: Support Centers for Local Development ( <i>Centres d'Appui au Développement Local</i> )
CBO	: Community-based Organization
CCETGFD	: Climate Change, Ecological Transition and Green Finance Directorate
CCOD	: Commission for the Control of Domain Operations ( <i>Commission de Contrôle des Opérations Domaniales</i> )
CDC	: Court of Auditors ( <i>Cour des Comptes</i> )
CIPS	: Program's Strategic Inter-Ministerial Steering Committee ( <i>Comité Interministériel de Pilotage Stratégique</i> )
CGCL	: General Code of Local Governments ( <i>Code Général des Collectivités Locales</i> )
CGES	: Environmental and Social Management Framework ( <i>Cadre de Gestion Environnementale et Sociale</i> )
CNDL	: National council for the development of local governments ( <i>Conseil National de Développement des Collectivités Locales</i> )
CRSE	: Regional Committee for Environmental and Social Monitoring ( <i>Comité Régional de Suivi Environnemental et Social</i> )
CSDH	: Senegalese Committee for Human Rights ( <i>Comité Sénégalais des Droits de l'Homme</i> )
CTC	: Continuous Territorial Coaching ( <i>Coaching Territorial Continu</i> )
CTN	: National Technical Committee ( <i>Comité Technique National</i> )
DADL	: Local Development Support Directorate ( <i>Direction d'Appui au Développement Local</i> )
DCL	: Local Government Directorate ( <i>Direction des Collectivités Locales</i> )
DCMP	: General Directorate of Procurement ( <i>Direction Centrale des Marchés Publics</i> )
DEEC	: Environment and Classified Establishments Directorate ( <i>Direction de l'Environnement et des Établissements Classés</i> )
DEIE	: Department of Environment Impact Assessments ( <i>Division des Évaluations d'Impact sur l'Environnement</i> )
DGAT	: General Directorate of Territorial Management ( <i>Direction Générale de l'Administration Territoriale</i> )
DGCPT	: National Treasury ( <i>Direction Générale de la Comptabilité Publique et du Trésor</i> )
DGID	: General Tax Directorate ( <i>Direction Générale des Impôts et des Domaines</i> )
DLI	: Disbursement-linked Indicator
DREEC	: Regional Division of Environment and Classified Establishments ( <i>Division Régionale de l'Environnement et des Établissements Classés</i> )

DSDT	: Directorate of Strategies for Territorial Development ( <i>Direction des Stratégies de Développement Territorial</i> )
DSPL	: National Treasury's Local Government Department ( <i>Direction du Secteur Public Local</i> )
DUP	: Declaration of Public Utility ( <i>Déclaration d'Utilité Publique</i> )
EA	: Environmental Assessment
ESA	: Environmental and Social Assessments ( <i>Évaluations Environnementales et Sociales</i> )
EIA	: Environmental Impact Assessment
EIES	: Environmental and Social Impact Assessment ( <i>Étude d'Impact Environnemental et Social</i> )
ESA	: Environmental and Social Assessments
ESSA	: Environmental and Social Systems Assessment
ECUP	: Expropriation for cause of Public Utility ( <i>Expropriation pour Cause d'Utilité Publique</i> )
FDD	: Decentralization Allocation Fund ( <i>Fonds de Développement de la Décentralisation</i> )
FECL	: Equipment fund for local governments ( <i>Fonds d'Équipement des Collectivités Locales</i> )
FIDS	: Simplified Diagnostic Form ( <i>Fiche de Diagnostic Simplifié</i> )
GCP	: Program Coordination Groups ( <i>Groupes de Coordination du Programme</i> )
GES	: Green gases effects ( <i>Gaz à effet de serre</i> )
HCCT	: High Council of Local Governments ( <i>Haut Conseil des Collectivités Territoriales</i> )
ICPE	: Classified Installations for the Protection of the Environment ( <i>Installations classées pour la Protection de l'Environnement</i> )
IDB	: Islamic Development Bank
IP	: Investment Program
IPF	: Investment Project Financing
LG	: Local government ( <i>Collectivité Locale</i> )
MEDD	: Ministry of the Environment and Sustainable Development ( <i>Ministère de l'environnement et du Développement Durable</i> )
MEFP	: Ministry of the Economy, Finances and Planning ( <i>Ministère de l'Économie des Finances et du Plan</i> )
MGTDAT	: Ministry of Territorial Governance, Development and Spatial Planning ( <i>Ministère de la Gouvernance Territoriale, du Développement et de l'Aménagement du Territoire</i> )
MMC	: Minimum Mandatory Conditions
MOD	: Delegated Project Management ( <i>Maîtrise d'Ouvrage Déléguée</i> )
OBFILOC	: Local Governments Finance Online Platform ( <i>Observatoire des Finances Locales</i> )
OTC	: Operational Technical Committee
PACASEN	: Senegal Municipal and Agglomerations Support Program ( <i>Programme d'Appui aux Communes et Agglomérations au Sénégal</i> )
PAP	: Program Action Plan ( <i>Plan d'Action du Programme</i> )
PAR	: Resettlement Action Plan ( <i>Plan d'Actions de Réinstallation</i> )
PARC	: Annual Capacity Development Plans ( <i>Plans Annuels de Renforcement des Capacités</i> )
PFE	: Environment Focal Point ( <i>Point Focal Environment</i> )
PforR	: Program for Results
PGES	: Environmental and social management plan ( <i>Plan de Gestion Environnementale et Sociale</i> )
PI	: Performance Indicator
PNDL	: National Program for Local Development ( <i>Programme National de Développement Local</i> )
PRECOL	: Program for the Strengthening of Equipment for Local Governments ( <i>Programme de Renforcement et d'Équipements des Collectivités Locales</i> )

- SGES : Environmental and Social Management System (*Système de Gestion environnementale et sociale*)
- PROACTSEN : Government's program for the second phase of implementation of Act III (*Programme d'Opérationnalisation de l'Acte III de la décentralisation du Sénégal*)
- TA : Technical Assistance
- TG : Territorial government (*Collectivité Territoriale*)
- TOR : Terms of reference
- WB : World Bank
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# Summary

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## I. OBJECTIVE AND CONTEXT

1. This Environmental and Social Systems Assessment (ESSA) has been undertaken by the World Bank in preparation of the Loan-Program for Results (PforR) for the *Senegal Municipal and Agglomerations Support Program (Programme d'Appui aux Communes et Agglomérations du Sénégal, PACASEN)*.
2. The Program is part of an integrated approach that aims to support the Senegalese Government's program for the second phase of implementation of Act III (*Programme d'Opérationnalisation de l'Acte III de la Décentralisation, PROACTSEN*), a comprehensive intervention framework conceived at the national level by the Ministry of Territorial Governance, Development and Spatial Planning (*Ministère de la Gouvernance Territoriale, du Développement et de l'Aménagement du Territoire, MGTDAT*) for the reorganization of the territorial landscape through a full communalization of the territory, the reorganization of agglomerations, the elimination of regions and the establishment of departments as Territorial Governments (TGs).

## II. GENERAL PRESENTATION OF THE PROGRAM

3. The Program Development Objective (PDO) is to increase local government resources and enhance the transparency, predictability and equitable distribution of State's financial transfers to territorial governments (TGs) and improve the performance of TGs involved in managing public investments for local service delivery.
4. PACASEN will finance PROACTSEN, the Government's program, in the amount of 280 million USD, 110 million USD of which will come from the World Bank and 100 million USD from the French Development Agency (*Agence Française de Développement, AFD*), over a five-year period (from 2018 to 2022). Thus, the Program for Results (PforR) will fund about 25% of PROACTSEN's global financial envelope.
5. **The program is being restructured (level two) to introduce the following seven changes:** (1) new support to Senegal's climate resilience reform at LG level, and adding climate resilience into the program's focus on enhancing LG performance in managing public investments and LG capacity building; (2) support to a LG investment reform to create a conditional transfer window to allow future project financing, including for LG climate resilient investments; (3) PP extension of the closing date by 24 months to December 31, 2026; (4) update of the institutional arrangements; and updates of (5) the program scope (6) the results framework and (7) the Program Action Plan. The expected AF outcomes include (a) finalization of fiscal reforms (FDD, FECT) to further enhance LG finances and LGs' fiscal performance including a mechanism for project-specific financing of LG investments including climate resilient investments; (b) development and
6. PACASEN is organized around two pillars:
  - **Pillar 1: To improve the financial viability of TGs.** Through a blend of technical assistance and result-based disbursements, this first pillar will finance both national-level activities and targeted initiatives in specific TGs to improve the mobilization and management of their financial resources (restructuring the State financial transfer mechanisms to TGs, improving local taxation, strengthening TGs' transparency and accountability in financial management, etc.).
  - **Pillar 2: To improve the performance of pilot TGs in managing public investments for service delivery.** PACASEN financial support will enable the Government to focus on improving the performance of pilot Territorial Governments through national mechanisms that support territorial development, a system for controlling, and reporting and monitoring of their performance to enable the allocation of conditional financial grants (FECL).

7. The beneficiaries of PACASEN activities are:
  - 124 urban Territorial Governments, including (i) the five (05) Cities (Dakar, Thiès, Rufisque, Guédiawaye, and Pikine), (ii) regional and departmental capitals other than those named above, (iii) municipalities previously targeted by the World Bank's and AFD's municipal projects, namely PAC and PRECOL, and (iv) other municipalities with a concentrated population of more than 30,000 inhabitants and a density higher than 10 inhabitants per hectare.
  - 19 territorial governments of principal urban centers, including the five (05) Cities, all regional capitals and the municipality of Touba.
8. These eligible territorial governments cover nearly 50% of the Senegalese population, that is, 9 million inhabitants.
9. The Program's financial resources will be disbursed conditionally upon fulfillment of seven disbursement-linked indicators (DLI), selected to reflect critical performance milestones towards achievement of the Program's development objective.
10. Climate change: To address this challenge, GoS adopted a National Adaptation to CC Action Plan in 2004, and in 2017 its National Determined Contribution (NDC) – the latter constitutes Senegal's commitment to the 2021 Paris COP engagements<sup>1</sup>. To implement the NDC, nine sectoral National Adaptation Plans (NAPs) are currently formulated. The Senegal Climate Change Development Report CCDR<sup>2</sup> is in final preparation stage with an expected public dissemination in June 2024; its findings and recommendations relate to the climate agenda, including on local CC management. Senegal is also in the early stages of developing a new CC Law with the Climate Change, Ecological Transition and Green Finance Directorate (CCETGFD) <sup>3</sup> under the Ministry of Environment (ME) in the lead of drafting the bill, in collaboration with the National Committee for Climate Change Adaptation (COMNAC), its subcommittees, and the 12 regional committees (COMRECs). Without a formal timeline, the CC Law is not expected to be adopted and promulgated within the next 18 to 24 months.
11. For institutional arrangements:
 

The existing implementation arrangements of the parent program (PP) are maintained, strengthened, and expanded to also formally include the MoE with its auxiliary entity of the CCETGFD, which has the required amount and quality of in-house skills and human resources to accomplish the mission assigned to them under the program. In addition, the Memoranda of Understanding (MoUs)<sup>4</sup> between the implementing entity and the PACASEN stakeholder structures are being revised to: (i) extend the MoUs for the AF duration), (ii) integrate CC aspects into these MoUs, and (iii) revisit and recalibrate the stakeholder structures to ensure focus on those structures that support AF implementation. The implementation arrangements for co-financing from AFD are retained as per PP. The overall systems established with the Government for oversight and coordination of the Program continues under the AF. Therefore:

  - The Municipal Development Agency (*Agence de Développement Municipal*, ADM) will assume the role of technical unit for functional coordination and will support the Ministry in charge of Territorial Governance, (*Ministère de la Gouvernance Territoriale*, MTG) in the daily steering and monitoring of activities, while supervising the technical support mechanism for urban TGs. ADM has a strong experience in fiduciary policies and environmental and social safeguards in World Bank operations – even though MTG did not receive any PforR financing.
  - The Agency for the Execution of Public Works (*Agence d'Exécution des Travaux d'Intérêt Public*, AGETIP) and Regional Development Agencies (*Agences Régionales de Développement*, ARDs) will support pilot Territorial Governments' (TGs) efforts in improving their project management and, above all, empowering themselves in investment programming and implementation.

<sup>1</sup> The NDC is an operational planification document providing both mitigation and adaptation goals for Senegal by 2030

<sup>2</sup> WB CCDR for Senegal, forthcoming June 2024

<sup>3</sup> 'Direction du changement climatique, de la transition écologique et des financements verts

<sup>4</sup> The MoUs delineate each structures' contribution to program implementation, that are measured by annual performance indicators and remunerated with annual performance-based grant allocations.



- Territorial Governments targeted by the Program will play a major role in the implementation of various activities.
  - The strategic inter-ministerial steering Committee (*Comité Interministériel de Pilotage Stratégique*, CIPS), chaired by the MTG will supervise the Program's implementation, and will be assisted in the technical piloting of the program on a more regular basis by an Operational Technical Committee (OTC).
12. Many actors at the central and regional level will also be directly involved in PACASEN implementation. These include: the Local Government Directorate (*Direction des Collectivités Locales*, DCL) and the MGTDAT's Training Service (*Service de la Formation*, SF); the Environment and Classified Establishments Directorate (*Direction de l'Environnement et des Établissements Classés*, DEEC) of the Ministry of the Environment and Sustainable Development (*Ministère de l'Environnement et du Développement Durable*, MEDD); the National Treasury (*Direction Générale de la Comptabilité Publique et du Trésor*, DGCPT); the National Treasury's Local Government Department (*Direction du Secteur Public Local*, DSPL); the General Tax Directorate (*Direction Générale des Impôts et Domaines*, DGID); the Court of Auditors (*Cour des Comptes*, CDC); the General Directorate of Territorial Management (*Direction Générale de l'Administration Territoriale*, DGAT) of the Interior Ministry; etc.

### III. ESSA APPROACH, OBJECTIVES AND METHODOLOGY

13. The ESSA examines the environmental and social management systems applicable to PACASEN to assess their conformity with provisions of the World Bank for PforR. The objective is to ensure that it does not contain important environmental and social risks and that systems in place will enable the identification and management of potential risks. More specifically, ESSA identifies and analyzes possible gaps between national systems and basic principles of the program and recommends improvement measures aiming to ensure that environmental and social management systems are consistent with the Bank's requirements.
14. In contrast to conventional investment projects or programs, PforR supports a government program targeting the following objectives: (i) financing the borrower's specific program expenses; (ii) linking fund disbursements directly to the achievement of specific results; (iii) utilizing and, eventually, strengthening systems to ensure funds are used in an appropriate manner, with due consideration to the program's environmental and social impact; and (iv) strengthening institutional capacities required to attain expected goals.
15. The World Bank is responsible for conducting the ESSA, whereas the client (Senegal) is responsible for assessing impacts associated with activities (sub-projects) financed by the Program.
16. ESSA preparation and the development of measures aiming to strengthen the environmental and social management systems have benefited from various information and a broad consultative process, including:
- ▶ A desk review of available documents and data on national environmental and social procedures and their regulatory frameworks; the analysis of environmental and social safeguard capacity of institutions intervening in the Program; and the World Bank documentation on PforR and ESSAs.
  - ▶ Interviews and work meetings with representatives of State and non-State institutions involved in the Program and stakeholders, including public consultations at the regional level.
  - ▶ Consultation meetings to clarify results expected from ESSA, identify the Program's environmental and social challenges, assess technical assistance and capacity development needs to improve environmental and social management systems, develop a better understanding of procedures, standards and the approach to adopt with the technical staff of involved ministerial departments.

### IV. MAIN ENVIRONMENTAL AND SOCIAL INCIDENCES OF PACASEN

#### *Limited negative environmental impacts*

17. The lack of PACASEN's major negative environmental impacts is due to:

- The exclusion, by virtue of the very nature of PforR, of any investment containing major environmental risks (namely, projects classified under Category A).
- The nature and type of developments and infrastructures, which are limited and of small scale, usually well situated and spatially contained, and involving only excavation work that is limited in depth and surface area;
- Works and development operations which do not cause major incidences of air pollution or noise pollution or a significant deterioration of urban environment or the destruction or depletion of green spaces;
- The feasibility, efficiency and relevance of planned activities, based on results of diagnostic studies conducted beforehand and taking into account specific social, economic and environmental factors;
- The existence of various efficient and controllable measures to mitigate potential risks and ensure impact monitoring, during both the construction work phase and the program implementation;
- The existence of specialized institutions able to manage most environmental and social aspects of the Program;
- The existence of an adequate institutional framework which allows for the efficient management of all environmental and social aspects of the Program (*gestion environnementale et sociale, GES*).

**Limited negative social impacts**

18. PACASEN's negative social impacts – particularly those linked to private land acquisition – will be circumscribed and time-limited because of sub-projects' relatively little need for land. In fact, on one hand it is quite improbable that this program causes an involuntary relocation (temporary or permanent) of households or businesses. And, on the other hand, social risks linked to land acquisition by expropriation are relatively minor since the majority of sub-projects are on lands belonging to the State national and private domain.

**Diversity of negative environmental and social risks**

19. *During the preparation phase*, the main risk is negligence and/or little consideration of environmental and social aspects during the conduct of technical studies, in the preparation of procurement bid packages (*dossiers d'appel d'offres, DAO*). This risk may be exacerbated in cases where technical alternatives to project concepts have not been rigorously thought out and aspects of public information and participation have not been taken into consideration in a culturally appropriate and socially acceptable manner. The main mitigation measures advocated during this phase essentially consist in screening all sub-projects based on agreed upon criteria, establishing an activity impact assessment form before implementation and inserting in bid tender package specifications a section on the compliance of construction sites with environmental and safety provisions.

20. *During the construction work phase*, construction and infrastructure development sites could produce solid waste, cause nuisance due to vehicle or machine operation or adverse effects on green spaces and vegetation (air pollution, noise, greenhouse gas emissions by construction sites machinery, solid waste, etc.), have negative incidences on the health of local populations, cause accidents, mostly for vulnerable persons (children, elderly) and site workers. Also, biologically important sites could be affected or cultural heritage objects could be damaged during work, especially in cases of unreported accidental finds. Some activities could as well have a negative impact on economic activities of specific socio-professional categories, resulting in loss of income (temporarily or permanently), livelihood and/or employment (formal or informal) and could disrupt access to basic social services (schools, health centers, etc.). Mitigating measures and/or compensation and risk elimination, whenever possible, will be identified, implemented and included in requirements specification for entrepreneurs and developers.

21. Finally, *during the exploitation phase*, negative environmental and social effects would be caused by an inappropriate design, a lack of population awareness and information, failure to maintain infrastructures and developments, inadequate use and deterioration of infrastructures or an insufficient implementation of safety

measures. The environmental monitoring system in the exploitation phase should enable identification in real-time of these shortcomings to make necessary corrections.

### ***Beneficial environmental and social impact***

22. PACASEN activities, by their very nature, should have several beneficial environmental and social impacts.

*At the environmental level, PACASEN will contribute to:*

- Improving air quality by reducing greenhouse gas emissions;
- Improving urban populations quality of life, mostly for those who live in disadvantaged neighborhoods, by providing better access to infrastructures and basic services;
- Reducing the frequency and incidence of diseases (particularly waterborne diseases) and medical costs of treatments of diseases associated with water pollution and inadequate sanitation infrastructures;
- Decreasing recurring neighborhood flooding hazards as a result of rainwater drainage work;
- Decreasing air pollution by improving urban traffic conditions, with benefits in local and global gas emissions, such as carbon dioxide (CO<sup>2</sup>), nitrogen oxides (NOX) and volatile organic compounds (VOC).

*At the social level, PACASEN will promote, among other things:*

- The socio-economic development of Senegal's urban centers;
- Improvement of populations' living and sanitation conditions;
- The fight against poverty and unemployment;
- Implementation of strategic investments identified in a participative and inclusive manner which address the needs of all social categories, including the lowest social strata;
- Training initiatives aiming to integrate specific tools designed to stimulate women participation in the development planning process of territorial governments;
- Citizens' participation, by strengthening mechanisms of information access (particularly with regard to the decision-making of Territorial governments on infrastructure investments), citizens consultation (including women and young people), grievance management, and implementation of measures that establish the right to petition and monitor the satisfaction of end-users of municipal service;
- Improvement of TGs' performance and governance, not only by establishing an efficient local public administration that listens to its citizens (including the most vulnerable ones), but also by improving local administration responsiveness and accountability towards its citizens;
- The establishment of frequent interactions with the population to encourage TGs better fulfil their commitments, particularly with regard to implementation deadlines and the quality of planned infrastructures, but also in terms of cost control.
- Citizens awareness of local affairs which may strengthen their understanding of how institutions work and encourage them to further demand from TGs that they assume their responsibilities and fulfil their obligations, especially when it comes to service delivery.

### ***Overview***

23. PACASEN planned activities are not yet defined in detail (they will be defined incrementally in the course of investment planning for pilot TGs). Generally, investments will focus on the following aspects: (i) construction and rehabilitation of roads and their dependencies; (ii) realization of wastewater drainage systems; (iii) construction and rehabilitation of sanitary infrastructures; (iv) improvement of urban landscapes and development of public spaces; (v) construction and rehabilitation of administrative and socio-collective infrastructures; etc. However, these investments will not have major negative environmental and social impacts, due to the following factors:

- Conceived as a PforR, one of PACASEN's principles is to exclude any investment that carries important environmental and social risks and diverse, irreversible and unprecedented negative impacts. Therefore, in the PforR context, any sub-project will be considered ineligible if it involves:

- The construction or restoration of works which require an important displacement of persons or massive land acquisition or demolition of a substantial number of individual houses or significantly restricts access to economic resources;<sup>5</sup>
  - The construction or restoration of works which might exacerbate social conflicts, such as those related to land tenure;
  - Development/construction works which would have an irreversible impact on historical or archeological physical cultural resources;
  - Works in biologically or ecologically important sites.
- Various eligible developments will be identified following *detailed design studies* that take into account social, economic and environmental factors and a simple and efficient sub-project screening system, with identification of adequate environmental and social management tools (see insert below).
  - Most sub-projects will be implanted in the State or municipal public domain; expropriation for cause of public utility will not be applied in the context of this Program except under exceptional circumstances; activities that require the displacement of residential households or commercial activities and/or the involuntary acquisition of large land areas, are normally excluded from the program's financing.
  - Due to the nature of planned activities, specific vulnerable groups should not suffer any harm because of PACASEN. On the contrary, PACASEN tends to foster the territorial governments' ability to promote local development and strengthen community cohesion and social inclusion.
  - The various measures advocated for impact mitigation and monitoring *are known, controllable and efficient*, both during the construction work phase and during program operations. They correspond to measures applied to worksite monitoring and they will be included in requirement specifications of procurement agencies; implementation monitoring is performed using tools (tracking forms).
  - There are *institutions* with the capacity to manage environmental and social impacts and they are equipped with good practices, environmental management and risk assessment standards and techniques, as well as a clear and complete legal framework.
24. Finally, it is noteworthy to mention that, Bank policy on PforR excludes works with an estimate cost higher than specified amounts (high-amount operations) which would require a mandatory review from the World Bank "*Operations Procurement Review Committee*" (OPRC).

### SCREENING OF SUB-PROJECTS AND SAFEGUARD INSTRUMENTS

All sub-projects submitted in the PACASEN framework will be imperatively analyzed through the screening form **Simplified Diagnostic Form** (*Fiche de Diagnostic Simplifié*, FIDS). Prepared by the relevant services (based on the type of sub-project) with the technical support of specialized consultants, this form will be used to define the environmental and social risk and impact levels of each project, and the type of management instrument required as well:

- For projects with a *moderate* social and environmental impact, an **Environmental and Social Impact Study** (*Étude d'Impact Environnemental et Social*, EIES) will be conducted by each developer of sub-project included in the list of projects and programs of the 12, 2001 decree, for delivery of an *environmental compliance certificate*.
- For projects with a *moderate and medium-moderate* impact, even if they are not in the list of projects

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<sup>5</sup> Due to Territorial Governments' limited capacity in managing expropriation processes, all projects requiring demolition of an important number of houses (10 or more) or sub-projects affecting, for example, 200 people or more by land acquisition, the loss of economic assets or access to resources, will be excluded from PforR.

of the April 12, 2001 decree, the EIES and an **Environmental and Social Management Plan** (*Plan de Gestion Environnementale et Sociale*, PGES) will be conducted and will include, among other things, public consultations of stakeholders, in accordance with the World Bank policy on PforR.

- Moreover, if necessary, and still to conform to the World Bank requirements for PforR financing, the EIES/PGES will be completed by a **Resettlement Action Plan** (*Plan abrégé de réinstallation*, PAR) for any structural project that would require – on a permanent or temporary basis – the physical displacement of people, acquisition of private land, and/or loss of access to economic, social, and collective sport and entertainment infrastructures. The PAR objective will be not only to assess the associated social and economic impacts, but also to propose a specific compensation plan for losses.
- Finally, for other projects with a *low* environmental and social risk, simple **Environmental and Social Information Forms** (*Fiches d'Information Environnementale et Sociale*, FIES) will be required (in accordance with national provisions).
- **Requirement specifications** for entrepreneurs responsible for construction work will imperatively include all technical provisions and planned mitigation measures, as well as a monitoring and control system that adhere to applicable standards (including with regard to the safety of workers and local populations).
- All PGESs and PARs prepared for projects with moderate risks will require an **appropriate public dissemination**.
- Local beneficiaries will have to be informed on commitments contained in these instruments and have access to a **grievance management mechanism** in case these commitments are not respected. Each Territorial government will ensure implementation of this mechanism, within the framework of a more complete monitoring, assessment and control system.

## V. ASSESSMENT OF NATIONAL SYSTEMS

25. The Environment and Sustainable Development Sectoral Policy Letter (*Lettre de Politique du Secteur de l'Environnement et du Développement Durable*, LPSEDD - 2016-2020) builds on accomplishments and lessons learned from under-performances recorded during implementation of the previous policy letter (LPSEDD 2009-2015). These lessons emphasize the urgent need for the Ministry of Environment and Sustainable Development (*Ministère de l'Environnement et du Développement Durable*, MEDD) on one hand to ensure a better coordination of interventions by its directorates and agencies and, on the other hand, to mobilize and engage various actors.

Specifically, the overall objective of Senegal's environmental and sustainable development policy is: *"To create a national dynamic for improving the environment and the management of natural resources, integrating sustainable development principles in policies designed to strengthen population resilience to climate change"*.

26. Furthermore, with regard to decentralization, the *General Code on Local Governments* reiterates the principle of free administration of territorial governments – a principle strongly affirmed in the Senegalese constitution – as well as governments' broader power in the area of environment and management of natural resources.

