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INVESTMENT POLICY REVIEW



SEYCHELLES



UNITED NATIONS



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Geneva, 2020

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

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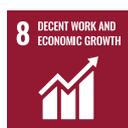


PREFACE

UNCTAD Investment Policy Reviews (IPR) are intended to help countries improve their investment policies with the objective of meeting the Sustainable Development Goals (SDG) and to familiarize governments and the international private sector with an individual country's investment environment. The reviews are considered by the UNCTAD Commission on Investment, Enterprise and Development. The analysis is based on the Investment Policy Framework for Sustainable Development (IPFSD) and its core principles and guidelines (UNCTAD, 2015). The recommendations of the IPR are then implemented with the technical assistance of development partners, including UNCTAD. The support to beneficiary countries is delivered through a series of activities that can span several years. Consistent with the SDGs, IPRs encourage official development assistance and investment in countries where needs are greatest. The IPR recommendations are in line with countries' national development plans and focus on key development sectors, including agriculture, mining, manufacturing, tourism and infrastructure. By helping countries in this manner, the IPR programme notably contributes to:



SDG 1 target b: “to create sound policy frameworks at the national, regional and international levels, based on pro-poor and gender-sensitive development strategies, to support accelerated investment in poverty eradication actions”.



SDG 8 target 2: to “achieve higher levels of economic productivity through diversification, technological upgrading and innovation, including through a focus on high-value added and labour-intensive sectors”.



SDG 10 target b: “to encourage official development assistance and financial flows, including foreign direct investment, to States where the need is greatest, in particular least developed countries, African countries, small island developing States and landlocked developing countries, in accordance with their national plans and programmes”.



SDG 17 target 3: “to mobilize additional financial resources for developing countries from multiple sources”.

The IPR of Seychelles was initiated at the request of the Department of Investment of the Ministry of Finance, Trade, Investment and Economic Planning of Seychelles. It analyses the legal and regulatory framework for investment, and contains a strategic analysis on how to remove obstacles to entrepreneurship and investment following the UNCTAD Entrepreneurship Policy Framework (EPF). The IPR is based on a fact-finding mission undertaken in January 2020, as well as additional information made available to UNCTAD until 31 August 2020. The mission received the full cooperation of the relevant ministries, departments and agencies, in particular the Department of Investment and the Department of Industry and Entrepreneurship Development. The mission also benefited from the views of the private sector, both foreign and domestic, as well as bilateral partners and development agencies. The Government of Seychelles provided logistical support to the IPR process and the United Nations Development Programme made substantive contributions. A preliminary version of this report was shared with the Government in May 2020. This final version reflects comments and suggestions gathered from stakeholders.

Geneva, September 2020



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ABBREVIATIONS

ADB	African Development Bank
ARIPO	African Regional Intellectual Property Organization
BEPS	Base Erosion and Profit Shifting
BIT	bilateral investment treaty
BT	Business Tax
BTA	Business Tax Act
CBS	Central Bank of Seychelles
COMESA	Common Market for Eastern and Southern Africa
CSR	corporate social responsibility
CSRT	Corporate Social Responsibility Tax
DIAE	Division on Investment and Enterprise
DICT	Department of Information Communications Technology
DOI	Department of Investment
DOIED	Department of Industry and Entrepreneurship Development
EIA	environmental impact assessment
EPF	Entrepreneurship Policy Framework
ESA	Enterprise Seychelles Agency
EU	European Union
FCA	Fair Competition Act
FDI	foreign direct investment
FET	fair and equitable treatment
FIU	Financial Intelligence Unit
FSA	Financial Services Authority
GDP	gross domestic product
GOP	Gainful Occupation Permit
HLDBC	High-Level Ease of Doing Business Committee
IBC	International Business Companies
ICSID	International Centre for the Settlement of Investment Disputes
ICT	Information and Communication Technology
IEA	Industrial Estate Authority
IIA	international investment agreement
ILO	International Labour Organization
IMF	International Monetary Fund
IP	intellectual property
IPA	investment promotion agency
IPFSD	Investment Policy Framework for Sustainable Development
IPR	Investment Policy Review
ISDS	investor–State dispute settlement
ITZ	International Trade Zone
JAMPRO	Jamaica Product Corporation



JAPEX	Jamaica Production Exchange
MDAs	Ministries, departments and agencies
MEC	microenterprise centres
MEECC	Ministry of Environment, Energy and Climate Change
MEHRD	Ministry of Education and Human Resources Development
MFTIEP	Ministry of Finance, Trade, Investment and Economic Planning
MHILT	Ministry of Habitat, Infrastructure and Land Transport
MSMEs	micro, small and medium-sized enterprises
NBS	National Bureau of Statistics
NDS	National Development Strategy
NIS	national innovation system
NISTI	National Institute of Science, Technology and Innovation
OECD	Organization for Economic Cooperation and Development
PE	public enterprise
PPP	public–private partnership
PUC	Public Utilities Corporation
R&D	research and development
SAA	Seychelles Agriculture Authority
SADC	Southern African Development Community
SBC	Seychelles Broadcasting Corporation
SCCI	Seychelles Chamber of Commerce and Industry
SCR	Seychellois rupee
SDGs	Sustainable Development Goals
SEFT	Seychelles Electronic Funds Transfer
SeyCCAT	Seychelles Conservation and Climate Adaptation Trust
SFA	Seychelles Fisheries Authority
SIB	Seychelles Investment Board
SIDS	Small Island Developing States
SLA	Seychelles Licensing Authority
SME	small and medium-sized enterprises
SRC	State Revenue Committee
STI	science, technology and innovation
TIP	treaty with investment provisions
TMT	Tourism Marketing Tax
TRIPS	trade-related aspects of intellectual property rights
TVET	technical and vocational education and training
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNIDO	United Nations Industrial Development Organization
UNECA	United Nations Economic Commission for Africa
VAT	value added tax
WHT	withholding tax
WTO	World Trade Organization



KEY MESSAGES

- The economic and social performance of Seychelles has been exceptional in recent years. It is the only high-income country in sub-Saharan Africa, with the highest Human Development Index on the continent. Foreign direct investment (FDI) has contributed significantly to these achievements; it is present in a range of industries, traditional ones such as tourism and fisheries, and also in telecommunications, financial and healthcare services.
- Critical threats jeopardize the country's accomplishments. As is the case for other small island developing States (SIDS), climate change is an existential menace, while the COVID-19 pandemic has accentuated the exposure to exogenous shocks, including a heavy reliance on imports and dependence on tourism.
- A productivity and innovation gap opened up between the sectors which have attracted FDI and those reserved for local entrepreneurs. Despite progress made, several constraints limit the development of the local private sector, which affect its capacity to tap the expected benefits of FDI, including through business linkages, and fuel income inequalities.
- Seychelles has started revisiting its development model to tackle the challenges it faces. The country is at the forefront of the international action against climate change, and is deploying considerable efforts to achieve the sustainable development goals (SDGs). Vision 2033, the development blueprint, targets an ambitious paradigm shift for the country to become a knowledge-based and innovation-driven economy, with private investment and entrepreneurship playing a central role.
- To move forward from the legacies of the past that still permeate the environment for business, the role of the State has to become one of a facilitator and enabler of entrepreneurship and innovation rather than of a gatekeeper. This calls for a new approach, supported by an effective legal and regulatory framework, streamlined permitting processes, eGovernment solutions and more emphasis on policy monitoring and evaluation.
- Achieving Vision 2033 and limiting the impact of the COVID-19 pandemic will need more than reforming the legal and regulatory aspects of the environment for business, especially in light of the negative consequences on tourism. The economy requires new skills, innovation and competition to strengthen local productive capacities and enhance resilience to shocks.
- Thanks to the recent policy initiatives, the key pillars of an entrepreneurial ecosystem have been established. For these initiatives to become fully effective, the Government will have to clarify the synergies between investment and entrepreneurship policies, to set specific targets for the type of investors and entrepreneurs needed, and to strengthen institutional coordination, involving the public and private sectors, domestic and foreign investors as well as academia and civil society.

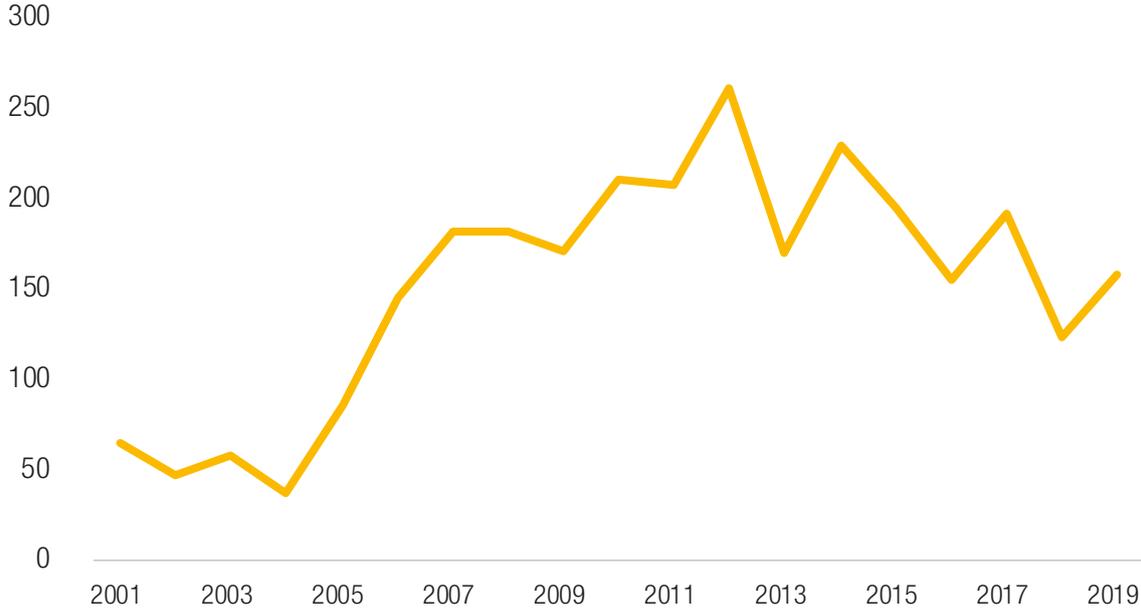
CONTEXT

The economic and social development of Seychelles has been remarkable. Ever since independence in 1976, the country has experienced steady income growth, supported by significant investment in infrastructure and social services. A socialist-oriented development strategy prevailed until the early 2000s, when pressures on national finances, partly due to low tax revenues, led to serious macroeconomic instability. This culminated in a sovereign debt crisis in 2008.¹ As part of the debt restructuring strategy, the exchange regime was liberalized, tight fiscal and monetary policies were introduced, and the State's presence in the economy was gradually reduced, allowing greater space for the private sector. The reforms had a remarkable impact and, in 2015, Seychelles became the first (and only) high-income country in sub-Saharan Africa, with the second highest gross domestic product (GDP) per capita and the first on the Human Development Index among African countries.

Foreign investors have played a key role in the country's recent economic history... Foreign direct investment (FDI) has contributed to the growth performance of the country over the last decades, and has played a major role in the development of key economic sectors, including tourism (the single largest sector, which accounts for over 20 per cent of GDP and employment),² fisheries and seafood (which is responsible for over 90 per cent of exports), as well as financial services and telecommunications. The first foreign investors entered the market with the early privatization of some tourism and manufacturing activities in the 1990s. At the time, the management of large hotels was leased to major international chains. It also coincided with the acquisition by Heinz European Seafood of a majority stake in the tuna cannery, leading to a substantial expansion of the fisheries sector.³

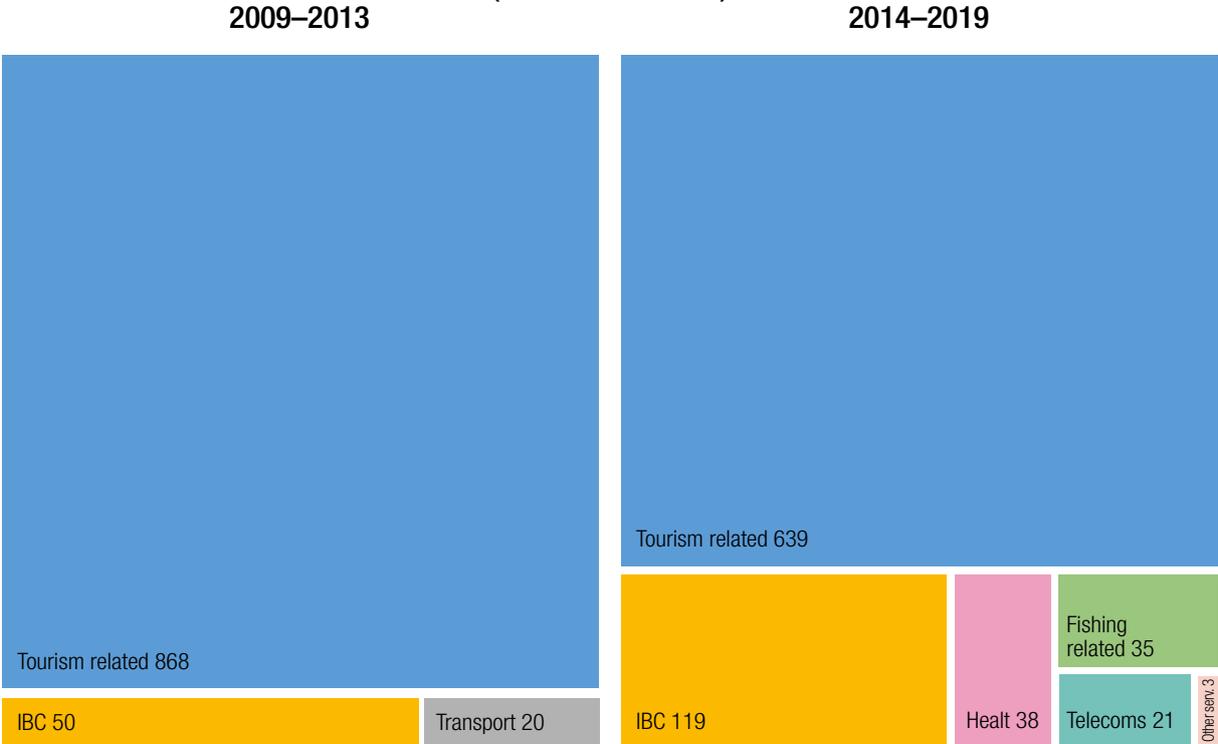
...and FDI inflows have surged after the broad economic reforms of the mid-2000s. The increase was led by new tourism development projects, but also telecommunications, some manufacturing (mainly fisheries), financial services and transport. The partial privatization of Air Seychelles in 2012, when 40 per cent of the company was sold to Etihad (United Arab Emirates) and two large tourism projects explain the FDI peak of 2012 (figure 1). Despite the international economic and financial crisis and a moratorium on the construction of new large hotels in effect since 2015, Seychelles has almost doubled its stock of FDI since 2010 (table 1). Data from the Central Bank of Seychelles (CBS) and the Seychelles Investment Board (SIB) also indicate that FDI inflows have become more diversified in recent years. The reduction in tourism-related FDI in 2014–2019 compared to 2009–2013 (down from \$868 million to \$639 million) was in good part compensated by an increase in investment in the International Business Companies (IBC) sector (offshore corporations), but also in other sectors, such as health, fishing and telecommunications (figure 2).

Figure 1. FDI inflows to Seychelles, 2000–2019
(millions of dollars)



Source: Central Bank of Seychelles (CBS).

Figure 2. FDI by sector in Seychelles
(millions of dollars)



Source: SIB.

Notes: Data do not include reinvested earnings. Sectoral data are preliminary for 2019.

IBC: estimates for offshore registration. Tourism related includes private purchases of real estate by foreigners and privatization.

Seychelles has outperformed other island countries in FDI attraction. Comparing this performance with that of other small island developing States (SIDS) at similar levels of development and population around the world shows that Seychelles is in the middle of the range in terms of average FDI inflows, and inflows as a percentage of gross fixed capital formation (table 1). However, when taking into account the size of the population and GDP, then Seychelles is the second-best performer in FDI attraction, after the Bahamas, whose economy relies heavily on tourism and financial services, and immediately before Saint Kitts and Nevis, which, in addition to these two sectors, has successfully attracted FDI into a range of manufacturing activities.

Despite a strong economic performance, the sustainability of Seychelles' development model is threatened by economic and social challenges. Until the emergence of the COVID-19 pandemic, the tourism sector continued to grow, with the number of visitors increasing by an annual average of more than 10 per cent over the last 10-year period, according to the Seychelles Tourism Board. Macroeconomic performance also remained solid, supported by rising tourist earnings and strong output in the fishing industry (IMF, 2019). The Government promptly adopted measures to mitigate the effects of the pandemic, ranging from fiscal and financial reliefs to support and facilitation.⁴ The pandemic, however, constitutes a major threat for Seychelles, as it directly affects its main economic sectors, in particular tourism, generates transport, logistics and supply chain disruption risks and adds to the challenges associated with Seychelles' status as a SIDS. These include its small domestic market (the population stood at 98,055 in 2019), distance from export markets, weak economies of scale, dependence on imports of fossil fuel, scarcity of land and limited labour supply. These factors contribute to constrain economic diversification and increase vulnerability to external shocks. Although only 0.25 per cent of the population lives on \$1.25 or less a day, a recent survey by the National Bureau of Statistics (NBS) found that the incidence of multidimensional poverty stands at 32 per cent of the population. The people in this group experiences deprivation related to the standards of living, education, health, nutrition and employment (NBS,2019a).

Climate change also poses an additional and existential threat. Seychelles is an archipelago of 115 small islands spread over an exclusive economic zone. It extends to some 1.4 million square kilometres (about 30 times the entire landmass of the country), and is adjacent to one of the world's major tuna fishing zones. Given its geographical configuration and main economic activities, the country is severely exposed to the effects of climate change. It already suffers from rising temperatures, with a dramatic increase of the number of warm days and sea level due to storm surges. The changing climatic conditions are also affecting the marine and coastal life, and thus the fisheries sector, while beach erosion and coral bleaching threaten the main pillar of the economy. Agriculture, along with forestry, is also affected. The sector accounted for 1.2 per cent of GDP in 2016, explained by a lack of arable land but also by the effects of extreme climate changes (UNECA, 2018).

Table 1. FDI attraction performance of Seychelles and selected island economies

Country	Average inflows of foreign direct investment						Foreign direct investment stock				
	Millions of dollars		Per capita (dollars)		Per \$1 000 gross domestic product		As percentage of gross fixed capital formation		Total (millions of dollars)	Per capita (dollars)	Percentage of gross domestic product
	2010–2014	2015–2019	2010–2014	2015–2019	2010–2014	2015–2019	2010–2014	2015–2019			
Seychelles	216	157	2 330	1 635	193	105	52	31	3 145	32 173	187
Antigua and Barbuda	87	111	966	1 166	74	73	31	29	1 109	11 417	64
Bahamas	1 736	922	4 753	2 419	164	76	56	34	25 353	65 095	200
Barbados	428	270	1 509	944	92	55	57	38	7 488	26 089	141
Cabo Verde	138	113	273	210	77	63	20	19	2 169	3 943	108
Maldives	312	463	783	929	103	95	39	35	4 775	8 994	84
Mauritius	440	384	351	303	38	29	17	16	5 765	4 541	41
Saint Kitts and Nevis	127	88	2 535	1 702	152	90	53	29	1 775	33 596	171
São Tome and Príncipe	29	35	155	166	121	92	96	30	269	1 250	62
Singapore	57 482	76 788	1 0725	13 442	203	227	75	84	1 697 556	292 463	469
Tonga	41	13	405	122	94	27	37	11	465	4 451	88
SIDS*	1683	2348	158	209	24	32	12	16	50 612	4 351	65

Source: UNCTADStat.

Note: * excluding the offshore financial centres in the Caribbean (Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Barbados, the British Virgin Islands, the Cayman Islands, Curaçao, Dominica, Grenada, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sint Maarten and Turks and Caicos Islands).

Low levels of local entrepreneurship and innovation have generated a dual economy, split between sectors with FDI presence and those reserved for domestic investors. Seychelles has adopted a prudent and selective approach to FDI entry, imposing regulatory limitations on the type of activities in which foreign investors are welcome (see chapter I). Given the size of the country, the scarcity of land and the need to preserve natural resources, the approach has, to a large extent, served the country well. However, as discussed in chapter II, a competitiveness gap is emerging between the sectors with FDI presence, which are more exposed to competition and modern management techniques, and those reserved for local business, where low levels of competition have stifled development and innovation (see chapter I). The lack of entrepreneurial drive among youth, limited training in entrepreneurship and business creation, and a mismatch between the skills level of job seekers and the needs of the private sector is observed (ADB et al., 2017). Beyond productivity levels, these factors affect the quality of goods and services produced locally. They also impact on the capacity of the local private sector to derive benefits from FDI and from the large number of tourists visiting the country every year (that now total over three times the size of the local population) and increase the exposure of the economy to exogenous shocks, such as the COVID-19 pandemic.

The authorities have developed ambitious plans to address these challenges. The Government is seeking to safeguard the sustainability of its development and further accelerate progress. For this purpose, it has launched, in July 2019, *Vision 2033*, which outlines four scenarios for the country's future. The most ambitious scenario, the *Garden of Eden*, aims to achieve an economy which has been transformed and diversified to become more resilient to external shocks, in which high-value tourism continues to thrive and is more sustainable, the blue economy flourishes, the financial sector is sound and Seychelles has established a niche market in specialized offshore financial services. This scenario is to be achieved through the implementation of three five-year national development strategies (NDS), the first of which was already adopted (NDS 2019–2023) and is based on six pillars including: good governance, people at the centre of development, social cohesion, innovative economy, economic transformation, and environmental sustainability and resilience. *Vision 2033* recognizes the role of the private sector and FDI in the achievement of the desired scenario and aims “to create an enabling environment for free enterprise and entrepreneurship, foreign direct investment and global partnerships”. The NDS relies for its implementation on the development of sector-specific strategies by the different ministries, departments agencies (MDAs).

This Investment Policy Review seeks to improve the environment for entrepreneurship and investment and contribute to achieve *Vision 2033*. To assist Seychelles meet the objectives of economic development, diversification and sustainability of *Vision 2033*, this Review maps and assesses the country's legal, regulatory and institutional framework for investment and enterprise development (chapter I) as well as the complementary aspects of the entrepreneurial ecosystem, including investment and entrepreneurship strategies, the levels of education, skills and innovation, access to finance and networks among entrepreneurs, as well as the institutional support for investment and entrepreneurship (chapter II). For each of these, it provides concrete policy recommendations. The analysis and recommendations are based on UNCTAD's Investment Policy Framework for Sustainable Development (IPFSD) and Entrepreneurship Policy Framework (EPF) (UNCTAD, 2015 and 2012). References are also made, throughout the report, to the results of the stakeholders' survey conducted for the preparation of this report (annex I).



Chapter

1 Legal
framework
for
investment





Seychelles has adopted a cautious approach to attracting investment, restricting FDI to a limited number of economic activities, not only as a result of its political history but also for market protection and environmental considerations. To a large extent, this approach has served the country well, as it has helped to avoid some of the risks associated with FDI, such as the crowding out of domestic investment or the mass tourism seen elsewhere. Nonetheless, it has also meant that Seychelles has foregone some of the main benefits associated with FDI, including stimulating competition, entrepreneurship and innovation on the internal market (chapter II). Furthermore, many laws, regulations, policies and practices have cumulated over time, with the primary intent to orient, protect and regulate economic activity, but seldom with sufficient attention to promote or facilitate it. Together with an emphasis on *ex ante* controls and processes, they have resulted in a complex investment environment, which is difficult to navigate for investors, and often also for the ministries, departments and agencies (MDAs) in charge of the day-to-day implementation. A change of paradigm in the approach to private sector development and FDI is required to increase the dynamism and resilience of the local economy, characteristics that are even more urgent and relevant in light of the challenges posed by the COVID-19 pandemic and the exogenous shocks associated with it. This involves a streamlining of the regulatory environment and a removal of obstacles to investment and entrepreneurship to support the growth of micro, small and medium-sized enterprises (MSMEs), and increase the levels of competition, innovation and competitiveness.

A. FDI-SPECIFIC LEGAL AND REGULATORY FRAMEWORK

Several texts govern the FDI-specific legal and regulatory framework. The National Investment Policy of 2018, the Investment Act (Act 31 of 2010, as amended)⁵ and the Investment (Economic Activities) Regulations (Statutory Instrument (SI) 71 of 2014) form the backbone of the national investment framework. These texts coexist with policies and procedures developed and implemented by the MDAs. In addition, Seychelles has concluded five bilateral investment treaties (BITs), two of which (with Cyprus and France) are in force, and is a party to five treaties with investment provisions (TIPs) (annex II).⁶

1. Entry and establishment

The definition of investment is broad. The Investment Act contains a broad definition of investment, which comprises “any contribution made by any person to start or expand an economic activity” and can include tangible and intangible assets. In turn, the investor is defined by reference to the investment and can be a Seychellois or a foreigner, a natural or a legal person. In the Investment Act, the investor’s nationality is determined for natural and legal persons respectively by their citizenship or by the level of control and management, with no indication of the qualifying equity control share threshold (i.e. the relevant share of foreign participation in the entity). Similarly, Seychelles’ BITs contain a broad asset-based definition of investment, which covers every kind of asset held or invested directly or indirectly by the investor from the other contracting party.

Restrictions to FDI entry stem from a complex web of legal texts... They are primarily contained in two lists, the Schedules of the SI 71 of 2014. The First Schedule is a negative list of small to medium-scale activities reserved to Seychellois (annex III). Originally, a positive list of activities fully open to FDI was envisaged as part of SI 71. However, it was eventually dropped and SI 71 is being reviewed to reintroduce a positive list, among other changes (see below). Currently, the Second and Third Schedule lists activities in which FDI entry is conditional on partnerships with Seychellois (within specified participation thresholds), as well as activities in which FDI entry is subject to an economic-needs test. Criteria considered in the economic-needs test include the provision of new services, improvement of productive infrastructure and implications for employment of Seychellois. Due to their nature, it could be harder for the type of activities included in this list to meet these criteria.⁷ Activities which are not in the two Schedules and are not the object of a specific policy (see below) are examined on a case-by-case basis. As the result of statutory monopolies, utilities (e.g. electricity, water) and fuel supply (until the distribution at the pump, which is excluded from the monopoly) are closed to domestic and foreign investors (section F).

...and policies, written or not. In addition to the SI 71 of 2014, different policies justified by environmental, land and food security concerns affect investment in tourism, agriculture and the blue economy. Some apply equally to domestic and foreign investors, notably the policy forbidding the vertical integration of economic operators in Praslin and the moratorium on the construction of large-sized hotels, an industry largely dominated by foreign investors, which has been in place since 2015, with the objective of limiting mass tourism.⁸ Though it does not appear in any text, the Ministry of Fisheries and Agriculture indicated, during the UNCTAD fact-finding mission, that a policy restricts the entry of foreign investors to agriculture and its value chain, including processing.

However, discrepancies exist. Some agriculture-related activities are included in the First Schedule of the SI 71 of 2014 and/or in the list of the economic-needs test list, e.g. animal or livestock keeping or fruit and vegetable farming, and should therefore be either fully closed to FDI or potentially open to it depending on the results of the economic-needs test. There are also other exceptions to the policy in the practice, given the presence of a foreign investor in the milk-processing industry. Finally, draft regulations on aquaculture, which should define FDI entry requirements in this activity, were prepared and are being considered by the Office of the Attorney-General.

All foreign investments are screened. The screening – the “SIB approval” – is a legacy of the Investment Code of Seychelles Act of 2005 (Act 13 of 2005). Even if it is not part of the Investment Act of 2010, in practice, all foreign investors must submit the concept of their projects to the SIB, which then dispatches the related documents, notably the business plan, to referral agencies to approve, provide comments or reject them. Commercial banks require the resulting SIB non-objection certificate and/or the licence when giving credit (section B). In some cases, domestic investors also are required by licensing authorities to undergo this screening. The MDAs involved in the screening change depending on the activity considered and include the Department of Environment, the Financial Intelligence Unit (FIU), the Public Health Authority, the Planning Authority and the Public Utilities Corporation (PUC). According to the SIB, the time to obtain the non-objection certificate varies between two weeks and three months.

The lack of clarity and predictability regarding FDI entry creates difficulties for investors and MDAs, and contrasts with the stated policy objectives. The criteria against which the SIB approval is examined are unclear and, thus, subject to interpretation. In addition, the MDAs involved in the process will examine again the project concepts at least twice at other stages of the establishment process, creating duplication and a waste of resources (sections B, C and H). Finally, despite the presence of a provision on confidentiality in the Investment Act, concerns were raised by investors regarding secrecy. One of the goals of these restrictions is to protect the domestic private sector from harmful competition by foreign investors. This approach, however, has also contributed to the low levels of innovation and competitiveness of the domestic economy in sectors closed to FDI and to the limited interactions between domestic and foreign investors, thus foregoing one of the main benefits expected from FDI (context and chapter II).

The SI 71 of 2014 is being amended, with the aim of clarifying the economic-needs test procedure and the entry restrictions... In the draft revised regulations, approved by the Cabinet of Ministers and being drafted by the Office of the Attorney General, four categories of FDI entry restrictions are established: the First and Second Schedules are positive lists which define, respectively, activities fully open to foreign investment and those for which a partnership with a Seychellois is required, in principle in line with the country’s World Trade Organization (WTO) commitments. The two Schedules are complemented by a Reserved Economic Activity Policy, comprising almost the same activities as those currently reserved to Seychellois in the first Schedule of the SI 71 of 2014. Projects in activities that are neither in the First and Second Schedules, nor in the Reserved Economic Activity Policy, are to undergo an economic-needs test. The revised regulations also aim at clarifying the economic-needs test process by introducing an economic-needs test Committee⁹ and expanding the criteria considered, by introducing more detailed sub-criteria attached to scores and weights. An economic-needs test manual is also included to ensure consistency. It is expected that the economic-needs test Committee would have the SIB as its secretariat. It will be important to ensure that SIB is not involved in the decisions regarding the test, which would clash with its investment facilitation and promotion functions, and thus counter best practice (chapter II).