### **Environmental Management**

27. With regard to environment management, Senegal has a relatively well-developed legal framework. More specifically, the new *law n°2023-15 of August 2, 2023* establishes the base rules of environment protection, treating environmental assessment as a tool used to assist competent authorities in decision-making. Regulation thus establishes 4 types of studies: (i) environment impact studies which apply to project or programs that may have a potentially important negative incidence on the environment; (ii) strategic environmental assessment intended to assess environmental impacts of decisions made for policies, plans and

programs; (iii) audits of regulatory compliance for authorized exploitation units; and (iv) initial environmental analysis intended for projects of reduced scope.

28. Regarding the environmental legislative framework, the most important texts are:

- Decree n°2001-01 of January 15, 2001 on the Environment Code which establishes obligations of authorities as well as project and program developers. Depending on the potential impact, and the nature, scope and localization of the project, project types are classified in three categories (equivalent to those of the World Bank).
- Decree n°2001-282 of April 12, 2001 on application of the legislative portion of the Environment Code which key purpose is to provide regulatory specifications for priority sectors in environment management.
- Furthermore, Senegal has several codes, specifically on Sanitation, Forests, the Mining sector, Water and Urban planning.

29. Legal provisions on the environmental impact assessment are clarified by several orders. This set of regulations is complemented, among others, by the May 22, 2007 circular from the Prime Minister's office which emphasizes the need to follow provisions of the Environment Code and sectoral reference guides.

30. In Senegal, several actors are involved in environmental management. The first and foremost of them is the Ministry in charge of Environment (*Ministère en charge de l'Environnement* ME) which is responsible for implementing the Government's sectoral policy in environment protection and sustainable development. Among other actors, are the following important institutions: the Technical Committee for Environmental and Social Assessment (ESA) validation, the Environment and Classified Establishments Directorate (*Direction de l'Environnement et des Établissements Classés*, DEEC), project developers (or project managers), enterprises of public works, accredited consulting and engineering firms, local administrative authorities, territorial governments, ARDs, and the civil society. Each institutional actor has specific roles and responsibilities.

### **Social Management**

31. Senegal has an important legal framework on land tenure legislation, land acquisition mechanisms, land resettlement and restructuring, and public participation. Other social aspects such as the social protection of vulnerable people, workers administration, child labor and abuses on communities living in operation zones will as well be considered by the legislation.

32. According to the 1964 law on the National domain, the Senegalese legislation recognizes land registration and customary rights, but takes away from traditional chiefs their authority on land administration. The State is the sole land holder (this principle is affirmed mainly to prevent the ever-growing land-grabbing tendency in urban settings and new distortions by traditional landlords in rural settings).

33. Land appropriation in Senegal revolves around three major land categories which are the foundation of statutory land tenure, administration systems and modalities of allocation and movement of real estate assets: the national domain, the State domain, and the domain of individuals.

34. The law of the National Domain creates four categories of spaces on the national territory: (i) classified zones which are largely set up for the protection and conservation of renewable natural resources and biological diversity; (ii) pioneer zones considered as undeveloped virgin zones destined to host special activities or projects; (iii) production zones (*terroirs*) which largely constitute the rural space dedicated to agriculture, farming and rural habitations; and (iv) urban zones used for housing in a urban setting which host urban infrastructures.

- ▶ Land that are destined to host PACASEN infrastructures may be urban zones, production zones (*terroirs*), as well as classified zones, and the probability of falling back on pioneer zones is practically null. In cases where PACASEN activities or executions may touch classified zones, the State could declassify them for that purpose.

35. The right to ownership in the domain of individuals (largely regulated and defined by provisions of the French Civil Code of 1804) recognizes the right to alienate the land and use it as one wishes, based on the three principles of *usus, fructus and abusus*.
36. The capacities of Local Governments in land tenure are defined by law n° 2013-10 of December 28, 2013 on the General Code of Local Governments. It specifically stipulates that: the region is habilitated to dispose of land spaces that will host infrastructures and equipment and the rural community is habilitated to attribute cultivation land or land reserved for habitation in the production zone (*terroirs*) through its deliberating entity that is the Rural council.
37. The Senegalese Constitution guarantees the right to ownership and determines, in exceptional cases, the possibility of expropriation for cause of public utility. Law 76–67 of July 02, 1976 on expropriation for cause of public utility is the legal basis for expropriation procedures for public utility. For *land in the domain of individuals*, a decree designates the targeted zone and an evaluation of compensation to pay to occupants is done by the commission in charge of expropriation. Rural councils are entities habilitated at the local level not only to attribute lands, but also to proceed to their abandonment.
38. At the national level, several institutions and national entities intervene in expropriation procedure, land acquisition and resettlement of populations, among which: (i) *the Directorate of domain registration and revenue (la Direction de l'enregistrement des domaines et du timbre)*, responsible for prescribing investigation on the public utility to initiate the expropriation phase; (ii) *the Land Register Directorate (Direction du Cadastre)*, responsible for delineating the sub-project perimeter, its implementation and the site demarcation; (iii) *the Commission for the Control of Domain Operations (Commission de Contrôle des Opérations Domaniales, CCOD)*, established by article 55 of the Code on State Domain, gives its opinion on land tenure matters; (iv) *the Conciliation Commission (Commission de conciliation)* in charge of reaching a mutual agreement with the expropriated party on the amount of compensation.

#### **Legislation regarding child labor**

39. The ministerial decree n°3748 MFPTTEOP\_DTSS dated June 6, 2003 prohibits child labor for children under 15 years old. This age limit may be reduced to 12 years old for light work performed within the family context, provided such work does not cause prejudice to the health, the morality or does not interfere with the normal schooling of the child. However, this age limit is raised to 18 years old for hazardous work by derogation of the Labor Minister. This prohibition applies to all establishments regardless of their type, whether they are agricultural, commercial or industrial, public or private, secular or religious, even when such establishments provide professional training or are of a charitable nature, including family enterprises or private homes. On the other hand, Senegal ratified Convention N°138 (1) of the International Labor Organization (ILO) which prohibits labor of children under 15 and the Convention on Children Rights.

#### **Constitutional Review Courts**

40. Senegal has constitutional review courts, in particular: (i) the Office of the Mediator of the Republic (which mission is to ensure adequacy between the functioning of the Administration and citizens' rights and improve relations between the Administration and citizens or end-users); and (ii) the Senegalese Committee for Human Rights (*Comité Sénégalais des Droits de l'Homme, CSDH*), an independent national institution for the promotion and protection of human rights.

## **VI. APPROPRIATENESS OF APPLICABLE SYSTEMS**

#### **Strengths of national systems**

41. In general, Senegalese legislation in environmental and social management is relatively developed and includes several legal texts and documents which cover a large number of aspects of the subject-matter.

42. The national system of Environmental Impact Assessment (EIA), in place since 2001, establishes the base rules in terms of environment protection. It is actually well seasoned and it guarantees to some extent the proper treatment of environmental impacts of new projects subjected to EIA.
43. Furthermore, on the expertise level, there are several engineering and consultancy firms with professional references which have solid capacities in the domain of environmental and social management.

***Weaknesses and malfunctions of national systems***

44. However, analysis of the system reveals also gaps and malfunctions, at least with regard to the World Bank policy in PforR financing. In fact, most of the institutions involved – such as the Division of Environmental Impact Assessments (*Division Évaluations d'Impact Environnemental*, DEIE) or the Regional Development Agencies (*Agences Régionales de Développement*, ARD) and the Regional Division of Environment and Classified Establishments (*Division Régionale de l'Environnement et des Établissements Classés*, DREEC) lack human and financial resources to function properly. Members of the National Technical Committee (*Comité Technique National*) have a hazy knowledge of environmental assessment (EA) procedures and the mandate of Regional Committees for Environmental and Social Monitoring (*Comités Régionaux de Suivi Environnemental et social*, CRSE) is considered as vague and imprecise.
45. At the local level, in the domain of information, public consultations and grievance management and citizen participation mechanisms in place are moderately effective. Despite the emphasis on public hearings, populations are still not sufficiently consulted on planned developments in their respective localities, which hinders their ability to take ownership. The lack of guidance and information on citizens' participation in municipal investment and development activities is also reflected in the absence of a clearly defined mechanism for grievance resolution.
46. Beyond human resources limitations, these institutions do not either have a comprehensive guide on social and environmental management of local investments. For example, ARDs do not yet have procedural manuals to help optimize the administrative, technical and financial organization of their interventions.
47. Finally, in terms of social management, there are many similarities between the national legal framework and Bank procedures. However, there are also differences, particularly with regard to eligibility for compensation of a person affected by a project/program (PAP). WB policy and the Senegalese legislation agree when it comes to displaced persons. But Senegalese law is more restrictive in that it emphasizes holders of formal rights, whereas WB policy does not make such distinction and includes as well people who have neither formal right, nor valid property title on the land they occupy. Thus, WB policy considers not only formal owners, but also customary land owners and those without any formal right on the land they occupy.

**VII. ESSA ACTION PLAN will be maintained**

48. In order to establish necessary environmental and social safeguard measures and bridge the gaps and malfunctions previously noted, PACASEN will support specific measures designed to strengthen the performance of environmental and social management systems for investments in Senegalese Territorial Governments. These measures will be implemented through an ***Environmental and social management action Plan*** of Program activities, integrating a set of specific and concrete measures. This Plan is part of the PACASEN global Action Plan.
49. The ***ESSA Action Plan*** identifies three recommendation segments, with each one having distinct and complementary activities.
50. The first recommendation segment addresses the ***Strengthening of environmental and social management systems of Territorial Governments***. This segment includes the following elements:



- **Technical Manual.** Under the parent program a *Technical Manual for Environmental and Social Management (Manuel Technique pour la Gestion Environnementale et Sociale, MTGES)* for investments of Senegalese Territorial Governments was prepared, implemented and updated to integrate new considerations for environmental and social management compliance purposes. As an integral part of the PACASEN *Operation Manual*, this updated Manual, will comply with national procedures in environmental and social assessments and, at the same time, with provisions of World Bank policies on PforR financing. More specifically, the Manual will present procedures and tools for preparation of an *Environmental and Social Management Plan (Plan de Gestion Environnementale et Sociale, PGES)* for investment sub-projects with moderate environmental risks and a *Resettlement Action Plan (Plan d'Actions de Réinstallation, PAR)* for investment sub-projects with moderate social risks.

The Manual will be intended for Territorial Governments and their technical services, as well as all stakeholders involved in PACASEN implementation at the national and regional level, so that environmental and social management procedures may be properly understood, perfectly owned and monitored.

- **Workshop for dissemination of the Manual.** A workshop will be organized at the national and regional levels to disseminate the MTGES' fundamental elements to representatives of key stakeholders and collect their opinions and suggestions.
- **The E&S specialist under the parent program will be maintained throughout the life cycle of the PACASEN.** He is designated and/or recruited to act as focal points within ADM for PACASEN environmental and social management, based on Terms of Reference (TORs) previously agreed upon. This E&S Specialist in close cooperation with all stakeholders, will have the mission to ensure the: (i) coordination and monitoring of implementation actions to strengthen environmental and social management systems of participating Local Governments; (ii) collection and centralization of all information related to environmental and social risks and to their mitigation measures; (iii) monitoring-evaluation of implemented mitigation measures and data integration at the information system level, as well as reporting (in accordance with principles contained in the MTGES).
- **The recruitment of one (01) a Climate Change expert:** in charge of issues relating to the consideration of climate change in local planning.

51. The second recommendation segment addresses ***Environmental and social management capacity-building*** of PACASEN key actors and stakeholders' representatives. This segment includes two types of distinct activities:

- **Information, awareness.** Organization of several initiatives aiming to bring awareness to and inform a large audience on themes of environmental and social stakes of the Program structural activities and strengthen citizen engagement on a regular basis. This will include the frequent organization of public sessions with representatives of all Territorial governments involved. These initiatives will also support the establishment and operation of a grievance management system (including complaints filed with the World Bank's Grievance Resolution Service (GRS)).
- **Trainings.** This includes the organization of more specialized training sessions intended for stakeholders directly involved in implementing Program investments to strengthen their capacities in Program environmental and social challenges. More specifically, this will consist in: (i) understanding the *MTGES* and various procedures and practices; and (ii) proficiency in the use of environmental and social management tools – *Simplified Diagnostic Sheet (Fiche de Diagnostic Simplifié, FIDS)*, *EIES*, *PGES* and *Resettlement Action Plan (Plan d'Actions de Réinstallation, PAR)* or simple *Environmental and Social Information Form (Fiche d'Information Environnementale et Sociale, FIES)* – which will be prepared for all investment sub-projects, based on the importance of their environmental and social risks, in accordance with national provisions and World Bank policy.

52. Finally, the third and last segment of the Action Plan focuses on **Capacity-building for the monitoring of tool implementation**. This consists in precise initiatives aiming to establish, on one hand, a monitoring and control system of environmental and social management measures for the Program’s investment sub-projects at the Territorial government level and, on the other hand, training of stakeholders in monitoring social and environmental management tools.
- ▶ The main measures of this Action Plan segment address in particular the environmental and social management training of national and regional managers, based on the MTGES.
  - ▶ The training plan must include a module intended to bring to procurement agencies awareness of worksite environmental management procedures as well as MTGES monitoring tools.
53. Regarding environmental and social reporting: once they are filled out by enterprises, MTGES monitoring forms will be verified and validated by Territorial Governments, and then consolidated by PACASEN environmental and social Focal Points before being filed with the integrated information and tracking-monitoring system. Monitoring reports will include, as a priority, the monitoring of implementation of environmental and social mitigation measures for each approved and realized sub-projects.
54. The table below provides a summary of all elements of the ESSA Action Plan that will be an integral part of the PACASEN Global Action Plan. The cost of all identified actions concerning the ESSA environmental and social segments will be integrated into the Program’s global budget. By contrast, for the various investment sub-projects, the costs of environmental and social corrective measures will be integrated to the sub-project budgets.

**Table 1: Environmental and Social Action Plan**

N°	Measure	Activity	Responsible Entity	Schedule
<b>1. STRENGTHENING OF THE ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM</b>				
1.1	<b>Technical Manual for PACASEN environmental and social management</b>	Organization of workshops for the dissemination technical Manual	ADM, DEEC with ARDs	During Program implementation
1.2	<b>Focal point</b>	Designation of the two Focal points for the environmental and social management of TG investments (nested with ADM).	ADM	At the beginning of Program implementation
1.3	<b>Grievance management</b>	Set up of a simple and efficient grievance management system within each participating Territorial government, dissemination of the system and definition of a complaint follow-up system	Each TG with support from ADM	During Program implementation
<b>2. CAPACITY BUILDING IN ENVIRONMENTAL AND SOCIAL MANAGEMENT</b>				

1.1	<b>Information and awareness</b>	Organization of several annual initiatives to bring awareness to and inform a large audience on environmental and social challenges of the Program structural activities, and strengthen citizen engagement on a regular basis. This includes, among other things, the publication and dissemination of environmental and social procedures for sub-projects and decisions on approved projects.	ADM in collaboration with ARD/DEEC-DREEC	Throughout the Program duration
2.1	<b>Specialized trainings</b>	<p>Organization of specialized training sessions intended for stakeholders directly involved in the implementation of Program investments. Based on a capacity-building plan, these training sessions will focus on:</p> <ul style="list-style-type: none"> <li>• Initiation to Senegal's legal and regulatory provisions in the domain of environmental and social management;</li> <li>• Proficiency in the technical Manual;</li> <li>• Proficiency in filling out the <i>Simplified Diagnostic Form (Fiche de Diagnostic Simplifié, FIDS)</i></li> <li>• Proficiency in developing the EIE in accordance with national and WB procedures (with added sections on PGES and public consultations)</li> <li>• Proficiency in developing the Environmental and Social Management Plan (PGES), for sub-projects with medium-moderate environmental and social impact</li> <li>• Proficiency in the preparation of an Environmental and Social Information Form (<i>Fiche d'Information Environnementale et Sociale, FIES</i>) for sub-projects with a low environmental and social impact</li> <li>• Proficiency in preparation of a Resettlement Action Plan (<i>Plan d'Actions de réinstallation, PAR</i>) for each sub-project with moderate social impacts.</li> </ul>	ADM with ARD/DREEC, with external specialized technical assistance as needed	Refresher sessions all throughout the Program duration (frequency to be determined based on the allotted budget)
<b>3. CAPACITY-BUILDING IN MONITORING TOOL IMPLEMENTATION</b>				
3.1	<b>Monitoring</b>	Definition and set up of a monitoring and control system for the environmental and social management of investment sub-projects and the control of all planned mitigation measures (in PGESs and PARs).	<p>ADM with DEEC-DREEC</p> <p>In collaboration with the Regional Committees on Environmental and Social Monitoring (CRSE) of each participating TG.</p> <p>Each approved developer or sub-project owner.</p> <p>With support of a specialized</p>	During PACASEN implementation

			technical assistance.	
3.2	<b>Training in monitoring and control</b>	Training of stakeholders in monitoring social and environmental management tools.	ADM, with DEEC-DREEC.  In collaboration with the Regional Committees on Environmental and Social Monitoring (CRSE) of each participating TG.	Throughout the Program duration.

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The World Bank will be responsible for organizing a public consultation with representatives of main stakeholders, civil society organizations and the private sector to introduce and discuss the updated ESSA report.

Thereafter, throughout the Program duration, it is the Senegalese counterpart that will be responsible for organizing public consultations on the Program specific activities (investment sub-projects).

The final updated/revised ESSA version will be made available to the public on the World Bank external website and also on the site of the Ministry in charge of Territorial Governance, Development and Spatial Planning (*Ministère en charge de la Gouvernance Territoriale, MGT*)/ADM. Public feedback will be solicited during the defined period.

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## SECTION I. INTRODUCTION

### I.1 CONTEXT

1. This Environmental and Social System Assessment (ESSA) was conducted by the World Bank in preparation of the Loan-Program for Results (PforR) for the *Senegal Municipal and Agglomerations Support Program (Programme d'Appui aux Communes et aux Agglomérations, Sénégal, PACASEN)*.

**The parent program (PP) PACASEN supports the GoS in operationalizing the ACT III of PROACTSEN by improving LG financing and enhancing their performance in managing public investments.** IDA has been supporting the GoS in this sector since 1972, and PACASEN was the first urban and municipal sector PforR implemented by IDA in Francophone Sub-Saharan Africa. As of 2024, PACASEN is in its 6<sup>th</sup> year of implementation (2019- 2024) and in its 4<sup>th</sup> cycle of transfers within Senegal's budget system (2021-2024) with a total envelop of US\$ 260million, comprising US\$ 110million from IDA, US\$ 90million from AFD, and US\$ 60million from GoS. PACASEN supports performance-based unconditional capital grants from the central Government to 124 PACASEN beneficiary urban LGs across Senegal's 14 regions, as well as reforms related to capacity building, PFM and other core areas benefiting all 601 LGs in Senegal. Since 2019, indicative data shows that PACASEN's 124 beneficiary LGs have received 61% of the capital investments from GoS and 35% from IDA and AFD, with 4% spent by GoS on associated capital investment activities and entities<sup>6</sup>.

**This additional financing (AF) consists of an additional credit in the amount of US\$ 50 million from the International Development Association (IDA) to the Republic of Senegal to the Municipal and Agglomerations Support Program (P157097, PACASEN).** The additional financing is a scale up of the program envelope and time horizon. Specifically, the AF adds a total envelope US\$ 110m to the program, including US\$ 50m from IDA and US\$ 33m from AFD, as well as US\$27 million from GoS. The AF also extends the program for 2 years until December 31, 2026. The proposed additional loan would help finance the expenditures associated with (i) the continued support to fiscal reforms, started under the PP, regarding LG investment and operating budgets; (ii) a new support to Senegal's climate resilience reform; and (iii) a new focus on climate resilience in the AF's annual LG PE and LG capacity building.

55.

2. PACASEN seeks to effectively improve delivery of local services through the support of institutional reforms aiming to: (i) increase State transfers to TGs based on objective and equitable criteria (ensuring predictability and transparency of allocations) to finance infrastructures and immediate needs of access to basic services; (ii) incentivize TGs, through grant allocations conditioned by the achievement of minimal conditions (MMC allocations) or performance indicators (PI allocations), to improve budgeting quality, from investment programming to execution (including maintenance of equipment assets), their financial management, their own resources, etc.

### I.2 END-GOAL AND APPROACHES OF THE ESSA

3. The ESSA examines PACASEN's environmental and social management systems to assess their conformity with provisions of the Bank policy for PforR. The objective is to ensure that it does not contain important environmental and social risks and that systems in place allow for the identification and management of potential risks. More specifically, the ESSA identifies and analyzes possible gaps between national systems and base principles of the program and recommends improvement actions aiming to align environmental and social management systems with Bank requirements.

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<sup>6</sup> GoS/WB/AFD PACASEN Evaluation, May 2023, with additional analysis agreed during AF implementation to further clarify this point

4. Unlike conventional investment programs or projects, the PforR supports a government program with focus on the following objectives: (i) funding the borrower's specific program expenses; (ii) linking fund disbursements directly to the achievement of specific results; (iii) strengthening systems to ensure that funds are utilized in an appropriate manner while taking adequate consideration of the program environmental and social impact; and (iv) strengthening institutional capacities to ensure expected results are attained.
5. The World Bank team is responsible for preparing the ESSA, whereas the client (Senegalese counterpart) is responsible for assessing impacts associated with activities (sub-projects) financed by the program.
6. Preparation of a PforR demands that the environmental and social system applicable to the program be assessed to ensure that existing systems allow for the appropriate identification and mitigation of potential risks, including report preparation and dissemination of information on possible environmental and social impacts of activities financed by the program. The assessment of environmental and social systems must specifically: (i) promote the environmental and social sustainability of a program; (ii) prevent, reduce or mitigate any negative environmental and social impact; and (iii) support participative and informed decision-making.
7. The World Bank policy for PforR financing provides environmental and social basic principles that must be observed in the ESSA. The coherence of the systems is considered by the Program depending on: (i) systems defined by laws, regulation, procedures, etc. (*"the system as defined"*); and (ii) capacity of the Program institutions to efficiently implement the systems (*"the system as applied in practice"*). It identifies and analyzes gaps between national systems and basic principles applied to the Program on the two levels indicated above. It must thus be emphasized that, by virtue of the very nature of programmatic interventions, the ESSA focuses on the system as it is, by giving only information on the type, the nature and characteristics of activities introduced by the Program.
8. The basic principles that must be observed in the *environmental and social systems assessment* are:
  - Promote environmental and social sustainability in the program design.
  - Prevent, reduce or mitigate negative impacts and promote informed decision-making on environmental and social impacts of the program.
  - Prevent, minimize or mitigate negative impacts on physical natural resources resulting from the program.
  - Protect public safety and workers safety against risks associated with: (i) construction and/or exploitation of installations for the program; (ii) exposure to toxic chemical products, dangerous waste, air pollution and noise pollution caused by the program; and (iii) reconstruction or restoration of infrastructures located in the urban perimeter.
  - Manage the possible acquisition of private land and loss of access to economic goods and public services in a manner that prevents or reduces physical and economic displacements, and help affected persons improve or, at minima, restore their livelihood and quality of life.
  - Take into account the cultural relevance and equitable access to program benefits by giving special attention to rights and interests as well as needs and concerns of all social categories, including vulnerable groups.
  - Contribute to preventing, reducing, if not eradicating, social conflicts.
9. Therefore, PACASEN approach excludes any activity with a risk of significant environmental and social impacts. In this regard, any investment considered as being in Category A, corresponding to Category 1 of the Senegalese Code of Environment, will be excluded as it would pose a potentially

important environmental and social risk with diverse, irreversible and unprecedented negative impacts.

10. The ESSA aims to identify strengths and weaknesses of the environmental and social system applicable to the program in order to determine actions that are necessary to improve its performance. Specific measures to bridge identified gaps or shortcomings are also proposed to improve current practices and procedures and bring them to conformity with Bank provisions, especially in the framework of preparing the annex to the Program's Manual of Procedures related to environmental and social safeguards.

### **I.3 METHODOLOGY**

11. ESSA preparation and the development of measures aiming to strengthen the environmental and social management systems have benefited from various information and a broad consultative process, including:
  - ▶ A desk review of available documents and data on national environmental and social procedures and their regulatory frameworks; the analysis of environmental and social safeguard capacity of institutions intervening in the Program; and the World Bank documentation on PforR and ESSAs.
  - ▶ Interviews and work meetings with representatives of State and non-State institutions involved in the Program and stakeholders, including public consultations at the regional level.
  - ▶ Consultation meetings to clarify results expected from the ESSA, identify the Program's environmental and social challenges, assess technical assistance and capacity development needs to improve environmental and social management systems, develop a better understanding of procedures, standards and the approach to adopt with the technical staff of involved ministerial departments.
  - ▶ Wrap-up meetings on the ESSA preliminary report were held from October 9 to 21, 2017, with the participation of locally-elected officials, the ARDs, the DREECs and civil society organizations. The outcome of these meetings is documented in an annex to the present ESSA (with a complete list of participants).
  - ▶ Under the parent program preparation a public consultation workshop was held on October 23, 2017 with the participation of representatives of the technical staff from the Government and from Territorial governments, development partners, civil society organizations and the private sector. The findings of this workshop is documented in an annex to the present ESSA (with a complete list of participants).
  - ▶ The updated ESSA report will be made available to the public on the World Bank external website and also on the site of the Ministry of Territorial Governance (MGT). Public feedback will be solicited during the defined period.

## SECTION II. PROGRAM DESCRIPTION

### II.1 CONTEXT

12. Since independence, Senegal has defined and implemented a gradual but careful decentralization policy. In 1996, the ten administrative regions have been transformed into local governments and additional responsibilities have been transferred to existing urban authorities in domains such as urban planning, education, public health management and social development. In accordance with Act III of the decentralization which aims to develop local democracy, the General code for local governments (*Code Général des Collectivités Locales*, CGCL) of December 19, 2013 acknowledges the importance of citizen engagement – a specific section of the code (section 2) addresses this topic. The CGCL establishes the possibility for LGs to create consultation frameworks likely to be accessed on any subject of local interest (art. 7).
13. Through Act III, the landscape of the Senegalese territorial governance has changed yet once again in 2014 with the full “municipalization” of the territory which objective was to bring governance closer to service delivery to citizens. Rural communities have been converted to full-fledge local governments, responsibilities previously attributed to regions have been transferred to departments and urban agglomerations have been reorganized as cities. In total, the number of governments has sharply increased, from 172 to 557 (552 municipalities and five cities). The *2001 Constitution*, which recognized the role of local governments, has been modified in 2016 to strengthen the constitutional base of territorial governments and establish a High Council of Territorial Governments (*Haut Conseil des Collectivités Territoriales*, HCCT).

### II.2 MAIN CHARACTERISTICS OF THE PROPOSED INTERVENTION

14. The Program Development Objectives (PDO) remains unchanged: (i) increase local government resources and enhance the transparency, predictability and equitable distribution of intergovernmental transfer allocations to TGs; and (ii) improve the performance of TGs involved in the management of public investments for local service delivery.
15. PACASEN is part of an integrated approach that supports the Program for the Operationalization of Act III (*Programme d’Opérationnalisation de l’Acte III de la Décentralisation*, PROACTSen), a comprehensive intervention framework conceived at the national level by the Ministry of Territorial Governance, Development and Spatial Planning (*Ministère de la Gouvernance Territoriale, du Développement et de l’Aménagement du Territoire*, MGT) to reorganize the territorial landscape through the full communalization of the territory, the reorganization of agglomerations, the elimination of regions and the establishment of departments as Territorial Governments (TGs).
16. PACASEN will finance PROACTSEN in the amount of 280 million USD, of which 110 million from the World Bank and 100 million USD from AFD, over a five-year period (from 2018 to 2023). Thus, PforR will fund about 25% of PROACTSEN’s total financial envelope. Moreover, other funders, such as the Islamic Development Bank (IDB), the Luxembourg Development Agency and USAID will also support the Program. A funders committee has been set up to ensure these various programs are properly articulated and efficiently integrated under the PROACTSEN unifying framework.



17. PACASEN seeks the effective improvement of local services delivery through support of institutional reforms aiming to: (i) increase State transfers to TGs based on objective and equitable criteria (ensuring predictability and transparency of allocations) to finance infrastructures and immediate needs of access to basic services; (ii) incentivize TGs, through grant allocations conditioned by the achievement of minimal conditions (MMC allocations) or performance indicators (PI allocations), to improve budgeting quality, from investment programming to execution (including maintenance of equipment assets), their financial management, their own resources, etc.

18. PACASEN is organized around two pillars and includes activities that cover a large portion of PROACTSEN's sub-programs 1, 3 and 4:

***Pillar 1: To improve the financial viability of TGs.*** Through a blend of technical assistance and result-based disbursements, this first pillar will finance both national-level activities and targeted initiatives in specific TGs to improve their financial and fiscal resource mobilization and management. Programmed activities will focus on three result areas:

- Restructuring financial transfer mechanisms from the State to TGs – phased reforms of the Local Government Equipment Funds (*Fonds d'Équipement des Collectivités Locales, FECL*), the Decentralization Allocation Fund (*Fonds de Dotation de la Décentralisation, FDD*) and the Consolidated Investment Budget (*Budget Consolidé d'Investissement, BCI*), as well as the value added on Local Economic Contribution (*Contribution Économique Locale, CEL*).
- Improving local taxation (fiscal administration and local taxation reforms) by supporting the creation of a dedicated Directorate of TGs, and technically assisting the General Tax Directorate (*Direction Générale des Impôts et des Domaines, DGID*) in identifying short-term measures to improve local tax revenue.
- Strengthening TGs' transparency and accountability in financial management.

***Pillar 2: To improve the performance of selected Territorial Governments in managing public investments for service delivery.*** PACASEN's financial support will enable the Government to focus on improving the performance of selected urban governments through: (i) national support mechanisms to territorial governments; and (ii) systems for the control, reporting and performance of territorial governments to enable access to conditional allocations (FECL). Programmed activities will be structured around the two following result areas:

- Capacity-building of local public agents in urban TGs to create the foundations needed for a well-trained and competent territorial public administration.
- Implementation of an incentive mechanism to improve governance of urban TGs through the allocation of two “conditional grants”.

### ***Design:***

**While the original PP design is largely maintained, it is expanded by the climate resilience focus.** The AF continues to use the PforR instrument with the two RAs of the PP. The AF expands the current fiscal reform focus of the PP to include a new reform focus on CC. The AF also expands the focus of the annual LG performance evaluation to include CC aspects in the minimum mandatory conditions (MMCs) and the performance indicators (PIs) of the program. The AF further expands its LG capacity building support to include CC related topics, including mainstreaming CC in municipal planning, undertaking climate related investment planning and others.

### ***Beneficiaries***

19. Two categories of Territorial Governments (TGs) will benefit from PACASEN activities:

- 124 Territorial Governments, including five cities (Dakar, Thiès, Rufisque, Guédiawaye, and Pikine), regional and departmental capitals which have a population of more than 30.000 inhabitants, with a density of more than 10 people/ha, and all Municipalities previously targeted by the World Bank and AFD municipal projects.
  - 19 Territorial Governments located in principal urban centers, including all five cities, all regional capitals and the municipality of Touba.
20. These eligible local governments cover nearly 50% of the Senegalese population, that is 9 million inhabitants. These TGs have been identified on the basis of the following criteria:
- The Government’s willingness to adopt a realistic and phased approach for the capacity-building program designed for TGs’ operations, starting with those with the greatest challenges in terms of population, demand for services and visibility.
  - The need to maintain an acceptable level of investment in these territorial governments which would have an important ripple effect on the economy and the emergence of territories.
  - The challenge of the sustainable development of TGs’ project management capabilities, starting with TGs with the greatest legitimacy and capacity to revendicate an increase in empowerment.
21. The Program’s financial resources will be disbursed upon achievement of seven disbursement-linked indicators. These indicators have been selected to reflect milestones of critical performance towards achievement of program development objectives. These indicators mutually reinforce each other and create incentives in encouraging the various central and local governmental institutions to coordinate the achievement of results.

***Key partners and agencies involved in the Program***

22. Given the integrated nature of the Operation, many central actors will be directly involved with its implementation.
- MGTDAT’s DCL will play a key role, namely in the drafting, implementation and monitoring of various law and decree projects needed to operationalize decentralization in Senegal;
  - The Environment and Classified Establishments Directorate (*Direction de l’Environnement et des Établissements Classés*, DEEC) of the Ministry of Environment and Sustainable Development will be in charge of ESA validation, implementation and monitoring;
  - The National Treasury (*Direction Générale de la Comptabilité Publique et du Trésor*, DGCP) of the Ministry of Economy, Finances and Plan (*Ministère de l’Économie, des Finances et du Plan*, MEFP), will be in charge of grant transfers to TGs and will also manage the dissemination and availability of financial information through the Local Governments Finance Online Platform (*Observatoire des Finances Locales*, OBFILOC).
  - The National Treasury’s Local Government Department (*Direction du Secteur Public Local*, DSPL) and the General Tax Directorate (*Direction Générale des Impôts et des Domaines*, DGID) will be responsible for moving forward fiscal reforms and accompany TGs in local resources mobilization.
  - The Court of Auditors (*Cour des Comptes*, CDC) will as well play a key role as Independent Auditor of the attainment of Indicator-linked Disbursement (ILDs) but also of the performance of TGs on an annual basis.
  - National or regional agencies, the Municipal Development Agency (*Agence de Développement Municipal*, ADM), the Agency for the Execution of Public Works (*Agence d’Exécution des Travaux d’Intérêt Public*, AGETIP), Regional Development Agencies (*Agences Régionales de Développement*, ARD) will support TGs’ empowerment efforts in investment programming and implementation through the setup of a TA adapted to the need of each TG.

- The MGTDAT Training Service (*Service de la Formation, SF*), responsible for implementing the national training strategy for territorial actors (*Stratégie nationale de formation des acteurs territoriaux, SNFAT*) will support the « Continuous Training » segment of Annual Capacity-building Plans (*Plans annuels de Renforcement des Capacités, PARC*) of urban TGs. Other actors will also be involved in the Operation through a consultative and/or decisional role.

23. The institutional structure for the Program implementation will include the following entities:

- **ADM** will play the role of technical unit for functional coordination and will support MGTDAT in the daily steering and monitoring of the Operation. It will also supervise the technical support mechanism for urban TGs (Continuous Territorial Coaching, CTC) in cooperation with ARDs. ADM will also be responsible for standard project implementation tasks (procurement awards, financial management and safeguards).
- **A Strategic Steering Inter-Ministerial Committee (Comité Interministériel de Pilotage Stratégique, CIPS)**, chaired by the MGTDAT and co-chaired by the MEFP, will be set up to supervise the Program implementation, namely by guaranteeing the commitment and proactive engagement of all institutional actors involved.
- **A Functional Technical Committee (Comité Technique Opérationnel, CTO)** will be responsible for steering the Program on a more regular basis and will also have the mission of assisting the CIPS. It will meet each trimester to ensure Program monitoring is steady and it will also prepare CIPS reunions. Its secretariat will be provided by ADM.
- **Workgroups (Groupes de Travail, GDT)** created and coordinated by ADM may be created depending on needs in managing specific themes during implementation of Program activities.
- **Territorial Governments** targeted by the Program will have an important responsibility in the implementation of various activities at the local level.

## II.3 GLOBAL EFFECTS OF THE PROGRAM

### *Global incidences of the Program*

24. PACASEN planned activities are not yet defined in detail (they will be defined incrementally in the course of TGs' planning). Generally, investments will focus on the following aspects: (i) restoration of roads with investments linked to dependencies; (ii) drainage of wastewater; (iii) building of local sanitation centers; (iv) improvement of urban landscapes and development of public spaces; etc.
25. In general, it is quite predictable that Program activities will have beneficial environmental, social and economic impacts on the environment (hygiene, sanitation, efficiency, etc.) and the population (improvement of living conditions). These positive effects are numerous and should hold in the long-term.
26. By contrast, negative environmental and social impacts of investments (works, infrastructures, services) will in general be **limited, of low to medium extent, reversible and easily controllable and manageable**. It will be fairly easy to identify them in advance, prevent them, and minimize them with simple good practices and efficient mitigating measures.
27. The environmental and social diagnostic of various sub-projects submitted by TGs will enable identification of required planning tools and the simple and efficient control of monitoring systems (through a simple and efficient screening system, see Section II). But the large majority of these sub-projects which qualify for financing concern works that generate environmental and social risks determined to be moderate to low.

28. Thus, in general, not only PACASEN does not contain major environmental and social risks, but it will have globally positive effects.

#### **II.4 ENVIRONMENTAL EFFECTS OF THE PROGRAM**

##### ***Limited negative environmental impacts***

29. The lack of PACASEN's major negative environmental impacts is due to:

- The exclusion, by virtue of the very nature of PforR, of any investment containing major environmental risks (namely, projects classified under Category A by the World Bank).
- The nature and type of developments and infrastructures, which are limited and of small scale, usually well situated and spatially contained, and involve only excavation work that is limited in depth and surface area;
- Works and development operations which do not cause major incidences of air pollution or noise pollution or a significant deterioration of the urban environment;
- The feasibility, efficiency and practicality of planned activities, based on results of diagnostic studies conducted beforehand that took into account specific social, economic and environmental factors;
- The existence of various efficient and controllable measures to mitigate potential risks and ensure impact monitoring, during both the construction work phase and program implementation;
- The existence of specialized institutions, proficient in managing most environmental and social aspects of the Program;
- The existence of an adequate legal framework which allows for the efficient management of all environmental and social aspects of the Program.

##### ***Beneficial environmental impact***

30. In general, the Program investments will have a positive environmental impact, both direct and indirect, temporary and permanent, to the extent that they will contribute to improving the quality of life of Senegalese urban populations. In fact, through activities it seeks to finance, PACASEN will contribute, among other things, to:

- Improving air quality by reducing greenhouse gas emissions;
- Improving urban populations quality of life, mostly for those who live in disadvantaged neighborhoods, by providing better access to drinkable water and wastewater sanitation services;
- Reducing the frequency and incidence of diseases (particularly waterborne diseases) and medical costs of treatments of diseases associated with water pollution and inadequate sanitation infrastructures;
- Decreasing recurring neighborhood flooding hazards as a result of rainwater drainage work;
- Decreasing air pollution by improving urban traffic conditions, with benefits in local and global gas emissions, such as carbon dioxide (CO<sup>2</sup>), nitrogen oxides (NOX) and volatile organic compounds (VOC).

#### **II.3.4 Negative environmental effects during the preparation phase**

31. PACASEN activities present a potential of environmental risks. During the preparation phase, the main risk is negligence in the preparation of procurement bid packages of environmental and social aspects and their little consideration during the conduct of technical studies and/or the preparation of unsatisfactory environmental studies. This risk may be exacerbated where technical alternatives to project concepts have not been rigorously thought out and aspects of public information and participation have not been taken into consideration in a culturally appropriate and socially acceptable manner.

32. Furthermore, structural interventions planned in the PACASEN framework should not create risks for public safety and workers safety. A protection against such risks will be ensured in accordance with applicable national and international regulations. Mitigation measures for such risks will specifically involve: (i) consulting the public and stakeholders during site selection and preparation and validation of studies; (ii) quality control in implementing validation procedures and dissemination of environmental and social studies; and (iii) worksite supervision by environment experts.
33. The main mitigation measures advocated during this phase essentially consist in screening all sub-projects based on agreed upon criteria, establish an activity impact assessment form before implementation and include in the specifications of bid tender packages a section on compliance of construction sites with environmental and safety provisions.

### **II.3.5 Negative environment effects during construction work**

34. The *construction work phase* will be marked by the launch of infrastructure construction work which could generate solid waste (cement bags and other types of packaging, remnants of drinking water systems, workers' household waste, etc.), cause nuisances of vehicle and machinery (dust, noises, gas emission and waste oil spills) or harmful effects (grubbing up of trees, loss of green areas, etc.).
35. Even though effects of these impacts are not permanent (since they do not continue beyond the end of construction work), they may nevertheless persist (mainly effects of solid waste and engine oil spills) if ongoing and closing construction work are not subjected to environment protection procedures. More specifically:
  - Construction work could require use of borrowed materials – which could be retrieved from near-by quarries.
  - Construction site machines and noisy equipment (jackhammers, air compressors, etc.) will create noise pollution.
  - Dust will be generated by excavation work, inadequate storing of construction materials and rubble, and the movement of construction site heavy equipment.
  - Circulation of construction site heavy equipment coupled with the non-observance of safety measures might cause work accidents.
  - Worksite vehicles will generate greenhouse gas from engine exhaust, bad odor nuisances, sanitary risks and pollution.
  - Worksites will generate waste that typically result in various forms of pollution.
  - Construction or rehabilitation work might require vehicle route deviations or restriction to foot traffic and generate disturbances in daily activities of urban neighborhoods.
  - Some work will require the use of vehicles and various types of engines which might cause an increase in volumes of used oils (for hydraulic machines, engine oils, gear boxes and lubricant and insulating oils and heat transfer fluids)
  - In rare cases, work could contaminate groundwater tables.
  - The program activities could affect drinking water sources, which could in turn impact water quality and cause a concentration of pollutant.
  - Some work could require grubbing-up of trees and loss of green areas. However, specific mitigating measures will be implemented, in particular tree planting to make up for the shortfall in carbon sequestration capacity.
36. Still during the construction work phase, other Program activities could have a negative impact on economic activities of some socio-professional categories, with a loss of income (temporarily or permanently) and/or employment (formal or informal).

37. Mitigation measures that accompany this construction work phase consist in monitoring on a regular basis implementation of worksite instructions as defined in requirements specification, establishing non-compliances and identifying corrective measures and tracking their implementation.

### **II.3.6 Environmental effects during the exploitation phase**

38. Negative environmental effects of structural investments resulting from this phase could be due to an inappropriate design, a lack of maintenance, an inadequate use and deterioration of infrastructures or an insufficient implementation of safety measures. They might cause work dysfunction or deterioration and generate negative impacts.
39. Recommended mitigation measures in this regard are aligned with good practices in construction site management. Generally, they consist in putting in place emergency measures in case of accidental contamination.
40. The environmental monitoring system of the exploitation phase should enable identification in real-time of these shortcomings to make necessary corrections.

## **II.5 SOCIAL EFFECTS OF THE PROGRAM**

### ***Limited negative social impacts***

41. PACASEN negative social impacts – particularly those linked to private land acquisition – will be circumscribed and time-limited because of sub-projects' relatively little need for land. In fact:
- It is quite improbable that any form, even temporary, of involuntary relocation of residential households or businesses be required.
  - Social risks linked to land acquisition by expropriation are relatively minor since the majority of sub-projects are on lands belonging to the State public domain.
42. All these improvements will rely on other PACASEN components that specifically target an increase in capacities, greater governance on the demand side, financial mechanisms and the strengthening of institutions.

### ***Beneficial social impact***

43. By their very nature, planned activities should even have several advantages for beneficiary populations. Such advantages include, among other things:
- Improvement of populations' living and sanitation conditions.
  - Socio-economic development of Senegal's urban centers.
  - The fight against poverty and unemployment.
  - Implementation of identified strategic investments which address the needs of all social categories, including the lowest social strata.
  - Training initiatives aiming to integrate specific tools designed to stimulate women participation in the development planning process of territorial governments.
  - Citizens' participation, by strengthening mechanisms of information access (particularly with regard to Local governments' decision-taking on infrastructure investments), citizens consultation (including women and young people), grievance management, and implementation of measures that establish the right to petition and monitor the satisfaction of end-users of municipal services.
  - Improvement of TGs' performance and governance, not only by establishing an efficient local public administration that listens to all its citizens (including the most vulnerable ones), but also

by improving local administration responsiveness and accountability towards its citizens.

- Establishment of frequent interactions with the population to encourage Local governments to better fulfil their commitments, particularly with regard to implementation deadlines and the quality of planned infrastructures, but also in terms of cost control.
  - Citizens awareness of local affairs which may strengthen their understanding of how institutions work and encourage them to further demand from Local Governments that they assume their responsibilities and fulfil their obligations, especially when it comes to service delivery.
44. To ensure the Program's beneficial impacts are materialized, a Resettlement Action Plan (*Plan d'Actions de Réinstallation*, PAR) will be prepared for each structural investment sub-project that requires the physical displacement of people, acquisition of private land, and/or causes a loss of access to economic assets or work locations (even for people without official land ownership title). The PAR's objective is to assess social impacts associated to the temporary or permanent resettlement of people and propose a compensation for losses and support, in concertation with affected people. Affected populations will have the full compensation and support they are entitled to before construction work begins.

#### **II.4.2 Social risks during preparation phase**

45. Generally, the most significant social risks are related to land acquisition or temporary occupation. Other risks of a lesser magnitude may be linked to disturbances caused by construction work, such as restricted access, traffic deviation, noise, vibrations, dust, etc. which might disrupt neighborhoods' daily activities. Depending on the type, scope and scale of work admissible under the Program, social risks will be typically linked and limited to the construction phase, and will generally be specific to the worksite.
46. *During the procurement tender preparation phase*, the primary social risk is associated with infrastructure, roads and building construction work which might require temporary or permanent occupation of private land. This impact is relatively low from the fact that, as a general rule, the Program will not resort to expropriation or involuntary displacement of residential households or businesses – as the adopted approach is to use the public domain, and resort to technical alternatives to avoid stepping on private land and encroaching on houses and businesses. In a few cases, private land might be acquired for implementation of sub-projects by voluntary transfer or private sale.
47. Whenever they are ill-conceived, investments might contain negative incidences on public health and safety. However, such impacts should be relatively small, from the fact that surface areas that might be required will not be significant and lead managers who were consulted have clearly stipulated that there will be no recourse to expropriation.
- In the Program's framework, the rule will be to utilize the public domain or resort to technical alternatives that avoid use of or passage through private land.
  - Whenever it will not be possible to prevent the acquisition of private land or the demolition of a private house, acquisition procedures must favor private sale, with due consultation and informed and documented consent on the property transfer, and the amount of compensation will have to be remitted to the recipient before any work has begun.
  - If, in rare circumstances, it happens to be difficult to prevent physical displacements because of a lack of technical and/or land alternatives, social impacts linked to land acquisition will have to be duly identified and analyzed, and mitigation measures implemented. A screening process will initially cause the exclusion from Program financing any sub-project with a major social impact (category A activities) which would require the displacement of residential households or commercial activities and/or the involuntary acquisition of

significant land areas and, in the case of moderate impacts, implementation of initiatives aiming to inform affected persons and compensation measures before work begins.

48. In general, all sub-projects with moderate social effects will require a social assessment, be sorted using appropriate procedures (see below) and be subjected to public consultations in order to ensure their viability and social acceptability.
49. Before any sub-project is submitted to designated parties for approval, it will be important to systematically verify that concerned populations have been well informed and consulted, especially when planned work require some form of temporary or permanent displacement of persons, or land acquisition or restriction of access to resources or infrastructures or economic assets or interruption of public services because of such work. Public consultations will have to be held in the appropriate language(s), take into account time constraints and availability of consulted people and, if necessary, organize separate meetings for men and women to ensure they can all freely express themselves. It is as important to ensure that the most vulnerable populations are also fully consulted to minimize risks of hoarding by the elite.
50. The management of grievances (related to land ownership, compensations, resettlement or other impacts) will be handled through several recourse mechanisms, either individually or through neighborhood associations.

#### **II.4.3 Negative social effects through construction work**

51. The construction work phase will be marked by the launch of infrastructure and rehabilitation work. Construction activities of sub-projects may also generate temporary disturbances of economic activities, losses or temporary access restrictions to revenue and temporary challenges for inhabitants to access their dwellings, commerce and other public establishments (schools, health facilities, etc.). However, although these types of social risks are anticipated to be low (because of the size and nature of sub-projects) and it is quite probable that they should not generate inconveniences, it is essential to identify and document them during the assessment and design of sub-projects to be able to devise measures to prevent them, mitigate them and compensate affected people before work begins.
52. The construction work phase for a structural project could cause an increase in noise and dust levels which could negatively impact local populations, and especially the most vulnerable persons. It will thus be essential to inform all concerned people and plan for restricted work during rest periods to ensure that such nuisances do not impact the quality of life and health of affected populations.
53. Possible interruptions of drinking water and electricity services and the closing of public institutions (schools, health facilities, hospitals) and community infrastructures (for example, markets, slaughterhouses, etc.) because of construction work should pre-require consultations with local populations to ensure people may be prepared for such occurrences and seek access to alternatives.
54. The influx of workers and heavy equipment may cause safety issues, especially for most vulnerable persons (children, elderly, women). To prevent accidents, violent incidents or social conflicts, structural projects with such risks will have to plan for specific mitigation measures (alternative routes, signage, etc.) and a regular monitoring by environment, health and safety specialists to ensure the safeness of worksites, and the safety of workers and surrounding living environments.
55. Moreover, because these social risks will essentially occur during construction work, such work will be organized accordingly and alternative access pathways will be implemented; affected people will be duly informed. These elements will have specific clauses in the requirement specifications of



enterprises and regular monitoring will be ensured by the delegated project management and the Municipality. Taking into account these elements and past experience, predictable social risks caused by construction work are considered to be low.

56. Other negative social effect which could occur during construction work include:

- Solid waste and chemicals from construction work could have negative incidences on local population's health, since they could contribute to ground and surface water contamination;
- Circulation of heavy equipment and vehicles during construction work could cause accidents, especially for vulnerable persons (children, elderly) and site workers;
- Site workers could contribute to an increase in violence and acts of sexual harassment towards women;
- Construction work could cause restrictions of access to proximity services or to workplaces of local populations;
- Cultural heritage objects could be damaged during construction work, especially in case of unreported accidental finds.

57. To be in conformity with Bank policy requirements for PforR, if social moderate risks associated to the Program (causing the restriction or loss of access to livelihood) are identified, compensation measures will be required before work begins. Implementation monitoring will be ensured by the focal point in charge of environmental and social management within each participating territorial government.

#### **II.4.4 Negative social effects during the exploitation phase**

58. Just as for environmental effects, negative social effects of the exploitation phase could be caused by an inappropriate design, a lack of population awareness, failure to maintain infrastructures, inadequate use and deterioration of infrastructures or insufficient implementation of safety measures.

59. The environmental monitoring system that will accompany the exploitation phase should allow for identification in real-time of these shortcomings and enable necessary corrections. Enterprises responsible for work will have to be well informed on all their social obligations and ensure a regular monitoring.

## **II.6 OVERVIEW**

### **II.6.1 Key environmental and social risks and mitigation measures**

60. Tables 2 and 3 summarize environmental and social risks associated to the Program, their respective levels, and the essential mitigation measures to consider.