... **but this new approach could signal additional closure of the economy.** In general, positive lists, by defining activities in which foreigners can invest, either fully or partially, signal a lower degree of openness than negative lists, which open the recipient economies to FDI in all but the listed activities. The revised regulations would introduce a mix of the two types of restrictions, with the objective of channelling FDI to activities that are considered less accessible by domestic investors. While this approach may add some clarity to the current entry regime in the short term, in the longer term it risks further increasing the divide between domestic and foreign investors (context and chapter II), discourage investments in innovation and hamper the attractiveness of the country outside the traditional sectors, such as tourism or financial services.

2. *Treatment and protection*

The Investment Act and the BITs provide for the free transfer of funds. Investors are allowed to transfer all funds related to the investment, including earnings of foreign workers. Foreign investors can open bank accounts in Seychelles and there are no foreign exchange restrictions. The country has adhered to Article VIII of the Articles of Agreement of the International Monetary Fund (IMF), and the Investment Act lists a number of exceptions in line with good practice.¹⁰ The BITs signed by Seychelles also contain a clause on the free transfer of any investment-related funds, and the BITs with China and France contain an exception in case of balance of payments difficulties, providing non-discrimination is preserved.

They also offer protection against expropriation, direct and indirect. Prompt compensation at market value is offered in case of expropriation, which can only take place for the public interest and on a non-discriminatory basis. Legal recourse against expropriation is provided for in the Act (see below). The same compensation guarantees are also emphasized in Article 26 of the Constitution and the Acquisition of Land in the Public Interest Act of 1996 (Act 9 of 1996). The BITs contain clauses on direct and indirect expropriation, but without clarifying or limiting their applicability. No cases of expropriation were reported to UNCTAD during the fact-finding mission.

Fair and equitable treatment (FET) is the only standard of treatment in the domestic legislation. The National Investment Policy and the Investment Act do not contain any non-discrimination clause and FET is the standard of treatment. It is unqualified, which increases the vulnerability of the country to claims by investors (UNCTAD, 2011). The absence of qualifications regarding the scope of application of the FET standard might be interpreted to extend it to the pre-establishment phase as of the date of the commencement of the Act. The domestic investment regime does not refer to national treatment or non-discrimination. The access to land is the only area where there are deviations to the non-discriminatory treatment of foreign investors (section C). The BITs contain post-establishment national treatment and most-favoured nation clauses, as well as exceptions to the treaty's non-discrimination rules for economic integration agreements and taxation, in addition to an FET clause. FET is unqualified in the BIT with Egypt but qualified with reference to the principles of international law and with a non-exclusive list of standards in the BITs with China and France.

Legal remedies available to foreign investors against decisions of the State are limited. The Investment Act provides for the establishment of an Investment Appeal Panel to review, at the request of the investor, a decision made by an MDA regarding an investment or a planned investment. Its decisions can be appealed at the Supreme Court. The members of the Panel are appointed by the President, who can terminate their term in case of "any misconduct, default of breach of trust in the discharge of (their) duties",

thus introducing the risk of political interference.¹¹ In addition, while the members of the Panel may regulate their own proceedings, their number is even, and the Act does not provide whether decisions must be taken at the majority or unanimously. As of end of August 2020, the Panel had not yet been established. No other legal recourse is mentioned in the Investment Act, except in case of nationalization and expropriation, where investors have access to constitutional or other remedies under the laws of Seychelles, or may resort to other methods of resolution of disputes provided for in any agreement between investors and the Government. This provision may encourage the proliferation of individual contracts between investors (particularly the large ones) and the State. Seychelles has ratified the Washington Convention of 1965 in 1978. It is consequently a member of the International Centre for the Settlement of Investment Disputes (ICSID). However, the country has included a reservation to the New York Convention of 1958, to which it acceded on 3rd February 2020, limiting the scope of recognition of foreign awards to commercial arbitration.¹²

Access to investor-State dispute settlement (ISDS) is granted in the BITs. Arbitration is available to investors generally under the ICSID Rules or through the United Nations Commission on International Trade Law Rules. Domestic courts of the host State are also an option in the BITs with China and Egypt. All ISDS clauses in the BITs are broad, covering any dispute relating to investment, and require six months of amicable negotiations before a claim can be submitted to arbitration or to a domestic court. The BITs in force do not include any exceptions related to, for example, public policy, environmental protection, public order or national security. To date, Seychelles has been a respondent in one contract-based ICSID case¹³ and the home state of the plaintiff investor of three treaty-based ISDS cases.¹⁴

The scope and depth of the investment provisions in the TIPs vary. They range from binding substantive investment protection, e.g. the Southern African Development Community (SADC) Protocol on Finance and Investment (2016) and the Investment Agreement for the Common Market for Eastern and Southern Africa (COMESA) Common Investment Area (2007); to provisions on investment cooperation, e.g. the Eastern and Southern Africa States – European Union (EU) Interim Economic Partnership Agreement (2009), the Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States and the EU (2000) and the COMESA-United States Trade and Investment Framework Agreement (2001). Seychelles is also a signatory to the African Continental Free Trade Area (2018), which will include a separate protocol on investment expected to be negotiated and finalized in the course of 2020.

3. Assessment and recommendations

Seychelles has adopted a series of instruments with the aim of selectively attracting FDI, while, among others, protecting the domestic private sector from competition. This approach, which has contributed to successfully channel FDI towards tourism and the financial sector, may be ill-suited to attract the type of investment and investors that may help revitalize the domestic economy and move it towards a knowledge- and innovation-based economy, as per the goals of the NDS 2019–2023. The comprehensive screening mechanisms, not supported by clear criteria, and the lack of clarity in the approach to FDI generate uncertainty and risks. Smaller investors may feel deterred from investing, particularly those companies and entrepreneurs in the services sector, that are more likely to contribute to increasing the competitiveness of the local economy, the quality of services and the adoption of new ideas and processes, which are essential to improving the resilience of the country's economy to exogenous shocks, including the COVID-19 pandemic.



Given the specificity of the country as a SIDS, FDI entry restrictions are justified. However, they need to be better aligned with the country's development objectives. Openness, transparency, consistency and particularly predictability, are priorities as highlighted by the National Investment Policy. This should be reflected in the legal texts. In the international legal framework, the review of Seychelles' treaty network shows that it mainly consists of first-generation IIAs. The Department of Trade indicated during the fact-finding mission that the Government of Seychelles made the decision to halt on the negotiation and conclusion of BITs. However, should the Government wish to modernize its treaties and bring it in line with current sustainable development imperatives, options are available.

In light of the above, the Government should consider to:

1. Remove the "SIB approval" procedure. The policy concerns considered at this stage are already addressed through the permitting processes in place for company incorporation, licensing, access to land and environmental impact assessment (EIA) (see sections B and H). The procedure could be replaced by a registration of foreign investments at SIB for the purpose of collecting FDI statistics only.
2. Adopt a phased approach to reform the FDI entry regime:
 - Short term: proceed with the planned amendment of the SI 71 of 2014 to clarify existing entry conditions and review the procedure of the economic-needs test by making it subject to clear and pre-determined criteria.
 - Longer term: as the other reforms to increase the resilience and competitiveness of the domestic private sector recommended in this report are adopted, consider compiling entry restrictions in a single list, preferably a negative one (see also chapter II, section 1), and removing the economic-needs test. Alternatively, the test could be limited to investments which raise national security concerns, such as defence or biotechnologies.
3. Amend the Investment Act to:
 - Replace FET as the standard of treatment with non-discrimination or national treatment and limit it explicitly to the post-establishment phase. A provision defining a carve-out for access to land could be introduced, given the legitimate concerns linked to the size of the country and the environment protection concerns.
 - Consider clarifying the legal recourses available to investors for ISDS. This could include a reference to the access to domestic courts by foreign investors, to alternative dispute resolution mechanisms, as well as an extension of the recognition of investment-related arbitral awards.
 - Consider including a provision facilitating the entry of key personnel (i.e. the establishment, residency and work of key directors and managers of foreign companies investing in Seychelles) (see section D.2).
4. Operationalize the Investment Appeal Panel, while ensuring that the next revision of the Investment Act addresses the issues related to its composition and the selection of its members.
5. Develop a model IIA to guide future negotiations and to amend existing outdated treaties.
6. Modernize the treaty network based on a careful and fact-based cost-benefit analysis. The UNCTAD's Reform Package for the International Investment Regime and IPFSD cover all three phases of sustainable development-oriented IIA reform and include more than 100 options to design modern IIA clauses, 10 options to modernize the existing stock of old-generation treaties and three prongs of action to strengthen investment policy coherence (UNCTAD, 2015 and 2018a).

B. BUSINESS ESTABLISHMENT

Business establishment can be a burdensome process. It is done by the Registrar-General that is also responsible for immovable property and IP rights (sections C and G). To incorporate a company, the Registrar checks the availability and correctness of the company name, and registers the memorandum of association, for which a model is provided in the Companies Ordinance, and the articles of association. There is no minimum capital requirement, and upon payment of the stamp duty and fees, the Registrar delivers the certificate of incorporation, along with the Company Registration Number. An amendment to the Companies Ordinance in 2012 removed the obligation to notarize the articles of associations and the memorandum of association. However, it still prescribes that a signed declaration by a barrister, attorney or notary that all of the incorporation requirements have been complied with is needed, though the Registrar may, or may not, accept it as evidence of compliance. For foreign companies, the SIB approval is also mandatory, despite the absence of legal basis (section A). For overseas companies establishing a place of business in Seychelles, the incorporation documents must be submitted from the country of origin and be certified by a judge, magistrate, notary, barrister, attorney or prescribed person. If the document is in a language other than English or French, it has to be translated by an officer of an embassy, high commission, consulate or vice-consulate or by a prescribed person. The establishment of companies in the offshore sector is done through intermediaries, the international corporate service providers.¹⁵ Beyond incorporation, a business licence is required to start operating in several activities, as described in the paragraphs below. The results of the stakeholders' survey conducted for the preparation of this report also point to challenges for establishing a business and the need to reduce regulatory hurdles (annex I).

Many company structures are available to investors. They include limited liability companies and proprietary companies, formed and registered under the Companies Ordinance of 1972 (Ordinance 13-1973, as amended), as well as commercial partnerships, universal or particular and "overseas corporations [...] created or recognized under the laws of an overseas country". Additional entities are regulated by the Financial Services Authority (FSA), some of which could only carry activities offshore, notably the International Business Companies (IBCs), Companies Special License and International Trade Zone (ITZ) companies (sections D and E).¹⁶

However, none of them allows individuals to form an entity with limited liability. Under the above-mentioned laws, shareholders and partners may limit their liability to the assets invested. However, following the Companies Ordinance, a company can only be formed by two or more persons, and a partnership evidently requires more than one person. Consequently, the only company structure available at the time of writing of this report to individuals is to register their business name¹⁷ with sole trader status, which does not grant legal personality, nor allows to limit personal liability. Farmers, fishermen and cottage industries register respectively at the Seychelles Agriculture Authority (SAA), the Seychelles Fisheries Authority (SFA) and the Enterprise Seychelles Agency (ESA)¹⁸ to obtain support from these agencies and benefit from the tax regime for farmers and fishermen (section E). However, this registration does not have consequences in terms of legal personality or limitation of liability.

Online services are limited, information is scarce, and procedures are scattered. The Registrar is only present in Mahé. Despite the possibility to partially conduct the process online,¹⁹ issues affect electronic delivery of the certificate of incorporation (see below). Neither the Registrar's website nor any other clearly list the documents to be provided (except for a scrolling list from which users can deduce the requirements and which leaves the door open for requesting additional information).²⁰



Several activities require licences... The Licences Act of 2010 (Act 23 of 2010) covers activities that fall under the SLA, which currently include the health and tourism industries. The Public Health Authority has reported working on regulations to migrate the health licences under its authority. Agricultural activities do not require licensing, except for livestock business projects (SIB, n.d.). The CBS is responsible for licensing banking activities (onshore and offshore) and payment system providers.²¹ The FSA licences the remaining activities of the financial sector, including ITZ companies (as per the Seychelles ITZ Act),²² but also under section 11A of the Broadcasting and Telecommunication Act of 2000 (Act 2 of 2000, as amended by Act 10 of 2004), interactive gambling and sportsbook licences. In addition, the SFA is responsible for granting licences to fish in Seychelles waters, including to foreigners authorized by international agreements, and for registering fishermen. ESA, as mentioned above, registers cottage industries.²³ Finally, oil and gas exploration licences are granted by PetroSeychelles.

A non-comprehensive list of non-licensable activities generates uncertainty about the status of unlisted activities, including new type of ventures. Although the list of non-licensable activities by the SLA was expanded in 2011, licensing is still required for a series of businesses which are not typically subject to any form of authorization (e.g. bakery, beautician, engineer, computer consultant), in addition to the activities licensed by other entities, therefore giving an important level of control over the economy to the State. In addition, when an activity is not listed in any of the above-mentioned categories, it is not considered non-licensable, but subject to the appreciation of the MDAs. In the absence of a sandbox regulation,²⁴ which is only in place for some financial services,²⁵ an array of projects can be rejected or severely delayed at the SIB approval or at the licensing stages. Examples given during the fact-finding mission include paintball or new sightseeing projects.

The licensing process is unclear and lengthy... While the SLA website gives links to the relevant regulations and application process for some activities, this information is not available for all. In addition, the grounds on which the decision to issue a licence is taken are unclear, which affects predictability and creates the need for the licensing entity to consult other MDAs. In the case of ITZ companies, the FSA has published application guidelines on its website, but it can also request additional documents. While the SLA has developed a platform to request licences online since 2017, it was indicated during the fact-finding mission that it is seldom used because of issues relating to electronic payment, mistrust and lack of knowledge (section I). Consequently, while the SLA licensing procedure should in principle be completed in 14 days, it can take up to a year. The delay to obtain ITZ status can even be longer, as reported to UNCTAD during interviews with the private sector.

...and often duplicates other permitting procedures. For foreign investors and for domestic investors who undergo the SIB approval process, the same MDAs are often involved again in reviewing the application documents relevant to obtain licences and other permits, which creates duplications and stretches the limited resources of these authorities, especially when a joint physical inspection involving multiple MDAs must be conducted. This also constrains the capacities to conduct monitoring and inspections, thus defeating the purpose of licensing, except as the gateway to benefit from tax regime measures (section E). Indeed, after incorporation and licensing, several steps are required for the company to be operational, all of which have to be completed separately, and in a specific order. These include obtaining: a sanction for access to land by foreigners (section C), the planning permission (section C), the environmental authorization (section H), a tax identification number and the Gainful Occupation Permit (GOP), when applicable (section D). Finally, three company identification numbers coexist: the Business or Company Registration Number, the Seychelles Licensing Number and the Tax Identification Number. The latter can be obtained online.²⁶ The absence of a single company identifier has consequences on the ability to collect data on companies, and to measure their survival rate overtime (chapter II).

Stringent provisions on insolvency can also affect company establishment. The Insolvency Act of 2013 (Act 4 of 2013) provides that further to a bankruptcy, a Court can interfere on the terms for starting a new business or getting involved in the management of any company by the insolvent person, even when discharged. The time period during which these restrictions apply varies and is decided by the Court. This, in turn, has an impact on the willingness to take risks for entrepreneurs and increases the fear of failure (chapter II, section E).

Simplification efforts are ongoing... A mapping exercise is being conducted by the Department of Investment (DOI) to retrace the steps required to establish a business and obtain licences, with a view to streamline the relevant procedures. Amendments to the Companies Ordinance are planned with the Companies (Amendment) Bill of 2020, the goal being to simplify some aspects of business establishment. The proposed changes include to:

- allow single-shareholder companies with limited liability, thus addressing the concerns raised above.
- introduce a statement of particulars, to be set by regulations, and eliminate the involvement of legal professionals in the memorandum of association.
- provide that the Minister may set by regulation models for the memorandum of association and articles of association that shall apply if the company does not have any.
- emphasize for the use of electronic tools for registration and incorporation, and for corporate governance mechanisms.

The Bill was still in drafting when this report was prepared. Efforts are also ongoing at the level of the High-Level Ease of Doing Business Committee (HLDBC), which focuses on improving the operational environment for business. Among the reforms are the electronic name search and the e-registration of companies and businesses. Its Action Plan mentions the need to introduce a single identification number for companies, the National Identification Number.

...and initiatives to adopt eGovernment solutions have been launched, but issues persist. The Department of Information Communications Technology (DICT) is responsible across the Government for the development of online tools, and is leading efforts to adopt eGovernment solutions across the public administration. While the Department has a coordination role, it does not have control over the transfer of procedures online. In addition, the CBS developed the Seychelles Electronic Funds Transfer (SEFT), which is connected to banks, but issues still affect electronic payment. The electronic delivery of the certificate of incorporation is held up by a legal debate. The Electronic Transaction Act of 2001 (Act 8 of 2001) and the Electronic Transactions (Affixing Digital Signature) Regulations of 2018 (SI 22 of 2018) in principle provide the legal basis for the use and validity of the electronic signature, including to deliver the certificate of incorporation. However other opinions indicate that the Companies Ordinance of 1972 must be amended to allow for this. Currently, the only procedure that is fully available online is the Planning Authority's permission (section C).

Assessment and recommendations

Duplications, excessive reliance on *ex ante* controls and lack of clarity affect the business establishment process, in a context where administrative capacities are limited. While these aim at protecting the domestic economy, they overwhelm monitoring and inspection capacities, discourage formalization, and contribute to stifling entrepreneurship and innovation. The NDS 2019–2023 focusses heavily on domestic resource mobilization, which, in turn, relies on developing the domestic private sector and encouraging formalization

and the emergence of innovative activities outside the tourism and financial services sectors, which became even more urgent by the emergence of the COVID-19 pandemic. For this to happen, business procedures must become more agile, particularly at the business establishment phase. Simplifying business procedures does not mean deregulating them or alleviating monitoring and evaluation, but rather making them more transparent, predictable and clear for both the public administration and investors. Accordingly, where necessary, adequate *ex-post* controls should be in place. The adoption of eGovernment tools can prove extremely useful towards this purpose. eGovernment solutions can also help address the challenges associated with the pandemic, by promoting business continuity during the containment and confinement policies, and ensuring a smooth running of the interface between businesses and the public administration. This includes not only leveraging on IT platforms to facilitate permits and approvals for business establishment, operation and trading procedures, but also safeguarding supply chain continuity through the smooth running of the customs' clearance process. eGovernment solutions can also be deployed to implement COVID-19-related fiscal rescue measures, such as the administration of social security for temporarily retrenched workers or the processing of business requests for financial or fiscal support.²⁷ In light of this, the Government should consider to:

1. Continue mapping and reviewing business establishment procedures to determine the extent to which they are necessary to achieve the relevant policy objectives. This exercise should include a distinction between the requirements which are legally mandated and those which were established through administrative practice. As part of the process, registration and incorporation requirements that result in excessive red tape, such as the need for intermediaries and legal practitioners should be removed.
2. Offer entrepreneurs and investors one form, one payment and one interface for all business establishment procedures, in line with good international practice.
3. Adopt the National Identification Number, so as to simplify the collection of data on business establishment and measure the survival rate of companies over time.
4. Remove the need for licences when the relevant policy concerns can be addressed through other permitting procedures, such as the EIA. Sectors usually covered by licensing requirements include health, tourism, alcohol distribution, taxis, broadcasting and telecommunications, as well as oil and gas. All others should not be subject to any licence.
5. Publish online the forms, documents requested, requirements, and fees for all licences.
6. Adopt a regulatory sandbox for innovative activities which are currently not listed in the licensable and non-licensable activities.
7. Review the restrictions imposed on the insolvent for the establishment of new business ventures in the Insolvency Act.
8. Establish an online business establishment window (or virtual one-stop shop), which would bring together the Registrar-General, the licensing authorities, the SRC and the Pension Fund from the employer's side (see section E). At a later stage, this would also integrate the Planning Authority for the relevant permissions and the e-filing and payment of taxes thanks to the National Identification Number (sections C and E).

The UNCTAD's Business Facilitation Programme could prove useful in this area and collaborate with the DICT and relevant MDAs, in this area.

C. ACCESS TO LAND

Access to land and its use are regulated by several laws and policies. State land is divided by the Delineation and Classification of Domaine Public Act of 1958 (Act 7 of 1958, as amended) between the *domaine public*, determined by the President, and the *domaine privé*. It is administered, as per the State Land and River Reserves Act of 1903 (Act 11 of 1903, as amended), by the Minister of the Ministry of Habitat, Infrastructure and Land Transport (MHILT) on behalf of the President. The Forest Reserves Act of 1955 (Act 2 of 1955, as amended), the National Parks and Nature Conservancy Act of 1969 (Act 16 of 1969, as amended) and the National Monuments Act of 1980 (Act 19 of 1980, as amended) limit the Minister's right of disposal under certain circumstances. Additional instruments include the Industrial Estates Act of 2013 (Act 9 of 2013) and several policies developed by the MHILT. The following section does not aim at providing an exhaustive description of the land system in Seychelles but focuses specifically on steps undertaken by domestic and foreign investors to access title to land.

Investors rely primarily on the allocation of State land. Land for investment is scarce, as is the case in most SIDS. According to the MHILT, 70 per cent of the land belongs to the State. Important price distortions affect access to private land, as reported to UNCTAD by several investors, and parallel deed-based and title-based systems remain in place in some islands, which create issues of land security. In this context, the main channel for accessing land for investment is through State lease. Agricultural and small-scale industrial lands are administered respectively by the Ministry of Fisheries and Agriculture and the Industrial Estate Authority (IEA), commercial land is tendered by the SIB, while other land remains with the MHILT. The executive power can allocate land directly (see below).

However, the criteria, terms and conditions of State land allocation lack clarity. The MHILT and other MDAs operate on the basis of draft land use and development plans, which are not legally binding.²⁸ Notwithstanding the fact that agricultural land is leased only to Seychellois, the allocation procedures and criteria are unclear. The IEA Act of 2013 (Act 9 of 2013, as amended) provides that the Authority can “rent or take on lease any property in such terms and conditions as it thinks fit”, although a “points system”, whereby scores would be attributed to lessees against pre-established criteria, is in preparation and should be launched in 2020. Applications at the MHILT are sent to referral agencies and are approved by a committee whose composition is determined on a case-by-case basis depending on the project concept. Finally, the terms, conditions and duration of the leases are not detailed in the law. According to SIB, the duration of lease agreements range between 60 to 99 years for commercial and industrial land. Information is contradictory regarding agricultural land as leases vary between 10 to 30 years, according to what was reported by the Ministry of Fisheries and Agriculture during the fact-finding mission, and 10 to 66 years, according to the National Business Summit Report 2018.²⁹ Lease terms and conditions can also vary in each contract, making their administration complex.

Institutional issues also affect the State land allocation system. For instance:

- The State Land and River Reserves Act gives wide latitude to the executive power in granting access to State land, including by contract. This increases the risk that well-connected and/or large investors can have easier access to land.
- While Seychelles has developed a Geographical Information System (Seychelles WebGIS)³⁰ and digitalization of titles has started at the Registrar-General, the databases of different MDAs are not

interconnected, which makes it difficult to assess availability. The SIB has developed an informal databank of industrial lands with the Department of Industry and Entrepreneurship Development (DOIED), but this is the result of an *ad hoc* initiative rather than an integrated process.

- The SIB's involvement in the tendering of commercial land counters good practice, as an IPA should not be involved in land allocation, except to facilitate regulatory procedures.
- While there are no limitations in the IEA Act regarding the size of the industrial land it can allocate, the IEA, under the DOIED, is only assigned small-scale industrial land in the industrial estates of Providence and Perseverance.
- MDAs do not have the right to dispose of the fees and rents they charge, as these are transferred to the Consolidated Fund of the country. In turn, they are allocated a fixed budget through the Appropriation Act. For the IEA, this translates into a lack of human resources (the Authority, which operates with 16 non-specialist staff, does not have land surveyors and thus relies on those of the MHILT) and in difficulties to finance infrastructure improvements in the industrial estates.

Foreigners need an additional “sanction” to buy or lease land.³¹ Foreigners cannot buy State land or land on any outlying island, except in “certain” undefined “specific instances”. Freehold foreign ownership of State land is possible under limited circumstances. In all cases, a “sanction” is required for foreigners to access a title to land.³² Non-Seychellois are defined broadly, i.e. by the presence of an international (or cross-border) element, including, in the case of a company limited by shares, the presence of foreign directors. Applications for sanctions are submitted to the MHILT.³³ Even when the buyer/or lessee is a Seychellois, a declaration must be made by a legal practitioner, notary or other person to certify the citizenship. When considering the application, the Minister of the MHILT should take into account: the “character” of the applicant or, in case of a company, of its directors, conducted through customer due diligence checks; whether the purpose of the acquisition (by sale or lease, as per the abovementioned policies) is consistent with the country's policies on land; and whether this acquisition is in the country's interest. These criteria, leave significant scope for subjective interpretation. In addition, the Government may impose any conditions it deems appropriate on the grant of the sanction and if these are infringed, the transaction becomes null and void. The Development of Villas and Holiday Accommodation in Tourism Resorts and Ownership by Non-Seychellois Policy imposes a time frame of 60 days to obtain the sanction, but the other texts do not contain any indication. Sanctions must be acted upon within one year, otherwise another application must be made.

Sanctions can be very expensive... A sanction application processing fee at a rate of 1.5 per cent of the annual rent or the market value of the property is charged, in addition to a 5 per cent stamp duty and an 11 per cent sanction duty (Immovable (Transfer Restrictions) Fees Regulations (SI 13 of 2013)). The latter can increase up to 30 per cent, as per the Immovable Property (Transfer Restriction) Act. Buyers/lessees are exempted in case of bona fide investments; however, no indication is given as to how the bona fide character is assessed. In total, with the registration fees (see below), a foreign buyer could pay up to 43.5 per cent of the market value of the property in fees and duties, to which a recently introduced tax on the immovable property owned by non-Seychellois (for residential purposes) can be added (section E). In addition, the Regulations give the Chief Development Officer the power to review the price or reassess the property's value.

...and the sanction procedure implies a high level of control over the lessee's corporate structure and management and limits the right of disposal. The Alienation of Land and Management and Sale of State Land Policy indicates that when the buyer/lessee is a corporate entity, the sanction's conditions

shall make it explicit that any subsequent transfer or dealings involving the shares of the company will require the authorization of the Government. It also specifies that all contracts on State land leased to Seychellois or non-Seychellois companies for commercial purposes, in addition to development covenants and applicable project implementation timeframes, should contain a provision providing that in the case of corporate entities, transfers of shares in the lessee that tantamount to a transfer of the lease to a third party require a Government written approval. Failure to obtain it constitutes a material breach, implying the termination of the lease. In such cases, the land, with or without improvements thereon, is forfeited back to the State. Given the extensive definition of non-Seychellois in the Immovable Property (Transfer Restriction) Act, these provisions could affect the operations of a number of companies.

Land titles are registered at the Registrar-General. The steps required to register a property are described on the MHILT's website.³⁴ Online registration is not available. In addition to digitalizing the cadastre, in September 2019 the Registrar has launched a pilot programme allowing legal practitioners to check land titles online. Despite the price distortions in the private land market, which result from the scarcity of available land and the difficulties to obtain State land, the Registrar only asks for a determination from the MHILT when the cost of the property seems undervalued but not when it is overvalued.

Before starting operations, investors, both foreign and local, are typically required to obtain a planning permission from the Planning Authority. The Town and Country Planning Act of 1970 (Act 14 of 1970), as amended, regulates this procedure. Use classes defined in the Town and Country Planning (Use Classes) Regulations of 1972 (SI 132/1971) are broad and apply to practically all types of land, building or office development, for any use. Exceptions, called permitted developments, are included in the Town and Country Planning General Development Order of 1972 (SI 133/1971), as amended, but are very limited. For all commercial, industrial and tourism developments, investors must submit Development Control applications made by licensed agents to the Planning Authority, in three copies. The requests are transferred to referral agencies, including the Department of Environment, the Fire and Rescue Safety Agency, the Public Health Authority, the Department of Transport, the local authorities, and the Ministry of Tourism and other competent agencies, depending on the activity. A subcommittee then transmits a recommendation to the Board of the Planning Authority. While the timeframe for this procedure is in principle of four weeks, the Planning Authority reported it to take on average six weeks. Investors interviewed by UNCTAD reported that it may take longer, due to delays in obtaining comments from referral agencies. It should be noted, again, that most of these agencies were already consulted on the same investment projects during the SIB approval and the licensing process. The planning permission is also dependent on the issuance of the environmental authorization (section H).

Assessment and recommendations

While legitimate concerns relating to the size of the country and to environmental protection justify strict controls over land allocation and use, the process has become overly cumbersome and unpredictable for investors. A series of legal texts adopted over time, together with numerous policies applied by the MDAs as well as institutional issues, have led to a complex regime that constitutes a deterrent to entrepreneurship and investment. Many processes and limitations are imposed by policies whose legality could be challenged in courts, including under the FET clause in the Investment Act. In the absence of adequate land use plans, land allocation procedures and planning permissions have become the primary tools to exert control over land and entrepreneurial activity. Significant streamlining is needed, not only to promote investment and enterprise development, but also to simplify land administration, while preserving an adequate level of control over land. In light of this, the Government could consider to:

1. Review the existing laws and regulations relating to access to land and re-examine them with a view to streamline and clarify the regime. While policies might help guiding the activities of the MDAs, criteria and restrictions should, to the extent possible, stem from legal texts.
2. Re-examine the draft land use and development plans in line with the national development objectives and proceed to their adoption, so as to make them legally binding. This should, in turn, lead to significant simplification and rationalization of the planning permission regime.
3. Create, on the basis of these land use plans, a database of land available for investment. In the long term, the database could also contain, in addition to information on the type of development allowed, the technical specifications of the land (e.g. density, height).
4. Establish pre-determined, clear and objective criteria for land allocation by the MDAs, in line with the land use and development plans.
5. Remove the SIB from the tendering of commercial land, except in a facilitation and information role. This role should extend to agricultural and industrial land.
6. Adopt clear and objective criteria for foreigners to obtain the sanction and for the terms and conditions attached to it. The level of control exercised over the structure of the applying entities should be reconsidered with a view not to hamper business operations.
7. Consider the adoption of model contracts for the lease of State land.
8. Introduce control over the overvaluation of lands and consider whether this function should be carried out by the Registrar-General rather than the MHILT. This would require increasing the human resources at the Registrar.
9. Envisage, given the lack of financial resources at the IEA, small-scale public-private partnerships (PPPs) to enhance infrastructure in industrial estates.
10. Strengthen the human resources at the IEA and authorize the Authority to collect fees and rents.