**Table 1 : PACASEN environmental risks and mitigation measures**

<b>Risk type</b>	<b>Assessment</b>	<b>Risk level</b>	<b>Mitigation measure</b>
1. Procurement	Negligence of environmental aspects	Low to Moderate	Realization of environmental studies and integration of environmental clauses in requirements specification
2. Erosion	Use of borrowed material that may cause erosion phenomena	Low	Technical studies prerequisite and rehabilitation obligation for enterprises
3. Soils	Risk of accidental pollution of soils	Low	Possible geotechnical studies prerequisite

4. Waters	Pollution of ground and surface waters (accidental spilling of oils and lubricants)	Low to High	<ul style="list-style-type: none"> <li>• Prerequisite studies in specific locations</li> <li>• Quality control of drinking water</li> <li>• Proper waste management, based on established standards</li> <li>• Adequate storage of products and waste (waterproofing);</li> <li>• Waste disposal by specialized companies</li> <li>• Oil tanks on waterproof slabs</li> <li>• Zones dedicated to oil distribution and lubricants, equipped with pumps installed on waterproof surfaces</li> <li>• Availability of sand bins for immediate collection of any spillage</li> <li>• Vehicle maintenance in specialized garages</li> </ul>
5. Biodiversity	Loss of biodiversity	Low	Planting local vegetal species in new green areas (to compensate for eventual destruction of other green spaces)
6. Vegetation	Some work requiring vegetation cutting or grubbing-up and depletion or destruction of green spaces	Low	Tree planting to compensate for the shortfall in carbon sequestration capacity
7. Air quality	Negative potential impact of worksite engines Dust and exhaust gas emissions from mobile equipment	Low to Moderate	<ul style="list-style-type: none"> <li>• Air pollution control system (application of provisions for the fight against air pollution) and exhaust gas standards for worksite engines (construction work phase).</li> <li>• Worksite watering; systematic removal of unused fillings; frequent vehicle maintenance</li> </ul>
8. Air Pollution (construction work phase)	Construction sites could contribute to increasing air pollution, dust generation and pollution	Low	<ul style="list-style-type: none"> <li>• Strict safety standards in zones close to construction sites</li> <li>• Utilization of techniques to mitigate this risk on construction sites</li> <li>• Public awareness and information campaigns</li> </ul>
9. Noise pollution	Noise pollution increase (Mobile material, jackhammers, air compressors)	Low to Moderate	<ul style="list-style-type: none"> <li>• Implementation of measures for the regular control of noise pollution intensity</li> <li>• Observance of work hours in construction sites</li> <li>• Possible construction of anti-noise walls in specific locations (zones close to hospitals, for example)</li> </ul>
10. Accidentology	Traffic congestion and road accidents due to construction work	Low	<ul style="list-style-type: none"> <li>• Public awareness</li> <li>• Implementation of a safety mechanism during construction work</li> <li>• Road signs</li> </ul>
11. Inundations	Water runoff and landslips	Low	<ul style="list-style-type: none"> <li>• Utilization of appropriate construction or rehabilitation techniques</li> <li>• Implementation of a regular technical control system</li> </ul>

**Table 2 : PACASEN social risks and impacts and mitigation measures**

Impact type	Assessment	Risk level	Mitigation measure
1. Involuntary resettlement of persons	<p>Some structural sub-projects could require the physical displacement of people, acquisition of private land, or restriction of access to economic assets or community public services.</p> <p>Territorial governments' capacity to manage such operations using international good practices is limited</p>	Low to Moderate (depending on sub-projects)	<ul style="list-style-type: none"> <li>• Restrict to the strict minimum the involuntary resettlement of persons (limit construction and rehabilitation work inasmuch as possible to the public domain).</li> <li>• Favor amicable settlement with owners of private domains, focusing on a participative approach based on transparency.</li> <li>• Plan for full compensations for all land losses (with or without legal titles) and an assistance to non-authorized occupants (squatters).</li> <li>• Plan for livelihood restoration measures, paying particular attention to the most vulnerable persons.</li> </ul>
2. Expropriation or acquisition of private land	<p>Recourse to expropriation and to displacement of persons is excluded, the adopted rule being to use land located on the State or TGs' domain, and to adopt technical alternatives that avoid encroaching on houses or businesses.</p> <p>Some infrastructure work might require a temporary or permanent occupation and expropriation of private lands, with a negative impact on private assets and source of income</p>	Low (depending on municipal sub-projects)	<ul style="list-style-type: none"> <li>• Limiting construction and rehabilitation work to the public domain</li> <li>• Flexibility of plans and layouts.</li> <li>• Information of affected persons</li> <li>• Amicable settlements</li> <li>• Potential compensations (with or without legal titles)</li> </ul>
3. Involuntary restriction of access to assets, services, natural resources and loss of sources of income	<p>Infrastructure construction work might have an impact on end-users (formal and informal commercial and economic activities) and cause a loss of revenue and employment for some socio-professional categories.</p> <p>Risks of capture by the elite of consultation activities within territorial governments demand close attention to the inclusion of vulnerable groups and persons, as well as women needs and interests.</p> <p>Mechanisms allowing persons affected by sub-projects to be consulted exist but the real participation of populations to such consultations is limited.</p> <p>Access of populations to local grievance management</p>	Low to Moderate	<ul style="list-style-type: none"> <li>• Adopt great flexibility in defining infrastructure locations</li> <li>• Restrict to the strict minimum the involuntary resettlement of persons (limit construction and rehabilitation work inasmuch as possible to the public domain).</li> <li>• Favor amicable settlement with owners of private domains, focusing on a participative approach based on transparency.</li> <li>• Consider alternative measures</li> <li>• Provide adequate information to affected persons.</li> <li>• Establish easily accessible grievance management mechanisms and inform populations on ways to access them</li> <li>• Provide compensations for direct impacts (regardless of legal title possession)</li> <li>• Sequence work in order to minimize access issues and nuisances during</li> </ul>

	mechanisms remain extremely fortuitous.		<p>construction work</p> <ul style="list-style-type: none"> <li>• Specific clauses in requirements specifications of enterprises</li> <li>• Before the launch of work: appropriate assistance and/or adequate compensation of persons affected by restrictions or income losses (temporary and permanent), losses to livelihood</li> <li>• Plan for measures for restoring livelihood, giving special attention to most vulnerable persons.</li> </ul>
4. Noise and annoyances	Mostly during the construction work phase, noise could affect the health of the most exposed people	Low	<ul style="list-style-type: none"> <li>• Regulations and measures concerning the minimization of noises (mostly in some sensitive urban zones).</li> </ul>
5. Communication, consultation, information sharing and management of population demands	Mechanisms allowing persons affected by municipal sub-projects exist but participation of civil society and neighborhood associations to decision-making is limited.	Low to Moderate	<ul style="list-style-type: none"> <li>• Public information and awareness initiatives on the Program's characteristics and its impacts.</li> <li>• Organization of public consultation meetings</li> <li>• Grievance management system</li> <li>• Participation to consultation meetings by representatives of civil society and neighborhood associations.</li> </ul>
6. Disadvantaged and vulnerable persons	Specific needs of vulnerable persons are not systematically taken into account by the development framework	Low to Moderate	<ul style="list-style-type: none"> <li>• Holding targeted consultation meetings.</li> <li>• Participation to consultation meetings by representatives of civil society organizations working with vulnerable persons</li> <li>• Implementation of a simple and efficient grievance management system including several ways of lodging a request.</li> <li>• Accommodations for mobility-impaired persons.</li> </ul>

## II.6.2 General overview of Program's effects in light of WB policy

61. The lack of PACASEN's major negative environmental and social impacts associated with planned structural interventions within the Program framework is essentially due to the following considerations:

- Conceived as a PforR, the very nature of PACASEN principles is to exclude any investment that carries major environmental and social risks (namely, projects classified under Category A). Thus, in accordance with this policy, the program will ***exclude any activity with a potentially significant environmental and social risk and diverse, irreversible and unprecedented negative impacts***. It will also exclude any proposed intervention within the PROACTSEN framework that contains major, irreversible and unprecedented negative environmental and social impacts. Consequently, in the PforR context, any sub-project will be considered ***ineligible*** if it involves:
  - The construction or restoration of works that requires an important displacement of persons or land acquisition or demolition of individual housings or significantly restrict access to

- economic resources;<sup>7</sup>
  - The construction or restoration of works which might exacerbate existing land tenure social conflicts;
  - Development/construction works which would have an irreversible impact on historical or archeological physical cultural resources;
  - Works in biologically or ecologically important sites.
- Footprints of planned work have conceivably a *relatively limited surface area* and most of them are fitted into the existing pathways.
  - Various Program developments will be identified following *detailed design studies* that take into account social, economic and environmental factors.
  - Infrastructure developments are of a *limited scope* and involve excavation work limited in depth and surface area, with little or no underground disturbance.
  - Most sub-projects will be implanted in the *State or municipal public domain*; expropriation for cause of public utility will not be applied in the context of this Program except under exceptional circumstances; activities that require the displacement of residential households or commercial activities and/or the involuntary acquisition of large land areas, are normally excluded from PforR financing.
  - The type of planned activities does not suggest that specific *vulnerable groups* might be subject to prejudices within the Program’s framework.
  - The various *measures advocated for impact mitigation and monitoring are known, controllable and efficient*, both during the construction work phase and during program operations. They correspond to measures applied to worksite monitoring and they will be included in requirements specification of procurement agencies; implementation monitoring is performed using tools (tracking forms).
  - There are *institutions* with the capacity to manage environmental and social impacts, and they are equipped with good practices, environmental management and risk assessment standards and techniques, as well as *a clear and complete legal framework*.

62. Finally, it is noteworthy to mention that Bank policy on PforR excludes works with an estimate cost higher than specified amounts (high-amount operations) which would require a mandatory review from the World Bank "Operations Procurement Review Committee" (OPRC).

*Promoting environmental sustainability*

63. Generally, PACASEN investments directly aim to minimize or mitigate potential negative effects on populations and urban zones. It must be realized that in a “program-less” scenario, potential impacts on populations, assets and the urban environment would be significant.

*Protecting public and workers safety*

64. All the planned measures seek to protect the public safety – including workers’ safety – against potential risks associated with: (i) the construction or exploitation of installations or other operational practices within the Program framework; (ii) the exposure to toxic chemical products, hazardous

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<sup>7</sup> Due to Local Governments’ limited capacity in managing expropriation processes, all projects requiring demolition of an important number of houses (10 or more) or sub-projects affecting, for example, 200 people or more by land acquisition, the loss of economic assets or access to resources, will be excluded from PforR.

waste and other dangerous products in the Program framework; and (iii) the reconstruction or rehabilitation of infrastructures located in zones exposed to natural hazards.

#### ***About potential social conflicts***

65. PACASEN does not intervene in a conflict-affected context. Nevertheless, its conception and, more particularly, its component on improving citizen engagement seeks precisely to enable citizens (including women, the youth and the most vulnerable populations) to access information, be consulted, and dispose of an easy access to grievance management mechanisms.
66. Moreover, the Program seeks to help each participating TG set up ***petition procedures and mechanisms*** to which citizens may resort. In this regard, the Program should contribute to a reduction of social tensions and promote a better social cohesion.

### **II.6.3 Instruments of environmental and social management**

67. In the Program framework, all sub-projects submitted for World Bank financing will have to be reviewed using ***appropriate screening instruments*** (see Insert 2 below). Environmental and social diagnostics will be conducted for each project to determine the type of planning tool required based on the scope and importance of environmental and social impacts.

#### **Insert 1 : Screening of sub-projects and environmental and social management instruments**

All sub-projects submitted in the PACASEN framework will be imperatively analyzed through the screening form ***Simplified Diagnostic Form (Fiche de Diagnostic Simplifié, FIDS*** – See Annex 6). Prepared by the relevant services (based on sub-project type) with the technical support of specialized consultants, this form will be used to define the environmental and social risk and impact levels of each project, and the type of management instrument required as well:

- For projects with a *moderate* social and environmental impact, an ***Initial Environmental Analysis (IEA)*** will be conducted by each sub-project developer included in the list of projects and programs in the annex of the April 12, 2001 decree (see Section III.1.6§97&98), before delivery of an *environmental compliance certificate* is issued.
- For projects with a *moderate and medium-moderate* impact, even for those not in the list of projects of the April 12, 2001 decree, the Environmental and Social Impact Studies (ESIS) and an ***Environmental and Social Management Plan (Plan de Gestion Environnementale et Sociale, PGES)*** will be conducted (see Annex 7) and will include among other things public consultations of stakeholders, in accordance with World Bank policy for PforR.
- Moreover, if necessary, and still to conform to World Bank requirements for PforR financing, the Environmental and Social Impact Assessment (ESIA)/PGES will be completed by a ***Resettlement Action Plan (Plan d'Actions de Réinstallation, PAR)*** for any structural project that would require – on a permanent or temporary basis – the physical displacement of people, acquisition of private land, and/or loss of access to economic, social, and collective sport and entertainment infrastructures. The PAR objective will be not only to assess associated social and economic impacts, but also to propose a specific compensation plan for losses.
- Finally, for other projects with a low environmental and social risk, simple ***Environmental and Social Information Forms (Fiches d'Information Environnementale et Sociale, FIES)*** will be required (in accordance with national provisions)
- ***Requirement specifications*** for entrepreneurs responsible for construction work will imperatively

include all technical provisions and planned mitigation measures, as well as a monitoring and control system that adheres to applicable standards (including on the safety of workers and local populations).

- All PGESs and PARs prepared for projects with moderate risks will be subjected to an *appropriate public dissemination*.
- Local beneficiaries will have to be informed on commitments contained in these instruments and have access to a *grievance management mechanism* in case these commitments are not respected. Each Territorial government will ensure implementation of this mechanism, within the framework of a more complete monitoring, assessment and control system.

## II.7 CONCLUSION

68. In summary, taking into account the above:

- The negative environmental and social effects of the Program will be in general of a *low to moderate breadth, least harmful, controllable and manageable*.
- However, even when taken individually, all potential effects of the Program appear minimal and, over time, *the cumulative aspect of these negative effects could turn out to be moderate*. Consequently, environmental and social mitigation measures will be identified in order to reduce any potential negative impact.
- Moreover, a rigorous environmental and social control and monitoring system will allow for the minimization of these effects.

## II.8 PREVIOUS EXPERIENCES OF INSTITUTIONS INVOLVED IN THE PROGRAM

69. The Ministry in charge of Territorial Governance, (*Ministère en charge de la Gouvernance Territoriale, du Développement et de l'Aménagement du Territoire*, MGTDAT) was the first institution that has benefited from financing within the PforR framework – this type of tool is unlike any other one previously implemented in Senegal except, possibly, in agriculture with USAID around 1997 (SOT2). However, ADM has a solid experience in fiduciary and environmental and social safeguard policies in the context of other World Bank operations. To date, Senegal is implementing three (3) PforRs including PACASEN.

70. At the local level, not all local governments have the same experiences with technical and financial partners in project management to the extent that some of them are new in the collaborative process with ADM. However, former local governments which had received support from the National Program for Local Development (*Programme National de Développement Local*, PNDL) and/or the Program for the strengthening and outfitting of local governments (*Programme de Renforcement et d'Équipements des Collectivités Locales*, PRECOL) have acquired a solid experience in project design and execution. This may be due to the fact that they are supported either by ARDs or by ADM in design as well as implementation and, to a lesser extent, by AGETIP but only for implementation.

## SECTION III. DESCRIPTION OF NATIONAL SYSTEMS

### III.1 ENVIRONMENTAL MANAGEMENT SYSTEMS

#### III.1.1 National legal framework for environmental management

71. *The new law n°2023-15 of August 2, 2023* establishes the basic rules of environment protection, making environmental assessment one of the tools used to assist competent authorities in decision-making.
72. Article 20 of the *Environment Code* defines environmental assessment as a systematic process consisting in assessing possibilities, capacities and functions of resources, natural systems and human systems in order to facilitate sustainable development planning in general and anticipate and manage adverse impacts and consequences of proposed developments in particular. There are 4 types of studies:
- (i) *Environment impact studies* which apply to project or programs with known components and implementation sites. These projects/programs may have a potentially important negative incidence on the environment which could be irreversible and affect a wider area. These are generally projects/programs of fairly sizeable scope and/or planned to be implemented in sensitive zones;
  - (ii) *The strategic environmental assessment* intends to assess environmental impacts of decisions made for policies, plans and programs and their alternatives, and regional and sectoral studies;
  - (iii) *Audits of regulatory compliance* for exploitation units authorized before the 2001 environment code or which had not been subjected to an environmental assessment as provided for by said code.
  - (iv) *The initial environmental analysis* is intended for projects, often of reduced scope, that might have limited impacts on the environment, which are generally contained to a restricted area and may be mitigated by simple measures.





Table 4: Relevant provisions of Law 2023-15 of August 2, 2023 on the Environmental Code

Themes	References	Measures
<b>Financial Instruments</b>	<b>Article 16</b>	For the protection of the environment, duties, fees and parafiscal charges are introduced to be borne by the operators of classified installations or any person who carries out a regulated activity with an environmental impact.
	<b>Article 17 al 1</b>	Companies investing in pollution and nuisance control activities may, after the date of entry into force of this Law, apply for a non-renewable exemption from the parafiscal duties and charges provided for in Article 16 for a period of three (03) years.
<b>Evaluations Environmental</b>	<b>Article 20</b>	Environmental assessment is a prerequisite for any process of design, development and implementation of development programs and projects likely to harm the environment. Environmental assessment includes: Strategic Environmental Assessment (SEA), Environmental and Social Impact Assessment (ESIA), Initial Environmental Analysis (IEA), and Environmental Audit (EA).
	<b>Article 21</b>	Depending on their potential impact, nature, scale and location, projects are classified into two categories. <ul style="list-style-type: none"> <li>- <b>Category 1:</b> includes projects subject to an environmental impact assessment with a major environmental risk, when the environment can be reached as a whole to the point where its quality is considered to be profoundly impaired.</li> <li>- <b>Category 2:</b> Refers to projects that are subject to an initial environmental analysis with moderate environmental risk, where the environment can be significantly affected.</li> </ul>
	<b>Article 22</b>	Environmental assessments are carried out by approved offices under the conditions set by order of the Minister for the Environment.
	<b>Article 23</b>	The environmental assessment of any project likely to present risks to the environment must include a hazard study provided for in the nomenclature of classified installations.  For projects presenting serious risks to the environment and not included in the nomenclature of installations classified for the protection of the environment, the Ministry of the Environment may, if necessary, order a hazard study.
	<b>Article 24</b>	Public participation is an integral part of the environmental assessment process. It is a condition for the validity of the environmental assessment procedure. It is guaranteed by the State in accordance with the principles that govern decentralization.
	<b>Article 27</b>	The environmental assessment is a preliminary step that must be carried out before any authorization, approval and permitting procedures.

Themes	References	Measures
<b>Classified facilities for the protection of the environment</b>	<b>Article 44</b>	The provisions of this chapter apply to factories, workshops, depots, worksites, mines and quarries, to steam and gas pressure equipment and, in general, to industrial, artisanal or commercial oil and gas installations operated or owned by any natural or legal person and to all other activities that present dangers to health and the environment.
	<b>Article 46</b>	Depending on their impact on the environment and the danger that their operation may present, installations classified for the protection of the environment are subject to the authorisation regime for first-class installations or to the declaration regime for second-class installations.
<b>Waste prevention and management</b>	<b>Article 65</b>	The purpose of this measure is to lay down rules and principles for the prevention and environmentally sound management of waste in order to eliminate or reduce its harmful effects on health, the environment and natural resources.
	<b>Article 67</b>	Producers strive to reduce and prevent the production of waste by adopting clean production techniques and by influencing the design and manufacture of products.
	<b>Article 69</b>	Environmentally sound waste management is based on the following principles: <ul style="list-style-type: none"> <li>- the principle of prioritizing prevention and reduction;</li> <li>- the principle of the hierarchy of waste treatment methods consisting of prioritising in order: reuse, recycling, energy recovery and disposal.</li> <li>- the principle of proximity;</li> <li>- the principle of extended producer responsibility.</li> </ul>
	<b>Article 73</b>	<ul style="list-style-type: none"> <li>- Open burning of waste, with the exception of burning, is prohibited.</li> <li>- Open burning of used tyres is prohibited.</li> </ul> However, certain burning operations may be authorized under conditions set out in the Order-in-Council.
	<b>Article 74</b>	Landfilling of waste can only be carried out with the authorization of the Minister for the Environment, who lays down technical requirements and specific rules to be observed
	<b>Article 75</b>	The Minister for the Environment authorises the methods of managing hazardous waste and ensures their control and follow-up, in conjunction with the competent technical services.
	<b>Article 77</b>	<ul style="list-style-type: none"> <li>- The producers or holders of hazardous waste treat it themselves or through approved bodies.</li> <li>- treatment organisations are approved by order of the Minister for the Environment.</li> <li>- the conditions for issuing approval are set by order of the Minister for the Environment.</li> </ul>
<b>Article 83</b>	The discharge of hazardous waste into waters under Senegalese jurisdiction is prohibited.	

Themes	References	Measures
	<b>Article 85</b>	Local authorities and their groups are responsible for the management of household and similar waste, possibly in conjunction with regional and national State services, in accordance with the legislation in force. They may, however, entrust the management of this waste to bodies approved by the Minister for the Environment. The conditions for approval are set by a joint decree of the ministers responsible for the Living Environment and the Environment respectively.
	<b>Article 90</b>	Local authorities may, under the supervision of the Ministry of the Environment, manage non-household waste which, having regard to its characteristics or volume, can be collected and treated without any particular technical constraints.
<b>Noise</b>	<b>Article 142</b>	Noise pollution likely to harm human health and the human environment or to constitute a nuisance to the neighbourhood is governed by this Code. Noise pollution, limit values, measurement systems and means of controlling noise emissions are laid down by decree.
	<b>Article 143</b>	In the event of a breach of the peace and quiet of the neighbourhood, the competent authority may take precautionary measures or sanctions provided for by the legal and regulatory provisions in force.
<b>Liquid releases to receiving environments</b>	<b>Article 146</b>	Any discharge, discharge, flow, direct or indirect deposit of any kind likely to cause or increase pollution of the coast, inland waters or marine waters in waters under Senegalese jurisdiction is prohibited.
	<b>Article 148</b>	The discharge of waste water into the public sewerage system must not adversely affect the conservation of the structures or the management of these networks. The authority that owns or manages the network is responsible for monitoring the condition of the structures. Any discharge agreement between the Service in charge of '!' Sanitation and the operator of a classified installation is signed after the assent of the Minister for the Environment, who ensures the monitoring and implementation of environmental safeguard measures.

### III.1.2 Categorization of projects submitted to ESA

73. Article 21 on the application of the new Environment Code establishes the obligations of authorities as well as of project and program developers. Depending on the potential impact and the nature, scope and localization of the project, project types are classified in one of the following categories:

- ▶ **Category 1:** projects are likely to have significant impacts on the environment; a study that assesses impacts on the environment will enable the integration of environmental considerations in the project's economic and financial analysis; this category requires an in-depth environmental assessment; this category is the equivalent of World Bank's category A.
- ▶ **Category 2:** projects have limited impacts on the environment or impacts may be mitigated by applying measures or modifications to their design; this category is subject to an initial environmental analysis. This category is the equivalent of World Bank's category B.
- ▶ **Category 3:** projects which do not need an environmental and social study. This category is the equivalent of World Bank's category C.

74. Annexes 1 and 2 of decree n°2001-282 of April 12, 2001 on the application of the Environment Code and the Nomenclature of Classified Installations for the protection of the environment (*Nomenclature des Installations Classées pour la Protection de l'Environnement*, ICPE) specify the list of projects and programs which require an environmental and social impact study (ESIS) or an initial environmental analysis, respectively for the authorization of its execution and for its implementation.

75. ESIS-related legal provisions are clarified by the following orders:

- Order n°009470 of November 28, 2001 on the conditions of issuing an Approval for exercising activities related to environmental impact studies;
- Order n°009471 of November 28, 2001 on the terms of references on environmental impact studies;
- Order n°009472 of November 28, 2001 on the report of environmental impact studies;
- Order n°009468 of November 28, 2001 on the regulation of public participation in the study of environmental impact;
- Order n°009469 of November 28, 2001 on the technical committee organization and operation.

76. This set of regulations is complemented, first by the circular of May 22, 2007 from the Prime Minister's office which emphasizes the need to conform to provisions of the Environment Code, and then by the sectoral reference guides on environmental impact studies (November 2006), the Nomenclature of Classified Installations for the protection of the environment (2007), and the Danger Studies guide (March 2007). Sectoral guides are developed around twenty-four domains and serve as a reference framework for environmental and social assessment activities. Other legal texts, such as the Mining Code and the Agro-sylvo-pastoral law, are also relevant to ESA.

77. With regard to decentralization, article 6 of the Environment Code stipulates: "*In accordance with the principle of free administration of local governments declared in the Senegalese constitution, and under the Code of local governments and the Act on knowledge transfer, local governments are entitled to a knowledge transfer in the domain of the Environment and management of natural resources*".

78. The environmental assessment procedure is at the expense of the developer and is subject to an *environmental compliance certificate* (ministerial decree) delivered by the Minister of the

Environment after consideration of the DEEC technical advice (article L39 of the Environment Code). While waiting for issuance of the compliance certificate, the DEEC may deliver an affidavit of compliance attesting to the developer's adherence to the procedure to use as provided by law.

79. The procedure includes the following stages:

- **Project review and classification for execution of an environmental assessment (EA).** The developer or project manager files a request with the DEEC and includes a brief on the project specifications and its justification. Based on this information, the DEEC classifies the project and communicates to the developer the type of study to be conducted (in-depth EIS, initial environmental analysis, Strategic Environmental Assessment). For projects that do not require studies (category 3), the DEEC provides mitigation measures the developer will have to incorporate in the various project phases
- **Preparation and proposal of a Terms of Reference (TOR) project** by the developer for the DEEC's comments and validation. It is DEEC's responsibility to organize a field visit to the project implantation site with the participation of relevant members of the technical committee to verify that the project activities are compatible with other activities in the same geographic zone and with classified zones that may be present in the area. The DEEC has 10 days to notify to the developer either modifications to TORs based on observations and findings noted on the project site or validation of said TORs. The developer may be asked to complete some information or bring to conformity specific aspects of the project.
- **EA execution and production of an EIS report by an accredited Consultant (physical person or engineering firm).** The report will include a non-technical summary for decision-makers and for the public audience. Any environmental and social impact study report which does not meet mandatory contents requirements will be declared inadmissible and the decision will be notified to the developer so he/she can make necessary modifications. However, there is no regulatory reference for such admissibility control and no criteria is defined.
- **Examination and pre-validation of the ESA report by the National Technical Committee (NTC)** which has 30 days maximum from the date the interim report is received.
- **Organization of a public hearing** to present a summary of the environmental impact study report and collect local actors' opinions, comments and suggested modifications. If the EIS report meets the terms of reference, the NTC organizes with the developer and the relevant local authority a public hearing to take place after the pre-validation date. Beforehand, and as soon as it receives the environmental impact study report, the NTC should also submit a copy of the report to the relevant local government which will have ten days to provide written observations and comments (*Art.5 of decree 9468*). Public hearings will be chaired by the technical ministry whose activities are analyzed in the environmental impact study report. The relevant decentralized government will co-chair the hearing. As the entity responsible for the secretariat, the DEEC has one week to produce the public hearing report. The developer takes into account public concerns and submits a final report to the technical committee. The final report includes the environmental and social management plan (*Plan de Gestion Environnementale et Sociale, PGES*) which will be appended to the compliance certificate. This PGES constitutes a commitment and an obligation for the developer. The relevant authority may decide to revoke the compliance certificate in case of failure to fulfill these commitments.
- **ESA validation and preparation of an opinion by the National Technical Committee of the Ministry of the Environment.** Based on the finalized environment impact study report that incorporates the public hearing report, the NTC prepares for the Environment Minister the decision that will be notified to the developer within 15 days (*Art.8 of decree 9468*).

- **Issuance of the environmental compliance certificate** (as indicated above).
- **Preparation of EIS implementation, surveillance and monitoring.** The competent authority is responsible for PGES implementation. However, environmental monitoring is not regulated. It usually takes place whenever programmed by the competent authority and only if resources are available. These environmental monitoring missions are conducted by the competent authority (environmental assessment office) and are executed with relevant members of the technical committee.

## Insert 2: EIS Contents

The environment impact study report (EISR) must include, among other things:

- A complete description of the project: project and site justification, objectives and expected results, geographic limits of the project implementation zone, methods, installations, products and other means used;
- An analysis of the initial state of the site and its environment: collection of baseline data on water, soil, flora, fauna, air, and physicochemical, biological, socioeconomic and cultural conditions;
- An outline of the study legal framework (brief reminder of applicable laws);
- A description and analysis of project variables (localization, functional technological or technical availabilities);
- An assessment of probable impacts (positive or negative, direct, indirect, compounded in the short, middle or long-term) the project is likely to generate after its closure;
- Risks of technological failure (risk analysis of technological accidents, security measures and emergency plan);
- Identification and description of prevention measures for the control, elimination, mitigation and compensation of negative impacts;
- A framework plan for the surveillance and monitoring of the environment (*plan de surveillance et de suivi de l'environnement*, PSE) taking into account knowledge gaps and uncertainties as regards project implementation. In the pre-building phase, the developer will submit a detailed PSE which will include a cost assessment of all recommended measures, their execution schedule and entities responsible for the monitoring;
- A general conclusion that will focus on key measures to implement to minimize or eliminate the most significant negative impacts and point to the gaps that are likely to reduce the validity of achieved results.

### III.1.3 Actors involved in ESAs

80. Among all actors involved in ESA, it is noteworthy to mention: the National Technical Committee for ESA validation, the Environment and Classified Establishments Directorate (*Direction de l'Environnement et des Établissements Classés*, DEEC), project developers (or Project Managers), construction work companies, accredited consulting and engineering firms, local administrative authorities, local governments, ARDs, and the civil society. The roles and responsibilities of these various actors are detailed in Table 4 below:

**Table 53: Actors and responsibilities**

Actors involved in ESA	Roles and responsibilities
<p>Technical Committee for ESA validation</p>	<ul style="list-style-type: none"> <li>- ensure the environmental dimension in development projects is taken into account;</li> <li>- administer the environmental assessment process;</li> <li>- advise the Environment Minister on his responsibilities as provided by law;</li> <li>- make public participation to the environmental assessment process possible;</li> <li>- seek the collaboration between entities that have a role in the process of the environment impact study;</li> <li>- ensure the process integrity and efficiency;</li> <li>- assess the quality of environment impact study reports and of compliance of the report and the environment impact study process with terms of reference;</li> <li>- formulate an advice on all projects subjected to an environment impact study;</li> <li>- ensure recommendations are implemented;</li> <li>- foster implementation of good practices in the domain of environmental assessment;</li> <li>- promote research on environmental assessment.</li> </ul>
<p>Environment and Classified Establishments Directorate (DEEC)</p>	<ul style="list-style-type: none"> <li>- validate terms of reference of projects' environment impact studies, of policies and programs' strategic environmental assessments, of audits;</li> <li>- evaluate the admissibility of environment impact assessments;</li> <li>- ensure the monitoring of environmental management in the implementation of Plans;</li> <li>- provide a technical advice on submitted projects and prepare the Environment Minister's decision on the environmental compliance certificate;</li> <li>- assume the secretariat functions of the technical committee for environmental assessments, public hearings and the approval commission for exercising activities related to environmental assessments;</li> <li>- assist the Technical Committee in its duties;</li> <li>- execute programs and actions defined by the Technical Committee;</li> <li>- inform the Technical Committee on the progress of projects through regular reports and meetings;</li> <li>- prepare public hearings;</li> <li>- regularly inspect project sites;</li> <li>- serve as interface between the government and the operator;</li> <li>- coordinate actions of various parties, government and private, involved in the study.</li> </ul>
<p>Project Developers (or Project Managers)</p>	<ul style="list-style-type: none"> <li>- prepare the project note,</li> <li>- develop a TOR project,</li> <li>- recruit an accredited consultant for executing the ESA,</li> <li>- participate in ESA validation and public hearings,</li> <li>- ensure the implementation and surveillance of environmental and social measures.</li> </ul>
<p>Construction Work Companies</p>	<ul style="list-style-type: none"> <li>- oversee the proper execution of work while ensuring implementation of environmental and social measures recommended by Environmental and Social Management Plans (PGES) and included in execution documents.</li> </ul>
<p><b>Accredited Consulting and Engineering Firms</b></p>	<p>Execute ESAs and monitor their implementation</p>



Local Administrative Authorities	<ul style="list-style-type: none"> <li>- facilitate the EA procedure</li> <li>- ensure laws and regulations are applied in their administrative subdivision</li> </ul>
Local Governments	<ul style="list-style-type: none"> <li>- receive projects and programs on their territory, as beneficiaries</li> <li>- initiate projects as developer</li> </ul>
Regional Development Agencies	<ul style="list-style-type: none"> <li>- support the development of TORs for environmental and social monitoring in the framework of the regional committee for the environmental and social monitoring (<i>Comité Régional de Suivi Environnemental et Social</i>, CRSE);</li> <li>- prepare and coordinate the CRSE Screening missions in the field;</li> <li>- ensure environmental and social provisions are integrated in consulting documents (DRP, DAO) as regards its Division of support to project management (<i>Division d'appui à la maîtrise d'ouvrage</i>, DAMO);</li> <li>- implement in the field the environmental Screening with the continuous engagement of the DREEC, IREF and SRADL and other STD with relevant projects;</li> <li>- Produce CTR meeting reports and validate and identify environmental requirements to be anticipated in DAOs, and monitor implementation by enterprises.</li> </ul>
Civil Society	Guarantee transparency and equity in the management of ESA process.

### III.1.4 Implementation and monitoring of planned activities

81. The existing implementation arrangements of the PP are maintained, strengthened, and expanded to also formally include the MoE with its auxiliary entity of the CCETGFD, which has the required amount and quality of in-house skills and human resources to accomplish the mission assigned to them under the program. In addition, the Memoranda of Understanding (MoUs)<sup>8</sup> between the implementing entity and the PACASEN stakeholder structures are being revised to: (i) extend the MoUs for the AF duration), (ii) integrate CC aspects into these MoUs, and (iii) revisit and recalibrate the stakeholder structures to ensure focus on those structures that support AF implementation. The implementation arrangements for co-financing from AFD are retained as per PP. The overall systems established with the Government for oversight and coordination of the Program continues under the AF.

82. .

83. Under ADM supervision, the implementation and monitoring of the environmental and social component will be under the authority of the *Regional divisions of Environment and Classified Establishments* which will be supported by decentralized services grouped within the Regional Development Agencies (*Agences Régionales de Développement*, ARD). It befalls upon ARDs and ADM to ensure that environmental provisions are included in procurement bid packages (*dossiers d'appel d'offre*, DAO).

### III.1.5 Institutional framework for environmental management

84. ***The Ministry in charge of the Environment (MoE)***. The Ministry in charge of the Environment (*Ministère en charge de l'Environnement et du Développement Durable*, MEDD) is responsible for implementing the Government's sectoral policy in environment protection and sustainable development. Thus, the Sectoral Policy Letter on the Environment and Sustainable Development (*Lettre de Politique du Secteur de l'Environnement et du Développement Durable*, **LPSÉDD - 2016-2020**) is built on accomplishments, lessons learned from under-performances recorded during the implementation of the previous policy letter, the inclusion of emerging themes and the evolution of national and international environments. Assessment results from implementing the Sectoral Policy

<sup>8</sup> The MoUs delineate each structures' contribution to program implementation, that are measured by annual performance indicators and remunerated with annual performance-based grant allocations.

Letter on the Environment and Natural Resources (*Lettre de Politique Sectorielle de l'Environnement et des Ressources Naturelles*, LPSERN 2009-2015) emphasize the urgent need for the MEDD to ensure on one hand a better coordination of interventions by its directorates and agencies and, on the other hand, to mobilize and commit various actors (Sectoral Ministries, Local Governments, Private Sector, NGOs, CBOs, other committees, populations) in the management of the environment and natural resources.

85. The overall objective of Senegal's environmental and sustainable development policy is: *"To create a national dynamic for improving the environment and the management of natural resources, and integrating sustainable development principles in policies designed to strengthen population resilience to climate change"*. To this must be added the necessity to strengthen the capacities of actors in project and program development and execution, and in finance mobilization as well. The 2016-2020 LPSEDD, formulated in a consensus and participatory manner, expresses the shared vision, common values, strategic priorities and programs aligned with a global objective and with specific objectives translated at the functional level into programs and lines of action.
86. Thus, implementation of the national policy on the protection and enhancement of the environment is under the responsibility of the Ministry of the Environment and Sustainable Development (MEDD). It includes the following technical directorates: the Environment and Classified Establishments Directorate (DEEC), Climate Change, Ecological Transition and Green Finance Directorate (CCETGFD), the National Parks Directorate (*Direction des Parcs Nationaux*, DPN), the Waters, Forests, Hunting and Soil Conservation Directorate (*Direction des Eaux, Forêts, Chasses et Conservation des Sols*, DEFCCS), the Directorate of Communal Marine Protected Areas (*Direction des Aires Marines Communautaires Protégées*, DAMCP), the Environmental Planning and Surveillance Directorate (*Direction de la Planification et de la Veille Environnementale*, DPVE), the Green Financing and Partnerships Directorate (*Direction des Financements Verts et des Partenariats*, DFVP).
87. Senegal's Nationally Determined Contribution (NDC) is part of the development strategy of the Emerging Senegal Plan (PSE), as well as its sectoral programmes for the sustainable management of its natural and environmental resources. Senegal's NDC reflects a sustained commitment to put the country on a low-carbon development trajectory and ensuring the resilience of the economy, communities, infrastructure and cities. The NDC is equitable in light of the country's national capacities and climate vulnerability.
- Through this reference, a rigorous assessment of the environmental situation, the participation of sectoral experts, local authorities, civil society and the involvement of the State have made it possible to produce a set of significant guidelines that demonstrate Senegal's commitment to contribute to the collective challenge of climate change.
- This evaluation made it possible to identify the mitigation and adaptation components of promising sectors in order to prioritize activities to control the impacts of climate change, such as agriculture, fisheries, forestry, transportation, waste management, energy and industry.
- The contribution projects a reduction in GHG emissions in 2025 and 2030 in different sectors of the economy compared to projected emissions for the same years, based on a reference scenario based on a number of assumptions. It consists of an unconditional contribution (CDN) and a conditional contribution (CDN+).
- Senegal's NDC, on the mitigation side, aims to implement specific activities that have an impact on the reduction of GHG emissions, both on the basis of domestic resources (unconditional contribution objectives) and with the support of the international community (objective: conditional contribution) in relation to its capacities. These activities cover three gases: carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>) and nitrous oxides (N<sub>2</sub>O).

PACASEN should refer to the objectives of the NDC with regard to GHG mitigation measures such as the greening of its financing (optimization of GHG reductions in the process, offsets, etc.), as well as options for adaptation to climate change, particularly on infrastructure, efficient lighting, etc. **National Climate Change Adaptation Strategy**

The Government of Senegal has defined five strategic axes for the implementation of its NAP process:

- Long-term capacity building of institutional frameworks involved in climate change adaptation (CCA);
- Strengthening CCA information systems;
- Implementation of effective and sustainable financial mechanisms;
- Reduction of the country's overall vulnerability;
- Systematic integration of CCA into development policies and strategies.

These interventions are essential levers around which PACASEN supports the municipalities. Thus, the AF is an added value to operationalize adaptation to CC within LGs.

88. ***The Environment and Classified Establishments Directorate (DEEC)***. The DEEC is responsible for implementing Government policy on the protection of the environment and the population against pollution, nuisances and dangerous waste, and in the management of environmental requirements and provisions for classified establishments and their surrounding areas. In this regard, in the conduct and monitoring of ESIS procedures, the MEDD relies on the Environment and Classified Establishments Directorate (DEEC) and the National Technical Committee set up by ministerial decree n°009469 of November 28, 2001. As such, the DEEC ensures compliance of environmental assessment submissions and assumes the secretariat of the national technical committee. It coordinates all activities of this committee, from the studies to the validation of environmental assessments.

The DEEC thus includes the following technical divisions: (i) a Division of Environmental Impact Assessments; (ii) a Division of Pollutions and Nuisances Prevention and Control; (iii) a Division of Classified Installations; (iv) and Regional Divisions of Environment and Classified Establishments in the 14 regions.

89. The ***Division of Environmental Impact Assessments (DEIE)*** is responsible for:

- validating terms of reference (TOR) of environmental assessments (environmental and social impact studies, strategic environmental assessments of policies, plans and programs, environmental audits, initial environmental analysis);
- determining the admissibility of environmental impact assessments;
- ensuring the monitoring of environmental management in Plans implementation;
- providing a technical advice on projects submitted by developers;
- preparing for the Environment Minister the decision on the environmental compliance certificate; assuming the secretariat functions of the national technical committee for environmental assessments, public hearings and the approval commission for exercising activities related to environmental assessments.

#### ***The Technical Committee***

90. In accordance with article R43 of decree n°2001-282 of April 12, 2001 on the Environment Code, the National Technical Committee is a unit responsible for the administration and management of the environmental impact study. It assists the Environment Ministry in the validation of the environmental impact study report. The Environment and Classified Establishments Directorate assures its secretariat. Article 2 of *decree n°009469 of November 28, 2001 on the organization and*

*functioning of the technical committee* provides the list of members of the technical committee, including almost all national directorates, representatives of the private sector, the civil society, representatives of local governments and other entities.

The National Technical Committee assumes the following functions:

- ensure the environmental dimension in development projects is taken into account;
- administer the environmental assessment process;
- advise the Environment Minister on his responsibilities as provided by law;
- make public participation to the environmental assessment process possible;
- seek the collaboration between entities that have a role in the process of the environment impact study;
- ensure process integrity and efficiency;
- assess the quality of environment impact study reports and of compliance of the report and the environment impact study process with terms of reference;
- formulate an advice on all projects subjected to an environment impact study;
- ensure recommendations are implemented;
- foster implementation of good practices in the domain of environmental assessment;
- promote research on environmental assessment.

In accordance with article 3 of said decree, the National Technical Committee is responsible for the internal validation of environmental impact study reports and for helping the Environment Minister decide whether a project may be accepted or not. It is chaired by the department which activities are analyzed based on the current case. It prepares with the developer and all stakeholders the conduct of public hearings.

After receiving the project, the National Technical Committee has ten days to notify developers on the type of studies they must conduct (notification of impact or terms of reference for an in-depth study). It communicates planned measures to decentralized governments.

### ***The Regional Divisions of the Environment and Classified Establishments***

91. At the decentralized level, article 13 of the ministerial decree n°6905 of August 5, 2008 on the organization of the Environment and Classified Establishments Directorate provides for the establishment of Regional divisions of environment and classified establishments (DREEC) which organization and functioning are defined in a service note by the Environment and Classified Establishments Director (Official Gazette of October 25, 2008). DREECs represent the DEEC at the local level and are responsible for executing actions, activities and missions in their respective administrative divisions. In accordance with legislation on local governments, they provide technical assistance to these entities in project identification, formulation and monitoring. The DREEC ensures coordination of regional technical committees for environmental monitoring. They are responsible for, among other missions:

- reviewing authorization applications for any actor operating in a classified establishment;
- receiving and processing requests for opening and exploiting classified installations for environment protection (*Installations Classées pour la Protection de l'Environnement*, ICPE) and deliver related affidavits;
- determining admissibility of initial environmental analyses;
- proceeding to the census and development of the database on classified establishments as well as tax collection;
- ensuring regular inspections and controls of classified establishments;

- ensuring monitoring of actions by various services and organizations involved in the environment domain;
- ensuring proper handling of dangerous expired and obsolete products and monitor their destruction as needed;
- ensuring monitoring of PGES implementation;
- supporting TOR and EIS validation process;
- implementing appropriate measures to ensure prevention and control of pollution and nuisances;
- fostering energy efficiency for a greater protection of the environment and for the rational management of natural resources.

***The Regional Committee for Environmental and Social Monitoring (CRSE)***

92. A Regional Committee for Environmental and social Monitoring (*Comité Régional de Suivi Environnemental et social, CRSE*) of local development projects has been instituted at the region level – with support of the National Program for Local Development (*Programme National de Développement Local, PNDL*) – to better handle decentralization and local development processes. The CRSE is composed of the region’s technical services (Environment, Water and Forests, Community Development, Spatial Planning, Programming, Local Development Support, etc.). Its core tasks are to support the environmental assessment and monitoring process for local development projects and to build capacities of local actors in environmental and social management. The DREEC manages coordination of this committee.

***The Local Governments Directorate (Direction des Collectivités locales, DCL) of the Ministry of Territorial Governance, Development and Spatial Planning, MGTDAT)***

93. The MGTDAT, under the authority of the Prime Minister, prepares and implements the Head of State’s policy on decentralization, territorial governance, development and spatial planning. As such, it oversees the harmonious, balanced and coherent development of agglomerations and economic activities on the national territory. It takes into account social consequences of the territorial distribution of populations and economic activities. It proposes and executes necessary measures for strengthening decentralization. It develops and promotes strategies and programs favorable to territorial development. It ensures the good functioning of local governments. It watches over local governments’ control of lawfulness in various actions. It fosters intercommunality, the harmonious cooperation between local governments and the promotion of territory hubs (*Pôles Territoires*). It oversees the capacity-building of Territorial Governments and sets up a training policy for local elected officials.

***The Municipal Development Agency (Agence de Développement Municipal, ADM).***

94. ADM was created on July 8, 1997 by the Senegalese Government and the Association of Senegalese Mayors (*Association des Maires du Sénégal, AMS*) with the key missions of:

- contributing to the strategic, financial, administrative and technical capacity-building of Territorial Governments (TGs);
- accompanying territorial governments and their clusters in the mobilization of finances;
- supporting TGs in controlling territorial information;
- facilitating intra- and inter-territorial cooperation.

ADM will pilot and coordinate the mechanism at the national level. It will ensure in particular the coordination of ARDs and their training on PACASEN and PforR. It will provide one-off technical support, as needed, on specific salient themes (procurement bids, etc.). ADM plans on initiating a study to clarify responsibilities and specify functional procedures/mechanisms to implement (framework agreements for technical assistance between TGs and ADM, etc.). The study will also

include proposals for setting up a monitoring-evaluation system for AMO/CTC (assistance to project management / continuous territorial coaching) mechanism.

***The Agency for Execution of Public Works (Agence d'Exécution des Travaux d'Intérêt Public, AGETIP) against under-employment***

95. AGETIP is a development tool set up by the Senegalese Government in July 1989, with support and incentive of Development Partners, headed by the World Bank. Its mission is to commit any action that may increase in the short-term the demand in public work and the creation of jobs for unskilled labor. It offers two types of services: the delegated project management (*maîtrise d'ouvrage déléguée*, MOD) and the assistance to project management (*assistance à la maîtrise d'ouvrage*, AMO). For some specific programs, AGETIP is recruited as an Execution Agency (*Agence d'Exécution*, AE).

For implementation of field operations, AGETIP relies on a network of partners which includes engineering firms, architectural firms and control bureaus to ensure project management (conception, monitoring execution and control), enterprises for executing works and various service providers (NGOs, CBOs, etc.) for the social engineering of projects with high social impact. To allow AGETIP to manage public funds, the Government of Senegal executed with this agency a framework agreement that regulates its activities and granted it the status of a non-profit association governed by the law of July 1<sup>st</sup>, 1901. Even though it is an association, AGETIP operates like a private sector enterprise subjected to efficient and transparent processes, documented in procedure manuals (technical manual, administrative, accounting and financial manual, and quality manual), based on the following five (05) key principles: transparency, impartiality, independence, efficiency and economy.

In order to perpetuate its accomplishments and to further satisfy its Clients, AGETIP has implemented in November 2002 a quality approach which led to its ISO 9001 certification on all procedures of bid procurement, development project and micro-finance management. This certification was delivered on March 9, 2004. Putting in action its quality management system, AGETIP has successfully managed to take into account, in the application of its functional processes, legal and regulatory concerns related to project environmental management (SMI). AGETIP is planning on conforming its SMQ to the latest ISO 9001 version 2015 specifications before the end of 2017.

The mission of the *Environment Focal Point* is to oversee the implementation of an Environmental Management System (*Système de Management Environnemental*, SME) which would eventually lead to a Quality-Environment Integrated Management System (*Système de Management Intégré Qualité-Environnement*, SMI), to monitor its execution in order to promote the principles of sustainable development in the execution of projects and programs entrusted with the Agency. The Focal Point will have to make sure that the following prerequisites are met:

- planning activities for which environmental risks and impacts are analyzed;
- identifying and applying processes required to attain preset environment objectives;
- controlling performance indicators and implementation of preventive and/or corrective measures;
- monitoring the efficient application of PGES developed in various ongoing programs;
- ensuring a productive dialogue on environmental management with institutional partners, Ministries, Project managers, Enterprises, and other Experts is engaged with the objective of minimizing as much as possible environmental risks linked to projects executed by the Agency.

In the context of its previous activities, AGETIP has had to supervise the environmental management of PRECOL and the Administrative Building, among others.

For the environmental management of projects, AGETIP requires each enterprise to have a PFE responsible for the PGES site implementation under the supervision of the project manager's PFE. Each month, a progress report on the level of PGES implementation is produced internally, by the enterprise and the project manager. Each project head is responsible for the daily GES of his/her project. He/she relies on the Agency's PFE who is responsible for ensuring the overall efficiency of the SME in procurement bids and contracts management through the validation of monthly reports and a field visit planning.

***The Regional Development Agency (Agence Régionale de Développement, ARD)***

96. The ARD global mission is to coordinate and harmonize Local Governments' interventions and initiatives in local development. More specifically, it is responsible for: the support and facilitation of local development planning; the consistency of interventions between local governments of a same region on one side and with policies and national plans on the other side; the monitoring-evaluation of local development programs and action plans. The 14 ARDs will be responsible for steering and implementing TA to LGs, coordinating the planning of assistance efforts (preparation of annual capacity-building programs), supporting their execution and producing reports on these programs. ARDs will also have a "continuous territorial coaching" (CTC) role with local governments by assisting them in formulating their needs in the preparation and implementation of projects.

***Territorial Governments (TGs)***

97. Territorial governments are divisions of the State. As such, they ensure with other state actors the safekeeping of public interest and intervene in the public sphere to promote the economic, social and environmental development of the nation.

Law n°2013-10 of December 28, 2013 on the General Code of Local Governments, also known as "Act III of the decentralization" and currently being reviewed, has :

- eliminated the Region as a local government;
- erected the Department to the status of local government;
- established integral municipalization by setting up rural communities and communal districts (*communes d'arrondissement*) as Municipalities;
- created the "City" with the goal of pooling human resources between municipalities that have a certain territorial homogeneity;
- redistributed the nine spheres of competence which were thus far allocated to the two local government types, the department and the municipality.

Territorial governments play an important role in the economic and social development of their entities, and also in the domain of environment and natural resources management, as well as in bringing awareness to and mobilizing populations.

In accordance with article 46 of said law, territorial governments are attributed an *Environment Commission*. Point 11 of article 106 of that same law stipulates that, as the head of the territorial government, the Mayor is responsible, under supervision of the municipal council, of "oversee the protection of the environment by taking necessary measures, on one hand, to prevent or eliminate pollution and nuisances and, on the other hand, to ensure the protection of green spaces and, finally, to contribute to the embellishment of the municipality". Questions related to the environment and the management of natural resources are addressed by articles 304 and 305.

***The Local Development Support Centers (Centres d'Appui au Développement Local, CADL)***

98. The CADL is the most decentralized national service where the global development policy defined at the base by public authorities must be executed in a practical and participatory manner. It assists in the implementation of activities engaged by Territorial Governments, CBOs, NGOs and projects and programs. It plays a key role in local development. The CADL provides technical assistance to rural communities in the management of natural resources and the environment, including in the environmental and social assessment of local development projects. In terms of human resources and logistics, the CADL is poorly equipped which limits its effectiveness.

### **III.1.6 Legal framework of environmental management**

99. **Law n°2023-15 of August 2, 2023 on the Environment Code** establishes basic rules for the protection of the environment. It regulates classified installations, addresses water pollution, noise pollution, air pollution and unpleasant odors. It also addresses other aspects such as human settlements, waste management, noxious and dangerous substances and the setup of emergency plans.

100. **Decree n°2001-282 of April 12, 2001** on the legislative section of the Environment Code has for main objective to provide rules on priority sectors of environmental management.

Thus, the environment code and its application decree represent the base reference in environmental management. These are completed by the Prime Minister Office's Circular n°01 of May 22, 2007 on the application of Environment Code provisions relative to environmental impact studies.

In terms of the law per se, it is more specifically articles L49, L50, L51, L52, L53 and L54 that govern environmental impact studies. With regard to potential impacts on the environment and the population, the DEEC recommends conducting the study on environmental and social impact.

101. Other legal texts on the environment and management of natural resources, which may also impact the project are:

102. **Law n°2013-10 of December 28, 2013 on the General Code of Local Governments.**

Since March 19, 2013, Senegal committed to a reform project of its decentralization policy named "Act III of the decentralization" in order to further local democracy. This reform which is marked by a major restructuring of the State's territorial action has for main objective to "organize Senegal into viable and competitive territories that are vectors of sustainable development".

Based on the territorialization of public policies, the reform aims to build Senegal by developing each territory's full potential, in a multi-actor and multi-level approach that will guarantee the participation of all territorial actors. It thus embodies a shift in favor of the strengthening of decentralization and the renewal of regional development policy.

Due to its complexity and its lasting impact on the future of the country, Act III of the decentralization is implemented incrementally and will be deployed in several phases in an iterative, cumulative and inclusive approach.

Thus, law n°2013-10 of December 28, 2013 on the General Code of Local Governments (CGCL) sets the first phase of the reform. The CGCL repeals and replaces laws n°96-06 on the Code of Local Governments, n°96-07 on knowledge transfer to regions, municipalities and rural communities and n°96-09 of March 22, 1996 which sets the administrative and financial organization of the neighboring community ("*commune d'arrondissement*") and its relationship to the City. These texts specify that the "local government manages the environment inside its own perimeter".



103. **Law n°83-71 of July 5, 1983 on the Public Health Code** essentially regulates individual or collective public health and sanitation of the environment. The law defines, among other things, sanitation rules applicable to housings, industrial installations, public roads and waste disposal. PACASEN is concerned by this public health code in that compliance with sanitation rules is an obligation for all actors involved in the project: local governments, enterprises, populations, decentralized services, etc.

104. **Law n°2018-25 of November 12, 2018 on the Forestry Code,**

The Code lays down the general rules for the management of forests, trees outside forests and forest lands. It also aims to determine the conditions for the exploitation of private forests.

For any deforestation, land clearing or reforestation activity, the local authorities (TCs) benefiting from PACASEN will have to contact the water and forestry services. Partially protected species may only be slaughtered with the permission of the Water and Forestry Department, and fully protected species may not be affected.

The start of any activity that may affect existing vegetation will require prior compliance with all the procedures established by the Forest Code and felling taxes must be paid in advance.

105. **Law n°2016 of November 8, 2016 on the Mining Code** repeals law n°2003-36 of November 24, 2003 on the Mining Code and its application decree n°2004-647 of May 17, 2004 which regulates all mining activities at the national level. This law regulates the prospection, research and exploitation of mines and quarries.

The key innovations of this new Mining Code that are relevant to the project are: (i) the principle of revenue sharing which marks the State's willingness to better distribute revenues of the mining sector between itself, decentralized governments and local populations living in the resource exploitation area; (ii) the obligation of reclamation of the mine, which used to only apply to the exploitation phase, has been extended to the research phase, that is, to the research permit holder.