D. LABOUR

1. General regime

The general labour regime coexists with specific regimes and provisions applying to ITZs, outer islands and foreign workers. The Employment Act of 1995 (as amended in 1999 and 2006) and its regulations provide the general framework for the labour regime. Although the Act applies to both domestic and foreign employees, discrepancies exist (see below). It is completed by the Occupational Safety and Health Decree of 1978 (Decree 54 of 1978, as amended), the Employment (Conditions of Employment) Regulations of 1991 (SI 34 of 1991, as amended),³⁵ the Industrial Relations Act of 1993 (Act 7 of 1993, as amended) and the Pension Fund Act of 2005 (Act 8 of 2005). A different regime applies to employees in the ITZ companies (see below) and specific provisions apply for employees in outer islands.³⁶ Seychelles has adhered to the eight International Labour Organization (ILO) Fundamental Conventions, two governance (priority) conventions and 15 technical conventions. An Employment Bill was also prepared in 2016 and whenever relevant, its provisions are included in this analysis, although it is not yet in force.³⁷

The Employment Act allows for flexibility in the duration of labour contracts, but some provisions need clarification or streamlining in line with good practice. The Employment Act provides for continuous, fixed-term, part-time and casual contracts. Foreigners cannot hold a continuous employment contract. The Act also regulates trainees, including participants in apprenticeships schemes. In all cases, the employee/trainee must be above 15 years old. While the minimum duration of a fixed-term contract is three months, the Act is flexible as regards the maximum length and does not indicate upper limits to its duration or renewals. The Department of Employment has indicated that, for Seychellois, it tries to limit fixed-term contracts to a maximum of five years and two renewals. The Bill of 2016 retains flexibility on the duration of fixed-term contracts but circumscribes their scope of application. Part-time employment contracts and their modalities are not clearly regulated. For instance, there are no indications regarding their maximum duration. The Employment Act requires employers to notify to the Employment Services Bureau all vacancies as well as their filling. This information is used for statistical purposes, as well as by the Agency for National Human Development for the identification of missing skills and to limit foreign employment (see below).

Termination procedures, however, are overly cumbersome. No contract can be terminated without the involvement of the Department of Employment, and the employer cannot terminate an employment contract without undergoing a negotiation procedure, except in limited circumstances,³⁸ including in cases of temporary lay-off and redundancy. The Bill of 2016 simplifies the negotiation procedure in case of a lay-off affecting less than five employees. A grievance procedure can also be initiated by an employee or an employer for a wide number of reasons.³⁹ In both procedures, the Department of Employment is responsible for conducting a mediation between the parties and making a determination, and appeal to the Minister of Employment is available. In the grievance procedure, if the agreement is reached, it must be approved by the Employment Tribunal, which also intervenes to settle the case in the absence of agreement. Many grievances procedures (574) were reported in 2018 (Republic of Seychelles, 2019c), putting a strain on the resources of the Department of Employment, which are already stretched (there were only 12 labour inspectors were in place at the time of UNCTAD's fact-finding mission).

The compensation regime also needs upgrading in line with modern practice. The Act does not mention severance pay but refers to compensation. A distinction is introduced in the Bill of 2016, where severance pay applies when an employee resigns, retires or dies, while compensation is due in cases of unconsented vacation, redundancy, contract termination after the transfer of business undertaking. In the current Act, compensation is due by the employer in almost all cases of termination of contracts, including in some cases, when it is attributable wholly or partially to the employee, based on the Department of Employment's determination (through the procedures mentioned above). When the employee resigns, provided he/she has been employed for more than five years and unless disciplinary measures are taken or expected to be taken, compensation is payable. Following the Act, when a business is sold, the first employer is deemed to have terminated the employees' contracts and compensation is due, even if the employees have not been laid off, which is problematic. Finally, following the Employment Act, the compensation amount is calculated based on the type of contract (continuous or fixed term) and the length of service, but can also vary by decision of the Department of Employment.

Other aspects of the labour regime can be improved in line with international standards. Contrary to ILO policy guidance, the minimum wage is not set by tripartite consultations (ILO, 2016). The Act provides that the minimum wage is set by the Minister in consultation with unions, employers' organization and any representatives of workers not members of a union that the Minister deems fit. It is reported, however, that no consultations are held (ILO, 2019a). Set on hourly basis, the minimum wage is currently fixed by the Employment (National Minimum Wage) Regulations of 2007, as amended in 2019. The 2007 Regulations also allows the Minister to exempt workers or category of workers from their scope. While no exemptions are reported (ILO, 2019a) this could, if implemented, result in lower wages for the workers exempted. The ILO has also noted the absence of explicit

prohibitions of hazardous work by young workers (ILO, 2017). The Department of Employment has indicated that a list of hazardous work prohibited for persons below 18 years of age has been drafted and incorporated in the Employment Bill. In addition, while the Employment Act contains a prohibition against discrimination and harassment, it does not reflect the principle of equal pay for equal value (this is integrated in the Bill of 2016). Finally, freedom of association and the right to organize are subject to stringent conditions and the ILO has called for a number of amendments in line with the Convention on the freedom of association and the protection of the right to organize (Convention 87) and the Convention on the right to organize and collective bargaining (Convention 98) (ILO, 2019b and 2019c). The Department of Employment has indicated that a review of the Industrial Relations Act was ongoing with the ILO.

Employment in the ITZs obeys to specific regulations, which lower the labour protection standards compared to the general regime. The ITZ Act provides for the non-applicability of the Employment Act in the zones, where the ITZ (Employment) Regulations of 1997 (SI 13 of 1997) and the ITZ (Conditions of Employment) Order of 1997 (SI 14 of 1997) apply. The regime is managed by the FSA and appeal is made to the Minister of the Ministry of Finance, Trade, Investment and Economic Planning (MFTIEP). The regulations provide for the establishment of an Employment Council of the ITZ with an advisory and monitoring role, whose members must comprise five representatives of the public sector (including the Chairman), two representatives of the employers and two of the employees. The quorum is set at four members present and might thus fully exclude employees. Other differences compared to the general regime include: simplified termination of contracts (there is no negotiation procedure); longer rest period (36 hours against 24 hours per period of seven days), but lower overtime compensation (notably for work during public holidays); shorter maternity leave (eight weeks against 16); and no paternity leave. The regulations also do not include provisions on discrimination and harassment. While the application of a different labour regime is not unusual in special economic zones of a traditional type, it is not consistent with modern zones practice, whose aim is to attract value-added activities (UNCTAD, 2019).

The main difficulty reported by investors concerns finding and retaining workers. All investors interviewed for the preparation of this report indicated that the most important issue they face regarding labour is to ensure its consistent supply. Several factors explain this, including the small size of the population and the low unemployment rate (in 2019, 2.7 per cent although 9.4 per cent among the youth (NBS, 2020b). Finding the relevant skills on the market is an issue and technical and vocational education and training (TVET) underdeveloped (see chapter II). But even when training is not an issue, local workers are often reticent to performing certain jobs (fact-finding mission; ILO, 2018), which translates into a high presence of foreign labour in some sectors (see below). In general, preference goes to public sector employment, albeit the private sector captured 67 per cent of employment at the fourth quarter of 2019, and this is increasing (NBS, 2020a). Indeed, the monthly average earning is higher in the Government and parastatal sectors (respectively, SCR 18,812 (\$1,325) and SCR 17,839 (\$1,247)) than in the private sector (SCR 14,358 (\$1,004)) (NBS, 2020a) and other benefits are provided (see chapter II). Finally, issues like substance abuse and teenage pregnancies also affect the structure of the labour market (ILO, 2018).

2. Recruitment and employment of foreigners

Foreign labour represents an important share of Seychelles' workforce. As a consequence of the factors described above, it is estimated that foreign labour represents 30 per cent of the private sector workforce. The majority of foreign workers is concentrated in accommodation and food services (i.e. tourism), and construction with respectively 27 per cent and 60 per cent of the total workforce in the sectors (ILO, 2018).

Joint work and residence permits exist. The Gainful Occupation Permit (GOP) and the permit for employees in ITZ companies constitute a work authorization and residency permit. They are regulated by the Employment Act, the Immigration Decree of 1981 (Dec. 18 of 1979, as amended) and the Immigration Regulations of 1981 (SI 32 of 1981, as amended).⁴⁰ The Minister of Employment, Immigration and Civil Status (the Minister) determines the duration, terms and conditions for their obtention. Residency can extend to the spouses and children of foreign employees, though they are not allowed to work. The Regulations include a copy of the GOP application form as well as the applicable fees. Recently, the MFTIEP had announced an increase in the monthly GOP permit fees. However, due to concerns raised by the private sector, the President indicated during the State of the Nation Address 2020, that GOP fees would remain at SCR 500 (\$36)⁴¹ for foreign employees present in the country for less than 12 years and increased to SCR 2000 (\$143) after this period of stay as of 1st March 2020.

GOPs are issued based on guidelines developed by the Ministry, but these are neither legally binding nor regularly updated. The guidelines developed by the Ministry establish different categories for the recruitment of foreign workers by industry, with different quotas and obtention conditions (Republic of Seychelles, 2016). Quotas can be fixed or computed as part of a formula that considers labour supply and demand, and are determined taking into account several factors, including the size of the requesting company, data on jobseekers and total requests for GOPs. The guidelines determining the quotas and, when applicable, the way to calculate them, were last updated in July 2016. In an evolving market with severe labour supply and skills scarcities, this can constitute a roadblock (see below). The Ministry is currently updating the guidelines.⁴²

In addition, employers need to prove that no Seychellois with the relevant qualifications is available on the local labour market.⁴³ With the exception of Category One workers, for whom a certificate of entitlement can be obtained to allow automatic recruitment within the quota, a labour market test must be conducted (box I.1). No guidance is currently provided in the law on the number and duration of job advertisements that are necessary and sufficient to prove that no Seychellois could be recruited. The Decree also provides that the Minister can override the guidelines and impose additional criteria to the recruitment of foreigners, or refuse the GOP without justifying the decision, which cannot be appealed. It was reported that the common practice is to advertise the job vacancy for three days in the media. The Bill of 2016 codifies this timeframe, indicating that when the employer does not use the services of an employment agency, advertisement of the vacancy must be done in two stages. In the first stage, advertisement is done by choice of the employer. In the second, if no candidate applied or the recruitment of a foreigner is envisaged, the vacancy must be advertised for three days in a widely distributed newspaper in the country. Further guidance is introduced by the National Labour Migration Policy, approved in October 2019, which, among others, proposes that vacancy advertisements be extended to five days in a period of seven days, with a closing date seven days after the last day of the vacancy advertisement. Specific provisions apply for international corporate service providers, which can employ expatriate employees up to 50 per cent of the total number of employees at a reduced GOP fee of SCR 375 (\$27) per employee per month (as per the International Corporate Service Providers Act of 2003 (Act 10 of 2003, as amended)).

The procedure varies slightly for ITZ permits. As per the Immigration Decree, these are processed by the Ministry through the FSA. The relevant Guidelines indicate that the endorsement of the FSA is required. Currently, applications are transferred to the Ministry through the FSA for approval, but the authority is

expecting a change in the regime whereby it would become the responsible entity in charge of delivering the ITZ permits. The same quotas apply, but no fees are charged.

Localization efforts exist, but are not forward looking. The Employment Act contains a requirement for employers recruiting foreigners to submit a localization plan, usually in the form of a Seychellois understudy being placed under the supervision of the foreign worker to acquire training and skills. This is specifically mandated in the guidelines for the holders of the certificate of entitlement (Category One), which covers sectors such as tourism, construction, agriculture, manufacturing, fisheries, financial services and security firms, where foreign labour is concentrated. As Seychelles wants to become a knowledge hub and attract more FDI, these localization plans will need to be progressively limited to the kind of qualification needed in the local labour market and aligned with the level of qualification ambioned by the country.

Box I.1. Categories of recruitment of non-Seychellois

Four categories of foreign workers are determined by the Guidelines, which define the procedure to follow to hire a foreigner:

- Category One – Tourism, construction, agriculture, manufacturing, fisheries, financial services and security firms: a certificate of entitlement can be obtained by the employer which allows it to recruit foreigners up to the calculated or set quota.
- Category Two – Trade and commerce as licensed by the SLA under import, wholesale or retail; and domestic workers for private elderly homes (elder caregiver, nurse and housekeeper): quotas are established, but do not apply automatically. The application for a GOP is only considered by the Ministry when advertisements have been made in local newspapers or employment agencies and no Seychellois worker was identified.
- Category Three – Domestic workers for individual employers: the procedure is the same as for Category Two, however specific criteria apply to determine the eligibility and certain categories of workers are excluded.
- Category Four – For the other sectors, a labour market test must be conducted.

Source: UNCTAD, based on Republic of Seychelles, 2016.

There are no specific provisions to promote the entry of foreign entrepreneurs. While the Decree does not prevent self-employed foreigners from obtaining a GOP, the current regime does not encourage the attraction of foreign entrepreneurs, as done in other countries (box I.2). Reference to key personnel is only made in the guidelines as concerns the general manager, CEO or managing director in companies under Category One. A priority worker permit was also introduced and is reserved to foreigners who possess extraordinary ability in science, arts, education, economics, law, business or sports, or hold a university degree at doctorate, master or bachelor level in an area likely to contribute significantly to the development of Seychelles, or who have made a significant contribution to the development of Seychelles. However, this can only be obtained when the foreigner has already resided at least for five years in Seychelles, which excludes entrepreneurs seeking new ventures in the country. An investor permit is also in place but requires an investment above \$1 million, in addition to a residency of one year in the country or, alternatively, a business affiliation with Seychelles for at least five years.

Once legally employed, foreign employees are not treated equally. As per the Employment Act, foreigners can only be employed under a fixed-term contract (see above), the duration of which determines the length of the GOP/ITZ permit. Foreign employment contracts must be validated by the Department of Employment to ensure the non-lowering of standards vis-à-vis the labour regime. Foreign employees have seven days to

initiate the grievance procedure, half the term available to Seychellois. The Bill of 2016, which had not been adopted at the time this report was prepared, introduces a 13th month wage but excludes foreigners. Foreign employees do not contribute to the Pension Fund, nor benefit from it. In the State of the Nation Address 2020, the President announced that, as of 1st June 2020, a contribution of 3 per cent of their wages was due by foreign employees who could then benefit from 25 per cent of this contribution if they stop working in the country. Other discrepancies in the treatment of foreign employees also appear in the taxation regime (section E).

Box I.2. Attracting foreign entrepreneurs in priority sectors

In recent years, several countries have elaborated integrated strategies to develop sectors identified as priority, notably in high-tech related activities. They usually involve several parts of the government, including the IPA, the ministry of finance and other ministries. Some examples are:

Chile: Created in 2010 by the Government of Chile with the objectives of changing the country's culture towards entrepreneurship and to position Chile as the hub of innovation for Latin America, Start-Up Chile is an accelerator programme also open to foreign tech entrepreneurs. The S Factory, dedicated to female founders, Seeds and Huella programmes target companies and individuals at different stages of maturity of the project, and provide access to a collaborative workspace in Santiago, a grant and a one-year temporary resident visa. Access to the programme is based on a selection process regularly organized on the website of Start-Up Chile.

France: Across sectors, the country has set up a Talent Passport "Business investor" visa for investors provided FDI of EUR 300,000 in fixed tangible and intangible assets and creating or protecting, or committing to create or protect, jobs within the four years following the investment. In the tech sector, in the context of the French Tech strategy launched in 2014, the French Tech visa applies to investors, founders and employees of eligible innovative companies relocating to the country. In both cases, an accelerated procedure and simplified criteria apply. Criteria of diploma are lifted and visas are valid for four years and extend to the spouse and minor children, with the authorization to work for the spouse.

Source: UNCTAD, based on Republic of Seychelles, 2016.

3. Assessment and recommendations

While the regime for hiring is flexible, rigidities affect the termination regime and several provisions of the labour legislation have fallen behind international standards and modern practices, including as pertains to minimum wage setting and the conditions for unionization and freedom of association. The ongoing amendment of the Employment Act provides an opportunity for addressing these issues. Seychelles has also adopted prudent policies regarding the employment of foreigners, who are often subject to differential treatment, not limited to labour standards, but also as pertains to the tax regime (section E) and access to land (section C). At the same time, the country has not adopted policies for the attraction and diffusion of targeted skills and talent, or other initiatives to promote the attraction of foreign entrepreneurs in priority areas for the country's development. The policy orientation towards foreigners needs to be reoriented if the country is to achieve the objectives of Vision 2033. In light of this, the Government could consider to:

General regime

1.1. Amend the Employment Bill of 2016 with a view to:

- Define the modalities applicable to part-time employment contract.



- Simplify the termination of contracts procedures while preserving a balance between the rights of employers and employees. This would include a provision mandating the notification of the Department of Employment in case of lay-off and redundancy. The intervention of the Department of Employment through the negotiation procedure would then be reserved to collective disputes arising between workers and union, and the employer.
 - Clarify the rules applying to the determination of compensation in case of contract termination.
 - Consider limiting the scope of situations where compensation is due, specifically when the employee resigns or when the termination of the employment contract is partly or wholly attributable to the employee.
 - Clarify whether employment contracts are automatically transferred with the business.
- 1.2. Pursue the efforts to review the provisions of the Industrial Relations Act with a view to align the regime with the ILO recommendations.
 - 1.3. In line with the ILO's recommendations, merge the two Acts and adopt the Bill of 2016, as revised in line with the recommendations above.
 - 1.4. Implement tripartite consultations for the determination of the minimum wage.
 - 1.5. Reconsider the provisions limiting the age to start an apprenticeship.
 - 1.6. Align the regime applicable to ITZ employers with the general regime.

Recruitment and employment of foreigners

- 2.1. Amend the GOP procedure by:
 - Reviewing annually the needs of the labour market by activity, jointly with employer and employee representatives
 - Introducing clear, pre-determined criteria for the labour market test.
 - Introducing the right of appeal against the decision of the Minister regarding the GOP and clarifying the circumstances under which additional conditions can be required from the applicant.
- 2.2. Consider replacing the localization plans with a skills diffusion scheme whereby companies that train employees for new skills obtain facilitated access to the GOP. New skills can be defined in cooperation between SIB, ESA, Department of Employment and Department of Immigration and Civil Status. The Department of Employment has indicated having initiated efforts to change the localization plans for skills transfer/diffusion. The proposal was pending approval as of end August 2020.
- 2.3. Consider adopting a new category of work and residence permits for foreign entrepreneurs in priority sectors. This involves lowering the current \$1 million threshold or creating a separate category of permits dedicated to such entrepreneurs. As is the case for the targeting of the localization plan, priority activities should be identified (chapter II, section 1). The OASIS project envisaged by the National Institute for Science, Technology and Innovation (NISTI) could be used as a test (chapter II).
- 2.4. Involve the SIB in the promotion of this new permit. The IPA could play an important role in raising awareness and attracting interested foreign entrepreneurs.

E. TAXATION

The tax regime in Seychelles is overly complex and not geared towards helping the country achieve its development objectives. Several corporate income tax, called the business tax (BT), rates coexist and vary by sector and often within sectors. They are complemented by a multitude of incentives that reduce the tax liabilities of companies in several activities, including those which form the backbone of the country's economy. Their impact, however, is measured neither upon introduction nor *ex post* as part of a cost-benefit analysis. In order to compensate the ensuing loss in tax revenues, some additional taxes were introduced, often with distortionary and discriminatory features. Finally, the tax regimes applying to small businesses do not encourage company formalization and growth. They might, however, promote arbitrage and tax engineering.

The business tax varies by sector and within sectors. As per the Business Tax Act (BTA), the corporate income tax applies to taxable income and the territoriality principle is used, i.e. businesses are taxed on their Seychelles-sourced income. Taxable income includes capital gains and losses from the disposal of a business asset. Amortization and depreciation follow the straight-line method, with limited exceptions, including research and development expenditure (section G), which is depreciated at a fixed rate in the year the acquired asset is used. Losses can be carried forward for a maximum of five years. The BT applies equally to non-resident companies with a permanent establishment in Seychelles and to resident companies. The general rate is 25 or 30 per cent, depending on taxable income, but a range of different BT rates apply to different sectors and, in the case of many sectors, different rates apply based on income within a sector. Table I.1 gives an overview of the BT rate applied to industry.

In addition, several preferential regimes exist, but their impact is seldom assessed. Companies in agriculture, fisheries and tourism benefit from lower BT rates, and also from accelerated depreciation and other deductions (such as for those for tourism and marketing purposes and for the recruitment of employees trained in designated local institutions). These all contribute to reducing taxable income. Exemptions from the BT also apply to licensed taxis, as well as several public enterprises (PEs), notably Air Seychelles, Seychelles Broadcasting Corporation (SBC) and the Public Utilities Corporation (PUC), and international trusts licensed under the International Trusts Act of 1994. Preferential regimes are not time-bound nor conditional on any investment amount or job creation requirements. In addition, their impact is not measured through cost-benefit analysis.

Some regimes were recently amended in the offshore sector to improve compliance with international commitments. At least eight legal amendments have been adopted since 2018 to comply with Action 5 of the Organization for Economic Cooperation and Development (OECD) Base Erosion and Profit Shifting (BEPS) Project and the EU Code of Conduct Group on Business Taxation.⁴⁴ These changes affected IBCs, mutual funds, hedge funds, securities dealers and investment advisors, as well as ITZ companies, Companies Special Licenses and non-domestic insurers, with grand-fathering clauses. Among others, they introduced a substantial activity requirement, allowed offshore companies to operate onshore and subjected them to the BTA. Notwithstanding the changes introduced, advantages for ITZ companies remain (table I.1) and certain features of the ITZ regime, which can be company or zone-based, deviate from traditional export-processing zone regimes. Activities covered by the ITZ licence include: manufacturing, processing, light assembly and also redistribution, export services, licences under section 11A of the Broadcasting and

Telecommunication Act, interactive gambling and sportsbook.⁴⁵ In addition, while the sale of products on the domestic market is possible, it can only be done after: 1) one year of operation, 2) provided a feasibility study is carried out, and 3) according to a percentage authorized on a case-by-case basis by the MFTIEP, which can result in ring-fencing.

Table I.1. Non-exhaustive overview of taxes applicable to businesses

Type	Entities	Rate
BT	General regime (companies, government bodies and trustees)	<i>Progressive, based on taxable income</i> 25 per cent on the first SCR 1 million (\$71 276) 30 per cent above SCR 1 million (\$71 276)
	Telecommunications service providers, banks, insurance providers, alcohol and tobacco manufacturing companies	<i>Progressive, based on taxable income</i> 25 per cent on the first SCR 1 million (\$71 276) 33 per cent above SCR 1 million (\$71 276)
	Sole traders and partnerships	<i>Progressive, based on taxable income</i> 0 per cent on first SCR 150 000 (\$10 691) 15 per cent between SCR 150 000 (\$10 691) and SCR 1 million (\$71 276) 30 per cent above SCR 1 million (\$71 276)
	Private education institutions and private medical services providers	15 per cent of the taxable income
	Companies listed under the Seychelles Securities Exchange	25 per cent of the taxable income
	Farming entities, agricultural and fisheries processors/exporters	<i>Progressive, on taxable income</i> 0 per cent on the first SCR ⁴⁶ 250 000 (\$17 819)
	Boat owners, exclusive shop and duty-free shop licensees	15 per cent on the remainder
	Entities active in tourism	
	Petroleum companies	35 per cent
	Rental/leasing of immovable property for residential purposes	3 per cent of gross income
	Companies in the Second Schedule of the BTA, including licensed taxis and several PEs, e.g. Air Seychelles, SBC and the PUC, and international trusts licensed under the International Trusts Act of 1994	Exempt
Withholding taxes (WHT) – payments between residents	Dividends	Exempt, also for inter-company dividends ^a
	Interests	15 per cent of the gross amount Payment by a person not being a financial institution to a person not being a financial institution
	Royalties	Taxed as part of the taxable assessable income
	Payments made to specified businesses ^b (Fourth Schedule of BTA)	5 per cent (this provision is currently being reviewed)

Type	Entities	Rate
WHT – non-residents without PE	Gross amounts of dividends, interests, royalties, technical services fees, insurance premiums and natural resources payments and royalties derived from sources in Seychelles	Final WHT – 15 per cent on gross amounts Insurance premiums: 5 per cent on gross amount Other reduced rates may apply under applicable treaties No deductions allowed
	Payments to non-residents by exempt entities	Not subject to WHT
	Services provided by a contractor or subcontractor related to a petroleum agreement	Final WHT – 7 per cent on the gross amount of the fees paid
	Dividends paid to non-resident in terms of a petroleum agreement	Exempt
	Interest on loans paid to non-resident by petroleum companies	Exempt
Income and non-monetary benefits tax	Income tax – paid by employees, withheld by the employer	Seychellois
		Non-Seychellois
		<ul style="list-style-type: none"> - Below SCR 8 555.50 (\$610): N/A - Between SCR 8 555.50 (\$610) and SCR 10 000 (\$713): 15 per cent on the amount over SCR 8 555.50 (\$610) - Between SCR 10 000 (\$713) and SCR 83 330 (\$5 939): SCR 216.68 (\$15) plus 20 per cent of the amount over SCR 10 000 (\$713) - Above SCR 83 330 (\$5 939): SCR 14 883.28 (\$1 060) plus 30 per cent on the amount over SCR 83 330 (\$5 939)
	Non-Monetary Benefits Tax – paid by the employers	20 per cent on the value of non-monetary benefits provided to an employee – exemptions apply in the tourism and construction sectors
Pension Fund Contribution	Employers	3 per cent on gross salary of employee – when paid by other way than deductions from wages, deductible for BT purposes
Value-Added Tax (VAT)	Supply and import of goods and services	15 per cent 0 per cent for listed goods and services listed in Second Schedule of the VAT Act Exemption for listed goods and services in First Schedule of the VAT Act
	ITZ companies	0 per cent for capital equipment, and intermediate and final products



Type	Entities	Rate
Excise tax	Oil – fuel, gasoil, etc.	SCR 2 to 8.5 (\$0.14 to 0.59) per litre
	Grease and lubricating oil	5 per cent excise tax
	Motor vehicles and motorcycles	0 per cent to 100 per cent based on engine capacity and/or engine type
	Alcoholic beverages	SCR 23.08 to 268.40 (\$1.6 to 19) per litre
	Tobacco	55 per cent of value
	Unsweetened milk and cream, fruit juices, natural and artificial mineral water	SCR 1 (\$0.07) per can/plastic bottle
Customs duties	Cost, insurance and fret value of goods	SCR 0 to 268.40 (\$0 to 19) per litre for drinks 0 to 200 per cent
	ITZ companies	0 per cent
Tourism marketing tax (TMT)	Tourism operators, banks, insurance companies and telecommunications service providers, class I building contractors and casino operators with turnover above SCR 1 million (\$71 276)	0.5 per cent on monthly turnover
Corporate Social Responsibility Tax (CSRT)	Companies with a turnover of at least SCR 1 million (\$71 276)	0.5 per cent of the monthly turnover – can be offset against donations at 0.25 per cent
	Exempt companies in Second Schedule of the BTA and companies in the Third Schedule of the BTA (financial services, residential dwellings)	Exemption
Sugar Tax	Drinks with sugar above five grammes per 100 millilitres	SCR 4 (\$0.30) per litre
Immovable Property Tax	Foreign-owned residential properties	0.25 per cent on the assessed value of the property

Sources: International Bureau of Fiscal Documentation, 2019; BTA 2009, as amended, Petroleum Taxation Act of 2008 (Act 23 of 2008); ITZ Act; Income & Non-Monetary Benefits Tax (Amendment) Act, 2017; VAT Act of 2010 (Act 35 of 2010), as amended; Excise Tax (Imposition of sugar tax on Drinks) Regulations, 2019 (SI 14 of 2019); Customs Management Act of 2011 (Act 22 of 2012), as amended and regulations; Tourism Marketing Tax Act of 2013 (Act 16 of 2013), as amended; CSRT Act of 2013 (Act 17 of 2013); Immovable Property Tax Act of 2019 (Act 19 of 2019).

a Dividends received from a resident are included in the taxable income under the CSRT.

b Fourth Schedule of the BTA: building contractor, maintenance contractor, mechanic (motor vehicle, marine or refrigeration), hirer or operator of plant, equipment (including sea vessels), motor vehicle used for the transportation of goods and for towing, and hirer of public omnibus.

Special regimes also exist for small businesses, some of which overlap and may affect business growth.

For sole traders and partnerships, the BT applies at a rate of 0 per cent on the first SCR 150,000 (\$10,691) of taxable income, 15 per cent between SCR 150,000 (\$10,691) and SCR 1 million (\$71,276) and 30 per cent on the remainder, while for entities defined as such by the BTA,⁴⁷ the general rate applies (table I.1). A presumptive tax is also available for small businesses which are not registered for VAT, at a rate of 1.5 per cent of the annual turnover, if this is below SCR 1 million (\$71,276). Furthermore, individual farmers and fishermen are exempted from the BT (BT (Exemption of Tax to Individual Farmers and Fishermen) Order of 2019 (SI 85 of 2019)). Eighty per cent of sole traders and partnerships are taxed under the presumptive tax regime (OECD, 2020). However, this regime hardly encourages formalization and business growth as: 1) It does not allow deductions, which means that any cost incurred for equipment is fully supported by the business; and 2) Given that these businesses can only register voluntarily for VAT in

limited cases, they cannot obtain refunds. This implies that in order to maximize profit, they could refrain from acquiring equipment, limit transformation of products and limit trading to VAT-exempt products. Given financial literacy limitations discussed in chapter II, and in the absence of a mechanism to assist them with their tax returns, many businesses might be not be aware of the advantages of the other regimes. Others, however, might leverage the possibilities of arbitrage opened by the multiplicity of regimes by structuring their legal status, and separating their income, to fit in the most convenient scheme and remain below the relevant thresholds.

Additional taxes on businesses exist, which contain discriminatory features and can create distortions. The CSRT and the TMT apply on turnover, rather on the taxable income. They are payable by a company even when in deficit (table I.1). These taxes serve, to some extent, as a mechanism to compensate the fiscal loss derived from the incentives regimes. They represent a non-negligible source of fiscal revenue, standing respectively at 0.5 and 0.3 per cent of GDP in 2017 (OECD, 2020). An offset mechanism is offered for the CSRT, provided the beneficiary entities are first approved by the CSRT Committee. The SRC reported that the credit can be carried forward against the next CSRT. Effective 1st January 2020, the Immovable Property Tax Act of 2019 (Act 19 of 2019) introduced a yearly tax at a rate of 0.25 per cent of the market value of the immovable property owned by a non-Seychellois for residential purposes. First-time owners can apply for an exemption of one year and foreigners married to Seychellois are exempted. This tax was considered by the IMF tantamount to a capital flow management measure (IMF, 2019). Finally, the thresholds, amounts and rates of the Personal Income Tax (table I.1) vary significantly between domestic and foreign workers and affect particularly low-income foreign employees. As mentioned in section D, it is expected that foreign workers will also be excluded from the 13th month salary. These measures may discourage long-term foreign investment and the attraction of foreign skills.

The current structure of the VAT is not conducive to local transformation. The VAT is regulated by the VAT Act of 2010 (Act 35 of 2010, as amended). It was introduced in 2013 to replace the Good and Services Tax. Several exemptions exist, especially on food and pharmaceutical items. The President announced, during the State of the Nation Address 2020, the extension of the exemption for all food-related goods, effective 16 March 2020.⁴⁸ The threshold for mandatory registration for VAT is set at SCR 2 million (\$142,552) of sales turnover, which excludes small businesses (see below) and is high. In addition, the more products are VAT exempted, the less VAT is beneficial in promoting local transformation, as input VAT cannot be offset against output credit, unless the whole production process of the good is covered by exemptions. This was also emphasized in the National Business Summit Report 2018. Finally, according to the VAT Act and the VAT (Refunds) Regulation of 2013 (SI 34 of 2013), VAT should be refunded within 30 days. However, the law is silent about the consequences of longer refund times and the interest rates applied in case of delays. Finally, there is no mechanism allowing pre-certified companies from benefiting from a speedier process. In practice, it was reported by the Department of Finance and the private sector that the VAT still applies like a Goods and Services Tax and refund requires more than three months. In total, 1692 businesses were VAT-registered as of November 2019 as per a list published by the SRC.⁴⁹

Measures were introduced to increase international tax cooperation and fight tax evasion. Seychelles agreed to implement the four minimum standards of the OECD BEPS Project.⁵⁰ Reforms were consequently introduced for compliance purposes in the offshore sector (see above). The country also adhered to the OECD's Convention on mutual administrative assistance in tax matters,⁵¹ which entered into force in October 2018, adopted the Revenue Administration (Country-by-Country

Reporting Multinational Enterprise Groups) Regulations of 2019 (SI 25 of 2019) and signed the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Report in July 2019. The Country-by-Country reporting is active with 49 jurisdictions as of 11 March 2020.⁵² Ten tax information exchange agreements are in force. The BTA contains a general anti-avoidance rule and a provision on transfer pricing, following the arm's length principle. The SRC issued a binding public ruling (Public Ruling 2015-3) reflecting the possibility to use the Most Appropriate Method (OECD, 2018). The BT also provides for a general provision on anti-income splitting.

However, key anti-avoidance mechanisms are yet to be adopted. Compliance standards vary and require an important adaptation capacity. SI 25 of 2019 exempts multinational enterprises with a global income of less than EUR 750 million from the reporting requirement, which is consistent with Action 13 of the BEPS Project. However, given the size of foreign businesses present in Seychelles, the scope of reporting might be very limited. The country has signed but not ratified the Multilateral Instrument to Implement Tax Treaty Related Measures to Prevent BEPS. The transfer pricing provision still refers particulars to international standards, case law and guidelines on transfer pricing issued by international organizations concerned with taxation. In addition, there are no provisions on thin capitalization, controlled foreign companies and group taxation. 26 double taxation avoidance agreements are in force, which prevail over the national legal framework, and 11 await signature.

Paying taxes is relatively easy, but electronic payment solutions are underdeveloped... Registration for the TIN and e-filing of taxes are available online, the SRC published a guide to assist users and uploaded a form for the digital signature.⁵³ E-payment is available through bank transfers via online banking platforms and SEFT. However, payment via the SRC e-portal is limited to customers of one specific bank and payment by debit and credit cards is not available. Furthermore, the adoption of the digital signature mechanism is incomplete, as the DICT has started issuing digital signatures, albeit to international corporate service providers only.

Assessment and recommendations

The corporate tax regime in Seychelles has developed into a maze of different rates and additional incentives, which is difficult for companies to navigate and for the administration to implement. No cost-benefit analysis is carried out and incentives are not linked to specific development outcomes, such as employment creation, transfer of know-how or technology. Turnover taxes co-exist with income-based taxation and the transition to a VAT system is not complete, while several taxes create distortions and discrimination. An overhaul of the tax system is needed. This is made even more urgent by the expected impact of the COVID-19 pandemic on businesses as well as public revenues. The authorities are aware of the need for reform in this area and have requested the assistance of the OECD. Following the publication of the OECD Tax Policy Review of Seychelles (March 2020), the MFTIEP announced considering the adoption of flat tax rates at 15 per cent under SCR 1 million (\$71,276) of taxable income, and 25 per cent over that threshold.⁵⁴ While the country is considering measures to expand its tax base, special attention should also be given to small businesses, with a view to sustain their creation and growth. In addition, a more comprehensive approach to reforms aiming at ensuring the compliance with international tax standards is required to avoid multiplying measures that risk not being implemented and thus further expose the country and affect its reputation. This review supports the recommendations contained in the OECD Tax Policy Review and further recommends the authorities to:

1. Consider gradually introducing a unified BT rate for all sectors and streamlining incentives. This includes linking incentives to the development objectives of the country, regularly monitoring their effectiveness by measuring their cost and impact, and phasing out ineffective incentives.
2. Include small businesses under the BT. Accelerated depreciation could be envisaged to encourage equipment acquisition in the first years of operation. This regime should be promoted by ESA.
3. Establish accounting centres to assist small business with requirements for tax purposes.
4. Consider transforming the CSRT into a tax creditable against the taxable income for BT purposes, at least in a first stage. Removing it could be considered at a second stage.
5. Reconsider VAT exemptions affecting the sectors which the country wants to develop, while facilitating the refund mechanism. This would imply:
 - Adopting criteria to pre-certify companies whose refund would be automatic, provided no red flags are raised during the implementation.
 - Introducing an interest rate on the SRC for these companies.
6. Continue reinforcing anti-avoidance measures. This would entail conducting a complete review of the preferential tax regime currently in place.

F. COMPETITION

Concentration and monopolies exist in several sectors, as is frequent in SIDS. The lion share of the Seychellois economy relies on PEs, and while not all of them operate as monopolies, their combined revenue represented 57 per cent of GDP in 2017, according to data of the Public Enterprise Monitoring Commission. The Seychelles Petroleum Company and the PUC have legal monopolies over, respectively, business oil and gas supply and utilities. For energy, this entails generation, transmission and distribution, with the exception of a power purchasing agreement recently concluded with a French company.⁵⁵ According to information received during the fact-finding mission, de facto monopolies also exist in the business to business supply of food consumer goods, transportation and telecommunications. Monopolistic behaviour also affects the operation of the Port of Victoria and travel agencies. While the size of the market may explain concentration in some sectors and might be justified in certain areas where value for money might not be guaranteed to private operators, it nevertheless affects business operations, as exemplified by the high cost of shipping at the Port and of electricity (fact-finding mission; IMF, 2019). A PPP legislation, currently being developed, may provide an opportunity for the entry of new economic operators in sectors which were until now closed.

The first competition laws, adopted in 2009, are complemented by COMESA and SADC regulations. The Fair Competition Act (FCA) of 2009 (Act 18 of 2009) and the FTC Act of 2009 (Act 17 of 2009)⁵⁶ are the key instruments shaping the legal and institutional framework for competition in Seychelles. The National Investment Policy also refers to the “promotion of free and fair competition through free entry of business”. In addition, article 55 of the COMESA Treaty led to the adoption of the COMESA Competition Regulations in 2004, as well as several rules and guidelines.⁵⁷ They complement the domestic framework and enable the COMESA Competition Commission, established in 2013, to intervene when there is an impact on

cross-border trade in the Common Market.⁵⁸ SADC has also developed a Declaration on Cooperation in Competition and Consumer Policies in 2009, though this text has had less influence on competition law and policy in Seychelles.

A Fair Trading Bill prepared in 2019 would address several gaps in the competition regime... In 2014, Seychelles underwent an UNCTAD's Voluntary Peer Review of its competition law and policy (UNCTAD, 2014). The Review identified deficiencies in the structure of the FCA, a lack of distinction between horizontal and vertical agreements, missing definitions and offences, including resale price maintenance and aiding or abetting a contravention, and financial penalties too low to have any deterrent effect. At the institutional and procedural levels, the FTC Act does not distinguish sufficiently between the administrative, investigative and adjudicative functions of the Commission. Also, the three-year term of the Commissioners is insufficient to allow them to become familiar with the intricacies of competition cases, and, as per the terms of the FCA, respondents are not included in the hearings before the FTC. These concerns are addressed by the Fair Trading Bill, which was approved by Cabinet in June 2019 and is now awaiting adoption by the National Assembly. The Bill would merge the FCA, the FTC Act and the Consumer Protection Act of 2010 (Act 30 of 2010). One of the key changes it would introduce is the ability of the FTC to collect its own funds through the fines and penalties imposed, which, at the moment, are transferred to the Consolidated Fund. This would grant it more independence.

...but not all. The FCA also applies to economic activity conducted by the State, but only to the extent that the market is open to private companies. Additionally, companies can apply for an authorization to be exempted when engaging in a practice affecting or prohibited by law when providing a public benefit, however the latter is not defined in the FCA nor in the Bill. At the institutional and procedural levels, while a clear distinction is introduced between the investigative and adjudicative functions with the establishment of a Fair Trading Tribunal, the consequences of the appeal procedure are unclear.⁵⁹ In addition, the Tribunal cannot add claims, nor prosecute them when the offense has ceased. The Board still comprises only five commissioners, while the quorum is still fixed at three, which, given the specific context of Seychelles (see below), can impede meetings in case members of the Board declare a conflict of interest. In the FCA as in the Bill, the complaint must be brought by a person who has an interest, and the texts do not offer an anonymity option. While this also stems from the COMESA Regulations, it could discourage whistleblowing. Finally, the members of the Tribunal can be terminated by the President for "incompetence", but this term is not defined. The President also determines the conditions of employment of commissioners, chairperson, vice-chairperson and members of the Tribunal.

The mandates of the sectoral regulators are unclear regarding competition. Regulatory authorities include the CBS, the DICT⁶⁰, the FSA⁶¹, the Seychelles Energy Commission, PetroSeychelles, the Seychelles Ports Authority, the SAA, the SFA and the SLA. The FCA and the FTC Act do not define the relationship between these and the FTC, nor do they clarify which legal text would prevail in case of conflicting provisions. The Bill, however, would address this issue by defining the relationship between the FTC and the sectoral regulators. The FTC has concluded memoranda of understanding with the FSA and the SLA,⁶² and has reported good working relationships with the DICT. Its cooperation with the CBS remains informal. There are also issues with the legal and institutional frameworks governing these authorities. For instance, the IBC Act provides for specific provisions in the case of mergers but does not subject these operations to any threshold or external control. In addition, the DICT is a governmental department and, as such, it does not have the power to sanction directly. The Communications Bill provides for the transfer of the regulatory authority to a separate corporate body, the Seychelles Communications Regulatory Authority.⁶³

Despite its efforts, the FTC only has limited resources and capacities to address competition issues. The FTC's website allows for the possibility to lodge a complaint online, but it requires the plaintiff to provide full name and contact details.⁶⁴ The website also provides access to the FCA, as well as guidelines on relevant market, abuse of dominance, collusive agreements, mergers, and penalties and remedies, and rulings of the Board and decisions of the Appeal Tribunal. In addition, the Commission has published in October 2014 a National Competition Policy, which is very much an awareness tool also for other parts of the Government. However, the Appropriation Act of 2019 (Act 1 of 2019) allocates a budget of \$1 million to the FTC, and while the Commission has increased its staff from five in 2014 to 32 at the time of the fact-finding mission, only three of them are dedicated to competition issues (UNCTAD, 2014). Its organizational chart shows two vacant positions and the objective of the FTC is to create seven new ones, to assist in the implementation of its competition mandate. Although the Board is functional, it was reported that its members are not specialists and rulings take on average one year. Finally, there are no competition law courses at the University of Seychelles.

Assessment and recommendations

Competition is a recent policy domain in Seychelles. While the country is making efforts to align its legal and institutional framework with best practice, some elements in the Fair Trading Bill still need improvement. In addition, the resources and capacities at the FTC need to be strengthened for the Commission to be able to achieve its mandate. In light of this, the Government could consider to:

1. Amend the Fair Trading Bill to:
 - Define what public benefit entails with criteria to assess it.
 - Determine the consequences of the appeal, especially when the decision is taken by a panel of members.
 - Increase the number of members of the Board. This would also require building their capacities.
 - Extend the possibility of bringing competition complaints beyond a person who has a personal interest, so as to include the interest of the economy. Alternatively, an anonymous complaint could be envisaged as a first step for the initiation of a complaint by the FTC, after a short investigation phase.
 - Detail criteria to qualify the “incompetence” of a member of the Tribunal.
2. Adopt the Fair Trading Bill with the proposed amendments.
3. Continue the efforts to coordinate the FTC's functions with those of sectoral regulators, and to raise awareness on competition issues.
4. Build partnerships with regional competition authorities and continue the collaboration with the COMESA Competition Commission.

UNCTAD stands ready to provide technical assistance in the area of competition policy and training of competition officials.

G. INTELLECTUAL PROPERTY RIGHTS

Seychelles is a party to several international agreements for the protection of IP rights. The country joined the World Intellectual Property Organization in 2000 and ratified the Paris Convention for the Protection of Industrial Property and the Patent Cooperation Treaty in 2002. In addition, Seychelles is also a State party to the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and accepted the 2005 Protocol Amending the TRIPS Agreement in 2016.

The legal framework for IP was reviewed in the context of the country's accession to the WTO in 2015. The Industrial Property Act of 2014 (Act 7 of 2014) and the Copyrights Act of 2014 (Act 5 of 2014) are the main laws regulating IP in the country. Adopted in the context of accession to the WTO to ensure compliance with the TRIPS, they are completed by several regulations, and are currently being reviewed.⁶⁵ The Industrial Property Act provides for the registration and protection of patents, utility model certificates, industrial designs, layout-designs of integrated circuits, mark, certification mark, collective mark, trade name and geographical indications. Appeal against the decisions of the Registrar General can be made to the Supreme Court and civil proceedings against infringements are limited to five years as of the moment the holder of the right becomes aware of the fact. The Act also contains provisional measures to stop the infringement and gives the right to police officers to make arrests on the street. Industrial property rights may be transferred by sale or inheritance or any other means in accordance with the Act and any other law.

The NDS 2019–2023 focuses heavily on innovation. As per the development plan, the National Institute of Science, Technology and Innovation (NISTI) is mandated to formulate a focused roadmap through a policy and strategy for science, technology and innovation (STI) for Seychelles over the period 2016–2025, with an action-oriented, medium-term plan covering 2019–2023. The baseline for Gross Expenditure on Research and Development is 0.4 per cent of GDP, and the NDS aims to increase it to 1 per cent by 2020 and 2 per cent by 2025. For this purpose, a 10-year National STI Capacity and Research Infrastructure Development Plan was formulated (see chapter II, section C).

While the legislation contains provisions to encourage research and development, limited incentives are provided... The Industrial Property Act indicates in the preamble that its objective is, amongst other goals, to encourage local inventive and innovative activities, stimulate the transfer of foreign technology and promote FDI. On patents, the Act specifies that multiple ownership is possible and regulates the situation when the invention is made in the context of an employment contract. In this case, the patent belongs to the employer, unless contractual provisions state otherwise. If the employment contract does not entail invention, the patent belongs to both parties, if equipment and material was provided by the employer. While it is positive that these provisions were included, they do not provide an incentive for inventions by employees in the absence of the promotion of an interest or reward mechanism, and do not provide for the case when the employee considered is a university employee. Finally, the BTA makes R&D expenditure deductible for BT purposes at a rate of 40 per cent for the tax year considered, but it does not indicate what kind of expenditure (e.g. R&D staff, equipment) is covered. This is quite restrictive, compared with the fiscal incentives for R&D offered by several other developed and developing countries, which include enhanced deductions, tax credits (UNCTAD, 2005 and 2017).

... and several features of the regime might discourage the transfer of technology and innovation activities, particularly by foreign companies. The National Institute for Science, Technology and Innovation (NISTI) Act of 2014 (Act 6 of 2014) provides for the Institute's involvement in the decision-making process

concerning all technology transfers and acquisitions at the national and international level, which opens the door to screening of transfer of technology agreements. It also gives it the mandate to approve and coordinate scientific research programmes and activities at the national level. While a certain level of control over activities that may affect health, competition or involve taxation is appropriate, this is typically carried out through ex-post controls by the competent entities. The Industrial Property Act provides that any person who is a national, is domiciled, or has a real and effective industrial or commercial establishment in a State that is a party to the Paris Convention or any other treaty that embodies the principle of national treatment to which Seychelles may be a party shall be treated in the same way as Seychellois, except with regards to requirements that may be explicitly provided for purposes of administrative and judicial procedures. While this does not seem to be the primary intent, the latter provision could be interpreted extensively to restrict access to legal remedies by foreigners.

Institutional capacities need to be further strengthened... The University of Seychelles was established in 2009 and only the Blue Economy Research Institute conducts research activities. Since 2014, the NISTI is in charge of developing the national innovation system (NIS), by promoting STI and R&D through capacity building and funding (see chapter II). Following the NISTI Act, the Institute should establish an R&D centre, an incubation centre and science park, as well as specialized laboratories. None of these are yet in place and the Institute has reported facing issues in implementing its functions. The Registrar General only has four staff dealing with IP rights and they cannot conduct the examinations necessary to register a patent. Consequently, the private sector needs to use private laboratories abroad and the process is costly. The Intellectual Property Office was established in 2018, but it also faces resource constraints and lacks specialized staff. The Office has no website. Finally, the number of lawyers or magistrates specialized in IP in the country is limited.

...as they impact enforcement capabilities. The effective detection of counterfeit products constitute a challenge for the authorities. Despite efforts made to control the borders, “Seychelles has many porous borders, which makes them hard to monitor”, as recognized by the NDS 2019–2023. Counterfeiting primarily affects apparel and artistic productions (USDOS, 2019), as confirmed during UNCTAD’s fact-finding mission for this report, and seizure of products is considered “politically unpopular”. The private sector also reported that poor enforcement and low sanctions act as deterrents from registering IP rights. Finally, awareness of the Patent Cooperation Treaty is low and a misunderstanding prevails. Several private sector representatives indeed indicated that they would not register their patents until the Madrid Protocol were in force in the country. The latter, however, does not apply to patents.

Measures are being taken to address some of these issues. Seychelles is in the process of adhering to the Madrid Protocol and the African Regional Intellectual Property Organization (ARIPO). While the former would allow to extend the registration of a trademark in any State party to the others, the latter would simplify the examination process for the Registrar, as they would be conducted by the Organization. The NISTI has also indicated working with the Southern African Research and Innovation Management Association to establish a transfer of technology system (see chapter II), amongst other projects. Finally, a National IP Committee, which includes representatives of the Department of Trade, the Registrar-General and NISTI, among others, was established with a view to coordinate and guide national stakeholders in relation with IP developments. It raises awareness and organizes yearly the IP Day.

Assessment and recommendations

IP protection is a new field in Seychelles, but an increasingly important one as the country explores new avenues for economic development. In addition, some provisions that would promote R&D and transfer of technology are missing. At the institutional level, lack of awareness, weak resources and the country’s

geography make enforcement problematic, which acts as a deterrent for businesses that would otherwise envisage entering the field. Jointly with the recommendations presented in chapter II, section C, the following recommendations should be considered:

1. Adhere to the Madrid Protocol and ARIPO.
2. Raise awareness about the mechanisms offered by the Patent Cooperation Treaty and the Madrid Protocol.
3. Consider additional incentives (to encourage R&D as well as transfer of technology). These incentives could be of a fiscal nature, for instance enhancing the existing R&D expenditure deduction or introducing tax credits and/or of a non-fiscal nature, like specific provisions to encourage the entry of foreign researchers.
4. Consider a specific provision to incentivize university-employed researchers. This provision could entail a premium or a share in the commercialization of the patent.
5. Reconsider the involvement of NISTI in the transfer of technology process.
6. Strengthen the resources of the IP Office and consider capacity-building programmes on IP regulations and enforcement.
7. Conduct coordinated activities to raise awareness on the importance of IP rights and encouraging businesses to register their IP rights.
8. Build the capacities of selected lawyers and magistrates regarding IP rights.

UNCTAD stands ready to provide technical assistance to build capacities of the authorities regarding the transfer of technology.

H. ENVIRONMENT

Environmental protection is a priority for Seychelles... It is prominently reflected in the Vision 2033, the NDS 2019–2023 and in the Constitution of 1993. Seychelles is at the forefront of the global initiatives for the protection of marine areas and in the fight against climate change. It has declared 30 per cent of its waters protected areas, well beyond the 10 per cent target set by SDG 14 “Conserve and sustainably use the oceans, seas and marine resources for sustainable development” for 2020. This protected area includes a Marine Protection and Sustainable Use Area, in which tourism and fisheries activities are restricted to balance economic needs with environment protection, and a Marine National Park, where almost all human activity is forbidden. The Seychelles Conservation and Climate Adaptation Trust (SeyCCAT), set in 2016, issued the first sovereign blue bonds in 2018. It provides grants to the blue economy and other ocean-related projects through the Blue Grants Fund (see chapter II).⁶⁶

...and almost all investment projects require an environmental authorization. The environmental authorization is subsequent to an EIA, which is regulated by the Environment Protection Act of 2016 (Act 18 of 2016) and the Environment Protection (Impact Assessment) Regulations of 1996 (SI 39 of 1996, as amended). The implementation of these legal texts is the responsibility of the Ministry of Environment, Energy and Climate Change (MEECC) and more specifically, the Department of Environment, which is also involved in the SIB approval and planning permission procedures (sections A and C).

In line with good practice, the scope and extent of the EIA depend on a project's potential impact.

The Environment Act defines two classes of projects based on their potential impact on the environment: Class I (high impact) and Class II (low impact). The mandatory content of the EIA Class I is defined in the Act, and can be extended by the MEECC, while the EIA Class II is fully defined by the MEECC. The range of projects and activities covered by these texts is very wide.⁶⁷ The classification of the project or activity should, as per the Regulations, be determined in accordance with guidelines and consideration for ecological consequences. In practice, however, this is conducted through a scoping meeting with the Department of Environment. As mentioned in section B, the Department of Environment is also involved in the appreciation of projects at the SIB approval stage, and although its scope of intervention and appreciation is wider at the EIA stage, it is an example of duplication and waste of limited resources. The Regulations also provide for a determination of the terms of reference of the EIA with the project developer. The cost of the EIAs is fully born by the project developer. No fees are collected by the MEECC.

Some procedural aspects of the EIAs could be better detailed. Given that no specific regulations were adopted following the Environment Act of 2016, discrepancies appear between the Act and the Regulations which preceded it. Several references are thus made to the involvement of the Planning Authority in the Regulations, while they are absent from the Act, which creates confusion, especially given that the Department of Environment is again involved in the planning permission. For EIAs Class I, a public inspection can be conducted, a notice must be published to publicize it, and the public can submit written comments. However, the Regulations do not apprehend the public meetings mentioned in the Act. For both classes of EIAs, an Environment Appraisal Committee can be constituted when considered necessary to the MEECC, but the relevant criteria are not defined. The conditions and procedure for appealing in case of refusal of environmental authorizations are not clear in the Act, which mentions the existence of an Appeal Boards, though it was never established. Hence, appeal is made to “the Minister”, as per the Regulations. The Department of Environment has indicated that “the Minister” in this case is the Minister of the Planning Authority. It should also be noted that the Regulations grant the power to the Planning Authority to issue or refuse the environmental authorization when it is the one forwarding the application because the project or activity falls within its purview. Finally, the Minister may provide for the criteria for a person to be registered as an EIA consultant, but no text was adopted in this regard and the Regulations do not provide guidance on the selection process.

New regulations are being drafted to address some of these issues. The Department of Environment has indicated during the fact-finding mission that they should be sent to Cabinet in March 2020. Among the key changes are the introduction of fees that would be received directly by the MEECC, an amendment of the schedules for EIA Class I projects, and the adoption a code of conduct for EIA consultants. The regulations should also contain an obligation for foreign EIA consultancies to partner with a local firm. A concern, in this regard, is that, at the time of UNCTAD's mission for this report, there were only five EIA consultancies in the country, which could lead to delays for projects and activities, particularly for EIA Class I.

Compliance monitoring is limited by resource constraints and by the duplication of permitting procedures. The EIA Class I entails that an environmental monitoring programme is included in the notice of acceptance, and the Act provides for correctional measures to be determined by the MEECC. However, the Act and Regulations do not refer to any environmental audit to be conducted by the MEECC in a specific timeframe after the start of operations. For EIA Class II, the Act leaves the option to the MEECC to conduct the EIA itself. The Department of Environment reported EIA Class II are conducted after site-visits to grant the environmental authorization. The Department of Environment has also indicated that, given resource constraints, compliance monitoring is limited to the construction phase. Indeed, four staff are allocated to

Class I EIAs, while five are assigned to EIA Class II and also participate in the SIB approval and planning permission procedures.

Assessment and recommendations

Environmental protection is a priority for Seychelles, and the country is at the forefront of the fight against environmental degradation and climate change, which pose existential threats for the archipelago. It is not surprising, therefore, that the Environment Act requires an environmental authorization for almost all projects and activities established in the country. However, the classifications used are very broad, and the EIA permitting process often lacks clarity, due to missing or incomplete provisions and outdated regulations. Finally, the limited resources of the Department of Environment are spread even thinner due to its involvement in the SIB approval and planning permission processes, at the expenses of ex-post monitoring and inspections. In light of this, the Government could:

1. Consider streamlining the projects and activities subject to the EIA by establishing an intermediary category. Class I would be thus reserved to projects and activities with an obvious impact on environment, notably in relation with their location and/or type of industry. A second category, new Class II would comprise intermediary projects and activities for which an evaluation by the MEEC is required and Class III would be for projects and activities which are unlikely to impact the environment and for which a light monitoring is required after the start of operations.
2. Adopt specific regulations for the Environment Act of 2016 and:
 - Clarify the relationship and involvement of the Planning Authority.
 - Explain the procedures for public consultations.
 - Elucidate which recourses are available when the environmental authorization is refused. This should entail an administrative and a legal recourse.
 - Define criteria for the selection and registration of EIA consultants.
 - Exclude the reference to mandatory partnerships with local EIA consultants, unless resources in this field are increased.
 - Include an environmental audit to monitor the compliance.
3. Publish the list of EIA consultants on the MEECC website.
4. Increase the human resources allocated to the EIA and environmental audit.

I. GOVERNANCE

1. Commercial dispute resolution

Contract enforcement is slow and access to alternative dispute resolution mechanisms is limited.

For civil matters, cases are referred to the Magistrate Court when the claim is below SCR 350,000 (\$24,947) and to the Supreme Court when it is above that amount. A Commercial List was established in the Supreme Court, where a magistrate and judges associates deal with commercial cases. The process



was described as lengthy by several stakeholders interviewed by UNCTAD. The Commercial Code provides for arbitration, but no arbitration centre was established. The Supreme Court's website refers to a mediation service it provides. However, this was not evoked during the fact-finding mission and it is not clear whether it covers commercial cases. The Seychelles Chamber of Commerce and Industry had taken steps to introduce alternative dispute resolution, but efforts were stopped due to funding issues.

Enforcement of foreign judgments and awards is difficult. The Foreign Judgments (Reciprocal Enforcement) Act of 1961 and the Reciprocal Enforcement of British Judgment Act of 1922 regulate, respectively, the enforcement of foreign judgments and British judgments and awards. In the case of Commonwealth countries, defined by the Act of 1961 as the territories of which the Queen of the United Kingdom is recognized as the Head of State, this also covers awards. The court examines that procedural aspects were respected and registers the judgment or award, which then becomes enforceable in Seychelles. Section 146 of the Commercial Code of 1976 provides that, subject to reciprocity, arbitral awards under the New York Convention shall be binding. The Convention only entered into force on 3 February 2020,⁶⁸ and the Attorney General indicated to the UNCTAD team that retroactivity of awards rendered before this date will be considered by the court.