106. **Law n°81-13 of March 4, 1981 on the Water Code** provides various provisions designed to fight against water pollution while reconciling demands related to drinking water supply and public health, to agriculture, biological life of the receptor medium and the fish fauna, site protection and water conservation. The project is concerned by this code as work execution will require tapping important quantities of water for the platform, but will also introduce contamination risks for ground and surface waters

107. **The Labor Code and its new application decrees of 2006:** In its health-related provisions, law n°97-17 of December 1st, 1997 on the Labor Code sets work conditions, namely regarding work duration which may not exceed 40 hours per week, night work, women and child work contracts and mandatory weekly rest. The law also addresses Sanitation and Safety in the workplace and provides measures any activity must follow to ensure sanitation and safety – the guarantors of a healthy environment and safe working conditions. The project is concerned by this code because work involved will require a large labor force that will need to be protected.

108. **Law n°2023-20 of December 29, 2023 repeals and replaces Law n° 2008-43 of August 20, 2008 on the Urban Planning Code,.**

This code consists of eight (08) books:

- the first book lays down the general rules of urban planning;

- the second book deals with easements of public utility;
- the third book deals with urban planning documents;
- the fourth book deals with urban planning operations;
- The sixth book lays down the rules relating to the act of building, developing and demolishing;
- the seventh book deals with administrative, civil, and criminal sanctions;
- The eighth book deals with financial, transitional and final provisions.

According to **Article L277**: "Subject to the derogations provided for in the regulatory part of this Code, no one may undertake, without administrative authorization, a construction of any kind whatsoever or make administrative modifications, an existing construction. This obligation applies to State and local authority departments, public service concessionaires, public bodies, public companies, companies with minority public participation, manufacturers of tourist activity units and new industrial activity zones and legal and natural persons'.

The Urban Planning Code also prescribes compliance with the urban planning documents in force. The examination of the building permit is carried out on the basis of the rules and easements set out in the urban plans applicable to the site in question (land use coefficient, height, location, nature, architectural aspect of the buildings, integration into the environment, etc.) and the legislative and regulatory provisions in force in terms of safety, health, hygiene and the environment.

The projects that will be carried out as part of the program must take into account the relevant provisions of the Urban Planning Code.

### **Law n° 2023-21 of 29 December 2023 on the Construction Code**

This law stipulates that the construction of buildings is subject to the supervision and control of the State with regard to the design and construction standards, in addition to the aspects of conformity, with respect to the uses of the land laid down by the Urban Planning Code, in particular through the integration of these into the framework of regional and municipal land use plans.

This code includes three (03) books:

- Book I deals with general provisions;
- Book II is devoted to the provisions relating to builders;
- Book III deals with the provisions relating to controls and sanctions.

It lays down the general hygiene provisions applicable to buildings, the provisions for disabled persons, the safety and protection of buildings, and provides for the adoption of regulatory measures for the energy and acoustic characteristics of buildings. Construction projects under PACASEN will have to comply with the provisions of the Construction Code.

### **Texts related to Senegalese discharge standards:**

109. The standards that may be of particular interest for PACASEN are:

- **Senegalese Standard NS05-061** on the protection of the environment and the population against harmful or unpleasant air pollution and the inter-ministerial decree n°7358 of November 5, 2003 which provides conditions of its application. The NS05-061 addresses conditions of waste water disposal on the national territory. Waste water discharges which may affect the quality of surface waters, ground waters or the sea are prohibited. The standard thus defines rules and modalities for the discharge of waste waters on the Senegalese territory.
- **Senegalese Standard NS05-062**, on the discharge of waste waters and the inter-ministerial decree n°1555 of March 15, 2002 which provides conditions of its application. This standard defines general conditions under which air discharges must take place. Air pollution is primarily caused by discharged substances from various sectors of activity. The standard addresses all sectors likely to produce pollutants and establishes conditions that must be observed for the protection of the environment and of populations.

110. It must be noted, however, that noise pollution is addressed by article R84 of the Environment Code which provides that “the maximum noise thresholds not to be exceeded, beyond which the human organism may be exposed to dangerous consequences, are fifty-five (55) to sixty (60) decibels during daytime and forty (40) decibels at night”.

### **III.1.6 Nomenclature of classified installations for the protection of the environment**

111. The nomenclature establishes the classification of establishments into classes based on the dangers or the severity of harm caused by their exploitation: establishments that must be distant from inhabited areas; those whose distance from inhabited areas is not rigorously necessary, but which exploitation may only be authorized under the condition that measures be implemented to prevent dangers or nuisances; establishments which, although they do not present any severe drawback for the neighborhood or for the public health, are only subjected to general provisions issued for the benefit of the neighborhood or the public health to all such establishments. Establishments that are dangerous, unhealthy or inconvenient may not operate without an authorization from the Environment Minister. Classified establishments are either subjected to authorizations, to registration or to affidavits depending on the nature of the activity.

### **III.1.7 Sectoral referential guides for ESIS**

112. The document on Sectoral referential guides on environmental impact studies published in November 2006 by the DEEC is presented as a sectoral reference document which summarizes the body of information that regulates activities of EIS execution entities (engineering firms in charge of EIS studies) in Senegal and particularly those dealing with procedures. The guide is composed of two major parts: the first part provides general provisions including the mandate, status and composition of the execution entity, work modalities of the execution entity and procedures applicable to EIS; the second part consists of specific provisions that provide particular conditions for the conduct of EIS by various sectors of activities. Guide update mechanisms are planned but have never been implemented.

113. In practice, these guides are very seldom used for several reasons: inadequate sharing and outreach; difficulty of use in light of the current progress of ESAs; etc. They thus should be updated and distributed among actors, namely ESA professionals.

#### ***Guide on the study of danger***

114. The objective of the Guide on the study of danger is to report on the review conducted by the operator of an establishment in order to characterize, analyze, assess, prevent and reduce risks of an

installation or group of installations, as long as it is technologically feasible and economically acceptable, whether its causes are intrinsic to products used, linked to implemented processes or due to proximity with other internal or external risks of the installation. It specifies all the risk-containment measures implemented in the establishment, which reduce the risk inside and outside of the establishment to a level deemed acceptable by the operator.

### ***Plans and Strategies***

115. Plans and strategies are important elements in the environmental management framework. In fact, institutions must be complemented by plans, programs and strategies initiated by the Senegalese government of which the most significant are:

- The Emerging Senegal Plan;
- Plans of economic and social development;
- National plans for territorial planning;
- The Land action plan;
- The national plan for Environment actions (*Plan National d'Actions pour l'Environnement*, PNAE);
- The national plan for the fight against desertification;
- The action plan and national strategy for the conservation of biological diversity;

## **III.2 SOCIAL ASPECTS MANAGEMENT SYSTEM**

### **III.2.1 Legal framework**

116. The legal and regulatory context is linked to land legislation (texts applicable to land, status of land), public participation in Senegal, mechanisms for land acquisition, resettlement and land tenure restructuring. Other social aspects such as the social protection of vulnerable persons, management of workers, work of miners, and abuses of communities living in exploitation zones will be considered.

#### ***National legal framework***

117. The legal framework is composed of national laws on the subject, and of policy and procedures that frame involuntary resettlement and associated compensations.

#### ***The foundation of land tenure in Senegal***

118. The land tenure history of Senegal may be roughly divided in three major periods: (i) the “Laman or Lamanat” going from the Joolof empire in Senegal to colonial penetration, (ii) the colonial period, and (iii) the national domain period starting with law 64-46 of June 17, 1964 up to the Decentralization. The current land ownership in Senegal consists of three major land categories that are the foundation of the land status, administration systems and modes of allocation and movement of land assets. They are:

- The *national domain* composed of what is generally referred to as vacant land without owner. These lands include those that are neither classified in the public domain nor registered, and which were never published in the mortgage registry;
- The *state domain* composed of all assets owned by the State and those for which it has a right-of-use. It consists of a public domain and a private domain;
- The *domain of individuals* composed of land assets of individual owners and their attached rights-of-use.

119. Law n°64-46 of June 17, 1964 on the National Domain may be viewed as a tool used by the Senegalese State after independence to nationalize its land and mark its vision and development

approach in a transition context. The national domain was to be composed of all land not classified in the public domain, not registered, or for which ownership was never published in the mortgage registry on the date the law was enacted.

120. The 1964 law on the National Domain is less an attempt to invalidate the roman law introduced with colonization than it is a framework for the socialization of land ownership more in tune with black-African tradition. The principle of land socialization is clear in the political discourse that accompanies it. The Senegalese legislator retains legal and institutional mechanisms of colonial land policy such as the registration, and recognizes customary rights but takes away from traditional chiefs their authority on land administration.

121. From then on, the State is the sole land holder. The cornerstone of the law on the National Domain is that no right could be recognized to people other than those who actually, personally and physically, exploit the land. The reform was justified on one hand because of a new land-grabbing tendency which had become increasingly important in urban settings and, on the other hand, by new distortions in traditional landlord practices which were on the rise in rural settings. On this aspect, it can be said that law n°64-46 might have obstructed the emergence of inequalities which started to be generated by traditional land tenure modalities in a changing socio-economic context where practices of mutual assistance were shifting.

- ▶ Implementation of this reform has nevertheless been difficult. The most concerned people, that is the citizens, basically never ceased to circumvent it and only invoked it whenever they could benefit from it. Also, for various reasons such as corruption, clientelism and incompetence, actors responsible for its implementation have only rarely succeeded in implementing it with efficiency and equity. The bad choices of these actors have weakened law n°64-46 and have contributed to its bad reputation.
- ▶ On the question of adding value to land – the major criteria for access to land ownership, actors of the land sector could never agree on a minimal requirement. More recently, the debate on land reform has highlighted another aspect of this law which had been until then ignored or neglected: the question of ownership title, as some argue that the law on national domain only grants a right-of-use where there is a need for a real guarantee which can only be obtained with a property ownership title.

### **Zoning as provided by the Law on the National Domain and its legal implications**

122. The law of the National Domain creates four categories of spaces on the national territory:

- i. The classified zones which are largely set up for the protection and conservation of renewable natural resources and of biological diversity; the classification could also adapt to another public policy requirement. These zones may host economic activities with conditions. Managed by the State, they are part of the local governments domain if declassified, unless they are attributed a special status by the State;
- ii. Pioneer zones considered as virgin zones not yet developed or which will host special activities or projects;
- iii. Production zones (*terroirs*) which largely constitute the rural space dedicated to agriculture, farming and rural habitations;
- iv. Urban zones used for housing in an urban setting which host urban infrastructures.

123. Land that may host PACASEN infrastructures may be the urban zones, production zones (terroirs), as well as classified zones, the probability of falling back on pioneer zones being practically null. In case where PACASEN activities or executions may touch classified zones, the State could declassify them for this purpose. The declassification is regulated by Forest Code's articles R42 to R46. All declassification project is first submitted to the Regional Commission for the Conservation of Ecosystems for its opinion on the project's opportunity and feasibility before it is reviewed by the National Commission for the Conservation of Ecosystems which will also provide its opinion. The President of the Republic is the last instance who eventually signs the decree on the declassification of the targeted zone.

### ***State Domain***

124. The State Domain is divided in public domain and private domain. It is regulated by law n°76-66 of July 2, 1976 on the Code of the State Domain. The public domain is composed of the natural public domain and the artificial public domain. The public domain may host activities or realizations of the current Project. Article 11 of law n°76-66 stipulates that: "The public domain may be the object of roadway permissions, authorizations to occupy, concessions and exploitation authorizations giving rise to the payment of fees, except in cases provided by article 18".

### ***Domaine of Individuals***

125. The right to ownership in the domain of individuals is largely regulated and defined by provisions of the French Civil Code of 1804. The right to alienate the land and use it as one wishes is based on the three principles of usus, fructus and abusus. As in most of former French West African (*Afrique Occidentale Française*, AOF) countries, the decree of July 26, 1932 that reorganizes the system of land ownership in AOF strengthens the organization of private land ownership modeled after the Civil Code. Some provisions of this decree are still in effect in Senegal. This may possibly cause interferences between land needs of the project and private, formalized and registered land rights.

### ***Mixed logical systems for land ownership***

126. Review of the legal framework and land practices by actors reveal three systems of land access in Senegal. Two of them are formal and provide titles and "papers" that could guarantee land security with public authorities and various stakeholders. The third one, which consists of traditional forms of land access internal to communities is not recognized by the State. It draws its legitimacy from community regulatory systems and the rooting of individuals in the practices of their group. Instead of generating papers, it is subjected to social frames, rights and duties that regulate land access.

127. We have noted a diversity of land tenures linked to current groups and modalities of their use of space which varies depending on agro-ecological zones, population history and inherited socio-political organization. Although there are similarities within agrarian or pastoral civilizations from the north to the south of Senegal, it would be pointless to look for uniformity in land access. The evidence reveals a diversity of control practices in land use and an evolution of patterns in land management at the community or family level. Land may indeed be deemed as sacred, but this does not prevent its movements. In other words, this dimension does not prevent it from circulating between members and non-members of the community.

## **III.2.2 Land tenure capacities of local governments in managing land possibly touched by a project**

128. The capacities of local governments in land tenure are defined by law n°2013-10 of December 28, 2013 on the General Code of Local Governments.
129. **The Region.** The region is habilitated to dispose of land spaces that will host infrastructures and equipment. The Water and Forest department is habilitated to enter into agreements with applicants on classified zones. Everywhere else, for protected forests, it is the regional council and the rural council or the municipalities that are habilitated to dispose of lands. They may receive the technical support of the Water and Forest department. For the maritime and fluvial public domain, the Regional Council issues its authorization after deliberation on all projects or operations initiated by third-parties and after advice of the rural community or the municipality where the project is located.
130. **The Rural community.** The Rural community is habilitated to attribute cultivation land or land reserved for habitation in the production zone (terroirs) through its deliberating entity that is the Rural Council. Law n°96-06 of March 22, 1996 on the Code of local governments has taken up and consolidated the provisions of law n°72-25 of April 19, 1972 on land management in rural communities. The sub-prefect keeps a control role to ensure legality of acts and procedures. He (she) approves or disapproves, in the name of the State, the Rural Council's decisions on land disposal.

### III.2.3 Legislation on expropriation for cause of public utility

131. **Expropriation of private assets.** The Constitution guarantees the right of ownership and provides for, under exceptional circumstances, the possibility of expropriation for cause of public utility. Law n°76-67 of July 02, 1976 on expropriation for cause of public utility is the legal basis for expropriation procedures for cause of public utility (*Expropriation pour Cause d'Utilité Publique*, ECUP): A. decree (i) declaring the revocation of ownership titles which (ii) establishes at the same time the amount of revocation compensation, (iii) orders payment or consignment, (iv) sets the date on which the occupants must free the land, (v) authorizes, starting on that date, the taking ownership of said land and (vi) sets if necessary, the modalities of execution of the population resettlement program (article 35); B. decree setting the public utility and the timeframe during which the expropriation must take place. The declaration of public utility must be preceded by an investigation which must be announced to the public before being launched (large distribution newspaper) so that populations may provide their feedback. But in case of emergency and if it is necessary to immediately launch the project, a decree enacted after investigation and with the consent of the Commission for the Control of Domain Operations (*Commission de Contrôle des Opérations Domaniales*, CCOD) declares the operation to be in the public utility and urgent, designates the real property needed for its execution and gives authorization to the project manager to take possession of said property (article 21). In the PforR framework, an activity requiring such expropriation will not be financed because of the administrative slowness of the compensation process.
132. **Revocation and compensation of land in the domain of individuals.** For such land, a decree designates the concerned zone and an evaluation of the compensation amount to occupants is done by the commission in charge of expropriation. Article 38 of decree n°64-573 of July 30, 1964 which sets application conditions of law n°64-46 of June 17, 1964 on the national domain, as modified by decree n°91-838 of August 22, 1991, allows for all occupants to be compensated. The compensation to be allocated may be done in cash or in kind.
133. **Expropriation and compensation of land of the National domain located in urban zones.** The State may decide to take back land of the national domain located in urban zones for operations of public utility.

134. ***Expropriation and compensation of land of the State domain.*** As for land in the State natural or artificial public domain, there is no provision for compensation in case the State takes back the land. Article 13 of law n°76-66 of July 02, 1976 on the Code of State domain specifies “authorizations to occupy the natural or artificial public domain are granted on a personal, precarious and revocable basis”.

135. In situations of exchange, the Administration of Domains does a document review which starts by consulting and collecting the advices of the Land Register and Land Planning offices before introducing the case to the Commission for the Control of Domain Operations (*Commission de Contrôle des Opérations Domaniales*, CCOD). The CCOD must give its advice on the opportunity, the legality and the financial conditions of acquiring real estate property. The consent of the commission is required to draft the act on the exchange of the target land against the expropriated land.

136. ***Revocation of land of the national domain located in production zones (terroirs).*** Rural councils are entities habilitated at the local level not only to attribute lands, but also to proceed to their abandonment. In the context of PACASEN activities, the rural council is normally habilitated to declare abandonment “when the community’s overall interest calls for a land re-allocation. Under such circumstance, the expropriated party receives an equivalent plot of land as compensation.”

#### **III.2.4 Senegal’s institutional framework for resettlement**

137. At the national level, several institutions and national entities intervene in the expropriation procedure, land acquisition and population resettlement:

***The Domain Registration and Revenue Directorate*** is responsible for recommending an investigation on the public utility to initiate the expropriation phase. The Receiver General (*Receveur des Domaines*), also called “Investigating Commissioner”, manages the investigation. The Minister in charge of domains (Ministry of Economy and Finances) or, eventually, the Minister from whom the project depends produces a report which serves as a basis for the decree declaring the public utility. The Directorate of Domains establishes the declaration of public utility (*déclaration d’utilité publique*, DUP), the transferability decree, the signature of acts of acquiescence and the compensations.

***The Land Register Directorate*** is responsible for delineating the perimeter of the sub-project, its implantation and the site demarcation. These entities are habilitated to handle all domain matters, legal and land tenure alike, and have full knowledge and understanding of the Senegalese expropriation process.

***The Commission for the Control of Domain Operations (CCOD)*** established by article 55 of the Code on State domain, gives its opinion on the following land tenure matters: (i) the amount of compensation to offer in cases of expropriation for cause of public utility; (ii) the advisability to resort to the urgency procedure in expropriation situations, and (iii) the opportunity, legality and financial conditions of all operations relevant to the State private domain, local governments and public institutions.

***The project’s Coordination Unit*** will also be responsible for coordinating the entire resettlement process in collaboration with local entities. For these activities, the Unit will have an environmental and social expert (ESE).



*At the department level*, the departmental Commission responsible for assessing expenses is established in each department with the goal of assessing the value of assets involved in any operation of land reclamation from physical or moral persons. It is composed of: the department Prefect as President; the Head of Land Planning services; the Head of Land Register services; the Head of Agriculture services; the Head of Services of Public Works; the representative of the expropriating entity, and representatives of concerned local governments. The department Prefect heads the commission of evaluation of expenses which identifies and evaluates assets affected by the operation.

A *Conciliation Commission* is in charge of reaching a mutual agreement on the amount of compensation to be paid to expropriated persons.

A *Judge in charge of expropriations* could be designated by the Regional Court to rule on the transfer of ownership in case of dispute between the State and an expropriated person.

138. *Local Governments*. As a result of the February 2002 reform on the territorial and local administrative organization of the Republic of Senegal, the country has been carved into departments and municipalities. According to expropriation law, municipalities will have a role to play in expropriation cases. However, expropriation operations will not be allowed for activities financed by PACASEN.

### **III.2.5 Legislation on child labor**

139. The ministerial decree n°3748 MFPTEOP\_DTSS dated June 6, 2003 prohibits child labor for children under 15 years old. This age limit may be reduced to 12 years old for light work performed within the family context, provided such work does not cause prejudice to the health, the morality or does not interfere with the normal schooling of the child. However, this age limit is raised to 18 years old for hazardous work, by derogation of the Labor Minister.

140. This prohibition applies to all establishments regardless of their type, whether they are agricultural, commercial or industrial, public or private, secular or religious, even when such establishments provide professional training or are of a charitable nature, including family enterprises or individual homes. It is prohibited to employ children for work exceeding their physical strength, presenting dangers or which, by their nature or conditions under which they are performed, are likely to cause them moral harm.

141. On the other hand, Senegal ratified Convention N°138 (1) of the International Labor Organization (ILO) which prohibits labor of children under 15 years old and the Convention on Children Rights.

### **III.2.6 Constitutional review courts**

142. In Senegal, the office of the *Mediator of the Republic* has been established with the objective of handling “*all claims related to operations of State administrations, Local governments, Public Establishments, and any other entity entrusted with a mission of public service*” (article 1 of law n°99-04 of January 29, 1999). Therefore, this institution has the key mission of ensuring adequacy between the functioning of the Administration and citizens’ rights and improve relations between the Administration and citizens and/or end-users. Moreover, according to article 2 of the same law, the Mediator has a “*general mission of contributing to the institutional and economic environment of the enterprise, notably in its relations with public administrations or entities entrusted with a public service mission*”.

143. The Senegalese Committee for Human Rights (*Comité Sénégalais des Droits de l'Homme*, CSDH) is an independent national institution for the promotion and protection of human rights. Created by decree in 1970, it acquired a legal status on March 10, 1997 with law n°97-04. The Committee is a state entity for consultation, observation, assessment and dialogue. It is in charge of the promotion of human rights through information actions and it is responsible for collecting all documentation related to human rights.

## SECTION IV. ASSESSMENT OF INSTITUTIONAL AND PERFORMANCE CAPACITY

### IV.1 APPROPRIATENESS OF APPLICABLE SYSTEMS

144. In general, Senegalese legislation in environmental and social management is relatively developed and includes several legal texts and documents which cover a large number of aspects of the subject-matter.
145. The national EIA system in place since 2001 establishes the base rules in terms of environment protection. Strengthened several times over the past few years, it is actually well seasoned and enables the guarantee to some extent of a proper treatment of environmental impacts of new projects subjected to EIA.
146. Furthermore, on the expertise level, there are several engineering and consultancy firms with professional references which have solid capacities in the domain of environmental and social management.

### IV.2 WEAKNESSES AND MALFUNCTIONS

147. However, analysis of the system also reveals *weaknesses and malfunctions*, at least with regard to World Bank policy for PforR financing. In this respect, the following may be noted:
- The *Division of Environmental Impact Assessments (Division des Évaluations d'Impact Environnemental, DEIE)* has a restricted staff and only two to three persons have the technical capacity to properly conduct an EA. This staff is largely insufficient to properly handle all requests for environmental and social assessment.
  - *The Regional Divisions of the Environment and Classified Establishments (Divisions Régionales de l'Environnement et des Établissements Classés)*, with a very insufficient staff and very limited human and equipment assets, do not have the means to properly conduct their environmental and social monitoring mission for projects and programs.
  - The *National Technical Committee* is a unit for the administration and management of environmental impact studies which, normally, should assume very important functions. However, most of its members have a hazy knowledge of EA procedures – furthermore, they are designated by their respective entities only when available. Possible consequences for such shortcomings are that environmental and social concerns addressed by these entities are not taken into account during assessment phases and might have negative impacts during implementation phases.
  - Most meetings of the *Regional Committee for Environmental and Social Monitoring (Comité Régional de Suivi Environnemental et social, CRSE)* are limited to EA validation and, in most cases, its members do not participate to field missions on PGES monitoring. It is therefore important to define roles and responsibilities of various stakeholders and strengthen their technical capacities to ensure better monitoring of EA procedures.
  - *The Regional Development Agencies (Agences Régionales de Développement, ARD)* do not yet have a procedural manual to help them optimize the administrative, technical and financial

management of their interventions. Such document is being developed with ADM. ARDs have a limited qualified staff, even though their personnel include an environment focal point responsible for environmental and social matters.

- The main constraints at the *Territorial government* level, in particular with regard to environmental management, reveals many blockage factors due in part to the fact that the knowledge transfer of capacities related to quality of life management has not been supported by information and training initiatives or adequate funding for the coordination of environmental and social monitoring activities.
- At the local level, in the domain of information, *public consultations and grievance management*, citizen participation mechanisms in place are moderately effective. Despite the emphasis on public hearings, populations are still not consulted on planned developments in their respective localities, which hinders their ability to take ownership.
- The lack of guidance and information on citizens' participation in municipal investment and development activities is also reflected in the absence of recourse to clearly defined *mechanisms for grievance resolution*.

148. In general, with regard to activity implementation, the absence of an *environmental and social control and monitoring system* should constitute a significant weakness. National and regional institutions, just like Local governments, have a shortage in technical managers able to efficiently carry out this function; while they may systematically resort to external engineering firms, it does not guarantee consistency and continuity.

149. Moreover, beyond limitations in human resources, these institutions do not either have a comprehensive guide on social and environmental management of local investments. For example, ARDs do not even have a procedural manual to help them optimize the administrative, technical and financial organization of their interventions.

150. Finally, as for social management, there are many similarities between the national legal framework and Bank procedures. However, there are also differences, particularly with regard to eligibility for compensation of a person affected by a project/program. The WB policy and the Senegalese legislation agree when it comes to displaced persons. But Senegalese law is more restrictive in that it emphasizes holders of formal rights, whereas WB policy does not make such distinction and includes as well people who have neither formal right nor valid property title on the land they occupy. Thus, WB policy considers not only formal owners, but also customary land owners and those without any formal right on the land they occupy

151. Furthermore, the Senegalese legislation is limited in terms of reference for the calculation of compensation. Legal texts that govern compensation scales are very often obsolete and prices they propose rarely reflect actual market prices. The WB policy specifies that loss assessment must be based on market price. Such consideration implies that affected persons may be prejudiced.

## SECTION V. PACASEN ACTION PLAN FOR ENVIRONMENTAL AND SOCIAL MANAGEMENT

152. In order to establish necessary environmental and social safeguard measures and bridge the gaps and malfunctions identified in the ESSA, PACASEN will support specific measures designed to strengthen performance of the environmental and social management system for investments of Senegalese Territorial Governments. These measures will be implemented through an ***environmental and social management action Plan*** for Program activities, integrating a set of specific and concrete measures. This Plan is part of the PACASEN global Action Plan
153. Under the parent program, the ***Program Action Plan*** identifies three recommendation segments, with each one having distinct and complementary activities.
154. The first recommendation segment addresses the ***Strengthening of environmental and social management system of Territorial Governments***. This segment includes the following elements:

- **Technical Manual.** This segment's specific element involves the creation of a *Technical Manual for Environmental and Social Management (Manuel Technique pour la Gestion Environnementale et Sociale, MTGES) for investments of Senegalese Territorial Governments*. As an integral part of the PACASEN *Operation Manual*, this manual will comply with national procedures in environmental and social assessments and, at the same time, with provisions of World Bank policies on PforR financing. More specifically, the Manual will present procedures and tools for preparation of an *Environmental and Social Management Plan (Plan de Gestion Environnementale et Sociale, PGES)* for investment sub-projects with moderate environmental risks and a *Resettlement Action Plan (Plan d'Actions de Réinstallation, PAR)* for investment sub-projects with moderate social risks.

The Manual will be intended for Territorial Governments and their technical services, as well as all stakeholders involved in PACASEN implementation at the national and regional level, so that environmental and social management procedures may be properly understood, perfectly owned and monitored.

- **Under the AF the Manual dissemination workshop.** A workshop will be organized at the national and regional levels to disseminate MTGES' fundamental elements to representatives of key stakeholders, and collect their opinions and suggestions, before drafting the final version to be approved and published by ADM.
- **Focal points. The E&S specialist under the parent program will be maintained throughout the life cycle of the PACASEN.** He is designated and/or recruited to act as focal points within ADM for PACASEN environmental and social management. This E&S specialist – will have the mission to ensure a close cooperation between all stakeholders: coordination and monitoring of implementation actions to strengthen environmental and social management systems of participating Territorial Governments; collection and centralization of all information related to social and environmental risks and to their mitigation measures; tracking-monitoring of implemented mitigation measures and data integration at the information system level, as well as “reporting” (in accordance with principles contained in the MTGES).

155. The second recommendation segment addresses *Environmental and social management capacity-building* of PACASEN key actors and stakeholders' representatives. This segment includes two types of distinct activities:

- **Information, awareness.** Organization of several initiatives aiming to bring awareness to and inform a large audience on the themes of environmental and social stakes of the Program's investment activities and strengthen citizen engagement on a regular basis. This will include the frequent organization of public sessions with representatives of all Territorial governments involved. These initiatives will also support the establishment and operation of a grievance management system (including complaints filed with the World Bank Grievance Resolution Service (GRS)).
- **Trainings.** This includes the organization of more specialized training sessions intended for stakeholders directly involved in implementing Program investments to strengthen their capacities in Program environmental and social challenges. This will consist in, more specifically: (i) understanding *MTGES* and various procedures and practices; and (ii) proficiency in the use of environmental and social management tools – *Simplified Diagnostic Form (Fiche de Diagnostic Simplifié, FIDS)*, *ESIA*, *PGES* and *Resettlement Action Plan (Plan d'Actions de Réinstallation, PAR)* or simple Environmental and Social Information Form (*Fiche d'Information Environnementale et Sociale, FIES*) – which will be prepared for all individual investment sub-projects, based on the scope of their respective environmental and social risks, in accordance with national provisions and World Bank policy.

156. Finally, the third and last segment of the Action Plan focuses on *Capacity-building in monitoring tool implementation*. This consists in precise initiatives aiming to establish, on one hand, a monitoring and control system of environmental and social management measures for the Program's investment sub-projects at the Territorial government level and, on the other hand, stakeholders' training in monitoring social and environmental management tools.

- ▶ The main measures of this Action Plan segment address in particular: the environmental and social management training of national and regional managers, based on the *MTGES*.
- ▶ The training plan must include a module intended for procurement agencies to make them aware of worksite environmental management procedures as well as *MTGES* monitoring tools.

157. Regarding environmental and social reporting: once they are filled out by enterprises, and then by control missions, *MGTES* monitoring forms will be verified and validated by Territorial Governments, and then consolidated by PACASEN environmental and social focal points before being filed with the integrated information and tracking-monitoring system. Monitoring reports will include, as a priority, monitoring of implementation of environmental and social mitigation measures for each approved and realized sub-projects.

158. Table 5 below provides a summary of all elements of the ESSA Action Plan that will be an integral part of the PACASEN Global Action Plan. The cost of all identified actions concerning the ESSA environmental and social segments will be integrated into the Program's global budget. By contrast, for the various investment sub-projects, the costs of environmental and social corrective measures will be integrated to the sub-project budgets.

**Table 6 : Environmental and social Action Plan**

N°	Measure	Activity	Responsible Entity	Schedule
<b>1. STRENGTHENING OF THE ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM</b>				
1.1	<b>Technical Manual for PACASEN environmental and social management</b>	Organization of a workshop for the dissemination of the technical Manual	ADM, DEEC with ARDs	During Program implementation
1.2	<b>Focal point</b>	Designation of the two Focal points for the environmental and social management of TG investments (nested with ADM).	ADM	At the beginning of Program implementation
1.3	<b>Grievance management</b>	Set up of a simple and efficient grievance management system within each participating Territorial government, dissemination of the system and definition of a complaint follow-up system	Each TG with support from ADM	During Program implementation
<b>2. CAPACITY BUILDING IN ENVIRONMENTAL AND SOCIAL MANAGEMENT</b>				
1.1	<b>Information and awareness</b>	Organization of several annual initiatives to bring awareness to and inform a large audience on environmental and social challenges of the Program structural activities, and strengthen citizen engagement on a regular basis. This includes, among other things, the publication and dissemination of environmental and social procedures for sub-projects and decisions on approved projects.	ADM in collaboration with ARD/DEEC-DREEC	Throughout the Program duration
2.1	<b>Specialized trainings</b>	<p>Organization of specialized training sessions intended for stakeholders directly involved in the implementation of Program investments. Based on a capacity-building plan, these training sessions will focus on:</p> <ul style="list-style-type: none"> <li>• Initiation to Senegal's legal and regulatory provisions in the domain of environmental and social management;</li> <li>• Proficiency in the technical Manual;</li> <li>• Proficiency in filling out the <i>Simplified Diagnostic Form (Fiche de Diagnostic Simplifié, FIDS)</i></li> <li>• Proficiency in developing the EIE in accordance with national and WB procedures (with added sections on PGES and public consultations)</li> <li>• Proficiency in developing the Environmental and Social Management Plan (PGES), for sub-projects with medium-moderate environmental and social impact</li> <li>• Proficiency in the preparation of an</li> </ul>	ADM with ARD/DREEC, with external specialized technical assistance as needed	Refresher sessions all throughout the Program duration (frequency to be determined based on the allotted budget)

		<p>Environmental and Social Information Form (<i>Fiche d'Information Environnementale et Sociale</i>, FIES) for sub-projects with a low environmental and social impact</p> <ul style="list-style-type: none"> <li>Proficiency in preparation of a Resettlement Action Plan (<i>Plan d'Actions de réinstallation</i>, PAR) for each sub-project with moderate social impacts.</li> </ul>		
<b>3. CAPACITY-BUILDING IN MONITORING TOOL IMPLEMENTATION</b>				
3.1	<b>Monitoring</b>	<p>Definition and set up of a monitoring and control system for the environmental and social management of investment sub-projects and the control of all planned mitigation measures (in PGEs and PARs).</p>	<p>ADM with DEEC-DREEC</p> <p>In collaboration with the Regional Committees on Environmental and Social Monitoring (CRSE) of each participating TG.</p> <p>Each approved developer or sub-project owner.</p> <p>With support of a specialized technical assistance.</p>	<p>During PACASEN implementation</p>
3.2	<b>Training in monitoring and control</b>	<p>Training of stakeholders in monitoring social and environmental management tools.</p>	<p>ADM, with DEEC-DREEC.</p> <p>In collaboration with the Regional Committees on Environmental and Social Monitoring (CRSE) of each participating TG.</p>	<p>Throughout the Program duration.</p>

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The World Bank will be responsible for organizing a public consultation with representatives of main stakeholders, civil society organizations and the private sector to introduce and discuss the updated ESSA preliminary report.

Thereafter, throughout the Program duration, it is the Senegalese counterpart that will be responsible for organizing public consultations on the Program specific activities (investment sub-projects).

The final revised/updated ESSA version will be made available to the public on the World Bank external website and also on the site of the Ministry in charge of Territorial Governance, Development and Spatial Planning (*Ministère de la Gouvernance*

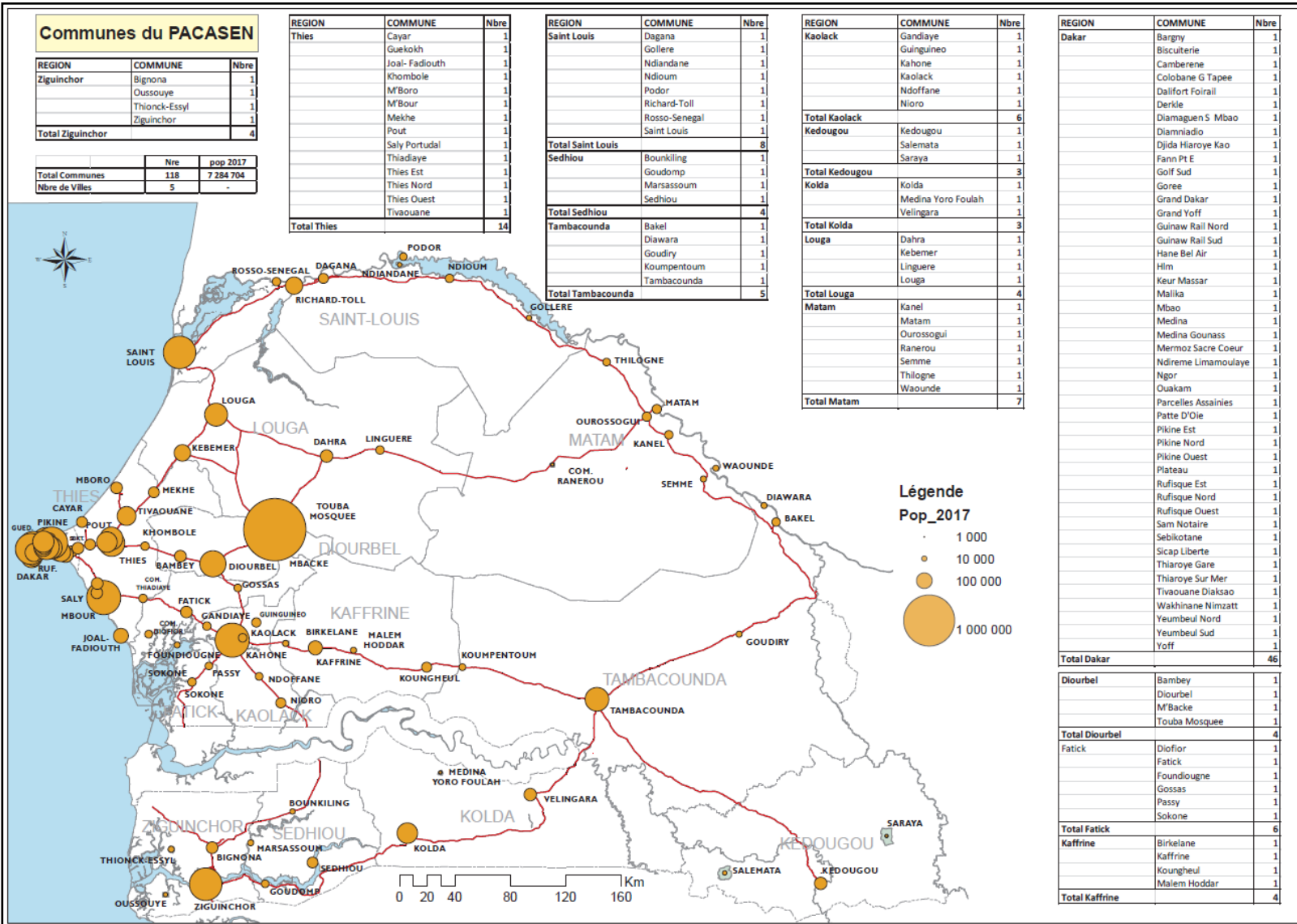


*Territoriale, du Développement et de l'Aménagement du Territoire, MGTDAT)/ADM.*  
Public feedback will be solicited during the defined period.

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## **ANNEXES**

# Annex 1: Map of governments eligible for PACASEN



**Annex 2: List of projects and programs for which an in-depth environment impact study is mandatory (decree n°2001-282 of April 12, 2001 on the Environment code)**

1. projects and programs likely to cause important modifications in the exploitation of renewable resources;
2. projects and programs which extensively modify agriculture and fishing practices;
3. exploitation of water resources;
4. infrastructure work;
5. industrial activities;
6. extraction and mining industries;
7. production or extension of hydroelectrical and thermal energy;
8. waste management and disposal;
9. manufacture, transportation, storage and use of pesticides or other dangerous or toxic substances;
10. hospital and teaching facilities (large scale);
11. new constructions or notable improvements of the road network or unpaved rural roads;
12. projects in ecologically very fragile zones and protected zones;
13. projects that may have an adverse impact on endangered fauna and flora species or their critical habitats or that may have a negative impact on biological diversity;
14. transfer of populations (displacement and resettlement).

**Annex 3: List of projects and programs that necessitate an initial environmental analysis (*decree n°2001-282 of April 12, 2001 on the Environment Code*)**

1. agro-industrial small and medium enterprises;
2. rehabilitation or modification of small-scale existing industrial installations;
3. electrical power transmission lines;
4. small-scale irrigation and drainage;
5. renewable energies (other than hydroelectrical dams);
6. rural electrification;
7. housing and commercial space projects;
8. rehabilitation or maintenance of the road network or unpaved rural roads;
9. tourism;
10. rural and urban water distribution and sanitation;
11. recycling factories and disposal of household waste units;
12. irrigation projects by surface water, of 100 to 500 hectares, and by ground water, of 200 to 1000 hectares;
13. intensive cattle herding (more than 50 count), and poultry farming (more than 500 count);
14. extraction and treatment of non-metal or energy-producing minerals and extraction of aggregates (marble, sand, gravel, schists, salt, potassium and phosphate);
15. protected areas and conservation of biological diversity;
16. energetic efficiency and energy conservation.

## **Annex 4: Land Tenure – Legal Texts**

### ***Law n°64-46 of June 17, 1964 on the National Domain***

Article 1 of the law on the National Domain stipulates: “the national domain is constituted of all land not classified in the public domain, not registered, or for which ownership was never published in the mortgage registry on the date the law was enacted, but does not include land which, at that date, is in the process of being registered in the name of a person other than the State”. This important land tenure law which has specific rules is not rigorously applied.

The National Domain is divided in four zones: the pioneer zones which include undeveloped land reserved for special activities or projects; urban zones used for housing in an urban setting which are part of the municipality territory; classified zones which are protected areas – classified zones constitute a permanent land reserve and are mainly established to ensure the protection of the environment and sustainable development; production (*terroir*) zones which are used for agriculture, cattle farming and herding are the most important zones.

### ***Law n°76-66 of July 2, 1976 on the Code of State Domain***

On July 2, 1976, the legislature adopted law n°76-66 on the Code of State Domain. The State Domain is divided in a public domain and a private domain. The public domain is further divided into a natural public domain and an artificial public domain. The inclusion of a real estate asset into the artificial public domain results either from its classification or from execution of public works. Once a land area is included in the public domain, it normally becomes inalienable (it cannot be sold) and imprescriptible (one cannot obtain a property right for it on the basis of having lived on it for several years).

In fact, the artificial public domain includes roads’ right-of-way and more generally communication routes, work realized for use by hydraulic systems (dams, water wells, forages, water pipes), commercial centers and marketplaces, and public easements. Occupation titles may be granted for the artificial public domain but their withdrawal is not subject to compensation. It consists in: roadway authorizations which may host light installations, that are mobile or can be disassembled, and which may not have an important footprint on the public; authorizations to occupy the natural or artificial public domain; concessions and operation authorizations subjected to a fee.

The State may provide several titles on its non-allocated private domain: authorization to occupy on a precarious and revocable basis; ordinary or emphyteutic lease; concession right to surface area.

### ***The Code of Civil and Commercial Obligations (Code des Obligations Civiles et Commerciales, COCC) and the July 26, 1932 decree (Domain of individuals)***

Land tenure legislation is completed by a more standard system. Articles 544 to 702 of the French Civil Code, which contain some provisions that are still applicable in Senegal, are relative to private ownership. Ownership provides the right to dispose of and enjoy property in the most absolute manner, provided that such use is not prohibited by laws and regulations. The Civil Code provides for divisions of the right to ownership as well as owner’s rights. This legal text is completed by the July 26, 1932 colonial decree which reorganizes land tenure ownership in French West Africa and allows for the acquisition of a land property through the registration procedure. For example, there are land ownership titles on highway paths which have been discovered during surveys. The displacement of these populations is more complex as they possess an ownership title on the land they occupy. Their compensation will consequently be more substantial.

## **The residential lease**

The residential lease is a category of contracts governed by articles 544 et seq. of the COCC. It is a contract by which the lessor commits to provide to the lessee, for a determined duration, a residential building to be used for habitation in exchange for rent. The lease may be oral if its duration is not defined, but it must be written in case it has an expiration date. The tenant substitution takes place through a lease assignment or through subletting. The lease assignment must be in writing and may be executed after notifying the assignee.

Actually, regarding land tenure, there is an important difference between rules defined in the law and their application. The public domain is sometimes occupied in an uncontrolled manner and private lots are sometimes occupied without any consideration for regulation. Thus, in most projects and programs, some persons to be displaced are “tenants” but do not have any occupation document as required by various legal texts applicable to such occupation of premises.

### ***Law n°76-67 of July 2, 1976 on expropriation for cause of public utility***

Law n°76-67 of July 2, 1976 on expropriation for cause of public utility constitutes the legal basis for procedures of expropriation for cause of public utility (*Expropriation pour Cause d’Utilité Publique*, ECUP). Article 1 of this text defines ECUP as: “the procedure by which the State may, for cause of public utility and upon providing a fair compensation in advance, force any person to surrender ownership of a building or a real estate property”.

This law constitutes the legal basis for displacement and compensation procedures. In general, for large projects, there is a recourse to the procedure of expropriation for cause of public utility. The declaratory act of public utility provides, “if the importance of the operation is justified, a temporary or permanent population resettlement program for which the project realization must cause the displacement” (article 33 law n°76-67 of July 2, 1976).

The expropriation action must observe the two following conditions: (i) “in advance” in that it is fixed, paid or consigned before taking possession; (ii) “fair” in that it must compensate the entire loss, the expropriated person must be relocated under conditions that are very similar to the previous situation. The allocated compensation must cover the entirety of the direct, material and determined prejudice caused to the expropriated person.

Land expropriation is subject to compliance with a very strict procedure that aims to guarantee the rights of expropriated persons in the administrative phase as well as in the legal phase. In fact, the expropriation may not be declared before the public utility is declared and required formalities have been respected.

In Senegal, there is no displacement and compensation plan for populations. The expropriation procedure for cause of public utility is used for this purpose. The declaratory act of public utility provides, “if the importance of the operation is justified, a temporary or permanent population resettlement program for which the project realization must cause the displacement” (article 33, law n°76-67 of July 2, 1976). Moreover, the application decree of the law declaring the surrender of occupation titles which also fixes the compensation amount may specify the modalities for executing the population resettlement program (article 35, law n°76-67 of July 2, 1976). The public utility and expropriation deadline must be declared by decree. Normally, the deadline may not be set over three years (article 3, law n°76-67 of July 2, 1976).

Nevertheless, effects of the declaration of public utility may be extended for two years at the most. Furthermore, if the property expropriated for cause of public utility is not used as specified by the

declaration within five years of issuance of the mutual agreement transcript or of the expropriation decree, or if the expropriating party renounces to use the property as specified, the right-holders may request its retrocession (article 31, law n°76-67 of July 2, 1976). The public utility declaration must be preceded by an investigation, and the launch of this investigation must be publicly announced so that populations may provide their feedback. But in case of emergency and if it is necessary to immediately execute the project, a decree issued after an investigation and a favorable opinion of the Commission for the control of domain operations (*Commission de Contrôle des Opérations Domaniales*, CCOD) declares the operation as being of public utility and urgent, designates the buildings that are needed for its execution and gives authorization to the project manager to take possession of said buildings (article 21, law n°76-66 of July 2, 1976).

***Decree n°2010-439 of April 6, 2010 repealing and replacing decree n°88-74 of January 18, 1988 establishing the price scale of vacant land and developed land applicable for rent purpose***

This text repeals and replaces decree n°88-74 of January 18, 1988 establishing the price scale of vacant land and developed land applicable for determining rent for habitation spaces and for the calculation of expropriation compensation for cause of public utility. This text suffers from a congenital contradiction in that it fixes the prices of land and, at the same time, institutes commissions for the assessment of property value for cases of expropriation.

**Legislative and regulatory framework for resettlement in Senegal**

The Constitution guarantees the right of ownership and determines in exceptional circumstances, the possibility of expropriation for cause of public utility. Law n°76-67 of July 2, 1976 on expropriation for cause of public utility constitutes the legal basis for procedures of expropriation for cause of public utility (*expropriation pour cause d'utilité publique*, ECUP): decree declaring the surrender of occupation titles which also fixes at the same time the compensation amount, orders payment or consignment, fixes the date on which occupants must vacate the land, authorizes from that date the transfer of ownership of said land and specifies if necessary modalities for executing the population resettlement program (article 35); decree declaring the public utility and the deadline for the expropriation to take place. The public utility declaration must be preceded by an investigation, and the launch of this investigation must be publicly announced so that populations may provide their feedback. (Wide distribution newspaper). But in case of emergency and if it is necessary to immediately execute the sub-project, a decree issued after an investigation and a favorable opinion of the CCOD declares the operation as being of public utility and urgent, designates the buildings that are needed for its execution and gives authorization to the project manager to take possession of said buildings (article 21).

***General Procedures***

The January 22, 2001 Constitution devotes some provisions to expropriation for cause of public utility. Article 8 guarantees the right to ownership. The same article specifies that this right “may only be encroached in case of legally declared public utility, and upon providing a fair compensation in advance”. Only this exception allows for the expropriation of a real estate asset.

The expropriation procedure ranges from the preparation of the expropriation file (proposals from the project manager and their justification, description or preliminary draft, map of the required location, investment program and financing plan) to the execution of a compensation agreement, going through an administrative phase (i) and a legal phase (ii).

The administrative phase starts with a public utility investigation, the publication of a public utility declaration, and a transferability declaration (execution of a transfer decree, publication of the transfer

decree to the official gazette, decree notification to concerned property owners and setting the date of the survey of premises by certified mail with return receipt, survey of premises, registration of the transfer decree to the land register, assessment of compensation proposals) and ends with a mutual agreement. After a 15-day deadline starting from the publication to the official gazette and the notification of the transfer decree, concerned property owners are summoned to appear before the conciliation commission by certified mail with return receipt. When an agreement is reached at the conciliation meeting, there is payment for the expropriation compensation, registration of the property transfer to the State, and taking possession of the building.

The legal phase occurs only if the State and the person cannot come to a mutual amicable agreement on the expropriation compensation terms. In this case, concerned owners are summoned to appear before the expropriation judge within 3 months, from the date the transcript of the conciliation commission is issued, an expropriation order is issued by the judge who will also order the payment or consignment of the temporary compensation, or organize if necessary a visit to the location. Based on his conviction, he will then issue an order providing the final compensation amount. The State will thus proceed to the final payment or compensation by remitting the complementary amount, and the title registration in the name of the State will be executed.

Expropriation for cause of public utility is possible regardless of the status or protection of the asset. The withdrawal of land from the national domain for reasons of public utility or general utility is akin to an expropriation and gives rise to payment of a fair compensation in advance. Compensations are determined by taking exclusively into account constructions, modifications, plantations and other cultivations realized by affected occupants. State entities are legally responsible for expropriation for cause of public utility. The national legislation requires that the value of each asset be assessed by representatives of the relevant Ministry. For example, the Directorate of Domains sets the value of lands; the Agriculture Ministry determines the value of cultivations and orchards; the Water and Forest Directorate assesses the value of non-cultivated trees. The methodological basis for computing compensation and determining expropriation costs refer to Senegalese national legislation and to local realities, which provisions are often at odds with key funders. However, these entities increasingly use complementary valuation methods that take into account actual market values.

### ***Procedures based on the land tenure category***

Land expropriation or, generally speaking, the withdrawal of land for project execution applies to several types of land:

#### **Expropriation and compensation of land of the national domain in urban zones**

When the State decides to take back land of the national domain in urban zones for operations of public utility, such as the construction of a highway, it registers the land in its name in accordance with the following rules:

- Declaration of public utility in accordance with applicable expropriation rules to designate the zone required to realize the project;
- Estimate by a commission of the compensation to pay taking exclusively into account constructions, modifications, plantations and other cultivations in the affected zone and realized by beneficiaries;
- Transcript of operations as defined by the Commission which provides relevant information and which defines, as applicable, any measure required for the resettlement of the displaced population.



- Decree enacted in conformity with the transcript of the decision to abandon the affected zone, order the payment of compensation and, if necessary, establish a resettlement program for the zone. The procedure used for compensation is the expropriation for cause of public utility.
- Expropriation and compensation of land of the State domain: when it comes to the natural or artificial public domain, withdrawal of a land by the State does not require compensation. Article 13 of law n°76-66 of July 02, 1976 on the Code of State domain specifies “authorizations to occupy the natural or artificial public domain are granted on a personal, precarious and revocable basis”.

The Domain Administration may do a land exchange if requested by owners or real estate property title holders who chose to be compensated in kind for their land that has been expropriated for cause of public utility. In such case, the Administration of Domains does a document review which starts by consulting and collecting advices of the Land Register and Land Planning offices before introducing the case to the Commission for the Control of Domain Operations (*Commission de Contrôle des Opérations Domaniales*, CCOD). The CCOD must give its advice on the opportunity, the legality and the financial conditions of acquiring real estate property. The commission’s consent is required to draft the act on the exchange of the target land against the one that has been expropriated. The expropriation procedure results in the State or concerned person taking possession of the property and establishes a waiver by the owner or property title holder of monetary compensation.

A land to be developed may be subject to authorizations to occupy under precarious and revocable conditions, ordinary or emphyteutic leases. The authorization to occupy may be revoked at any time, without compensation (art. 37 of law n°76-66 of July 02, 1976 on the Code of State domain). The lease may be rescinded by the State, without compensation (art. 38 of law n°76-66 of July 02, 1976 on the Code of State domain). The emphyteutic lease may also be rescinded by the State, without compensation (art. 39 of law n°76-66 of July 02, 1976 on the Code of State domain).

The entire or partial repossession for cause of public utility, before lease expiration, of a land that has been developed and whose beneficiary possesses an ordinary or emphyteutic lease, may take place following a defined expropriation procedure that provides for a compensation exclusively based on the value of existing constructions and modifications realized in accordance with provisions of the contract executed with the State.