Several measures are considered to improve commercial justice. These include measures to publish commercial sentences online, automatize the process through electronic filing and tracking of the cases, and introduce a small claims court or a fast-track procedure for small claims. It also allows for specialization of judges and provides continuous professional training, sets deadlines for key court events and regulates the number of adjournments granted. It could also serve as an incentive for parties to attempt mediation or conciliation outside the judicial system. These are positive steps to shorten the time and lowering the cost of commercial proceedings, while also increasing transparency.

2. *Fight against corruption*

Seychelles scores among the world's top performers in the fight against corruption. The country ranked 27 over 180 countries with a score of 66 over 100 (100 being the best) on Transparency International's Corruption Perception Index in 2019, and it was the highest ranked both in Africa and among SIDS (Transparency International, 2020). It ranked after Barbados and Cabo Verde, but before Mauritius, among SIDS comparators in the World Bank's Worldwide Governance Indicator on Control of Corruption in 2018.⁶⁹

It has adopted a comprehensive set of legal instruments . . . Seychelles ratified the United Nations Convention Against Corruption on 16 March 2006. Chapters X and XXXVIII of the Penal Code of 1955 (as amended) regulate corruption and abuse of office by public officers, secret commissions and corrupt practices. It is completed by the Anti-Corruption Act of 2016 (Act 2 of 2016, as amended in 2017 and 2019), the Public Officers' Ethics Act of 2008 (Act 14 of 2008, as amended in 2014 and 2018) and the Public Persons (Declarations of Assets, Liabilities and Business Interests) Act of 2016 (Act 26 of 2016). The Public Officers' Ethics Act contains a General Code of Conduct and Ethics for Public Officers, which prohibits improper enrichment and conflict of interest and introduces an obligation on a series of public officers to declare their income, assets and liabilities.⁷⁰ In line with modern practice, the assets declarations under the Act of 2016 are considered public information. The Anti-Corruption Act prevails when inconsistent with other related laws and applies in addition to them. While the Act provides for whistleblowers' protection, including of their identity, it retains a sanction when it is estimated that the complaint was made in bad faith and was frivolous and vexatious. The way this is assessed should be further detailed to avoid becoming a deterrent to reporting corruption, especially given that the small population of the country also means that anonymity of whistleblowers is limited.

...and instituted a fully-fledged anti-corruption agency... As per the Act of 2016, the Anti-Corruption Commission is a self-governing, neutral and independent body corporate, not subject to the directives or control of any person or authority. It has the power to initiate complaints and investigate. The Act provided that prosecution was instituted by or with the consent of the Attorney-General. The same applied to prosecution under Chapter XXXVIII of the Penal Code which was subject to the written consent of the Attorney-General. Act 7 of 2019, however, attributed to the ACC the power to prosecute under Chapters X and XXXVIII of the Penal Code, as well as under the Anti-Corruption Act.

...but enforcement issues remain. Despite the country's position in international rankings, political interference and corruption of public officials were often mentioned to UNCTAD as issues by the MDAs as well as the private sector. The ACC was established in 2017. It has six investigation officers, including four former police officers and two financial analysts, and three staff in the complaints' unit. The Commission reported to UNCTAD that out of the 68 cases that were referred to the investigative unit, 66 were closed, either because evidence was insufficient or because they did not fall under its jurisdiction. The capacities of the ACC to conduct forensic and financial forensic analysis are limited and despite the recent extension of its mandate to prosecution, it does not have a dedicated prosecutor.

3. Access to information and public-private dialogue

Seychelles has recently adopted an Access to Information Act (Act 4 of 2018). The Act includes an obligation for public bodies to publish not only procedural information, but also the content of agreements they conclude within 30 days, and to publish information annually. Access to information is subject to fees and applicants need to certify that they believe the information is necessary to safeguard the life or liberty of a person, which is very restrictive. Limits on access to information are also provided, and while some are justified, notably to protect trade secrets, others subject access to information to the assessment made by the Information Officers of the various MDAs, which leaves ample scope for subjective interpretations.⁷¹ Two review mechanisms are introduced: one to the information holder and another via an appeal to the Information Commission, which was recently established.⁷²

Investment-specific texts also include a reference to transparency... The National Investment Policy provides for "transparency and best regulatory practices for a pro-business environment" and, according to the Investment Act, all laws, regulations and policies affecting or pertaining to investment or investors shall be made publicly available. In the case of the policies, this should be done in a timely manner.

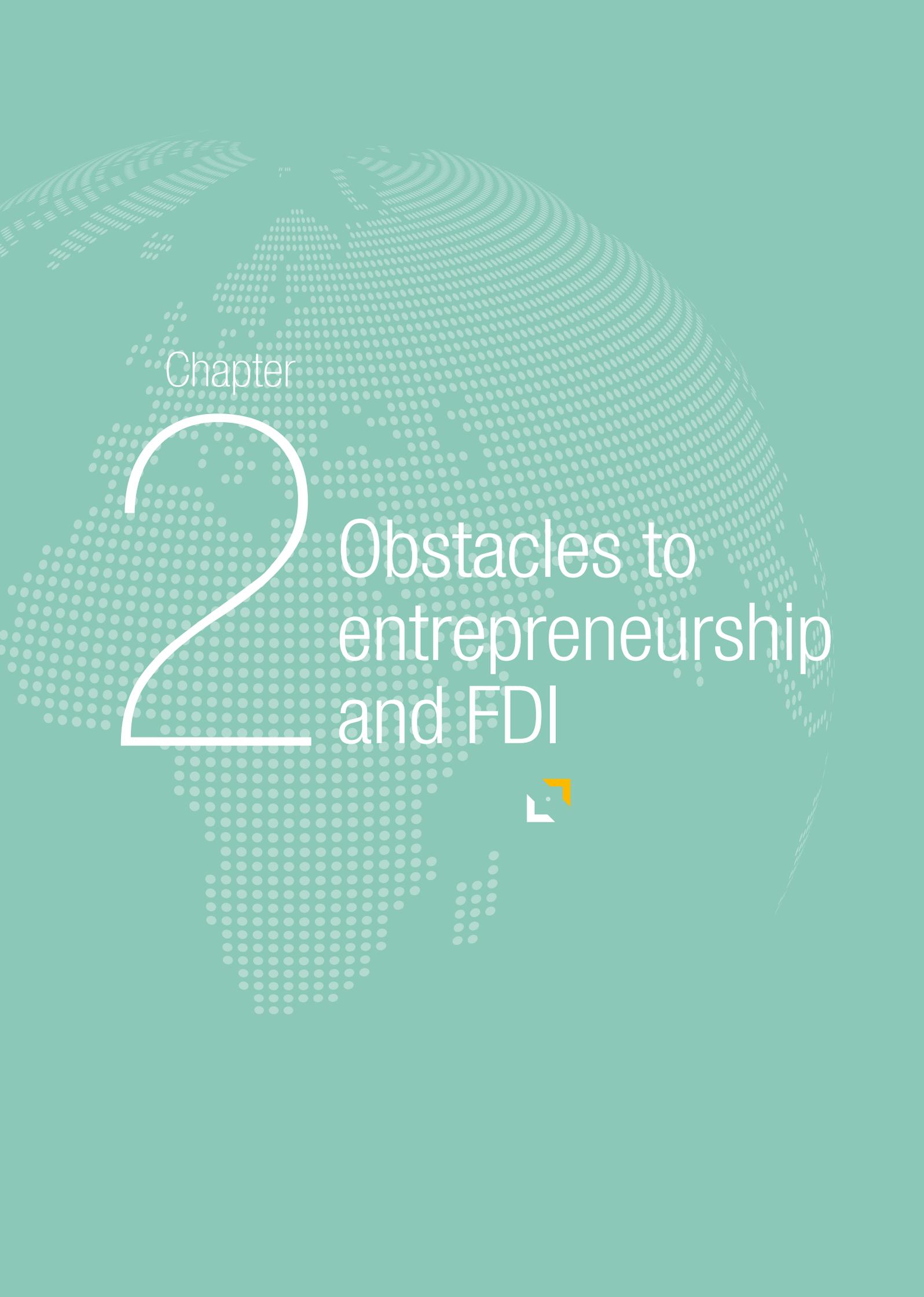
...but they are not fully enforced. As described in different sections of this chapter, access to information relating to business procedures is scattered and not systematically available on the MDAs' websites. In addition, as mentioned throughout this chapter, business procedures are determined not only by the legal texts but also by policies adopted by MDAs which are seldom available publicly. An effort was made in 2006 to gather all government procedures affecting business on the website "egov.sc". However, the website has not been updated regularly and is outdated (e.g. reference is still made to the Seychelles International Business Authority which was effectively replaced in 2013 by the FSA). On 10 March 2020, a new website was launched by the Judiciary to provide access to legal and judiciary information to both legal practitioners and the general public.⁷³ It links to "seylii.org", a private page which has an informal repository of laws, decrees and regulations.

Public-private dialogue is not institutionalized, and a general mistrust characterizes the relationship between the Government and the private sector. The Government is making efforts to involve the private sector in the policy-making process. However, the private sector is still not systematically consulted on policies which are crucial for business operations, such as the minimum wage or the duration of annual leave.⁷⁴ The HLDBC (section B) is partly composed of private sector representatives, and businesses were also invited to comment on the NDS 2019–2023. However, participation was reportedly low, and the strategy is perceived by several of them as “just another document on the shelf”. This is also revealed in the low rates of responses received by the National Bureau of Statistics (NBS) when conducting surveys.

Assessment and recommendations

Commercial justice is slow, but recent initiatives should help improve it. Important efforts are deployed to fight corruption, though the regime could be further improved by strengthening the institutional framework and disclosure requirements. The availability and access to information could also improve and additional transparency and public-private dialogue measures are necessary. In light of this, the Government could consider to:

1. Encourage the establishment of an arbitration centre. This would entail not only financial support, but also providing training to selected arbitrators.
2. Adopt mechanisms to raise awareness and incentivize the use of alternative dispute resolution mechanisms. In the case of the establishment of an arbitration centre, a list of selected arbitrators should be available to lawyers and magistrates, and fees should be adjusted to encourage the use of the centre.
3. Provide training to the magistrates and judges in charge of the enforcement of foreign arbitral awards regarding the New York Convention.
4. Strengthen the human resources at the ACC and allocate a prosecutor to the Commission. Partnerships with best practice countries, could be envisaged to build capacities.
5. Clarify the provision on whistleblowing with a view to limit the scope of what constitutes bad faith and frivolous and vexatious claims.
6. Adopt regulations to establish the conditions and exemptions to access to information under the Act of 2018, with a view to limit cases where it is denied.
7. Update the egov.sc website with relevant information for business procedures relevant to investors and entrepreneur, entailing information on investment, business establishment, access to land, labour, recruitment of foreigners, taxation and EIAs. This could be an integral part of the eGovernment window recommended in section B.
8. Institutionalize public-private dialogue. The HLDBC could be used as a platform of public-private dialogue on issues affecting businesses. This would mean including more private sector representatives, with a diversity of sectors and locations, as well as expand the representation of MDAs by involving the authorities involved in business operations. Similar to the current meetings of the HLDBC, regular meetings should be organized to discuss short-term, but also longer-term measures affecting economic activities. Several tools have been developed by international and civil society organizations in this area and could be of assistance to the Government.⁷⁵

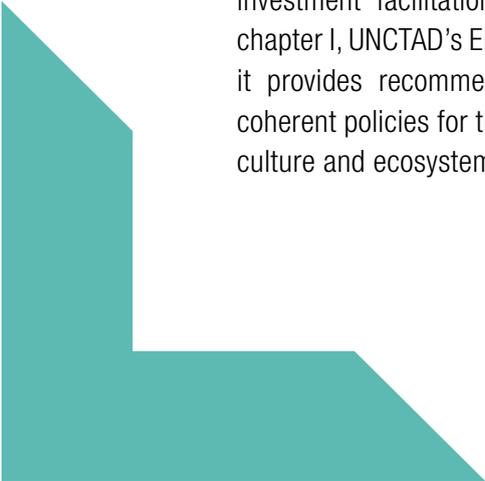


Chapter

2

Obstacles to entrepreneurship and FDI





Seychelles aims to become a knowledge-based and innovation-driven economy. The entrepreneurship ecosystem, which is at an embryonic stage, has a key role to play in achieving this goal. The Government has accelerated efforts to promote its development by elaborating a comprehensive set of policies, strategies, and establishing support institutions. While pursuing similar or complementary objectives, these initiatives remain fragmented and do not sufficiently foster innovative business solutions to address current, emerging and future market demands. This is reflected in the relatively low levels of innovation, spillovers and linkages, including between foreign investors and domestic entrepreneurs. The impact of the initiatives could be improved by clarifying the synergies between investment and entrepreneurship policies, setting specific targets for the type of investors and entrepreneurs needed, and strengthening institutional coordination. This chapter analyses the Government's efforts to remove bottlenecks to entrepreneurship development as well as investment facilitation and promotion. Based on the analysis of chapter I, UNCTAD's EPF and IPFSD, and on the stakeholders' survey, it provides recommendations to assist Seychelles in developing coherent policies for the emergence of an innovative entrepreneurial culture and ecosystem (UNCTAD, 2012 and 2015).

BACKGROUND

The Government of Seychelles is aware of the threats to its development model. As highlighted in the context, despite its remarkable social and economic development, the country faces many challenges. Income inequality is high and a large percentage of the population experiences multidimensional poverty.⁷⁶ In addition, its geographical configuration, small market size and low manufacturing capabilities make it extremely vulnerable to climate change and economic shocks. The COVID-19 pandemic exacerbates these challenges, and highlights the country's dependence on imports for its food security and heavy reliance on tourism for revenues, employment and foreign exchange.⁷⁷ The main national development plans of the country, in particular Vision 2033 and the NDS 2019–2023, make a realistic assessment and recognize the existential threat these challenges pose to the country's future. They also set ambitious objectives to address them through economic transformation, innovation, good governance, social cohesion, environmental sustainability and resilience, and people-centred development.

Entrepreneurship can help address some of these challenges and the Government has accelerated efforts to strengthen the domestic private sector. The creation of new businesses not only generates value added, fiscal revenues, employment and innovation, but is also essential for the economic transformation foreseen in the national development plans. Furthermore, it has the potential to contribute to specific sustainable development objectives, such as the employment of women, the youth or disadvantaged groups. Entrepreneurship is a fairly recent policy area in Seychelles, but the country has been progressively scaling up support for its development. Vision 2033 stresses that the creation of a strong enabling environment for free entrepreneurship, foreign investment and global partnership is a priority. The NDS 2019–2023 encourages stakeholders to seize opportunities in the blue economy and other sectors through entrepreneurship. Efforts include the adoption of several strategic documents, the establishment of a number of agencies and institutions in charge of MSMEs' support, as well as initiatives to facilitate access to finance or introduce modules on entrepreneurship education.

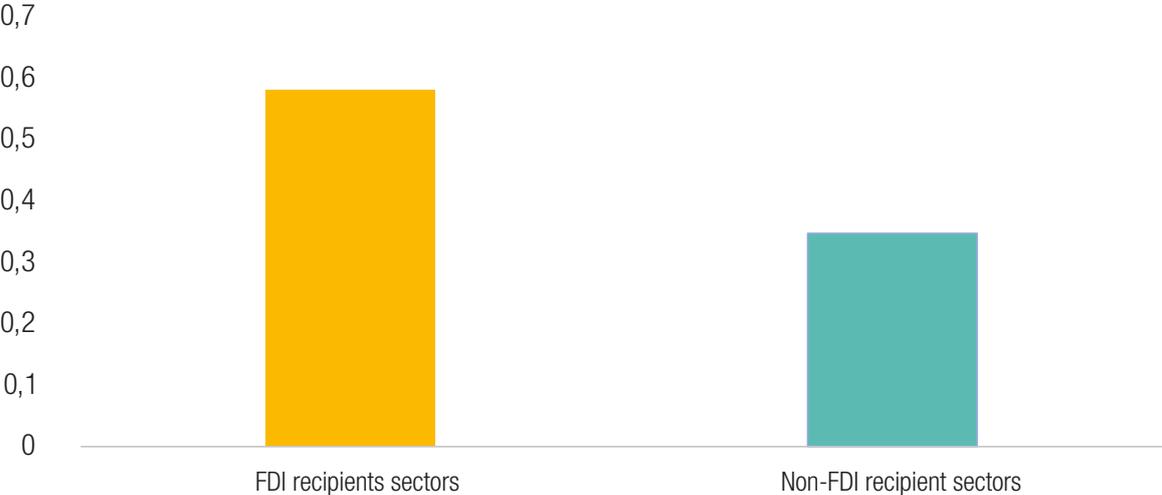
However, local entrepreneurship is currently very limited... Beyond the sectors dominated by FDI of PEs, the private sector in Seychelles is primarily composed of micro-businesses of a traditional type. Statistical information and data on MSMEs and on the informal sector are scarce, which confirms the relatively recent policy attention to entrepreneurship and private sector development (section A). However, according to data from the Public Enterprise Monitoring Commission, the revenues of private enterprises represented 57 per cent of the GDP in 2017, and 30 companies contributed to 70 per cent of the business tax revenues (chapter I, sections E and F). In parallel, micro-businesses eligible for the presumptive tax (below the threshold of SCR 1 million (\$71,276) of turnover per year) represented 68 per cent of all businesses in 2017 (OECD, 2020). Most policy support efforts have targeted these businesses, which operate largely in agriculture, fisheries, cottage industries and tourism (i.e. activities mainly conducted from the businessowner's home).

...and low levels of productivity and innovation risk exacerbating the competitive gap with FDI sectors. As mentioned in the context, a dual economy is emerging. There is a split between sectors with FDI presence, more exposed to competition and modern management techniques, and those reserved for local business, largely made up of microbusinesses of a traditional type. FDI is mostly present in tourism, financial services, fisheries, health and telecommunications, sectors where the average productivity is almost double that of sectors without FDI (figure II.1). Furthermore, a very large proportion of goods and services produced locally are concentrated in the low value-added segment of the value chain (ADB Group,

2017). The embryonic entrepreneurial ecosystem is also reflected in the low levels of innovation of the country. For instance, information and communication technology (ICT) goods imports accounting for only 2.3 per cent of total goods imports, twice as less as in Cabo Verde, Barbados and Mauritius. Consequently, ICT service exports are also very low.⁷⁸

In this context, business linkages between local enterprises and those with FDI are limited. Domestic and foreign companies operate largely in parallel, due partly to the absence of mechanisms to encourage interactions. For instance, issues with the consistency of supply in the agricultural sector, have so far limited the creation of linkages with the hotels industry, particularly as pertains to large hotels. Moreover, interaction opportunities in the blue economy, which is envisaged as a sector of the future, are slow to take off due to a lack of awareness and the scarcity of mechanisms to encourage innovation and R&D (chapter I, section G and chapter II, sections C and E).

Figure II.1. Average productivity ratio of FDI and non-FDI recipient sectors, 2018



Source: UNCTAD, calculated based on NBS, 2019b and 2019c.

A more integrated approach to entrepreneurship development and FDI attraction is required.

A growing and vibrant private sector depends on the quality and dynamism of a range of actors and policies, and their ability to interact and complement each other. Creating a dynamic and supportive ecosystem for entrepreneurship in Seychelles requires a multi-dimensional approach and coordinated efforts towards investment and entrepreneurship. Building on UNCTAD’s EPF and IPFSD, the results of the stakeholders’ survey (annex I), and two fact-finding missions, this chapter assesses the initiatives and institutions providing support to investment and entrepreneurship. The analysis, which complements the conclusions of chapter I on the legal and regulatory framework, focuses on the key areas for entrepreneurship development and their coherence with the initiatives to promote and facilitate investment (figure II.2). To ensure effective implementation, the chapter also reviews and make recommendations to strengthen the coherence and coordination of the institutional setting.



Figure II.2. Investment and entrepreneurship policy: key elements



Source: UNCTAD, 2012.

A. FORMULATING COHERENT INVESTMENT AND ENTREPRENEURSHIP STRATEGIES

The Government of Seychelles has adopted several strategies and plans to build a modern, diversified and resilient economy... The country has evolved from a plantation-based to a services-based economy. It now aims at an economic transformation by “safeguarding the sustainability of its development, and further accelerating economic progress” through innovation and entrepreneurship, as per the terms of the Vision 2033 and the NDS 2019–2023. The Government is increasingly aware of the role that the private sector should play to achieve the country’s national development objectives and the SDGs. This is clearly formulated in Vision 2033, which calls for creating “a strong enabling environment for free enterprise and entrepreneurship, foreign direct investment and global partnerships”, and it is reflected in different plans, strategies and policies adopted over the past years (table II.1).

... but investment and entrepreneurship policies often lack coordination and synergy... All the plans, strategies and policies contain references to investment and entrepreneurship, and often call for reforms in the same areas, including the legal and regulatory framework, as well as in the education and innovation systems. However, they lack synergy on the measures to be adopted. Also, since they are under the responsibility of different MDAs, the absence of adequate coordination mechanisms makes it difficult to connect the multiple layers of projects and programmes, to implement them and track their performance. For instance, the Investment Act assigns SIB a business facilitation role, without restricting it to any specific type of investors. Following the ESA Act, this Agency also has a facilitation role for MSMEs, meaning that a startup can approach both agencies for assistance. In the practice, SIB is considered the interlocutor for

larger-sized companies and FDI, though this is not clearly specified in the law (section F). Another example pertains to access to finance (section D). Numerous subsidized schemes are administered by different institutions and can overlap. Furthermore, during the consultation workshop organized in the context of the preparation of this report, the private sector reported being seldom aware of their specificities. The lack of synergy between programmatic documents, their proliferation and their succession over a short period of time create the risk of introducing contradictory measures and policies, and hamper their implementation, as reported by stakeholders at the UNCTAD workshop.

... and provide insufficient guidance as to the type of investment that should be promoted. As mentioned in chapter I, the Seychelles National Investment Policy (2018) comprises a list of general comments and measures to support investment, but does not define specific priorities or targets for investment promotion. This is also the case for other strategies, plans and policies, which call for investment, without specifying the type (i.e. public, private or both) or the source (i.e. domestic, foreign or both).⁷⁹ A list of priority sectors could be inferred from incentives that can be granted (chapter I, section E and chapter II, section D), but the list is too broad to provide guidance for the proper targeting of investment. Overall, little consideration is given to FDI, which is never referred to explicitly in sectoral plans and strategies, except in the Seychelles National Agricultural Investment Plan 2015–2020, which calls for FDI in mariculture. In this context, the SIB is provided little guidance over the type of investors and investments it should actively target, and ends up promoting all investments, in a non-targeted manner (section F).

The same issues apply to entrepreneurship. The Seychelles Small and Medium-Sized Enterprise (SME) Development Policy and Strategy (2016) recognizes entrepreneurship as the main driving force behind SME growth. In line with best practice, the document provides a definition of SMEs, which was included in the ESA Act, and a list of entrepreneurship-related goals that integrate the economic, social and environmental dimensions of sustainability. It also includes strategic measures to simplify business establishment and operations, and gives support for training, increasing innovation capacities and accessing markets. The Seychelles SME Policy and Strategy also specifically mentions the role of SIB as the promoter of linkages between local entrepreneurs and foreign investors. However, very few of these strategic measures have been implemented to date and the Strategy is silent on how entrepreneurship and SMEs are supposed to contribute to the transformation of Seychelles into a knowledge-based economy. This is principally due to the lack of guidance on the kind of entrepreneurship and entrepreneurs the Government wants to encourage.

Data collection issues also affect policy elaboration, monitoring and evaluation, and contribute to a lack of coherence and coordination. Data on investment and enterprises are scattered among different MDAs, and each of them relies on approval procedures and registration mechanisms to gather statistics. For instance, the SIB approval (chapter I) is currently the main avenue for the agency to collect FDI statistics. Other agencies collect data on different stakeholders, based on the respective registration mechanisms: ESA for cottage industries, the Registrar-General for incorporated companies, the SAA for individual farmers, the SFA for individual fishermen and the SLA for licensed entities. Furthermore, the definition of MSMEs differ across agencies, e.g. between ESA and the SRC. In this context, it is not possible to clearly map entrepreneurship in the country (e.g. to measure the number or type of companies by size or their survival rates). This also means that it is difficult to monitor and evaluate the impact of the strategies, plans and policies that target entrepreneurship development.

Table II.1. Selected plans, strategies and policies related to private sector

National development	Vision 2033
	NDS 2019–2023
Private sector development-related	Seychelles Inclusive Industrial Competitiveness Policy 2015–2020
	SME Development Policy and Strategy 2016
	Sector Strategic Plan 2018–2022
	Seychelles National Investment Policy 2018
	Craft Policy and Strategies of Seychelles, fourth edition (2010)
	ICT Policy
	Creative Industry Policy 2012
Sectoral	Seychelles National Agricultural Investment Plan 2015–2020
	Agricultural Comprehensive Plan 2018–2021
	Fisheries Comprehensive Plan 2019
	Science Technology and Innovation Policy and Strategy 2016–2025
	Seychelles Tourism Master Plan Part I and Part II – Destination 2023: A Strategy for Sustainable Tourism Growth 2019–2023
	Seychelles Blue Economy Strategy and Roadmap 2018–2030
	Seychelles Fisheries Sector Policy and Strategy 2019
	Fintech Strategy (in preparation)
	ICT in Education and Training Policy 2014
	National Policy for Open and Distance Learning 2015
Support	Inclusive Education Policy 2015
	Seychelles National Financial Education Strategy 2017–2020
	Education Sector Medium-Term Strategic Plan (MTS) 2018–2022 and beyond

Source: UNCTAD based on documents and information collected through desk-research and the fact-finding mission.

Assessment and recommendations

Several strategic plans, documents and initiatives attest to the objective of the authorities of Seychelles to increase the role of the private sector in the economy by promoting investment and entrepreneurship. While they are consistent in identifying key obstacles to entrepreneurship, a clear vision on how to address them is yet to emerge. This stems from the fact that entrepreneurship is a relatively new policy area in Seychelles. It also reflects the legacies of a policy approach to development in which the Government was the gatekeeper rather than the enabler of economic activities. It is also indicative of the need to better value the role that foreign companies and entrepreneurs can play to contribute more to local private sector development (chapter I). A more focused and targeted approach to FDI could, in this sense, help exploit the potential that foreign investment and entrepreneurs can play in providing the type of capital, skills, technology and market that is required to achieve the country's development objectives. Progress in this direction is taking place with *Vision 2033* and provides an opportunity to introduce clarity, coherence and coordination mechanisms in the approach to investment and enterprise development.⁸⁰ In light of this, the Government should consider to:



1. Identify jointly key priorities and targets for entrepreneurship and FDI in the country, so as to guide SIB, ESA and other relevant MDAs in their respective promotion and facilitation roles (section F). The role of foreign entrepreneurs should also be considered (see, for instance, chapter I, section D and chapter II, section C). The targets identification process could follow a whole of government approach and involve a broad country consultation with stakeholders from different sectors (see the successful experience of the recently adopted Kenya Investment Policy), or focus, more narrowly, on the adoption of targeted investment promotion and entrepreneurship development strategies by SIB and ESA.
2. Clarify the respective mandates, beneficiaries and coordination mechanisms of the agencies in charge of investment and entrepreneurship promotion (section F).
3. Define a mechanism for FDI statistics collection, independent from the SIB approval process, in line with good international practice. The different MDAs in charge of data collection and statistics would be involved, including the CBS, the NBS and the SIB, through the establishment of a coordination mechanism. UNCTAD stands ready to provide assistance in this area.
4. Adopt a coordinated approach for the collection of data on SMEs. In doing this, attention should be paid to the definition of these entities in the different texts.

B. ENHANCING ENTREPRENEURSHIP EDUCATION AND SKILLS DEVELOPMENT

Seychelles has attained major achievements in terms of general education... Education has been free and compulsory since 1981. The literacy rate stood at 96 per cent in 2018, the highest in Africa, albeit with a minor discrepancy between men and women (96 per cent against 95 per cent).⁸¹ The rates of enrolment in secondary and tertiary education were respectively 81 per cent and 17 per cent, with a net difference between men (11 per cent) and women (23 per cent) for the latter. This means that the overwhelming majority of the population has completed at least the secondary level of education, which constitutes a major building block for the emergence of entrepreneurship.

... and the most recent strategy documents recognize the role of entrepreneurship education. The SME Strategy and Policy calls for the development of a strategy on entrepreneurship education by the Ministry of Education and Human Resources Development (MEHRD), which should cover all levels, from primary to tertiary. It also emphasizes the importance of soft skills, such as self-confidence, self-reliance, self-motivation, goal setting, opportunity spotting, innovative and creative attitudes and capacities. These skills are also underlined by the NDS, which notes that the “education system needs to be reformed in order to ensure that it becomes more responsive to needs of the economy, both in terms of content and quality, e.g. by adapting the curriculum to emphasize acquiring skills that will be needed in the socioeconomic transformation agenda of the country”. The MTS 2018–2022 establishes a TVET and Entrepreneurship Division at the MEHRD. A sub-programme focuses on providing strategic leadership, guidance and support to educational institutions to strengthen the promotion and development of TVET and entrepreneurship.

Several initiatives to introduce entrepreneurship education are ongoing... Steps are being taken to include the subject in the curricula at the primary and secondary levels through modules developed in cooperation with the ILO, which is also training teachers to deliver entrepreneurship and business

education modules into schools (ILO, 2018). The modules are also being integrated in professional centres (post-secondary level). The curricula of the University of Seychelles and of the Seychelles Business Studies Academy contain peripheral elements of entrepreneurship, albeit their focus is mainly on traditional business management courses. The Guy Morel Institute, a tertiary education institution, is the only one to provide a full entrepreneurship-specific course with an 18-month certification programme. It cooperates with the DOIED and ESA, and has set up an Enterprise Centre with the objective of assisting with the development of an entrepreneurial culture in the country. A Schools' Entrepreneurship Competition was organized in 2019 as part of the Global Entrepreneurship Week by the DOIED, in collaboration with the Ministry of Education and Human Resource Development (MEHRD) the Seychelles National Youth Council and the private sector. This was considered an extra-curricular activity.