### **Expropriation and compensation of land in the domain of individuals**

For such land, a decree designates the concerned zones and compensation to be paid are estimates by the expropriation commission. Art. 38 of the decree n°64-573 of July 30, 1964 on the conditions of application of law n°64-46 of June 17, 1964 regarding the national domain as modified by decree 91-838 of August 22, 1991 provides for all occupants to be compensated.

### ***Types of compensation***

The State may compensate in kind or in cash. As for compensation in kind (exchange), the Domain Administration may do a land exchange if requested by owners or real estate property title holders who chose to be compensated in kind for their land that has been expropriated for cause of public utility. In such case, the Administration of Domains does a document review which starts by consulting and collecting advices of the Land Register and Land Planning offices before introducing the case to the Commission for the Control of Domain Operations (*Commission de Contrôle des Opérations Domaniales*, CCOD). The commission’s consent is required to draft the act on the exchange of the target land against the one that has been expropriated. This act, produced in at least six (06) copies and signed by the claimant and the administrative authority (Governor or Prefect) assisted by the Receiver General (*Receveur des Domaines*) for the relevant territory must be approved by the Minister in charge of

Domains to be valid. As for monetary compensation, Article 14 of law n° 76-67 of July 2, 1976 specifies that the expropriating party may take possession of the building, upon payment or consignment of a temporary compensation.

***Withdrawal and compensation of land in the domain of individuals***

For such land, a decree designates the concerned zones and compensation to be paid are estimated by the expropriation commission. Art. 38 of the decree n°64-573 of July 30, 1964 on the conditions of application of law n°64-46 of June 17, 1964 on the national domain as modified by decree 91-838 of August 22, 1991 provides for all occupants to be compensated. The compensation will be in kind or in cash.

***Expropriation and compensation of land of the national domain in urban zones***

The State may decide to take back land of the national domain in urban zone for operations of public utility.

***Expropriation and compensation of land in the State domain***

As for land in the State natural or artificial public domain, there is no provision for compensation in case the State takes back the land. Article 13 of law n°76-66 of July 02, 1976 on the Code of State domain specifies “authorizations to occupy the natural or artificial public domain are granted on a personal, precarious and revocable basis”

In case of exchange, the Administration of Domains does a document review which starts by consulting and collecting advices of the Land Register and Land Planning offices before introducing the case to the Commission for the Control of Domain Operations (*Commission de Contrôle des Opérations Domaniales*, CCOD). The CCOD must give its advice on the opportunity, the legality and the financial conditions of acquiring real estate property. The commission’s consent is required to draft the act on the exchange of the target land against the expropriated land.

***Revocation of land of the national domain located in production zones (terroirs).***

Rural councils are entities habilitated at the local level not only to attribute lands, but also to proceed to their abandonment. In the context of the project activities, the rural council is normally habilitated to declare abandonment “when the community’s overall interest calls for a land re-allocation. Under such circumstance, the expropriated party receives an equivalent plot of land as compensation.”

## Annex 5: Compensation mechanism for affected persons

Affected persons must have a right to compensation, either in cash, in kind or in assistance, as described in the table below.

### *Types of compensation*

Type	Description
Payment in cash	The compensation will be computed and paid in the national currency; rates will be adjusted for inflation.
Payment in kind	The compensation may include elements such as land, houses, other constructions, construction material, seedlings, agricultural inputs and credit for equipment.
Assistance	The assistance may include a dispersion, transportation and manpower allowance.

The land-for-land compensation will be assumed by the Program just like other types of compensation included in the total cost of activities.

### **1. Assessment methods for affected property**

Assessment methods for land and affected property are based on their characteristics.

For land, three types have been identified in conformity with legislation of the current political framework:

- Land belonging to the State;
- Land belonging to individuals;
- Land held under customary rights.

Land belonging to the State are transferred at no charge (maybe except for processing and registration fees). Property assets belonging to private individuals should be acquired at their exchange value. The driving principle is that whoever occupies a land to be acquired by the program receive in exchange another land of equal size and value.

#### ***1.1 Calculation of the land compensation rate***

Compensation for transferred and acquired land for program needs includes compensation for:

- Loss of land;
- Loss of infrastructures and built ensembles;
- Fruit trees and other trees;
- Land work;
- Loss of harvest or existing activities.

For greater transparency, a land for compensation is defined as a zone that is:

- Cultivated,
- Prepared for cultivation or,
- Prepared during the last agricultural season.

Land-related compensation will cover the market price of invested labor as well as the market price of the lost harvest. The harvest size is estimated weighing the lost and sown surface area against the average

crop output for the three preceding agricultural campaigns in the region. The unit cost used for land compensation must be updated to reflect values at the time the compensation is paid. Ideally, the assessment commission should come up with a calculation scale that takes into account economic and socio-cultural realities of the area where financed activities are located.

### ***1.2 Compensation of buildings and infrastructures***

Compensation will target replacement of buildings and infrastructures and will include realizations such as huts, houses, latrines, fences, chicken coops, sheepfolds, earth granaries cemented or not, pigsties, etc. All lost infrastructures will be rebuilt on replacement land acquired, indicated or allocated in partnership with municipalities. Moreover, compensation will be paid taking into account a replacement cost which will not cause the structure to be depreciated. The environmental unit of the concerned location will study these costs for administrative purposes on an evolutionary basis, in collaboration with relevant decentralized services and other local actors.

Compensation will occur for the following infrastructures:

- An abandoned infrastructure because of an individual or a household resettlement or re-localization;
- An infrastructure directly damaged by project activities;

Replacement values will be based on:

- The price of materials collected in various local markets;
- The cost of transportation and delivery of materials to the replacement site;
- The construction estimates for new buildings, including the required manpower.

### ***1.3 Compensation for fruit trees, vegetable gardens and other forest products***

Depending on their importance in local livelihood economy and on the type of climate of the site where activities are implanted, these trees and other products will be compensated on the basis of a combination of replacement value (labor and time travail invested in the trees) and the market price. For determining the value of fruit trees and other types of trees, the scale of the Ministry of Agriculture will be used as a guideline. Land with sacred sites, ritual sites, tombs and cemeteries will not be mobilized.

## **2. Compensation payment and related considerations**

Payment of compensations often raise issues of inflation, security, and schedule. One of the objectives of providing compensation in kind is to reduce inflationary tendencies of the costs of goods and services. Inflation can also happen at the local level, therefore, market prices will have to be monitored throughout the period in which compensation occurs to proceed to adjustments of compensation values. The issue of security, particularly for those persons receiving cash compensation payments, as well as the time and places of payments must be resolved by the decentralized services in partnership with relevant actors.

## **3. Compensation process**

To receive compensations, PAPs must be identified and verified by decentralized services. The compensation procedure will contain many stages, including: (i) information and public concertation, (ii) participation, (iii) documentation of assets and property, (iv) establishment of compensation transcripts, (v) execution of compensatory measures before work is launched.

## **4. The information**

Public information constitutes a lingering concern all throughout implementation of program actions. It will have to be emphasized in the identification and planning stage for activities linked to land tenure on one hand and, and to the compensation stage on the other hand.

The decentralized services are in charge of this public information campaign through channels accessible to populations of municipalities.

At the compensation stage, a concertation will be regularly held between identified PAPs and decentralized services in order to define in a concerted manner mitigation and compensation modalities.

### **5. Public participation**

Population participation to the resettlement plan planning and implementation process is a World Bank requirement; the public consultation strategy and participation are vital because they give affected population the opportunity to provide their opinion on the implementation. Particular attention will be paid to public consultation with potentially affected individuals and households at the time the resettlement question will need to be addressed.

Public participation with local communities will have to be an on-going process during resettlement planning and implementation. PAPs will be informed by local structures, supported by regional structures if necessary, during the identification of activities linked to land tenure.

Public participation and consultation are realized with meetings, radio programs, requests for written comments or proposals, filling out forms and surveys, public readings and explanation of activities.

Complementary information to be shared will include:

- The right to a compensation in kind or a compensation in cash equivalent to the replacement cost;
- Methods to utilize for setting indemnity rates;
- Procedures for grievances, including contact information.

Information should be presented in a language and a support accessible to potentially affected or involved persons.

### **6. Documentation of assets and property**

Environmental units, supported by PACASEN's "safeguard" focal person and decentralized services of concerned ministries will collect all PAP relevant information, notably (a) the identity and number of PAPs, and (b) the nature and quantity of affected property. Each affected person will fill out a form to provide all necessary information to determine if she/he is eligible and his/her property is affected. This survey will enable an adequate compensation allocation.

### **7. Convention of the compensation**

The types of compensation agreed upon in a concerted and consensual manner will have to be clearly documented in a compensation and negotiation transcript (*procès-verbal*, PV), signed by the PAP and by the local entity representative.

### **8. Execution of the compensation**

Any compensation settlement (in cash and/or in kind) for affected land and/or property will take place in the presence of the affected party (PAP), of representatives of municipalities, before start of work. Criteria for compensation measures will vary based on the level and importance of the impact of the activity affecting the concerned PAP.

### **9. Execution schedule**

The settlement execution schedule indicates activities to carry out but is set before the start of work. A detailed implementation schedule for each activity requiring land mobilization will be prepared by the decentralized environmental structure. It will have to be conceived before civil engineering work starts and could be drafted along the following model:

*Settlement execution schedule*

<b>Activities</b>	<b>Dates</b>	<b>Budget</b>	<b>Notes</b>
<b>I. Information campaign</b>			
• Information dissemination			
<b>II. Land acquisition</b>			
• Public Utility Declaration			
• Occupation assessment			
• Estimate of compensations			
• Compensation negotiation			
<b>III. Compensation and Payment to PAPs</b>			
• Funds mobilization			
• Compensation payment to PAPs			
<b>IV. Displacement of installations and persons</b>			
• Assistance to displacement			
• Taking possession of the land			
<b>V. Monitoring and evaluation of compensation process</b>			
• Monitoring of the operation			
• Awareness and public consultation			
• Evaluation of the operation			
<b>VI. Start of activity implementation</b>			

The payment of compensation and the provision of other rehabilitation rights (in cash or in kind), and the resettlement if such is the case, will take place at least one month before the date set for the start of work in respective sites.

**10. Process monitoring**

Monitoring of realizations will be accomplished at the same time of monitoring environmental aspects in order to ensure conformity with recommended safeguard measures that are implemented.

**11. Mechanisms of conflict management and reparation**

Existing national legislation mechanisms will be employed:

- As a first resort, an amicable solution is explored,
- If the amicable solution cannot be concluded, an official resolution procedure may be engaged.

**12. Budget and source of financing**

The real total resettlement and compensation cost will be carried by the borrower. Since the construction/rehabilitation sites have not yet been defined, it is not possible, at this stage, to estimate a compensation budget. ADM, in coordination with sectoral ministries and concerned TGs, will ensure funds availability for compensation purposes. This concerted and detailed budget will be established as an integral part of the program. It should highlight all indemnity rights and other rehabilitation. It will also include information on the way funds are transferred, as well as for the compensation program.

However, PACASEN assumes upfront the financial engagement linked to various reparations. To be more explicit, PACASEN commits to financing compensation due to impacts cause by any mobilization of the land heritage, that is total costs related to land acquisition costs, loss compensation costs (agricultural, forests, habitats, etc.), public awareness and consultation costs, and monitoring and evaluation costs. In

short, funds that are necessary to the implementation of said conditions will have to be factored in the program budget through investment plans for TGs.

### **13. Supervision**

The monitoring and evaluation of the present mechanism will have to be integrated into the project monitoring global mechanism at the two levels (central and decentralized).

This mechanism will enable the periodical monitoring and reporting of the maintenance or improvement of living conditions of persons affected by the project. Practically, the following indicators will be monitored:

- **The percentage of activities requiring and having been subjected to an environmental and social selection:** this indicator allows the reporting of the effective application of environmental and social selection of activities by decentralized structures;
- **Number of conflicts or disputes linked to compensation:** this indicator enables an assessment of the level of satisfaction of persons affected by activities in relation to mitigation measures and/or defined and implemented compensation;
- **Number of resolved conflicts**

The supervision and monitoring of issues linked to population resettlement/compensation will systematically be conducted with the supervision and monitoring of environmental and social issues. The surveillance of these aspects will be integrated to performance assessment of the global program. To facilitate the monitoring procedure, monitoring indicators will be developed by PACASEN's Monitoring and Evaluation System.

### **14. World Bank provisions on supervision**

The World Bank will undertake a periodical program supervision to evaluate adherence of requirements defined in this present assessment and to recommend any corrective measure which could be necessary to resolve issues or shortcomings linked to program execution.

To facilitate supervision by the Bank, all documentation related to the mobilization of land matters will be made available to ADM for review by the Bank.

**Annex 6: Simplified diagnostic form (*Fiche de diagnostic simplifié*, FIDS) of environmental and social impacts**

<b>ITEMS #</b>	<b>Possible risks of PACASEN-financed activities</b>	<b>YES</b>	<b>NO</b>
<b>Environmental risks</b>			
1	Does the proposed activity impact a cultural heritage or an archaeological site?		
2	Does the proposed activity impact a natural space that includes a forest, a wetland, a natural habitat, a biological site, a protected zone?		
3	Does the proposed activity impact soils (degradation, erosion, salinity)?		
4	Does the proposed activity impact surface and ground waters (quantity or quality)?		
5	Does the proposed activity impact the air and the atmosphere?		
6	Does the proposed activity generate waste (liquid and solid)?		
7	Does the proposed activity impact workers health and safety?		
<b>Social risks</b>			
8	Does the proposed activity require expropriation of private lands?		
9	Does the proposed activity require an involuntary displacement of populations?		
10	Does the proposed activity require work from children under 15 years of age?		
11	Does the proposed activity require a permanent or temporary restriction of access by populations to their property or to public services?		
12	Does the proposed activity require a temporary restriction or a loss of access by populations (including informal street merchants) to revenue or livelihoods?		
13	Does the proposed activity have a negative impact on a group of persons not involved in this activity?		



14	Does the proposed activity impact populations' health and safety?		
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All activities must be evaluated during the first stages of their preparation.

Activities that involve important and non-reversible environmental and social risks will not be eligible for financing in the framework of this Program.

- If the answer to questions 8 and/or 9 is “YES”, then the activity will be rejected.
  
- If there is one or more “YES” answers to questions 1 to 7 and 10 to 14, appropriate mitigation measures must be identified and evaluated and an Environmental and Social Management Plan (*Plan de Gestion Environnemental et Sociale*, PGES) and/or a Resettlement Action Plan (*Plan d'Actions de Réinstallation*, PAR) will be required for the proposed activity.

Consultant or Engineering Firm

Technical Directorate EIS

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## **Annex 7: Environmental and Social Management Plan and Resettlement Action Plan**

### **1. Environmental and Social Management Plan (*Plan de Gestion environnementale et sociale* PGES)**

An *Environmental and Social Management Plan* (PGES) is a document which enables each developer of sub-project that includes significant environmental and social effects to integrate environmental and social factors in the conception, planning, management and implementation of activities.

A PGES establishes procedures and relevant measures to mitigate their environment and social impact, based on procedures and mechanisms defined in the *Technical Manual*.

A PGES addresses in particular, the following aspects:

- Creation of a complete sub-project Form
- Preparation of environmental and social control/review surveys
- Establishment of work supervision mechanisms
- Documentation of public consultations conducted for PGES
- Set up of a simple and efficient management system for requests and grievances
- Establishment of the monitoring and evaluation of all planned mitigation and compensation measures.
- Definition of the environmental and social reporting system
- Public dissemination of PGES for each accepted sub-project
- Etc.

### **2. Resettlement Action Plan**

A *Resettlement Action Plan* (*Plan d'Actions de Réinstallation*, PAR) is a document that enables the developer of each sub-project requiring the physical displacement of persons, land acquisition, and/or loss of access to natural resources or economic assets to assess social impacts associated with the temporary or permanent resettlement of persons and to propose a specific plan for compensating losses, restoring access to livelihoods, on the basis of procedures and manuals defined in the *Technical Manual*, in particular with regard to the following aspects:

- Definition and implementation of procedures applicable to involuntary resettlement
- Documentation of public consultations conducted by PAR
- Set up of a simple and efficient management system for requests and grievances
- Establishment of a monitoring system for land acquisition procedures
- Establishment of the monitoring and evaluation of all planned measures of compensation and restoration of livelihoods.

## Annex 8: Report on regional and national consultations

# Report on regional consultations conducted in the process of developing the document: PACASEN Environmental and Social System Assessment (ESSA)

### 1. Objective :

The broad consultation set up in the preparation of the Environmental and Social System Assessment (ESSA) and the development of measures aiming to strengthen environmental and social management systems provided a host of information through a participative and inclusive process. Consultation meetings were organized to better communicate results expected from the ESSA, identify the Program's environmental and social challenges, evaluate technical assistance and capacity-building needs to improve environmental and social management systems, develop a better understanding of procedures, standards and approach to adopt with the technical staff of involved ministerial departments.

### 2. Adopted approach

The method employed for the ESSA conducted for PACASEN is founded on a participative and inclusive approach which involved key stakeholders in the planning process of the program, that is:

- The Municipal Development Agency (*Agence de Développement Municipal, ADM*),
- The Agency for the Execution of Public Works (*Agence d'Exécution des Travaux d'Intérêt Public, AGETIP*),
- The Directorate of Local Governments (*Direction des Collectivités Locales, DCL*)
- The City of Dakar
- The DEEC.
- Ten (10) Territorial Governments (TGs),
- Six (6) Regional Development Agencies (*Agences Régionales de Développement, ARD*)
- Six (6) Regional Departments of the Environment and Classified Establishments (*Divisions Régionales de l'Environnement et des Établissements Classés, DREEC*).

The first consultation phase took place at the central level from March 13 to April 06, 2017. In fact, at the central level, the World Bank team (WB), in cooperation with the Municipal Development Agency (*Agence de Développement Municipal, ADM*), conducted a broad consultation of actors to collect data needed to develop the ESSA for PACASEN.

In a second phase, the same WB team, also accompanied by the ADM team, went to several territorial governments inside the country to further the initial diagnostic.

This process led to the first draft of the environmental and social system assessment (ESSA) document, after which a second consultation (from October 19 to October 23, 2017) was set up to exchange findings contained in said document.

The following sections report results of this second consultation series in which concerns and recommendations of various stakeholders were collected.

### 3. Concerns of Actors

*Table 4 : Summary of actors' concerns*

<b>Actors</b> \ <b>Reactions</b>	<b>Concerns</b>
<b>Territorial Governments</b>	<ul style="list-style-type: none"> <li>- Weak capacities in environmental and social management</li> <li>- Need to raise awareness of the importance of environmental and social monitoring with the assistance of DEEC/DREEC</li> <li>- Shortage of qualified human resources in Environment commissions and commissions responsible for social affairs</li> <li>- Weak logistical means</li> </ul>
<b>ARD</b>	<ul style="list-style-type: none"> <li>- Lack of clarification about ARD's role in the environmental and social monitoring of PACASEN</li> <li>- Work overload for ARDs burdened by the preliminary screening of sub-projects</li> <li>- Lack of proficiency in compensation procedures for affected persons</li> <li>- Need of capacity-building in EA procedures for the Manager in charge of Monitoring &amp; Evaluation</li> </ul>
<b>DREEC</b>	<ul style="list-style-type: none"> <li>- Difficulties in implementing the monitoring of environmental and social management plans (PGES) caused by insufficient human resources</li> <li>- Need to strengthen DREECs with environmental focal points who have good knowledge of decentralization policies</li> <li>- Difficulties to work with territorial governments due to their limited capacities in preliminary environmental work (screening)</li> </ul>
<b>Civil Society</b>	<ul style="list-style-type: none"> <li>- Limited means to exercise their control role as citizens in the development process of territorial governments.</li> </ul>

### 4. Actors' recommendations

*Table 5 : Summary of actors' recommendations*

<b>Actors</b> \ <b>Reactions</b>	<b>Recommendations</b>

Actors	Reactions	Recommendations
<b>Territorial Governments</b>	<ul style="list-style-type: none"> <li>- Build capacities of territorial governments in Environment Code ownership and in environmental and social assessment procedure;</li> <li>- Build capacities of members of commissions for census and expense assessment in departments (<i>commissions départements de recensement et d'évaluation des impenses</i>, CDREI) in coordination with territorial governments, for a better understanding of census requirements and compensation evaluation for sub-projects requiring resettlement.</li> <li>- Build capacity of territorial governments in land management</li> <li>- Plan for the recruiting of environment focal points for territorial governments that are PACASEN beneficiaries to ensure adequate handling of environmental and social aspects.</li> <li>- Build capacities of members of commissions for environment and social affairs to ensure internal monitoring of program activities.</li> </ul>	
<b>ARD</b>	<ul style="list-style-type: none"> <li>- Raise actors' awareness on environmental and social stakes;</li> <li>- Set up an operational strategy for environmental and social monitoring that uses indicators;</li> <li>- Find an efficient PGES implementation monitoring mechanism to better accompany territorial governments through PACASEN implementation;</li> <li>- Build capacities of regional monitoring committees for a better understanding of PACASEN's innovative approach and for accompanying territorial governments that are program beneficiaries;</li> <li>- Build capacities of territorial governments in land tenure management;</li> <li>- Build capacities of ARDs' monitoring and evaluation managers in processing preliminary screenings;</li> <li>- Review compensation procedures used by CDREIs to prevent prejudice to affected persons;</li> <li>- Make the environmental and social monitoring system participative and inclusive;</li> <li>- Organize exchange visits to help territorial governments better integrate good practices in local governance and environmental and social management;</li> <li>- Build capacities of regional committees in environmental monitoring for a better handling of sizeable projects</li> </ul>	

<b>Actors</b>	<b>Reactions</b>	<b>Recommendations</b>
<b>DEEC/DREEC</b>		<ul style="list-style-type: none"> <li>- Build capacities of DEEC/DREEC to improve system monitoring (equipping in sonometers, air quality measuring tools, analysis kits for water quality, computerized equipment, etc.);</li> <li>- Build capacities of DREECs and Regional technical committees in training on procedures of classified establishments and on environmental and social risks;</li> <li>- Plan for the recruiting of an environment focal point at the regional level to assist the Head of DREECs to ensure prompt handling of environmental and social issues of territorial governments that are PACASEN beneficiaries;</li> <li>- Extend DEEC/DREEC expertise in environmental and social procedural manuals from support structures to territorial governments (ADM, AGETIP, ARD, ...)</li> </ul>
<b>Civil Society</b>		<ul style="list-style-type: none"> <li>- Involve and further empower the civil society in the development and monitoring process for PACASEN-specific environmental and social assessments;</li> <li>- Build capacities of civil society organizations for better social control of local governance;</li> <li>- Review compensation scales used by the CDREI as they cause prejudice to affected persons;</li> <li>- Strengthen the role of civil society organizations for a better handling of grievance management mechanisms.</li> </ul>

## 5. Conclusion on public consultation

The World Bank team warmly thanks ADM and its entire team for the support they provided in missions for the preparation of this document. The team also thanks all actors it met with for their availability, suggestions and feedback.

## 6. Consultation schedule

<b>Date</b>	<b>Place</b>	<b>Consulted structures</b>
Monday October 09, 2017	Diourbel	ARD
		DREEC
		Diourbel Municipality
		Civil Society

<b>Date</b>	<b>Place</b>	<b>Consulted structures</b>
Tuesday October 10, 2017	Saint Louis	Saint Louis Municipality
		ARD
		DREEC
		Civil Society
Thursday October 12, 2017	Matam	Matam Municipality
		ARD
		DREEC
		Civil Society
Tuesday October 17, 2016	Kédougou	Kédougou Municipality
		ARD
		DREEC
		Civil Society
Wednesday October 18, 2017	Kolda	Kolda Municipality
		Médina Yoro Foula Municipality
		ARD
		DREEC
		Civil Society
Friday October 20, 2017	Kaffrine	Kaffrine Municipality
		Malem Hodar Municipality
		ARD
		DREEC
		Civil Society

# Report on second national consultation meeting conducted in the process of developing the document: PACASEN Environmental and Social System Assessment (ESSA)

Workshop date: Monday October 23, 2017 in Café de Rome

Participants: See list of attendants in Annex 9

## I. Objective and conduct of the workshop

The objective of the national consultation workshop is to exchange on the results of PACASEN environmental and social system assessment (ESSA).

This workshop follows a series of consultations conducted with all concerned actors which included meetings at the central level (from March 13 to April 06, 2017) and consultation sessions with regional and local actors (from October 19 to 23, 2017).

The following sections provide a report on the central workshop activities and results.

## II. ESSA presentation and results from consultation meetings

The World Bank made a presentation on ESSA and how the document was developed.

Results of the second consultation on the ESSA draft were as well presented.

After the World Bank's presentation, ADM provided clarifications on PACASEN and its innovations.

A coffee break followed these interventions, then the meeting was reconvened to launch discussions on the themes presented in the following section.

## III. Presentation of key results from the consultation workshop

### a. Actors' concerns

#### Concerns

- No possible conflict between the prerogatives of ARDs and those of DREECs, since it is clear that DREECs have been exclusively mandated to validate ESAs
- Lack of consultation of the administrative authority, namely Prefects as CDREI chairpersons, and the Governor as chairman of the Regional Committee for environmental monitoring
- Lack of legal texts that define the scope and responsibilities of each actor in terms of



## Concerns

environmental monitoring

- Challenges in sharing information between DREECs and ARDs, notably preliminary work required to make a final determination on the type of study to conduct
- Failure to take into account regional commissions for environmental monitoring (CRSE) in the diagnostic established for ESSA
- Inefficiency of the empowerment of TGs' environmental commissions due to their short term in office (5 years)
- Low number of TGs targeted as PACASEN beneficiaries of its capacity-building program
- Failure to take care of environmental risks resulting from activities in some municipalities such as utilization of POS in gold mines and other extraction activities

## b. Actors' recommendations

### Recommendations

- Establish a legal framework that clarifies responsibilities in environmental monitoring at the regional level (CRSE)
- Plan and communicate tasks upfront so DEEC and DREECs may carry out their program duties in a timely fashion
- Agree on the environmental work to do, notably between ARDs and DEEC
- Provide diagnostic and capacity-building to CRSE
- Incite TGs to set up environmental services instead of environmental commissions
- Invite various structures to share their manual of procedures with relevant services of the Environment Directorate
- Integrate in PACASEN municipalities which present severe environmental risks such as use of persistent organic pollutant (POS)
- Entrust civil society organizations (CSO) with PACASEN social intermediation activities in addition to their vested function of citizen control.

## IV. Closing of the workshop

Following discussions, the World bank team and ADM representatives provided answers to questions raised, notably that regarding the need to extend PACASEN to all territorial governments.

The ESSA draft has been validated provided that new recommendations be taken into consideration in the final report.

The workshop was closed at 13h30.

**Annex 9: List of persons met during ESSA preparation**