...but the lack of specialized human resources is an issue... The Government only has limited resources to modernize the curricula, both in terms of expertise and available funding, and opportunities to generalize such initiatives are thus limited. This is reflected in the results of the survey conducted in preparation of this report (annex I). Similarly, all trainers and lecturers who are teaching components of entrepreneurship at the The Guy Morel Institute and at the University of Seychelles hold graduate and post-graduate qualifications in business and entrepreneurship-related subjects, but not in entrepreneurship per se.

...and interactions with the private sector are limited. The Guy Morel Institute collaborates with local business leaders and entities to deliver some of its courses. It also offers short courses, in partnership with the private sector, foreign embassies and international organizations, in the context of specific events and programmes, such as the FemBioBizz Accelerator Programme.⁸² At the post-secondary level, the private sector is represented on the boards of professional centres. For example, the chairperson of the Seychelles Business Studies Academy is also the chairperson of the Seychelles Chamber of Commerce and Industry (SCCI). Similarly, faculty boards of the University of Seychelles include private sector representatives. Though such arrangements provide an opportunity for establishing public-private interactions to facilitate entrepreneurship education, they are not fully leveraged on. There is, for instance, no mentoring programme to coach young entrepreneurs. And although educational institutions are eligible to be certified for the CSRT's purposes and donations to these institutions are partially deductible from the CSRT contribution (chapter I, section E), the lengthy certification process may discourage enterprises from engaging in this type of donations.

A change of mindset is required. The education system has traditionally been oriented towards promoting academic excellence with less emphasis on identifying opportunities for pupils whose results did not allow them to pursue higher-level studies. A revamped TVET is in place since 2011, but an important social stigma still weights on this type of training, and professional centres remain perceived as a second-best option. Furthermore, the ILO highlights that "the system is still producing a large share of the youth lacking in necessary academic, soft, and vocational skills, and delivers a small number of educated graduates that are not necessarily in areas of critical needs or skills shortages" (ILO, 2018). Participants in the UNCTAD workshop also stressed that the education system is not targeted at promoting soft skills, as it expects students to be receivers of knowledge, rather than to critically question and assimilate their learning. Finally, the Government has established a grant system, whereby students are encouraged to pursue their graduate and post-graduate studies abroad. While this is an excellent mechanism to promote equal access to education and new skills, it is linked to an obligation to become employees in the public or private sectors upon return in Seychelles, which limits their opportunities to open startups or become self-employed.

Assessment and recommendations

Seychelles has a relatively strong education system, and the country is taking steps towards integrating soft skills and entrepreneurship in the curricula. Developing an entrepreneurial culture, promoting entrepreneurship and changing the social perception about it, however, cannot be achieved overnight. Nevertheless, several immediate steps can be taken to speed up the process, and the private sector can play an important role. In light of this, the Government should consider to:

1. Continue to promote the inclusion of entrepreneurship modules in the primary, secondary and tertiary levels, including in professional centres. Discussions on this topic are ongoing between the CBS and the MEHRD as part of the implementation of the National Financial Education Strategy (section D).
2. Include the private sector, local and foreign, in the design of these modules, and in the development of curricula.
3. Increase teachers' trainings and support the establishment of a network of entrepreneurship educators. In addition to the ongoing project with ILO and the activities conducted by The Guy Morel Institute, the establishment of an EMPRETEC Centre could be envisaged (box II.1; sections D and E).
4. Consider setting up an entrepreneurship mentoring programme. This programme would foster the exchanges between young or prospective entrepreneurs and established ones, thus enabling the sharing of insights and experiences. The diaspora and foreign entrepreneurs should also be involved in this effort.
5. Consider directing part of the CSRT revenue to entrepreneurship education.
6. Introduce incentives for the promotion of entrepreneurship education. This could be done by: 1) adopting an accelerated certification process for educational institutions incorporating entrepreneurship education and training teachers; and 2) introducing deductions for entrepreneurs mentoring young entrepreneurs. If the recommendations of chapter I, section E are implemented, the latter mechanism could be applied to the BT up to a predefined threshold.

Box II.1. UNCTAD's EMPRETEC Programme

EMPRETEC is an UNCTAD capacity-building programme which aims to promote entrepreneurship and enhance the productive capacity and international competitiveness of MSMEs in developing countries and in countries with economies in transition. The programme is implemented through national centres and is established in 40 countries.

Since its inception in 1988, EMPRETEC has successfully trained more than 470,000 people, helping them to create or expand businesses, and generating thousands of jobs in the process. Its core product, the Entrepreneurship Training Workshop, encourages behavioural changes that help entrepreneurs put their ideas into action and aid fledgling businesses to grow. The national centres also assist entrepreneurs in the preparation of business plans and in accessing finance for their business ventures, help to arrange mutually beneficial connections with larger national and foreign companies, and build long lasting bonds and networks.

For more information on EMPRETEC and examples of impact, see: empretec.unctad.org/

Source: UNCTAD.



C. FACILITATING TECHNOLOGY EXCHANGE AND INNOVATION

Seychelles aims to become a knowledge-based and innovation-driven economy... This pillar of the NDS focuses on achieving an enabling environment for R&D, and establishing a knowledge-based, innovation-oriented economy through the integration of STI across all sectors and activities. The National ICT Policy, the STI Policy and Strategy, the SME Policy and Strategy as well as the ICT in Education and Training Policy consider ICT and STI as part of the building blocks of a knowledge-based economy. They underline the need to embed and diffuse them throughout the socioeconomic landscape. At the institutional level, a High-Level Steering Committee for a Knowledge-Based Economy, chaired by the Vice-President, was established, further emphasizing the strategic importance of these objectives.

...and has increased efforts to enhance the infrastructure and facilitate access to ICT. The country is connected to the Seychelles East Africa System since 2012, and plans to be connected to a second fibre optic cable through the Pakistan East Africa Cable Express. Connectivity has increased, and the internet penetration rate is high by comparison to the world's average and to comparator countries.⁸³ Basic digital skills are acquired at the secondary level. While the schools' internet connectivity has improved in recent years,⁸⁴ specialized teachers with advanced digital skills remain scarce (Republic of Seychelles, 2019b). Since 2016, an important inclusion and promotion effort has been carried out, through the annual ICT Week, that targets specifically the youth (young girls in particular), and through national and regional innovation competitions.⁸⁵ These efforts are recognized by stakeholders in the survey conducted by UNCTAD to prepare this report (annex I).

However, the approach to innovation is fragmented, and innovative companies are few. Despite the adoption of several strategies and policies to foster innovation, the emergence of a well-functioning national innovation system (NIS) is hampered by several challenges. As discussed in greater details in the following paragraphs, these challenges include: 1) scattered promotion and support initiatives without adequate institutional coordination; 2) measures targeting primarily activities of a traditional nature; 3) a legal and regulatory framework not conducive to achieving the stated objectives; and 4) insufficient efforts to link local entrepreneurs, foreign investors and research institutions, universities and non-governmental organizations. In this context, innovative companies are few, with a majority of businesses focussing on traditional activities.

Innovation has different meanings across government agencies, and support activities are mostly geared towards traditional ones. There is no common definition of innovation among the MDAs. The NISTI uses the Oslo Manual⁸⁶ (OECD/Eurostat, 2018), while other MDAs define innovation as "anything new to Seychelles". In addition, initiatives to promote and upgrade high-tech startups are conceived mostly as the provision of training in business management skills and, to some degree, facilitating access to finance (section D). For instance, ESA, the SAA and the SFA all have upgraded programmes to train and build capacities, catering to their target audiences, namely cottage industries, farmers and fishermen. The Seychelles Bureau of Standards maintains a national information centre on standardization, industry, science and technology, and provides training and support for technology upgrading of small firms. However, its capacity to assess, examine and test new products is limited (it was established to cater for traditional activities, mainly fishing and tourism). In this context, entrepreneurs resort to using testing facilities abroad, which is costly and lengthy.

The physical and legal support infrastructure for high-tech startups is inadequate... Although they are referenced in the NDS and in the STI Policy, no accelerator programmes, business incubators or science parks exist in Seychelles.⁸⁷ Their establishment is part of NISTI's broad mandate as per the NISTI Act and the STI Policy and Strategy (chapter I, section G). NISTI plans to open a business technology and innovation incubator, a science hub for school students and a physical and virtual co-working space (the OASIS Project). In addition, a three-year project involving the Department of the Blue Economy, the DOIED and NISTI was launched with support from the African Development Bank (ADB). It includes the establishment of a business incubator.⁸⁸ NISTI has also started working with the United Nations Industrial Development Organization (UNIDO) on a study on innovation, but the results were not available when this report was prepared. Nevertheless, as highlighted in chapter I, the SIB approval and the licensing processes may result in several innovative projects being rejected if they do not fit in pre-established business categories (chapter I, section B). Furthermore, current restrictions on foreign labour, as well as the weaknesses in IP protection and R&D promotion all have consequences on the emergence of innovative companies (see below and chapter I, sections D, E and G).

...and the impact of efforts to promote inter-firm networks is limited. The SME Development Strategy and Policy calls for the adoption of a cluster approach. It identifies SIB as the responsible institution to develop business linkages between small and large companies, including foreign ones. Initiatives have been taken to establish industrial estates and micro-enterprise centres, and to promote the “Seychelles Made” brand. These efforts are recognized by respondents to the survey conducted by UNCTAD (annex I). Nonetheless, their impact is lower than expected. As highlighted in chapter I, in the absence of clear guidelines and criteria for land allocation, the clustering impact of industrial estates has been limited. The Providence Industrial Estate, for instance, hosts a highly diverse range of activities, from hairdressers to mechanical spare parts. The other industrial estates originally planned are held back by a lack of funding (e.g. Perseverance and Eve Island). The microenterprise centres (MECs) are planned as workplaces, built by the IEA, and rented out to small businesses, including for example bakeries, light manufacturing or handicraft. Five of them are in place,⁸⁹ but they did not adopt a cluster approach. In the context of the “One District, One Project”, several planned MECs, pending funding, will host traditional and non-traditional activities producing an essential item per district, decided on by discussion with the local authorities, which could be an opportunity to promote clustering.

Other aspects of the policy approach to the promotion of clusters and business linkages lack coherence. For instance, the Tourism Master Plan recognizes the need and potential for backward and forward linkages in the sector, in particular for agricultural products. However, the sustainability criteria for the Seychelles Sustainable Tourism Label, which certified 21 hotels (the largest ones, most of which are foreign-owned), do not include local sourcing.⁹⁰ Similarly, the Craft Policy and Strategies (2010) mentions the need to link craftspersons with tour operators and hotels. It does not, however, include these entities in its institutional networking framework, nor indicates their potential contribution to the enhancement of products and capacities. Finally, the SIB and SCCI participate in building linkages between local entrepreneurs and foreign investors, but their efforts remain limited and conducted on an *ad hoc* basis, and not as part of a structured programme.

The interaction between academia, business and government is virtually inexistent. This is reflected in the survey conducted by UNCTAD (annex I). The STI Policy and Strategy highlights the need to “build strong linkages between public and private sectors in research, technology development and innovation” as one of its policy objectives. Noting that data and research are scattered among different institutions, the

NISTI is establishing a Knowledge Management Engagement Platform to centralize and provide access to students, teachers, businesses, institutions and the wider public to research data sets, reports and other information relating to the development of STI.⁹¹ However, academic research institutions are limited in Seychelles and R&D expenditure is, according to data available, in majority funded by the Government.⁹² The University of Seychelles was established in 2009 and has three research institutes, two of which target social sciences and one the blue economy.⁹³ Other academic institutions related to ICT and STI do not have research institutes.⁹⁴ While non-governmental organizations are active in the blue economy sector, their research activities are seldom integrated within the activities of universities.⁹⁵ In addition, no active effort is conducted to target investors and entrepreneurs in innovative activities (the blue economy, one of the most innovation-driven sectors, is only one among many other sectors promoted by the SIB (section F). The Biotechnology Entrepreneurship Development Strategy envisaged as part of the three-year project with the ADB could provide an opportunity to better identify target industries. In this context, a triple helix approach could be envisaged, thus integrating academia, business and government, and taking into account societal and environmental considerations (Etzkowitz and Leydesdorff, 1995).

Assessments and recommendations

Seychelles has adopted the ambitious objective of becoming a knowledge-based economy. However, several components of an effective NIS are missing or not sufficiently developed. This includes a common understanding of innovation across MDAs, a supportive legal and regulatory framework and infrastructure as well as interactions between the relevant government-university-business entities. Innovation is also an area where the private sector plays a particularly important role. Foreign investors and entrepreneurs could also help fill the technology and skills gaps, but this is largely overseen by existing programmers and strategies. In this regard, the following recommendations (to be read in conjunction with those of chapter I), could be considered:

1. Adopt a clear and common definition of innovation, based on the one currently used by NISTI. This definition should be well disseminated among and understood by the MDAs involved in policies related to entrepreneurship, investment and STI.
2. Adopt a startup company status, allowing access to a package of incentives, including access to finance mechanisms (section D), facilitated entry of foreign entrepreneurs or skills (chapter I, section D), as well as fiscal and non-fiscal incentives for R&D. The definition for these types of companies should be based on a consensus among the MDAs on the desired types of entrepreneurs and innovation and on the measures to promote them.
3. Focus NISTI's mandate on the functions essential to the achievement of the objective of becoming a knowledge-based and innovation-driven economy.
4. Identify innovation-driven priority industries to be included in SIB's targeting strategy (sections A and F).
5. Encourage linkages between industries and universities in the target industries (section F). This should be designed in a coherent manner with incentives to R&D and expanded to include partnerships with non-governmental organizations and foreign universities.

UNCTAD stands ready to provide support in the area of technology and innovation, including through the preparation of a Science, Technology and Innovation Policy Review.



D. IMPROVING ACCESS TO FINANCE

Financial inclusion is very high, but entrepreneurs face important financial literacy and capability barriers. A high percentage of Seychellois (94 per cent) have a bank account, the highest rate among SADC countries, SIDS and in Africa (Naidoo and Motsomi, 2016; World Bank Statistical Database). However, stakeholders interviewed by UNCTAD highlighted that financial literacy and capability are major constraints for entrepreneurs, with ESA reporting that it is indeed the most important barrier for its constituents. The National Education Financial Strategy 2017–2020 underlines that “entrepreneurs are often not business literate, cannot put together bankable business plans and do not have the required collateral” (Piprek and Jacquin, 2017). This impacts their ability to understand the different financial tools available to start a business and, thus, access finance. Among the components examined by the stakeholders’ survey, access to finance is the one which received the less answers, demonstrating that it is not as well known or understood as other areas (annex I).

Several plans and initiatives to improve access to finance have been adopted, often without adequate coordination. The National Education Financial Strategy calls for an inclusive approach to financial education by targeting four segments: 1) MSME owners and employees, farmers and fishermen; 2) adults in the formal workplace; 3) the youth; and 4) socially vulnerable people. ESA provides assistance to prepare business plans, though available resources limit its training capabilities (section F). Financial Education Fairs are organized by the CBS and the FSA, and are attended by stakeholders from the public and private sectors. Several access to finance schemes are also supported by the Government (table II.2). However, many schemes overlap, and they are managed by different institutions, which affects their visibility. Discussions during the workshop organized in preparation of this report illustrated that, while public sector representatives are aware of these schemes, they are seldom known by businesses. In an effort to promote them, the DOIED and ESA have published a booklet – the “*MSMEs Guide to incentives*” – as well as a one-pager summarizing them (chapter I, section E).

Concessional loans are frequently used as working capital. Businesses typically resort to the schemes mentioned above in order to stay afloat rather than to sustain growth. The Development Bank of Seychelles (DBS) has also adjusted its lending policies to finance working capital for up to 50 per cent of the loan amount (DBS, 2019). A survey of 140 MSMEs conducted by the CBS in 2018 showed that 67 per cent of them sought loans in the initial startup phase (CBS, 2018). While Government schemes are mainly used in this phase, commercial banks are the preferred interlocutor after a few years of operation. In both cases however, the loan amounts remain limited (a majority below SCR 1 million (\$71,276)), confirming that these businesses do not operate in capital-intensive or exporting industries. In addition, with the exception of the Blue Grant, the Blue Investment Fund and, to some extent, the SME Scheme and the DBS Scheme, access to finance schemes do not form an integrated chain of loans to support the gradual growth of businesses.

Table II.2. Summary of financial support schemes to enterprises

Name	Type	Sector	Amount (SCR/\$)	Maturity	Rate (percentage)	Responsible institution
Blue Grant	Grant	Blue economy	100 000/ 7 127	12 months	N/A	SeyCCAT
			100 000/ 7127 to 1 million/ 71 276	24 months		
National Arts and Culture Fund (NACF)	Grant	Arts, Culture and Heritage	5 000/356 to 25 000/ 1 782		N/A	NACF
Programme de Promotion de l'Entreprenariat des Jeunes (PPEJ)	Grant	Youth (18-35)	100 000/ 7 127		N/A	Seychelles National Youth Council
Youth Local Grant	Grant	Youth (18-35)	Undetermined		N/A	SNYC
Institute of Early Childhood Development (IECD)'s Grant	Grant	Education (childminding)	10 000/713		N/A	IECD
Seed Capital Grant Scheme	Grant	Business growth	50 000/ 3 564		N/A	ESA
Blue Investment Fund	Concessional loan	Sustainable fisheries	Up to 42 million/ 3 million	15 years	4	DBS
Agriculture Development Fund	Concessional loan	Livestock and agriculture	25 000/ 1 782 to 1 million/ 71 276	12 years	2.5	SAA/DBS
Fisheries Development Fund	Concessional loan	Value addition	Up to 3 million/ 213 828	10 years	3	SFA/DBS
Seychelles Energy Efficiency and Renewable Energy Programme (SEEREP)	Concessional loan	Energy	Up to 150 000/ 10 691		5	Seychelles Energy Commission/ Credit Union/ Commercial banks
DBS Scheme	Concessional loan	General	50 000/ 3 564 to 5,8 million/ 413 400	15 years	11.5	DBS
SME scheme	Concessional loan	General	Up to 3 million/ 213 828	7 years	5 or 7	DBS/Credit Union/ Commercial banks

Source: DOIED, 2020.

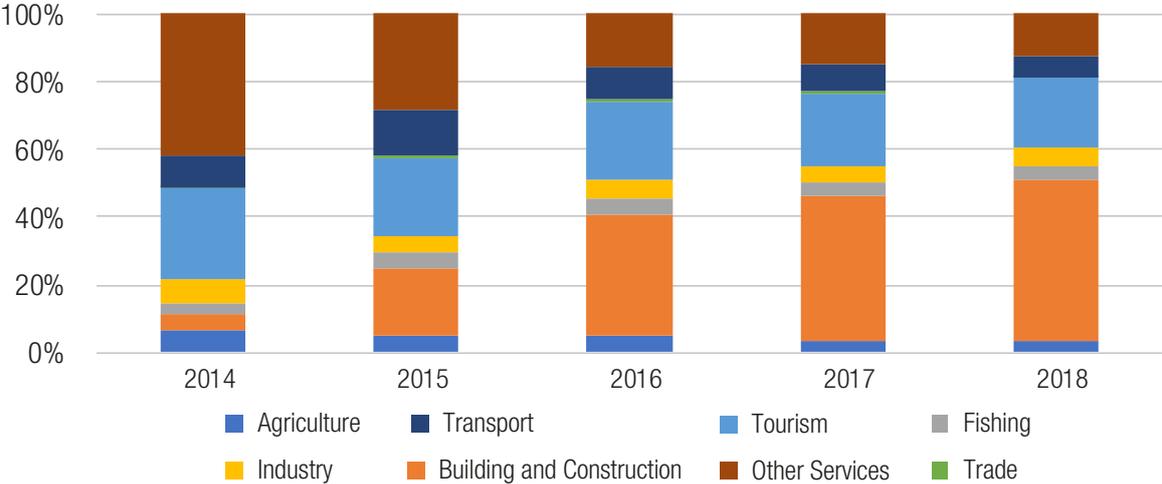
Note: The Agricultural Development Fund, the Blue Investment Fund, the Fisheries Development Fund, the SME Scheme and the DBS Scheme are reserved to Seychellois or at least a 51 per cent ownership of Seychellois.



Traditional activities attract the majority of the funding, and few schemes specifically target innovation. In an effort to limit the copycat approach, whereby new businesses replicate their competitors with little innovation, lenders have included restrictions on eligible activities in their schemes. These often affect retail and wholesale trading, and building and construction. Despite such restrictions, financing remains focused on few sectors, as illustrated by the DBS portfolio over the period 2014–2018 with 47.7 per cent of lending concentrated in building and construction (figure II.3). All schemes can potentially finance innovative projects, but only the Seed Capital Scheme has established a dedicated category in 2019 – the Innovative Eligible Businesses – with a fund of SCR 1.25 million (\$89,095).⁹⁶ In the absence of a proper understanding of what innovation entails (section C), it is difficult to assess how the set restrictions are used.

The financial sector is conservative and not equipped for catering to startups. In addition to the DBS and other institutions providing grants and preferential loans (table II.2), nine commercial banks, the Seychelles Credit Union and the House Financing Corporation, four insurance companies and 25 foreign exchange bureaus are active in Seychelles (ADB, 2018). Although well capitalized, profitable and at minimal risk, banks remain very prudent in terms of granting access to credit and profit margins are seen as excessive (ADB, 2018). Seychelles’ domestic market size is a clear constraint, as developing new financial services, in particular for startups, is costly and thus not always profitable for traditional banks. Other issues affect the banking sector, some of which are beyond the scope of this report and include the volatility of the local currency, difficulties with correspondent banks, a lack of skills in the financial sector, or of modern e-banking facilities (ADB, 2018).⁹⁷ The transition to a knowledge-based economy will require the support of a banking sector offering specialized services and the development of additional financial services, including trust funds (only present in the offshore sector, and being phased out, see chapter I, section E), venture capital or networks of angel investors.

Figure II.3. Loans by the DBS by sector



Source: CBS, 2019.

Note: The amounts are cumulative over the period 2014–2018 and do not reflect the number of projects approved per year.

Obtaining loans is lengthy and providing collateral can be an issue. The costly and lengthy loan applications process was identified as one of the main constraints to accessing finance by the respondents to the 2018 CBS survey. For instance, the manufacturing sector indicated that it takes on average four to six months to access a loan. The basic infrastructure is in place and the coverage of the Credit Information System is quite extensive, even if there is no private credit bureau. Borrowers have access to their data in



the Credit Information System, and financial institutions can access borrowers' credit information online. In addition, the Companies Ordinance of 1972 provides for the registration of charges, including mortgage at the Registrar-General, and describes the procedure, as well as the priority order of creditors. An electronic collateral registry is in testing at the Registrar-General is expected to be launched in 2021. However, while leased State-land can be formally used as collateral, respondents to the 2018 CBS survey indicated that it is frequently not accepted by banks because of the short duration of the leases. Also, 92 per cent were required to provide a collateral ranging from one to multiple guarantors, a mortgage on their house or land, or a pledge on equipment (CBS, 2018). Finally, there are no mechanisms to encourage supplier-financing, factoring, leasing and/or private mutual guarantee schemes.

Modernization efforts are ongoing. The COVID-19 pandemic is accelerating the digitalization of many services, including banking. The CBS has issued a communiqué urging bank customers to make use of digital and online banking services, and calling on the banking community to make such services available.⁹⁸ Seychelles is also elaborating its National FinTech Strategy. The document is work in progress and could not yet be shared with UNCTAD. The objective of the Strategy is to determine how the country can best leverage FinTech solutions to improve and diversify the offer of financial services. A workshop organized in May 2019 with the participation of international experts showed the interest from national stakeholders.⁹⁹ A modern infrastructure for other financial services is also emerging. For instance, the MERJ Exchange, Seychelles' stock exchange, has started listing tokenized securities enabled by blockchain.

Assessment and recommendations

Given the difficulties of accessing finance through the financial system, the Government of Seychelles has set up several concessional schemes to assist MSMEs. These schemes are, however, scattered among different institutions, often little known by entrepreneurs and not specifically targeted at promoting a knowledge-based and innovation-driven economy. In addition, several financing mechanisms that could alleviate the pressure on the Government-supported schemes and encourage more innovation, not only through domestic but also international financing, are missing. In parallel with the development of the FinTech Strategy, the Government should therefore consider to:

1. Increase the efforts to improve financial education and capability of entrepreneurs. This would require building the capacities of the ESA and setting up a mechanism to train trainers and then use them to train the future entrepreneurs. UNCTAD's EMPRETEC Programme can be of assistance.
2. Assess existing Government-supported access to finance schemes vis-à-vis the priorities set in Vision 2033, in particular with respect to innovation. Overlapping schemes should be merged and streamlined. More attention should be paid to reorganizing the schemes to meet the phases of growth of enterprises in a systematic way. This effort goes in parallel with examining the tax incentives granted to some sectors (chapter I, section E).
3. Improve the digital support infrastructure for online banking and e-payment solutions by adopting the adequate legal and regulatory framework (chapter I, section B).
4. Set up an institutionalized mechanism of cooperation between ESA, the DOIED, the CBS, the DBS, the DOI and SIB to identify priority sectors for providing Government-supported access to finance and bring Seychelles on the map of angel investors (see also the recommendation of section C on the startup company status).

E. PROMOTING AWARENESS AND NETWORKING

A substantial effort to raise awareness about entrepreneurship is ongoing. MSMEs and entrepreneurship are featured in the annual State of the Nation Address and Budget Speech, and several events are organized to sensitize stakeholders on their role and potential for the country's development. For instance, in 2019 Seychelles took part in the Global Entrepreneurship Week, and the DOIED organized a schools' entrepreneurship competition involving pupils and students at the secondary and post-secondary levels, in collaboration with the MEHRD and the Seychelles National Youth Council. The event was opened by the Vice-President, received wide media coverage and was partly sponsored by the private sector.¹⁰⁰ The country also organizes the World IP day, and an ICT Day is organized annually. Both events offer opportunities to demonstrate how these themes are intertwined with entrepreneurship. Seychelles promotes the participation of its citizens in national and regional business competitions, and newspaper articles featuring entrepreneurs are regularly published. The DOIED produced booklets, in English and Creole, to raise awareness, particularly among the youth.¹⁰¹ In addition, amid the COVID-19 pandemic the DOIED published an article to challenge and inspire local entrepreneurs to rethink and invest in new business models, products and services to mitigate the threats of disruption to the global supply chains. These efforts are recognized by stakeholders and promoting awareness and encouraging networking to stimulate entrepreneurship and private sector development are among the elements that reached the highest score in the survey conducted by UNCTAD (annex I).

... but the entrepreneurial culture is still embryonal... In general, stakeholders from the public and private sectors interviewed for the preparation of this report considered that it is more socially (and financially) rewarding to be employed by the Government (chapter I, section D). On this issue, the stakeholders' survey conducted by UNCTAD also showed ambivalence (with an equal number of positive and negative responses) regarding whether entrepreneurship is considered a serious career option by school-leavers and graduates (annex I). These results are also in line with those of a recent survey conducted by SeyCCAT, the University of Nebraska and EcoSol (Zimbroff and Senaratne, 2019). Most young entrepreneurs are generally risk averse, preferring the "me-too" copycat approach previously described (section C). An overwhelming majority of respondents in the SeyCCAT survey answered that fear of failure is an obstacle in starting a business, at the societal level (85 per cent) and at the individual level (68 per cent). In comparison, in Barbados, fear of failure is considered an obstacle by 14 per cent of respondents.¹⁰² Several factors can help explain such results, including the stringent, almost punitive, provisions on insolvency (chapter I, section B), but also the fear of social stigma in a small country where anonymity is a concern. As the ability to accept and manage risk is at the heart of any entrepreneurial venture, this should be an area of strategic importance for any policy initiative aimed at increasing entrepreneurship.

... which translates in a high level of caution when it comes to untested local business opportunities. In the SeyCCAT survey, which preceded the COVID-19 pandemic, 80 per cent of respondents indicated that they did not see a potential business opportunity within the next six months. Stakeholders interviewed during the fact-finding mission focused on opportunities in traditional sectors, like fisheries and tourism. However, they did not perceive the potential for linkages with other sectors or wider concepts, like the blue economy. Seychelles' core development agenda is one of environmental protection and conservation and a deeply rooted philosophy of sustainable development. Yet, the ocean is still mostly perceived as the source of income for the artisanal segments of the population, while more industrial fishing is carried out

by foreign vessels. Up to now, the many opportunities offered by the blue economy remain unexploited. Similarly, Seychelles has a rich cultural and culinary tradition. However, interviews during the fact-finding mission indicated that these advantages are yet to transform into a creative industry, which would create opportunities for additional linkages, for instance, with the tourism sector and add economic, social and environmental value to it (section F).

The relationship between the public and private sectors can be strengthened... As mentioned throughout this chapter, vibrant entrepreneurial ecosystem is characterized by the interactions among diverse actors. The more the interactions between entrepreneurs, investors, and other actors in an ecosystem, the better the flow of information and finance (Stangler and Bell-Masterson, 2015). In Seychelles, the small size of the population is an advantage to leverage on. For instance, private sector development-related MDAs have established excellent communication and working relationships, albeit issues with the institutional framework persist (section F). ESA and SIB organize events together, and the DOIED and the Ministry of Education partnered on the Global Entrepreneurship Week in 2019. In parallel, several business associations are in place in Seychelles, among which the SCCI, as well as several sectoral¹⁰³ and regional ones,¹⁰⁴ and some that target specific categories of business owners, like the Association of Young Entrepreneurs –Seychelles. These associations have varying degree of influence over policymaking, and some are more active than others, and public-private dialogue could be further improved (chapter I, section I).

... and so do private sector networks. Connectivity in Seychelles is high, favoured by the small size of the population. However, opportunities are missed, as reflected by the low score received by private sector-led initiatives to strengthen networks among entrepreneurs in the survey conducted by UNCTAD. For instance, there are no mentoring programmes and the diaspora is not involved, despite examples of successful returnees. Similarly, while the country has array of non-governmental organizations active in the area of environmental and marine ecosystems protection, they are seldom connected with businesses.

Assessment and recommendations

The authorities are deploying significant efforts to raise awareness and promote networking, which can contribute directly to the emergence of a more vibrant entrepreneurial culture. Despite the investment made to connect the public and private sectors, there are still issues affecting public-private dialogue, and the private sector feels like the recipient of pre-decided rules rather than a contributor to policies that impact it directly. Within the private sector, stronger interconnections could also help increasing business opportunities. In light of this, the Government should consider to:

1. Support the establishment of entrepreneurship trainings based on behavioural methodologies to promote a culture of managed risk-taking. UNCTAD's EMPRETEC programme could be of particular assistance in this area.
2. Promote and support entrepreneurship clubs and mentoring programmes.
3. Identify and promote successful entrepreneurs, locally or diaspora, including in the context of the preparation of a diaspora policy, in addition to setting up foreign entrepreneurs' attraction programme (chapter I, section D and chapter II, section F).
4. Establish a platform to connect stakeholders by field of activity. A pilot phase could be initiated, with a focus on the blue economy and creative industries.



F. PROVIDING COHERENT INSTITUTIONAL SUPPORT FOR INVESTMENT AND ENTREPRENEURSHIP

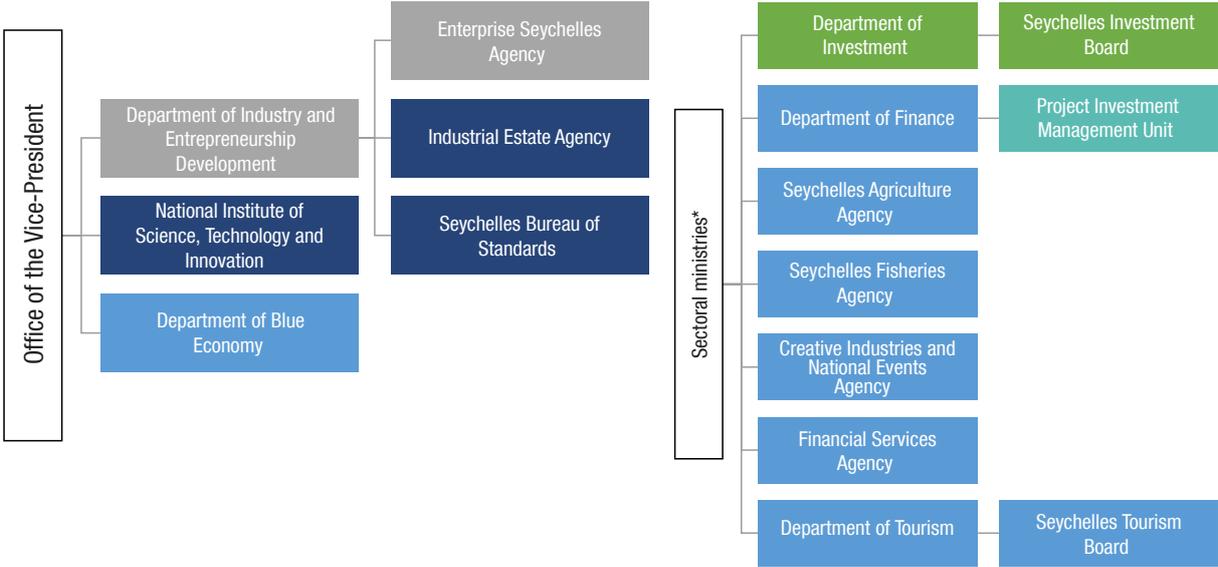
Several MDAs provide institutional support to investment and entrepreneurship. The SIB, established in 2004, is the lead agency in the facilitation and promotion of local and foreign investment. The ESA, the successor of the Small Enterprise Promotion Agency, provides business development services to MSMEs. They report to the DOI (MFTIEP) and the DOIED (Office of the Vice-President), which are responsible for policymaking in the two areas. Both entities benefit from autonomy regarding their activities, and their budget is defined by the Appropriation Act (Act 1 of 2020).¹⁰⁵ Their mandates are defined, respectively, by the Investment Act and the ESA Act, and comprise a wide array of functions, which range from regulatory to facilitation and promotion (chapter I and below). Several other MDAs provide direct or indirect support to investment and entrepreneurship. They comprise both thematic as well as sectoral institutions, as presented in figure II.4.

The mandates of SIB and ESA overlap... Their mandates both include the promotion of local investment and the channeling of private sector concerns through policy advocacy. A working arrangement is in place between the two institutions, whereby SIB attends to foreign and large investors and ESA to small businesses (section A). In this context, although ESA was established to cater to a wider audience and support MSMEs growth, it ends up dealing primarily with cottage industries. And despite the good working relationship between the two agencies, the instances of cooperation (section E) and the fact that ESA sits on the board of SIB, which should ensure a certain level of coordination, no joint programmes are in place to support business growth through the different phases, from micro to small to medium and potentially large enterprise, nor to stimulate business linkages between small and larger companies (see below).

...and duplications exist vis-à-vis other agencies. ESA and the Creative Industries and National Events Agency overlap in the assistance they provide, *de jure* and *de facto*, to creative industries, particularly handicraft. The Ministry of Youth, Sports and Culture presented a cabinet memorandum advocating for the repeal of the Creative Industries and National Events Agency Act and the integration of its creative industries' support functions within ESA in November 2019. A final decision is pending. SAA and SFA provide trainings to their respective stakeholders, which pushes ESA to focus its training activities on the cottage industry. The ESA Act comprises management and lease of sales outlets. Similarly, the IEA is mandated to establish microenterprise centres and industrial estates. The SIB is, as per the Investment Act, the Government's representative in coordinating, facilitating and implementing public-private partnership projects, with high risks of duplication with the Project Investment Management Unit. Finally, the Department of Industry and Entrepreneurship Development, NISTI and ESA all have a technology and innovation promotion function (section C).

Overlaps and duplications add strain on already limited human and financial resources. As described throughout this report, several MDAs reported that human and financial resource limitations prevent them from fully implementing their mandate. This relates, in particular, to the SIB, ESA, the NISTI and the IEA. For instance, ESA has a mandate for export promotion and support, but cannot implement it.

Figure II.4. Investment and entrepreneurship-related MDAs



Source: UNCTAD, based on the Acts and the fact-finding mission.
 *Ministry of Agriculture and Fisheries (SAA and SFA), Ministry of Youth, Sports and Culture
 Note: grey – institutions dedicated to entrepreneurship; green – institutions dedicated to investment; dark blue - support institutions and light blue – sectoral institutions.

The absence of clear FDI targets makes investment promotion generic, and thus less effective.

The Investment Act provides that the SIB is responsible for the coordination of investment-related promotion and marketing activities of Seychelles. However, in the absence of precise FDI targets in the strategic documents (section A), the SIB promotes FDI in as many as ten broad sectors. These include tourism, the blue economy, financial services and ICT. Others are health, professional services, agriculture, real estate, education and renewable energy. The FDI targeting unit (the research and marketing unit), has limited staff. In this context, SIB is not equipped to carry out pro-active investor targeting (box II.2), although this has proven to be more effective than generic and generalized country promotion, particularly when a country wants to attract investors involved in higher value-added activities (UNCTAD, 2008 and 2018b). The SIB also conducts marketing, as well as facilitation, aftercare and policy advocacy activities, though the resources allocated to the different functions are often very limited. In addition, the relationship between SIB and the sectoral MDAs is not formalized, and while the SIB has reported a good working relationship with the FSA and has a unit in charge of cooperation and coordination with two staff, other institutions sometimes conduct investment promotion activities on their own initiative without effective coordination.

And no mechanisms for supporting business linkages exist. Most MSMEs in Seychelles remain at the first stages of their development. This directly impacts the opportunities for growth, capacity-building initiatives and access to technology and innovation (section C). Business linkages between small and larger investors, including foreign ones, can assist in addressing some of these issues and have proven successful in various countries, including SIDS (see box II.3. for examples in the tourism industry). In Seychelles, opportunities exist in several sectors, in particular the blue economy, creative industries and tourism (section E). As mentioned in section A, the Seychelles SME Strategy and Policy specifically mentions the role of SIB as the promoter of linkages between local entrepreneurs and FDI. However, no structured business linkages programme exists.

Box II.2. Key elements of investment targeting

Targeting is the first step undertaken by an IPA to identify, against the national development objectives, the sectors and subsectors best able to assist it in achieving its goals. These are determined based on several criteria including the comparative advantages of the country and allow to define the appropriate activities to be undertaken to: 1) attract and promote investment in line with the development objectives; and 2) build the capacities of local entrepreneurs and set specific support mechanisms to enable them to integrate in the value chains of these investors.

1. Identify **priority sectors** to achieve the national development objectives

2. Identify **subsectors** where the IPA can have the greatest impact

3. Design **policy and promotion activities** specific to the needs of each priority sector or subsector

4. **Set impact indicators** to measure success and revise the strategy if needed

5. Plan the **structure, systems and resources** needed for implementation

Source: UNCTAD.

SIB and ESA also have a key role to play in assisting the economy to mitigate the impact of the COVID-19 pandemic. Investment promotion agencies (IPAs), SME development agencies and ministries dealing with investment promotion and facilitation have reacted rapidly to the COVID-19 pandemic. For instance, even if an increasing number had to close their offices, 64 per cent of the IPAs surveyed by UNCTAD in April 2020 responded to the pandemic by continuing to serve clients through online tools. Several IPAs have opened dedicated information portals to sensitize businesses on the Government support mechanisms. Others are also finding new ways to continue service investors during these challenging times, e.g. by reallocating resources towards helping investors to continue to operate, by adopting a specific support and investment retention focus or by supporting industrial reconversions to supply pandemic-related appliances (UNCTAD, 2020). In Seychelles, in addition to measures announced by the Government in the form notably of financial and fiscal reliefs, ESA and SIB have adapted their websites and operations with a specific response to continue support their audiences (see context).

Assessment and recommendations

The lack of coordination identified at the strategic level in section A is mirrored at the institutional level by the coexistence of multiple agencies with a remit, direct or indirect, on investment and entrepreneurship. While this wealth of support agencies demonstrates the emphasis put by the country on the development of its private sector, it also comes at the detriment of efficiency and effectiveness. Better coordination mechanisms are essentials and would allow to partly address the issues related to human and financial resources by reducing duplications and streamlining activities. They would also allow the SIB and ESA to better focus on their mandate, and carry out new functions and programmes in line with international good practice. The two agencies can also play an important role in the context of the Government's policy response to the COVID-19 pandemics. In light of this, the Government should consider to:

Box II.3. Promoting business linkages in tourism – Jamaica, Mozambique and the United Republic of Tanzania

In **Jamaica**, the Jamaica Promotions Corporation (JAMPRO) has been collaborating with the Jamaica Hotel and Tourism Association to generate business for local suppliers to the tourism industry by introducing a targeted business linkages component at the Jamaica Product Exchange (JAPEX) trade fair. The JAMPRO-designed business matchmaking event connects hoteliers with local producers of a range of goods and services including agricultural fresh produce, processed foods, meat products, honey, furniture, fixtures and equipment, bedding, gifts and crafts, and fashion and apparel. JAMPRO offered networking opportunities and deployed a business matchmaking portal to profile goods and service providers at JAPEX show.

In **Mozambique**, the IPA (now called Agency for Promotion of Investment and Exports, APIEX) and UNCTAD established a business linkages programme with Enterprise Mozambique as the main operational partner to work with local SMEs. A pilot project was launched with CDM Breweries (a subsidiary of SAB Miller, South Africa) as the anchor firm. Until then, CDM imported all the barley for its local production of beer. Under the project, CDM committed to source part of its barley locally and closely worked with 150 farmers. As a result, farmers diversified their sources of income and started operating on a commercial footing. The Mozambican Government was involved in the project through the IPA, which coordinated activities with the Ministry of Agriculture and local authorities, with the purpose of gradually handing over of the project to local communities. UNCTAD trained farmers through the “Farming as a Business” and EMPRETEC methodologies. CDM provided financial support for technical testing and covered part of the costs of the pilot project.

In the **United Republic of Tanzania**, a business linkages programme was implemented with UNCTAD’s assistance to upgrade the supply capacity of small farmers and improve their access to tourism value chains for agro-products. As part of the work, linkages between farmers, processors and the tourism industry have been promoted and strategies developed to improve the entrepreneurial and leadership skills of small local farmers, their access to market information and the effectiveness of existing purchasing systems. Common challenges faced by processors were addressed in joint events, including the importance of formalising regular communication channels with chefs, hotels and supermarkets. Central to the project, was the role of the Tanzanian Chef’s Association, which ran some events throughout the year to help raise awareness about the advantages of sourcing local products as well as to identify challenges that need to be overcome for more producers and processors to access their markets.

Sources: UNCTAD, JAMPRO’s website (jamaicatradeandinvest.org accessed on 15 February 2018) and United Nations Inter-Agency Programme on Trade and Productive Capacity, 2017 and 2016.

1. Separate, particularly for the SIB and ESA, regulatory and promotion functions (chapter I, sections A and B).
2. Conclude a network of service-level agreements between SIB and ESA, and with the other MDAs discussed in this section. These voluntary framework agreements would be designed to provide Seychelles with a coordinated, coherent approach to investment and entrepreneurship promotion as follows:
 - Horizontal service-level agreement between central, non-sectoral agencies (e.g. SIB, ESA and NISTI) would detail the respective responsibilities, including a clear delimitation of respective stakeholders and functions, cooperation and coordination mechanisms, and definition of joint programmes and activities.
 - Vertical service-level agreements between central agencies and sectoral agencies would outline *central services*, i.e. those that must be led by SIB, ESA or NISTI because they require central coordination or have significant economies of scale in delivery (these services include central marketing services and

central facilitation services); and *customized services*, i.e. those agreed on an individual basis between the central agencies and the other stakeholders, based on each agency's particular requirements. Services could include proposition development, opportunity evaluation, the development of a marketing strategy, proposition testing, joint-lead generation, visit coordination, trainings etc.

3. Enable SIB to carry out pro-active investor targeting, in line with the FDI priorities of the country (section A). UNCTAD stands ready to provide capacity-building to the agency's staff on pro-active investor targeting techniques.
4. Establish a business linkages programmes to foster supplier relations between SMEs and larger investors, including foreign ones, to be implemented jointly by SIB and ESA. UNCTAD stands ready to provide assistance in this area through its Business Linkages Programme.¹⁰⁶
5. Engage SIB and ESA in online dialogues with key domestic and foreign investors with the aim to identify policy support measures that may assist them overcome the economic shock associated with COVID-19, retain their investment in Seychelles, or assist them in converting local production towards products and services that may directly be needed during the pandemic.

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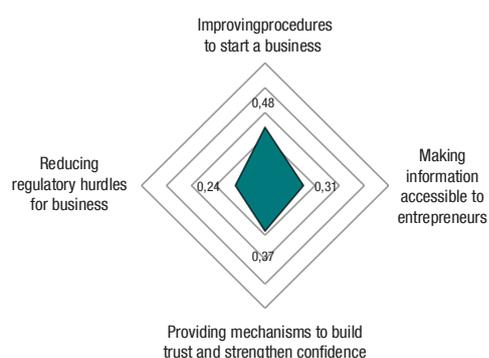
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ANNEX I. ENTREPRENEURSHIP POLICY FRAMEWORK PERCEPTION SURVEY – SEYCHELLES

The survey was carried out to identify challenges and opportunities of the business environment and to obtain insights on policy areas and measures that are stronger or those requiring require more attention. It targeted a sample of 60 respondents representing views from the public and private sectors. The Department of Industry and Entrepreneurship Development, with support from UNCTAD, ran the survey between December 2019 and February 2020. It received back 34 filled questionnaires.

The questions included in the survey were structured around five key pillars of the EPF. The results are presented for each of the pillars, without specific attribution to ensure that the responses are kept anonymous. The figures represent the percentage of respondents who had a positive perception of the various elements under each pillar. Additional details are provided in chapter I and chapter II whenever relevant.

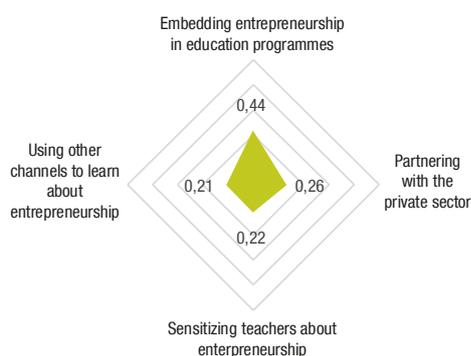
Optimizing the regulatory environment



The unleashing of entrepreneurship requires an environment that enables the entrepreneur to create, operate, manage and, if necessary, close a business within a context of compliance with the rule of law. The regulatory environment should encourage people to set up their own business, try new ideas and take on calculated risks.

While close to 50 per cent of respondents recognized the government efforts to improve procedures to start a business, the survey pointed to the need of making information more accessible, putting in place mechanisms to strengthen trust in the overall system, and reducing regulatory hurdles.

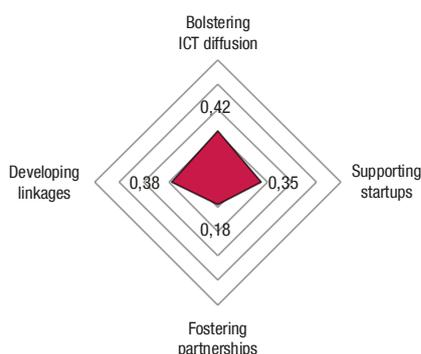
Enhancing entrepreneurship education and skills development



Entrepreneurial skills centre around attitudes (soft skills), such as persistence, networking and self-confidence, and enabling skills (hard skills), including basic startup knowledge, business planning, financial literacy and managerial skills. The public policy objective is to strengthen the capacity and desire of more individuals to start their own enterprises, and also strengthen the entrepreneurial culture.

The survey results showed that formal education programmes reflect only to some extent the need to strengthen entrepreneurship skills. The most significant efforts take place outside formal education channels or as extracurricular activities. Further work is needed to strengthen partnerships with the private sector to design curricula for entrepreneurship education that better match their needs, to sensitize teachers on the importance and value of private sector initiatives, and to promote the utilisation of alternative methods of learning.

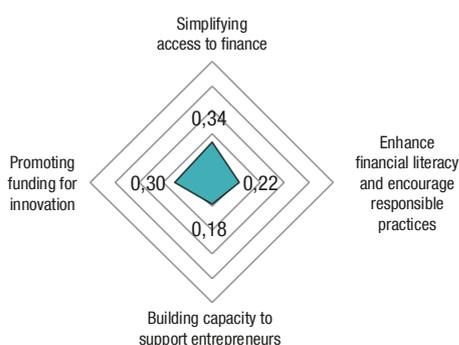
Facilitating technology exchange and innovation



Entrepreneurship, technology and innovation are mutually supportive. Technology provides entrepreneurs with new tools to improve the efficiency and productivity of their business, or platforms on which to build their ventures. In turn, entrepreneurs fuel technological innovation by developing new or improving products, services or processes and ensuring commercialization.

Survey respondents highlighted that initiatives were taken to increase the diffusion of ICT throughout the economy, including for women and youth. But more efforts would be required to adequately support startups, develop linkages and foster partnerships between the Government, academia and the private sector.

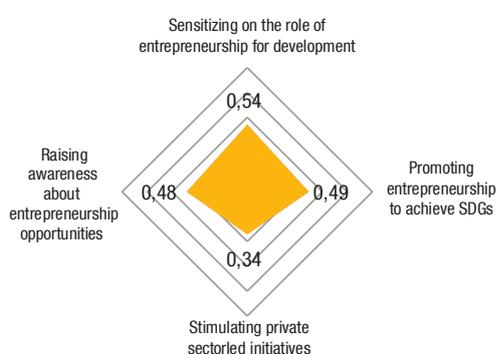
Improving access to finance



Inadequate access to finance remains a major obstacle for many aspiring entrepreneurs, particularly in developing countries. Entrepreneurs of all types and sizes require a variety of financial services, including facilities for making deposits and payments as well as accessing credit, equity and guarantees.

Access to finance is one of the EPF components that is less well understood by stakeholders based on the survey. Close to 50 per cent of respondents indicated that they do not know how to answer the questions of the survey. Furthermore, despite progress, much can be done to enhance financial literacy, promote funding for innovation and build capacities to provide relevant services to entrepreneurs.

Promoting awareness and networking



Fostering an entrepreneurial culture that positively values entrepreneurs and entrepreneurship is a key determinant of the success of an entrepreneurship policy framework and it is also a crucial factor to overcome the culture of dependency – either from governments or aid donors.

This component of the EPF seems to be the one that is best understood, with about 45 per cent of respondents having a positive perception of the initiatives undertaken in this area. Indeed, efforts on sensitization, awareness-raising and potential of entrepreneurship to help meet the SDGs are recognized by more or less 50 per cent of stakeholders. They however indicated that more actions should be taken to encourage initiatives directly taken by the private sector.

ANNEX II. BITS CONCLUDED BY SEYCHELLES

Country	Date of signature	Date of entry into force
Cyprus	28/05/1998	19/03/1999 ^a
Egypt	22/01/2002	
China	10/02/2007	
France	29/03/2007	28/12/2014
India	02/06/2010 ^b	

Source: UNCTAD

^a The text is not available.

^b This BIT was terminated by India on 22 March 2017.



ANNEX III. LIST OF ACTIVITIES RESERVED FOR SEYCHELLOIS

Accommodation (hotel, guest house, self-catering establishment, motel) of 1 to 15 rooms	Hirer of film
Animal or livestock keeping	Hirer of flowers or plants
Auctioneer and appraiser	Horticulturist
Artisanal fishing (including demersal fishing)	Labour contractor
Bacca manufacturer	Land surveyor
Barber shop	Lapire
Bicycle hire	Landscaping firm
Boat charter of vessels below 50 feet	Limousine services (excluding 5-star hotels)
Butcher shop	Mason
Car hire operator	Motor mechanic
Carpentry	Omnibus operator
Car washer	Operator of laundry service
Clearing agent	Painter
Cleaning contractor	Provide catering services
Commission agent	Real estate agent
Contractor class iii	Repairer of non-electrical apparatus
Contractor class iv	Sea cucumber fishing
Day care centre	Secretarial services
Dealer in coco de Mer	Security services
Dealer in latanier leaves	Ship chandler
Dealer in pesticides	Shipping agent
Dive centres on Mahe, Praslin, La Digue and Cerf (excluding outer islands)	Surfing school
Dive operators on live aboard or yachts, less than 50 ft.	Stand-alone take-away business
Dressmaker or tailor	Taxi operator
Driving instructor	Tourist guide
Draughtsman	Travel agent
Employment agency	Tree-lopper
Excursion and recreational fishing	Truck hirer
Fishmonger	Water sports (motorised)
Ferry	Water sports (non-motorised)
Florist	Wireman
Hirer of equipment	Welder
	Yachts 1-3 / Live aboard 1- 2 boats (excluding yachts and live aboard of 50 feet or above)



ANNEX IV. SUMMARY OF RECOMMENDATIONS

What to do?	Why?	How?
<p>1. Amend the FDI-specific legal framework to align it with the country's development objectives</p>	<p>Seychelles has adopted a selective approach to FDI entry. While this has served the country well, moving forward it may not be the appropriate approach to attract the type of investment and investors needed to revitalize the domestic economy and move it towards a knowledge and innovation-based economy. Furthermore, unclear and unpredictable screening mechanisms and overall approach to FDI, including in the treatment and protection, may deter investors that could help the country achieve its development objectives.</p>	<p>I.A. FDI-specific legal framework</p> <p>I.A.1 Remove the "SIB approval" procedure, as the policy concerns considered at this stage are already addressed through the other permitting processes in place, and consider replacing it by a registration of foreign investments at SIB for the purpose of collecting FDI statistics only.</p> <p>I.A.2 Adopt a phased approach to reform the FDI entry regime. In the short term, proceed with the planned amendment of the SI 71 of 2014. In the longer term, consider compiling entry restrictions in a single list, preferably a negative one, and removing the economic-needs test. Alternatively, the test could be limited to investments which raise national security concerns.</p> <p>I.A.3 Amend the Investment Act to replace FET as the standard of treatment with non-discrimination or national treatment and limit it explicitly to the post-establishment phase, clarify the legal recourses available to investors for ISDS and consider including a provision facilitating the entry of key personnel.</p> <p>I.A.4 Operationalize the Investment Appeal Panel, while ensuring that the next revision of the Investment Act addresses the issues related to its composition and the selection of its members.</p> <p>I.A.5 Develop a model IIA to guide future negotiations and to amend existing outdated treaties.</p> <p>I.A.6 Modernize the treaty network based on a careful and fact-based cost-benefit analysis.</p>
<p>2. Simplify the operational framework for investment and entrepreneurship</p>	<p>Many laws, regulations and policies in several areas of the business climate have accumulated overtime. While the primary intent was to orient, protect and regulate the economic activity, together with a series of ex ante control processes, they resulted in a complex investment environment that is difficult to navigate for investors and MDAs. This affects specifically business establishment (company incorporation and licensing), access to land, labour (general regime, recruitment and employment of foreigners) and environment.</p>	<p>I.B. Business establishment</p> <p>I.B.1 Continue mapping and reviewing business establishment procedures to determine the extent to which they are necessary to achieve the relevant policy objectives and remove registration and incorporation requirements that result in excessive red tape, such as the need for intermediaries and legal practitioners.</p> <p>I.B.2 Offer entrepreneurs and investors one form, one payment and one interface for all business establishment procedures, in line with good international practice.</p> <p>I.B.3 Adopt the National Identification Number, so as to simplify the collection of data on business establishment and measure the survival rate of companies over time.</p>

What to do?

Why?

Furthermore, a lack of human and financial resources affects the modernization and effective implementation of the legislation on competition and intellectual property rights. Finally, despite many efforts, key mechanisms are absent from the taxation and the governance frameworks to facilitate operations for businesses in Seychelles.

How?

I.B.4 Remove the need for licences when the relevant policy concerns can be addressed through other permitting procedures, such as the EIA.

I.B.5 Publish online the forms, documents requested, requirements and fees for all licences.

I.B.6 Adopt a regulatory sandbox for innovative activities which are currently not listed in the licensable and non-licensable activities.

I.B.7 Review the restrictions imposed on the insolvent for the establishment of new business ventures in the Insolvency Act.

I.B.8 Establish an online business establishment window (or virtual one-stop shop).

I.C. Access to land

I.C.1 Review the existing laws and regulations relating to access to land and re-examine them with a view to streamline and clarify the regime.

I.C.2 Re-examine the draft land use and development plans in line with the national development objectives and proceed to their adoption, so as to make them legally binding.

I.C.3 Create, on the basis of these land use plans, a database of land available for investment.

I.C.4 Establish pre-determined, clear and objective criteria for land allocation by the MDAs, in line with the land use and development plans.

I.C.5 Remove the SIB from the tendering of commercial land, except in a facilitation and information role. This role should extend to agricultural and industrial land.

I.C.6 Adopt clear and objective criteria for foreigners to obtain the sanction and for the terms and conditions attached to it and reconsider the level of control exercised over the structure of the applying entities with a view not to hamper business operations.

I.C.7 Consider the adoption of model contracts for the lease of State land.

I.C.8 Introduce control over the overvaluation of lands and consider whether this function should be carried out by the Registrar-General rather than the MHILT and increase the human resources at the Registrar.

I.C.9 Envisage, given a lack of financial resources at the IEA, small-scale PPPs to enhance infrastructure in industrial estates.

I.C.10 Strengthen the human resources at the IEA and authorize the Authority to collect fees and rents.

I.D.1 Labour – general regime

I.D.1.1 Amend the Employment Bill of 2016 with a view to: define the modalities applicable to part-time employment contract, simplify the termination of contracts procedures while preserving a balance between the rights of employers and employees; clarify the rules applying to the determination of compensation in case of contract termination; consider limiting the scope of situations where compensation is due (specifically in cases of resignation or when the termination of the employment contract is partly or wholly attributable to the employee); and clarify whether employment contracts are automatically transferred with the business.

I.D.1.2 Pursue the efforts to review the provisions of the Industrial Relations Act to align the regime with the ILO recommendations.

I.D.1.3 Merge, in line with the ILO recommendations, the two Acts and adopt the Bill of 2016, as revised based on the recommendations above.

I.D.1.4 Implement tripartite consultations for the determination of the minimum wage.

I.D.1.5 Reconsider the provisions limiting the age of apprenticeship.

I.D.1.6 Align the regime applicable to ITZ employers with the general regime.

I.D. Labour – recruitment and employment of foreigners

I.D.2.1 Amend the GOP procedure by reviewing annually the needs of the labour market by activity (jointly with employer and employee representatives), introducing clear, pre-determined criteria for the labour market test and the right to appeal the decision of the Minister regarding the GOP and clarifying the circumstances under which additional conditions can be required from the applicant.

I.D.2.2 Consider replacing the localization plans with a skills diffusion scheme whereby companies that train employees for new skills obtain facilitated access to the GOP. New skills can be defined in cooperation between SIB, ESA, Department of Employment and Department of Immigration and Civil Status.

I.D.2.3 Consider adopting a new category of work and residence permits for foreign entrepreneurs in priority sectors.

I.D.2.4 Involve the SIB in the promotion of this new permit.

I.E. Taxation

I.E.1 Consider gradually introducing a unified BT rate for all sectors and streamlining incentives. This includes linking incentives to the development objectives of the country, regularly monitoring their effectiveness by measuring their cost and impact and phasing out ineffective incentives.

I.E.2 Include small businesses under the BT. Accelerated depreciation could be envisaged to encourage equipment acquisition in the first years of operation. This regime should be promoted by ESA.

I.E.3 Establish accounting centres to assist small business with requirements for tax purposes.

I.E.4 Consider transforming the CSRT and TMT into a tax creditable against the taxable income for BT purposes, at least in a first stage. Removing it could be considered at a second stage.

I.E.5 Reconsider VAT exemptions affecting the sectors which the country wants to develop, while facilitating the refund mechanism. This would imply adopting criteria to pre-certify companies whose refund would be automatic, provided no red flags are raised during the implementation, and introducing an interest rate on the SRC for these companies.

I.E.6 Continue reinforcing anti-avoidance measures. This would entail conducting a complete review of the preferential tax regime currently in place.

I.F. Competition

I.F.1 Amend the Fair Trading Bill to define what public benefit entails with criteria to assess it, determine the consequences of the appeal (especially when the decision is taken by a panel of members), increase the number of members of the Board, while building their capacities, extend the possibility of bringing competition complaints beyond a person who has a personal interest, so as to include the interest of the economy (alternatively, an anonymous complaint could be envisaged as a first step for the initiation of a complaint by the FTC, after a short investigation phase) and detail the criteria to qualify the “incompetence” of a member of the Tribunal.

I.F.2 Adopt the Fair Trading Bill with the proposed amendments.

I.F.3 Continue the efforts to coordinate the FTC’s functions with those of sectoral regulators, and to raise awareness on competition issues.

I.F.4 Build partnerships with regional competition authorities and continue the collaboration with the COMESA Competition Commission.

I.G. Intellectual property rights

I.G.1 Adhere to the Madrid Protocol and ARIPO.

I.G.2 Raise awareness about the mechanisms offered by the Patent Cooperation Treaty and the Madrid Protocol.

I.G.3 Consider additional incentives (to encourage R&D as well as transfer of technology). These incentives could be of a fiscal nature, for instance enhancing the existing R&D expenditure deduction or introducing tax credits and/or of a non-fiscal nature, like specific provisions to encourage the entry of foreign researchers.

I.G.4 Consider a specific provision to incentivize university-employed researchers. This provision could entail a premium or a share in the commercialization of the patent.

I.G.5 Reconsider the involvement of NISTI in the transfer of technology process.

I.G.6 Strengthen the resources of the IP Office and consider capacity-building programmes on IP regulations and enforcement.

- I.G.7 Conduct coordinated activities to raise awareness on the importance of IP rights and encouraging businesses to register their IP rights.
- I.G.8 Build the capacities of selected lawyers and magistrates regarding IP rights.

I.H. Environment

- I.H.1 Consider streamlining the projects and activities subject to the EIA by establishing an intermediary category.
- I.H.2 Adopt specific regulations for the Environment Act of 2016, clarify the relationship and involvement of the Planning Authority, the procedures for public consultations and which recourses are available when the environmental authorization is refused, define criteria for the selection and registration of EIA consultants, exclude the reference to mandatory partnerships with local EIA consultants, unless resources in this field are increased, and include an environmental audit to monitor the compliance.
- I.H.3 Publish the list of EIA consultants on the MEECC website.
- I.H.4 Increase the human resources allocated to the EIA and environmental audit.

I.I. Governance

- I.I.1 Encourage the establishment of an arbitration centre. This would also entail providing training to selected arbitrators.
- I.I.2 Adopt mechanisms to raise awareness and incentivize the use of alternative dispute resolution mechanisms.
- I.I.3 Provide training to the magistrates and judges in charge of the enforcement of foreign arbitral awards regarding the New York Convention.
- I.I.4 Strengthen the human resources at the ACC and allocate a prosecutor to the Commission. Partnerships with best practice countries, could be envisaged to build capacities.
- I.I.5 Clarify the provision on whistleblowing with a view to limit the scope of what constitutes bad faith and frivolous and vexatious claims.
- I.I.6 Adopt regulations to establish the conditions and exemptions to access to information under the Act of 2018, with a view to limit cases where it is denied.

I.I.7 Update the egov.sc website with relevant information for business procedures relevant to investors and entrepreneur. This could be an integral part of the eGovernment window recommended under I.B.

I.I.8 Institutionalize public-private dialogue.

II.A. Investment and entrepreneurship strategies

II.A.1 Identify jointly key priorities and targets for entrepreneurship and FDI in the country, so as to guide SIB, ESA and other relevant MDAs in their respective promotion and facilitation roles. This should also consider the role of foreign entrepreneurs.

II.A.2 Clarify the respective mandates, beneficiaries and coordination mechanisms of the agencies in charge of investment and entrepreneurship promotion.

II.A.3 Define a mechanism for FDI statistics collection, independent from the SIB approval process, in line with good international practice.

II.A.4 Adopt a coordinated approach for the collection of data on SMEs. In doing this, attention should be paid to the definition of these entities in the different texts.

II.B. Entrepreneurship education and skills development

II.B.1 Continue to promote the inclusion of entrepreneurship modules in the primary, secondary and tertiary levels, including in professional centres.

II.B.2 Include the private sector, local and foreign, in the design of these modules, and in the development of curricula.

II.B.3 Increase teachers' trainings and support the establishment of a network of entrepreneurship educators.

II.B.4 Consider setting up an entrepreneurship mentoring programme to, notably, foster the exchanges between young or prospective entrepreneurs and established ones. The diaspora and foreign entrepreneurs should also be involved in this effort.

II.B.5 Consider directing part of the CSRT revenue to entrepreneurship education.

The entrepreneurship ecosystem has a key role to play in achieving Seychelles' objective to become a knowledge and innovation-driven economy. Despite many efforts launched at the policy, regulatory and institutional level, the ecosystem remains at an embryonic stage. Initiatives are indeed fragmented and have not sufficiently fostered innovative business solutions to address current, emerging and future market demands. Levels of innovation and linkages are low and prevented domestic entrepreneurs from benefitting from the traditional positive spillovers expected from FDI. This resulted in a dual economy, split between sectors dominated by domestic entrepreneurs and those with FDI.

3. Removing the obstacles to FDI and entrepreneurship



II.B.6 Introduce incentives for the promotion of entrepreneurship education. This could be done by: 1) adopting an accelerated certification process for educational institutions incorporating entrepreneurship education and training teachers; and 2) introducing deductions for entrepreneurs mentoring young entrepreneurs. If the recommendations under I.E. are implemented, the latter mechanism could be applied to the BT up to a predefined threshold.

II.C. Technology exchange and innovation

II.C.1 Adopt a clear and common definition of innovation, based on the one currently used by NISTI and disseminate it among the MDAs involved in policies related to entrepreneurship, investment and STI.

II.C.2 Adopt a startup company status, allowing access to a package of incentives, including access to finance mechanisms, facilitated entry of foreign entrepreneurs or skills, as well as fiscal and non-fiscal incentives for R&D.

II.C.3 Focus NISTI's mandate on the functions essential to the achievement of the objective of becoming a knowledge-based and innovation-driven economy.

II.C.4 Identify innovation-driven priority industries to be included in SIB's targeting strategy.

II.C.5 Encourage linkages between industries and universities in the target industries.

II.D. Access to finance

II.D.1 Increase the efforts to improve financial education and capability of entrepreneurs. This would require building the capacities of the ESA and setting up a mechanism to train trainers and then use them to train the future entrepreneurs.

II.D.2 Assess existing Government-supported access to finance schemes vis-à-vis the priorities set in Vision 2033, in particular with respect to innovation, and merge and streamline the overlapping schemes, while paying attention that the schemes meet the phases of growth of enterprises. This effort goes in parallel with examining the tax incentives granted to some sectors under I.E.

II.D.3 Improve the digital support infrastructure for online banking and e-payment solutions by adopting the adequate legal and regulatory framework.

II.D.4 Set up an institutionalized mechanism of cooperation between ESA, the DOIED, the CBS, the DBS, the DOI and SIB to identify priority sectors for providing Government-supported access to finance and bring Seychelles on the map of angel investors.

II.E. Awareness and networking

II.E.1 Support the establishment of entrepreneurship trainings based on behavioural methodologies to promote a culture of managed risk-taking.

II.E.2 Promote and support entrepreneurship clubs and mentoring programmes.

II.E.3 Identify and promote successful entrepreneurs, locally or diaspora, including in the context of the preparation of a diaspora policy, in addition to setting up foreign entrepreneurs' attraction programme.

II.E.4 Establish a platform to connect stakeholders by field of activity. A pilot phase could be initiated, with a focus on the blue economy and creative industries.

II.F. Institutional support for investment and entrepreneurship

II.F.1 Separate, particularly for the SIB and ESA, regulatory and promotion functions.

II.F.2 Conclude a network of service-level agreements between SIB and ESA, and with other concerned MDAs. These voluntary framework agreements, concluded horizontally between central, non-sectoral agencies, and vertically, between central agencies and sectoral agencies, would be designed to provide Seychelles with a coordinated, coherent approach to investment and entrepreneurship promotion.

II.F.3 Enable SIB to carry out pro-active investor targeting, in line with the FDI priorities of the country.

II.F.4 Establish a business linkages programmes to foster supplier relations between SMEs and larger investors, including foreign ones, to be implemented jointly by SIB and ESA.

II.F.5 Engage SIB and ESA in online dialogues with key domestic and foreign investors with the aim to identify policy support measures that may assist them overcome the economic shock associated with COVID-19, retain their investment in Seychelles, or assist them in converting local production towards products and services that may directly be needed during the pandemic.

ENDNOTES

- ¹ Tax concessions to foreign investors in the growing tourism sector, introduced to compensate for the increasingly overvalued local currency, were among the reasons of the low Government revenues which led to the debt crisis in 2008 (IMF, 2009).
- ² Altogether employment in tourism-related activities represented 23.6 per cent of total employment in the last quarter of 2019, according to the National Bureau of Statistics (NBS, 2020a). Similarly, the tourism-related contribution to total value added at constant 2006 prices stood at 23.2 per cent in 2018, the latest year available (NBS, 2019a). And indirectly for over 50 per cent of GDP and employment according to World Tourism Council statistics.
- ³ Upon acquisition by Heinz, the cannery was renamed Indian Ocean Tuna, Ltd. The production expanded substantially, from 45 tons a day in 1994 (12,400 tons a year) to 170 tons a day by mid-1998 and 230 by mid-1999. The number of foreign vessels licensed to fish in Seychelles waters had reached 50 by the mid-1990s; most were Europeans but some were Russians and East Asians investors (World Bank, 2013).
- ⁴ The 2020 budget was amended to increase the allocation to the health sector and postpone the payment of some taxes. The CBS participated in an effort with the MFTIEP and the Seychelles Bankers Association to put in place a series of measures to support the economy during the pandemic. The DOIED has published a summary of measures taken by the Government, which include financial and fiscal reliefs and assistance for job retention. At the facilitation and promotion level, ESA and SIB have adapted their websites and operations with a specific response to continue support their audiences. See: cbs.sc/COVID-19/covid-19.html, esa.gov.sc/e-resilience-programmes and investinseychelles.com/investors-guide/covid-19-response-plan.
- ⁵ SI 56 of 2011 and Seychelles Investment (Amendment) Act (Act 22 of 2016).
- ⁶ The analysis is based on international investment agreements (IIAs) for which the text was available in one of the six official languages of the United Nations.
- ⁷ The activities that must undergo the economic-needs test are animal or livestock keeping, bakery, fruit and vegetable farming, garage services, hairdresser, production of input services for agriculture, retailing, spa and massages. In parallel, the first sub-criteria considered in the economic-needs-test form for the provision of new services, for instance, is “project that is a subsidiary of an internationally recognized conglomerate”.
- ⁸ More than 25 rooms in Mahé and Praslin, and more than five rooms in La Digue. The moratorium will be reexamined in 2021. The SIB also indicated in August 2020 that a Tourism Capacity Carrying Study had been undertaken.
- ⁹ The economic-needs-test committee would comprise representatives of the SIB, which would also be its secretariat, the Department of Investment (DOI), the Department of Trade, the National Institute for Science, Technology and Innovation (NISTI), the Department of Employment, the Department of Industry and Entrepreneurship Development (DOIED), the Seychelles Licensing Authority (SLA) and the Department of Environment.
- ¹⁰ Exceptions apply in case of balance of payments difficulties, bankruptcy, insolvency or protection of the rights of creditors, criminal offences, and judgments and awards in adjudicatory proceedings.
- ¹¹ The members include a chairperson and representatives of the Attorney-General, the private sector and of a non-government consumer welfare organization.
- ¹² For more information, see: newyorkconvention.org/countries.
- ¹³ For more information, see: icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/02/14.
- ¹⁴ For more information, see: icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/20/29, icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/15/2 and [icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB\(AF\)/13/1](https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB(AF)/13/1).
- ¹⁵ ICSP Act of 2003 (Act 10 of 2003, as amended).
- ¹⁶ International Business Company Act of 2016 (Act 15 of 2016), Limited Partnerships Act of 2003, as amended in 2011, Protected Cell Companies Act of 2003 (Act 4 of 2003), as amended in 2004, Companies (Special Licenses) Act of 2003, and Seychelles International Trade Zone (ITZ) Act of 1995 (Act 8 of 1995).
- ¹⁷ Registration of Business Name Act of 1972 (Act 6 of 1972), as amended.
- ¹⁸ Enterprise Seychelles Agency Act of 2018 (Act 3 of 2018).
- ¹⁹ See: sqa.sc/BizRegistration/WebBusinessRegistration.aspx.
- ²⁰ The websites registry.gov.sc/ and eservice.egov.sc/sbnregistration/pages/SBNRegistration.aspx are not operational.
- ²¹ National Payment System (Licensing and Authorization) Regulations of 2014.
- ²² In ITZ companies, five types of licenses can be granted: redistribution, light-assembly, manufacturing, processing and management export services. The ITZ Act also provides explicitly that the Licenses Act is not applicable in the ITZ.
- ²³ The ESA Act (Act 3 of 2018) includes in the functions of the Agency to operate a registration scheme for micro, small and medium-sized enterprises (MSMEs). In practice, ESA registers cottage industries.

- ²⁴ A regulatory sandbox is an approach, typically summarized in writing and published, that allows live, time-bound testing of innovations under a regulator's oversight. Novel financial products, technologies and business models can be tested under a set of rules, supervision requirements and appropriate safeguards (UNSGSA, 2018).
- ²⁵ Financial Services Authority (Regulatory Sandbox Exemption) Regulations of 2019.
- ²⁶ See: eservice.egov.sc/TinRegistration/pages/SBNRegistration.aspx.
- ²⁷ In March 2020, for instance, Benin, with the assistance of UNCTAD, took its business registration processes 100 per cent digital. This critical move, ahead of the spike in global infections from the Coronavirus, means that businesspeople can now open a business in under two hours, from the safety of their home or office, and 182 businesses were created online during the first week of closure. See: unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=2310
- ²⁸ A Seychelles Strategic Land Use and Development Plan, as a Victoria MasterPlan was endorsed by the Cabinet of Ministers in July 2015. As per the Town and Country Planning Act of 1970 (Act 14 of 1970), as amended, the development plans are to be prepared by the PA and approved by the Minister of the MHILT.
- ²⁹ The National Business Summit Report 2018, published by the Government of Seychelles, summarizes the deliberations of the National Business Summit held on 3 July 2018. The Summit gathered representatives of the public and private sectors to discuss issues affecting the business climate in the country.
- ³⁰ See: webgis.gov.sc/introduction.phtml.
- ³¹ The analysis in this paragraph is based on the Immovable Property (Transfer Restriction) Act of 1963 (Act 5 of 1963, as amended), the Alienation of Land and Management and Sale of State Land Policy, MHILT's Guidance Notes – Acquisition of Immovable Property or Rights Therein in Seychelles by Non-Seychellois, and the Development of Villas and Holiday Accommodation in Tourism Resorts and Ownership by Non-Seychellois Policy.
- ³² i.e. by foreign representations, for biodiversity conservation and in case of an approved exchange of land, as well as for approved condominium development projects, except social housing, and for specific properties in Mahé, La Digue, Praslin and Cerf Island under the Villas and Holiday Accommodation in Tourism Resorts and Ownership of Non-Seychellois Policy.
- ³³ The sanction is not required for leases of less than two years and for ITZ companies. See the MHILT's Alienation of Land and Management and Sale of State Land Policy and the ITZ Act.
- ³⁴ See: luh.gov.sc/default.aspx?Pageld=47.
- ³⁵ Specific regulations apply to domestic workers and stevedores. They are not examined in this section.
- ³⁶ Differences concern the modalities of disbursements of wages, the allowed deductions and their limits, leave, and the period to launch the grievance procedure discussed in this section. The Occupational Safety and Health Decree of 1978 applies to employees of ITZs.
- ³⁷ According to the Department of Employment of the Ministry of Employment, Immigration and Civil Status, the Bill is expected to be approved by the Cabinet in March 2020 before being submitted to the National Assembly.
- ³⁸ These include: in case the employment contract is "frustrated" (i.e. when it becomes impossible to perform it, including if the activity of the employer becomes illegal by a change of legislation, or when the worker is disqualified through the suspension or cancellation of any licence, permit, registration or authority required under the written law for the purpose of exercising his/her occupation/profession), in case of transfer of the business undertaking or when the employer and employee disagree on a less favourable change of the contract.
- ³⁹ The cases in which it can be initiated by the employee include: if the contract was terminated during the probation period; for committing a serious disciplinary offense; or if the employee accuses the employer of breaching the contract or acting in contravention of the Act. It can be initiated by the employee or the employer if, when an internal dispute procedure exists, it has been exhausted without the agreement of one of the parties.
- ⁴⁰ Specific regulations apply to dependents' permit, whereby the application is made by the Seychellois on behalf of the relative dependent foreigner.
- ⁴¹ Estimations on the dollar value of Seychellois rupee (SCR) are based on the IMF average exchange rate for year 2019 (i.e. \$1 equals SCR 14.03).
- ⁴² For more information, see: seychellesnewsagency.com/articles/11781/New+policy+for+foreign+workers+in+Seychelles+shared+with+National+Assembly
- ⁴³ As provided for by the Employment Act and the Immigration Decree.
- ⁴⁴ These include: ITZ (Amendment) Act of 2018, Act 16 of 2018; ITZ (Amendment) Regulations of 2018 (SI 87 of 2018), ITZ (Amendment of Schedule) Regulations of 2019 (SI 80 of 2019), ITZ (Amendment) Act of 2019 (Act 17 of 2019) and ITZ (Substantial Activity Requirements) Regulations of 2019 (SI 79 of 2019), Mutual Fund and Hedge Fund (Amendment) Act of 2018 and the Securities (Amendment) Act of 2018 (Act 18 of 2018), IBC (Amendment) Act of 2018 (Act 15 of 2018), Companies Special License (Amendment) Act of 2018 (Act 17 of 2018) and the Insurance (Amendment) Act of 2018 (Act 20 of 2018).
- ⁴⁵ There are 24 ITZ companies in Seychelles (OECD, 2020), three of which are active in manufacturing/processing, including Indian Ocean Tuna and Ile du Port Handling Service.
- ⁴⁶ Hotel, guesthouse or self-catering establishment, cafe or restaurant, fixed or rotary wing passenger air transport services in respect of all domestic flights, domestic ferry services for the transport of freight or passengers, boat or yacht charter (including liveaboard), car hirer operator, underwater diver operator or dive centre, water sports operator, travel agent, tour operator, tour and or tourist guide, equestrian operator.

- ⁴⁷ The BTA defines an entity as a body or association of persons corporate or not corporate whether incorporated, created, or formed under the law of Seychelles or elsewhere, including a limited partnership and unit trust; or a foreign association of persons that the Revenue Commissioner has declared to be an entity for the purposes of this Act. It does not include an individual, partnership or trust.
- ⁴⁸ See: statehouse.gov.sc/index.php/speeches/4753/2020-state-of-the-nation-address-by-president-danny-faure.
- ⁴⁹ Available at: src.gov.sc/resources/VATRegisteredBiz11-2019.pdf.
- ⁵⁰ Actions 5, 6, 13 and 14, respectively on harmful tax practices, prevention of tax treaty abuse, country-by-country reporting and mutual agreement procedure.
- ⁵¹ Reservations and declaration of Seychelles are accessible at: coe.int/en/web/conventions/search-on-treaties/-/conventions/treaty/127/declarations.
- ⁵² For a complete list, see: oecd.org/tax/beps/country-by-country-exchange-relationships.htm.
- ⁵³ Available at: src.gov.sc/resources/Guides/eFilingGuide.pdf and src.gov.sc/resources/Forms/digitalsignatureform.pdf.
- ⁵⁴ See: afriqueactudaily.com/index.php/2020/03/14/seychelles-les-nouvelles-reformes-aux-seychelles-visent-a-aligner-le-taux-dimposition-des-entreprises/.
- ⁵⁵ A mechanism is also in place authorizing individuals and companies to produce solar energy. Above a certain consumption level, it must be sold to PUC and later bought back at a higher price.
- ⁵⁶ The FTC also has the mandate for consumer protection.
- ⁵⁷ For more information, see: comesacompetition.org/?page_id=393.
- ⁵⁸ See article 7 of the Regulations, as well as: comesacompetition.org/?page_id=267.
- ⁵⁹ In the FCA, the appeal to the Appeal Tribunal suspends the execution.
- ⁶⁰ Broadcasting and Telecommunications Act of 2000 (Act 2 of 2000), as amended.
- ⁶¹ Financial Services Authority Act of 2013 (Act 19 of 2013).
- ⁶² A full list of the memoranda of understanding concluded by the FTC can be found at the following link: ftc.sc/advocacy/mou.
- ⁶³ A copy of the Communications Bill is available at: ict.gov.sc/Documents/Draft_Communications_Bill_2020.pdf.
- ⁶⁴ See: ftc.sc/fair-competition/lodge-competition-complaint/.
- ⁶⁵ Industrial Property (Geographical Indication) Regulations 2014, Industrial Property (Industrial Design) Regulations 2014, Industrial Property (Layout-Design) Regulation 2014, Industrial Property (Patents) Regulations 2014 and the Copyrights (Registration) Regulations 2014).
- ⁶⁶ For more information, see: seycat.org/; unenvironment.org/news-and-stories/story/seychelles-innovative-approach-marine-protection/; statehouse.gov.sc/news/4787/seychelles-designates-30-of-its-eez-as-marine-protected-area.
- ⁶⁷ As per the Environment Act, EIAs Class I apply to all developments whose definition is similar the one in the Town and Country Planning Act (see section C), as well as those listed in Schedule 1 of the Regulations or projects or activities located in protected and ecologically sensitive areas defined in Schedule 2 of the Regulations.
- ⁶⁸ Section 146 of the Commercial Code reads as "On the basis of reciprocity, the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958, and the arbitral award within the meaning of the said Convention shall be binding. Such Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than Seychelles and arising out of differences between persons, whether physical or legal. It shall also apply to arbitral awards not considered as domestic awards in Seychelles."
- ⁶⁹ See: info.worldbank.org/governance/wgi/Home/Reports.
- ⁷⁰ The President, Vice-President, Designated Ministers and Ministers, as well as the Speaker, Deputy Speaker, Leader of Opposition, Leader of Government Business and Members of the National Assembly are subject to the Public Persons (Declarations of Assets, Liabilities and Business Interests) Act of 2016 (Act 26 of 2016).
- ⁷¹ This concerns situations where disclosure would "cause serious prejudice to the economy of State by disclosing prematurely decisions to change or continue economic or financial policy relative to exchange rates, regulation of banking or credit, taxation, stability, control and adjustment of prices of goods and services, rents and other costs and rates of wages, salaries and other income or the entering of overseas trade agreements".
- ⁷² For more information, see: infocom.sc; statehouse.gov.sc/news/4537/appointment-of-chief-executive-officer-of-the-seychelles-information-commission; statehouse.gov.sc/news/4381/members-of-the-information-commission-appointed.
- ⁷³ See: judiciary.sc/news/judiciary-of-seychelles-launches-new-website/
- ⁷⁴ See, for instance: seychellesnewsagency.com/articles/10909/nt+of+Seychelles+announces+increases+in+minimum+wage%2C+social+security%2C+retirement+pensions+in+Labour+Day+address
- ⁷⁵ See, for instance: siteresources.worldbank.org/INTEXPCOMNET/Resources/PPD_Handbook.pdf.
- ⁷⁶ The income GINI coefficient is 65.8, see hdr.undp.org/en/content/income-gini-coefficient for more details.
- ⁷⁷ UNCTAD estimates that a 16 per cent drop in GDP could be associated with the downturn in the travel and tourism sector in Seychelles (assuming a 25 per cent decline in tourism receipts), generating immediate financial assistance needs in the range of \$150 million, to restore the minimum level of import coverage (three months). See: unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=2341.

- ⁷⁸ See UNCTAD Statistical Database: unctadstat.unctad.org/wds/TableView/tableView.aspx.
- ⁷⁹ Several strategies and plans refer to investment in connection with PPPs (e.g. the Science, Technology and Innovation Policy and Strategy). The Seychelles Blue Economy Strategy and Roadmap the Seychelles Inclusive Industrial Competitiveness Policy and Sector Strategic Plan also refer to building linkages and synergies between investment and entrepreneurship.
- ⁸⁰ “As we develop, Government becomes a facilitator rather than a participant. Through the principles of Transparency, Accountability and Good Governance, this is possible whilst staying on an upward, positive path”, said the President of Seychelles at the launch of Vision 2033 and the NDS, on 5 August 2019. See: finance.gov.sc/news/188/Towards-a-More-Sustainable-and-Inclusive-Future-Vision-2033-and-national-Development-Strategy-launched (Accessed on 2 April 2020).
- ⁸¹ UNESCO Institute of Statistics database, available at: uis.unesco.org/en/country/sc.
- ⁸² FemBioBizz is a network of female entrepreneurs based in South Africa that launched a programme in Seychelles. See: hivos.org/program/fembiobiz-acceleration-program/.
- ⁸³ The internet penetration rate (58.4 per cent) was in 2017 higher than the world’s average (49 per cent) and comparator countries (Cabo Verde – 57.16 per cent and Mauritius – 55.4 per cent), except Barbados (81.76 per cent), according to the International Telecommunications Union statistics database (itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx).
- ⁸⁴ Internet access was agreed through the signing of a MOU between the MEHRD and the telecommunications providers in Seychelles.
- ⁸⁵ These include the YouthBuzz Competition, organized by the Seychelles National Youth Council, and the participation in the SADC’s FemBioBiz Accelerator Programme.
- ⁸⁶ In the Oslo Manual, an innovation is defined as a new or improved product or process (or combination thereof) that differs significantly from the unit’s previous products or processes and that has been made available to potential users (product) or brought into use by the unit (process).
- ⁸⁷ Recently, a co-working space was opened by private initiative. See: investinseychelles.com/our-media/news/299-abis-co-working-a-different-concept-in-seychelles.
- ⁸⁸ See: seychellesnewsagency.com/articles/12698/African+Development+Bank+grant+to+support+small+and+medium+Blue+Economy+enterprises+in+Seychelles.
- ⁸⁹ Union Vale MEC, Quincy Valley MEC, Plaisance MEC, Anse Boileau MEC and Grand Anse Mahé MEC.
- ⁹⁰ See: sstl.sc for more information on the criteria.
- ⁹¹ See: nation.sc/articles/464/public-service-day-2019.
- ⁹² For more information, see: uis.unesco.org/en/country/sc?theme=science-technology-and-innovation. Data is only available for 2016 and is thus only indicative.
- ⁹³ These are the Creole Language and Culture Research Institute, the James R. Mancham Peace and Diplomacy Research Institute and the James Michel Blue Economy Research Institute.
- ⁹⁴ These include the Seychelles Institute of Technology (SIT), which has been recognized as one of the world’s 10 innovative TVET institutions, the Seychelles Marine Academy and the Seychelles Institute for Agriculture and Horticulture. See: seychellesnewsagency.com/articles/11357/Seychelles+Institute+of+Technology+recognized+as+one+of+the+world%27s++innovative+TVET+centers.
- ⁹⁵ See, for example, blueeconomyseychelles.org/about.
- ⁹⁶ See: esa.gov.sc/seed-capital/.
- ⁹⁷ Merchants’ accounts, for instance, are not integrated with selling platforms, which forces businesses to use solutions like PayPal, where disbursements are not immediate, with an impact on the cashflow.
- ⁹⁸ See: cbs.sc/Downloads/Pressrelease/CBS+obtains+banking+community%E2%80%99s+commitment+to+ease+customers%E2%80%99+access+to+digital+and+online+payment+platforms+and+waive+SEFT+fees+amid+COVID-19+developments.pdf.
- ⁹⁹ See: fintechseychelles.sc.
- ¹⁰⁰ See: genglobal.org/global-entrepreneurship-week-seychelles/vp-vincent-meriton-delivers-message-youth-seychelles.
- ¹⁰¹ Including “What is an entrepreneur?”, “Five Steps to Starting your Business” and “MSMEs Guide to Incentives” (see section D).
- ¹⁰² See the Global Entrepreneurship Monitor (GEM) (2015). Country profile: Barbados. Entrepreneurial behaviour and attitudes, available at: gemconsortium.org/economy-profiles. Data is not available for other comparators (Cabo Verde and Mauritius).
- ¹⁰³ Such as the Seychelles Hospitality and Tourism Association (SHTA), the Fishermen Association, the Seychelles Fishing Boat Owner Association, the Marine Charter Association, the Seychelles Care Hire Operators Association, the Seychelles Farmers Association (SEYFA), the Textiles and Tailoring Association Seychelles, the Seychelles Educational and Leadership Association and the Association of Seychellois Craftsmen.
- ¹⁰⁴ Like the Praslin Business Association.
- ¹⁰⁵ In 2020, before the COVID-19 crisis, the budget of the SIB stood at SCR 9.7 million (\$680,000) and that of ESA at SCR 12.5 million (\$874,000).
- ¹⁰⁶ See: unctad.org/en/Pages/DIAE/Enterprise%20Development/Business-Linkage-Programme.aspx.





The Investment Policy Review of Seychelles is the latest in a series of investment policy reviews undertaken by UNCTAD at the request of countries interested in improving their investment framework and climate. The economies included in this series are:

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